
STATUTORY INSTRUMENTS

2004 No. 293

The European Parliamentary Elections Regulations 2004

PART 2

THE ELECTION CAMPAIGN

Election expenses

Control of donations to individual candidates

42.—(1) In the case of any individual candidate at a European Parliamentary election, any money or other property provided (whether as a gift or loan)—

- (a) by any person other than the candidate or his election agent, and
- (b) for the purpose of meeting election expenses incurred by or on behalf of the candidate,

must be provided to the candidate or his election agent.

(2) Paragraph (1) does not apply to any money or other property so provided for the purpose of meeting any such expenses which may be lawfully paid by a person other than the candidate, his election agent or any sub-agent.

(3) A person who provides any money or other property in contravention of paragraph (1) shall be guilty of an illegal practice.

(4) Schedule 6 to these Regulations shall have effect for the purpose of controlling donations to individual candidates.

(5) In this regulation and that Schedule “property” includes any description of property, and references to the provision of property accordingly include the supply of goods.

Payment of expenses of individual candidates through election agent

43.—(1) Subject to paragraph (5), no payment (of whatever nature) shall be made by—

- (a) an individual candidate at an election, or
- (b) any other person,

in respect of election expenses incurred by or on behalf of an individual candidate unless it is made by or through the candidate’s election agent.

(2) Every payment made by an election agent in respect of any election expenses shall, except where less than £20, be vouched for by a bill stating the particulars or by a receipt.

(3) The references in the foregoing provisions of this regulation to an election agent shall be taken as references to the election agent acting by himself or a sub-agent or a person authorised in writing by the election agent or sub-agent.

(4) All money provided by any person other than the individual candidate for any election expenses, whether as gift, loan, advance or deposit, shall be paid to the candidate or his election agent or sub-agent and not otherwise.

(5) This regulation does not apply to—

- (a) any expenses which are, in accordance with regulations 44(1) or (2), 48(6) or 49(2), paid by the individual candidate;
- (b) any expenses which are paid in accordance with regulation 44(4) by a person authorised as mentioned in that provision;
- (c) any expenses included in a declaration made by the election agent under regulation 45; or
- (d) any expenses which are to be regarded as incurred by or on behalf of the individual candidate by virtue of regulation 60(5)(b).

(6) A person who makes any payment (of whatever nature) in contravention of paragraph (1), or pays in contravention of paragraph (4) any money so provided as mentioned above, shall be guilty of an illegal practice.

Individual candidate's personal expenses, and petty expenses

44.—(1) An individual candidate at a European Parliamentary election may pay any personal expenses incurred by him on account of or in connection with or incidental to the election, but the amount which the candidate may pay shall not exceed £900, and where this applies any further personal expenses so incurred by him shall be paid by his election agent.

(2) An individual candidate at a European Parliamentary election may also pay any election expenses (other than expenses falling within paragraph (1)) which were incurred by him or on his behalf and in respect of which payment falls to be made before the date on which he appoints (or is deemed to have appointed) an election agent.

(3) The candidate shall send to his election agent within the time limited by these Regulations for sending in claims a written statement of the amount of expenses paid as mentioned in paragraph (1) or (2) by the candidate.

(4) Any person may, if so authorised in writing by an election agent or sub-agent, pay any election expenses to a total amount not exceeding that named in the authority, but any excess above that amount so named shall be paid by the agent who authorised that person.

(5) A statement of the particulars of payments made by any person so authorised shall be sent to the agent who authorised them within the time limited by these Regulations for sending in claims, and shall be vouched for by a bill containing that person's receipt and, where that agent is the sub-agent, he shall forward the statement, together with his authority, to the election agent.

(6) Regulations 48 and 49 do not apply to expenses which, in accordance with any provision of this regulation, are paid otherwise than by the candidate's election agent.

Expenses of individual candidate incurred otherwise than for elections purposes

45.—(1) Neither regulation 43 nor regulations 48 and 49 shall apply to election expenses—

- (a) which are incurred by or on behalf of an individual candidate otherwise than for the purposes of the candidate's election, but
- (b) which by virtue of regulation 60(1) fall to be regarded as election expenses by reason of the property, services or facilities in respect of which they were incurred being used for the purposes of the candidate's election.

(2) The individual candidate's election agent shall make a declaration of the amount (determined in accordance with regulation 61) of any election expenses falling within paragraph (1).

(3) In this regulation "for the purposes of the candidate's election" has the same meaning as in regulations 60 to 62.

