



# Political Parties and Elections Act 2009

## 2009 CHAPTER 12

An Act to make provision in connection with the Electoral Commission; to make provision about political donations, loans and related transactions and about political expenditure; and to make provision about elections and electoral registration. [21st July 2009]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART 1

#### THE ELECTORAL COMMISSION

##### *Functions of Electoral Commission*

#### **1 Compliance with controls imposed by the 2000 Act etc**

- (1) In the Political Parties, Elections and Referendums Act 2000 (c. 41) (“the 2000 Act”) section 145 (general function of Commission with respect to monitoring compliance with controls imposed by that Act etc) is amended as follows.
- (2) In subsection (1), for the words before paragraph (a) there is substituted “ The Commission shall have the function of monitoring, and taking such steps as they consider appropriate with a view to securing, compliance with ”.
- (3) After subsection (6) there is inserted—

“(6A) The Commission may prepare and publish guidance setting out, in relation to any requirement referred to in subsection (1), their opinion on any of the following matters—

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**Changes to legislation:** There are currently no known outstanding effects for the Political Parties and Elections Act 2009. (See end of Document for details)

- (a) what it is necessary, or is sufficient, to do (or avoid doing) in order to comply with the requirement;
- (b) what it is desirable to do (or avoid doing) in view of the purpose of the requirement.”

#### Commencement Information

**II** S. 1 partly in force; s. 1(1)(3) in force at Royal Assent see s. 43(5)

VALID FROM 01/12/2010

## 2 Investigatory powers of Commission

(1) For section 146 of the 2000 Act there is substituted—

### “146 Investigatory powers of Commission

Schedule 19B makes provision about the investigatory powers of the Commission.”

(2) Before Schedule 20 to the 2000 Act there is inserted, as Schedule 19B, the Schedule set out in Schedule 1 to this Act.

(3) In Schedule 20 to the 2000 Act the following entries are inserted at the appropriate place—

“Paragraph 13(1) of Schedule 19B (failure to comply with investigation requirement) On summary conviction: Level 5

Paragraph 13(2) of Schedule 19B (intentional obstruction of person exercising investigatory power) On summary conviction: Level 5

Paragraph 13(3) of Schedule 19B (providing false information in purported compliance with investigation requirement) On summary conviction in England and Wales or Scotland: statutory maximum or 12 months  
On summary conviction in Northern Ireland: statutory maximum or 6 months  
On indictment: fine or 1 year”.

VALID FROM 01/12/2010

## 3 Civil sanctions

(1) For section 147 of the 2000 Act (civil penalty for failure to deliver documents etc) there is substituted—

### “147 Civil sanctions

Schedule 19C makes provision for civil sanctions in relation to—

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<p>(a) the commission of offences under this Act;</p> <p>(b) the contravention of restrictions or requirements imposed by or by virtue of this Act.”</p> <p>(2) After Schedule 19B to the 2000 Act (inserted by section 2 above) there is inserted, as Schedule 19C, the Schedule set out in Schedule 2 to this Act.</p> <p>(3) In Schedule 20 to the 2000 Act the following entry is inserted at the appropriate place—</p>	<p>“Paragraph 14 of Schedule 19C (failure to comply with stop notice)</p> <p>On summary conviction in England and Wales or Scotland: £20,000 or 12 months</p> <p>On summary conviction in Northern Ireland: £20,000 or 6 months</p> <p>On indictment: fine or 2 years”.</p>
<p>(4) In section 156 of the 2000 Act (orders and regulations), after subsection (4) there is inserted—</p> <p>“(4A) An order under paragraph 16 of Schedule 19C that contains—</p> <p>(a) provision made by virtue of paragraph 1(1), (2), (3), (4) or (5), paragraph 5(1), (2), (3) or (4), paragraph 10(2)(b) or (3)(b) or paragraph 15(1)(a) of that Schedule, or</p> <p>(b) provision amending an Act,</p> <p>shall not be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament; and subsection (2) does not apply to such an order.”</p>	

#### *Electoral Commissioners etc*

#### **4 Selection of prospective Electoral Commissioners and Commission chairman**

(1) Section 3 of the 2000 Act (appointment of Electoral Commissioners etc) is amended as follows.

(2) For subsection (2) there is substituted—

“(2) A motion for such an Address may be made only if—

- (a) the Speaker of the House of Commons agrees that the motion may be made;
- (b) the motion has been the subject of consultation with the registered leader of each registered party to which two or more Members of the House of Commons then belong; and
- (c) each person whose appointment is proposed in the motion has been selected in accordance with a procedure put in place and overseen by the Speaker's Committee.”

(3) After subsection (5) there is inserted—

“(5A) In the case of a re-appointment (or further re-appointment) of an Electoral Commissioner, the reference in subsection (2)(c) to being selected in accordance with a procedure put in place and overseen by the Speaker's

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Committee is to be read as including a reference to being recommended for re-appointment (or further re-appointment) by that Committee.”

## **5 Four Electoral Commissioners to be persons put forward by parties**

(1) In section 3 of the 2000 Act, after subsection (4) (political restrictions on Electoral Commissioners) there is inserted—

“(4A) Paragraphs (a) and (d) of subsection (4) do not apply to the appointment of a person as a nominated Commissioner (within the meaning of section 3A).”

(2) After that section there is inserted—

### **“3A Four Electoral Commissioners to be persons put forward by parties**

(1) Four of the Electoral Commissioners shall each be a person whom the registered leader of a qualifying party put forward to be considered for appointment as an Electoral Commissioner (a “nominated Commissioner”).

(2) In subsection (1) “qualifying party” means a registered party with two or more Members of the House of Commons at the time of the person's appointment.

(3) Three of the nominated Commissioners shall each be a person put forward by the registered leader of one of the three largest nominating parties at the time of the person's appointment.

(4) In subsection (3) “nominating party” means a party whose registered leader—

- (a) has put forward three persons to be considered for appointment as a nominated Commissioner, or
- (b) previously put forward persons one of whom was appointed as a nominated Commissioner and is expected to continue to hold office.

(5) No appointment may be made that would result in two or more nominated Commissioners being persons put forward by the leader of the same party (and nothing in this section has effect so as to require that result).

(6) A nominated Commissioner may not be appointed as the chairman of the Commission.

(7) For the purposes of this section, the relative size of any two or more registered parties shall be determined according to the number of Members of the House of Commons belonging to each party at the time in question (or, in the case of two parties with the same number of Members, according to the total number of votes cast for persons standing for election in the name of each of those parties at the most recent parliamentary general election).

(8) A reference in this section to a Member of the House of Commons does not include any Member of that House who at the time in question—

- (a) has not made and subscribed the oath required by the Parliamentary Oaths Act 1866 (or the corresponding affirmation), or
- (b) is disqualified from sitting and voting in that House.”

(3) In section 14 of the 2000 Act (Boundary Committees), in subsection (4), for “an Electoral Commissioner or a deputy Electoral Commissioner” there is substituted “an

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Electoral Commissioner who is not a nominated Commissioner (within the meaning of section 3A), or a deputy Electoral Commissioner,”.

VALID FROM 01/10/2010

## 6 Number of Electoral Commissioners

In section 1 of the 2000 Act (establishment of Electoral Commission), in subsection (3) (number of Commissioners), for “not less than five, but not more than nine,” there is substituted “ nine or ten ”.

## 7 Political restrictions on Electoral Commissioners and staff

- (1) In section 3(4)(d) of the 2000 Act (persons not to be appointed as Electoral Commissioners within ten years of engaging in certain political activities), for “within the last ten years” there is substituted “ within the last five years ”.
- (2) In Schedule 1 to the 2000 Act (the Electoral Commission), after paragraph 11 there is inserted—

### “Political restrictions on staff

11A (1) A person may not be appointed as a member of the staff of the Commission if the person—

- (a) is an officer or employee of a registered party or of any accounting unit of such a party;
- (b) holds a relevant elective office (within the meaning of Schedule 7);
- (c) has at any time within the relevant period (see sub-paragraph (2))

- (i) been such an officer or employee as is mentioned in paragraph (a), or
- (ii) held such an office as is mentioned in paragraph (b), or
- (iii) been named as a donor in the register of donations reported under Chapter 3 or 5 of Part 4, or
- (iv) been named as a participant in the register of recordable transactions reported under Part 4A.

(2) The relevant period is—

- (a) in relation to appointment as chief executive of the Commission, the last five years;
- (b) in relation to appointment to a post on the staff of the Commission that is designated by a notice in force under paragraph 11B, the period (immediately preceding the appointment) specified by the notice;
- (c) in relation to appointment as any other member of the staff of the Commission, the last 12 months.

(3) A member of a registered party may not be appointed as chief executive of the Commission.

