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Elections Act 2022

2022 CHAPTER 37

PART 6 **U.K.**

INFORMATION TO BE INCLUDED WITH ELECTRONIC MATERIAL

VALID FROM 01/11/2023

Requirements

41 Requirement to include information with electronic material **U.K.**

- (1) This section applies to electronic material which—
 - (a) meets the conditions in section 42 (paid-for electronic material), or
 - (b) meets the conditions in section 44 (other electronic material).
- (2) Electronic material to which this section applies must not be published unless, in accordance with this section—
 - (a) the information mentioned in subsection (3) is included as part of the electronic material, or
 - (b) if it is not reasonably practicable to comply with paragraph (a), the information mentioned in that subsection is displayed in text form in a location that is directly accessible from the electronic material.
- (3) That information is—
 - (a) the name and address of the promoter of the material, and
 - (b) the name and address of any person on behalf of whom the material is being published (and who is not the promoter).
- (4) The Secretary of State may by regulations amend subsection (3) so as to—
 - (a) add a description of information, or
 - (b) modify or remove a description of information that is for the time being specified in that subsection.

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- (5) Information is included as part of electronic material for the purposes of subsection (2)(a) only if—
- (a) where the material consists of or includes text or moving or still images, it is displayed in text form as part of that material;
 - (b) where the material consists only of speech or music, it forms an audible part of that material.
- (6) Information that is included as part of electronic material—
- (a) must be legible or audible (as the case may be) regardless of the device used to access the material, and
 - (b) must be such that, if the electronic material were to be republished by a person who did not alter the material, the information would be retained as part of the material when republished.
- (7) Information that is directly accessible from electronic material—
- (a) must be legible regardless of the device used to access the information, and
 - (b) must be such that, if the electronic material were to be republished by a person who did not alter the material, access to the information would be retained as part of the material when republished.
- (8) This section is subject to—
- (a) section 46 (electronic material relating to more than one candidate), and
 - (b) section 47 (exceptions).

Commencement Information

II S. 41 not in force at Royal Assent, see [s. 67\(1\)](#)

42 Electronic material to which section 41 applies: paid-for material **U.K.**

- (1) Section 41 applies to electronic material which meets the following conditions.
- (2) The first condition is that the sole or primary purpose that the electronic material can reasonably be regarded as intended to achieve is a purpose within section 43.
- (3) The second condition is that the promoter of the material, or the person on behalf of whom the material is published, has paid for the material to be published as an advertisement.
- (4) The reference in subsection (3) to a person paying for material to be published includes the person providing any other form of consideration in return for the publication of the material.
- (5) Where the material is published on a website or mobile application of the promoter or the person on behalf of whom the material is published, the reference in subsection (3) to a person paying for material to be published does not include the person making payments related to setting up, operating or maintaining the website or mobile application.
- (6) In subsection (5) “mobile application” means application software designed and developed for use by the general public on mobile devices such as smartphones and tablets.

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Commencement Information

I2 S. 42 not in force at Royal Assent, see [s. 67\(1\)](#)

43 Purposes referred to in section 42 **U.K.**

- (1) This section sets out the purposes referred to in section 42.
- (2) The first purpose is influencing the public, or any section of the public, to give support to or withhold support from—
 - (a) a registered party,
 - (b) registered parties who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of such parties, or
 - (c) candidates or future candidates, in their capacity as such, who hold (or do not hold) particular opinions or who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of candidates or future candidates.
- (3) For the purposes of determining whether electronic material can reasonably be regarded as intended to achieve the purpose mentioned in subsection (2), it is immaterial that it does not expressly mention the name of any party, candidate or future candidate.
- (4) The second purpose is influencing the public, or any section of the public, to give support to or withhold support from a particular candidate or particular future candidate in their capacity as such.
- (5) For the purposes of determining whether electronic material can reasonably be regarded as intended to achieve the purpose mentioned in subsection (4), it is immaterial that it does not expressly mention the name of any candidate or future candidate.
- (6) The third purpose is influencing the public, or any section of the public, to give support to or withhold support from an elected office-holder in their capacity as such.
- (7) The fourth purpose is influencing the public, or any section of the public, to give support to or withhold support from elected office-holders, in their capacity as such, who hold (or do not hold) particular opinions or who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of elected office-holders.
- (8) For the purposes of determining whether electronic material can reasonably be regarded as intended to achieve the purpose mentioned in subsection (6) or (7), it is immaterial that it does not expressly mention the name of any elected office-holder.
- (9) The fifth purpose is influencing the public, or any section of the public, to give support to or withhold support from—
 - (a) the holding of a referendum in the United Kingdom or any area in the United Kingdom, or
 - (b) a particular outcome of such a referendum.
- (10) For the purposes of determining whether electronic material can reasonably be regarded as intended to achieve the purpose mentioned in subsection (9)(b), it is immaterial that it does not expressly mention a particular outcome of a referendum.

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Commencement Information

I3 S. 43 not in force at Royal Assent, see [s. 67\(1\)](#)

44 Electronic material to which section 41 applies: other electronic material **U.K.**

- (1) Section 41 applies to electronic material which meets the following conditions.
- (2) The first condition is that the electronic material—
 - (a) can reasonably be regarded as intended to achieve any purpose within section 45 (whether or not it can reasonably be regarded as intended to achieve any other purpose as well), or
 - (b) wholly or mainly relates to a referendum to which Part 7 of PPERA applies and is published during the referendum period (within the meaning of that Part) for that referendum.
- (3) The second condition is that the promoter of the material or the person on behalf of whom it is published is—
 - (a) a registered party,
 - (b) a recognised third party,
 - (c) a candidate or future candidate,
 - (d) an elected office-holder,
 - (e) a referendum campaigner, or
 - (f) a recall petition campaigner.
- (4) The third condition is that neither the promoter of the material, nor the person on behalf of whom the material is published, has paid for the material to be published as an advertisement.
- (5) Subsections (4) to (6) of section 42 apply in relation to subsection (4) as they apply in relation to subsection (3) of that section.

