

# **ELECTORAL ADMINISTRATION ACT 2006**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These explanatory notes relate to the Electoral Administration Act which received Royal Assent on 11 July 2006. They have been prepared by the Department for Constitutional Affairs in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

### **BACKGROUND**

3. The Electoral Administration Act, incorporates proposals affecting the administration and regulation of elections in the United Kingdom (UK).
4. The Electoral Administration Act will introduce new measures working towards three key objectives:
  - access to voting for all (everyone able to vote);
  - highest possible turnout (everyone wants to vote); and
  - lowest possible fraud (no one abuses the vote).
5. Many of the proposals in the Act have emerged from a series of detailed studies and consultations carried out by the independent Electoral Commission from 2002/3. Following extensive consultation with the electoral community after the 2001 General Election, the Electoral Commission produced several reports recommending changes to the current administration of elections, culminating in two main reports, *Voting for change* (June 2003) and *Delivering democracy? The future of postal voting* (December 2004). The recommendations in these reports are aimed at improving the integrity, security and convenience for the electorate at UK elections.
6. The Government's responses to the reports *Voting for change* and *Delivering democracy? The future of postal voting* were published and announced as command papers in December 2004.
7. Following the Birmingham elections court case (2005) and allegations of fraud at the May 2005 General Election, none of which have resulted to date in prosecution, the Government undertook policy discussions with its stakeholders on a range of proposals aimed at safeguarding the integrity of the electoral system.
8. A Government policy discussion paper was published between May 23 – June 10, and over 160 responses were received on the proposals, by the deadline. Discussion meetings were also held with the Association of Electoral Administrators, other returning officers and administrators, suppliers of electoral services and the political parties. On the basis of these comments and responses received during the discussions, the Government recommended a package of additional proposals, primarily focussing

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on security, to be included in the Act. These also took into account the recommendations of the Electoral Commission's *Securing the vote* report, published in May 2005.

9. The Government's response to *Securing the vote* was published at the time of the introduction of the Bill for this Act in October 2005.
10. The Act is also part of a wider Government programme of modernising the electoral system, to make it more convenient and accessible, and to pave the way for secure multi-channel voting options. This is necessary for achievement of the Government's target of an "e-enabled general election sometime after 2006".

## **OTHER RELEVANT LEGISLATION**

11. The Act primarily makes amendments to:
  - the [Representation of the People Act 1983 \(1983 c.2\)](#) (called "the 1983 Act" in the Act and throughout these Notes);
  - the parliamentary elections rules contained in Schedule 1 to the 1983 Act.
  - the [Political Parties, Elections and Referendums Act 2000 \(c.41\)](#) (called "the 2000 Act" in the Act and throughout these Notes); and
  - the Representation of the People Act 2000, Schedule 4, which governs postal and proxy voting in Great Britain.
12. The provisions in the 1983 Act mainly, but not exclusively, concern the franchise for, conduct of, and proceedings relating to parliamentary elections in the UK and local government elections in Great Britain. Many of the amendments in the Act regarding the conduct of parliamentary elections are being applied, or may, in due course, be applied for the purposes of other types of elections and referendums. These would include: elections to the European Parliament, Scottish Parliament, National Assembly for Wales, Northern Ireland Assembly, local government elections, mayoral and executive elections and national or regional referendums. Delegated powers exist to apply the Act's provisions regarding the conduct of other elections under the following enactments:
  - Section 7 of the European Parliamentary Elections Act 2002;
  - Section 12 of the Scotland Act 1998;
  - Section 11 of the Government of Wales Act 1998;
  - Section 84 of the Northern Ireland Act 1998, as regards local elections in Northern Ireland (but not the franchise);
  - Section 36 of the 1983 Act, as regards local government elections, including elections to the Greater London Authority;
  - Sections 44 and 45 of the Local Government Act 2000 as regards Local Authorities Mayoral elections and Local Authorities executive arrangements; and
  - Section 129 of the 2000 Act as regards national or regional referendums.

## **OVERVIEW OF THE STRUCTURE**

13. The explanatory notes are divided into 9 Parts reflecting the structure of the Act.

### **Part 1: Co-ordinated On-line Record of Electors**

14. [Part 1](#) of the Act contains provisions for the establishment, by order made by the Secretary of State, of one or more Co-ordinated On-line Record of Electors (CORE) schemes. A CORE scheme would consolidate into a centralised record for

the area covered by the scheme, such of the electoral registers and related information maintained by the local electoral registration officers (EROs) in that area as is specified in the scheme.

15. A CORE scheme would be run by a keeper. The keeper, who could be the Electoral Commission, would be designated by the Secretary of State. Whilst the detail of how the scheme would operate would be set out in a scheme order itself, relevant EROs would generally be under a duty to supply the information in their registers, as well as other specified electoral registration information, to the keeper. A keeper would be required to inform relevant EROs of information indicative of duplicate entries. A scheme could permit the keeper to provide electoral registration information to organisations currently entitled to be provided with a copy of electoral registers by EROs under other legislation. The scheme would also govern access to the consolidated record and permit individual electors to access CORE on-line for the purposes of checking and requesting updates to the information held about them.

## **Part 2: Registration of Electors**

16. **Part 2** makes a number of provisions to improve the electoral registration process, including by:
  - establishing a new duty on EROs to take steps to register eligible electors. This sets out the steps that should be taken to ensure registers are as complete and accurate as possible;
    - improving registration for service personnel by providing for the extension of service voter declarations by up to 5 years and requiring the Ministry of Defence to maintain a record of registration options of service personnel;
  - establishing a scheme of anonymous registration for people for whom the publication of their name and address on the electoral register would pose a threat to safety;
  - moving the closing date for registration closer to the date of the poll;
  - allowing for the correction of clerical errors and changes following court decisions to be made up to, and including, polling day; and
  - extending the provision for public objections to registration, so that such objections may be made after a person has been registered as an elector, not just before registration. It also empowers a registration officer to remove ineligible entries from the register at any time.

## **Part 3: Anti-Fraud Measures**

17. This Part provides for the collection of personal identifiers from persons applying to vote by post or proxy. Personal identifiers are specified as signature and date of birth. Postal and proxy vote applicants will be required to provide their date of birth and signature on their application forms. This Part provides for the retention of identifiers by registration officers and sets out the purposes for which they may be used. The clause provides for registration officers to require existing postal and proxy voters to provide their signature and date of birth.
18. Under related provisions in Part 6 of, and Schedule 1 to, the Act, postal voters at elections will be required to provide their signature and date of birth on the postal voting statement that postal voters must complete and return with their postal ballot paper. All postal voters, including proxy postal voters, will be subject to this requirement. Under the provisions, a postal ballot paper will not be deemed to be valid if the postal voting statement does not include both a signature and date of birth. Further, returning officers will be required to take steps to be set out in secondary regulations for verifying the signature and date of birth on the postal voting statement. This will involve checking

that the identifiers provided on the postal voting statement correspond with those previously provided on the postal vote application form.

19. This Part also creates an offence of providing false information for the purposes of registration or when applying for a postal or proxy vote.

#### **Part 4: Review of Polling Places**

20. **Part 4** establishes a framework for local authorities to review polling places regularly over a four-year cycle, to ensure that they provide proper access to people.

#### **Part 5: Standing for Election**

21. **Part 5** reduces the minimum age for candidacy for election to Parliament, and to other specified elected bodies, from 21 to 18.
22. It specifies new requirements as to the immigration status, which Commonwealth citizens must have in order to qualify to stand for election.
23. It makes changes to the nomination procedures, including:
  - giving returning officers a specified period for determining the validity of nomination papers and publishing the statements of nominated candidates;
  - introducing new means of paying the deposit required to stand as a candidate, enabling credit and debit cards to be used; and
  - conferring a power on the returning officer to make correction to minor errors in nomination papers.

#### **Part 6: Conduct of elections etc**

24. This Part makes provision on several topics relevant to the conduct of elections.
25. In relation to electoral expenses it makes amendments:
  - to remedy a defect which currently restricts the activities upon which third party expenditure unauthorised by an election agent can be spent;
  - to allow the Electoral Commission greater flexibility in prescribing the information to be included on candidates' election expenses returns; and
  - to set out in fuller detail what items qualify as candidates' election expenses.
26. It introduces a system for the attendance of the Electoral Commission and other authorised observers at elections.
27. It adds to the circumstances in which a voter is permitted to cast a tendered vote at a polling station.
28. It creates a new offence of applying for a postal or proxy vote with the intention, in effect, of stealing another person's vote. This can be by a person personating another elector or by wrongfully redirecting another elector's postal vote.
29. It introduces new provisions governing the custody, inspection and supply of the marked registers after an election which have been used at polling stations and provides for the production of marked lists of returned postal and postal proxy votes.
30. It introduces a power for returning officers to correct errors made by themselves or others involved in the conduct of the election.

## **Part 7: Regulation of Parties**

31. **Part 7** of the Act contains provisions on several topics relevant to the regulation of political parties. In particular it provides for the regulation of loans (and other related transactions) to political parties. Restrictions are imposed on the sources from which parties may obtain loans and there is established a new reporting regime for such transactions similar to that which currently applies to donations. The other topics are:
- registered names of political parties;
  - political party descriptions to be used on nomination or ballot papers;
  - confirmation of particulars of registered political parties;
  - removal from the register of registered political parties; and
  - time for registration of political parties fielding candidates.
32. There are also provisions to:
- allow additional time for political parties to deliver their unaudited accounts to the Electoral Commission;
  - increase time limits for payment of campaign expenditure; and
  - amend the reporting requirements on political parties who receive low levels of donations, or none at all, by removing the need for repeated reporting of nil returns for donations.

## **Part 8: Miscellaneous**

33. **Part 8** makes provision on the following topics:
- the funding of election services;
  - performance standards for election services;
  - encouraging electoral participation;
  - criminal proceedings;
  - pre-consolidation amendments; and
  - legal incapacity to vote.
34. It establishes provision for the setting of performance standards by the Electoral Commission, for reports to be made on such standards and information to be provided about expenditure. It amends section 29 of the 1983 Act in relation to the funding of services and expenses of returning officers. It introduces a new power for returning officers and EROs to encourage the participation in the electoral process.
35. It provides for the time limit for bringing prosecutions to be extended by a magistrates' court from 12 months to 24 months, following an application from a constable or Crown Prosecutor. In such a case the time limit for relevant documents to be kept can also be extended from 12 months to 24 months.

## **Part 9: General**

36. **Part 9** sets out the general sections on:
- miscellaneous amendments and repeals;
  - financial provision;
  - interpretation;

- commencement;
- extent; and
- short title of the Act.

### **TERRITORIAL APPLICATION: GENERAL**

37. Amendments made by this Act to other enactments have the same territorial extent as the provisions to be amended. Otherwise, the Act extends to the whole of the UK, subject to the exceptions specified in paragraphs 39 to 42 below.
38. On the whole, provisions made by the Act relating to parliamentary elections are applied for the purposes of other UK elections. That is except where:
- such matters would fall to be addressed by the Scottish Parliament if they choose to make corresponding provision; or
  - the measures would be applied by secondary legislation under existing powers in the case of the election concerned (as mentioned above in the commentary of other relevant legislation); or
  - where corresponding provision is not necessary or appropriate owing to other existing legislative differences.

### **TERRITORIAL APPLICATION: NORTHERN IRELAND**

39. The Act applies to Northern Ireland except sections 9, 10, 11, 67 and 70 and related paragraphs in Schedule 1.
40. Where necessary, amendments are made to the Electoral Law Act (Northern Ireland) 1962 in order to achieve a similar result in Northern Ireland for local elections. In Northern Ireland the Representation of the People Acts 1983 and 1985 do not apply to local elections although the 1983 Act is modified and applied indirectly by virtue of the Elected Authorities (Northern Ireland) Act 1989. Similarly, parts of the 1983 Act and the 1985 Act are indirectly applied to Assembly elections by virtue of the Northern Ireland Assembly (Elections) Order 2001 as amended.

### **TERRITORIAL APPLICATION: SCOTLAND**

41. Most of the Act's provisions apply to Scotland except:
- section 70 – Time limit for prosecutions;
  - provisions relating to devolved matters (for example, the conduct of local government elections); and
  - provisions which apply to Northern Ireland only.

### **TERRITORIAL APPLICATION: WALES**

42. Most of the Act's provisions will apply in Wales.

### **COMMENTARY ON SECTIONS**

#### **Part 1: Co-ordinated On-line Record of Electors**

##### ***Section 1 CORE schemes: establishment***

43. *Subsection (1)* confers a power on the Secretary of State to establish by order, one or more Co-ordinated On-line Record of Electors (CORE) schemes for the keeping, and

use, of specified electoral registration information. It specifies certain matters that may be governed by a CORE scheme.

44. A CORE scheme will be maintained by a 'CORE keeper', who will be designated by the scheme. The CORE keeper must be a public body (*subsection (10)*). More than one CORE scheme may be in place at the same time and a scheme would designate the geographical area that it was to cover. *Subsection (7)* specifies, however, that the geographical areas of CORE schemes could not overlap, so that no area could be in more than one scheme at a time. The EROs within a CORE scheme area will be under a duty to provide the keeper with the specified electoral registration information relating to that area (*subsections (1) and (2)*).
45. *Subsection (11)* specifies the electoral registration information that can be kept and used in accordance with the CORE scheme. It could include the register of electors for any election, as well as associated records relating to such a register, which EROs are required or authorised by law to keep. It could also include other information that is required for electoral or jury service purposes relating to a person who appears on a register. The Secretary of State can, by order, add to the information to be held in a CORE scheme.
46. A scheme will establish the details of how and when EROs must provide the specified electoral information to the keeper and specify how a CORE keeper must keep that information (*subsections (3) – (6)*).

## ***Section 2 Use of CORE information***

47. This section defines the uses to which information supplied to CORE may be put.
48. Where a CORE scheme provides for the keeper to hold copies of the full, or edited, or marked registers, he will be bound by regulations governing the supply and access to the registers in a similar way as would apply to an ERO (*subsections (2) to (4)*). These regulations govern the duty of EROs to supply copies, restrict who copies are supplied to and what use recipients may make of them, and allow EROs to charge for providing copies. A number of bodies are entitled, subject to these regulations, to receive copies for the performance of their functions and duties. These include: returning officers (to conduct an election); political parties and the Electoral Commission (to check financial donations); and credit reference agencies (for checking credit applications). In many cases such bodies will require information from every ERO in the UK.
49. *Subsection (1)* provides that a CORE keeper may be authorised, or required, to do certain things with the information he holds under the scheme. For example, where he has the duty of keeping the registers, he may be required to act as the single point of contact for giving access as regards every register in the area covered by the CORE scheme. *Subsection (3)* provides that a CORE scheme could modify the regulations governing access to information kept in a CORE scheme. Any such additional or varied provision applying to a CORE keeper would still have to be within the scope of the specified regulation-making powers.
50. CORE will keep information from multiple local electoral registers. A duty is imposed on CORE keepers to inform relevant EROs of duplicate information held in CORE in specified circumstances (*subsections (5) and (6)*). The CORE keeper may also provide such other information held in CORE as appears to relate to the performance of the EROs functions (*subsection (7)*).
51. A CORE scheme may allow individuals to access their details on-line to check that the information held is accurate. If a scheme provided for this, it would entitle the individual to request changes to that information (*subsection (8)*). This would not allow an individual on-line access to the whole register (*subsection (10)*). If an individual did request a change to their information, the keeper would be under a duty to pass that

request on to the relevant ERO (*subsection (9)*), whether or not that ERO is at that time within the area covered by that CORE scheme (*subsection (12)*).

52. A CORE scheme may not widen the categories of electoral registration data that EROs have access to. *Subsection (11)* specifies that a CORE scheme must not allow one ERO to view on CORE the information provided by another, other than through the notification of duplicates outlined elsewhere in the section.

### ***Section 3 CORE scheme grants***

53. This section provides the powers for the Secretary of State to make the necessary finances for the running of a CORE scheme available to the keeper under that scheme.

### ***Section 4 Electoral Commission***

54. *Subsection (1)* of this section amends the 2000 Act by adding a new section 20A. This allows the Electoral Commission to be appointed as the keeper of a CORE scheme by the Secretary of State under section 1.

### ***Section 5 CORE schemes: supplemental***

55. This section makes supplemental provisions in relation to CORE schemes.
56. *Subsections (1)* and *(3)* authorise a CORE scheme to specify circumstances in which payments may be required between a CORE keeper and an ERO for an area covered by a CORE scheme, and the circumstances in which a CORE keeper may charge any person for his services and the level of any such charges.
57. *Subsection (2)* authorises a CORE scheme to make provision enabling a CORE keeper and an ERO to perform some of the other's functions. *Subsection (10)* allows a CORE scheme to specify functions that must be carried out personally by a CORE keeper. A CORE keeper may make arrangements with third parties, if he thought it appropriate, with respect to the carrying out of any other functions.
58. A CORE scheme could make special provision for how that scheme and keeper are to operate in respect of a parliamentary constituency that falls partly within, and partly outside, the area covered by that CORE scheme. Paragraph 1(1) of Schedule 2 to the 1983 Act provides for regulations to be made dealing with such a situation and a scheme may apply, with modifications, any regulations made under that provision (*subsections (4)* and *(5)*).
59. As information kept and used in a CORE scheme will mainly be held electronically, a power is taken (*subsection (6)*) to modify any obligation to provide a person's signature, where that is a requirement for the purposes of an ERO's responsibilities, in relation to electoral registration or absent voting.

