
STATUTORY INSTRUMENTS

2004 No. 293

The European Parliamentary Elections Regulations 2004

PART 2

THE ELECTION CAMPAIGN

General

Candidate's right to send election address post free

63.—(1) An individual candidate and the nominating officer of a registered party which is included in the statement of parties and individual candidates nominated for the election or a person authorised in writing by that officer at a European Parliamentary election is, subject to such reasonable terms and conditions as the universal service provider concerned may specify, entitled to send free of any charge for postage which would otherwise be made by a universal service provider either—

- (a) one unaddressed postal communication, containing matter relating to the election only and not exceeding 60 grammes in weight, to each place in the electoral region which, in accordance with those terms and conditions, constitutes a delivery point for the purposes of this paragraph; or
- (b) one such postal communication addressed to each elector.

(2) An individual candidate and the nominating officer of a registered party which is included in the statement of parties and individual candidates nominated for the election or a person authorised in writing by that officer is also, subject as mentioned above, entitled to send free of any such charge for postage as mentioned above to each person entered in the list of proxies for the election one such communication as mentioned above for each appointment in respect of which that person is so entered.

(3) A person shall not be deemed to be an individual candidate for the purposes of this regulation unless he is shown as standing nominated in the statement of persons nominated, but until the publication of that statement any person who declares himself to be an individual candidate shall be entitled to exercise the right of free postage conferred by this regulation if he gives such security as may be required by the universal service provider concerned for the payment of postage should he not be shown as standing nominated as mentioned above.

(4) Until the publication of the statement of parties and individual candidates nominated for the election in an electoral region, the nominating officer of a registered party or a person authorised in writing by him shall be entitled to exercise in that region the right of free postage conferred by this regulation if he gives such security as may be required by the universal service provider concerned for the payment of postage should that party not be included in that statement as standing nominated.

(5) For the purposes of this regulation “elector” means a person—

- (a) who is registered in the register of electors to be used at the election in the electoral region on the last day for publication of notice of the election; and

(b) includes a person who is registered in such a register as below voting age if (but only if) it appears from the register that he will be of voting age on the day fixed for the poll.

(6) In this regulation “universal service provider” has the same meaning as in the Postal Services Act 2000(1).

Broadcasting from outside United Kingdom

64.—(1) No person shall, with intent to influence persons to give or refrain from giving their votes at a European Parliamentary election, include, or aid, abet, counsel or procure the inclusion of, any matter relating to the election in any programme service (within the meaning of the Broadcasting Act 1990(2)) or in any service which would, if Gibraltar were part of the United Kingdom, be a programme service provided from a place outside the United Kingdom and Gibraltar otherwise than in pursuance of arrangements made with—

- (a) in the United Kingdom,
 - (i) the British Broadcasting Corporation;
 - (ii) Sianel Pedwar Cymru;
 - (iii) the holder of any licence granted by the Office of Communications;
- (b) in Gibraltar, the Gibraltar Broadcasting Corporation,

for the reception and re-transmission of that matter by that body or the holder of that licence.

(2) An offence under this regulation shall be an illegal practice, but the court before whom a person is convicted of an offence under this regulation may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of regulation 107.

(3) Where any act or omission of an association or body of persons, corporate or unincorporate, is an illegal practice under this regulation, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, shall be deemed to be guilty of the illegal practice, unless he proves—

- (a) that the act or omission took place without his consent or connivance; and
- (b) that he exercised all such diligence to prevent the commission of the illegal practice as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

Broadcasting of local items during election period

65.—(1) Each broadcasting authority shall adopt a code of practice with respect to the participation of candidates at a European Parliamentary election in items about the electoral region in question which are included in relevant services during the election period.

(2) The code for the time being adopted by a broadcasting authority under this section shall be either—

- (a) a code drawn up by that authority, whether on their own or jointly with one or more other broadcasting authorities, or
- (b) a code drawn up by one or more other such authorities;

and a broadcasting authority shall from time to time consider whether the code for the time being so adopted by them should be replaced by a further code falling within paragraph (a) or (b).

(1) 2000 c. 26.

(2) See section 201 of the Broadcasting Act 1990 (c. 42), which was amended by paragraph 11 to Schedule 10 of the Broadcasting Act 1996 (c. 55) and sections 306(1) (a) and (b) and (2) of, and Schedule 19 to, the Communications Act 2003 (c. 21).

