

## SCHEDULES

### SCHEDULE 11

Section 95.

#### CONTROL OF DONATIONS TO RECOGNISED THIRD PARTIES

#### PART I

##### INTRODUCTORY

##### *Operation and interpretation of Schedule*

- 1 (1) This Schedule has effect for controlling donations to recognised third parties which either are not registered parties or are minor parties.
- (2) The following provisions have effect for the purposes of this Schedule.
- (3) In accordance with sub-paragraph (1), “recognised third party” does not include a recognised third party which is a registered party other than a minor party.
- (4) “Relevant donation”, in relation to a recognised third party, means a donation to the recognised third party for the purpose of meeting controlled expenditure incurred by or on behalf of that third party.
- (5) “Donation” shall be construed in accordance with paragraphs 2 to 4.
- (6) References to a permissible donor falling within section 54(2) do not include a registered party.

##### *Donations: general rules*

- 2 (1) “Donation”, in relation to a recognised third party, means (subject to paragraph 4)—
  - (a) any gift to the recognised third party of money or other property;
  - (b) any sponsorship provided in relation to the recognised third party (as defined by paragraph 3);
  - (c) any money spent (otherwise than by or on behalf of the recognised third party) in paying any controlled expenditure incurred by or on behalf of the recognised third party;
  - (d) any money lent to the recognised third party otherwise than on commercial terms;
  - (e) the provision otherwise than on commercial terms of any property, services or facilities for the use or benefit of the recognised third party (including the services of any person); and
  - (f) in the case of a recognised third party, other than an individual, any subscription or other fee paid for affiliation to, or membership of, the third party.
- (2) Where—

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- (a) any money or other property is transferred to a recognised third party pursuant to any transaction or arrangement involving the provision by or on behalf of the recognised third party of any property, services or facilities or other consideration of monetary value, and
- (b) the total value in monetary terms of the consideration so provided by or on behalf of the recognised third party is less than the value of the money or (as the case may be) the market value of the property transferred,

the transfer of the money or property shall (subject to sub-paragraph (4)) constitute a gift to the recognised third party for the purposes of sub-paragraph (1)(a).

(3) In determining—

- (a) for the purposes of sub-paragraph (1)(d) whether any money lent to a recognised third party is so lent otherwise than on commercial terms, or
- (b) for the purposes of sub-paragraph (1)(e) whether any property, services or facilities provided for the use or benefit of a recognised third party is or are so provided otherwise than on such terms,

regard shall be had to the total value in monetary terms of the consideration provided by or on behalf of the recognised third party in respect of the loan or the provision of the property, services or facilities.

(4) Where (apart from this sub-paragraph) anything would be a donation both by virtue of sub-paragraph (1)(b) and by virtue of any other provision of this paragraph, sub-paragraph (1)(b) (together with paragraph 3) shall apply in relation to it to the exclusion of the other provision of this paragraph.

(5) Anything given or transferred to any officer, member, trustee or agent of a recognised third party in his capacity as such (and not for his own use or benefit) is to be regarded as given or transferred to the recognised third party (and references to donations received by a recognised third party accordingly include donations so given or transferred).

(6) In this paragraph—

- (a) any reference to anything being given or transferred to a recognised third party includes a reference to its being given or transferred either directly or indirectly through any third person;
- (b) “gift” includes bequest.

### *Sponsorship*

3 (1) For the purposes of this Schedule sponsorship is provided in relation to a recognised third party if—

- (a) any money or other property is transferred to the recognised third party or to any person for the benefit of the recognised third party, and
- (b) the purpose (or one of the purposes) of the transfer is (or must, having regard to all the circumstances, reasonably be assumed to be)—
  - (i) to help the recognised third party with meeting, or to meet, to any extent any defined expenses incurred or to be incurred by or on behalf of the recognised third party, or
  - (ii) to secure that to any extent any such expenses are not so incurred.