### ***Section 6 CORE schemes: procedure***

60. Before making an order to establish or vary a scheme, the Secretary of State will have to consult the Electoral Commission, the Information Commissioner and EROs who would be affected by the Order (*subsection (4)*). An order establishing a CORE scheme would attract the affirmative resolution procedure, thus requiring approval by both Houses of Parliament (*subsection (2)*). The Secretary of State may terminate a scheme, in whole or in part, without the need to consult (other than with an ERO whose area is proposed to be removed from the scheme), but would still only be able to do so by order subject to the affirmative resolution process (*subsection (5)*).

### ***Section 7 Amendment of the 1983 Act***

61. This section amends section 63 of the 1983 Act. As regards duties imposed by the law relating to parliamentary or local government elections, or the registration of



parliamentary or local government electors, a CORE keeper will be liable in criminal law for a breach of his official duties. The penalty for breach of official duty, under section 63, is a fine not exceeding £5000.

## **Part 2: Registration of electors**

### ***Section 9 Registration officers: duty to take necessary steps***

62. This section replaces section 9(6) of the 1983 Act with a new section 9A, to expand upon the statement of registration officers' duties in relation to the maintenance of the registers for which they are responsible. *Subsection (2)* of the new section sets out a non-exhaustive list of the steps that must be taken to identify persons eligible for registration as electors. *Subsection (3)* provides a power for the Secretary of State to add to the list of steps to be taken.

### ***Section 10 Anonymous registration***

63. *Subsection (1)* adds new sections 9B and 9C into the 1983 Act. Section 9B provides the possibility of anonymous registration of electors in certain circumstances. If a person is eligible for registration, but fears that his safety or that of another person resident in the same household would be at risk if he were identifiable from the electoral registers, he may apply for anonymous registration. Section 9C provides for the removal of an anonymous entry after 12 months.
64. Section 9B(1) sets out the requirements for seeking anonymous registration. The person must make a specific application, it will not be possible to apply on the canvass form. Along with the prescribed information required for registration as a parliamentary and local government elector, the person has to provide further information specifically relevant to their application for an anonymous entry. They must make a declaration and provide evidence in support of their application.
65. Section 9B(2) specifies that an ERO, when determining an application for an anonymous entry must determine whether the safety test is satisfied.
66. Section 9B(3) provides that where an application for anonymity is granted, the details which will appear on the register will be only their electoral number and letters prescribed in regulations which indicate the elections for which, and the manner by which, the person can vote.
67. Section 9B(6) sets out that where an application for an anonymous entry is refused, no new entry in the register should be made at all.
68. Section 9B(7) provides that where the person who unsuccessfully applied for anonymity was already on the current electoral register, that entry is not to be removed. A person may apply again for registration despite the rejection of their application for anonymity.
69. Section 9B(10) specifies the safety test to be applied in the determination of an application for anonymous registration. The test will be satisfied where the safety of the applicant for an anonymous entry or that of any other person of the same household would be at risk if the register contains the name of the applicant or his qualifying address.
70. Section 9C(1) provides that a person's anonymous entry terminates after 12 months. It is not automatically renewable. It will terminate if the declaration made for the purposes of seeking an anonymous entry is cancelled earlier (e.g. at the elector's request, or if he moves out of the constituency).
71. Section 9C(3) provides that upon the termination of an anonymous entry, a registration officer has to remove it from the register unless a further application for an anonymous entry is granted.

***Section 11 Alterations of registers: pending elections***

72. *Subsections (1) and (2)* amend section 13B of the 1983 Act, which concerns alterations to the electoral registers during a period when an election is pending. These subsections will move the deadline for applying for registration closer to the day of poll. A person will be entitled to vote in an election if their registration has taken effect by the fifth day before polling day. Registration cannot take effect until the registration officer has determined entitlement and issued a notice amending the register. The five day period for public objections, currently provided for in secondary legislation, will mean that the final date for applying to be registered will be eleven days prior to polling day.
73. *Subsection (3)* amends section 13B further to deal with circumstances where the registration officer has determined that an amendment to his registers is needed to add or remove a person's entry in the register, or to give effect to a court ruling, or to correct a clerical error. If the section 13B timescales for those amendments taking effect would be later than the fifth day before the poll, then the amendments to section 13B(2) have the effect of bringing forward the date those amendments take effect, to what is called in section 13B, "the appropriate publication date", i.e. the sixth or the fifth day before the poll.
74. *Subsection (4)* inserts (3A) to (3E) into section 13B of the 1983 Act. Whereas the amendment made by the substituted section 13B(2) limits effective amendments to those made no later than the fifth day before the poll, there are two circumstances in which amendments can be made and take effect up to and including a prescribed time of day on polling day itself. Currently, such alterations may only be made up to the fifth day before the day of poll.
75. These circumstances, covered by the inserted section 13B(3A) and (3C), are where there has been a court ruling, or a clerical error has been corrected. The inserted section 13B(3B) deals with the court ruling; the inserted section 13B(3D) deals with the clerical errors. These subsections direct the registration officer to issue the required notice that amends the register and specifies that the notice takes effect as from the beginning of the day on which it was issued.
76. *Subsection (4)* inserts a new subsection 13B(3E). Clerical errors can only be corrected during pending elections if the elector has drawn them to the attention of the registration officer in the prescribed time and manner.

***Section 12 Determinations by registration officers and objections***

77. This section empowers an ERO to remove an elector's name from his register if it becomes apparent, after the process of registration has been completed, that the elector should not have been registered. At present, objections to a person's registration can only be raised before the registration takes effect and a registration officer's powers to remove an erroneous or obsolete entry are limited. The section widens the powers of an ERO to remove a person's entry from the register.
78. The section similarly provides for registration officers to be able to terminate the registration of electors whose registration is dependent upon special declaration based procedures, rather than the canvass or rolling registration applications. Thus, similar provision is made in relation to:
- patients in mental hospitals: *subsection (1)* amending section 7 of the 1983 Act;
  - persons remanded in custody: *subsection (2)* amending section 7A of the 1983 Act;
  - persons, such as homeless persons, registered by declaration of local connection: *subsection (3)* amending section 7C of the 1983 Act;
  - persons registered as service voters: *subsection (7)* amending section 15(2) of the 1983 Act; and

- persons registered as overseas electors: *subsection (9)* amends section 2 of the Representation of the People Act 1985.
79. *Subsection (4)* amends section 10A of the 1983 Act (maintenance of registers: registration of electors) by adding a new subsection (3A). This will establish that objections to another person's registration, to which 10A(3) of the 1983 Act applies, may be made both before and after that person's registration.
80. *Subsection (5)(b)* replaces existing section 10A(5)(b) of the 1983 Act. This gives the ERO the power to remove an elector from the register if the ERO determines that the elector is no longer resident, or for other reasons, has ceased to satisfy the conditions of entitlement to be registered. This power to remove will also apply in relation to persons registered as anonymous electors.
81. *Subsection (6)* adds a new section 10A(5B) of the 1983 Act to give the EROs the power to obtain information via house to house inquiries for the purposes of determining whether a person has ceased to be resident or to satisfy the conditions of entitlement to be registered.
82. *Subsection (8)* amends section 56 (registration appeals) by adding a new subsection (1) (aa). This clarifies that the right of appeal to a county court from the decision of a registration officer also applies where the result of an objection made after registration is that the person ceases to be registered on the electoral register.

### ***Section 13 – Registration in pursuance of a service declaration***

83. *Section 13* amends sections 15 and 59 of the 1983 Act. The purpose of the section is to encourage service personnel to register to vote.
84. *Subsection (1)* of *section 13* adds new subsections (9) to (12) to section 15 of the 1983 Act. Section 15(9) and (11) confer power on the Secretary of State to extend the length of service declarations from a year to up to five years and specify that he must consult the Electoral Commission before making the affirmative resolution Order. Section 15(9) provides that only service personnel, and their wives, spouses or civil partners, will be affected by the extension of service declarations.
85. *Subsection (2)* of *section 13* amends subsections (3) and (4) of section 59 of the 1983 Act. The amendments restate the duties on appropriate government departments regarding registration and voting arrangements for employed service personnel. Section 59(3C) and (3D) will oblige the Ministry of Defence to maintain a record of the electoral registration arrangements of members of the forces, and must make arrangements to enable service personnel to update such information annually.

## **Part 3: Anti-Fraud Measures**

### ***Section 14 Registration: personal identifiers***

86. This section provides for the collection of personal identifiers from persons applying to vote by post or proxy. The section requires postal and proxy vote applicants to provide their date of birth and signature on their application forms. It provides for the retention of identifiers by registration officers and sets out the purposes for which they may be used. The section provides for registration officers to require existing postal and proxy voters to provide their signature and date of birth.
87. This section should be read in conjunction with provisions in section 37 and paragraph 73 of Schedule 1 of the Bill under which postal voters at elections will be required to provide their signature and date of birth on the postal voting statement that postal voters must complete and return with their postal ballot paper. All postal voters, including proxy postal voters, will be subject to this requirement. Under the provisions, a postal ballot paper will not be deemed to be valid if the postal voting statement does not include

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either a signature or date of birth. Further, returning officers will be required to take steps to be set out in secondary regulations for verifying the signature and date of birth on the postal voting statement. This will involve checking that the identifiers provided on the postal voting statement correspond with those previously provided on the postal vote application form. If the identifiers do not correspond, this will result in the ballot paper being rejected. The detailed arrangements for checking postal voting statements will be set out in regulations.

88. Taken together, the provisions are designed to address concerns over the potential for fraud in the postal voting process, and put in place arrangements that significantly enhance the security of postal voting.
89. *Subsection (1)* amends paragraph 3 of Schedule 4 to the Representation of the People Act 2000 which concerns applications for absent votes for a definite or indefinite period. In future, an application for a postal or proxy vote at parliamentary elections, at local elections or both, for an indefinite or definite period must contain the applicant's signature and date of birth. The registration officer may dispense with the requirement for an applicant to provide their signature if he satisfied that the applicant is unable to provide a signature because of any disability the applicant has, or if the applicant is unable to read or write, or to sign in a consistent and distinctive way because of any such disability or inability.
90. *Subsection (1)* requires registration officers to keep a record of the dates of birth and signatures in relation those electors whose applications for postal and proxy votes have been granted for a definite or indefinite period. Under *subsection (1)*, the records kept by registration officers of the dates of birth and signatures of absent voters as provided on their application form must be retained by the registration officer for the prescribed period. Secondary regulations will be made that will set out in detail the arrangements for the retention of absent voter identifiers.
91. *Subsection (2)* amends paragraph 4 of Schedule 4 which concerns applications for an absent vote at a particular election. Postal and proxy voters for a particular election will be required to give their date of birth and signature in their application.
92. *Subsection (3)* amends paragraph 7 of Schedule 4 which concerns applications for a proxy postal vote for a definite or indefinite period, or at a particular election. Proxy postal voters will be required to give their date of birth and signature on their application.
93. *Subsection (4)* inserts new paragraphs 7A and 7B into Schedule 4. They concern the provision of fresh signatures by absent voters, and the purpose is to ensure up to date identifiers are kept given that over time a person's signature may change. Paragraph 7A(1) provides for postal, proxy and proxy postal voters for a definite or indefinite period at any time, of their own volition, to provide the registration officer with a fresh signature. Paragraph 7A(2) provides that the fresh signature will replace the earlier signature for the purposes of the requirements of the postal and proxy voting scheme, for example, the voter will need to use the fresh signature on their postal voting statement at an election.
94. Paragraph 7B(a) provides for regulations to be made setting out the circumstances where the registration officer may require a postal, proxy or postal proxy voter for an indefinite or definite period to provide a fresh signature. Under paragraph 7B(b), the regulations may also address the consequences of a person refusing or failing to comply with a requirement to provide a fresh signature.
95. *Subsection (4)* also inserts new paragraphs 7C and 7D into Schedule 4 concerning the use of personal identifier information. Paragraph 7C provides that at an election, the registration officer must either provide the returning officer with a copy of the records of personal identifiers in respect of absent voters or give the returning officer access to

them. The returning officer will use these records for the purpose of verifying postal voting statements.

96. Paragraph 7D provides for records of personal identifiers to be disclosed to other specified persons, namely, other registration officers where that will assist the registration officer in the performance of his duties; any person exercising functions in relation to the preparation or conduct of legal proceedings under the Representation of the People Acts; and other such persons for such other purposes relating to elections as may be prescribed.
97. *Subsections (5) to (7)* concern the transitional arrangements for the new postal and proxy voting arrangements. The aim is to capture the personal identifiers of existing postal, proxy and postal proxy voters before the new arrangements come into force.
98. *Subsection 5(a)* provides for the Secretary of State to make regulations that enable registration officers to require an existing absent voter to provide the registration officer with a signature and date of birth. Under *subsection 5(b)*, the regulations may address the consequences of an existing absent voter refusing or failing in such circumstances as are prescribed to provide a signature and date of birth.
99. *Subsection (6)* defines existing absent voters as postal, proxy and postal proxy voters for a definite or indefinite period, or such voters who have applied in advance in respect of a particular election only.
100. *Subsection (7)* provides that the regulations concerning the transitional arrangements may make different provision for different purposes. The section provides for the regulations to be subject to the negative resolution procedure.
101. *Subsection (8)* states that nothing in the section or the amendments made by it has effect in relation to anything which is done only for the purposes of a local government election in Scotland.

### ***Section 15 Offences as to false registration information***

102. This section amends section 13D of the 1983 Act, which currently only extends to Northern Ireland. As well as extending its application to the whole of the UK, it expands the offence stated in section 13D(1). It will be an offence to provide false information for any purposes connected with registration. Section 13D(3) currently states that in relation to a signature, “false information” means a signature which is not the usual signature of the person, or was written by a person other than the person whose signature it purports to be. The amendments made to section 13D, as it will have effect in Great Britain, also cover information required by the Representation of the People Act 2000 Schedule 4 for the purposes of applications for absent votes. False information provided for the purposes of such applications is also to come within the scope of the offence.
103. *Subsections (6) and (7)* increase the maximum term of imprisonment in England and Wales to 51 weeks. This increase will take effect once section 281 of the Criminal Justice Act 2003 comes into force.

## **Part 4: Review of Polling Places**

### ***Section 16 Review of polling places***

104. This section substitutes new sections 18A – 18E for the current section 18 (place and manner of voting at parliamentary elections) of the 1983 Act. Sections 18A to 18E clarify the duties and powers of local authorities, the Electoral Commission and returning officers. The new provisions also detail the time and manner in which reviews are to take place and how representations can be made, in particular by those concerned to ensure accessibility of polling stations to persons with a disability.

105. *Subsection (1)* substitutes the new sections 18A – E. Section 18A (Polling stations at parliamentary elections) makes provision for each constituency to be divided into polling districts. It makes no substantive amendment to subsections (1) to (4) of section 18.
106. Section 18B (Polling places at parliamentary elections) provides for the designation of polling places within each polling district. It sets out the basic ground rules relevant to the designation process, in particular (see section 18B(4)(c)) that the authority must have regard to the accessibility to disabled persons of potential polling stations within a designated polling place (for example, which part of a school building is to be the polling station). Apart from section 18B(4)(c), this provision is in similar terms to the current section 18.
107. Section 18C (Review of polling districts and places) provides that local authorities must complete a review of polling districts and places throughout their area within 12 months after the coming into force of this section. They must make further reviews within four years of the last such review. *Subsections (2) and (3)* deal with alterations to the process to take account of newly created constituencies or when boundary changes alter constituencies.
108. Section 18D (Review of polling districts and places: representations to Electoral Commission) sets out the process for, and who may make, representations during the review process. It clarifies, without substantive amendment, the Electoral Commission’s role in section 18(5) of the 1983 Act. However, section 18D(1)(d) includes amongst the persons who may make representations to the Electoral Commission, persons who, although not electors, are regarded by the Electoral Commission as having a sufficient interest or particular expertise in the issue of disabled access.

## **Part 5: Standing for election**

### **Standing for election**

#### ***Section 17 Minimum age***

109. This section reduces from 21 to 18 the age of qualification for election to the House of Commons or a local authority, and election as mayor, Mayor of London and Assembly Member of the Greater London Authority. This section will require that the candidate is 18 on the day of nomination or, in the case of a local authority election and election to the Greater London Authority, where the election is not preceded by nominations, on the date of the poll.
110. Under *Subsections (2) and (3)* the election of a person under 18 to the House of Commons will be void unless the House of Commons makes an order waiving the disqualification. It has a power to do so in the circumstances referred to under section 6(2) of the House of Commons Disqualification Act 1975.

#### ***Section 18 Certain Commonwealth citizens***

111. This section limits the right of Commonwealth citizens to stand for election to the House of Commons to those with a right of abode or with indefinite leave to remain in the UK. This will help to ensure that the only Commonwealth citizens who may stand for election and be an MP are those who have a right to live in the UK throughout the term of their office.
112. *Subsection (1)* amends provisions of the Act of Settlement 1700 governing who may be a member of the House of Commons to require that, in order to be eligible for election as a member of the House, a Commonwealth citizen must be a “qualifying” Commonwealth citizen. *Subsections (2) and (3)* define qualifying Commonwealth citizens for these purposes. *Subsection (4)* provides that, subject to provision for waiver

of the disqualification by the House of Commons, the election of anyone elected whilst disqualified by this section is void, and that anyone who becomes disqualified after having been elected must vacate his seat. *Subsection (5)* applies specified provisions of the House of Commons Disqualification Act 1975 relating to persons who are disqualified under that Act to persons to whom *subsection (4)* applies.

113. *Subsection (6)* gives effect to Part 3 of Schedule 1 to the Act. This makes similar amendments to provisions governing election to bodies other than the House of Commons, namely the European Parliament, the Greater London Authority and local authorities throughout the UK. As the right to stand for election and be a member of the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly depends on whether the person is disqualified for membership of the House of Commons, there is no need to make express provision in those cases in order to have the same effect. However, consequential amendments are made in the case of those elections where necessary.

