EXPLANATORY MEMORANDUM TO

THE REPRESENTATION OF THE PEOPLE (VARIATION OF LIMITS OF CANDIDATES' ELECTION EXPENSES) (CITY OF LONDON) ORDER 2024

2024 No. 1147

1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Rushanara Ali, Parliamentary Under-Secretary of State (Minister for Homelessness and Democracy) at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Becca Crosier, Deputy Director for Elections at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Kaisa Laine at the Ministry of Housing, Communities and Local Government Telephone: 0303 444 0742 or email: electoralcampaigningteam@communities.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument will increase the maximum amount of candidates' election expenses at a ward election and an election by liverymen in common hall in the City of London to reflect a change in the value of money. These spending limits were last adjusted for inflation in 2005 by the Representation of the People Act (Variation of Limits of Candidates' Election Expenses) (City of London) Order 2005.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1 In December 2020, the government increased spending limits for candidates at local government elections in England in line with inflation from 2014. This was to ensure that spending limits remain aligned in real terms with the original limits set by Parliament. Following this, the majority of the reserved and excepted spending limits

and donations reporting thresholds were uprated in 2023-24, with the last uprated figures coming into force in spring 2024. The previous instruments are detailed below in paragraphs 6.3.-6.6. Many of the limits had not been uprated since they were set. This meant that spending limits were effectively lower in real terms, putting greater constraints on candidates as the costs of campaigning had increased over time.

5.2 The City of London elections are the only reserved election where the candidate spending limits have not been adjusted for inflation in recent times. This instrument will uprate these spending limits in line with inflation since 2005, thus ensuring consistency with other local elections in England. The elected members of the Court of Common Council of the City of London have expressed their concerns as regards the rising cost of campaigning, in the context of the length of time over which no uprating of the limits has taken place, and the City of London Corporation requested that uprating of City of London limits be considered ahead of the City-wide elections in March 2025.

5.3 This instrument will increase the candidate spending limits by inflation from when they were last set until August 2024, which represents the most up to date inflation figures available at the time of legal drafting. Changes in Consumer Price Index (CPI) were used as a measure of inflation. This equates to an increase of 74.4% (rounded here to 2 decimal points). After calculating for the increase, limits have been rounded down to the nearest £10 or 1p to make them more user-friendly.

What was the previous policy, how is this different?

5.4 The City of London candidate spending limits were last uprated in 2005, and have not been increased to account for inflation since 2005. This instrument will restore the limits in real terms.

5.5 The uprate percentage for the City of London candidate spending limits has been calculated using CPI to maintain consistency with the other instruments in the wider uprating exercise. Legislative and Legal Context

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument will uprate the candidate spending limits contained in section 197 of the Representation of the People Act 1983 to reflect changes in the value of money since these limits were last uprated in 2005.

6.2 In 2023 and 2024, the government uprated other reserved and excepted limits on campaign spending and reporting of donations:

6.3 The Representation of the People (Variation of Election Expenses, Expenditure Limits and Donation etc. Thresholds) Order 2023 came into force on 21 November 2023. This Order increased the spending limits at UK parliamentary elections, Northern Ireland Assembly elections and local government elections in England, and certain donations reporting thresholds for registered political parties, regulated donees and permitted participants. The uplifts take into account inflation since the limits or thresholds were set.

6.4 The Police and Crime Commissioner Elections (Amendment) Order 2023 came into force on 12 December 2023. This Order increased the limits for candidate election expenses for Police and Crime Commissioner elections to take into account inflation since the limits were set in 2012.

6.5 The Combined Authorities (Mayoral Elections) Order 2017 (Amendment) Regulations 2024 was made on 6 February. It uprated the limits for candidates at combined authority mayoral elections.

6.6 The Representation of the People (Variation of Election Expenses and Exclusions) Regulations 2024 came into force on 26 March 2024. It uprated campaign spending limits at Greater London Authority and local authority mayoral elections in England to reflect inflation since the limits were set in legislation. It also provided an exclusion for reasonable security expenses incurred by candidates, political parties and third-party campaigners for Great Britain, other than in certain elections in Scotland and Wales.

6.7 The new spending limits for the City of London elections will apply on or after the coming into force date of this instrument. Should the instrument come into force during a "regulated period" (the period when candidate expenses limits apply) for a City of London election, the old spending limits will apply to expenses incurred up to the coming into force date and the new spending limits on or after the coming into force date. This means that the expenses incurred prior to the coming into force date cannot exceed the old spending limits, but the candidates can, on or after the coming into force date, incur expenses up to the new, higher spending limit. The new maximum amount applies to all expenses incurred during the regulated period whether incurred before or after the coming into force date i.e. the two spending limits are not added together and applied to the period.

Why was this approach taken to change the law?

6.8 Electoral legislation allows for certain sums to be amended to reflect changes in the value of money. The Secretary of State has power under section 197(3) of the Representation of the People Act 1983 to vary the maximum amount of candidates' election expenses at the City of London elections where in his opinion there has been a change in the value of money since the last occasion on which that amount was fixed. This power has been used previously, but the procedure has changed from affirmative to negative since the previous uprating in 2005.

7. Consultation

Summary of consultation outcome and methodology

7.1 No consultation was undertaken for this instrument as there is no statutory duty to consult. However, on 22 February 2024,[1] the Policy & Resources Committee, consisting of elected members of the Court of Common Council of the City of London, instructed the City of London Corporation to seek the uprating from MHCLG in advance of the March 2025 City-wide elections.

7.2 Throughout the uprating exercises, the government has engaged with the Electoral Commission. The government has also engaged with the City of London Corporation throughout the drafting of this instrument.

8. Applicable Guidance

8.1 The City of London Corporation provides non-statutory guidance for candidates at the City of London elections.

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1 https://democracy.cityoflondon.gov.uk/documents/s199730/PR%20DRAFT%20Public%2022.02.24%20Mins.pdf

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because no, or no significant impact on business, charities, voluntary bodies or the public sector is foreseen. Political campaigning is not funded with tax-payer money.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the uprated candidate spending limits only apply to candidates at City of London elections.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because political campaigning is not funded with tax-payer money.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is to periodically assess the spending limits at reserved and excepted elections in line with changes to the value of money periodically.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 Rushanara Ali Parliamentary Under-Secretary of State for the Ministry of Housing, Communities and Local Government has made the following statement regarding Human Rights:

"In my view the provisions of the Representation of the People (Variation of Limits of Candidates' Election Expenses) (City of London) Order 2024 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").