(2) In sub-paragraph (1) “defined expenses” means expenses in connection with—

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- (a) any conference, meeting or other event organised by or on behalf of the recognised third party,
  - (b) the preparation, production or dissemination of any publication by or on behalf of the recognised third party, or
  - (c) any study or research organised by or on behalf of the recognised third party.
- (3) The following do not, however, constitute sponsorship by virtue of sub-paragraph (1) —
- (a) the making of any payment in respect of—
    - (i) any charge for admission to any conference, meeting or other event, or
    - (ii) the purchase price of, or any other charge for access to, any publication;
  - (b) the making of any payment in respect of the inclusion of an advertisement in any publication where the payment is made at the commercial rate payable for the inclusion of such an advertisement in any such publication.
- (4) The Secretary of State may by order made on the recommendation of the Commission amend sub-paragraph (2) or (3).
- (5) In this paragraph “publication” means a publication made available in whatever form and by whatever means (whether or not to the public at large or any section of the public).

*Payments etc not to be regarded as donations*

- 4 (1) None of the following shall be regarded as a donation—
- (a) the provision by an individual of his own services which he provides voluntarily in his own time and free of charge;
  - (b) any interest accruing to a recognised third party in respect of any donation which is dealt with by the responsible person in accordance with section 56(2)(a) or (b) (as applied by paragraph 7).
- (2) Any donation whose value (as determined in accordance with paragraph 5) is not more than £200 shall be disregarded.

*Value of donations*

- 5 (1) The value of any donation falling within paragraph 2(1)(a) (other than money) shall be taken to be the market value of the property in question.
- (2) Where, however, paragraph 2(1)(a) applies by virtue of paragraph 2(2), the value of the donation shall be taken to be the difference between—
- (a) the value of the money, or the market value of the property, in question, and
  - (b) the total value in monetary terms of the consideration provided by or on behalf of the recognised third party.
- (3) The value of any donation falling within paragraph 2(1)(b) shall be taken to be the value of the money, or (as the case may be) the market value of the property, transferred as mentioned in paragraph 3(1); and accordingly any value in monetary terms of any benefit conferred on the person providing the sponsorship in question shall be disregarded.

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- (4) The value of any donation falling within paragraph 2(1)(d) or (e) shall be taken to be the amount representing the difference between—
- (a) the total value in monetary terms of the consideration that would have had to be provided by or on behalf of the recognised third party in respect of the loan or the provision of the property, services or facilities if—
    - (i) the loan had been made, or
    - (ii) the property, services or facilities had been provided, on commercial terms, and
  - (b) the total value in monetary terms of the consideration (if any) actually so provided by or on behalf of the recognised third party.
- (5) Where a donation such as is mentioned in sub-paragraph (4) confers an enduring benefit on the donee over a particular period, the value of the donation—
- (a) shall be determined at the time when it is made, but
  - (b) shall be so determined by reference to the total benefit accruing to the donee over that period.

## PART II

### CONTROLS ON DONATIONS

#### *Prohibition on accepting donations from impermissible donors*

- 6 (1) A relevant donation received by a recognised third party must not be accepted if—
- (a) the person by whom the donation would be made is not, at the time of its receipt by the recognised third party, a permissible donor falling within section 54(2); or
  - (b) the recognised third party is (whether because the donation is given anonymously or by reason of any deception or concealment or otherwise) unable to ascertain the identity of the person offering the donation.
- (2) For the purposes of this Schedule, any relevant donation received by a recognised third party which is an exempt trust donation shall be regarded as a relevant donation received by the recognised third party from a permissible donor.
- (3) But, for the purposes of this Schedule, any relevant donation received by a recognised third party from a trustee of any property (in his capacity as such) which is not—
- (a) an exempt trust donation, or
  - (b) a relevant donation transmitted by the trustee to the recognised third party on behalf of beneficiaries under the trust who are—
    - (i) persons who at the time of its receipt by the recognised third party are permissible donors falling within section 54(2), or
    - (ii) the members of an unincorporated association which at that time is such a permissible donor,
- shall be regarded as a relevant donation received by the recognised third party from a person who is not such a permissible donor.
- (4) Where any person (“the principal donor”) causes an amount (“the principal donation”) to be received by a recognised third party by way of a relevant donation—
- (a) on behalf of himself and one or more other persons, or