### ***Section 19 Nomination procedures***

114. This section makes amendments to Schedule 1 of the 1983 Act (parliamentary election rules).
115. *Subsection (2)* amends rule 1 to require returning officers to publish the statement of persons nominated, where no objections are made, once the time for making objections has passed. Where objections have been made the statement must be published once all objections have been disposed of, and in any event within 24 hours of the last time for the delivery of nomination papers. *Subsections (6)* and *(7)* amend rule 12 so that returning officers must make any decision on the validity of nomination papers within 24 hours of the close of the period for the delivery of nomination papers.
116. *Subsection (5)* amends rule 9 so as to clarify that the returning officer may at his discretion accept the use of debit and credit cards or electronic transfer of funds by candidates in lodging their deposits. *Subsection (3)* amends rule 5 to require that the notice of election must contain details of the arrangements for such electronic transfer of funds.
117. *Subsection (8)* confers on returning officers the power to correct minor errors made in nomination papers, such as obvious spelling errors.

## **Part 6: Conduct of elections etc.**

### **Election timetables**

#### ***Section 20 Omission of references to Maundy Thursday***

118. This section removes Maundy Thursday from the list of days that are to be disregarded for the purposes of the electoral timetable. The section gives effect to Part 4 of Schedule 1, which specifies the amendments to current enactments necessary to achieve this.

### **Nomination**

#### ***Section 21 Use of candidates' common names***

119. This section amends Schedule 1 (parliamentary election rules) to the 1983 Act by making a new provision to enable candidates to use the name which they commonly use (their "common name") on the ballot paper. Examples of such names include
- a single name (for example, "Sting");
  - a shortened version of a forename (for example, "Bob" instead of Robert);

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- a professional or stage name (for example, “Michael Caine” instead of Maurice Joseph Micklewhite);
  - a name where initials are used (for example, A.A. Milne, John H. Stracey or Malcolm X); or
  - a married woman’s maiden name which she retains in connection with her job or profession.
120. *Subsection (2)* inserts new paragraph (2A) into rule 6 (Nomination of candidates), which provides that if a candidate commonly uses a surname or a forename which is different from any other surname or forename he has, the nomination paper may state the commonly used surname or forename in addition to any other name.
121. *Subsection (3)* inserts new paragraphs (2A) to (2C) into rule 14 (Publication of statement of persons nominated). Paragraph (2A) provides that where a nomination paper bears a commonly used name the statement of persons nominated shall show the person’s commonly used name instead of the other name.
122. Paragraph (2B) provides that paragraph (2A) does not apply if the returning officer thinks that the commonly used name may be likely to mislead or confuse voters or is obscene or offensive. Paragraph (2C) requires the returning officer to give notice in writing of his reasons for refusing the use of a commonly used name.
123. *Subsection (4)* amends the Form of Nomination Paper in the Appendix of Forms in Schedule 1 by adding additional columns in which a candidate can include his commonly used surnames and forenames, if applicable.
124. *Subsection (5)* amends the notes accompanying the Form of Nomination Paper. The candidate is advised that he may include his commonly used name on the nomination paper, but that if he does so it is that name which will appear on the ballot paper. The notes also advise of the circumstances in which a returning officer might refuse the use of a common name.

***Section 22 Candidate not to stand in more than one constituency***

125. This section introduces a new paragraph (c) into Rule 8(3) of Schedule 1 to the Representation of the People Act 1983 (Candidate’s consent to nomination). This provides that a candidate must state on the consent form that he is only standing in one constituency at a UK Parliamentary election.

***Section 23 Offences as to false statements in nomination papers***

126. This section amends section 65A of the 1983 Act.
127. *Subsection (1)* of section 65A is amended to provide that a person shall be guilty of a corrupt practice if they authorise a candidate to use a description knowing that that person will be standing in more than one constituency where the poll is to be held on the same day.
128. A new subsection (*1A*) is inserted into section 65A which provides that a person is guilty of a corrupt practice where he makes a false statement in any document in which he gives his consent to nomination as to:
- his date of birth;
  - his qualification for being elected;
  - the fact that he is not a candidate at an election for any other constituency where the poll is to be held on the same day as the poll at the election to which the consent relates.



129. A relevant election for the purposes of section 65A is generally any parliamentary election or any local government election in England and Wales. However, since the requirement (introduced by section 22 of this Act) for a candidate to state that he is not a candidate in any other constituency applies only to parliamentary elections, local government elections are not relevant elections for the purposes of the related corrupt practices created by section 23 of this Act.

## **Death of Candidate**

### ***Section 24 Death of candidate***

130. This section replaces rule 60 of Schedule 1 to the Representation of the People Act 1983 (Death of candidate at a Parliamentary Election) with new rules 60 to 65. Following the delay caused by the death of a candidate in the constituency of South Staffordshire at the 5 May 2005 General Election, concerns were raised about the efficacy of the procedure for dealing with the death of a candidate in these circumstances. New rules 60 to 65 address this problem by reducing the delay in rescheduling the date of poll as a result of the death of a candidate, by allowing registered political parties to field an alternative candidate if their candidate dies and by allowing the original election timetable to continue uninterrupted should the deceased candidate be an independent.

### **New rule 60: Independent candidate**

131. Rule 60(1) applies if at a contested UK Parliamentary election, proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named in the ballot papers as an independent candidate has died.
132. Rule 60(2) provides that where an independent candidate dies, the election will continue as if that candidate has not died, subject to this rule and rules 61 and 62.
133. Rule 60(3) states the exceptions where the rules of Schedule 1 to the Representation of the People Act 1983 do not apply to a deceased independent candidate. These are:
- (a) rule 32(1)(c) and (d) (admission to polling station) – the polling agents of a deceased candidate are not permitted to enter a polling station;
  - (b) rule 44(2)(b) to (d) (attendance at count) – the election agent, counting agents or spouse of a deceased candidate are not automatically entitled to be present at the count; and
  - (c) rule 53(4) (forfeiture of deposit) – the deposit of a deceased independent candidate will not be forfeit under any circumstances.
134. Rule 60(4) provides that where there are only two candidates shown in the statement of persons nominated, and one of those candidates dies, the election will be treated as an uncontested election. Either the notice of poll will be countermanded, or if polling as begun, the returning officer will direct that the poll is abandoned, and any prescribed election documents disposed of in the manner set out in Rule 65 of schedule 1 to the Representation of the People Act 1983.
135. Rule 60(5) For the purposes of this rule a person is named or to be named on the ballot papers as an independent candidate if the description (if any) on his nomination paper is not authorised as mentioned in rule 6A(1) or (1B).

### **New rule 61: Deceased independent candidate wins**

136. Rule 61(1) applies where a deceased independent candidate, named on the statement of persons nominated, receives the majority of votes at the election.
137. Rule 61(2) provides that where the deceased candidate receives the majority of votes, Rule 50(1) (declaration of result) does not apply and that the returning officer shall

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declare that no member is returned and announce the number of votes given to each candidates together with the number of rejected ballot papers.

138. Rule 61(3) disappplies Rule 53, with the result that the remaining candidates' deposits will not be forfeited.
139. Rule 61(4) specifies that where the deceased candidate receives the majority of votes, the returning officer must retain the writ, and proceed with a fresh election, subject to the following provisions of this rule.
140. Rule 61(5) specifies that the writ for the election must be taken to have been received on the first working day after the end of the period of seven days starting on the day of the declaration of result of the election.
141. Rule 61(6) provides that in the case of a person shown in the statement of persons nominated as standing nominated, no fresh nomination is necessary. Additionally, no new nominations may be made by any person.
142. Rule 61(7) provides that if a candidate wishes to withdraw from the rescheduled contest, the last day on which he can give notice of withdrawal of candidature is the seventh working day after the day on which the writ is taken to be received.
143. Rule 61(8) provides that no new deposit is necessary in the case of a rescheduled election caused by the a deceased independent candidate receiving the majority of votes at the original poll.
144. Rule 61(9) specifies that the rescheduled poll must be held on a day in the period which starts 15 working days after the day on which the writ is taken to have been received and ends 19 working days after that day.
145. Rule 61(10) provides that for the purposes of this rule a working day is a day which is not a day specified in rule 2(1)(a) to (c) of Schedule 1 to the Representation of the People Act 1983. The specified days are a Saturday or Sunday, Christmas Eve, Christmas Day, Good Friday, a bank holiday, or a day appointed for public thanksgiving or mourning.

**New rule 62: Deceased independent candidate with equality of votes**

146. Rule 62 provides that where a deceased candidate polls the same number of votes as another candidate, the deceased candidate will be ignored, and the remaining candidate will be returned.

**New rule 63: Party candidate**

147. Rule 63(1) applies where proof is given to the officer that the candidate of a registered political party, who is named or to be named on the ballot paper, has died before the declaration of result.
148. Rule 63(2) provides that the returning officer must either countermand notice of the poll, or if polling has begun, direct that the poll be abandoned.
149. Rule 63(3) provides that the proceedings with reference to the election must be commenced afresh, subject to paragraphs (4) to (9) of this rule:
  - the writ will be taken to have arrived on the first working day after the end of a period of seven days following the day that a returning officer receives proof of a party candidate's death;
  - a candidate already shown on the statement of persons nominated does not need to submit a fresh nomination;
  - only a new candidate for the registered political party in whose name the deceased candidate was standing will be permitted to submit a new nomination. No other nominations may be made;

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- the last day for a nomination by a new candidate for the registered political party to be made, is the seventh working day after the writ is taken to be received;
- a candidate already shown as nominated may withdraw from the rescheduled poll. The notice of withdrawal must be made by the seventh working day after the day on which the writ is taken to be received; and
- the minimum number of days that may pass between the day on which the writ is taken to have been received and the poll is 15 working days. The maximum number of days is 19 working days.

150. For the purposes of rule 63:

- (a) a person stands in the name of a registered political party if his nomination paper contains a description which is authorised as mentioned in rule 6A(1) or (1B);
- (b) a registered political party is a party which is registered under Part 2 of the Political Parties, Elections and Referendums Act 2000; and;
- (c) a working day excludes days specified in rule 2 of Schedule 1 to the Representation of the People Act 1983. The specified days are a Saturday or Sunday, Christmas Eve, Christmas Day, Good Friday, a bank holiday, or a day appointed for public thanksgiving or mourning.

**New rule 64: Speaker of the House of Commons seeking re-election**

151. Rule 64 applies where proof is given to the returning officer that the Speaker of the House of Commons has died while seeking re-election as a candidate, shown on the statement of nominated persons for a UK Parliamentary election.

152. Rule 64 (2) provides that where the circumstances in subsection (1) occur, the returning officer must, either countermand notice of the poll, or if polling has begun, direct that the poll be abandoned.

153. Rule 64 (3) provides that the proceedings with reference to the election must be commenced afresh, subject to paragraphs (4) to (6) of this rule, which provide that:

- the writ will be taken to have arrived on the first working day after the end of a period of seven days following the day that a returning officer receives proof of a party candidate's death;
- the last date for new nominations to be delivered, or for a candidate already shown on the statement of persons nominated to withdraw his candidature, is the seventh working day after the day on which the writ is taken to be received; and
- the minimum number of days that may pass between the day on which the writ is taken to have been received and the poll is 15 working days. The maximum number of days is 19 working days.

154. Paragraph (7) states that for the purposes of this rule a working day is a day which is not a day specified in rule 2(1)(a) to (c) of Schedule 1 to the Representation of the People Act 1983. The specified days are a Saturday or Sunday, Christmas Eve, Christmas Day, Good Friday, a bank holiday, or a day appointed for public thanksgiving or mourning.

**New rule 65: Abandoned poll**

155. Rule 65 applies to an election where the death of either an independent candidate, a candidate from a registered political party, or the Speaker of the House of Commons occurs, as set out in Rules 60, 63 and 64 of Schedule 1 to the Representation of the People Act 1983 respectively.

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156. Rule 65(2) provides that, where the death of a candidate occurs as described in paragraph (1), the presiding officer at a polling station must forward to the returning officer, the ballot boxes, ballot papers and other documents as he would be required to do on the close of the poll.
157. Rule 65(3) requires the returning officer to dispose of election documents, as he is required to do on the completion of the counting of the votes.
158. Rule 65(4) to (8) provide that:
- the returning officer does not need to prepare or verify a ballot paper account;
  - no count should take place where proof is given of a candidate's death, or the count should cease should proof of death be made to the returning officer during the count; and
  - the returning officer must seal up all the ballot papers (whether the votes on them have been counted or not) and it is not necessary to seal up counted and rejected ballot papers in separate packets.
159. Rule 65(7) provides that ballot papers and other election documents relating to the poll should be retained and open to inspection in the same manner as if the election had not been postponed due to a candidate's death, subject to paragraphs (8) and (9).
160. Rule 65(8) states that ballot papers on which the votes were neither counted nor rejected must be treated as counted ballot papers.
161. Rule 65(9) states that no order is to be made for the inspection or production of either ballot papers, corresponding number lists, or certificates of employment on the day of poll. An exception is made where the order is made by a court in relation to a prosecution.

## **Election expenses**

### ***Section 25 Amount of expenses which may be incurred by third party***

162. This section amends section 75 of the 1983 Act (Prohibition of expenses not authorised by election agent), as previously amended by section 131 of the 2000 Act.
163. *Subsections (2) and (3)* amend section 75(1) of the 1983 Act. Section 75(1) provides that no expenses, with a view to promoting or procuring the election of a candidate at an election (or, in the case of an election of the London Members of the London Assembly at an ordinary election, a registered political party or candidates of that party), shall be incurred by any person other than the candidate, his election agent and persons authorised in writing by the election agent on account of the matters set out in paragraphs (a) to (d) of subsection (1):
- (a) holding public meetings or organising any public display;
  - (b) issuing advertisements, circulars or publications;
  - (c) otherwise presenting to the electors the candidate or his views, or the extent or nature of his backing, or disparaging another candidate; or
  - (d) in the case of an election of the London Members of the London Assembly at an ordinary election, otherwise presenting to the electors the candidate's registered political party (if any) or the views of that party, or the extent or nature of that party's backing, or disparaging any other registered political party.
164. By way of exception, section 75(1), as amended, also provides that a third party campaigning for or against a candidate at a Parliamentary election may incur expenditure up to a maximum of £500 ("the permitted sum"). A formula is provided for calculating the permitted sum in local government elections.

165. The intention of the earlier amendment to section 75(1) was to allow a third party to incur expenses up to the permitted sum on promoting or procuring the election of a candidate through any of the means listed under section 75(1)(a) to (d) above, and the Electoral Commission had interpreted it this way. However, as drafted, the amendment gave rise to ambiguity, raising concerns that the exception only applied to those matters set out in subsection (1)(c) and (d).
166. *Subsection (2)* amends section 75(1) of the 1983 Act to remove any ambiguity. The result is that the exception allowing a third party to incur expenditure up to the permitted sum applies to all those matters set out in subsection (1)(a) to (d) above and ensures that other exceptions to subsection (1)(c) and (d) continue to apply.
167. *Subsection (5)* inserts a new subsection (8) in section 75 of the 1983 Act. The effect of new subsection (8) is to provide that expenditure incurred by a third party will count for the purposes of section 75 if it is incurred in connection with any thing which is used or takes place after the candidate becomes a candidate, even if the expenditure is incurred before that date.

### ***Section 26 Return as to election expenses***

168. This section amends section 81 (return as to election expenses) of the 1983 Act, by inserting a new subsection (3A) and omitting subsection (3).
169. **Section 81(3)**, as amended by the 2000 Act, prescribes the information to be included in a candidate's election expenses return to the appropriate officer and the form in which the information should be presented. The Electoral Commission expressed concern that the information as required to be presented by section 81(1) to (3) is too prescriptive and complex. Consequently the election expenses return that the Electoral Commission must produce is difficult to understand.
170. New subsection (3A) allows the Electoral Commission greater flexibility in prescribing the form in which the information required should be presented, without reducing the amount of information that must be included in the return.

### ***Section 27 Meaning of election expenses for purposes of the 1983 Act***

171. This section inserts new section 90ZA (meaning of election expenses) after section 90 of the 1983 Act.
172. New section 90ZA(1) provides that "election expenses" in relation to a candidate at an election means any expenses incurred at any time in respect of any matter specified in Part 1 of Schedule 4A, which is used for the purposes of the candidate's election after the date when he becomes a candidate at the election. Because of section 118A of the 1983 Act, a person cannot become a candidate at the election before#in the case of a parliamentary general election#the dissolution of Parliament.
173. New subsection (3) provides that the phrase "for the purposes of a candidate's election" means with a view to, or otherwise in connection with, promoting or procuring the candidate's election at the election.
174. New subsection (4) confirms that election expenditure is such expenditure as is incurred by the candidate or his agent or by any person authorised by the candidate or his election agent to incur election expenses.
175. Part 1 of new Schedule 4A lists those matters qualifying as election expenses. Part 2 of the Schedule, together with subsection (2), lists general exclusions to the definition of election expenses. These lists are based on those for political parties' campaign expenditure contained in Schedule 8 to the 2000 Act, and will provide simpler and clearer reporting requirements.

176. Part 3 of new Schedule 4A makes provision for the Electoral Commission to provide guidance on the subject of election expenses and to prepare a draft code for observance by candidates and their agents. The code must be approved by the Secretary of State and thereafter be laid, either with or without modifications, before each House of Parliament, subject to the negative resolution procedure, before coming into force on such date as the Secretary of State may by order appoint. If the Secretary of State should make any modifications to the code he must, at the same time as laying the code, lay a statement of his reasons for making them.
177. Part 3 of the new Schedule also empowers the Secretary of State to amend Parts 1 and 2 of the Schedule by order. An order made under this provision must either give effect to a recommendation of the Electoral Commission or be made after consultation with the Electoral Commission. The order must be laid before each House of Parliament and is subject to the affirmative resolution procedure.