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- (4) The appointment of any member of the staff of the Commission shall terminate—
- (a) in the case of the chief executive, on the occurrence of such an event as is mentioned in any of paragraphs (a) to (d) of paragraph 3(3);
  - (b) in any other case, on the occurrence of such an event as is mentioned in any of paragraphs (a) to (ca) of paragraph 3(3).
- 11B (1) The chief executive of the Commission may by giving notice to the Speaker's Committee—
- (a) designate a particular post on the staff of the Commission, and
  - (b) specify as the relevant period for that post, for the purposes of paragraph 11A(2)(b), a period of two years or more,
- if the chief executive reasonably believes that it is necessary to do so in order to maintain public confidence in the effectiveness of the Commission in carrying out any of its functions.
- (2) The period specified under sub-paragraph (1)(b) may not be more than five years.
- (3) In deciding what that period should be, the chief executive of the Commission shall take into account—
- (a) the level of seniority of the post;
  - (b) how likely it is that any holder of the post will be required to deal with politically sensitive matters.
- (4) Each notice under sub-paragraph (1) must relate to only one post.
- (5) A notice under sub-paragraph (1)—
- (a) has effect from the day on which it is received by the Speaker's Committee, and
  - (b) (subject to sub-paragraphs (6) and (7)) expires at the end of the period of three years beginning with that day.
- (6) Sub-paragraph (5)(b) does not prevent a further notice being given under sub-paragraph (1) in relation to the post in question, either—
- (a) before the previous notice would have expired, or
  - (b) at any time after the expiry of the previous notice.
- A further notice received by the Speaker's Committee before the previous notice would have expired supersedes the previous notice.
- (7) If the chief executive of the Commission gives notice (a “cancellation notice”) to the Speaker's Committee cancelling a notice under sub-paragraph (1), the notice under that sub-paragraph ceases to have effect—
- (a) on the day on which the cancellation notice is received by the Speaker's Committee, or
  - (b) (if later) on such date as may be specified in the cancellation notice.
- (8) Before giving a notice under this paragraph the chief executive of the Commission shall consult the Speaker's Committee.

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- (9) The Commission shall publish, in such manner as they consider appropriate, information setting out the effect of all notices under subparagraph (1) that are in force at any particular time.”
- (3) The amendment made by subsection (2) does not apply to the appointment of a person—
- (a) to assist the Boundary Committee for England in the performance of its functions,
  - (b) to assist the Commission in carrying out functions transferred to them by an order under section 18(1) of the 2000 Act (transfer of functions of Local Government Commission for England), or
  - (c) to perform duties including either or both of those.

VALID FROM 01/01/2011

## 8 Education about systems of government and EU institutions

In section 13 of the 2000 Act (education about electoral and democratic systems), paragraphs (b) and (c) of subsection (1) (Commission's duty to promote public awareness of systems of government and EU institutions) are omitted.

## PART 2

### POLITICAL DONATIONS ETC AND EXPENDITURE

#### *Donations etc*

PROSPECTIVE

## 9 Declaration as to source of donation

- (1) In section 54 of the 2000 Act (permissible donors), in subsection (1) (circumstances in which party may not accept donation), after paragraph (a) there is inserted—
- “(aa) in the case of a donation of an amount exceeding £7,500, the party has not been given a declaration as required by section 54A; or”.
- (2) After that section there is inserted—

### “54A Declaration as to source of donation

- (1) Where a person (P) causes an amount exceeding £7,500 to be received by a registered party by way of a donation, a written declaration must be given to the party—
- (a) by P, if P is an individual, or
  - (b) if not, by an individual authorised by P to make the declaration, stating, to the best of the individual's knowledge and belief, whether or not subsection (2) applies to the donation.

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- (2) This subsection applies to the donation if—
- (a) a person other than P has provided, or is expected to provide, money or any other benefit to P with a view to, or otherwise in connection with, the making of the donation, and
  - (b) the money, or the value of the benefit, is more than £7,500.
- (3) Where a declaration under this section contains a statement to the effect that subsection (2) applies to the donation, it must also—
- (a) state whether or not, in the opinion of the person making the declaration—
    - (i) subsection (4) of section 54 applies to the donation;
    - (ii) subsection (6) of that section applies to it;
  - (b) if the person's opinion is that neither of those subsections applies to the donation, give the person's reasons for that opinion.
- (4) A declaration under this section must also state the full name and address of the person by whom it is made and, where subsection (1)(b) applies—
- (a) state that the person is authorised by P to make the declaration;
  - (b) describe the person's role or position in relation to P.
- (5) A person who knowingly or recklessly makes a false declaration under this section commits an offence.
- (6) Regulations made by the Secretary of State may make provision as to how the value of a benefit is to be calculated for the purposes of subsection (2).”
- (3) In section 56 of the 2000 Act (acceptance or return of donations: general), in subsection (2) (steps to be taken if donation to be refused)—
- (a) in paragraph (a), for “section 54(1)(b)” there is substituted “ section 54(1)(aa) or (b) ”;
  - (b) after that paragraph there is inserted—
    - “(aa) if the donation falls within section 54(1)(aa) (but not section 54(1)(b)), the donation, or a payment of an equivalent amount, must be sent back to the person appearing to be the donor.”;
  - (c) in paragraph (b), for “that provision” there is substituted “ section 54(1)(b) ”.
- (4) Before subsection (4) of that section there is inserted—
- “(3B) Where—
- (a) subsection (2)(aa) applies in relation to a donation, and
  - (b) the donation is not dealt with in accordance with that provision,
- the party and the treasurer of the party are each guilty of an offence.”
- (5) In Schedule 6 to the 2000 Act (details to be given in donation reports), after paragraph 1 there is inserted—

**“Declarations as to source of donation**

- 1A In relation to each recordable donation in the case of which a declaration under section 54A has been given, a quarterly or weekly report must either—



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- (a) state that no reason was found to think that the declaration was untruthful or inaccurate, or
  - (b) give details of any respects in which the declaration was found or suspected to be untruthful or inaccurate.”
- (6) In paragraph 6 of that Schedule (donations from impermissible donors)—
- (a) in the heading, at the end there is inserted “ *or without required declaration* ”;
  - (b) for “section 54(1)(a)” there is substituted “ section 54(1)(a) or (aa) ”;
  - (c) in paragraph (a), after “the donor” there is inserted “ or the person appearing to be the donor ”;
  - (d) in paragraph (b), for “section 56(2)(a)” there is substituted “ section 56(2)(a) or (aa) ”.
- (7) In Schedule 20 to the 2000 Act (penalties) the following entry is inserted at the appropriate place—

“Section 54A(5) (making a false declaration as to source of donation)	On summary conviction in England and Wales or Scotland: statutory maximum or 12 months On summary conviction in Northern Ireland: statutory maximum or 6 months On indictment: fine or 1 year”.
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- (8) Schedule 3 has effect.
- That Schedule makes amendments to—
- (a) Schedules 7, 11 and 15 to the 2000 Act (control of donations to individuals and members associations; to recognised third parties; and to permitted participants), and
  - (b) Schedule 20 to the 2000 Act (penalties),
- corresponding to those made by subsections (1) to (7).
- (9) The Secretary of State, after consulting the Electoral Commission, may make an order that—
- (a) amends or modifies a provision of the 2000 Act inserted by this section or Schedule 3 so far as it applies in relation to Northern Ireland;
  - (b) makes provision that is consequential on or supplemental to that made by virtue of paragraph (a) (including provision amending or modifying any provision of the 2000 Act).
- (10) The power to make an order under subsection (9) is exercisable by statutory instrument.
- (11) No order may be made under subsection (9) unless a draft of the instrument containing the order has been laid before and approved by a resolution of each House of Parliament.

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PROSPECTIVE

## 10 Non-resident donors etc

- (1) In section 54 of the 2000 Act (permissible donors), in subsection (1) (circumstances in which party may not accept donation), for paragraph (aa) (inserted by section 9 above) there is substituted—

“(aa) any declaration required to be made in respect of the donation by section 54A or 54B has not been received by the party; or”.

- (2) In subsection (2)(a) of that section (individuals who are permissible donors), for “registered in an electoral register” there is substituted “ who is registered in an electoral register and (subject to subsection (2ZB)) satisfies the condition set out in subsection (2ZA) ”.

- (3) After subsection (2) of that section there is inserted—

“(2ZA) The condition referred to in subsection (2)(a) is that the individual's liability to income tax for the current tax year (including eligibility to make any claim) falls to be determined (or would fall to be determined) on the basis that the individual is resident, ordinarily resident and domiciled in the United Kingdom in that year.

In this subsection “tax year” has the meaning given by section 4 of the Income Tax Act 2007.

- (2ZB) The condition set out in subsection (2ZA) applies in relation to a donation only if—

- (a) it is a donation of more than £7,500, or
- (b) when the donation is added to any other relevant benefit or benefits accruing in the same calendar year as the donation, the aggregate amount of the benefits is more than £7,500.

