
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2015 No.

The Scottish Parliament (Elections etc.) Order 2015

PART 3

THE ELECTION CAMPAIGN

False statements as to candidates

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

- (a) before or during a Scottish parliamentary election;
- (b) for the purpose of affecting the candidate for whom, or registered party for which, a vote is given at the election,

makes or publishes any false statement of fact in relation to the personal character or conduct of any candidate (including any candidate included in a registered party's regional list) shall be guilty of an illegal practice, unless that person or director can show that that person or, as the case may be, director had reasonable grounds for believing, and did believe, the statement to be true.

(2) Except in a case to which paragraph (3) applies, a candidate shall not be liable, nor shall the candidate's election be avoided, for any illegal practice under paragraph (1) committed—

- (a) in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, by the candidate's agent other than the candidate's election agent;
- (b) in the case of a candidate included in a registered party's regional list, by the agent of that party other than its election agent.

(3) This paragraph applies where—

- (a) it can be shown that the candidate or the candidate's election agent or in the case of a candidate on a registered party's regional list, that registered party's election agent in relation to that list, has authorised or consented to the committing of the illegal practice by the other agent or has paid for the circulation of the false statement constituting the illegal practice; or
- (b) an election court finds and reports that the election of the candidate was procured or materially assisted in consequence of the making or publishing of such false statements.

(4) A person making or publishing any false statement of fact as mentioned above may be restrained by interdict or interim interdict of the Court of Session or the sheriff from any repetition of that false statement or of a false statement of a similar character in relation to the candidate.

(5) Any person who, before or during a Scottish parliamentary election, knowingly publishes a false statement of a withdrawal of candidature at the election for the purpose of promoting or procuring a particular result at that election shall be guilty of an illegal practice.

(6) A candidate shall not be liable, nor shall the candidate's election be avoided, for any illegal practice under paragraph (5) committed by the candidate's agent (or in the case of a candidate included in a party's regional list, the agent of that party) other than the election agent for that candidate, or as the case may be, party.