### **Observation of elections etc.**

#### ***Section 28 Discretion to report on parliamentary by-elections***

178. This section amends section 5 of the 2000 Act by inserting new subsection (2A), which gives the Electoral Commission discretion to prepare a report on parliamentary by-elections and elections to the Scottish Parliament and National Assembly for Wales. The discretion is in addition to the Electoral Commission's duty to report on parliamentary general and certain other elections under sections 5 and 6 of the 2000 Act.

#### ***Section 29 Observation of proceedings at elections and referendums***

179. This section amends the Political Parties, Elections and Referendums Act 2000 ("the 2000 Act"):
- to confer on representatives of the Electoral Commission the right to attend electoral or referendum proceedings so that they can observe and subsequently report on them;
  - to confer on representatives of the Electoral Commission the right to observe the working practices of electoral registration officers, returning officers and counting officers;
  - to provide for other observers, whether individuals or organisations, to be accredited by the Electoral Commission so that they or their members can attend and observe certain proceedings at an election or a referendum; and
  - to provide for the Electoral Commission to produce a code of practice to regulate the attendance of all observers at such proceedings.
180. This section inserts six new sections into the 2000 Act after section 6.
181. New section 6A (Attendance of representatives of Commission at elections etc.) provides for representatives of the Electoral Commission to attend any proceedings which fall within the responsibilities of a returning officer at an election or a counting officer at a referendum. The right to attend is subject to any enactment that already exists under electoral law, which regulates attendance at proceedings. It also specifies who can be regarded as a representative of the Electoral Commission for these purposes as well as defining the term "counting officer" and identifying the elections and referendums to which this section applies.
182. New section 6B (Observation of working practices by representatives of Commission) provides for representatives of the Electoral Commission to observe the working practices of an electoral registration officer, a returning officer, a counting officer or of any person acting under the direction of such persons.

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183. New section 6C (Accredited observers: individuals) provides for anyone over the age of 16 to apply to the Electoral Commission to be accredited as an observer at elections or referendums. It further specifies the proceedings to which such accredited persons can have access. These are:
- the issue and receipt of postal votes;
  - the poll; and
  - the count.
184. It also provides for the Electoral Commission to refuse or revoke accreditation and requires them to give reasons in writing for doing so. It specifies that all applications must be made in accordance with a code of practice (considered in the discussion of section 6F below).
185. New section 6D (Accredited observers: organisations) provides for organisations to apply to the Electoral Commission to be accredited for the purpose of nominating members of that organisation to attend those same proceedings which an individual accredited observer may attend. The Electoral Commission can put a limit on the number of observers who apply to attend a specific proceeding at an election, as listed under 6D(1). It again provides that the Electoral Commission may refuse or revoke accreditation and must give written reasons for doing so. Again it specifies that all applications must be made in accordance with the code of practice.
186. New section 6E (Attendance and conduct of observers) enables relevant electoral officers to regulate the number of accredited observers who can attend an election proceeding at any one time. If an accredited observer misconducts himself while in attendance at an election proceeding, the relevant officer has the power cancel that observer's entitlement to be present at that proceeding. This section states that a relevant officer still retains any existing powers he has to remove a person from election proceedings. For the purposes of this section, relevant officer means a returning officer, presiding officer, relevant counting officer or any person authorised by them for the purposes of election proceedings.
187. New section 6F (Code of practice on attendance of observers at elections etc.) requires the Electoral Commission to prepare and publish a code of practice to regulate the processes involved in applying for accreditation and to give guidance on the powers and behaviour of relevant electoral officers and observers while attending election proceedings. It specifies what particulars must be included in the code, and requires that the Electoral Commission should consult the Secretary of State before preparing it. It also requires the Electoral Commission to lay the code before each House of Parliament and specifies that the Electoral Commission and its representatives, as well as returning officers and counting officers, must have regard to the code. It allows the Electoral Commission to revise the code at any time, following the same procedure for preparing the code.
188. Contained in Part 5 of Schedule 1 to the Act are the necessary consequential amendments to the 1983 Act to allow the Electoral Commission and other observers access to various electoral proceedings. Paragraph 84 amends rule 32 of Schedule 1 to the 1983 Act (the Parliamentary Elections Rules), which specifies who may attend at a polling station. This will now include observers, but will also include those under voting age who may accompany voters to the polling station and observe the democratic process at first hand. The presiding officer's power to regulate the total number of voters to be admitted to the polling station at the same time is extended to include those persons under the age of 18 who accompany them.

## **Ballot papers**

### ***Section 30 Ballot paper design***

189. This section amends the rules in Schedule 1 to the 1983 Act and the Appendix of Forms included in that Schedule. The Secretary of State is given a power to prescribe a different form of ballot paper from that which is currently depicted in the Appendix of Forms, and to amend the directions to printers of ballot papers and those for the guidance of voters in voting. The current directions have been clarified to provide that the front of the ballot paper may contain two columns of named candidates.

### ***Section 31 Replacement of counterfoils***

190. This section amends the parliamentary elections rules. Ballot papers will no longer be attached by a perforation to counterfoils. Instead, electoral officials will be provided with a corresponding number list (new rule 19A) of all the numbered ballot papers. The official must insert the electoral register number of the voter to whom a ballot paper is issued (amended rule 37(1)(b) and (d) to which paragraph 71 of Schedule 1 refers). On being given a ballot paper, voters will be required to sign on the corresponding number list beside their electoral register number and ballot paper number. At the close of the poll, the corresponding number list is added to the other lists that must be forwarded to the count (amendments to rule 43). After the announcement of the result, the corresponding number list is forwarded for safe keeping in case it needs to be produced in legal proceedings (amendments to rules 55 to 57).

### ***Section 32 Photographs on ballot papers: piloting***

191. This section provides the Secretary of State with the power to make an order applying to specified local elections in England and Wales to enable the inclusion of photographs of candidates on ballot papers to be piloted at those elections. The Secretary of State will only be able to exercise this power following an application from a local authority to run a pilot scheme and having consulted with the Electoral Commission.
192. *Subsection (1)* provides that a pilot order can only be made where a local authority makes a piloting proposal to the Secretary of State.
193. *Subsection (2)* provides that the Secretary of State may make a pilot order to enable photographs of candidates to be included on ballot papers at specified local elections.
194. *Subsection (3)* provides that if he considers it necessary for the purposes of setting up a pilot scheme, the Secretary of State may include provision in a pilot order amending legislation applying to those elections.
195. *Subsection (4)* provides that a pilot order must not be made without the Secretary of State first consulting the Electoral Commission.
196. *Subsection (5)* provides that a pilot order may only differ from the original pilot proposal if the relevant local authority and the Secretary of State agree to the modifications.
197. *Subsection (6)* provides that if the Secretary of State makes a pilot order, then he must send a copy to the relevant local authority and the Electoral Commission, and that the local authority must publish the order.
198. *Subsection (7)* provides a specific power for the Secretary of State to amend or cancel a pilot order.
199. *Subsection (8)* provides discretion for the Secretary of State to reimburse a returning officer for expenditure incurred as a result of the pilot.
200. *Subsections (9) and (10)* provide the definitions of “local authority”, “local government election” and “local government area” for the purposes of the this section.



***Section 32 Evaluation of pilots under section 31***

201. This section provides that the Electoral Commission must prepare a report containing an assessment of the operation of every pilot order after the elections specified in that order have taken place.
202. *Subsection (1)* provides that the Electoral Commission must provide a report on the operation of every pilot order made under section 31.
203. *Subsection (2)* specifies various items that must as a minimum be included in the report.
204. *Subsection (3)* specifies criteria that must be assessed by the Electoral Commission when determining whether the order assisted voters in making informed decisions at the elections.
205. *Subsection (4)* provides that the report must contain an assessment of whether in the Commission's opinion the order had any effect on turnout.
206. *Subsection (5)* provides that the report must include an assessment of the procedures provided in the pilot order from the perspective of candidates, returning officers and the agents of both. The report must also include a statement on the incidence of malpractice and resources impact for the authority of the relevant pilot order.
207. *Subsection (6)* provides that the Electoral Commission must also apply such other criteria to the evaluation of the pilot schemes as are specified in the pilot order.
208. *Subsection (7)* places a duty on the local authority to provide any assistance reasonably required by the Commission for the preparation of the report.
209. *Subsection (8)* specifies that reasonable assistance may include making arrangements to obtain the views of electors on the effect of the pilot and reporting allegations of fraud to the Commission.
210. *Subsection (9)* provides that the Commission must report to the Secretary of State and the local authority within three months of the declaration of the election result.
211. *Subsection (10)* provides that the local authority must publish the report in their area.
212. *Subsection (11)* provides that the terms "pilot order" and "local authority" must be construed in accordance with section 31.

***Section 33 Revision of electoral provisions in light of pilot schemes***

213. This section provides the Secretary of State with the power to make an order applying similar provision to that found in a pilot order made under section 31 on a general and permanent basis. Such an order can amend the enactments applying to local government and UK parliamentary elections and by-elections.
214. *Subsections (1) and (2)* provide that if the Secretary of State thinks it would be desirable to make permanent provision similar to that made in a pilot order under section 31 and evaluated by the Electoral Commission under section 32, he may do so by an order under section 33.
215. *Subsection (3)* provides that an order may not be made without prior consultation with the Electoral Commission.  
*Subsection (4)* provides that the Secretary of State may make provision in the order modifying or disapplying any enactment that he considers necessary or expedient to achieve the purposes in *subsection (2)*. He may also create an offence.
216. *Subsection (5)* restricts the maximum penalty with which an offence created by an order under *subsection (2)* is punishable. The limit is set at the same level as the maximum penalty on conviction for most corrupt practices.

*These notes refer to the Electoral Administration Act  
2006 (c.22) which received Royal Assent on 11 July 2006*

217. *Subsection (6)* provides that the order making power under *subsection (2)* is exercisable by statutory instrument and must be approved by a resolution passed by both houses of Parliament before it is made.
218. *Subsection (7)* defines local government elections by reference to section 31.
219. *Subsection (8)* provides that if an offence created in a *subsection (2)* order is committed before the commencement of section 281(5) of the Criminal Justice Act 2003, then the maximum sentence of imprisonment in relation to that offence shall be interpreted as six months rather than 51 weeks.
220. *Subsection (9)* specifies that the reference in subsection (5)(b) to 51 weeks be taken as a reference to six months for Scotland and Northern Ireland.

### **Voting in person**

#### ***Section 35 Certain voters entitled to vote in person***

224. This section removes the provision in electoral law that stipulates that mental health patients detained under civil powers must vote at elections by either post or proxy. In future, such persons will not be prevented by electoral law from voting in person in polling stations.
225. *Subsection (1)* provides that Schedule 4 of the Representation of the People Act 2000 (absent voting in Great Britain) is amended in accordance with the section.
226. *Subsection (2)* inserts a new paragraph 2(5A) into Schedule 4 which provides that a mental health patient who is detained under civil powers (and so is not a detained offender) may vote in person where he is granted permission to be absent from the hospital and voting in person does not breach any condition attached to that permission, or by post or proxy (where he is entitled as an elector to vote by post or proxy at the election).
227. *Subsection (3)* removes paragraph 2(6)(a) of Schedule 4 to the Representation of the People Act 2000 and the “or” following it. This paragraph currently provides that patients detained at mental hospitals under civil powers may exercise their right to vote by post or proxy only.
228. *Subsection (4)* provides that the section does not apply to local government elections in Scotland.

### **Assistance for voters etc.**

#### ***Section 36 Translations etc. of certain documents***

229. This section inserts section 199B (translations etc. of certain documents) into the 1983 Act.
230. *Subsection (1)* of section 199B provides that subsections (2) and (3) apply to any document required or authorised to be given to voters or to be displayed in any place for the purposes of a parliamentary or local government election.
231. *Subsection (2)* provides that the person who is required or authorised to give or display the documents mentioned in subsection (1) must, as he thinks appropriate, make those documents available in Braille and translate them into languages other than English. In addition he must, as he thinks appropriate, make graphical representations of the information contained in the documents and provide information in an accessible, appropriate form to persons who might not otherwise be able to access that information.
232. *Subsection (3)* enables the person who is required or authorised to display specified documents to provide the information contained in those documents in an audible form.

233. *Subsection (4)* provides that the power in subsection (2) does not apply to the nomination paper or the ballot paper.
234. *Subsections (5) and (6)* permit the returning officer to exhibit an enlarged sample copy of the ballot paper during the poll. The words ‘VOTE FOR ONE CANDIDATE ONLY’ (or, alternatively and where necessary for local government elections “VOTE FOR NO MORE THAN [here insert the maximum number of candidates to be elected] CANDIDATES”) must appear both at the top and immediately below the list of candidates on the enlarged sample copy as well as such translations of those words printed below the list of candidates as considered appropriate by the returning officer. *Subsections (7) and (8)* provide that the returning officer must have a large, hand-held sample ballot paper available at the polling station for partially sighted voters – this is not intended for the purpose of voting on and as such should be clearly marked as a specimen.
235. *Subsection (9)* provides that in Northern Ireland, the question as to whether a person should provide documents in a language other than English, as set out under subsection (2)(b), is to be decided by the returning officer.

### ***Section 37 Assistance for certain postal voters***

236. This section amends the Parliamentary Elections Rules (contained in Schedule 1 to the 1983 Act), by substituting a new rule 24 (postal ballot papers). This rule specifies the materials that should be issued by the returning officer to those entitled to vote by post. It clarifies that he can include information about how to access translations and graphical representations of the guidance.
237. The new rule 24(1) provides, in Great Britain, for a “postal voting statement”, replacing the current declaration of identity, to be issued with the postal ballot paper. The form of the postal voting statement may be prescribed in secondary legislation. In Northern Ireland the current position is retained.
238. Rule 24(2) makes provision for returning officers to provide information which alerts voters to the availability the directions and guidance on how to vote by post that have been translated, converted into Braille format, include graphical representations or have been provided in any other appropriate form (including an audible form). This might take the form of an internet address to a web page containing foreign language or audio versions of the instructions, or a phone number for contacting the local electoral services department.
239. Rule 24(3) provides that the prescribed form (i.e. the new postal voting statement and, in Northern Ireland, the declaration of identity) accompanying the postal ballot paper shall include provision for it to be signed by the elector. Other requirements may be prescribed.
240. Rule 24(4) provides that in the case of a ballot paper issued to a person resident in the United Kingdom the returning officer must ensure that the return of the ballot paper and postal voting statement or declaration of identity is free of charge to the voter.
241. Rule 24(5) provides that in any other case - i.e. postal voters resident outside the UK - regulations may provide that the returning officer must ensure the return of the items listed in rule 24(4) is free of charge to the voter. As such, it will still be open for the Secretary of State to prescribe that the cost of postage from overseas should either be free.

### **Circumstances in which votes may be tendered**

#### ***Section 38 Tendered votes in certain circumstances***

242. This section amends rule 40, the Representation of the People Acts 1983 and 1985, and Schedule 4 to the Representation of the People Act 2000 (Absent voting in Great

Britain). The section outlines two new circumstances where a tendered ballot can be issued to a voter.

243. *Subsection (1)* relates to an elector who discovers, upon attending his polling station, that he has without his knowledge been included on the list of postal voters or postal proxy voters who may not vote in person at a polling station. The new rule 40(1ZA) to (1ZC) provides that such a person is to be permitted to mark a tendered ballot paper. The person can be asked questions to determine whether they come within the scope of the provision. The questions – inserted by the new rule 35 substituted by paragraph 74 of Schedule 1 – concern whether they applied to vote by post and why they have not voted by post.
244. *Subsection (2)* also amends rule 40, in this case adding rule 40(1ZD) and (1ZE). It will become possible for a postal voter or postal proxy voter to be issued with a tendered ballot paper at a polling station if the deadline for requesting a replacement postal ballot paper has expired, and before the close of voting. The elector will be allowed to mark a tendered ballot paper if their answer satisfies the presiding officer that they have lost or not received their postal ballot paper.
245. [Paragraph 74](#) of Schedule 1 inserts the new questions that may be put to the voters into rule 35. This rule outlines the questions a Presiding Officer may ask a person who has requested a ballot paper at the polling station.
246. *Subsection (3)* inserts section 61(6A) of the 1983 Act, which relates to certain voting offences. The new provision excepts from the scope of voting offences the circumstances covered in subsections (1) and (2) of this section. A person who votes at a polling station when entitled to vote by post is not guilty of a voting offence if the vote cast is a tendered ballot paper. Similarly, a person who votes in person as a proxy for another elector when entitled to vote as a postal proxy, is not committing an offence when voting by a tendered ballot paper.
247. *Subsection (6)* makes two amendments to Schedule 4 of the Representation of the People Act 2000, in relation to Great Britain. The insertion of paragraph 2(6A) of the Schedule removes the prohibition on absent voters voting at a polling station. The effect is that paragraph 2 does not apply to voters casting a tendered ballot paper in the circumstances referred to above. Similarly, the insertion of paragraph 7(10) means that paragraph 7 of Schedule 4 does not prohibit postal proxies casting a tendered vote at a polling station in the circumstances referred to above. *Subsections (4)* and *(5)* similarly amend the equivalent legislation in relation to Northern Ireland, namely sections 5 and 9 of the Representation of the People Act 1985 respectively (which have been repealed as regards Great Britain).

## **Offences related to absent voting**

### ***Section 39 Undue influence***

248. This section amends section 115 of the 1983 Act (undue influence) and addresses attempts by persons to exert undue influence that do not prove to be successful. The amendment will remedy the fact that unsuccessful attempts at preventing the free exercise of the franchise or prevailing upon an elector to vote or to refrain from voting may not at present amount to the corrupt practice of undue influence. The lacuna was identified in the 1992 case of *R v. Rowe ex parte Mainwaring*. The case related to the circulation of a fraudulent pamphlet that was designed to mislead electors into voting against, or withdrawing their support from, the opposing party's candidates. The persons responsible could not be penalised because it could not be proved that the pamphlet had had this result.

