



Cabinet Office

European Parliamentary Elections – Cabinet Office Indemnity

Presented to Parliament by the Chancellor of the
Duchy of Lancaster and Minister for the Cabinet
Office by Command of Her Majesty

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BACKGROUND

1. Elections for the European Parliament are due to be held on 23 May 2019. It is the intention of the Government to respect the 2016 referendum result and leave the European Union with a deal as soon as possible. However, there is now a legal need to prepare for possible participation in the European Parliamentary elections, although it remains the government's intention for the UK to leave the European Union with a deal before 22 May, so that we do not need to participate in these elections.
2. Returning Officers and Local Returning Officers (appointed under section 6 of the European Parliamentary Elections Act 2002, the European Parliamentary Elections (Returning Officers) Order 2013 and the European Parliamentary Elections Regulations 2004) will carry out functions in relation to these elections. A person acting as a Returning Officer or Local Returning Officer is personally responsible for the conduct of the election in their area and therefore may be subject to claims relating to the conduct of those election(s) for which he/she is acting.
3. The Cabinet Office has agreed to provide an indemnity in respect of certain liabilities to which any Returning Officer or Local Returning Officer may be subject, as a result of him or her carrying out his/ her duties as Returning Officer or a Local Returning Officer in relation to the conduct of those election(s) for which he/she is responsible. Further information on the indemnity provided by the Cabinet Office is set out below.
4. The indemnity will not cover the Chief Electoral Officer for Northern Ireland, or local returning officer for Gibraltar for whom separate arrangements are made.
5. It is usual practice for the indemnity to last until the next scheduled general election to the European Parliament. It is the intention of the Government to respect the 2016 referendum result and leave the European Union with a deal as soon as possible. Therefore, the indemnity will end on the day that the UK leaves the European Union.

INDEMNITY

6. Subject to paragraphs 9 to 14 below, the Cabinet Office agrees on demand to indemnify and to keep indemnified Returning Officers and Local Returning Officers from and against all and any losses, liability, damages, costs (including, but not limited to, reasonable legal costs and expenses properly incurred), claims, proceedings and/or expenses which may be taken or made against or incurred by that Returning Officer or Local Returning Officer in consequence of conducting one or more European Parliamentary elections in or after May 2019 (including any by-elections which are held under section 5 of the European Parliamentary Elections Act 2002) until the United Kingdom leaves the European Union.

7. The indemnity shall cover (but not be limited to) a Returning Officer or Local Returning Officer's liabilities to the public, as an employer and/or in his/her professional role:
 - a. in relation to any claim for personal injury or death where the cause of action arises during the conduct of the election, and/or
 - b. as a result of a challenge to the conduct of the election through an election petition.
8. There shall be no limit on the number of claims which a Returning Officer or Local Returning Officer may make.

EXCLUSIONS

9. The indemnity shall not cover:
 - a. any losses, liability, damages, costs, claims, proceedings nor expenses which arise in whole or part from any deliberate or wilful negligence by the Officer;
 - b. any claim to the extent that such claim relates to the acts or omissions of the Officer in carrying out registration duties in relation to the election(s);
 - c. any claim relating to use of a motor vehicle where such use:
 - (i) does not relate to the conduct of the elections; and/or
 - (ii) should have been covered by a valid insurance policy, but was not;
 - d. any claim to the extent that such claim is covered by the terms of an existing insurance policy held by:
 - (i) the Officer and/or
 - (ii) a local authority,of which the Officer is the beneficiary, and which covers the conduct of European Parliamentary election(s).
 - e. any excess costs on such an insurance policy mentioned in sub-paragraph d;

- f. any claim to the extent that such a claim is covered by the terms of any other indemnity which is in force and which covers the conduct of the European Parliamentary election (whether or not it also covers other matters);
 - g. any claim for charges in respect of services rendered or expenses incurred for or in connection with the European Parliamentary election which charges are payable under regulation 15 of the European Parliamentary Elections Regulations 2004 (“the 2004 Regulations”);
 - h. any penalty imposed in relation to a criminal offence.
10. For the purposes of paragraph 9(d)(ii) above, an insurance policy does not include any self-insurance arrangements made by a local authority.
11. The indemnity shall apply only in relation to the European Parliamentary elections on 23 May 2019, and to any subsequent by-elections which are held under section 5 of the European Parliamentary Elections Act 2002 subsequent to those elections until the United Kingdom leaves the European Union. It is the intention of the UK Government to respect the 2016 referendum result and leave the European Union with a deal as soon as possible.
12. It shall not cover any losses, liability, damages, costs, claims, proceedings nor expenses whatsoever incurred in relation to the conduct of any other elections and/referendums held whilst the indemnity is in force.
13. Where the poll at a European Parliamentary election is combined with the poll at another election or referendum, any losses, liability, damages, costs, claims, proceedings or expenses incurred in relation to the combined polls (excluding anything solely attributable to one poll) shall be apportioned equally among the elections and referendums, and the indemnity shall cover only the portion for the European Parliamentary election.

CONDITIONS

14. The indemnity is subject to the following conditions:-
- a. the Cabinet Office will not be liable under the indemnity, if there is in force an insurance policy the terms of which cover the losses, liability, damages or costs claimed;

- b. the Cabinet Office was notified before the Returning Officer or Local Returning Officer made any admission of liability, or settled any claim;
- c. the Officer has used all reasonable efforts to mitigate any losses, liability, damages, costs which are, or are likely to be, the subject of the indemnity and has ensured that any expenses incurred are incurred properly and reasonably; and
- d. the Officer has notified the Cabinet Office of any claims to which the indemnity applies, or is likely to apply, as soon as possible.

DURATION OF THE INDEMNITY

- 15. The indemnity shall commence immediately on the date of this document but covers claims occurring before such commencement. It shall terminate automatically, without further notice, on the day that the United Kingdom leaves the European Union.
- 16. The indemnity, insofar as it applies to a particular Returning Officer or Local Returning Officer, may be terminated early by the Cabinet Office on 30 days' written notice to that officer.
- 17. This indemnity will remain in force for claims occurring before such termination.

Date: 25 April 2019