

States of Jersey  
States Assembly



États de Jersey  
Assemblée des États

# ELECTION EXPENSES

A GUIDE FOR CANDIDATES  
STANDING FOR ELECTION TO THE  
STATES IN OCTOBER 2011

Privileges and Procedures Committee  
July 2011

## Introduction

On 25th July 2011 the Public Elections (Expenditure and Donations) (Jersey) Regulations 2011 (R&O 66/2011) came into force to replace with very minor modifications the Public Elections (Expenditure and Donations) (Jersey) Regulations 2008 (R&O.87/2008) that were in force for the 2008 elections and the 2010 senatorial by-election.

The Regulations set out limits on the amount that candidates can spend when standing for election to the States of Jersey as a Senator, Connétable or Deputy. The Regulations also require candidates to make a declaration, after the election, of the amount they have spent and what donations have been received. There are a range of criminal offences for any failure to comply with the provisions.

Rules are also set out in the Regulations for third parties who campaign for or against candidates without the knowledge or agreement of those candidates. The rules relating to third party expenditure are not covered by this leaflet.

This leaflet gives guidance to candidates about the practical operation of the Regulations. It does not purport to cover all aspects of the new provisions and candidates are therefore advised to familiarise themselves with the full text of the Regulations which can be purchased from the States Assembly Information Centre in Morier House, St. Helier. The Regulations can also be viewed on the Jersey Legal Information Board website [www.jerseylaw.je](http://www.jerseylaw.je).

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### 1. What is the maximum amount allowed to a candidate for election expenses?

The amount that a candidate can spend is calculated as a combination of a fixed sum plus **11p** for each registered elector in the constituency concerned. The fixed amount is set at **£2,700** for candidates in the Senators election and **£1,600** for candidates in the Connétables and Deputies elections.

If the total number of registered electors for the Island-wide election of Senators was, for example, 59,000, the total that any candidate could spend would be £9,190 which would be calculated as follows –

$$£2,700 \text{ (fixed amount)} + £6,490 \text{ (i.e. } 59,000 \text{ electors} \times 11\text{p)}$$

If the number of electors in a Deputy's constituency was, for example, 6,000, the total that any candidate could spend would be £2,260 which would be calculated as follows –

$$£1,600 \text{ (fixed amount)} + £660 \text{ (i.e. } 6,000 \text{ electors} \times 11\text{p)}$$

The precise number of electors in each constituency will not be known until the electoral registration process closes at noon on 5th September 2011. The relevant Parish Hall(s) will nevertheless be able to give candidates, on request, an informal indication of the number of registered electors in the lead up to the nomination meeting to give some idea of the amount that they will be able to spend.

## **2. What is meant by a candidate's 'election expenses'?**

Election expenses are any expenses incurred by a candidate at any time before the poll to promote his or her election or to prejudice the chances of another candidate standing in the same election. Expenses may relate to both the supply of goods or services. The sort of expenses that candidates might incur include costs associated with –

- leaflets or calling cards;
- posters and banners;
- car stickers, rosettes or balloons;
- the creation of a website;
- newspaper advertisements;
- the hire of a loudspeaker van;
- postage.

The decision on whether to spend the total allowed, or how to spend it, is entirely a matter for each candidate. In assessing whether particular expenditure is an 'election expense' the candidate must ask himself or herself a simple question – *“Am I spending this money or receiving these services as part of my election campaign and to increase my chances of success or to try to prejudice the chances of another candidate standing against me?”* If the answer to the question is 'yes' then the item concerned is an 'election expense' that counts towards the total allowed.

## **3. What happens if someone else incurs expenses on the candidate's behalf?**

A candidate must count as part of his or her own expenses any amounts that are incurred on his or her behalf by anyone else if the candidate is aware of the expenditure and gives consent, either expressly or by implication. So if, for example, a candidate's friend offers to place and pay for a number of advertisements in a newspaper, and the candidate agrees, the candidate must be aware of the cost of the adverts and make sure that the cost can be accommodated within his or her own expenditure limit.

If there was any query about a candidate's expenses, and an investigation took place, the facts of the case might need to be considered in detail to ascertain whether or not the candidate had given this consent. If a candidate is endorsed by a political party he or she is deemed to have consented to any expenditure incurred by the party on his or her behalf.

