



Political Parties, Elections and Referendums Act 2000

2000 CHAPTER 41

PART VII

REFERENDUMS

CHAPTER II

FINANCIAL CONTROLS

Referendum expenses

111 Referendum expenses

- (1) The following provisions have effect for the purposes of this Part.
- (2) “Referendum expenses”, in relation to a referendum to which this Part applies, means expenses incurred by or on behalf of any individual or body which are expenses falling within Part I of Schedule 13 and incurred for referendum purposes.
- (3) “For referendum purposes” means—
 - (a) in connection with the conduct or management of any campaign conducted with a view to promoting or procuring a particular outcome in relation to any question asked in the referendum, or
 - (b) otherwise in connection with promoting or procuring any such outcome.
- (4) “Referendum campaign” means a campaign such as is mentioned in subsection (3)(a); and “campaign organiser”, in relation to referendum expenses, means the individual or body by whom or on whose behalf the expenses are incurred.

Status: This is the original version (as it was originally enacted).

112 Notional referendum expenses

- (1) This section applies where, in the case of any individual or body—
 - (a) either—
 - (i) property is transferred to the individual or body free of charge or at a discount of more than 10 per cent. of its market value, or
 - (ii) property, services or facilities is or are provided for the use or benefit of the individual or body free of charge or at a discount of more than 10 per cent. of the commercial rate for the use of the property or for the provision of the services or facilities, and
 - (b) the property, services or facilities is or are made use of by or on behalf of the individual or body in circumstances such that, if any expenses were to be (or are) actually incurred by or on behalf of the individual or body in respect of that use, they would be (or are) referendum expenses incurred by or on behalf of the individual or body.
- (2) Where this section applies, an amount of referendum expenses determined in accordance with this section (“the appropriate amount”) shall be treated, for the purposes of this Part, as incurred by the individual or body during the period for which the property, services or facilities is or are made use of as mentioned in subsection (1)(b).

This subsection has effect subject to subsection (9).
- (3) Where subsection (1)(a)(i) applies, the appropriate amount is such proportion of either—
 - (a) the market value of the property (where the property is transferred free of charge), or
 - (b) the difference between the market value of the property and the amount of expenses actually incurred by or on behalf of the individual or body in respect of the property (where the property is transferred at a discount),

as is reasonably attributable to the use made of the property as mentioned in subsection (1)(b).
- (4) Where subsection (1)(a)(ii) applies, the appropriate amount is such proportion of either—
 - (a) the commercial rate for the use of the property or the provision of the services or facilities (where the property, services or facilities is or are provided free of charge), or
 - (b) the difference between that commercial rate and the amount of expenses actually incurred by or on behalf of the individual or body in respect of the use of the property or the provision of the services or facilities (where the property, services or facilities is or are provided at a discount),

as is reasonably attributable to the use made of the property, services or facilities as mentioned in subsection (1)(b).
- (5) Where the services of an employee are made available by his employer for the use or benefit of an individual or body, then for the purposes of this section the amount which is to be taken as constituting the commercial rate for the provision of those services shall be the amount of the remuneration or allowances payable to the employee by his employer in respect of the period for which his services are made available (but shall not include any amount in respect of contributions or other payments for which the employer is liable in respect of the employee).

- (6) Where an amount of referendum expenses is treated, by virtue of subsection (2), as incurred by or on behalf of an individual or body during any period the whole or part of which falls within the period which is, in relation to the referendum to which the expenses relate, the referendum period then—
- (a) the amount mentioned in subsection (7) shall be treated as incurred by or on behalf of the individual or body during the referendum period, and
 - (b) if a return falls to be prepared under section 120 in respect of referendum expenses incurred by or on behalf of the individual or body during that period, the responsible person shall make a declaration of that amount,
- unless that amount is not more than £200.
- (7) The amount referred to in subsection (6) is such proportion of the appropriate amount (determined in accordance with subsection (3) or (4)) as reasonably represents the use made of the property, services or facilities as mentioned in subsection (1)(b) during the referendum period.
- (8) A person commits an offence if he knowingly or recklessly makes a false declaration under subsection (6).
- (9) No amount of referendum expenses shall be regarded as incurred by virtue of subsection (2) in respect of—
- (a) the transmission by a broadcaster of a referendum campaign broadcast (within the meaning of section 127);
 - (b) the provision of any rights conferred on a designated organisation (or persons authorised by such an organisation) by virtue of section 110(4) and Schedule 12; or
 - (c) the provision by any individual of his own services which he provides voluntarily in his own time and free of charge.
- (10) Paragraph 2(5) and (6)(a) of Schedule 15 shall apply with any necessary modifications for the purpose of determining, for the purposes of subsection (1), whether property is transferred to an individual or body.