***Section 40 Offences relating to applications for postal and proxy votes***

249. This section inserts a new section 62A of the 1983 Act. It will be both a corrupt practice and criminal offence to apply for a postal or proxy vote with the intention of stealing another person's vote or gaining a vote to which the applicant is not entitled.
250. Section 62A(1) outlines the acts and the intentions that must be proved in order to establish that the offence has been committed. Section 62A(1)(b) specifies that the intention that must be proved is that the person intended to deprive another of the opportunity to vote, or intended to gain a vote to which the person was not entitled, or intended to make some other financial gain.
251. Section 62A(2) details the acts that underpin the offence. These include the applicant pretending to be another elector, or making any other false statement in an application for a postal or proxy vote. It also covers the applicant causing the diversion of communications from the entitled elector or preventing their delivery.
252. [Paragraphs 120 to 126](#) of Schedule 1 to the Act make consequential amendments to the 1983 Act. If found guilty by an election court, a person may be disqualified from standing for election or from being registered as a voter, for a period of five years. If found guilty on a criminal prosecution, a person may be imprisoned for up to two years and fined.

**Access to election documents**

***Section 41 Control of documents after parliamentary election***

253. This section amends Schedule 1 to the 1983 Act. It transfers the responsibility for storing electoral documents after an election from the Clerk of the Crown to local EROs. *Subsection (5)* inserts new paragraphs (3) to (9) of rule 57 detailing the extent of the right of access to documents. Parties and candidates may be supplied with marked copies of the register, the postal voters list, the list of proxies and the postal proxy voters list (rule 57(4)). Conditions may be imposed by regulations limiting the purposes for which the documents may be used and limiting onward supply to others (rule 57(7) and (8)). *Subsection (6)* makes provision for the handling of such documents in Scotland. *Subsection (7)* makes provision for the handling of such documents in Northern Ireland.
254. *Subsection (9)* creates a new offence of failure to comply with conditions relating to the supply of election documents. This is inserted as section 66B of the 1983 Act. It enforces compliance with the provisions of rule 57 as amended by subsection (5). The maximum penalty for those found guilty on summary conviction is a fine of £5,000.

***Section 42 Access to other election documents***

255. This section provides for access to election documents for elections other than parliamentary elections in a similar way to that provided for parliamentary elections. It also gives the Secretary of State a power to make regulations to impose conditions on that access and to charge for it. It also makes it a criminal offence not to comply with the regulations and prescribes the maximum penalty for conviction.
256. *Subsection (1)* imposes requirements on EROs who hold documents for elections other than parliamentary elections and local government elections in Scotland and Northern Ireland to make them available for public inspection. The conditional duty to supply copies or extracts on request is cast in similar terms to those for parliamentary elections. *Subsection (2)* identifies who can request copies of the register and the list of proxies marked to show who has been issued with a ballot paper in a polling station, and the marked lists of postal and postal proxy voters who returned their ballot papers.
257. *Subsections (3) to (10)* contain regulation-making powers and define what regulations may or may not provide.

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2006 (c.22) which received Royal Assent on 11 July 2006*

258. The Secretary of State can impose conditions restricting the inspection or supply of the documents (*subsection (3)*) and the purposes for which such documents may be used (*subsection (5)*).
259. *Subsection (4)* provides for the form in which the documents supplied are to be specified and for fees to be charged.
260. *Subsection (5)* allows regulations to be made to permit or prohibit copies of the documents to be taken and to specify the manner in which they may be taken.
261. *Subsection (6)* allows regulations to impose conditions on the further supply, disclosure, or use of the information contained in the documents.
262. *Subsection (7)* allows regulations to apply those conditions to people who have not been directly supplied with the documents.
263. *Subsection (9)* requires the Secretary of State to consult the Electoral Commission when making regulations under this section.
264. *Subsection (10)* specifies that such regulations must be laid before, and are subject to the approval by resolution of, each House of Parliament.
265. *Section 43 Access to other election documents: contravention of regulations*
266. This section creates an offence of contravening regulations governing access to post-election documentation. This offence will apply as regards documentation relating to elections other than parliamentary elections. The maximum penalty for those found guilty on summary conviction is a fine of £5,000. For parliamentary elections, a similarly worded offence is created by section 41 as a new section 66B of the 1983 Act.

***Section 44 Access to election documents: supplementary***

267. This section defines some of the terms used in section 42. It provides the meaning of “electoral area” which is relevant for the purposes of elections other than parliamentary elections. The remaining terms are to be interpreted in a manner consistent with the interpretation they bear in the parliamentary elections rules: relevant ERO, relevant election documents, registered party, marked copy of the register, the list of proxies, the postal voters list, and the postal proxy voters list.

***Section 45 Marked postal voters list***

268. This section inserts new rule 31A. When a postal voter has returned a postal vote or a postal proxy vote, the returning officer must mark the relevant list. It also enables regulations to be made prescribing the circumstances in which that mark should be made. It also makes consequential amendments to rule 55.

**Correction of procedural errors**

***Section 46 Returning Officers: correction of procedural errors***

269. This section allows returning officers to correct errors or omissions that arise during the preparation for and conduct of elections. This will apply to acts and omissions that are made by those administering elections (returning officers, EROs and their staff) and those supplying goods and services to the administrators. By way of example, electoral documents printed with incorrect details would be capable of correction under this provision.

## **Miscellaneous amendments**

### ***Section 47 Miscellaneous amendments of the 1983 Act***

270. This section makes provision for the application of Part 5 of Schedule 1, which makes amendments relevant to the conduct of elections. Similar amendments are made to the 1983 Act and the Electoral Law Act (Northern Ireland) 1962.

## **Part 7: Regulation of parties**

### **Registration of parties**

#### ***Section 48 Registered names of parties***

271. This section amends section 28 of the 2000 Act (Registration of parties), by inserting new subsection (4)(da). The effect of this amendment is to enable the Electoral Commission to refuse to register a political party where the party proposes a name which, if it were to appear on a ballot paper, would be likely to:
- mislead an elector as to the effect of his vote (for example, a party name such as “Abstain from Voting” could lead a voter to believe that by placing his mark in the box next to the party name, he would be indicating his intention to abstain); or
  - adversely affect an elector’s understanding of any directions given on the ballot paper or elsewhere which are provided for his guidance in voting (for example, a party name such as “Place Your X Here” might be taken by a voter to be a direction and could, therefore, conflict with the direction which appears on the ballot paper: “vote for one candidate only”).

#### ***Section 49 Political party descriptions***

272. *Subsection (1)* inserts new sections 28A and 28B into the 2000 Act. These make new provision regarding the descriptions that candidates standing on behalf of political parties may use, and the process by which they may be registered with the Electoral Commission.
273. Section 28A(1) entitles a registered party to request up to twelve descriptions for use on its nomination papers or ballot papers.
274. Section 28A(2) provides that the Electoral Commission should register the descriptions unless they exceed six words in length or fall into one of the categories listed in sub-paragraphs (a) to (g). Those sub-paragraphs are similar to the constraints upon the registered name of a party which are governed by section 28 of the 2000 Act. These constraints include whether the name is the same or confusingly similar to another party’s registered description, whether it would be offensive, or would be misleading or confusing to the voter if it appeared on the ballot paper, or if it contains words or expressions which are prohibited from being used as the registered name of a party.
275. Section 28A(5) clarifies that in the case of a party registered for the purposes of relevant elections in Wales, the number of words can be up to six words in English and up to six words in Welsh.
276. Section 28A(6) and (7) empower the Secretary of State by order to change the number of descriptions that a party can register. He must consult the Electoral Commission before making such an order.
277. Section 28B addresses the situation where two or more parties come together to campaign at an election and wish their joint candidates to be able to use a joint description on their nomination papers and ballot paper.

278. *Subsection (2)* amends section 30 of the 2000 Act, which concerns the manner of amending the register of descriptions of parties. The amendments also specify the grounds on which the Electoral Commission may refuse an application for amendment. These criteria are similar to those relevant to registering the party name or descriptions, and also ensure that the maximum number of registered descriptions does not exceed twelve (or such other number as the Secretary of State has provided under section 28A(6)). It also prevents a registered description being removed during a pending election.

### ***Section 50 Confirmation of registered particulars***

279. This section amends section 32 of the 2000 Act (Confirmation of Registered particulars), by setting a new period within which a party must submit to the Electoral Commission confirmation of the party's registered particulars.
280. Section 32(1) of the 2000 Act currently requires the treasurer of a registered political party to provide the Electoral Commission with confirmation of the party's registered particulars at the same time as the party submits its annual statement of accounts.
281. *Subsections (2) and (3)* amend section 32(1) and insert new section 32(1A) respectively. Consequently, a party is no longer required to submit confirmation of its registered particulars at the same time as it submits its annual statement of accounts. Instead, confirmation of registered particulars must be submitted within the "specified period".
282. The "specified period" begins on the first day of the period within which the party must submit its statement of accounts and ends six months after the end of that period. At present, under section 45 of the 2000 Act, a party required to submit unaudited accounts must do so within 3 months from the end of the party's financial year. Section 54 of the Electoral Administration Act amends section 45 of the 2000 Act to extend this period to 4 months. A registered political party required to submit audited accounts, is required to have its accounts audited within six months from the end of the party's financial year and must submit its statement of accounts within seven days from the end of that six month period. Therefore, a registered political party required to submit unaudited accounts will have 10 months from the end of its financial year to submit its confirmation of particulars to the Electoral Commission. A registered political party required to submit audited accounts will have 12 months and one week to do so.

### ***Section 51 Removal from register of registered parties***

283. Currently, under section 33(1) and (2) of the 2000 Act (Party ceasing to be registered), the Electoral Commission may only remove a party from the register if it receives a signed application from the party leader, nominating officer and treasurer of the party seeking de-registration.
284. This section amends section 33 of the 2000 Act by inserting new subsections (2A), (2B) and (2C) to give the Electoral Commission a power to remove parties from the register of political parties where they fail to confirm their registered particulars by the "specified day".
285. In relation to the notification requirements under section 32(1) of the 2000 Act, the specified day is the last day of the period in which the confirmation of a party's registered particulars is required to be submitted. In effect, where a registered political party required to submit unaudited accounts fails within ten months from the end of its financial year to submit confirmation of particulars to the Electoral Commission, it will be removed from the register. A registered political party required to submit audited accounts will be removed if it fails to submit confirmation of particulars within 12 months and one week from the end of its financial year.
286. Under section 34(3) of the 2000 Act (Registration of minor parties) minor parties are required to provide confirmation of their particulars within a period of seven months



beginning one month before the anniversary of the party's inclusion on the register and ending six months after that anniversary (the latter period is extended from three to six months by *paragraph 143* of the Schedule 1). In relation to minor parties the specified day is the last day of the period of six-month period commencing on the anniversary of the party's inclusion on the register. The earliest date, therefore, that a minor party might be compulsorily removed for failure to comply with section 34(3) is six months from the date of its anniversary of inclusion in the register.

287. *Subsection (4)* amends section 33(3) by providing that a party which has been compulsorily removed from the register ceases to be a registered party.
288. *Subsections (5) and (6)* amend section 33(4) and insert a new section 33(4A), the combined effect of which is to provide that:
- parties compulsorily removed from the register; and
  - those that apply to be removed from the register and whose gross income or expenditure in the financial year preceding the year in which the entry is removed is less than £25,000,

will only remain subject to accounting, donation and campaign expenditure controls under the 2000 Act, until the end of the party's financial year in which it is removed from the register. At present, they remain subject until the end of the financial year following that in which it is removed.

### ***Section 52 Time for registration of parties fielding candidates***

289. This section amends section 22 of the 2000 Act (Requirement for registration) and paragraph 6A of Schedule 1 to the 1983 Act (Nomination papers: name of registered political party).
290. Section 22 of the 2000 Act requires an organisation wishing to field candidates at a relevant election to be registered as a political party with the Electoral Commission. Under section 22, unless his nomination paper gives the description "independent" or gives no description, a person may only stand as a candidate at a relevant election if his nomination paper is supported by a certificate authorising his candidature. The certificate must be issued by, or on behalf of, the nomination officer of the party.
291. *Section 22(2)(a)* and (b) provides that a party must be registered in the relevant register maintained by the Electoral Commission under section 23 of the 2000 Act by the last date for publication of the notice of an election. Depending on the type of election, this date is usually around a week ahead of the close of nominations.
292. Paragraph 6A(1) of Schedule 1 to the 1983 Act provides that a nomination paper may not include a description of a candidate which is likely to lead voters to associate a candidate with a registered political party unless the party is a qualifying party in relation to the constituency and the description is authorised by a certificate issued by or on behalf of the registered nominating officer of the party.
293. The effect of the amendments is to remove the requirement that parties must be registered by the last date for publication of the notice of election in order to use a description. Instead, any candidate presenting a description bearing the description of a registered party should be entitled to use that description providing that the party is registered with the Electoral Commission two working days before the last day for the delivery of nomination papers at the election.

### **Accounting requirements**

#### ***Section 53 Requirements as to statements of account***

294. This section amends section 42 of the 2000 Act (Annual statement of accounts), which establishes a requirement to prepare an annual statement of accounts to be

submitted to the Electoral Commission. The Electoral Commission prescribes different requirements in respect of the accounts to be submitted according to whether the income or expenditure of a party falls into one of three bands currently provided for by section 42(4)(a): up to £5,000, between £5,000 and £250,000 and over £250,000.

295. *Subsection (2)* amends section 42(4) of the 2000 Act by substituting a new paragraph (a), increasing the number of accounting bands to four: not exceeding £25,000, exceeding £25,000 but not £100,000, exceeding £100,000 but not £250,000 and exceeding £250,000.
296. *Subsection (3)* inserts new subsections (4A) and (4B). New subsection (4A) provides that the Secretary of State may by order vary the number of accounting bands and new subsection (4B) provides that he may only do so to give effect to a recommendation of the Electoral Commission.

#### ***Section 54 Time for delivery of unaudited accounts to Electoral Commission***

297. This section amends section 45 of the 2000 Act (Delivery of statement of accounts etc. to the Commission) to extend the time within which a registered political party not required to submit audited accounts to the Electoral Commission, must submit unaudited accounts to the Electoral Commission. The time is extended from three months to four months from the end of the party's financial year.

#### **Control of donations**

##### ***Section 55 Policy development grants to be donations***

298. This section repeals section 52(1)(a) of the 2000 Act (Payments, services etc. not to be regarded as donations). The effect of this repeal is that the receipt of a policy development grant is treated as a donation that will need to be declared when a party submits its accounts to the Electoral Commission.

##### ***Section 56 Exemption from requirement to prepare quarterly donation reports***

299. *Subsection (1)* of this section amends the effect of section 62 of the 2000 Act (Quarterly donation reports) by inserting new section 62A (Exemption from requirement to prepare quarterly donation reports).
300. **Section 62** currently requires the treasurer of a registered party to submit quarterly donation reports in respect of any recordable donation. A recordable donation is any donation of more than £5,000 accepted during a quarter or any donation which when, added to other donations from the same source during that calendar year, brings the amount up to more than £5,000. In respect of an accounting unit of a registered party, a recordable donation is one of more than £1,000 accepted during a quarter or any donation which, when added to other donations from the same source during that calendar year, brings the amount up to more than £1,000. A treasurer must also record any further donations of more than £1,000 from a source, which, during the same calendar year, has already been recorded in a donation report. Parties must also report donations from the same source made to any of their accounting units which in aggregate exceed £5,000.
301. The effect of new section 62A is to make the requirements of section 62 less burdensome for smaller political parties, such as residents associations, and increase the Electoral Commission efficiency. The treasurer of a registered political party which does not receive any recordable donations for four consecutive quarterly periods is no longer required to provide any further quarterly donation reports until a recordable donation is accepted or dealt with in accordance with section 56(2) of the 2000 Act (Acceptance or return of donations: general).

302. *Subsection (2)* of this section provides that the provisions in new section 62A will have effect if the last of the four consecutive quarterly donation reports mentioned in *subsection (1)* relates to a period which falls wholly or partly after the commencement of this section. For clarification it also provides that it is immaterial whether any of the other reports relate to such a period.

***Section 57 Repeal of section 68 of the 2000 Act***

303. This section repeals section 68 of the 2000 Act, which requires donors who make multiple small donations to a registered political party totalling £5,000 within the course of a calendar year to report their donations to the Electoral Commission. In practice this provision has been of little use.

***Section 58 Register of donations to include details of nature of donation***

304. This section amends section 69 of the 2000 Act (Register of donations). Section 69(1) requires the Electoral Commission to maintain a register of all reported donations. Section 69(2) provides for the information which must be recorded in the register in respect of each donation. Sponsorship is treated as a donation, under section 50(2) of the 2000 Act.
305. Some companies have raised concerns that what they consider legitimate commercial activities, or activities which they engage in with all parties, for example sponsorship, are currently considered to be, and are required to be reported as, donations.
306. To this end, for the purpose of clarification, this section amends section 69(2) by inserting new subsection (aa), which provides that the register of donations should specify when a donation takes the form of sponsorship.