Prohibition of expenses of individual candidate not authorised by election agent

46.—(1) No expenses shall, with a view to promoting or procuring the election of an individual candidate at an election, be incurred by any person other than the candidate, his election agent and persons authorised in writing by the election agent on account—

- (a) of holding public meetings or organising any public display; or
- (b) of issuing advertisements, circulars or publications; or
- (c) of otherwise presenting to the electors that candidate or his views or the extent or nature of his backing or disparaging a registered party or its candidates or an independent candidate,

but this paragraph shall not—

- (i) restrict the publication of any matter relating to the election in a newspaper or other periodical or in a broadcast made by the British Broadcasting Corporation, by Sianel Pedwar Cymru, by the Gibraltar Broadcasting Corporation or in a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990(1) or Part 1 or 2 of the Broadcasting Act 1996(2); or
- (ii) apply to any expenses incurred by any person which do not exceed in the aggregate the permitted sum (and are not incurred by that person as part of a concerted plan of action), or to expenses incurred by any person in travelling or in living away from home or similar personal expenses.

(2) For the purposes of sub-paragraph (1)(ii), “the permitted sum” means £5,000; and expenses shall be regarded as incurred by a person “as part of a concerted plan of action” if they are incurred by that person in pursuance of any plan or other arrangement whereby that person and one or more other persons are to incur, with a view to promoting or procuring the election of the same candidate, expenses which (disregarding sub-paragraph (1)(ii)) fall within paragraph (1).

(3) Where a person incurs any expenses required by this regulation to be authorised by the election agent—

- (a) that person shall, within 21 days after the day on which the result of the election is declared, deliver to the agent who authorised the expenses a return of the amount of them, and
- (b) the return shall be accompanied by a declaration made by that person (or in the case of an association or body of persons, by a director, general manager, secretary or other similar officer of the association or body) verifying the return and giving particulars of the matters for which the expenses were incurred,

but this paragraph does not apply to any person engaged or employed for payment or promise of payment by the individual candidate or his election agent.

(4) The authority of the agent who authorised the incurring of the expenses shall be annexed to and deemed to form part of the return.

(5) If a person—

- (a) incurs, or aids, abets, counsels or procures any other person to incur, any expenses in contravention of this regulation, or
- (b) knowingly makes the declaration required by paragraph (3) falsely,

he shall be guilty of a corrupt practice; and if a person fails to deliver any declaration or return as required by this regulation he shall be guilty of an illegal practice, but the court before whom a person is convicted under this paragraph 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.

(1) 1990 c. 42, which was amended by section 360 of, and Schedules 15 and 19 to, the Communications Act 2003 (c. 21).

(2) 1996 c. 55, which was amended by Schedules 15 and 19 to the Communications Act 2003 (c. 21).

(6) Where any act or omission of an association or body of persons, corporate or unincorporate, is an offence declared to be a corrupt or illegal practice by 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 that offence, 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 offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

(7) References in this regulation to an election agent include a sub-agent.

Limitation of election expenses for individual candidates

47.—(1) Sums paid out and election expenses incurred by or on behalf of an individual candidate at an election must not in the aggregate exceed the maximum amount specified in paragraph (4).

(2) The references in paragraph (1) to sums paid out and expenses incurred on behalf of an individual candidate include sums being paid and expenses being incurred by the election agent or by a person acting on the written authority of an election agent or sub-agent.

(3) Where any election expenses are incurred in excess of a maximum amount specified in paragraph (4), any candidate or election agent who—

- (a) incurred, or authorised the incurring of, the election expenses, and
- (b) knew or ought reasonably to have known that the expenses would be incurred in excess of that maximum amount,

shall be guilty of an illegal practice.

(4) That maximum amount is £45,000 multiplied by the number of MEPs to be returned for the electoral region at that election.

(5) The maximum amount mentioned above for an individual candidate at a European Parliamentary election is not required to cover the individual candidate's personal expenses.

Time for sending in and paying claims: individual candidates

48.—(1) Every claim against an individual candidate or his election agent in respect of election expenses which is not sent in to the agent who incurred the expense not later than 21 days after the day on which the result of the election is declared shall be barred and not paid.

(2) All election expenses of an individual candidate shall be paid not later than 28 days after that day.

(3) Where the agent who incurred the expense is not the election agent, he shall send to that agent, forthwith on payment of the expense, the bill and a record of the fact that he has paid it and, on receiving a receipt for that payment, shall send that receipt to that agent.

