



Political Parties and Elections Act 2009

2009 CHAPTER 12

PART 1

THE ELECTORAL COMMISSION

Functions of Electoral Commission

1 Compliance with controls imposed by the 2000 Act etc

- (1) In the Political Parties, Elections and Referendums Act 2000 (c. 41) (“the 2000 Act”) section 145 (general function of Commission with respect to monitoring compliance with controls imposed by that Act etc) is amended as follows.
- (2) In subsection (1), for the words before paragraph (a) there is substituted “The Commission shall have the function of monitoring, and taking such steps as they consider appropriate with a view to securing, compliance with”.
- (3) After subsection (6) there is inserted—
 - “(6A) The Commission may prepare and publish guidance setting out, in relation to any requirement referred to in subsection (1), their opinion on any of the following matters—
 - (a) what it is necessary, or is sufficient, to do (or avoid doing) in order to comply with the requirement;
 - (b) what it is desirable to do (or avoid doing) in view of the purpose of the requirement.”

2 Investigatory powers of Commission

- (1) For section 146 of the 2000 Act there is substituted—

Status: This is the original version (as it was originally enacted).

“146 Investigatory powers of Commission

Schedule 19B makes provision about the investigatory powers of the Commission.”

- (2) Before Schedule 20 to the 2000 Act there is inserted, as Schedule 19B, the Schedule set out in Schedule 1 to this Act.
- (3) In Schedule 20 to the 2000 Act the following entries are inserted at the appropriate place—

“Paragraph 13(1) of Schedule 19B (failure to comply with investigation requirement)	On summary conviction: Level 5
Paragraph 13(2) of Schedule 19B (intentional obstruction of person exercising investigatory power)	On summary conviction: Level 5
Paragraph 13(3) of Schedule 19B (providing false information in purported compliance with investigation requirement)	On summary conviction in England and Wales or Scotland: statutory maximum or 12 months On summary conviction in Northern Ireland: statutory maximum or 6 months On indictment: fine or 1 year”.

3 Civil sanctions

- (1) For section 147 of the 2000 Act (civil penalty for failure to deliver documents etc) there is substituted—

“147 Civil sanctions

Schedule 19C makes provision for civil sanctions in relation to—

- (a) the commission of offences under this Act;
- (b) the contravention of restrictions or requirements imposed by or by virtue of this Act.”
- (2) After Schedule 19B to the 2000 Act (inserted by section 2 above) there is inserted, as Schedule 19C, the Schedule set out in Schedule 2 to this Act.
- (3) In Schedule 20 to the 2000 Act the following entry is inserted at the appropriate place—

“Paragraph 14 of Schedule 19C (failure to comply with stop notice)	On summary conviction in England and Wales or Scotland: £20,000 or 12 months On summary conviction in Northern Ireland: £20,000 or 6 months On indictment: fine or 2 years”.
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- (4) In section 156 of the 2000 Act (orders and regulations), after subsection (4) there is inserted—

- “(4A) An order under paragraph 16 of Schedule 19C that contains—
- (a) provision made by virtue of paragraph 1(1), (2), (3), (4) or (5), paragraph 5(1), (2), (3) or (4), paragraph 10(2)(b) or (3)(b) or paragraph 15(1)(a) of that Schedule, or
 - (b) provision amending an Act,
- shall not be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament; and subsection (2) does not apply to such an order.”

Electoral Commissioners etc

4 Selection of prospective Electoral Commissioners and Commission chairman

- (1) Section 3 of the 2000 Act (appointment of Electoral Commissioners etc) is amended as follows.

- (2) For subsection (2) there is substituted—

- “(2) A motion for such an Address may be made only if—
- (a) the Speaker of the House of Commons agrees that the motion may be made;
 - (b) the motion has been the subject of consultation with the registered leader of each registered party to which two or more Members of the House of Commons then belong; and
 - (c) each person whose appointment is proposed in the motion has been selected in accordance with a procedure put in place and overseen by the Speaker’s Committee.”

- (3) After subsection (5) there is inserted—

- “(5A) In the case of a re-appointment (or further re-appointment) of an Electoral Commissioner, the reference in subsection (2)(c) to being selected in accordance with a procedure put in place and overseen by the Speaker’s Committee is to be read as including a reference to being recommended for re-appointment (or further re-appointment) by that Committee.”

5 Four Electoral Commissioners to be persons put forward by parties

- (1) In section 3 of the 2000 Act, after subsection (4) (political restrictions on Electoral Commissioners) there is inserted—

- “(4A) Paragraphs (a) and (d) of subsection (4) do not apply to the appointment of a person as a nominated Commissioner (within the meaning of section 3A).”

- (2) After that section there is inserted—

“3A Four Electoral Commissioners to be persons put forward by parties

- (1) Four of the Electoral Commissioners shall each be a person whom the registered leader of a qualifying party put forward to be considered for appointment as an Electoral Commissioner (a “nominated Commissioner”).