Commencement Information

I4 S. 44 not in force at Royal Assent, see [s. 67\(1\)](#)

45 Purposes referred to in section 44 **U.K.**

- (1) This section sets out the purposes referred to in section 44.
- (2) The first purpose is promoting or procuring electoral success at one or more particular relevant elections for—
 - (a) a registered party,
 - (b) registered parties who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of such parties, or
 - (c) candidates or future candidates who hold (or do not hold) particular opinions or who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of candidates or future candidates.
- (3) For the purposes of subsection (2)—

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- (a) the reference to electoral success at a particular relevant election is a reference—
- (i) in relation to a registered party, to the return at the election of any candidate or future candidate who is standing, or is to stand, in the name of the party or is included, or is to be included, in a list of candidates submitted by the party in connection with the election, and
 - (ii) in relation to any candidate or future candidate, to their return at the election, and
- (b) the reference to doing any of the things mentioned in that subsection includes doing so by prejudicing the electoral prospects at the election of other parties, candidates or future candidates.
- (4) For the purposes of determining whether electronic material can reasonably be regarded as intended to achieve the purpose mentioned in subsection (2), it is immaterial that it does not expressly mention the name of any party, candidate or future candidate.
- (5) The second purpose is promoting or procuring the election of a particular candidate or particular future candidate at one or more particular elections.
- (6) For the purposes of determining whether electronic material can reasonably be regarded as intended to achieve the purpose mentioned in subsection (5), it is immaterial that it does not expressly mention the name of any candidate or future candidate.
- (7) The third purpose is promoting or procuring the success or failure of a recall petition.
- (8) For the purposes of determining whether any electronic material can reasonably be regarded as intended to achieve the purpose mentioned in subsection (7), it is immaterial that it does not expressly mention the name of the member of the House of Commons to whom the petition relates.
- (9) In this section “relevant election” means—
- (a) a parliamentary election,
 - (b) an election to the Scottish Parliament,
 - (c) an election to Senedd Cymru,
 - (d) an election to the Northern Ireland Assembly,
 - (e) a local government election within the meaning of section 191, 203 or 204 of the Representation of the People Act 1983,
 - (f) an election under Part 1A or 2 of the Local Government Act 2000 for the return of an elected mayor,
 - (g) an election for the return of a mayor for the area of a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009,
 - (h) a local election within the meaning of the Electoral Law Act (Northern Ireland) 1962 (see section 130(1) of that Act), or
 - (i) an election of a police and crime commissioner.

Commencement Information

I5 S. 45 not in force at Royal Assent, see [s. 67\(1\)](#)

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46 Electronic material relating to more than one candidate or future candidate **U.K.**

- (1) For the purposes of section 41 as it has effect by virtue of sections 42 and 43, electronic material to which subsection (2) applies—
 - (a) is not to be regarded as being published on behalf of a candidate or future candidate merely because it can be regarded as influencing the public, or any section of the public, to give support to or withhold support from the candidate or future candidate, but
 - (b) may be regarded as being published on behalf of the party mentioned in subsection (2).
- (2) This subsection applies to electronic material which can reasonably be regarded as influencing the public, or any section of the public, to give support to or withhold support from—
 - (a) two or more candidates or future candidates who are standing, or are to stand, in the name of a party, or
 - (b) two or more candidates or future candidates who are included, or are to be included, in a list of candidates submitted by the party in connection with an election.
- (3) For the purposes of section 41 as it has effect by virtue of sections 44 and 45, electronic material to which subsection (4) applies—
 - (a) is not to be regarded as being published on behalf of a candidate or future candidate merely because it can be regarded as promoting or procuring the election of a candidate or future candidate at an election, but
 - (b) may be regarded as being published on behalf of the party mentioned in subsection (4).
- (4) This subsection applies to electronic material which can reasonably be regarded as promoting or procuring the election of—
 - (a) two or more candidates or future candidates who are standing, or are to stand, in the name of a party, or
 - (b) two or more candidates or future candidates who are included, or are to be included, in a list of candidates submitted by the party in connection with an election.

Commencement Information

I6 S. 46 not in force at Royal Assent, see [s. 67\(1\)](#)

47 Exceptions to section 41 **U.K.**

- (1) Section 41 does not apply to the republication of electronic material if—
 - (a) when it was previously published—
 - (i) section 41 applied to it, and
 - (ii) it was published in compliance with that section, and
 - (b) it is not materially altered when it is republished.
- (2) In subsection (1)(b) the reference to electronic material not being materially altered includes a reference to the electronic material retaining—

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- (a) the information within section 41(3), or
 - (b) the access to such information,
- as a result of which its previous publication complied with section 41.
- (3) Section 41 does not apply to the publication of electronic material on a website or mobile application whose primary purpose, or one of whose primary purposes, is the publication of journalism created for publication on the website or mobile application, unless the electronic material consists of an advertisement.
- (4) In subsection (3) “mobile application” means application software designed and developed for use by the general public on mobile devices such as smartphones and tablets.
- (5) Section 41 does not apply to any party political broadcast or referendum campaign broadcast included by a broadcaster in its broadcasting services.
- (6) In subsection (5)—
“broadcaster” has the meaning given in section 37(2) of PPERA;
“referendum campaign broadcast” has the meaning given in section 127(2) of PPERA.
- (7) The Secretary of State may by regulations amend this section so as to add, modify or remove cases to which section 41 does not apply.

Commencement Information

I7 S. 47 not in force at Royal Assent, see **s. 67(1)**

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