(4) An election agent or the agent who incurred the expense who pays a claim in contravention of paragraph (1) or makes a payment in contravention of paragraph (2) shall be guilty of an illegal practice.

(5) The claimant or the agent or individual candidate who incurred the expense may apply to the High Court or to a county court for leave to pay a claim for any election expenses, although sent in after that period of 21 days or although sent in to the individual candidate and not to the agent who incurred the expense, and the court on cause shown to their satisfaction may by order grant the leave.

(6) Any sum specified in the order of leave may be paid by the agent or candidate who incurred the expense and when paid in pursuance of the leave shall not be deemed to be in contravention of paragraph (2); and paragraph (3) shall apply to any such payment.

(7) References in this regulation to the agent who incurred the expense are references to the election agent or sub-agent or an agent who did so on the written authority of such an agent.

(8) In the application of this regulation to Gibraltar, for the reference in paragraph (5) to the High Court or a county court, substitute a reference to the Gibraltar court.

Disputed claims: individual candidates

49.—(1) If the agent who incurred the expense disputes any claim sent in to him within the period of 21 days mentioned in regulation 48 or refuses or fails to pay the claim within the period of 28 days so mentioned, the claim shall be deemed to be a disputed claim.

(2) The claimant may, if he thinks fit, bring an action for a disputed claim in any competent court, including, in Gibraltar, the Gibraltar court, and any sum paid by the agent or individual candidate who incurred the expense in pursuance of the judgment or order of the court shall not be deemed to be in contravention of regulation 43(1) or of regulation 48(2).

(3) If the defendant in the action admits his liability but disputes the amount of the claim, that amount shall, unless the court on the claimant's application otherwise directs, be forthwith referred for taxation—

- (a) to a Circuit judge nominated under subsection (1)(a) of section 68 of the Supreme Court Act 1981(3), or
- (b) to the master, registrar or other proper officer of the court, or
- (c) in an action in a Gibraltar court, the registrar,

and the amount found due on the taxation shall be the amount to be recovered in the action in respect of the claim.

(4) Paragraphs (5) to (7) of regulation 48 apply in relation to a disputed claim as they apply in relation to a claim for election expenses sent in after that period of 21 days.

Election agent's claim

50. So far as circumstances admit, these Regulations apply to an election agent's claim for his remuneration and to its payment in like manner as if he were any other creditor, and if any difference arises about the amount of the claim, the claim shall be a disputed claim within the meaning of these Regulations and be dealt with accordingly.

Return as to election expenses: individual candidates

51.—(1) Within 50 days after the day on which the result of the election is declared, the election agent of every individual candidate at the election shall deliver or cause to be delivered to the appropriate officer a true return containing as respects that candidate—

- (a) a statement of all election expenses incurred by or on behalf of the candidate; and
- (b) a statement of all payments made by the election agent together with all bills or receipts relating to the payments.

(2) A return under this regulation must—

- (a) specify the poll by virtue of which the return is required;

- (b) specify the name of the candidate to whom the return relates and of the candidate's election agent; and
 - (c) under a separate heading with any expenses in respect of which a return is required by virtue of regulation 46(2).
- (3) The return shall also contain as respects that candidate—
- (a) a statement of all payments made—
 - (i) by the candidate in accordance with regulation 44(1) or (2), or
 - (ii) by any other person in accordance with regulation 44(4),
 together with all bills or receipts relating to any such payments made in accordance with regulation 44(2) or 44(4);
 - (b) a statement of all disputed claims of which the election agent is aware;
 - (c) a statement of all the unpaid claims, if any, of which the election agent is aware, in respect of which application has been or is about to be made to the High Court, county court or Gibraltar court;
 - (d) any declarations of value falling to be made by the candidate's election agent by virtue of regulation 45(2) or 62(2);
 - (e) a declaration of the amount of expenses which are to be regarded as election expenses incurred by or on behalf of the candidate by virtue of regulation 60(5)(b);
 - (f) a statement of donations made to the candidate or his election agent which complies with the requirements of paragraphs 11 and 12 of Schedule 6 to these Regulations; and
 - (g) a statement of the amount, if any, of money provided by the candidate from his own resources for the purpose of meeting election expenses incurred by him or on his behalf.

(4) Where after the date at which the return as to election expenses is delivered, leave is given by the court under regulation 48(5) for any claim to be paid, the agent of the candidate who incurred the expenses shall, within seven days after its payment, deliver or cause to be delivered to the appropriate officer a return of the sums paid in pursuance of the leave, accompanied by a copy of the order of the court giving the leave, and in default he shall be deemed to have failed to comply with the requirements of this regulation without such authorised excuse as is mentioned in regulation 55.