- (2ZC) For the purposes of subsection (2ZB)(b) “relevant benefit” and “accruing” have the meaning given by section 62(3A).”

- (4) After section 54A (inserted by section 9 above) there is inserted—

### “54B Declaration as to whether residence etc condition satisfied

- (1) An individual making to a registered party a donation in relation to which the condition set out in section 54(2ZA) applies must give to the party a written declaration stating whether or not the individual satisfies that condition.
- (2) A declaration under this section must also state the individual's full name and address.
- (3) A person who knowingly or recklessly makes a false declaration under this section commits an offence.
- (4) The Secretary of State may by regulations make provision requiring a declaration under this section to be retained for a specified period.
- (5) The requirement in subsection (1) does not apply where, by reason of section 71B(1)(a), the individual by whom the donation would be made is a

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permissible donor in relation to the donation at the time of its receipt by the party.”

(5) In section 56 of the 2000 Act (acceptance or return of donations: general), after subsection (1) there is inserted—

“(1A) In so far as subsection (1) requires steps to be taken to verify or ascertain whether an individual satisfies the condition set out in section 54(2ZA), the requirement is treated as having being complied with if—

- (a) the individual has given to the party a declaration under section 54B stating that the individual satisfies that condition, and
- (b) the party had no reasonable grounds for thinking that the statement was incorrect.”

(6) In Schedule 6 to the 2000 Act (details to be given in donation reports), in paragraph 1A (inserted by section 9 above)—

- (a) in the heading, at the end there is inserted “ *or as to whether residence etc condition satisfied* ”;
- (b) at the end of that paragraph (which becomes sub-paragraph (1)) there is inserted—

“(2) In relation to each recordable donation in the case of which a declaration under section 54B has been given, a quarterly report must either—

- (a) state that no reason was found for thinking that the declaration was incorrect, or
- (b) give details of any respects in which the declaration was found or suspected to be incorrect.”

(7) In Schedule 20 to the 2000 Act (penalties) the following entry is inserted at the appropriate place—

“Section 54B(3) (making a false declaration as to whether residence etc condition satisfied)	On summary conviction in England and Wales or Scotland: statutory maximum or 12 months On summary conviction in Northern Ireland: statutory maximum or 6 months On indictment: fine or 1 year”.
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(8) Schedule 4 has effect.

That Schedule makes amendments to—

- (a) Schedules 7, 11 and 15 to the 2000 Act (control of donations to individuals and members associations; to recognised third parties; and to permitted participants), and
- (b) Schedule 20 to the 2000 Act (penalties),

corresponding to those made by subsections (1) to (7).

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PROSPECTIVE

## 11 Non-resident lenders etc

(1) After section 71H of the 2000 Act there is inserted—

### “71HZA Declaration that residence etc condition is satisfied

- (1) A registered party must not be a party to a regulated transaction to which this section applies unless the registered party has received a written declaration from each of the other parties to the transaction who is an individual stating that the individual satisfies the condition set out in section 54(2ZA).
  - (2) This section applies to a regulated transaction—
    - (a) if the value of the transaction is more than £7,500, or
    - (b) if the aggregate amount of it and any other relevant benefit or benefits accruing in the same calendar year as the transaction is more than £7,500.
  - (3) For the purposes of subsection (2)(b) “relevant benefit” and “accruing” have the meaning given by section 71M(3).
  - (4) A declaration under this section must also state the individual's full name and address.
  - (5) A person who knowingly or recklessly makes a false declaration under this section commits an offence.
  - (6) The Secretary of State may by regulations make provision requiring a declaration under this section to be retained for a specified period.
  - (7) The reference in subsection (1) to each of the other parties to the transaction does not include any individual who, at the time the transaction is entered into, is an authorised participant in relation to it by reason of section 71Z1(1)(a).”
- (2) In section 71L of the 2000 Act (offences relating to regulated transactions), after subsection (9) there is inserted—
- “(9A) An offence cannot be committed under subsection (1), (2), (5) or (6) on the basis that a person (P) ought reasonably to have known that a particular individual does not satisfy the condition set out in section 54(2ZA) (and is therefore not an authorised participant) if—
    - (a) the individual has given a declaration under section 71HZA stating that the individual satisfies that condition, and
    - (b) P had no reasonable grounds for thinking that the statement was incorrect.”
- (3) In Schedule 6A to the 2000 Act (details to be given in transaction reports), after paragraph 1 there is inserted—

### “Declaration as to whether residence etc condition satisfied

- 1A In relation to each recordable transaction in the case of which a declaration under section 71HZA has been given, a quarterly report must either—

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- (a) state that no reason was found to think that the declaration was incorrect, or
- (b) give details of any respects in which the declaration was found or suspected to be incorrect.”

(4) In Schedule 7A to the 2000 Act (control of loans etc to individuals and members associations), after paragraph 4 there is inserted—

**“Declaration that residence etc condition satisfied**

4A (1) A regulated participant must not be a party to a controlled transaction to which this paragraph applies unless the regulated participant has received a written declaration from each of the other parties to the transaction who is an individual stating that the individual satisfies the condition set out in section 54(2ZA).

(2) This paragraph applies to a controlled transaction—

- (a) if the value of the transaction is more than £7,500, or
- (b) if the aggregate amount of it and any other relevant benefit or benefits accruing in the same calendar year as the transaction is more than £7,500.

(3) For the purposes of sub-paragraph (2) “relevant benefit” and “accruing” have the meaning given by section 71M(3).

(4) A declaration under this paragraph must also state the full name and address of the person by whom it is made.

(5) A person who knowingly or recklessly makes a false declaration under this paragraph commits an offence.

(6) The Secretary of State may by regulations make provision requiring a declaration under this paragraph to be retained for a specified period.

(7) The reference in sub-paragraph (1) to each of the other parties to the transaction does not include any individual who, at the time the transaction is entered into, is an authorised participant in relation to it by reason of section 71Z1(1)(a).”

(5) In paragraph 8 of that Schedule (offences), after sub-paragraph (9) there is inserted—

“(9A) A person (P) cannot commit an offence under sub-paragraph (1), (2), (5) or (6) on the basis that P ought reasonably to have known that a particular individual does not satisfy the condition set out in section 54(2ZA) (and is therefore not an authorised participant) if—

- (a) the individual has given a declaration under paragraph 4A stating that the individual satisfies that condition, and
- (b) P had no reasonable grounds for thinking that the statement was incorrect.”

(6) In paragraph 9 of that Schedule (transaction reports: transactions with authorised participants)—

- (a) in sub-paragraph (9)(a) and (10), for “paragraphs 2” there is inserted “ paragraphs 1A, 2 ”;
- (b) in sub-paragraph (10), after paragraph (b) there is inserted—

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“(ba) any reference to section 71HZA must be construed as a reference to paragraph 4A above;”.

(7) In Schedule 20 to the 2000 Act (penalties) the following entries are inserted at the appropriate places—

“Section 71HZA(5) (making a false declaration as to whether residence etc condition satisfied)	On summary conviction in England and Wales or Scotland: statutory maximum or 12 months On summary conviction in Northern Ireland: statutory maximum or 6 months On indictment: fine or 1 year”
“Paragraph 4A(5) of Schedule 7A (making a false declaration as to whether residence etc condition satisfied)	On summary conviction in England and Wales or Scotland: statutory maximum or 12 months On summary conviction in Northern Ireland: statutory maximum or 6 months On indictment: fine or 1 year”.

## 12 Defence to charge of failing to return donation from impermissible donor

In section 56 of the 2000 Act (acceptance or return of donations: general), after subsection (3) there is inserted—

- “(3A) Where a party or its treasurer is charged with an offence under subsection (3), it shall be a defence to prove that—
- (a) all reasonable steps were taken by or on behalf of the party to verify (or ascertain) whether the donor was a permissible donor, and
  - (b) as a result, the treasurer believed the donor to be a permissible donor.”