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- (b) on behalf of two or more other persons,  
then for the purposes of this Schedule each individual contribution by a person falling within paragraph (a) or (b) of more than £200 shall be treated as if it were a separate donation received from that person.
- (5) In relation to each such separate donation, the principal donor must ensure that, at the time when the principal donation is received by the recognised third party, the responsible person is given—
- (a) (except in the case of a donation which the principal donor is treated as making) all such details in respect of the person treated as making the donation as are required by virtue of paragraph 10(1)(c) to be given in respect of the donor of a donation to which that paragraph applies; and
  - (b) (in any case) all such details in respect of the donation as are required by virtue of paragraph 10(1)(a).
- (6) Where—
- (a) any person (“the agent”) causes an amount to be received by a recognised third party by way of a donation on behalf of another person (“the donor”), and
  - (b) the amount of the donation is more than £200,
- the agent must ensure that, at the time when the donation is received by the recognised third party, the responsible person is given all such details in respect of the donor as are required by virtue of paragraph 10(1)(c) to be given in respect of the donor of a donation to which that paragraph applies.
- (7) A person commits an offence if, without reasonable excuse, he fails to comply with sub-paragraph (5) or (6).

#### *Acceptance or return of donations*

- 7 (1) Sections 56 to 60 shall apply for the purposes of this Schedule in relation to a recognised third party and any relevant donation received by a recognised third party as they apply in relation to a registered party and any donation received by a registered party.
- (2) In the application of sections 56 to 60 in accordance with sub-paragraph (1)—
- (a) section 56(1) shall have effect as if the reference to the particulars relating to a donor which would be required to be included in a donation report by virtue of paragraph 2 of Schedule 6 (if the donation were a recordable donation within the meaning of that Schedule) were construed as a reference to the particulars which are required to be included in a return by virtue of paragraph 10(1)(c) (in relation to a donation to which that paragraph applies); and
  - (b) section 56(3) and (4) shall each have effect as if any reference to the treasurer of the party were construed as a reference to the responsible person.

#### *Evasion of restrictions on donations*

- 8 Section 61 shall apply for the purposes of this Schedule as if—
- (a) any reference to donations were to relevant donations;
  - (b) any reference to a registered party were a reference to a recognised third party; and

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- (c) any reference to the treasurer of a registered party were, in relation to a recognised third party, a reference to the responsible person.

### PART III

#### REPORTING OF DONATIONS

##### *Statement of relevant donations*

- 9 The recognised third party must include in any return required to be prepared under section 96 a statement of relevant donations received in respect of the relevant election or elections (within the meaning of that section) which complies with paragraphs 10 and 11.

##### *Donations from permissible donors*

- 10 (1) The statement must record, in relation to each relevant donation falling within sub-paragraph (2) which is accepted by the recognised third party—
- (a) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value as determined in accordance with paragraph 5;
  - (b) the date when the donation was accepted by the recognised third party; and
  - (c) the information about the donor which is, in connection with recordable donations to registered parties, required to be recorded in donation reports by virtue of paragraph 2 of Schedule 6.
- (2) Sub-paragraph (1) applies to a relevant donation where—
- (a) the value of the donation is more than £5,000, or
  - (b) the value of the donation, when added to the value of any other donation or donations made by the same donor (whether or not falling within paragraph (a)), is more than that amount.
- (3) The statement must also record—
- (a) the total value of any relevant donations, other than those falling within sub-paragraph (2), which are accepted by the recognised third party; and
  - (b) such other information as may be required by regulations made by the Commission.

##### *Donations from impermissible donors*

- 11 (1) This paragraph applies to relevant donations falling within paragraph 6(1)(a) or (b).
- (2) Where paragraph 6(1)(a) applies, the statement must record—
- (a) the name and address of the donor;
  - (b) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value as determined in accordance with paragraph 5;
  - (c) the date when the donation was received, and the date when, and the manner in which, it was dealt with in accordance with section 56(2)(a); and
  - (d) such other information as is required by regulations made by the Commission.

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- (3) Where paragraph 6(1)(b) applies, the statement must record—
- (a) details of the manner in which the donation was made;
  - (b) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value as determined in accordance with paragraph 5;
  - (c) the date when the donation was received, and the date when, and the manner in which, it was dealt with in accordance with section 56(2)(b); and
  - (d) such other information as is required by regulations made by the Commission.
- (4) In this paragraph any reference to any provision of section 56 is a reference to that provision as applied by paragraph 7.