If a person or organisation spends money to promote a candidate without any contact with the candidate concerned, and without the candidate being aware, this is defined as 'third party' spending and is regulated separately in the Regulations. A candidate does not need to count this third party expenditure as part of his or her own election expenses.

#### **4. How are expenses incurred jointly by more than one candidate counted?**

If 2 or more candidates incur expenditure jointly then the expense is split equally between them unless a different split can be shown to be appropriate by the candidates concerned.

If, for example, a political party that has endorsed 4 candidates places an advert in the newspaper urging electors to vote for these 4 party candidates, the cost of this advert would normally be split into 4 and each  $\frac{1}{4}$  share counted as part of the total expenses allowed to each candidate. If, however, common leaflets were printed for a number of candidates, it might be possible to prove that the cost should be apportioned according to the relative sizes of the constituencies concerned and the number of leaflets needed in each. In summary the default position is that joint expenditure is shared equally between the candidates unless an alternative split can be proved to be appropriate.

#### **5. What happens if goods or services are supplied free of charge or at a discount?**

Normally a candidate will simply need to count the actual amount he or she has spent on an item as part of the total election expenses allowed.

There may, however, be occasions when a candidate is given goods or services at a discount. For example a printer who is a friend or supporter of the candidate may supply leaflets or posters at half price. For the purposes of the Regulations the amount to be counted remains the full open market value of the goods concerned. The difference between the amount paid and the open market value of goods is described in the Regulations as a 'notional' expense and is a form of donation.

If, for example, a stationery supplier provides paper worth £500 to a candidate for £300 the candidate must count and declare this as follows –

Direct expense	£300
Notional expense (donation)	<u>£200</u>
Open market value (amount of 'election expense')	£500

#### **6. What happens if donations are given to a candidate?**

A candidate may decide to pay for his or her campaign using only his or her own funds, but candidates may also receive donations to assist with campaign expenditure. Candidates are required to declare details of donations received and must therefore retain details of these. Donations fall into the scope of the Regulations if they are made before the nomination meeting and the donor specifies, expressly or by implication, that the money is for the election purposes. Donations made after the nomination meeting are automatically deemed to be for election purposes unless the contrary can be proved.

A 'donation' can take different forms. It may be a simple gift of money but may also be a gift of goods, such as free stickers. In the latter case the value of the donation is the open market value of the stickers which must also, as described in section 5 above, be counted toward the total election expenses allowed. If professional services are provided free of charge or at a discount the same rules apply (although as described in

section 7 below voluntary assistance from individuals is not counted as a donation or an election expense). If, for example, an I.T. firm provides a free web-hosting service to a candidate, the open market value of the hosting is the amount of the donation. If the hosting service is provided at half-price, the difference between the price paid and the open market value is the amount of the donation.

Candidates are not allowed to keep any anonymous donations. If an anonymous donation is received before the nomination meeting with an indication that it is to be used for the election, or if any anonymous donation is given to a candidate after the nomination meeting (even with no indication that it is to assist with the election), the donation must be passed to the Treasurer of the States within 10 days of receipt. The Treasurer will make arrangements to pass the money on to charity.

## **7. How is voluntary assistance to candidates treated?**

The Regulations make it clear that voluntary assistance provided to a candidate free of charge by an individual in his or her own time is not counted as a donation or as part of the candidate's election expenses. As a result, friends and/or supporters can help candidates on a voluntary basis and the candidate does not need to calculate the value of this service or declare it. Friends and supporters of a candidate might, for example, offer to make posters, put up banners, distribute leaflets, address envelopes or even design a website. Members of a political party may, for example, decide to spend their free time at the weekend distributing leaflets or standing in King Street discussing the party's policies with passers-by. This type of assistance is exempt from the requirements of the Regulations as long as the help is provided by an individual (and not, for example, by a company or organisation), free of charge, with the assistance undertaken in the individual's own time. Voluntary assistance can therefore be contrasted, for example, with assistance given by a public relations company which provides free PR guidance and graphic design services to a candidate where the work is undertaken by the company as a normal business activity (albeit free of charge). Where, in the course of the provision of the volunteer's own services, he or she uses his or her own goods, the use of the goods and any expenditure incurred by the individual that is incidental to the use of the goods, is not a donation. This could, for example, cover petrol for a volunteer driving around the Island to put up posters or the use of glue and string when doing this.

## **8. What needs to be done after the election?**

Within 15 working days of the election every candidate, whether or not he or she has been elected, must fill in a form that will be supplied by the Judicial Greffe and return the completed form to the Judicial Greffier.