(3) Before drawing up a code under this section a broadcasting authority shall have regard to any views expressed by the Electoral Commission for the purposes of this regulation; and any such code may make different provision for different cases.

(4) The Office of Communications and the Gibraltar Regulatory Authority shall each do all that they can to secure that the code for the time being adopted by them under this regulation is observed in the provision of relevant services; and the British Broadcasting Corporation and Sianel Pedwar Cymru shall each observe in the provision of relevant services the code so adopted by them.

(5) For the purposes of paragraph (1) “the election period”, in relation to an election, means the period beginning with the last date for publication of notice of the election, and ending with the close of the poll.

(6) In this regulation—

“broadcasting authority” means the British Broadcasting Corporation, the Office of Communications, Sianel Pedwar Cymru or the Gibraltar Regulatory Authority;

“candidate”, in relation to an election, means a candidate standing nominated at the election or included in a list of candidates submitted in connection with it;

“relevant services”—

- (a) in relation to the British Broadcasting Corporation or Sianel Pedwar Cymru, means services broadcast by that body;
- (b) in relation to the Office of Communications, means services licensed under Part 1 or 3 of the Broadcasting Act 1990 or Part 1 or 2 of the Broadcasting Act 1996; and
- (c) in relation to the Gibraltar Regulatory Authority, means services broadcast by the Gibraltar Broadcasting Corporation.

Imitation poll cards

66. No person shall for the purpose of promoting or procuring the election of a registered party or any individual candidate at a European Parliamentary election issue any poll card or document so closely resembling an official poll card as to be calculated to deceive, and paragraphs (2) and (3) of regulation 64 apply as if an offence under this regulation were an offence under that regulation.

Schools and rooms for European Parliamentary election meetings

67.—(1) Subject to the provisions of this regulation, a candidate at a European Parliamentary election is entitled for the purpose of holding public meetings in furtherance of his candidature or that of his party to the use free of charge at reasonable times between the last date on which notice of election may be published in accordance with the European Parliamentary elections rules and the day preceding the date of the poll of—

- (a) a suitable room in the premises of a school to which this regulation applies;
- (b) any meeting room to which this regulation applies.

(2) This regulation applies—

- (a) in England and Wales, to community, foundation and voluntary schools of which the premises are situated in the electoral region,
- (b) in Scotland, to any school of which the premises are so situated, not being an independent school within the meaning of the Education (Scotland) Act 1980; and
- (c) in Gibraltar, to a school the expense of maintaining which is payable wholly or partly out of public funds or out of any rate, or by a body whose expenses are so payable.

(3) This regulation applies to meeting rooms situated in the electoral region, the expense of maintaining which is payable wholly or mainly out of public funds or out of any rate, or by a body whose expenses are so payable.

(4) Where a room is used for a meeting in pursuance of the rights conferred by this regulation, the person by whom or on whose behalf the meeting is convened—

- (a) shall defray any expenses incurred in preparing, warming, lighting and cleaning the room and providing attendance for the meeting and restoring the room to its usual condition after the meeting; and
- (b) shall defray any damage done to the room or the premises in which it is situated, or to the furniture, fittings or apparatus in the room or premises.

(5) A candidate is not entitled to exercise the rights conferred by this regulation except on reasonable notice; and this regulation does not authorise any interference with the hours during which a room in school premises is used for educational purposes, or any interference with the use of a meeting room either for the purposes of the person maintaining it or under a prior agreement for its letting for any purpose.

(6) The provisions of Schedule 8 to these Regulations have effect with respect to the rights conferred by this regulation and the arrangements to be made for their exercise.

(7) For the purposes of this regulation (except those of paragraph (b) of paragraph (4)), the premises of a school shall not be taken to include any private dwelling, and in this regulation—

- (a) the expression “meeting room” means any room which it is the practice to let for public meetings; and
- (b) the expression “room” includes a hall, gallery or gymnasium.

Disturbances at election meetings

68.—(1) A person who at a lawful public meeting to which this regulation applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together shall be guilty of an illegal practice.

(2) This regulation applies to a political meeting held in an electoral region in connection with a European Parliamentary election between the last date on which notice of election may be published in accordance with the European Parliamentary elections rules and the date of the poll.

(3) If a constable reasonably suspects any person of committing an offence under paragraph (1), he may if requested so to do by the chairman of the meeting require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address or gives a false name and address, he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale or, in Gibraltar, not exceeding £200.