### Commencement Information

**I2** S. 12 in force at 1.1.2010 by S.I. 2009/3084, art. 4(a)

## Offences

## 13 “Reasonable excuse” in relation to certain offences under the 2000 Act

- (1) The 2000 Act is amended as follows.
- (2) In section 47 (failure by registered party to submit proper statement of accounts to Commission)—
  - (a) in paragraph (a) of subsection (1), after “are” there is inserted “, without reasonable excuse,”;
  - (b) in paragraph (b) of that subsection, after “is” there is inserted “, without reasonable excuse,”;
  - (c) subsections (2) and (3) are omitted.
- (3) In section 65 (submission of donation reports to Commission)—
  - (a) in subsections (3) and (4), after “commits an offence if” there is inserted “, without reasonable excuse,”;

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*Changes to legislation:* There are currently no known outstanding effects for the Political Parties and Elections Act 2009. (See end of Document for details)

- (b) subsection (5) is omitted.
- (4) In section 71S (submission of transaction reports to Commission)—
  - (a) in subsections (4) and (5), after “commits an offence if” there is inserted “, without reasonable excuse, ”;
  - (b) subsection (6) is omitted.
- (5) In paragraph 12 of Schedule 7 (failure to deliver donation report)—
  - (a) in sub-paragraph (1), between “is” and “not delivered” there is inserted “, without reasonable excuse ”;
  - (b) in sub-paragraph (2), after “which” there is inserted “, without reasonable excuse, ”;
  - (c) sub-paragraph (3) is omitted.
- (6) In paragraph 12 of Schedule 7A (failure to deliver transaction report)—
  - (a) in sub-paragraph (1), between “is” and “not delivered” there is inserted “, without reasonable excuse, ”;
  - (b) in sub-paragraph (2), after “which” there is inserted “, without reasonable excuse, ”;
  - (c) sub-paragraph (3) is omitted.

#### **Commencement Information**

- I3** S. 13 wholly in force at 1.1.2010; s. 13 not in force at Royal Assent see s. 43(1); s. 13 in force at 1.1.2010 by [S.I. 2009/3084](#), [art. 4\(b\)](#) (with [art. 5](#))

### *Responsible persons and compliance officers*

#### **14 Control of donations to members associations: responsible persons**

- (1) Schedule 7 to the 2000 Act (control of donations to members associations etc) is amended as set out in subsections (2) to (4).
- (2) In paragraph 1(9) (meaning of “the responsible person”), for paragraph (b) there is substituted—
  - “(b) otherwise, the person who is the responsible person by virtue of a notice in force under paragraph 1A.”
- (3) After paragraph 1 there is inserted—

##### **1A “Appointment of responsible person by members association with no treasurer**

- (1) A members association which does not have a treasurer—
  - (a) may appoint an individual to be the responsible person in relation to the association by giving notice to the Commission;
  - (b) shall do so within the period of 30 days beginning with the date on which the association—
    - (i) accepts a controlled donation which is a recordable donation for the purposes of paragraph 10, or

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- (ii) receives a controlled donation falling within paragraph 6(1) (a) or (b),  
 if a notice under this sub-paragraph is not in force on that date.
- (2) A notice under sub-paragraph (1)—
- (a) must be signed on behalf of the members association;
  - (b) must contain a statement signed by the individual to be appointed as the responsible person confirming that the individual is willing to be appointed.
- (3) A notice under sub-paragraph (1) must state—
- (a) the name and address of the members association;
  - (b) the full name of the individual to be appointed as the responsible person;
  - (c) the individual's home address in the United Kingdom, or (if there is no such home address) the individual's home address elsewhere.
- (4) Subject to the following provisions of this paragraph, a notice under sub-paragraph (1) (“the original notice”)—
- (a) shall be in force as from the date on which it is received by the Commission, but
  - (b) shall lapse at the end of the period of 12 months beginning with that date unless the members association or the responsible person gives the Commission a notice (a “renewal notice”) that they both wish the original notice to remain in force.
- (5) A renewal notice—
- (a) has the effect of extending the validity of the original notice for a further 12 months beginning with the time when it would otherwise have lapsed (whether under sub-paragraph (4)(b) or on the expiry of a previous extension under this sub-paragraph);
  - (b) must be received by the Commission during the period of one month ending at that time.
- (6) A renewal notice must either—
- (a) confirm that all the statements contained in the original notice, as it has effect for the time being, are accurate; or
  - (b) indicate that any statement contained in that notice, as it so has effect, is replaced by some other statement conforming with the relevant provision of sub-paragraph (3).

A renewal notice must be signed on behalf of the members association and by the responsible person.

- (7) The members association or the responsible person may, at any time after giving the original notice, give the Commission a notice (a “notice of alteration”) indicating that any statement contained in the original notice, as it has effect for the time being, is replaced by some other statement—
- (a) contained in the notice of alteration, and
  - (b) conforming with the relevant provision of sub-paragraph (3).

A notice of alteration takes effect on the day on which it is received by the Commission or (if later) on such date as may be specified in the notice.



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- (8) A notice of alteration must be signed—
  - (a) on behalf of the members association, and
  - (b) by the responsible person or, in the case of a notice substituting a different individual as the responsible person, by that individual.
- (9) A notice under sub-paragraph (1) that has been in force for at least 12 months ceases to have effect on receipt by the Commission of a notice terminating it (a “notice of termination”)—
  - (a) given by and signed on behalf of the members association, or
  - (b) given and signed by the responsible person.
- (10) On receipt of a notice of termination given by the members association or by the responsible person, the Commission must inform the other party as soon as is reasonably practicable (unless the notice was signed both on behalf of the members association and by the responsible person).
- (11) A reference in this paragraph to a notice being signed on behalf of a members association is to the notice being signed by the secretary of the association or by a person who acts in a similar capacity in relation to the association.
- (12) A notice under the Schedule 7A version of this paragraph also has effect as a notice under this paragraph.

The “Schedule 7A version” of this paragraph means this paragraph as it applies, in relation to controlled transactions, by virtue of paragraph 1(7A) of Schedule 7A.

#### 1B Offence of failing to comply with paragraph 1A

A members association commits an offence if—

- (a) it is subject to the requirement in paragraph 1A(1)(b), and
  - (b) without reasonable excuse it fails to comply with the requirement.”
- (4) In paragraph 12 (offence of failing to deliver donation report), in sub-paragraph (1) and in sub-paragraph (2), for paragraphs (a) and (b) and the words following paragraph (b) there is substituted—
- “(a) in the case of a regulated donee other than a members association, the regulated donee is guilty of an offence;
  - (b) in the case of a members association, the association and the responsible person are guilty of an offence.”
- (5) In Schedule 20 to the 2000 Act the following entry is inserted at the appropriate place—

“Paragraph 1B of Schedule 7 (failure by members association to comply with requirement to appoint responsible person)

On summary conviction: Level 5”.

#### Commencement Information

**I4** S. 14 wholly in force at 1.1.2010; s. 14 not in force at Royal Assent see s. 43(1); s. 14 in force at 1.1.2010 by S.I. 2009/3084, art. 4(c) (with art. 6)

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## **15 Control of donations to holders of elective office: compliance officers**

- (1) In Schedule 7 to the 2000 Act (control of donations to individuals etc), at the end there is inserted—

### **“PART 7**

#### **COMPLIANCE OFFICERS**

##### **Functions and liabilities of compliance officers**

- 17 (1) A regulated donee who is the holder of a relevant elective office (the “office-holder”) may, by giving a notice to the Commission which complies with paragraph 18(1), appoint an individual as compliance officer for the office-holder.
- (2) Where a notice under this paragraph is for the time being in force—
- (a) any duty imposed on the office-holder by virtue of paragraph 8, or under paragraph 10, 11 or 13, may be discharged either by the office-holder or by the compliance officer;
  - (b) section 56(3), (3B) and (4) as applied by paragraph 8, and paragraph 12(1) and (2), apply to the compliance officer as well as the office-holder (so that either or both of them may be charged with any offence under those provisions);
  - (c) if the compliance officer makes a declaration under paragraph 13, paragraph 13(4) applies to the compliance officer instead of the office-holder.
- (3) The compliance officer for an office-holder cannot be guilty of an offence under paragraph 12(1) or (2) in respect of any controlled donation received by the office-holder at a time when the notice under this paragraph was not in force.
- (4) A person commits an offence if, at a time when a notice under this paragraph is in force in relation to an office-holder, the person knowingly gives the compliance officer any information relating to—
- (a) the amount of any controlled donation made to the office-holder, or
  - (b) the person or body making such a donation,
- which is false in a material particular.

##### **Notices of appointment, renewal, alteration and termination**

- 18 (1) A notice under paragraph 17—
- (a) must be signed by the office-holder, and
  - (b) must contain a statement signed by the individual to be appointed as compliance officer confirming that the individual is willing to be appointed.
- (2) A notice under paragraph 17 must state—
- (a) the full name of the office-holder,
  - (b) the relevant elected office that the person holds,

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- (c) the office-holder's home address in the United Kingdom, or (if there is no such home address) the office-holder's home address elsewhere, and
  - (d) if the office-holder is a member of a registered party, the party's registered name and the address of its registered headquarters.
- (3) A notice under paragraph 17 must also state—
- (a) the full name of the individual to be appointed as compliance officer,
  - (b) if the individual holds a relevant elected office, what that office is,
  - (c) the individual's home address in the United Kingdom, or (if there is no such home address) the individual's home address elsewhere, and
  - (d) if the individual is a member of a registered party, the party's registered name and the address of its registered headquarters.
- (4) Subject to the following provisions of this paragraph, a notice under paragraph 17 (“the original notice”)—
- (a) shall be in force as from the date on which it is received by the Commission, but
  - (b) shall lapse at the end of the period of 12 months beginning with that date unless the office-holder or the compliance officer gives the Commission a notice (a “renewal notice”) that they both wish the original notice to remain in force.
- (5) A renewal notice—
- (a) has the effect of extending the validity of the original notice for a further 12 months beginning with the time when it would otherwise have lapsed (whether under sub-paragraph (4)(b) or on the expiry of a previous extension under this sub-paragraph);
  - (b) must be received by the Commission during the period of one month ending at that time.
- (6) A renewal notice must either—
- (a) confirm that all the statements contained in the original notice, as it has effect for the time being, are accurate; or
  - (b) indicate that any statement contained in that notice, as it so has effect, is replaced by some other statement conforming with the relevant provision of sub-paragraph (2) or (3).