The form will require candidates to specify –

- The amount of their election expenses, itemising the amounts spent and what goods and services they were spent on. If any goods or services have been provided free of charge or at a discount, the return will need to specify the amount actually paid (if any), the value of the 'notional' expense and the total open market value of the item. The overall amount of direct and notional expenditure must not, of course, exceed the total amount allowed to the candidate as explained in section 1 above.

- The total amount of any donations of goods or services received. If a donation exceeds £100, the candidate must specify not only the amount of the donation, but also the name of the donor and whether it was a donation of money, goods, services, etc. If one single donor gives several donations they must be aggregated together, so the requirement to declare full details of donations over £100 cannot be circumvented by a single donor giving a series of £99 donations. If any anonymous donations have been received by the candidate and passed, as required, to the Treasurer of the States, the amount of these must be specified.

It is important to note that the Regulations do not prevent a candidate receiving more donations than he or she is actually allowed to spend in the election. Any donations received must nevertheless be properly declared. A candidate who is allowed to spend up to, say, £2,260 might declare that he received a donation towards his or her campaign of £10,000 from a generous supporter. This donation must be declared but the candidate would commit an offence if he or she spent more than £2,260 of the donation on the election campaign. It is a purely private matter between the candidate and the donor(s) to agree whether funds that cannot be used for the election can be retained by the candidate.

If any additional information comes to light after the form has been submitted, or if the candidate realizes that he or she has inadvertently made an error in filling it in, he or she must make a further declaration within 10 working days of becoming aware of the variation. This could, for example, happen if a candidate filled in the initial form in good faith relying on a quote from a supplier which turned out to be different from the final invoice submitted at a later date.

There is no statutory requirement to submit documentary evidence of expenditure such as invoices with the initial return, but the Judicial Greffier may require candidates to provide evidence in relation to the expenditure, and candidates must comply with any such request within 15 working days. The Regulations allow candidates to require anyone who has paid election expenses on their behalf to supply the necessary information to allow the candidate to fulfil the requirements of making a return.

It is, of course, extremely important that candidates keep accurate details of expenses and retain receipts and invoices, etc. so that the details given on the return can be justified and substantiated if necessary.

Although the completion of the return will be straightforward for some matters, for example if a precise quote or invoice from the printers has been received for the printing of leaflets, there will undoubtedly be matters that are more difficult. This could be the case, for example, if goods or services are provided free of charge or at a discount. In these circumstances candidates must make every effort to ascertain a realistic and accurate open market value for the item concerned.

All declarations submitted by candidates will be available for public inspection at the Judicial Greffe.

### **What happens if the new rules are breached?**

The Regulations contain a number of criminal offences and these cover, for example, the spending of more than the permitted amount, the keeping of any anonymous donations, the failure to make a return of expenditure or the making of a return that the candidate knows or believes to be inaccurate. Any alleged breach of the Regulations could be investigated and, if appropriate, criminal proceedings instituted.

### **Will candidates get any assistance at public expense?**

The Regulations require the Privileges and Procedures Committee to make arrangements to distribute or publish details of each candidate's manifesto and background. This will be done through the publication of a booklet that will be distributed to every household. At the time of the nomination meeting, candidates will be given details of where to submit this material and the format required. The booklet will be distributed shortly before the election. This service will be provided equally to all candidates and does not count as part of a candidate's own election expenses. Information about all candidates will also be published in a similar format on the [www.vote.je](http://www.vote.je) website.

### **What happens about expenses incurred after the poll?**

The Regulations only cover expenditure incurred before the poll, and as a result there is no restriction on expenditure on matters such as a party for supporters after the poll, thank you letters or an advert in the press thanking voters. It should nevertheless be stressed that payments made after the poll for goods or services received and used before the poll are, of course, part of the election expenditure that must be counted and declared.

### **What happens about expenses incurred in a previous election that were declared then?**

The Regulations provide that any expenditure that was incurred in a previous election that was declared as an election expense at that time can be disregarded when calculating election expenses for this election. This could apply, for example, if posters or rosettes were used again. It is important to note, however, that the exemption only applies if the expense was declared in accordance with earlier Regulations. As the only previous Regulations were those that covered the 2008 elections and the 2010 senatorial by-election it is only expenditure that was incurred and declared by candidates in those elections that could be covered by this exemption.