General restrictions relating to referendum expenses incurred by permitted participants

113 Restriction on incurring referendum expenses

- (1) No amount of referendum expenses shall be incurred by or on behalf of a permitted participant unless it is incurred with the authority of—
- (a) the responsible person; or
 - (b) a person authorised in writing by the responsible person.
- (2) A person commits an offence if, without reasonable excuse, he incurs any expenses in contravention of subsection (1).
- (3) Where, in the case of a permitted participant that is a registered party, any expenses are incurred in contravention of subsection (1), the expenses shall not count for the purposes of sections 117 to 123 or Schedule 14 as referendum expenses incurred by or on behalf of the permitted participant.

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114 Restriction on payments in respect of referendum expenses

- (1) No payment (of whatever nature) may be made in respect of any referendum expenses incurred or to be incurred by or on behalf of a permitted participant unless it is made by—
 - (a) the responsible person, or
 - (b) a person authorised in writing by the responsible person.
- (2) Any payment made in respect of any such expenses by a person within paragraph (a) or (b) of subsection (1) must be supported by an invoice or a receipt unless it is not more than £200.
- (3) Where a person within paragraph (b) of subsection (1) makes a payment to which subsection (2) applies, he must deliver to the responsible person—
 - (a) notification that he has made the payment, and
 - (b) the supporting invoice or receipt,
 as soon as possible after making the payment.
- (4) A person commits an offence if, without reasonable excuse—
 - (a) he makes any payment in contravention of subsection (1), or
 - (b) he contravenes subsection (3).

115 Restriction on making claims in respect of referendum expenses

- (1) A claim for payment in respect of referendum expenses incurred by or on behalf of a permitted participant during a referendum period shall not be payable if the claim is not sent to—
 - (a) the responsible person, or
 - (b) any other person authorised under section 113 to incur the expenses,
 not later than 21 days after the end of the referendum period.
- (2) Any claim sent in accordance with subsection (1) shall be paid not later than 42 days after the end of the referendum period.
- (3) A person commits an offence if, without reasonable excuse—
 - (a) he pays any claim which by virtue of subsection (1) is not payable, or
 - (b) he makes any payment in respect of a claim after the end of the period allowed under subsection (2).
- (4) In the case of any claim to which subsection (1) applies—
 - (a) the person making the claim, or
 - (b) the person with whose authority the expenses in question were incurred,
 may apply to the High Court or a county court or, in Scotland, to the Court of Session or the sheriff for leave for the claim to be paid although sent in after the end of the period mentioned in that subsection; and the court, if satisfied that for any special reason it is appropriate to do so, may by order grant the leave.
- (5) Nothing in subsection (1) or (2) shall apply in relation to any sum paid in pursuance of the order of leave.
- (6) Subsection (2) is without prejudice to any rights of a creditor of a permitted participant to obtain payment before the end of the period allowed under that subsection.

- (7) Subsections (7) to (10) of section 77 shall apply for the purposes of this section as if—
- (a) any reference to subsection (1), (2) or (4) of that section were a reference to subsection (1), (2) or (4) above; and
 - (b) any reference to campaign expenditure were a reference to referendum expenses; and
 - (c) any reference to the treasurer or deputy treasurer of the registered party were a reference to the responsible person in relation to the permitted participant.

116 Disputed claims

- (1) This section applies where—
- (a) a claim for payment in respect of referendum expenses incurred by or on behalf of a permitted participant as mentioned in section 115(1) is sent to—
 - (i) the responsible person, or
 - (ii) any other person with whose authority it is alleged that the expenditure was incurred,
 within the period allowed under that provision; and
 - (b) the responsible person or other person to whom the claim is sent fails or refuses to pay the claim within the period allowed under section 115(2);
- and the claim is referred to in this section as “the disputed claim”.
- (2) The person by whom the disputed claim is made may bring an action for the disputed claim, and nothing in section 115(2) shall apply in relation to any sum paid in pursuance of any judgment or order made by a court in the proceedings.
- (3) For the purposes of this section—
- (a) subsections (4) and (5) of section 115 shall apply in relation to an application made by the person mentioned in subsection (1)(b) above for leave to pay the disputed claim as they apply in relation to an application for leave to pay a claim (whether it is disputed or otherwise) which is sent in after the period allowed under section 115(1); and
 - (b) subsections (7) and (8) of section 77 shall apply as if any reference to subsection (4) of that section were a reference to section 115(4) as applied by paragraph (a) above.