A renewal notice must be signed by the office-holder and the compliance officer.

- (7) The office-holder or the compliance officer may, at any time after giving the original notice, give the Commission a notice (a “notice of alteration”) indicating that any statement contained in the original notice, as it has effect for the time being, is replaced by some other statement—
- (a) contained in the notice of alteration, and
  - (b) conforming with the relevant provision of sub-paragraph (2) or (3).

A notice of alteration takes effect on the day on which it is received by the Commission or (if later) on such date as may be specified in the notice.

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- (8) A notice of alteration must be signed—
- (a) by the office-holder, and
  - (b) by the compliance officer or, in the case of a notice substituting a different individual as the compliance officer, by that individual.
- (9) A notice under paragraph 17 ceases to have effect on receipt by the Commission of a notice terminating it (a “notice of termination”) given and signed by the office-holder or by the compliance officer.
- (10) On receipt of a notice of termination given by the office-holder or by the compliance officer, the Commission must inform the other party as soon as is reasonably practicable (unless the notice was signed both by the office-holder and by the compliance officer).

### Register of compliance officers

- 19 (1) The Commission shall maintain a register of all notices given to them under paragraph 17 which are for the time being in force.
- (2) The register shall be maintained by the Commission in such form as they may determine and shall contain, in the case of each such notice, all the information contained in the notice as it has effect for the time being in accordance with paragraph 18.
- (3) Where any notice is given to the Commission under paragraph 17 or sub-paragraph (4)(b) or (7) of paragraph 18, they shall cause all the information contained in the notice, or (as the case may be) any new information contained in it, to be entered in the register as soon as is reasonably practicable.
- (4) The information to be entered in the register in respect of any individual shall, however, not include the individual's home address.”
- (2) In Schedule 20 to the 2000 Act the following entry is inserted at the appropriate place—

“Paragraph 17(4) of Schedule 7 (knowingly giving compliance officer false information about donations)

On summary conviction in England and Wales or Scotland: statutory maximum or 12 months  
On summary conviction in Northern Ireland: statutory maximum or 6 months  
On indictment: fine or 1 year”.

### Commencement Information

**I5** S. 15 in force at 1.1.2010 by S.I. 2009/3084, art. 4(d)

### 16 Control of loans etc to members associations: responsible persons

- (1) Schedule 7A to the 2000 Act (control of loans etc to members associations etc) is amended as follows.
- (2) In paragraph 1 (operation and construction of Schedule)—

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- (a) in sub-paragraph (7)(d), the words after “(in relation to a members association)” are omitted;
- (b) after sub-paragraph (7) there is inserted—

“(7A) Paragraphs 1A and 1B of Schedule 7 apply for the purposes of this Schedule, in relation to controlled transactions, as they apply for the purposes of that Schedule in relation to controlled donations.

(7B) Paragraph 1A(1)(b) of Schedule 7, as it applies by virtue of sub-paragraph (7A) above, has effect as if for sub-paragraphs (i) and (ii) there were substituted—

“(i) enters into a controlled transaction which is a recordable transaction for the purposes of paragraph 9 of Schedule 7A, or

(ii) enters into a controlled transaction falling within paragraph 5 or 6(1)(b) of that Schedule.”.

(7C) A notice under paragraph 1A of Schedule 7 also has effect as a notice under the Schedule 7A version of that paragraph.

The “Schedule 7A version” of paragraph 1A of Schedule 7 means that paragraph as it applies, in relation to controlled transactions, by virtue of sub-paragraph (7A) above.”

- (3) In paragraph 12 (offence of failing to deliver transaction report), in sub-paragraph (1) and in sub-paragraph (2), for paragraphs (a) and (b) and the words following paragraph (b) there is substituted—

“(a) in the case of a regulated participant other than a members association, the regulated participant is guilty of an offence;

(b) in the case of a members association, the association and the responsible person are guilty of an offence.”

#### Commencement Information

**I6** S. 16 wholly in force at 1.1.2010; s. 16 not in force at Royal Assent see s. 43(1); s. 16 in force at 1.1.2010 by S.I. 2009/3084, art. 4(e) (with art. 6)

## 17 Control of loans etc to holders of elective office: compliance officers

In Schedule 7A to the 2000 Act (control of loans etc to individuals etc), at the end there is inserted—

### “Compliance officers

18 (1) This paragraph applies where a regulated participant who is the holder of a relevant elective office (the “office-holder”) has given a notice to the Commission under paragraph 17 of Schedule 7 appointing an individual as compliance officer for the office-holder.

(2) Where the notice is for the time being in force—

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- (a) any duty imposed on the office-holder under paragraph 9, 10, 11 or 13 may be discharged either by the office-holder or by the compliance officer;
  - (b) paragraph 12(1) and (2) applies to the compliance officer as well as the office-holder (so that either or both of them may be charged with an offence under paragraph 12(1) or (2));
  - (c) if the compliance officer makes a declaration under paragraph 13, paragraph 13(4) applies to the compliance officer instead of the office-holder.
- (3) The compliance officer for an office-holder cannot be guilty of an offence under paragraph 12(1) or (2) in respect of any controlled transaction entered into by the office-holder at a time when the notice was not in force.”

#### Commencement Information

I7 S. 17 in force at 1.1.2010 by S.I. 2009/3084, art. 4(f)

### 18 Person may not be “responsible person” for more than one third party

- (1) Section 88 of the 2000 Act (third parties recognised for the purposes of Part 6 of that Act) is amended as follows.
- (2) In subsection (2)(a), after “(as defined by section 54(8))” there is inserted “ who is not the responsible person in relation to another third party ”.
- (3) After subsection (3) there is inserted—
  - “(3A) A notification given by a third party does not comply with the requirement in subsection (3)(b)(iii) or (c)(ii) (to state the name of the person who will be responsible for compliance) if the person whose name is stated is—
    - (a) the responsible person in relation to another third party,
    - (b) an individual who gives a notification under subsection (1) at the same time, or
    - (c) the person whose name is stated, in purported compliance with the requirement in subsection (3)(b)(iii) or (c)(ii), in a notification given at the same time by another third party.

In this subsection “the person”, in relation to a notification to which subsection (3)(c) applies, is to be read as “the person or officer”.

- (4) Where—
  - (a) a third party gives a notification under section 88(4)(b) of the 2000 Act (“the renewal notification”) in respect of a notification under section 88(1) (“the original notification”) that was given before the commencement of this section, and
  - (b) the original notification contained a statement under section 88(3)(b)(iii) or (c)(ii) naming someone who, at the time when the renewal notification is given, is the responsible person in relation to another third party,

the renewal notification must indicate (under section 88(6)(b)) that the statement is replaced by a statement naming someone who is not the responsible person in relation to another third party.

**Status:** Point in time view as at 01/01/2010. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Political Parties and Elections Act 2009. (See end of Document for details)

### Commencement Information

**18** S. 18 in force at 1.1.2010 by S.I. 2009/3084, art. 4(g)

### *Unincorporated associations*

## **19 Reports of gifts received by unincorporated associations making political contributions**

(1) After section 140 of the 2000 Act there is inserted—

*“Reports to Commission by unincorporated associations making political contributions*

### **140A Reports of gifts received by unincorporated associations**

Schedule 19A, which requires unincorporated associations making political contributions to report gifts received by them to the Commission, has effect.”

(2) Before Schedule 19B to the 2000 Act (inserted by section 2 above) there is inserted, as Schedule 19A, the Schedule set out in Schedule 5 to this Act.

(3) In Schedule 20 to the 2000 Act the following entries are inserted at the appropriate place—

“Paragraph 6(1) of Schedule 19A (failure to give notification or report within specified period)	On summary conviction: Level 5
Paragraph 6(2) of Schedule 19A (giving notification or report that fails to comply with requirements of that Schedule)	On summary conviction in England and Wales or Scotland: statutory maximum or 12 months On summary conviction in Northern Ireland: statutory maximum or 6 months On indictment: fine or 1 year
Paragraph 6(3) of Schedule 19A (making false declaration in notification or report)	On summary conviction in England and Wales or Scotland: statutory maximum or 12 months On summary conviction in Northern Ireland: statutory maximum or 6 months On indictment: fine or 1 year”.