Officials not to act for candidates

69.—(1) If—

- (a) any returning officer or local returning officer at a European Parliamentary election, or
- (b) any officer or clerk appointed under the European Parliamentary elections rules, or
- (c) any partner or clerk of any such person,

acts as an agent of a registered party which has submitted a list, a candidate on that list or an individual candidate in the conduct or management of the election, he shall be guilty of an offence, but nothing in this paragraph prevents an individual candidate from acting as his own election agent.

(2) A person guilty of an offence under this regulation shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale or, in Gibraltar, not exceeding £2500.

Illegal canvassing by police officers

70.—(1) No member of a police force shall by word, message, writing or in any other manner, endeavour to persuade any person to give, or dissuade any person from giving, his vote, whether as an elector or as proxy at any European Parliamentary election for an electoral region wholly or partly within the police area.

(2) A person acting in contravention of paragraph (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale or, in Gibraltar, not exceeding £1000, but nothing in that paragraph shall subject a member of a police force to any penalty for anything done in the discharge of his duty as a member of the force.

(3) In the application of this regulation to Gibraltar, the reference in paragraph (1) to the police area shall be construed as a reference to Gibraltar.

False statements as to candidates

71.—(1) A person who, or any director of any body or association corporate which—

- (a) before or during an election,
- (b) for the purpose of affecting the return of any registered party or individual candidate at the election,

makes or publishes any false statement of fact in relation to the personal character or conduct of a candidate on the list of that party or of that individual candidate shall be guilty of an illegal practice, unless he can show that he had reasonable grounds for believing, and did believe, the statement to be true.

(2) A person making or publishing any false statement of fact as mentioned above may be restrained by interim or perpetual injunction by the High Court or the county court from any repetition of that false statement or of a false statement of a similar character in relation to the candidate and, for the purpose of granting an interim injunction, prima facie proof of the falsity of the statement shall be sufficient.

(3) In the application of this regulation to Gibraltar, in paragraph (2) for the reference to the county court substitute a reference to the Gibraltar court.

Corrupt withdrawal from candidature

72. Any person who corruptly induces or procures any other person to withdraw from being an individual candidate at an election, in consideration of any payment or promise of payment, and any person withdrawing in pursuance of the inducement or procurement, shall be guilty of an illegal payment.

Payments for exhibition of election notices

73.—(1) No payment or contract for payment shall for the purpose of promoting or procuring the election of a registered party or an individual candidate at an election be made to an elector or his proxy on account of the exhibition of, or the use of any house, land, building or premises for the exhibition of, any address, bill or notice, unless—

- (a) it is the ordinary business of the elector or proxy as an advertising agent to exhibit for payment bills and advertisements; and
- (b) the payment or contract is made in the ordinary course of that business.

(2) If any payment or contract for payment is knowingly made in contravention of this regulation either before, during or after an election—

- (a) the person making the payment or contract, and

(b) if he knew it to be in contravention of these Regulations, any person receiving the payment or being a party to the contract,
shall be guilty of an illegal practice.

Details to appear on election publications

74.—(1) A person shall not—

- (a) print or publish, or cause to be printed or published, any bill, placard or poster having reference to an election or any printed document distributed for the purpose of promoting or procuring the election of a registered party or an individual candidate, or
- (b) post or cause to be posted any such bill, placard or poster as mentioned above, or
- (c) distribute or cause to be distributed any printed document for that purpose,

unless the bill, placard, poster or document bears upon its face the name and address of the printer and publisher.

(2) For the purposes of paragraph (1), any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression “printer” shall be construed accordingly.

(3) Subject to paragraph (4), a candidate or election agent acting in contravention of paragraph (1) shall be guilty of an illegal practice, and any other person so acting shall on summary conviction be liable to a fine not exceeding level 5 on the standard scale.

(4) Where any act or omission would be lawful by reason of—

- (a) the act being done in compliance with, or
- (b) the omission being made in reliance on,

any provisions of the new section 110 if it were substituted for paragraphs (1) to (3) with the modification in paragraph (5), it shall be deemed to be lawful.

(5) For the purposes of paragraph (4), the new section 110 shall be construed as if in subsection (1) for “candidate” there were substituted “individual candidate or a registered party”.

(6) In this regulation, “the new section 110” means the section 110 of the 1983 Act contained in paragraph 14 of Schedule 18 to the 2000 Act.