***Section 59 Reporting donations to members of the House of Commons***

307. This section removes the requirement for holders of relevant elective office to report donations to the Electoral Commission (with one exception). Currently all holders of relevant elective office have to report donations to both the Electoral Commission and to the relevant register of members' interests of the body of which they are a member. This section removes that duplication.
308. Schedule 7 to the 2000 Act establishes the regulatory regime for donations made to individual members of political parties, to members associations and to holders of relevant elective office. The holders of relevant elective office are defined in paragraph 1(8) of Schedule 7 as follows:
- members of the House of Commons;
  - members of the European Parliament;
  - members of the Scottish Parliament;
  - members of the National Assembly for Wales;
  - members of the Northern Ireland Assembly;
  - members of local authorities and the Greater London Assembly;
  - the Mayor of London and elected mayors (the latter as defined in Part 2 of the Local Government Act 2000).
309. Donations have to be reported to the Electoral Commission. This is in the interests of transparency and accountability and follows the recommendations made by the Committee on Standards in Public Life, the Neill Committee, in 1998. This section removes the requirement of Schedule 7 for holders of relevant elective office to have

to report donations. The Electoral Commission will retain responsibility with respect to the permissibility of donations.

310. *Subsection (2)* amends paragraph 10 of Schedule 7. It removes the requirement for all holders of relevant elective office to report donations to the Electoral Commission, unless the person in question is, first, not a member of a political party and, secondly, either a Member of the Scottish Parliament or a member of a local authority in Scotland. It does not matter in what capacity the donation is received (whether in his capacity as a member of a political party or in his capacity as an office holder). In either case the reporting requirement is removed.
311. *Subsection (3)* provides that where the Electoral Commission think that the arrangements of the relevant register for members' interests correspond to the reporting requirement for donations imposed by Schedule 7, paragraph 10, they must maintain a register of such information as they receive about such donations.
312. *Subsection (4)* means that the Secretary of State may not make a commencement order to allow this measure to come into force (and, accordingly, remove the reporting requirement) unless he is informed by the Electoral Commission that they are satisfied that they will receive information about donations which corresponds to that required to be reported under Schedule 7, paragraph 10.

### ***Section 60 Northern Ireland: disapplication of Part 4 of 2000 Act***

313. Whilst the 2000 Act generally extends to Northern Ireland, Part 4 has been temporarily disapplied by the [Political Parties, Elections and Referendums Act 2000 \(Disapplication of Part 4 for Northern Ireland Parties, etc\) Order 2005 \(S.I.2005/299\)](#). This is in order to protect the identities of donors to political parties. This section ensures that the current disapplication Order is not disturbed by the amendments to Part 4 of the 2000 Act made by sections 55 to 58 of this Act.

## **Regulation of loans**

### ***Section 61 Regulation of loans etc***

314. This section inserts a new Part 4A of the 2000 Act regulating loans and related transactions to political parties, comprising the following new sections 71F to 71W of the 2000 Act.

### **Section 71F Regulated transactions**

315. *Section 71F* sets out which types of transactions are regulated in the regime.
316. *Subsection (2)* provides that an agreement whereby a loan of money is made to a political party is a regulated transaction.
317. *Subsection (3)* provides that an agreement whereby a person provides a credit facility to a political party is a regulated transaction.
318. *Subsection (4)* provides that an arrangement whereby a third party offers any form of security (whether real or personal, therefore including personal guarantees), which supports a transaction between another person and a political party is a regulated transaction. The transaction which the security supports may be the provision to the political party of a loan of money or credit facility, or property, services or facilities.
319. *Subsection (5)* provides that an agreement or arrangement which does not fall within any of these definitions when it is first entered into, will become a regulated transaction if the terms of the agreement or arrangement are varied to bring it within one of the above definitions.

320. *Subsection (13)* provides an order making power, subject to the affirmative resolution procedure, to exclude specified circumstances from the definition of regulated transaction.

### **Section 71G Valuation of regulated transaction**

321. *Section 71G* defines how regulated transactions are to be valued. The value of a regulated transaction is relevant to whether the regime applies at all (it does not apply to transactions of £200 or under – section 71F(12)) and to the reporting requirements (section 71M).
322. *Subsection (1)* provides that the value of a loan is the value of the total amount to be lent (that is the capital, not including any interest charged).
323. *Subsection (2)* provides that the value of a credit facility is the maximum which may be borrowed under the arrangement (e.g. if an overdraft has a limit of £250,000, this is the value of the transaction, not the amounts advanced from time to time under the overdraft).
324. *Subsection (3)* provides that the value of a regulated transaction which is a security is the contingent liability assumed by the person providing the security (e.g. if A lends £100,000 to a political party on the basis of a guarantee from B limited to £50,000, the value of the regulated transaction comprising the security would be £50,000; the loan from A would constitute a separate regulated transaction of the value of £100,000).
325. *Subsection (4)* provides that where a loan or credit facility provides at the outset for capitalisation (i.e. for unpaid interest to be added to the capital outstanding on the loan), the potential for capitalisation is not to be considered in valuing the loan or credit facility.

### **Section 71H Authorised participants**

326. *Section 71H* provides that a political party may only be a party to a regulated transaction with individuals or organisations who are authorised participants. Authorised participants are defined in identical terms to those who are currently permitted to make donations to political parties (under section 54(2) of the 2000 Act).
327. *Subsection (2)* provides that this requirement does not apply to loans that are extant when these provisions come into force.
328. *Subsection (4)* provides an order making power, subject to the affirmative resolution procedure, for the Secretary of State to specify circumstances where the authorised participants requirement does not apply.

### **Section 71I Regulated transaction involving unauthorised participant**

329. *Section 71I* sets out what happens where a political party enters into a regulated transaction with an unauthorised participant. These provisions will also apply in the case where a regulated transaction has taken place with an authorised participant, who has later, for whatever reason, ceased to be authorised. They do not apply to loans extant at the time the provisions commence.
330. *Subsection (2)* provides that a regulated transaction involving an unauthorised participant is void.
331. *Subsection (3)* requires the political party to repay any moneys received under the transaction.
332. *Subsection (3)(a)* provides that political party is also required to pay interest on the moneys to be repaid (to prevent the political party from obtaining an interest free loan in the period up until the moneys are repaid). The Secretary of State may set the rate of interest by order.

333. Should the moneys not be repaid, *subsection (4)* permits the Electoral Commission to apply to court to restore the parties to the transaction to the position they would have been in if the transaction had not taken place (so far as is possible).

### **Section 71J Guarantees and securities: unauthorised participants**

334. *Section 71J* makes specific provision in relation to guarantees or securities where the giver of the guarantee or security is not an authorised participant. It adapts the provisions in *section 71I* to take account of the differing nature of guarantees and securities from loans. This section does not apply to transactions extant at the time that the provisions are commenced.
335. *Subsections (2) and (3)* provide that both the guarantee or security, and the transaction it supports, are void. So, for example, if A lends £50,000 to a political party on the strength of a guarantee from B, and B is not an authorised participant, then both the loan to the political party and the guarantee of B are void.
336. *Subsections (4) to (6)* provide that if A is unable to recover the whole of the money back from the party, A is entitled to recover it from B (to the limit of the guarantee or security).
337. *Subsection (7)* provides that, as for other regulated transactions, these provisions apply where a transaction is entered into and an authorised participant subsequently cease to be so.
338. *Subsection (9)* deals with the position where a guarantee or security is provided not in respect of a loan of money or credit facility, but rather in respect of a transaction involving the provision of property, facilities or services to a political party.

### **Section 71K Transfer to unauthorised participant invalid**

339. *Section 71K* applies where a party has entered into a regulated transaction with an authorised participant and the authorised participant tries to transfer his interest to an unauthorised participant. It provides that such a purported transfer will have no effect. So, for example, in the case of a loan, the loan will continue to be owed to the original lender.

### **Section 71L Offences relating to regulated transactions**

340. *Section 71L* provides a range of criminal offences to provide sanctions to enforce the permissibility requirements. The offences provide for criminal liability both on the part of the political party and on the part of the party's registered treasurer.
341. *Subsections (1) and (2)* deal with the case where a regulated transaction has been entered into with an unauthorised participant. An offence will not be committed unless the relevant person knew or ought reasonably to have known that the party had entered into a regulated transaction with an unauthorised participant.
342. Where a party has entered into a transaction innocently, *subsections (3) and (4)* make it an offence if the party's treasurer does not take all reasonable steps to repay the money as soon as practicable after he becomes aware that the transaction involved an unauthorised participant.
343. Similar offences are included in *subsections (5) to (8)* in relation to guarantees and securities.
344. The offence in *subsection (9)* covers the situation where a person knowingly enters into or knowingly furthers an arrangement facilitating a regulated transaction between a political party and an unauthorised participant. (For example, if a lender lied to a political party by falsely claiming to be an authorised participant.)

345. In the case of the offence under *subsection (2)* (which concerns criminal liability of the part of the party treasurer, where a party has entered into a regulated transaction with an unauthorised participant), it is by *subsection (10)* a defence for a party treasurer to prove that he took all reasonable steps to prevent the registered party entering into the transaction. The same defence is provided by *subsection (11)* in respect of the offence in *subsection (6)* (concerning the giving by unauthorised participants of guarantees or securities).

### **Section 71M Quarterly reports of regulated transactions**

346. *Section 71M* requires regulated transactions to be reported on a quarterly basis to the Electoral Commission, as is the case with donations.
347. *Subsections (4) to (8)* establish the same reporting thresholds as apply in the donations regime. In broad terms, a regulated transaction must be reported when it exceeds £5,000. Where the same authorised participant enters into a further regulated transaction in the course of the same calendar year, that regulated transaction must be reported when it exceeds £1,000.
348. These provisions also provide a requirement to report when the reporting thresholds of £5,000 and £1,000 are exceeded by an aggregate of regulated transactions from the same authorised participant. So, for example, if A lent £2,501 to a political party, and later in the course of the same year agreed to provide the political party with a £2,500 credit facility (or a loan or security), the political party would be required to record both regulated transactions in the transaction report for the quarter into which the later regulated transaction fell.
349. These provisions, together with amendments made to the donations regime (in paragraph 148 of Schedule 1 to the Act), provide a requirement to report when the reporting thresholds are exceeded by an aggregate of regulated transactions and donations from the same person (as an authorised participant and permissible donor, respectively). So, for example, if A lent £2,501 to a political party, and later in the course of the same year donated £2,500 to the political party, the political party would be required to record in the transaction report the £2,501 loan and record in the donation report the £2,500 donation. (The collective term adopted to refer both to regulated transactions and donations is “relevant benefits”.)
350. *Subsection (9)* provides that a report must also be made should a party wrongly enter into a transaction with an unauthorised participant.
351. *Subsection (10)* requires a report expressly to state that no relevant transactions have been entered into where this is the case.
352. *Subsections (11) and (12)* adapt these reporting requirements to parties with accounting units, adopting a lower initial reporting threshold of £1,000 for accounting units.

### **Section 71N Changes to be recorded in quarterly reports**

353. *Section 71N* provides for changes to be recorded in quarterly reports, to take account of the fact that since regulated transactions involve an ongoing relationship, it is necessary to require the reporting of variations in their terms. *Subsection (1)* provides that the following changes are required to be reported: first, a new authorised participant becoming party to a transaction; secondly, any change in details required to be reported in relation to the transaction under certain provisions of Schedule 6A; and, thirdly, where the transaction has come to an end.
354. *Subsection (2)* defines what is meant by a loan coming to an end: it includes both when the loan is repaid in full and also when the whole (or the whole of the remaining) debt is released. The report must state how the loan came to an end.

### **Section 71O Existing transactions**

355. *Section 71O* provides that details of loans existing at the time that these new provisions come into force are to be recorded in the first quarterly report due.

### **Section 71P Exemption from requirement to prepare quarterly reports**

356. *Section 71P* provides that where a party has made four consecutive quarterly reports which contain no recordable transactions or changes, it does not need to make any further reports until there are any transactions or changes to report. This mirrors the change made to the donations regime by section 56 of the Act.

### **Section 71Q Weekly transaction reports during general election periods**

357. *Section 71Q* provides for weekly transaction reports to be made during a general election period, that is the period between the dissolution of Parliament and polling day.

### **Section 71R Exemptions from section 71Q**

358. *Section 71R* provides that a party can be exempt from the requirement to make weekly reports if it has made a declaration under section 64 of the 2000 Act saying that it does not propose to field candidates at the general election.

### **Section 71S Submission of transaction reports to Commission**

359. *Section 71S* requires a transaction report to be delivered to the Electoral Commission by the treasurer of the party within 30 days beginning with the end of the reporting period to which it relates.
360. *Subsections (4) and (5)* create offences where the treasurer fails to submit the report on time, or does not comply with the requirements for recording transactions. It is a defence (in *subsection (6)*) for the treasurer to prove that he took all reasonable steps and exercised all due diligence to ensure that any requirements were complied with during the relevant period.
361. Where there is failure to comply with the reporting requirements, *subsections (7) and (8)* permit the Electoral Commission to apply to the court, for an order to restore the parties to the position that they would have been in if the transaction had not been entered into. It is necessary to show an intention by a person to conceal the existence or value of the transaction, before such an order can be made.

### **Section 71T Declaration by treasurer in transaction report**

362. *Section 71T* requires the treasurer to make a declaration in respect of certain matters, which must accompany each transaction report. For example, the treasurer must declare that, to the best of his knowledge and belief, the transactions recorded in the report were all entered into with authorised participants. It is an offence knowingly or recklessly to make a false declaration.

### **Section 71U Weekly donation reports in connection with elections other than general elections**

363. *Section 71U* enables the requirement to submit weekly transaction reports to be applied by order to elections to the European Parliament, the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly.

### **Section 71V Register of recordable transactions**

364. The Electoral Commission is required by *subsection (1)* to maintain a register of all transactions reported to them. Where the participant is an individual, the register is not required to include the individual's address (*subsection (3)*).



### **Section 71W Proceedings under sections 71I and 71S**

365. This section provides that proceedings on applications by the Electoral Commission relating to sections 71I(4) and 71S(7) are to be heard in the county court in England and Wales and in Northern Ireland, and, in Scotland, by the sheriff.

#### *Schedule 6A — Details to be given in transaction reports*

366. Schedule 6A sets out the details which have to be recorded in a transaction report. The principal matters which must be reported are as follows:

- The name and address of the participant (*paragraphs 2 and 3*).
- The nature of the transaction (i.e. whether it is a loan, credit facility or security agreement) (*paragraph 5*).
- The value of the transaction (*paragraph 5*).
- The transaction date (that is, the date on which the transaction was entered into) (*paragraphs 5 and 8*).
- Certain other particulars in respect of loans and credit facilities (the repayment date; the interest to be paid on moneys lent; whether any security has been provided; whether capitalisation provisions exist) (*paragraph 6*).
- Certain other particulars in respect of the provision by third parties of guarantees and securities (e.g., the nature of the transaction that the guarantee or security supports; and details of any property provided by way of security) (*paragraph 7*).
- Where the transaction was only reported because of aggregation with donations, this fact must be reported (*paragraph 5*).

367. In respect of regulated transactions entered into with persons who are not authorised participants, the following information is to be reported (*paragraph 4*):

- The name and address of the participant.
- The date, and manner in which, the transaction was dealt with (i.e. the circumstances in which the moneys were repaid).

368. *Paragraph 9* provides an order making power which allows the Secretary of State to vary the details required to be included in transaction reports.

369. *Subsection (6)* of section 61 amends Schedule 20 of the 2000 Act, to stipulate the penalties for the criminal offences created by the provisions of the new Part 4A. *Subsection (7)* introduces Part 6 of Schedule 1, which makes provision for the control of loans to individual members of political parties and members associations (see below \*INSERT PARA NUMBER).

### ***Section 62 Regulation of loans: power to make provision for candidates, third parties and referendums***

370. *Section 62* confers on the Secretary of State an order making power to extend the loans regime to three further contexts where the 2000 Act regulates political donations.

371. Those three contexts are as follows (*subsection (2)*):

- *Candidates at elections* (within the meaning of Part 2 of the 1983 Act). Donations to such candidates, for the purpose of meeting their election expenses, are regulated on a similar but not identical basis to donations to political parties (by Schedule 2A to 1983 Act; inserted by the 2000 Act, section 130, Schedule 16).
- *Recognised third parties at national election campaigns*. Controls are imposed on persons or bodies who engage in political campaigning at national election

campaigns by Part 6 of the 2000 Act (the elections in question are those set out in section 22(5) of the 2000 Act). Donations to recognised third parties (within the meaning of sections 85(5), 88 of the 2000 Act), for the purpose of meeting expenditure incurred in such campaigning, are regulated on a similar but not identical basis to donations to political parties (the 2000 Act, section 95, Schedule 11).

- *Permitted participants at referendums.* Controls are imposed on expenses incurred in campaigning in referendums by Part 7 of the 2000 Act. Donations to persons permitted to participate in referendums, for the purposes of meeting referendum expenses, are regulated on a similar but not identical basis to donations to political parties (the 2000 Act, section 119, Schedule 15).
372. *Subsection (1)* provides that the provision made by the order must correspond to or be similar to the provision made in the loans regime (in the new Part 4A of, and Schedule 7A to, the 2000 Act; as inserted by section 61 of, and Part 6 of Schedule 1 to, this Act respectively). The provision must be made in relation to a relevant matter, which is a loan, credit facility or security which benefits a candidate, a recognised third party or a permitted participant.
373. Further provision about the scope of, and limitations imposed on, this power is contained in *subsection (3)*.
374. *Subsection (7)* provides that an order made under this power is subject to the affirmative resolution procedure.