(4) In section 62 of the Electoral Administration Act 2006 (c. 22) (regulation of loans: power to make provision for candidates, third parties and referendums), after subsection (3) there is inserted—

“(3A) The provision that may be made by virtue of subsection (3)(e) includes, in particular, provision amending paragraph 1 of Schedule 19A to the 2000 Act (requirement for unincorporated associations to notify Commission of political contributions over £25,000) so that, in the case of a recognised third party or a permitted participant in a referendum, a “political contribution” includes a relevant matter.”

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- (5) The Secretary of State, after consulting the Electoral Commission, may make an order that—
- (a) amends or modifies the Schedule inserted into the 2000 Act by Schedule 5 so far as it applies in relation to Northern Ireland;
  - (b) makes provision that is consequential on or supplemental to that made by virtue of paragraph (a) (including provision amending or modifying any provision of the 2000 Act).
- (6) The power to make an order under subsection (5) is exercisable by statutory instrument.
- (7) No order may be made under subsection (5) unless a draft of the instrument containing the order has been laid before and approved by a resolution of each House of Parliament.
- (8) In the Schedule inserted into the 2000 Act by Schedule 5 to this Act—
- (a) the reference in paragraph 1(1) to a calendar year does not include any year before 2010;
  - (b) a reference in paragraph 2 to a gift does not include any gift received before the day on which this Act is passed.

### *Thresholds*

## **20 Increased thresholds in relation to donations etc**

- (1) In the following provisions of the 2000 Act, for “£200” there is substituted “ £500 ”
- section 52(2)(b);
  - section 54(4)(b) and (6)(b);
  - section 71F(12)(b);
  - in Schedule 7, paragraphs 4(3)(b) and 6(2) and (4)(b);
  - in Schedule 7A, paragraph 2(4)(b);
  - in Schedule 11, paragraphs 4(2) and 6(4) and (6)(b);
  - in Schedule 15, paragraphs 4(2) and 6(5) and (7)(b).
- (2) In the following provisions of the 2000 Act, for “£1,000” there is substituted “ £1,500 ”
- section 62(6A)(a) and (b), (7)(b) and (11)(b);
  - section 71M(7)(a) and (b), (8)(b) and (11)(b);
  - in Schedule 7, paragraph 10(1A)(a) and (b) and (2)(b);
  - in Schedule 7A, paragraph 9(2)(a) and (b) and (7)(b).
- (3) In the following provisions of the 2000 Act, for “£5,000” there is substituted “ £7,500 ”
- section 62(4)(a) and (b), (5)(b) and (11)(b);
  - section 63(3);
  - section 71M(4)(a) and (b), (5)(b) and (11)(b);
  - section 71Q(3);
  - in Schedule 7, paragraph 10(1A)(a) and (b) and (2)(b);
  - in Schedule 7A, paragraph 9(2)(a) and (b) and (7)(b);
  - in Schedule 11, paragraph 10(2)(a);
  - in Schedule 15, paragraph 10(2)(a).



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(4) In section 155 of the 2000 Act (power to vary specified sums), after subsection (2) there is inserted—

“(3) Subsection (4) applies in relation to the sums specified in—

- (a) Part 4;
- (b) Part 4A;
- (c) Schedule 11;
- (d) Schedule 15;
- (e) Schedule 19A.

(4) In each Parliament, other than a Parliament that is dissolved less than two years after the date of its first sitting, the Secretary of State must either—

- (a) make an order in pursuance of subsection (2)(a), or
- (b) lay before Parliament a statement setting out the Secretary of State's reasons for not doing so.”

(5) The amendment made by subsection (4) does not apply in relation to the Parliament during which this Act is passed.

#### Commencement Information

**I9** S. 20 in force at 1.1.2010 by S.I. 2009/3084, art. 4(h)

### *Election expenses*

## **21 Limitation of pre-candidacy election expenses for certain general elections**

(1) In the Representation of the People Act 1983 (c. 2) (“the 1983 Act”), after section 76 there is inserted—

### **“76ZA Limitation of pre-candidacy election expenses for certain general elections**

(1) This section applies where—

- (a) a Parliament is not dissolved until after the period of 55 months beginning with the day on which that Parliament first met (“the 55-month period”),
- (b) election expenses are incurred by or on behalf of a candidate at the parliamentary general election which follows the dissolution, and
- (c) the expenses are incurred in respect of a matter which is used during the period beginning immediately after the 55-month period and ending with the day on which the person becomes a candidate at that election.

For the purposes of this section, section 90ZA(1) has effect with the omission of the words “after the date when he becomes a candidate at the election”.

(2) Election expenses incurred as mentioned in subsection (1) must not in the aggregate exceed the permitted amount, which is the relevant percentage of the following sum—

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- (a) for a candidate at an election in a county constituency, £25,000 plus 7p for every entry in the register of electors;
- (b) for a candidate at an election in a borough constituency, £25,000 plus 5p for every entry in the register of electors.

(3) The relevant percentage is—

- (a) 100% where the dissolution was during the 60th month of the Parliament;
- (b) 90% where the dissolution was during its 59th month;
- (c) 80% where the dissolution was during its 58th month;
- (d) 70% where the dissolution was during its 57th month;
- (e) 60% where the dissolution was during its 56th month.

For the purposes of this subsection, the “56th month” of a Parliament is the month beginning immediately after the 55-month period; and so on.

(4) In subsection (2) above “the register of electors” means the register of parliamentary electors for the constituency in question as it has effect on the last day for publication of notice of the election.

(5) Where election expenses are incurred as mentioned in subsection (1) in excess of the permitted amount, any candidate or election agent who—

- (a) incurred, or authorised the incurring of, the election expenses, and
- (b) knew or ought reasonably to have known that the expenses would be incurred in excess of that amount,

shall be guilty of an illegal practice.

(6) The candidate's personal expenses do not count towards the permitted amount.”

(2) The amendments made by this section do not apply in relation to any expenses—

- (a) incurred before the commencement of this section, or
- (b) incurred in respect of any matters used before 1 January 2010.

## **22 Election expenses: guidance by Commission**

In Schedule 4A to the 1983 Act (election expenses), in paragraph 14 (guidance by Electoral Commission), for the words in sub-paragraph (1) from “giving guidance” to the end there is substituted “giving—

- (a) guidance as to the matters which do, or do not, fall within Part 1 or Part 2 of this Schedule;
- (b) guidance (supplementing the definition in section 90ZA(3) above) as to the cases or circumstances in which expenses are, or are not, to be regarded as incurred for the purposes of a candidate's election.”

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**Status:** Point in time view as at 01/01/2010. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Political Parties and Elections Act 2009. (See end of Document for details)

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## PART 3

### ELECTIONS

#### 23 Election falling within canvass period

(1) After section 13BA of the 1983 Act there is inserted—

##### “13BB Election falling within canvass period

- (1) This section applies where—
- (a) in connection with a canvass under section 10 above, the form returned in respect of an address (“the relevant address”) is completed in such a way that, by virtue of section 10A(2) above, an application for registration is treated as having been made in respect of that address; and
  - (b) notice is published of an election to which section 13B above applies that is to be held—
    - (i) in an area which includes the relevant address,
    - (ii) during the period starting with 1st July in the year of the canvass and ending with 1st December in that year.
- (2) The application shall be treated as made—
- (a) when the notice of election is published (if the canvass form has already been returned),
  - (b) when the form is returned (if the notice has already been published), or
  - (c) at such other time as may be prescribed.
- (3) Subsection (2) above does not apply if—
- (a) the canvass form is returned after the appropriate publication date; or
  - (b) the form is returned too late for the application to be determined in accordance with regulations on or before that date (even without there being any delay in dealing with the application or any objections to the registration).
- (4) Where, in consequence of the determination of the application, an entry relating to a person falls to be made in (or removed from) a register covering the relevant address, the registration officer by whom that register is maintained shall issue, in the prescribed manner, a notice specifying the appropriate alteration.
- (5) Where—
- (a) in consequence of the determination of the application, a person's entry in respect of an address other than the relevant address falls to be removed from a register maintained by a registration officer other than the one referred to in subsection (4) above,
  - (b) at the time of the determination, notice has been published of an election to which section 13B above applies that is to be held—
    - (i) in an area which includes that other address,
    - (ii) during the period starting with 1st July in the year of the canvass and ending with 1st December in that year,

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- and
- (c) the determination is made before the appropriate publication date for that election,
- the other registration officer shall, on being informed of the determination, issue in the prescribed manner a notice specifying the appropriate alteration.
- (6) A notice under subsection (4) or (5) above shall be issued on the appropriate publication date for the election in question, and the alteration shall take effect as from the beginning of that day.
- (7) A requirement imposed by subsection (4) or (5) above does not apply if, before the appropriate publication date for the election in question, the registration officer concerned publishes a revised version of the register incorporating the appropriate alteration.
- (8) In this section—
- “the appropriate publication date” has the same meaning as in section 13B above;
- “canvass form” means the form mentioned in subsection (1)(a) above.
- (9) For the purposes of this section, a canvass form is “returned” when it is received by the registration officer.”
- (2) In section 13 of that Act (publication of registers), after subsection (1) there is inserted—
- “(1A) Subsection (1)(a) above has effect, in the case of a registration officer acting for an area in which (or in part of which) an election to which section 13B below applies is held during the period—
- (a) starting with 1st July in the year in question, and
- (b) ending with 1st December in that year,
- as if for “1st December in that year” there were substituted “ 1st February in the following year ”.”