Prohibition of paid canvassers

75. If a person is, either before, during or after a European Parliamentary election, engaged or employed for payment or promise of payment as a canvasser for the purpose of promoting or procuring the election of a registered party or an individual candidate—

- (a) the person so engaging or employing him, and
- (b) the person so engaged or employed,

shall be guilty of illegal employment.

Providing money for illegal purposes

76. Where a person knowingly provides money—

- (a) for any payment which is contrary to the provisions of these Regulations, or
- (b) for any expenses incurred in excess of the maximum amount allowed by these Regulations,
or
- (c) for replacing any money expended in any such payment or expenses,

except where the payment or the incurring of the expenses may have been previously allowed in pursuance of regulation 108 to be an exception, that person shall be guilty of an illegal payment.

Bribery

77.—(1) A person shall be guilty of a corrupt practice if he is guilty of bribery.

(2) A person shall be guilty of bribery if he, directly or indirectly, by himself or by any other person on his behalf—

- (a) gives any money or procures any office to or for any voter or to or for any other person on behalf of any voter or to or for any other person in order to induce any voter to vote or refrain from voting, or
- (b) corruptly does any such act as mentioned above on account of any voter having voted or refrained from voting, or
- (c) makes any such gift or procurement as mentioned above to or for any person in order to induce that person to procure, or endeavour to procure, the return of any individual candidate or registered party at a European Parliamentary election or the vote of any voter,

or if upon or in consequence of any such gift or procurement as mentioned above he procures or engages, promises or endeavours to procure the return of any person or registered party at a European Parliamentary election or the vote of any voter.

For the purposes of this paragraph—

- (i) references to giving money include references to giving, lending, agreeing to give or lend, offering, promising, or promising to procure or endeavour to procure any money or valuable consideration; and
- (ii) references to procuring any office include references to giving, procuring, agreeing to give or procure, offering, promising, or promising to procure or to endeavour to procure any office, place or employment.

(3) A person shall be guilty of bribery if he advances or pays or causes to be paid any money to or for the use of any other person with the intent that that money or any part of it shall be expended in bribery at any European Parliamentary election or knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.

(4) The foregoing provisions of this regulation shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning a European Parliamentary election.

(5) A voter shall be guilty of bribery if before or during a European Parliamentary election he directly or indirectly by himself or by any other person on his behalf receives, agrees, or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting.

(6) A person shall be guilty of bribery if after a European Parliamentary election he directly or indirectly by himself or by any other person on his behalf receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting.

(7) In this regulation the expression “voter” includes any person who has or claims to have a right to vote.

Treating

78.—(1) A person shall be guilty of a corrupt practice if he is guilty of treating.

(2) A person shall be guilty of treating if he corruptly, by himself or by any other person, either before, during or after a European Parliamentary election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any meat, drink, entertainment or provision to or for any person—

- (a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting; or
- (b) on account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting.

(3) Every elector or his proxy who corruptly accepts or takes any such meat, drink, entertainment or provision shall also be guilty of treating.

Undue influence

79.—(1) A person shall be guilty of a corrupt practice if he is guilty of undue influence.

(2) A person shall be guilty of undue influence—

- (a) if he, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person in order to induce or compel that person to vote or refrain from voting, or on account of that person having voted or refrained from voting; or
- (b) if, by abduction, duress or any fraudulent device or contrivance, he impedes or prevents the free exercise of the franchise of an elector or proxy for an elector, or so compels, induces or prevails upon an elector or proxy for an elector either to vote or to refrain from voting.

Rights of creditors

80. The provisions of this Part of these Regulations prohibiting—

- (a) payments and contracts for payments,
- (b) the payment or incurring of election expenses in excess of the maximum amount allowed by these Regulations; or
- (c) the incurring of expenses not authorised by the election agent,

do not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of these Regulations.

Savings as to European Parliamentary elections

81.—(1) Nothing in this Part makes it illegal for an employer to permit European Parliamentary electors or their proxies to absent themselves from his employment for a reasonable time for the purpose of voting at the poll at a European Parliamentary election without having any deduction from their salaries or wages on account of their absence, if the permission—

- (a) is (so far as practicable without injury to the employer's business) given equally to all persons alike who are at the time in his employment, and
- (b) is not given with a view to inducing any person to record his vote for any particular registered party or individual candidate at the election, and
- (c) is not refused to any person for the purpose of preventing him from recording his vote for any particular registered party or individual candidate at the election,

but this paragraph shall not be construed as making illegal any act which would not be illegal apart from this paragraph.