(5) Regulation 48(7) applies for the interpretation of paragraph (4) as it applies for the interpretation of regulation 48.

Declarations as to election expenses: individual candidates

52.—(1) A return delivered under regulation 51(1) shall be accompanied by a declaration made by the election agent in the appropriate form.

(2) At the same time that the election agent delivers or causes to be delivered that return, or within seven days afterwards, the candidate shall deliver or cause to be delivered to the appropriate officer a declaration made by him in the appropriate form.

(3) For the purposes of paragraphs (1) and (2), “the appropriate form” is the form in Schedule 7 to this Act.

(4) Where the candidate is out of the United Kingdom or, in the case of an individual candidate resident in Gibraltar standing for election in the combined region, Gibraltar when the return is so delivered—

- (a) the declaration required by paragraph (2) may be made by him within 14 days after his return to the United Kingdom or Gibraltar (as the case may be), and
- (b) in that case, the declaration shall be forthwith delivered to the appropriate officer,

but the delay authorised by this provision in making the declaration shall not exonerate the election agent from complying with the provisions of these Regulations relating to the return and declaration as to election expenses.

(5) Where the candidate is his own election agent, the declaration by an election agent as to election expenses need not be made and the declaration by the candidate as to election expenses shall be modified as specified in the form in Schedule 7.

(6) If a candidate or election agent knowingly makes the declaration required by this regulation falsely, he shall be guilty of a corrupt practice.

Return as to personal expenses: candidates on party lists

53.—(1) Within 50 days after the day on which the result of the election is declared, every candidate on the list of a registered party shall deliver or cause to be delivered to the appropriate officer a true return containing as respects that candidate a statement of all personal expenses incurred by him on account of or incidental to the election.

(2) If a candidate knowingly makes the return required by this regulation falsely, he shall be guilty of a corrupt practice.

Penalty for failure as respects return or declarations: individual candidates

54. Subject to the provisions of regulation 55 if an individual candidate or election agent fails to comply with the requirements of regulation 51 or regulation 52 he shall be guilty of an illegal practice.

Authorised excuses for failures as to return and declarations: individual candidates

55.—(1) An individual candidate or his election agent may apply for relief under this regulation to—

- (a) the High Court;
- (b) an election court; or
- (c) a county court.

(2) Where a person makes an application under this regulation he shall notify the Director of Public Prosecutions of the application and the Director or his assistant or any barrister, advocate or solicitor duly appointed as the Director's representative may attend the hearing of the application and make representations at the hearing in respect of it.

(3) Relief under this regulation may be granted—

- (a) to a candidate, in respect of any failure to deliver the return and declarations as to election expenses, or any part of them, or in respect of any error or false statement in them; or
- (b) to an election agent, in respect of the failure to deliver the return and declarations which he was required to deliver, or any part of them, or in respect of any error or false statement in them.

(4) The application for relief may be made on the ground that the failure, error or false statement arose—

- (a) by reason of the applicant's illness; or
- (b) where the applicant is the candidate, by reason of the absence, death, illness or misconduct of his election agent or sub-agent or of any clerk or officer of such agent; or
- (c) where the applicant is the election agent, by reason of the death or illness of any prior election agent of the candidate, or of the absence, death, illness or misconduct of any sub-agent, clerk or officer of any election agent of the candidate; or

(d) by reason of inadvertence or any reasonable cause of a like nature, and not by reason of any want of good faith on the applicant's part.

(5) The court may—

- (a) after such notice of the application in the electoral region as it considers fit, and
- (b) on production of such evidence of the grounds stated in the application and of the good faith of the application, and otherwise, as it considers fit,

make such order for allowing an authorised excuse for the failure, error or false statement as it considers just.

(6) An order under paragraph (5) may make the allowance conditional on the making of the return and declaration in a modified form or within an extended time, and upon the compliance with such other terms as to the court seem best calculated for carrying into effect the objects of this Part of these Regulations

(7) An order under paragraph (5) shall relieve the applicant for the order from any liability or consequences under these Regulations in respect of the matter excused by the order.

(8) In the application of this regulation to Gibraltar, for the reference in paragraph (1) to a county court, substitute a reference to the Gibraltar court.

(9) Where a person makes an application under this regulation to the Gibraltar court, references in paragraph (2) to the Director of Public Prosecutions shall be construed as references to the Attorney General for Gibraltar.