#### Commencement Information

**I10** S. 23 wholly in force at 4.9.2009; s. 23 not in force at Royal Assent see s. 43(1); s. 23 in force at 4.9.2009 by S.I. 2009/2395, art. 2(a) (with art. 3)

## 24 Candidate at parliamentary election may withhold home address from publication

- (1) Schedule 1 to the 1983 Act (parliamentary elections rules) is amended as follows.
- (2) In rule 6 (nomination of candidates)—
- (a) sub-paragraph (b) of paragraph (2) is omitted;
- (b) after paragraph (3) there is inserted—
- “(4) The nomination paper must be accompanied by a form (in this Schedule referred to as the “home address form”) which states the candidate's—

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- (a) full names, and
- (b) home address in full.

Provision in paragraph (1) above about delivery of the nomination paper applies also to the home address form.

(5) The home address form—

- (a) may contain a statement made and signed by the candidate that he requires the home address not to be made public; and
- (b) if it does so, must state the constituency within which that address is situated (or, if that address is outside the United Kingdom, the country within which it is situated)."

(3) In rule 11 (right to attend nomination)—

- (a) in paragraph (3), after “nomination paper” there is inserted “ and associated home address form ”;
- (b) after paragraph (4) there is inserted—

“(5) The returning officer shall not permit a home address form to be inspected otherwise than in accordance with this rule, or for some other purpose authorised by law.”

(4) In rule 12 (validity of nomination papers), in paragraph (1)—

- (a) after “consent to it” there is inserted “ and the home address form ”;
- (b) after sub-paragraph (a) there is inserted—

“(aa) the returning officer decides that the home address form does not comply with rule 6(4); or”.

(5) In rule 14 (publication of statement of persons nominated), after paragraph (3) there is inserted—

“(3A) In relation to a nominated person in whose case the home address form (or, if the person is nominated by more than one nomination paper, any of the home address forms) contains—

- (a) the statement mentioned in rule 6(5)(a), and
- (b) the information mentioned in rule 6(5)(b),

the reference in paragraph (2) to the person's address shall be read as a reference to the information mentioned in rule 6(5)(b).”

(6) After paragraph (4) of that rule there is inserted—

“(4A) Where—

- (a) two or more of the names shown on the statement are the same or so similar as to be likely to cause confusion,
- (b) paragraph (3A) applies in relation to each of the persons in question, and
- (c) the information mentioned in rule 6(5)(b) is the same for each of them,

the returning officer may cause any of their particulars to be shown on the statement with such amendments or additions as the officer thinks appropriate in order to reduce the likelihood of confusion.

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*Changes to legislation: There are currently no known outstanding effects for the Political Parties and Elections Act 2009. (See end of Document for details)*

- (4B) Where it is practicable to do so before the publication of the statement, the returning officer shall consult any person whose particulars are to be amended or added to under paragraph (4A).
- (4C) The returning officer must give notice in writing to any person whose particulars are amended or added to under paragraph (4A).
- (4D) Anything done by a returning officer in pursuance of paragraph (4A) must not be questioned in any proceedings other than proceedings on an election petition.
- (4E) A returning officer must have regard to any guidance issued by the Electoral Commission for the purposes of paragraph (4A).”
- (7) Before rule 54 there is inserted—

#### 53A “Destruction of home address forms

The returning officer shall destroy each candidate's home address form—

- (a) on the next working day following the 21st day after the officer has returned the name of the member elected; or
- (b) if an election petition questioning the election or return is presented before that day, on the next working day following the conclusion of proceedings on the petition or on appeal from such proceedings.”

#### Commencement Information

**III** S. 24 wholly in force at 4.9.2009; s. 24 not in force at Royal Assent see s. 43(1); s. 24 in force at 4.9.2009 by S.I. 2009/2395, art. 2(b) (with art. 3)

VALID FROM 26/03/2010

#### 25 Disposal of election documents in Scotland

In the 1983 Act—

- (a) in section 63 (breach of official duty), in subsection (3)(b), the words “sheriff clerk,” are omitted;
- (b) in Schedule 1 (parliamentary elections rules), for rule 58 there is substituted—

“58

- (1) This rule modifies rules 55 to 57 in relation to elections in Scotland.
- (2) In relation to such elections—
  - (a) the documents mentioned in rule 55(1)—
    - (i) are not to be forwarded by the returning officer as required by that rule,

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- (ii) instead, are to remain in the returning officer's custody (and be endorsed by the officer as required by that rule);
- (b) the references in rules 56 and 57 to the relevant registration officer are to be read as references to the returning officer (and rule 55(1A) is to be disregarded);
- (c) the reference in rule 57(1) to the documents to be retained is to be read as a reference to the documents remaining in the returning officer's custody under sub-paragraph (a) (ii).”

## 26 Filling vacant European Parliament seats in Northern Ireland

- (1) In section 5 of the European Parliamentary Elections Act 2002 (c. 24) (filling vacant seats), after subsection (3) there is inserted—

“(4) As regards a seat in Northern Ireland, the regulations may, in specified circumstances, require it to be filled as follows—

- (a) where the previous MEP stood in the name of a registered party when elected (or most recently elected), by a person nominated by the nominating officer of that party;
- (b) where the previous MEP stood in the names of two or more registered parties when elected (or most recently elected), by a person jointly nominated by the nominating officers of those parties;
- (c) where paragraph (a) or (b) does not apply but the previous MEP gave a notice in accordance with regulations under this Act naming one or more persons as substitutes, by a person so named.

- (5) In subsection (4)—

“nominating officer”, in relation to a registered party, means the person registered as its nominating officer under the Political Parties, Elections and Referendums Act 2000 in the Northern Ireland register (within the meaning of that Act);

“registered party” means a party registered under that Act in that register;

“the previous MEP”, in relation to a vacancy, means the person who was the MEP immediately before the vacancy arose.”

- (2) Regulations containing provision made by virtue of this section may specify that the provision has effect in relation to any seat that is vacant at the time the provision comes into force and in respect of which notice of a by-election has not been published at that time.

VALID FROM 22/01/2013

## 27 Returning officers for elections to the European Parliament

- (1) Section 6 of the European Parliamentary Elections Act 2002 (returning officers) is amended as follows.

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*Changes to legislation: There are currently no known outstanding effects for the Political Parties and Elections Act 2009. (See end of Document for details)*

(2) In subsection (2) (returning officer for electoral region in England etc), in paragraph (a), after “the Representation of the People Act 1983 (c. 2)” there is inserted “ or is the proper officer of the Greater London Authority for the purposes of section 35(2C) of that Act ”.

(3) In subsection (5A) (meaning of “local returning officer”), for paragraph (a) there is substituted—

“(a) a person who, by virtue of section 35 of the Representation of the People Act 1983, is a returning officer for—

- (i) elections of councillors of a district or London borough,
- (ii) elections of councillors of a county in which there are no district councils,
- (iii) elections to the Council of the Isles of Scilly, or
- (iv) elections of councillors of a county or county borough in Wales,

or who by virtue of section 41 of that Act is a returning officer for elections of councillors for a local authority in Scotland; or”.

(4) After subsection (8) there is inserted—

“(9) Where functions are conferred on the proper officer of the Greater London Authority under subsection (5) in relation to the London electoral region, the Authority must place the services of its employees at his disposal for the purpose of assisting him in the discharge of those functions.”