### ***Section 63 – Regulation of loans etc: Northern Ireland***

375. The provision made for the regulation of loans to political parties, and to individuals and members associations (in the new Part 4A of, and Schedule 7A to, the 2000 Act; as inserted by section 61 of, and Part 6 of Schedule 1 to, this Act respectively) will extend to Northern Ireland (by section 78). Section 63 provides the Secretary of State with an order making power which will enable modifications to be made to the regime as it applies in Northern Ireland. *Section 63* also allows the Secretary of State to make modifications that are specific to Northern Ireland to any similar regime created under section 62 regulating loans to election candidates, referendum participants and others.
376. The existing provisions on donations (the 2000 Act, Part 4, Schedule 7) extend to Northern Ireland, but are at present disapplied by an order made under section 70 of the 2000 Act (the Political Parties, Elections and Referendums Act 2000 (Disapplication of Part IV for [Northern Ireland Parties etc](#)) [Order 2005 \(S.I. 2005 / 299\)](#)). The position is to be changed by provisions of the Northern Ireland (Miscellaneous Provisions) Bill. The donations regime will be applied in Northern Ireland as from 1st November 2007, but with permanent and temporary modifications. *Subsection (1)* confers power to modify the loans regime as it applies in Northern Ireland in a way which corresponds to or is similar to the provision made in the Northern Ireland (Miscellaneous Provisions) Bill as regards donations.
377. *Subsections (2) to (4)* make further provision as to the scope of, and limitations on, this power.
378. *Subsection (6)* provides that an order made under this power is subject to the affirmative resolution procedure.

### **Campaign expenditure**

#### ***Section 64 Campaign expenditure: standing for more than one party***

379. This section amends Schedule 9 of the 2000 Act (Limits on campaign expenditure). Schedule 9 prescribes the financial limits on campaign expenditure to be applied in respect of parliamentary general elections, European Parliamentary general elections,

Scottish Parliamentary general elections, ordinary elections to the National Assembly for Wales and general elections to the Northern Ireland Assembly.

380. Currently, paragraph 3(5) and (6) of Schedule 9 (Parliamentary general elections) provides that, in a parliamentary general election where a candidate stands on behalf of two or more parties in any constituency, the campaign expenditure limits prescribed by paragraph 3(2)(a) and (4) are divided by the number of parties on behalf of whom the candidate stands. *Subsections (2), (3) and (4)* of this section now make similar provision for constituency elections to the Scottish Parliament and National Assembly of Wales and elections to the Northern Ireland Assembly.

### ***Section 65 Time limit for claims in respect of campaign expenditure***

381. This section amends section 77 of the 2000 Act (restriction on making claims in respect of campaign expenditure), section 92 of that Act (restriction on making claims in respect of certain expenditure of third parties) and section 115 of that Act (restriction on making claims in respect of referendum expenditure). These provisions regulate the times within which claims for payment and the payment of those claims should be made in respect of:
- campaign expenditure;
  - expenditure of third parties; and
  - referendum expenditure.
382. *Subsection (1)(a)* amends section 77(1) by increasing the period of time a claim for payment in respect of campaign expenditure may be sent to the treasurer or a deputy treasurer or other authorised person within a registered party after the end of the relevant campaign period from 21 to 30 days.
383. *Subsection (1)(b)* amends section 77(2) by increasing the period of time in which a claim for payment must be paid after the end of the relevant campaign period from 42 to 60 days.
384. *Subsection (2)(a)* amends section 92(1) by increasing the period of time a claim for payment in respect of controlled expenditure incurred by a third party may be sent to the responsible person or any other authorised person after the end of the regulated period from 21 to 30 days.
385. *Subsection (2)(b)* amends section 92(2) by increasing the period of time in which a claim for payment must be paid after the end of the regulated period from 42 to 60 days.
386. *Subsection (3)(a)* amends section 115(1) by increasing the period of time a claim for payment in respect of referendum expenses incurred with the authority of the responsible person or any other person authorised to incur the expenses after the end of the referendum period from 21 to 30 days.
387. *Subsection (3)(b)* amends section 115(2) by increasing the period of time in which a claim for payment must be paid after the end of the referendum period from 42 to 60 days.

## **Referendum and election material**

### ***Section 66 Details to appear on referendum and election material***

388. This section amends sections 126 (Details to appear on referendum material) and 143 (Details to appear on referendum material) of the 2000 Act, which prescribe the details to be included on referendum and election material.
389. *Subsection (1)* amends section 126(1) of the 2000 Act by inserting new subsection (10A). Section 126 is intended to apply to printed material such as leaflets,

posters and newspaper advertisements, but not to any material published for the purposes of a referendum if the publication is required under or by virtue of any enactment. New subsection (10A) provides clarification that in a referendum, material such as ballot papers and other material which might, for example, be prescribed under a conduct of referendums Order, does not require imprints.

390. *Subsection (2)* amends section 143 of the 2000 Act, by inserting new subsections (2A) and (2B).
391. Subsection (2A) provides that election material to which subsection (2B) applies is not to be regarded as being published on behalf of a candidate (that is to say, the candidate is not to be regarded as a person on behalf of whom the material is published) merely because the material can be reasonably regarded as promoting, procuring or enhancing the candidate's electoral success or standing. But the material may be regarded as published on behalf of the party.
392. The result is that for any election material that can reasonably be regarded as aimed at promoting, procuring or enhancing the election of more than one candidate, the name of the party for whom candidates are standing will be sufficient to fulfil the requirements of section 143(2)(c) of the 2000 Act. It will not be necessary to include details of all the candidates.

## **Part 8: Miscellaneous**

### **Funding for election services**

#### ***Section 67 Performance of local authorities in relation to elections etc***

393. This section inserts three new sections into the 2000 Act concerning the Electoral Commission's general functions: 9A (Setting of performance standards), 9B (Returns and reports on performance standards) and 9C (Provision of information about expenditure on elections etc.).
394. New section 9A enables the Electoral Commission to set and publish performance standards for EROs, returning officers and counting officers relating to maintaining the electoral registers and the delivery of electoral and referendum services. The relevant elections and referendums are specified in subsections (6) and (7). It requires the Electoral Commission to consult the Secretary of State and anyone else the Electoral Commission thinks appropriate before determining the standards. After they are published the performance standards must be laid before Parliament.
395. New section 9B enables the Electoral Commission to direct relevant officers to submit reports regarding their level of performance against the standards set by the Electoral Commission. The Electoral Commission is required to specify to whom the direction is issued and may also specify the elections or referendums to which the report relates and the form in which the report is to be provided. It further enables the Electoral Commission, upon receipt of such reports, to publish assessments of the level of performance of the relevant officer (or officers) against the standards set.
396. New section 9C enables the Electoral Commission to direct EROs, returning officers and counting officers to submit information on expenditure incurred in the performance of their functions (in the case of EROs) or, as regards returning officers and counting officers, in connection with the elections or referendums for which they are responsible. It further enables the Electoral Commission to specify the relevant election or referendum, the form in which the information must be provided and the time within which the information must be supplied.

***Section 68 Funding of services and expense of returning officers***

397. This section amends section 29 of the 1983 Act (payments by and to returning officer) by substituting existing subsections (3) to (4B) with new subsections (3), (3A), (3B), and (3C).
398. New subsection (3) allows the Secretary of State to specify in an order a total overall amount a returning officer may recover for expenses incurred in connection with the services he renders. The order may specify a figure or specify a formula by which the figure may be calculated. New subsection (3A) also enables him to specify maximum recoverable amounts for particular services or expenses. New subsection (3B) enables the Secretary of State to agree to pay more than those amounts if certain conditions are met, and new subsection (3C) specifies those conditions, namely that it was reasonable for the returning officer to incur the expenses, and that the charges themselves are reasonable.

***Section 69 Encouraging electoral participation***

399. This section requires EROs and returning officers to take such steps as they think appropriate to encourage the participation of electors in the electoral process. It also provides for the Secretary of State to reimburse the electoral officials for expenditure incurred in this respect, subject to a maximum limit to be provided for in regulations.

**Criminal proceedings**

***Section 70 Time limit for prosecutions***

400. This section inserts new subsections (2A) to (2G) into section 176 of the 1983 Act.
401. New subsections (2A) and (2B) enable magistrates' courts (in England and Wales) to extend the time for commencing proceedings from 12 months to no more than 24 months. The court can only grant the extension of time if satisfied that there are exceptional circumstances and that there has been no undue delay in the investigation of the said offence.
402. The new subsections (2C) and (2D) enable a magistrates' court, if it grants an extension of the time, to direct the relevant registration officer who is keeping the election documentation not to destroy that documentation (which rule 57 would otherwise require), and to extend the period of retention of that documentation for up to a further 12 months.
403. The new subsection (2G) provides for a right of appeal to the Crown Court against a refusal of the magistrates' court to act under subsection (2B) or to make an order under subsection (2D).

***Section 71 Restrictions on powers of arrest by persons other than constables***

404. This section maintains the current position that the power of arrest inside a polling station without warrant of a person suspected of committing personation rests with a police constable only. Without this provision, the amendments made by the Serious Organised Crime and Police Act 2005 to sections 24 and 24A of the Police and Criminal Evidence Act 1984 would allow any person who has reasonable grounds for suspecting another person of being guilty of the offence inside a polling station to make an arrest. For personation outside a polling station or fraudulent applications for absent votes, the provisions of section 24 and 24A of the 1984 Act will, however, automatically apply because of the seriousness of the offence and level of the penalty.

## **Pre-consolidation**

### ***Section 72 Pre-consolidation amendments***

405. This section supports any future consolidation of the main legislation from 1983 onwards relating to UK parliamentary elections and local government elections in England and Wales.
406. *Subsection (1)* confers power on the Secretary of State to make an order amending, for the purposes of and just prior to substantive consolidation, any of the electoral law enactments listed in subsection (2). The coming into force of provisions in the amending order and the substantive Consolidation Act would be co-ordinated (*subsections (3) to (6)*).
407. *Subsection (7)* imposes a requirement of consulting the Electoral Commission before making a pre-consolidation order. Subsection (8) provides for affirmative resolution procedure. Subsection (9) states that the Secretary of State must not amend provisions falling within competence of the Scottish Parliament.

## **Legal incapacity to vote**

### ***Section 73 Abolition of common law incapacity: mental state***

408. This section abolishes any common law rule which renders persons unable to vote on the basis of mental incapacity. There is case law dating back to at least the 18<sup>th</sup> Century which suggests that persons might be regarded as legally incapable of voting solely by reason of their mental state. The case law referred to such persons as ‘idiots’ and ‘lunatics’.
409. *Subsection (2)* makes a consequential change to the definition of ‘legal incapacity’ contained in the 1983 Act.
410. *Subsection (3)* makes a consequential change to the definition of ‘legal incapacity’ for Northern Ireland contained in the Elected Authorities (Northern Ireland) Act 1989.

## **Part 9: General**

### ***Section 74 Miscellaneous amendments and repeals***

411. *Subsection (1)* gives effect to Part 7 of *Schedule 1*, which contains miscellaneous amendments.
412. *Subsection (2)* gives effect to the repeals contained in *Schedule 2*.

### ***Section 78 Extent***

413. This section deals with the Act's geographical extent. Amendments made by the Act to other enactments have the same territorial extent as the provisions amended. Otherwise the Act extends to the whole of the UK, subject to the exceptions specified in the paragraphs below.
414. The following provisions do not extend to Northern Ireland: sections 9 to 11, 67 and 70, Parts 1 and 2 of *Schedule 1*, and the repeal in *Schedule 2* relating to paragraph 86 of Schedule 4 to the Representation of the People Act 1985.
415. *Section 70* (Time limit for prosecutions) does not extend to Scotland.

## **Schedules**

### **Schedule 1 — Amendments**

#### **Part 1 – Anonymous Registration**

416. *Part 1 of Schedule 1* makes more detailed provision for amendments to the 1983 Act and to the Representation of the People Act 2000 for the purposes of the anonymous registration of electors.

#### **The 1983 Act**

417. *Paragraph 5* amends Section 10 (3) of the Act 1983 (annual canvass) to show that anonymous registration cannot be sought via the annual canvass.
418. *Paragraph 6* disapplies the objections procedure (in section 10A(3A) of the 1983 Act) from those seeking anonymous registration.
419. *Paragraph 8* amends section 56 of the 1983 Act so as to include a right of appeal from a refusal of anonymous registration.
420. *Paragraph 9* amends section 62 of the 1983 Act (offences as to declarations). It will be a criminal offence to make a declaration in support of an application for anonymous registration when disqualified from voting or making a false statement.
421. *Paragraph 14* amends rule 7: anonymous electors shall not be able to rely upon their anonymous registration for the purposes of subscribing another elector's nomination papers. It also makes other consequential amendments in the parliamentary elections rules.
422. *Paragraph 15* amends the regulation making powers contained in Schedule 2 to the 1983 Act. Those in *subparagraph (3)* will enable regulations to provide for the sending of reminders to persons registered anonymously that their entitlement to registration is about to expire. *Subparagraph (4)* makes provision for regulation of the form and content of anonymous registration applications. *Subparagraph (5)* makes provisions for regulations to govern what evidence will be deemed sufficient by an ERO that a person's safety would be at risk such as to justify the grant of an application for anonymous registration.
423. *Paragraph 16* amends Schedule 2A to the 1983 Act. Persons who have anonymous entries will be regarded as permissible donors if they provide the required evidence of their registration to candidates or their election agents when making donations.

#### **The Representation of the People Act 2000 (c. 2)**

424. *Paragraphs 19 to 23* amend Schedule 4 to the Representation of the People Act 2000 (Absent Voting in Great Britain). In particular, *paragraph 22* provides that the postal voters list and list of proxies should, in the case of persons granted anonymous registration, not show their name or address.

#### **The 2000 Act**

425. *Paragraphs 24 to 30* amend the 2000 Act. Persons who have anonymous entries will be regarded as permissible donors if they provide the required evidence of their registration at the time of the donation to the registered political party. The party has to provide a copy of that evidence to the Electoral Commission.

#### **Part 2 – Alteration of registers: pending elections**

426. This Part of *Schedule 1* makes a series of amendments to ensure that notices issued making alterations in relation to court appeals and clerical errors are provided to the

relevant polling station and treated as if they were part of that polling station's electoral register. *Paragraph 38* additionally provides for the presiding officer to keep a list of persons to whom ballot papers have been supplied following alterations made to the register which have taken effect on polling day.

### **Part 3 — Standing for election**

427. This Part amends relevant legislation so as to limit the right of Commonwealth citizens to stand for election to UK elections (apart from elections to the House of Commons) to those with a right of abode or with indefinite leave to remain in the UK. This will help to ensure that the only Commonwealth citizens who may stand for election in such elections and hold such an elected office are therefore those who have a right to live in the UK throughout the term of their office.

#### **European Parliament**

428. *Paragraph 41* amends Section 10 of the European Parliamentary Act 2002. By virtue of section 10(1)(a) of that Act, a Commonwealth citizen will be disqualified for the office of MEP if he is disqualified for membership of the House of Commons. Therefore the amendments made by section 18 will similarly limit those who may hold the office of MEP. The amendments made by *paragraph 41* are in consequence of that. By virtue of the amendments made by *sub-paragraphs (3) to (5)* Commonwealth citizens resident in Gibraltar will be able to stand if they have similar rights to remain in Gibraltar indefinitely.

#### **Greater London Authority**

429. *Paragraph 42* will amend section 20 of the Greater London Authority Act 1999. It will disqualify Commonwealth citizens who are not qualifying Commonwealth citizens from being a member of the London Assembly or from becoming Mayor.

#### **Local authorities in England and Wales**

430. *Paragraph 43* will amend section 79 of the Local Government Act 1972, and will disqualify Commonwealth citizens who are not qualifying Commonwealth citizens from membership of a local authority.

*National Assembly for Wales and Scottish Parliament*

431. *Paragraphs 44 and 45* make consequential amendments for similar purposes to the Government of Wales Act 1998 and the Scotland Act 1998. As the right to stand for election and be a member in the case of the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly depends on the whether the person is disqualified for membership of the House of Commons, there is no need to make express provision in those cases in order to have the same effect. However, consequential amendments are made where necessary.

*Local authorities in Scotland and Councillors in Northern Ireland*

432. *Paragraphs 46 and 47* make provision for Scotland and Northern Ireland similar to that made in paragraph 43 for local government elections in England and Wales. Paragraph 46 amends section 29 of the Local Government (Scotland) Act 1973 and paragraph 47 amends the Local Government Act (Northern Ireland) 1972.

### **Part 5 — Conduct of elections**

433. This Part amends provisions of the 1983 Act and the Electoral Law Act (Northern Ireland) 1962 governing the conduct of elections. The paragraphs below discuss the amendments to the 1983 Act. The amendments to the 1962 Act are to similar effect.



## **Official poll cards**

434. Rule 28 is amended by *paragraph 70* to provide that poll cards will be issued both to voters who will be voting at a polling station and to postal voters, and will be sent out as soon as practicable after publication of the notice of the election. Provision is also added to enable the information contained on the official poll card to be tailored to the elector's manner of voting.

## **Election expenses**

435. *Paragraph 71* amends section 76 of the 1983 Act (limitation of election expenses). Subsection (1B) is amended to correct a drafting error.

## **Postal voting statement**

436. *Paragraph 72* amends the offence provision in section 65 of the 1983 Act (tampering with nomination papers, etc) to add a reference to the new form of "postal voting statement" which will be used in Great Britain in place of the current declaration of identity.
437. *Paragraph 73* should be read in conjunction with provisions in sections 14 and 37 which taken together put in place arrangements that will significantly enhance the security of postal voting.
438. *Paragraph 73* removes the requirement in rule 45(1B) of the parliamentary election rules for the postal voting statement to be witnessed.
439. *Paragraph 73* also amends rule 45(1B) to specify that, in addition to the current requirements, postal ballot papers shall not be taken to be duly returned unless:
- the postal voting statement has been signed and states the date of birth of the elector or proxy (as the case may be),
  - and, in a case where the returning officer is required to take such steps as may be prescribed for verifying the date of birth and signature of an elector, the returning officer has taken such steps to verify the date of birth and signature of the elector.
440. Where the returning officer decides that a ballot paper is not duly returned, it will be deemed to be invalid and will not go forward to the count.