Court's power to require information from election agent or sub-agent of individual candidate

56.—(1) Where on an application under regulation 55 it appears to the court that any person who is or has been an election agent or sub-agent of an individual candidate has refused or failed to make such return, or to supply such particulars, as will enable the candidate and his election agent to comply with the provisions of these Regulations as to the return or declarations as to election expenses, the court, before making an order under that regulation, shall order that person to attend before the court.

(2) The court shall on the attendance of that person, unless he shows cause to the contrary, order him—

- (a) to make the return and declaration, or
- (b) to deliver a statement of the particulars required to be contained in the return,

as the court considers just, within such time, to such person and in such manner as it may direct, or may order him to be examined with respect to the particulars.

(3) If a person fails to comply with any order of the court under this section, the court may order him to pay a fine not exceeding the amount of the maximum fine to which he would be liable if at the time the order is made he were convicted of a summary offence on conviction of which he was liable to a fine of level 5 on the standard scale.

(4) References in this regulation to the election agent or sub-agent include a person authorised in writing by the election agent or any sub-agent to incur election expenses.

Duty of appropriate officer to forward returns and declarations to Electoral Commission

57. Where the appropriate officer receives any return or declaration under regulations 46, 51, 52 or 53 in respect of a European Parliamentary election he shall as soon as reasonably practicable after receiving the return or declaration deliver a copy of it to the Electoral Commission and, if so requested by the Commission, he shall also deliver to them a copy of any accompanying documents.

Publication of time and place for inspection of returns and declarations

58.—(1) At a European Parliamentary election—

- (a) the returning officer shall, within 10 days after the end of the time allowed for delivering to him returns as to election expenses, publish in at least one newspaper circulating in the electoral region for which the election was held a notice of the time and place at which the returns and declarations (including the accompanying documents) can be inspected; but
- (b) if any return or declaration has not been received by the returning officer before the notice is despatched for publication, the notice shall so state, and a like notice about that return or declaration, if afterwards received, shall within 10 days after the receipt be published in like manner.

(2) In the application of this regulation to the combined region, for the words “the electoral region” substitute “that part of the region which is in England and in at least one newspaper circulating in that part which is in Gibraltar”.

Inspection of returns and declaration

59.—(1) Where the appropriate officer receives any return or declaration under regulations 51(1) or 52 he shall—

- (a) as soon as reasonably practicable after receiving the return or declaration make a copy of it, and any accompanying documents, available for public inspection at his office, or some other convenient place chosen by him, for a period of 12 months beginning with the date when the return is received by him;
- (b) if requested to do so by any person, and on payment of the prescribed fee, supply that person with a copy of the return or declaration and any accompanying documents.

(2) If any such return contains a statement of donations in accordance with regulation 51(3)(f), the appropriate officer shall secure that the copy of the statement made available for public inspection under paragraph (a) or (as the case may be) supplied under paragraph (b) does not include, in the case of any donation by an individual, the donor’s address.

(3) After the expiry of those 12 months the appropriate officer may cause the returns or declarations (including the accompanying documents) to be destroyed.

Meaning of “election expenses”

60.—(1) In this Part of these Regulations “election expenses”, in relation to a candidate at an election, means (subject to paragraphs (2) and (3) and regulations 61 and 62) any expenses incurred in respect of—

- (a) the acquisition or use of any property, or
- (b) the provision by any person of any goods, services or facilities,

which is or are used for the purposes of the candidate’s election after the date when he becomes a candidate at the election.

(2) Paragraph (1) applies whether the expenses are incurred before or after that date.

(3) No election expenses shall be regarded as incurred, by virtue of paragraph (1) or (2) or regulations 61 and 62, in respect of—

- (a) the payment of any deposit required by rule 10 of Schedule 1 to these Regulations;
- (b) the publication of any matter, other than an advertisement, relating to the election in—
 - (i) a newspaper or periodical,

- (ii) a broadcast made by the British Broadcasting Corporation, by Sianel Pedwar Cymru or by the Gibraltar Broadcasting Corporation, or
- (iii) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990 or Part 1 or 2 of the Broadcasting Act 1996;
- (c) the provision of any facilities provided in pursuance of any right conferred on candidates at an election by these Regulations other than facilities in respect of which expenses fall to be defrayed by virtue of regulation 67(4);
- (d) the provision by any individual of his own services which he provides voluntarily in his own time and free of charge.