Financial limits

117 General restriction on referendum expenses

- (1) The total referendum expenses incurred by or on behalf of any individual or body during the referendum period in the case of a particular referendum to which this Part applies must not exceed £10,000 unless the individual or body is a permitted participant.
- (2) Where—
- (a) during the referendum period any referendum expenses are incurred by or on behalf of any individual in excess of the limit imposed by subsection (1), and
 - (b) he is not a permitted participant,
- he is guilty of an offence if he knew, or ought reasonably to have known, that the expenses were being incurred in excess of that limit.

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(3) Where—

- (a) during the referendum period any referendum expenses are incurred by or on behalf of any body in excess of the limit imposed by subsection (1), and
- (b) the body is not a permitted participant,

any person who authorised the expenses to be incurred by or on behalf of the body is guilty of an offence if he knew, or ought reasonably to have known, that the expenses would be incurred in excess of that limit.

(4) Where subsection (3)(a) and (b) apply, the body in question is also guilty of an offence.

(5) Where—

- (a) at any time before the beginning of any referendum period, any expenses within section 111(2) are incurred by or on behalf of an individual or body in respect of any property, services or facilities, but
- (b) the property, services or facilities is or are made use of by or on behalf of the individual or body during the referendum period in circumstances such that, had any expenses been incurred in respect of that use during that period, they would by virtue of section 111(2) have constituted referendum expenses incurred by or on behalf of the individual or body during that period,

the appropriate proportion of the expenses mentioned in paragraph (a) shall be treated for the purposes of this section as referendum expenses incurred by or on behalf of the individual or body during that period.

(6) For the purposes of subsection (5) the appropriate proportion of the expenses mentioned in paragraph (a) of that subsection is such proportion of those expenses as is reasonably attributable to the use made of the property, services or facilities as mentioned in paragraph (b).

118 Special restrictions on referendum expenses by permitted participants

(1) Schedule 14 has effect for imposing, in connection with a referendum to which this Part applies, limits on referendum expenses incurred by or on behalf of permitted participants during the referendum period in the case of that referendum.

(2) Where any referendum expenses are incurred by or on behalf of a permitted participant during any such period in excess of any limit imposed by Schedule 14, then—

- (a) if the permitted participant is a registered party falling within section 105(1)(a)—
 - (i) the responsible person or any deputy treasurer of the party is guilty of an offence if he authorised the expenses to be incurred by or on behalf of the party and he knew or ought reasonably to have known that the expenses would be incurred in excess of that limit, and
 - (ii) the party is also guilty of an offence;
- (b) if the permitted participant is an individual falling within section 105(1)(b), that individual is guilty of an offence if he knew or ought reasonably to have known that the expenses would be incurred in excess of that limit;
- (c) if the permitted participant is a body falling within section 105(1)(b)—
 - (i) the responsible person is guilty of an offence if he authorised the expenses to be incurred by or on behalf of the body and he knew or ought reasonably to have known that the expenses would be incurred in excess of that limit, and

- (ii) the body is also guilty of an offence.
- (3) It shall be a defence for a permitted participant or other person charged with an offence under subsection (2) to show—
- (a) that any code of practice for the time being issued under paragraph 3 of Schedule 13 was complied with in determining the items and amounts of referendum expenses to be entered in the relevant return under section 120, and
 - (b) that the limit would not have been exceeded on the basis of the items and amounts entered in that return.
- (4) Section 117(5) and (6) shall apply, for the purposes of this section, sections 120 to 123 and Schedule 14, in relation to an individual or body that has become a permitted participant as they apply for the purposes of section 117 in relation to an individual or body that is not a permitted participant.
- (5) For the purposes of this section and sections 120 to 123 and Schedule 14, any reference to referendum expenses incurred by or on behalf of a permitted participant during the referendum period includes any referendum expenses so incurred at any time before the individual or body became a permitted participant.

Donations to permitted participants

119 Control of donations to permitted participants

Schedule 15 has effect for controlling donations to permitted participants that either are not registered parties or are minor parties.