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- (2) In subsection (1) “qualifying party” means a registered party with two or more Members of the House of Commons at the time of the person’s appointment.
- (3) Three of the nominated Commissioners shall each be a person put forward by the registered leader of one of the three largest nominating parties at the time of the person’s appointment.
- (4) In subsection (3) “nominating party” means a party whose registered leader—
 - (a) has put forward three persons to be considered for appointment as a nominated Commissioner, or
 - (b) previously put forward persons one of whom was appointed as a nominated Commissioner and is expected to continue to hold office.
- (5) No appointment may be made that would result in two or more nominated Commissioners being persons put forward by the leader of the same party (and nothing in this section has effect so as to require that result).
- (6) A nominated Commissioner may not be appointed as the chairman of the Commission.
- (7) For the purposes of this section, the relative size of any two or more registered parties shall be determined according to the number of Members of the House of Commons belonging to each party at the time in question (or, in the case of two parties with the same number of Members, according to the total number of votes cast for persons standing for election in the name of each of those parties at the most recent parliamentary general election).
- (8) A reference in this section to a Member of the House of Commons does not include any Member of that House who at the time in question—
 - (a) has not made and subscribed the oath required by the Parliamentary Oaths Act 1866 (or the corresponding affirmation), or
 - (b) is disqualified from sitting and voting in that House.”
- (3) In section 14 of the 2000 Act (Boundary Committees), in subsection (4), for “an Electoral Commissioner or a deputy Electoral Commissioner” there is substituted “an Electoral Commissioner who is not a nominated Commissioner (within the meaning of section 3A), or a deputy Electoral Commissioner.”.

6 Number of Electoral Commissioners

In section 1 of the 2000 Act (establishment of Electoral Commission), in subsection (3) (number of Commissioners), for “not less than five, but not more than nine,” there is substituted “nine or ten”.

7 Political restrictions on Electoral Commissioners and staff

- (1) In section 3(4)(d) of the 2000 Act (persons not to be appointed as Electoral Commissioners within ten years of engaging in certain political activities), for “within the last ten years” there is substituted “within the last five years”.
- (2) In Schedule 1 to the 2000 Act (the Electoral Commission), after paragraph 11 there is inserted—

“Political restrictions on staff

- 11A (1) A person may not be appointed as a member of the staff of the Commission if the person—
- (a) is an officer or employee of a registered party or of any accounting unit of such a party;
 - (b) holds a relevant elective office (within the meaning of Schedule 7);
 - (c) has at any time within the relevant period (see sub-paragraph (2))—
 - (i) been such an officer or employee as is mentioned in paragraph (a), or
 - (ii) held such an office as is mentioned in paragraph (b), or
 - (iii) been named as a donor in the register of donations reported under Chapter 3 or 5 of Part 4, or
 - (iv) been named as a participant in the register of recordable transactions reported under Part 4A.
- (2) The relevant period is—
- (a) in relation to appointment as chief executive of the Commission, the last five years;
 - (b) in relation to appointment to a post on the staff of the Commission that is designated by a notice in force under paragraph 11B, the period (immediately preceding the appointment) specified by the notice;
 - (c) in relation to appointment as any other member of the staff of the Commission, the last 12 months.
- (3) A member of a registered party may not be appointed as chief executive of the Commission.
- (4) The appointment of any member of the staff of the Commission shall terminate—
- (a) in the case of the chief executive, on the occurrence of such an event as is mentioned in any of paragraphs (a) to (d) of paragraph 3(3);
 - (b) in any other case, on the occurrence of such an event as is mentioned in any of paragraphs (a) to (ca) of paragraph 3(3).
- 11B (1) The chief executive of the Commission may by giving notice to the Speaker’s Committee—
- (a) designate a particular post on the staff of the Commission, and
 - (b) specify as the relevant period for that post, for the purposes of paragraph 11A(2)(b), a period of two years or more,
- if the chief executive reasonably believes that it is necessary to do so in order to maintain public confidence in the effectiveness of the Commission in carrying out any of its functions.
- (2) The period specified under sub-paragraph (1)(b) may not be more than five years.

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- (3) In deciding what that period should be, the chief executive of the Commission shall take into account—
- (a) the level of seniority of the post;
 - (b) how likely it is that any holder of the post will be required to deal with politically sensitive matters.
- (4) Each notice under sub-paragraph (1) must relate to only one post.
- (5) A notice under sub-paragraph (1)—
- (a) has effect from the day on which it is received by the Speaker’s Committee, and
 - (b) (subject to sub-paragraphs (6) and (7)) expires at the end of the period of three years beginning with that day.
- (6) Sub-paragraph (5)(b) does not prevent a further notice being given under sub-paragraph (1) in relation to the post in question, either—
- (a) before the previous notice would have expired, or
 - (b) at any time after the expiry of the previous notice.
- A further notice received by the Speaker’s Committee before the previous notice would have expired supersedes the previous notice.
- (7) If the chief executive of the Commission gives notice (a “cancellation notice”) to the Speaker’s Committee cancelling a notice under sub-paragraph (1), the notice under that sub-paragraph ceases to have effect—
- (a) on the day on which the cancellation notice is received by the Speaker’s Committee, or
 - (b) (if later) on such date as may be specified in the cancellation notice.
- (8) Before giving a notice under this paragraph the chief executive of the Commission shall consult the Speaker’s Committee.
- (9) The Commission shall publish, in such manner as they consider appropriate, information setting out the effect of all notices under sub-paragraph (1) that are in force at any particular time.”
- (3) The amendment made by subsection (2) does not apply to the appointment of a person—
- (a) to assist the Boundary Committee for England in the performance of its functions,
 - (b) to assist the Commission in carrying out functions transferred to them by an order under section 18(1) of the 2000 Act (transfer of functions of Local Government Commission for England), or
 - (c) to perform duties including either or both of those.

8 Education about systems of government and EU institutions

In section 13 of the 2000 Act (education about electoral and democratic systems), paragraphs (b) and (c) of subsection (1) (Commission’s duty to promote public awareness of systems of government and EU institutions) are omitted.