
Changes to legislation: There are currently no known outstanding effects for the Scottish Independence Referendum Act 2013, Paragraph 12. (See end of Document for details)

SCHEDULE 4 CAMPAIGN RULES

PART 3

REFERENDUM EXPENSES

Notional referendum expenses

- 12 (1) This paragraph applies where, in the case of any individual or body—
- (a) either—
 - (i) property is transferred to the individual or body free of charge or at a discount of more than 10 per cent of its market value, or
 - (ii) property, services or facilities is or are provided for the use or benefit of the individual or body 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 services or facilities, and
 - (b) the property, services or facilities is or are made use of by or on behalf of the individual or body in circumstances such that, if any expenses were to be (or are) actually incurred by or on behalf of the individual or body in respect of that use, they would be (or are) referendum expenses incurred by or on behalf of the individual or body.
- (2) Where this paragraph applies, an amount of referendum expenses determined in accordance with this paragraph (“the appropriate amount”) is to be treated, for the purposes of this schedule, as incurred by the individual or body during the period for which the property, services or facilities is or are made use of as mentioned in sub-paragraph (1)(b).
- (3) Sub-paragraph (2) is subject to sub-paragraph (13).
- (4) Where sub-paragraph (1)(a)(i) applies, the appropriate amount is such proportion as is reasonably attributable to the use made of the property as mentioned in sub-paragraph (1)(b) of either—
- (a) the market value of the property (where the property is transferred free of charge), or
 - (b) the difference between the market value of the property and the amount of expenses actually incurred by or on behalf of the individual or body in respect of the property (where the property is transferred at a discount).
- (5) Where sub-paragraph (1)(a)(ii) applies the appropriate amount is such proportion as is reasonably attributable to the use made of the property, services or facilities as mentioned in sub-paragraph (1)(b) of either—
- (a) the commercial rate for the use of the property or the provision of the services or facilities (where the property, 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 individual or body in respect of the use of the property or the provision of the services or facilities (where the property, services or facilities is or are provided at a discount).

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- (6) Sub-paragraph (7) applies where the services of an employee are made available by the employee's employer for the use or benefit of an individual or body.
- (7) For the purposes of this paragraph, the amount which is to be taken as constituting the commercial rate for the provision of those services is the amount of the remuneration or allowances payable to the employee by the employer in respect of the period for which the employee's services are made available (but do not include any amount in respect of contributions or other payments for which the employer is liable in respect of the employee).
- (8) Where an amount of referendum expenses is treated, by virtue of sub-paragraph (2), as incurred by or on behalf of an individual or body during any period the whole or part of which falls within the referendum period then—
 - (a) the amount mentioned in sub-paragraph (10) is to be treated as incurred by or on behalf of the individual or body during the referendum period, and
 - (b) if a return falls to be prepared under paragraph 21 in respect of referendum expenses incurred by or on behalf of the individual or body during that period, the responsible person must make a declaration of that amount.
- (9) Sub-paragraph (8) does not apply if the amount referred to in sub-paragraph (8)(a) does not exceed £200.
- (10) The amount referred to in sub-paragraph (8)(a) is such proportion of the appropriate amount (determined in accordance with sub-paragraph (4) or (5)) as reasonably represents the use made of the property, services or facilities as mentioned in sub-paragraph (1)(b) during the referendum period.
- (11) A person commits an offence if the person knowingly or recklessly makes a false declaration under sub-paragraph (8)(b).
- (12) A person who commits an offence under sub-paragraph (11) is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or both),
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 12 months or to a fine (or both).
- (13) No amount of referendum expenses is to be regarded as incurred by virtue of sub-paragraph (2) in respect of—
 - (a) the transmission by a broadcaster of a referendum campaign broadcast,
 - (b) the provision of any rights conferred on a designated organisation (or persons authorised by such an organisation) by virtue of—
 - (i) paragraph 8 or 9, or
 - (ii) paragraph 1 of Schedule 12 (right to send referendum address post free) to the 2000 Act (as applied by article 4 of the Scotland Act 1998 (Modification of Schedule 5) Order 2013 (SI 2013/242)), or
 - (c) the provision by any individual of the individual's own services which are provided voluntarily in the individual's own time and free of charge.
- (14) Paragraph 30(5) and (6)(a) applies with any necessary modifications for the purpose of determining, for the purposes of sub-paragraph (1), whether property is transferred to an individual or body.

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