Returns

120 Returns as to referendum expenses

- (1) Where—
- (a) any referendum expenses are incurred by or on behalf of a permitted participant during any referendum period (within the meaning of section 102), and
 - (b) that period ends,
- the responsible person shall make a return under this section in respect of the referendum expenses incurred by or on behalf of the permitted participant during that period.
- (2) A return under this section must specify the referendum to which the expenditure relates and must contain—
- (a) a statement of all payments made in respect of referendum expenses incurred by or on behalf of the permitted participant during the referendum period in question;
 - (b) a statement of all disputed claims (within the meaning of section 116);
 - (c) a statement of all the unpaid claims (if any) of which the responsible person is aware in respect of which an application has been made, or is about to be made, to a court under section 115(4); and

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- (d) in a case where the permitted participant either is not a registered party or is a minor party, a statement of relevant donations received in respect of the referendum which complies with the requirements of paragraphs 10 and 11 of Schedule 15.
- (3) A return under this section must be accompanied by—
 - (a) all invoices or receipts relating to the payments mentioned in subsection (2)(a); and
 - (b) in the case of any referendum expenses treated as incurred by virtue of section 112, any declaration falling to be made with respect to those expenses in accordance with section 112(6).
- (4) Subsections (2) and (3) do not apply to any referendum expenses incurred at any time before the individual or body became a permitted participant, but the return must be accompanied by a declaration made by the responsible person of the total amount of such expenses incurred at any such time.
- (5) The Commission may by regulations prescribe a form of return which may be used for the purposes of this section.
- (6) In this section “relevant donation” has the same meaning as in Schedule 15.

121 Auditor’s report on return

- (1) Where during any referendum period the referendum expenses incurred by or on behalf of a permitted participant exceed £250,000, a report must be prepared by a qualified auditor on the return prepared under section 120 in respect of those expenses.
- (2) The following provisions, namely—
 - (a) section 43(6) and (7), and
 - (b) section 44,
 shall apply in relation to the appointment of an auditor to prepare a report under subsection (1) or (as the case may be) an auditor so appointed as they apply in relation to the appointment of an auditor to carry out an audit under section 43 or (as the case may be) an auditor so appointed.

122 Delivery of returns to Commission

- (1) Where—
 - (a) any return falls to be prepared under section 120 in respect of referendum expenses incurred by or on behalf of a permitted participant, and
 - (b) an auditor’s report on it falls to be prepared under section 121(1),
 the responsible person shall deliver the return to the Commission, together with a copy of the auditor’s report, within six months of the end of the relevant referendum period.
- (2) In the case of any other return falling to be prepared under section 120, the responsible person shall deliver the return to the Commission within three months of the end of the relevant referendum period.
- (3) Where after the date on which a return is delivered to the Commission under this section, leave is given by a court under section 115(4) for any claim to be paid, the responsible person shall, within seven days after the payment, deliver to the

Commission a return of any sums paid in pursuance of the leave accompanied by a copy of the court order giving the leave.

- (4) The responsible person commits an offence if, without reasonable excuse, he—
- (a) fails to comply with the requirements of subsection (1) or (2) in relation to a return under section 120;
 - (b) delivers a return which does not comply with the requirements of section 120(2) or (3); or
 - (c) fails to comply with the requirements of subsection (3) in relation to a return under that subsection.

123 Declaration of responsible person as to return under section 120

- (1) Each return prepared under section 120 in respect of referendum expenses incurred by or on behalf of a permitted participant must be accompanied by a declaration which complies with subsection (2) and is signed by the responsible person.
- (2) The declaration must state—
- (a) that the responsible person has examined the return in question;
 - (b) that to the best of his knowledge and belief—
 - (i) it is a complete and correct return as required by law, and
 - (ii) all expenses shown in it as paid have been paid by him or a person authorised by him.
- (3) The declaration must also state, in a case where the permitted participant either is not a registered party or is a minor party, that—
- (a) all relevant donations recorded in the return as having been accepted by the permitted participant are from permissible donors, and
 - (b) no other relevant donations have been accepted by the permitted participant.
- (4) A person commits an offence if—
- (a) he knowingly or recklessly makes a false declaration under this section; or
 - (b) subsection (1) is contravened at a time when he is the responsible person in the case of the permitted participant to which the return relates.
- (5) In this section “relevant donation” has the same meaning as in Schedule 15.

124 Public inspection of returns under section 120

- (1) Where the Commission receive any return under section 120 they shall—
- (a) as soon as reasonably practicable after receiving the return, make a copy of the return and of the documents accompanying it available for public inspection; and
 - (b) keep any such copy available for public inspection for the period for which the return or other document is kept by them.
- (2) If the return contains a statement of relevant donations in accordance with section 120(2)(d), the Commission shall secure that the copy of the statement made available for public inspection does not include, in the case of any donation by an individual, the donor’s address.
- (3) At the end of the period of two years beginning with the date when any return or other document mentioned in subsection (1) is received by the Commission—

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- (a) they may cause the return or other document to be destroyed; but
- (b) if requested to do so by the responsible person in the case of the permitted participant concerned, they shall arrange for the return or other document to be returned to that person.