## **Questions to be put to voters**

441. *Paragraph 74* restates rule 35, which governs the questions that may be put to voters attending a polling station in the UK. This incorporates changes in consequence of a number of provisions in the Act. The questions are set out in table format.

## **Voting procedure**

442. *Paragraph 75* restates rule 37, which governs the voting procedure at polling stations in Great Britain, again reflecting changes made by several provisions of the Act. The comparable amendments for Northern Ireland are made in *paragraph 90*.

## **Assistance for persons with disabilities**

443. *Paragraphs 76 to 80* make changes related to those made by *section 73* (*Abolition of common law incapacity: mental state*).
444. *Paragraph 76* introduces a definition of "disability" that includes short-term inability to do things. This will permit people with temporary ailments, for example, a person with a broken arm, to seek assistance with voting.

445. *Paragraphs 77 to 80* amend the parliamentary election rules, to replace terms such as ‘physical cause’, ‘physical incapacity’ and ‘incapacity’ with the single word ‘disability’, thereby clarifying the language used about disabled people in electoral law and removing the limitation on assistance rules to those with physical disabilities.

### **Tendered ballot papers**

446. *Paragraph 81* amends rule 40 of the Parliamentary Election Rules concerning tendered ballot papers. Paragraph 81(2) inserts a new paragraph (1ZF) into rule 40 which provides that in Northern Ireland persons in polling stations are entitled to receive a tendered ballot paper if they are refused a ballot paper as a consequence of giving an unsatisfactory answer to the date of birth question which may be put to voters in Northern Ireland under provisions in rule 35 of the Parliamentary Election Rules. Paragraph 81(3) amends rule 40(3) to require persons who have been issued with a tendered ballot paper under rule 40 to sign the tendered votes list.

### **Attendance at election proceedings**

447. *Paragraph 82* amends section 66(1) (requirement of secrecy) of the 1983 Act by inserting a new paragraph (c). The effect of new paragraph (c) is to extend the requirement of secrecy to representatives of the Electoral Commission, accredited observers and nominated members of accredited organisations who attend the polling station to observe.
448. *Paragraph 83* amends rule 11(1) (right to attend nomination) of the parliamentary election rules in Schedule 1 by inserting new paragraph (c), the effect of which is to enable representatives of the Electoral Commission to attend the nomination proceedings. However, new paragraph (3A), also inserted by *paragraph 83*, prevents Commission representatives from inspecting, or objecting to the validity of, any nomination paper. *Paragraph 83* also amends rule 11(4) to allow one other person chosen by the candidate to be present at the delivery of the candidate’s nomination, and to be present at the nomination proceedings though such a person may not inspect, or object to the validity of, any nomination paper.
449. *Paragraph 84* amends rule 32 (Admission to polling station) in Schedule 1 by substituting a new subparagraph (1). The effect of this amendment is to include representatives of the Electoral Commission, accredited observers and nominated members of accredited organisations as well as minors accompanying voters among those who may be admitted to the polling station. *Paragraph 84* also inserts new subparagraph (1A), which requires the Presiding Officer to regulate the total number of voters and persons under the age of 18 who accompany them to be admitted to the polling station at the same time.
450. *Paragraph 85* amends rule 44 (Attendance at counting of votes) of Schedule 1, by amending subparagraph (2)(b) so that a candidate may choose one other person to be present with them at the count, and substitutes a new subparagraph (2)(e), the effect of which is to include representatives of the Electoral Commission, accredited observers and nominated members of accredited organisations among those who may attend the count.

### **Identifying marks and security markings on ballot papers etc.**

451. *Paragraph 87* amends rule 19 concerning ballot papers at parliamentary elections. It provides that ballot papers at these elections must have printed on the back both a number and other identifying mark, such as a barcode. The use of additional marks such as barcodes on ballot papers will assist in the recording of returned postal votes necessary for the compilation of the marked list of postal votes created under section 45, and will also enhance security by enabling returned postal votes to be identified and cancelled where fraud is suspected and/ or replacement papers are being issued to a voter.

452. *Paragraph 88* amends rule 20. This rule governs the use of the official mark at parliamentary elections, which currently takes the form of a perforation of the ballot paper. The new paragraphs replace the perforated official mark with another form of security mark, which may take the form of under-printing, special inks or watermarked paper. These changes will provide the necessary security without the risk of inadvertent disenfranchisement caused if ballot papers are mistakenly not stamped once issued
453. *Paragraph 93* amends the Appendix of forms in the parliamentary election rules in consequence of a number of provisions in the Bill. The Directions as to printing the ballot paper are amended to direct that the identifying mark be printed on back of the ballot paper together with the ballot paper number. The directions for the guidance of the voters in voting are also amended. Reference to the official mark being stamped on the ballot paper is removed. After the voter has marked a cross (X) on the ballot paper they must fold the paper in two and show the back of the ballot paper to the presiding officer so as to disclose the number and other identifying mark. The voter is then directed to put the ballot paper in the ballot box.

### **Cancellation of postal ballot papers**

454. *Paragraph 94* amends Schedule 2 of the 1983 Act (regulation-making powers) to allow provisions to be contained in regulations to authorise the cancellation or removal of ballot papers in any prescribed circumstances.

### **Part 6 – Control of Loans etc to individuals and members associations**

455. *Paragraphs 97 – 102* apply the principles of the regulated transactions regime to individual party members, members associations and the holders of certain elective office on a broadly similar basis as regulated transactions to political parties are regulated. Distinctions are made where it is necessary to reflect differences between individual members of political parties and political parties themselves.
456. *Paragraph 99* inserts a new *Schedule 7A* to the 2000 Act, which provides for the control of loans in this context.
457. *Schedule 7A*, paragraph 1 defines individual party members, members associations and holders of relevant elective office collectively as “regulated participants”. They are defined in the same terms as in *Schedule 7*, save that *Schedule 7A* does not have effect in relation to Members of the Scottish Parliament or members of local authorities in Scotland who are not members of a political party.
458. *Schedule 7A*, paragraph 2 defines the transactions to which the Schedule applies (“controlled transactions”), which are the regulated transactions defined in the new section 71F (as inserted by section 61 of this Act), when entered into with regulated participants. However, paragraph 2 draws a capacity based distinction to reflect the fact that whilst the activities of political parties are inherently political, the activities of individual members may not be. Accordingly, such transactions when entered into by regulated participants are only controlled transactions where the use condition is satisfied, namely that the regulated participant must intend at the time he enters into the transaction to use some part of any money or benefit obtained in connection with relevant political activities.
459. Relevant political activities are defined in *Schedule 7A*, paragraph 2(8).
460. *Schedule 7A*, paragraph 3 provides for how controlled transactions are to be valued, and adopts the same approach as in the regulated transactions regime for political parties.
461. *Schedule 7A*, paragraph 4 provides that regulated participants may only be party to a controlled transaction with individuals or organisations who are authorised participants, adopting the same approach to permissibility as in the regulated transactions regime for political parties. Similar provision is made to the regulated transactions regime rendering void controlled transactions with unauthorised participants (with

*Schedule 7A, paragraphs 5 and 6* corresponding to new sections 71I and 71J respectively (as inserted by section 61 of this Act)).

462. Schedule 7A, paragraph 8 provides for a range of criminal offences to enforce the permissibility requirement. The offences correspond with the offences set out in the regulated transaction regime as applied to political parties. Where the regulated participant is an individual, the offences are committed by that individual. Where a members association, by the “responsible person”, that is the treasurer or, if there is no treasurer, any person responsible for dealing with receipts from controlled transactions (Schedule 7A, paragraph 1(7)(d)).
463. Schedule 7A, paragraph 9 differs from the regulated transactions regime as applied to political parties, by not requiring individuals and members associations to make quarterly transaction reports. (In doing so, it follows the approach to the reporting of donations by individuals and members associations in Schedule 7.) Regulated participants are required to submit a report to the Electoral Commission each time a transaction exceeds the relevant reporting threshold, but only when this occurs. The reporting threshold is £,1000, or, in the case of members associations, £5,000. Provision is made for controlled transactions to be aggregated with other controlled transactions, controlled donations or both from the same person. The report must be made within 30 days of the date on which the transaction was entered into (or the date on which the aggregate amount exceeded the relevant reporting threshold). Similar particulars must be reported by an regulated participant in respect of a controlled transaction as must be reported by a political party in respect of a regulated transaction
464. A requirement to report controlled transactions with unauthorised participants and changes to recorded transactions is imposed in Schedule 7A, paragraphs 10 and 11.
465. Offences to support the reporting requirements are set out in Schedule 7A, paragraph 12 and the individual or responsible person (as the case may be) is required to make a declaration in respect of a report under Schedule 7A, paragraphs 9 and 10 by Schedule 7A, paragraph 13.
466. Schedule 7A, paragraph 14 requires existing transactions to be reported within 60 days of the coming into force of these provisions.
467. Schedule 7A, paragraph 15 obliges the Electoral Commission to maintain a register of transactions reported to them under Schedule 7A.
468. Schedule 7A, paragraph 16 together with paragraph 102 of Part 6 of Schedule 1 to this Act makes corresponding provision to that made in respect of the holders of relevant elective office by section 59 of this Act.

## **Part 7 - Miscellaneous**

### **The 1983 Act**

469. *Paragraphs 111 and 112* respectively make amendments to sections 73 (payment of expenses through election agent) and 74A (expenses incurred otherwise than for election purposes) of the 1983 Act consequential upon the insertion of new section 90ZA (meaning of election expenses) by section 27.
470. *Paragraph 113* amends section 75 of the 1983 Act (prohibition of expenses not authorised by election agent) consequential upon amendments made to the 1983 Act by section 41 concerning the control of documents after parliamentary elections. It inserts new provisions into section 75 to provide for third party election expenses returns under section 75 to be retained after parliamentary elections by the relevant registration officer, or in Northern Ireland, the Clerk of the Crown for Northern Ireland.

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471. *Paragraphs 114 and 115* amend sections 81 (return as to election expenses) and 89 (inspection of returns and declarations) of the 1983 Act consequential upon the amendments made to section 81 by section 26.
472. *Paragraphs 116 to 119* respectively make amendments to sections 90 (election expenses at elections where election agent not required), 90C (property, goods services, etc. provided free of charge or at a discount), 90D (modifications of sections 90A to 90C in relation to election of members of the London Assembly) and 118 (interpretation of Part 2) of the 1983 Act. The amendments are consequential upon the insertion of new section 90ZA by section 27.
473. *Paragraph 127* amends section 197(3) of the 1983 Act (candidate's expenses: ward, and liverymen in common hall, elections). Currently, under subsection (3), orders varying the maximum candidates' expenditure limits for the City of London elections, specified in section 197(1) and (2), are subject to the affirmative resolution procedure. Orders made under section 197(3) will now be subject to the negative resolution procedure.
474. *Paragraphs 129 to 131* are minor amendments to the Parliamentary Elections Rules in Schedule 1 to the 1983 Act consequential on the amendments made in sections 19 and 49 to the rules relating to the use of descriptions by candidates.
475. *Paragraph 132* amends rule 36 (challenge of voter) consequential upon the amendments made to sections 24 and 24A of the Police and Criminal Evidence Act 1984.

### **The 2000 Act**

476. *Paragraph 139* amends section 3 of the 2000 Act and will exclude those people who have made loans to political parties from being eligible to be Electoral Commissioners for ten years. This mirrors the situation that applies to donations.
477. *Paragraph 140* adds Part 4A (regulation of loans and related transactions) to the responsibilities of the treasurer of a registered party through an amendment to section 24(4)(a), and *paragraph 141* does the same to the responsibilities of the treasurer of an accounting unit through an amendment to section 27(2)(a).
478. *Paragraph 142* amends section 29 of the 2000 Act, which concerns the registration of party emblems by the Electoral Commission with notification, by inserting new paragraph (ca). The amendment has a similar effect to that made to section 28 of the 2000 Act (Registration of parties) by section 48 in that it prevents the registration of a party emblem that may mislead an elector as to the effect of his vote or adversely affect an elector's understanding of any directions given on the ballot paper or elsewhere which are provided for his guidance in voting.
479. *Paragraph 143* amends section 34(3) of the 2000 Act (Registration of minor parties) to allow minor parties a period of seven months, rather than the current four months within which to provide the Electoral Commission confirmation that the party's particulars in the register are correct. The period continues to commence one month before the anniversary of the party's inclusion on the register, but now ends six months after that anniversary.
480. *Paragraphs 144 and 146* amend provisions of the donations regime (in section 50 (definition of donations for the purposes of Part 4) and section 53(4) (value of donations)) to take account that loans otherwise than on commercial terms will no longer fall to be considered as donations, but instead will fall within the regulated transactions regime.
481. *Paragraphs 145, 149 and 155* make amendments to sections 52 (payments, services etc. not to be regarded as donations). The amendments are consequential upon the repeal of section 68 of the 2000 Act by section 57.

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482. *Paragraph 147* amends section 55(2) of the 2000 Act (payments from public funds to be treated as donations received from a permissible donor). The amendment is consequential upon the amendment to section 52 (payments, services etc. not to be regarded as donations) made by section 55 which requires Policy Development Grants to be reported as a donation to the Electoral Commission.
483. *Paragraphs 148 and 153* amend section 62 of the 2000 Act (quarterly donation reports) and Schedule 6 to the 2000 Act respectively, to provide a requirement to report a combination of regulated transactions and donations (collectively, “relevant benefits”) which, taken together, exceed the relevant reporting threshold. See the discussion of section 61 (regulation of loans etc) above (in particular, that to the new section 71M (quarterly reports of regulated transactions) of the 2000 Act).
484. *Paragraphs 150 to 152* make amendments to section 146 (supervisory powers of Commission), section 148 (general offences) and Schedule 1 to the 2000 Act, in consequence of the new regime for the regulation of loans. *Paragraph 156* makes such a consequential amendment to section 12 of the European Parliament (Representation) Act 2003.
485. *Paragraph 154* makes amendments to Schedule 7 to the 2000 Act (donations to individuals and members associations by donors) consequential on the regulation of loans to individuals and members associations in Part 6 of Schedule 1 to this Act.

**Schedule 2 — Repeals**

486. This Schedule lists the repeals resulting from the Act’s provisions.

**COMMENCEMENT DATE**

487. *Section 77* provides that the following sections in relation to the making (or varying or terminating) of a CORE scheme will enter into force on Royal Assent; section 1 except subsections (2) and (5), section 2 except subsections (2), (4) to (9) and (12), section 3, section 4, section 5 except subsection (10), section 6 and section 8. The rest of the substantive provisions of the Act will be brought into force by orders made by the Secretary of State.

**HANSARD REFERENCES**

488. The following table sets out the dates and Hansard references for each stage of this Act’s passage through Parliament.

<i>Stage</i>	<i>Date</i>	<i>Hansard reference</i>
<b>HOUSE OF COMMONS</b>		
First Reading	11 October 2005	Vol. 437 Col. 169
Second Reading	25 October 2005	Vol. 438 Col. 193
Committee of the Whole House	8 November 2005	Vol. 439 Col. 184
Committee Stage – Standing Committee sittings		
Standing Committee		
Morning) 1 <sup>st</sup> Sitting	15 November 2005	Col. 1
(Afternoon) 2 <sup>nd</sup> Sitting		Col. 31
<b>Outcome of Amendments</b>	15 November 2005	

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<i>Stage</i>	<i>Date</i>	<i>Hansard reference</i>
Standing Committee (Morning)	17 November 2005	Col. 79
3 <sup>rd</sup> Sitting		
Standing Committee (Afternoon)	17 November 2005	Col. 103
4 <sup>th</sup> Sitting		
<b><i>Outcome of Amendments</i></b>	17 November 2005	
Standing Committee	22 November 2005	Col. 151
5 <sup>th</sup> Sitting		
<b><i>Outcome of Amendments</i></b>	22 November 2005	
Report stage	11 January 2006	Vol. 441 Col. 309
<b><i>HOUSE OF LORDS</i></b>		
First Reading	12 January 2006	Vol. 677 Col. 303
Second Reading	13 February 2006	Vol. 678 Col. 1014-1060
Committee Stage – Grand Committee sittings		
Grand Committee First Day	28 February 2006	Vol. Col. 63
Grand Committee Second Day	16 March 2006	Vol. Col. 533
Grand Committee Third Day	21 March 2006	Vol. 680 Col. GC71- GC136
Grand Committee Fourth Day	23 March 2006	Vol. 680 Col. GC183– GC230
Motion for approval of Recommitment	3 May 2006	Vol. 681 Col. 733-766
Committee (on Recommitment)	8 May 2006	Vol. 681 Col. 733-766
Report Stage (First Day)	15 May 2006	Vol. 682 Col. 12 - 130
Third Reading	7 June 2006	Vol. 682 Col. 1273
<b><i>HOUSE OF COMMONS</i></b>		
Commons Consideration of Lords Amendments	13 June 2006	Vol. 659 Col. 447
<b><i>HOUSE OF LORDS</i></b>		
Lords Consideration of Commons Amendments	20 June 2006	Vol. 683 Col. 635
<b><i>HOUSE OF COMMONS</i></b>		
Commons Consideration of Lords Amendments	28 June 2006	Vol. 448 Col. 293
<b><i>HOUSE OF LORDS</i></b>		
Lords Consideration of Commons Amendments	10 July 2006	Vol. 684 Col. 480
<b><i>ROYAL ASSENT</i></b>	11 July 2006	HoL; Vol. 684 Col. 659

*These notes refer to the Electoral Administration Act  
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<i>Stage</i>	<i>Date</i>	<i>Hansard reference</i>
11 July 2006	HoC; Vol. 448 Col.1310	