

Terms of Reference

Background

The Transparency of Lobbying, Non Party Campaigning and Trade Union Administration Act 2014 requires (in s.39) the Minister to appoint a person to undertake a review of the operation of Part 6 (regulation of third parties) of the Political Parties, Elections and Referendums Act (PPERA) 2000 at the 2015 General Election. The review must result in a report, which will be presented to the Minister and which the Minister must lay before Parliament November 2016.

Aim and Principle of the Review

The review must report on the operation and effectiveness of the provisions regulating third parties contained within Part 6 of PPERA. Parliament, with the passing of PPERA in 2000, has sought to ensure that the regulatory regime governing political and third party activities during regulated periods is robust and transparent.

The regulation of third parties was strengthened by the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014.

The Government's view is that it is of the utmost importance that the principles of a robust and transparent regulatory regime are maintained to ensure that the public have trust and confidence in the system governing elections.

When assessing the effectiveness of the current provisions governing third parties within Part 6 of PPERA, the reviewer should consider the following principles:

- The need to maintain public trust and confidence in the regulatory regime governing third parties.
- The need to ensure campaigning which seeks to influence voting intentions at elections is undertaken in an open and transparent way.

Structure of the Review

The reviewer should expect to interview representatives of third parties registered with the Electoral Commission for the 2015 General Election and other interested bodies, including the Electoral Commission. The reviewer will gather evidence and seek views from relevant stakeholders and the public. The reviewer will be independent; the findings and recommendations of the reviewer will represent the views of the reviewer. The reviewer will be supported by designated officials from the Constitution Group.

The reviewer will complete their report by May 2016 at the latest. This will enable them to take into consideration evidence submitted to them, as well as the independent reports which the Electoral Commission must produce.

Upon completion of the review, the Minister will need to lay the report in Parliament before November 2016.

Scope of the Review

The review aims to assess the effectiveness of the regulatory regime governing third parties, ensuring that the system is robust, transparent and ensures public trust and confidence is maintained.

In doing so, the review will need to take in account whether:

- Third parties understood the regulatory rules;
- Third parties have complied with those rules; and
- Where breaches of the rules have occurred, whether robust and appropriate enforcement activity has been undertaken by the regulator.

In order to determine the above, the review should in particular consider the following specific matters:

- Suitability of Electoral Commission guidance and whether it was clear to non-party campaigners what the regulatory rules are and their obligations under the regulatory regime.
- Appropriateness of the registration thresholds and the effect on the number of third parties registering.
- The operation of the new reporting regime in relation to donations to recognised third parties.
- The operation of the rules on lead/small campaigner provisions, where a coalition of third parties work together to a common plan.
- Effective and proportionate enforcement of the rules by the Electoral Commission to ensure third parties comply with the regulatory regime, and where complaints or breaches occur, these are effectively and appropriately investigated and enforced.