(4) In this regulation and in regulations 61 and 62 “for the purposes of the candidate’s election” means with a view to, or otherwise in connection with, promoting or procuring the election of a candidate at the election.

(5) For the purposes of this Part of these Regulations—

- (a) election expenses are incurred by or on behalf of a candidate at an election if they are incurred—
 - (i) by the candidate or his election agent, or
 - (ii) by any person authorised by the candidate or his election agent to incur the expenses; and
- (b) any reference to election expenses incurred by or on behalf of a candidate at an election includes expenses which are incurred as mentioned in sub-paragraph (a)(i) or (ii) before the date when he becomes a candidate at the election but which by virtue of paragraph (1) and (2) fall to be regarded as election expenses.

(6) In this Part, and in Part 4 of these Regulations, any reference (in whatever terms) to promoting or procuring the election of a candidate at an election includes doing so by prejudicing the electoral prospects of another candidate or registered party at the election.

Incurring of election expenses for purposes of regulation 60

61.—(1) The election expenses which are to be regarded as incurred for the purposes of regulation 60(1) shall (subject to paragraph (2) and regulation 62) be the actual expenses incurred in respect of the acquisition or use of the property, or (as the case may be) the provision of the goods, services or facilities mentioned in regulation 60(1).

(2) Where the property, goods, services or facilities mentioned in paragraph (1) is or are not used exclusively for the purposes of the candidate’s election, the election expenses to be regarded as incurred for the purposes of regulation 60(1) shall be such proportion of the expenses incurred in respect of their acquisition, use or provision (as the case may be) as is reasonably attributable to the use of the property or (as the case may be) the goods, services or facilities for the purposes of the candidate’s election.

Property, goods, services etc provided free of charge or at a discount

62.—(1) This regulation applies where, in the case of a candidate at an election—

- (a) either—
 - (i) property or goods is or are transferred to the candidate or his election agent free of charge or at a discount of more than 10 per cent of the market value of the property or goods, or
 - (ii) property, goods, services or facilities is or are provided for the use or benefit of the candidate free of charge or at a discount of more than 10 per cent of the commercial

rate for the use of the property or for the provision of the goods, services or facilities,
and

- (b) the property, goods, services or facilities is or are made use of by or on behalf of the candidate in circumstances such that, if any expenses were to be (or are) actually incurred by or on behalf of the candidate in respect of that use, they would be (or are) election expenses incurred by or on behalf of the candidate.

(2) Where this regulation applies—

- (a) an amount of election expenses determined in accordance with this regulation (“the appropriate amount”) shall be treated, for the purposes of this Part of these Regulations, as incurred by the candidate, and
- (b) in the case of an individual candidate, the candidate’s election agent shall make a declaration of that amount, unless that amount is not more than £50.

This paragraph has effect subject to regulation 60(3).

(3) Where paragraph (1)(a)(i) applies, the appropriate amount is such proportion of either—

- (a) the market value of the property or goods (where the property or goods is or are transferred free of charge), or
- (b) the difference between the market value of the property or goods and the amount of expenses actually incurred by or on behalf of the candidate in respect of the property or goods (where the property or goods is or are transferred at a discount),

as is reasonably attributable to the use made of the property or goods as mentioned in paragraph (1)(b).

(4) Where paragraph (1)(a)(ii) applies, the appropriate amount is such proportion of either—

- (a) the commercial rate for the use of the property or the provision of the goods, services or facilities (where the property, goods, services or facilities is or are provided free of charge), or
- (b) the difference between that commercial rate and the amount of expenses actually incurred by or on behalf of the candidate in respect of the use of the property or the provision of the services or facilities (where the property, goods, services or facilities is or are provided at a discount),

as is reasonably attributable to the use made of the property, goods, services or facilities as mentioned in paragraph (1)(b).

(5) Where the services of an employee are made available by his employer for the use or benefit of a candidate, then for the purposes of this regulation the commercial rate for the provision of those services shall be the amount of the remuneration and allowances payable to the employee by his employer in respect of the period for which his services are so made available (but shall not include any amount in respect of any contributions or other payments for which the employer is liable in respect of the employee).

(6) In this regulation “market value”, in relation to any property or goods, means the price which might reasonably be expected to be paid for the property or goods on a sale in the open market; and paragraph 2(6)(a) of Schedule 6 to these Regulations shall apply with any necessary modifications for the purpose of determining, for the purposes of paragraph (1), whether property or goods is or are transferred to a candidate or his election agent.