## PART 4

### ELECTORAL REGISTRATION

PROSPECTIVE

#### *Co-ordinated on-line record of electors*

#### **F128 Establishment of corporation sole to be CORE keeper**

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#### **Textual Amendments**

**F1** S. 29 repealed (2.4.2013) by Electoral Registration and Administration Act 2013 (c. 6), ss. 23(2), 27(1); S.I. 2013/702, art. 3(e)

#### **F129 Use of CORE information**

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**Status:** Point in time view as at 01/01/2010. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Political Parties and Elections Act 2009. (See end of Document for details)

### Textual Amendments

- F1** S. 29 repealed (2.4.2013) by Electoral Registration and Administration Act 2013 (c. 6), ss. 23(2), 27(1); S.I. 2013/702, art. 3(e)

### Identifying information

VALID FROM 10/06/2014

#### 30 Voluntary provision of identifying information

- (1) In this section “identifying information”, in relation to a person, means—
- (a) the person's signature or, if the person is someone to whom subsection (2) applies, an indication to that effect;
  - (b) the person's date of birth;
  - (c) the person's national insurance number or, if the person has no national insurance number, an indication to that effect.
- (2) This subsection applies to a person for whom it is not reasonably practicable to sign in a consistent and distinctive way because he or she is blind or has some other disability, or cannot read.
- (3) A registration officer, in carrying out his or her functions, including in particular—
- (a) maintaining registers under section 9 of the 1983 Act,
  - (b) conducting canvasses under section 10 of that Act, and
  - (c) determining applications for registration under section 10A or 13A of that Act,
- must take steps to obtain identifying information from each person who is, or who claims to be, entitled to be or to remain registered in any of the officer's registers.
- (4) The steps taken under subsection (3) to collect identifying information must include—
- (a) asking for the information, and
  - (b) explaining how collecting identifying information can help to improve the accuracy of the registers,
- but in taking those steps a registration officer must make clear that it is not obligatory to provide the information.
- (5) A registration officer must keep a record showing the identifying information obtained under this section.
- (6) The duties under this section do not apply at any time before 1 July 2010.

*Status: Point in time view as at 01/01/2010. This version of this Act contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Political Parties and Elections Act 2009. (See end of Document for details)*

VALID FROM 01/01/2011

### 31 Regulations amending or supplementing section 30

- (1) The Secretary of State may by regulations—
  - (a) amend subsection (1) or (2) of section 30;
  - (b) make any other amendments to that section or this section that appear to the Secretary of State to be necessary or desirable in consequence of an amendment made by virtue of paragraph (a);
  - (c) make provision supplementing that section.
- (2) The provision that may be made by virtue of subsection (1)(c) includes in particular—
  - (a) provision as to forms on which identifying information may be provided;
  - (b) provision as to explanations or other material to be provided by registration officers, either on forms of the kind mentioned in paragraph (a) or otherwise;
  - (c) provision about the form and manner in which records under section 30(5) are to be kept;
  - (d) provision for the disclosure by the authority responsible for national insurance numbers (the “relevant authority”) to a registration officer or CORE keeper, following a request by that person, of—
    - (i) the national insurance number recorded in respect of an individual specified or described in the request, or the fact that the individual is not recorded as having a national insurance number, and
    - (ii) in the case of such an individual recorded as having a national insurance number, any further information about the individual that is recorded by the relevant authority,

for the purpose of checking the accuracy of any information that appears in a register or other record kept by a registration officer (including a record under section 30(5)) or checking a person's entitlement to be registered in a register;
  - (e) provision authorising the relevant authority to charge fees to a person making a request of the kind mentioned in paragraph (d) to cover the authority's reasonable expenses in complying with such requests;
  - (f) provision for the disclosure by a CORE keeper to a registration officer, for the purpose mentioned in paragraph (d), of information within subparagraph (i) or (ii) of that paragraph;
  - (g) provision as to action to be taken by a registration officer who suspects (whether as a result of checks of the kind referred to in paragraph (d) or otherwise) that any information collected under section 30 is false.
- (3) Information obtained by a registration officer or CORE keeper under regulations made by virtue of subsection (2)(d) or (f) may not be disclosed by the officer or CORE keeper except—
  - (a) for the purpose mentioned in subsection (2)(d), or
  - (b) for the purposes of any criminal or civil proceedings,

or, in the case of information obtained by a registration officer, to a person to whom the officer may delegate his or her functions.

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- (4) A person who discloses information in breach of subsection (3) is guilty of an offence and liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both;
  - (b) on summary conviction in England and Wales and Scotland, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both;
  - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both.
- (5) Regulations under this section may contain transitional or saving provision.
- (6) The power to make regulations under this section is exercisable by statutory instrument.
- (7) Before making regulations under this section, the Secretary of State—
- (a) must consult the Electoral Commission, and
  - (b) in the case of regulations containing provision amending subsection (1) or (2) of section 30, must seek the Commission's views as to whether, if it was obligatory for every registered person to provide identifying information, the provision would help or hinder the achievement of the registration objectives.
- (8) For the purposes of this Part, the registration objectives are to secure, so far as is reasonably practicable—
- (a) that persons who are entitled to be registered in a register are registered in it,
  - (b) that persons who are not entitled to be registered in a register are not registered in it, and
  - (c) that none of the information relating to a registered person that appears in a register or other record kept by a registration officer is false.
- (9) The first regulations under this section, and any subsequent ones that amend section 30 or this section, may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.
- (10) Any regulations under this section not falling within subsection (9) are subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this section—
- “CORE keeper” has the same meaning as in Part 1 of the Electoral Administration Act 2006 (c. 22);
- “identifying information” has the same meaning as in section 30.

## **32 Report by Electoral Commission on provision of identifying information**

- (1) The Electoral Commission must keep under review the operation of section 30 and any supplementary regulations.
- (2) In each calendar year beginning with the year after that in which the duties under that section first arise, the Commission must—

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- (a) submit to the Secretary of State a report on the operation of that section and any supplementary regulations, and
  - (b) publish the report in whatever way the Commission think appropriate.
- (3) A report under this section must contain an assessment by the Commission—
- (a) as to the adequacy of the electoral registration system in Great Britain, with particular reference to the effectiveness of registration officers in meeting the registration objectives;
  - (b) as to what (if any) changes with regard to that system would be necessary or desirable for meeting those objectives if the provision of identifying information was made obligatory.
- (4) The report for 2014 must contain (as well as the assessment mentioned in subsection (3))—
- (a) the Commission's assessment, on the basis of the available evidence (including in particular evidence as to the operation of section 30 and any supplementary regulations), as to whether it would help or hinder the achievement of the registration objectives to make the provision of identifying information obligatory;
  - (b) the Commission's recommendation as to whether or not the provision of identifying information should be made obligatory.
- (5) The report for 2014 must be—
- (a) submitted to the Secretary of State by 31 July in that year, and
  - (b) laid before Parliament as soon as possible by the Secretary of State.
- (6) If—
- (a) the recommendation in the report for 2014 is that the provision of identifying information should be made obligatory, and
  - (b) the recommendation is approved by a resolution of each House of Parliament,
- the Secretary of State must as soon as reasonably practicable make an order under section 43(1) bringing section 33 into force.

The Secretary of State may not make such an order if those conditions are not met.

- (7) If—
- (a) the report for 2014 does not contain a recommendation that the provision of identifying information should be made obligatory, or
  - (b) the report does contain such a recommendation, but it is not approved by a resolution of each House of Parliament,
- within 12 months after the day on which the report is submitted by the Electoral Commission (in the case mentioned in paragraph (a)) or disapproved in Parliament (in the case mentioned in paragraph (b)), the Secretary of State must require the Commission to submit, by a specified date, a further report under this section containing the things mentioned in subsection (4).
- (8) For the purposes of subsection (7)—
- (a) a report is disapproved in Parliament when either House decides against resolving to approve the report (or, if both Houses so decide on different days, when the first of them so decides);

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- (b) the date specified by the Secretary of State must be at least one year, but no more than two years, after the day on which the requirement under that subsection is imposed.
- (9) Subsections (5)(b) and (6) to (8) apply to a report submitted in response to a requirement under subsection (7) as they apply to the report for 2014.
- (10) A registration officer must comply with any request made in writing by the Electoral Commission for assistance that they reasonably require in connection with the preparation of a report under this section.
- (11) In this section—
- “identifying information” has the same meaning as in section 30;
  - “obligatory” means obligatory for every person registered in a register;
  - “supplementary regulations” means regulations under section 31 made by virtue of subsection (1)(c) of that section.

#### Commencement Information

**I12** S. 32 partly in force; s. 32(6) in force at Royal Assent, see s. 43(5)

VALID FROM 10/06/2014

### 33 Obligatory provision of identifying information

- (1) With effect from the commencement of this section, the amendments made to the 1983 Act by section 1 of the Electoral Fraud (Northern Ireland) Act 2002 (c. 13) extend to the whole of the United Kingdom.
- (2) The 1983 Act is amended as follows.
- (3) In section 10 (maintenance of registers: annual canvass)—
- (a) for subsection (4) there is substituted—
    - “(4) The form to be used for the purposes of a canvass shall be—
    - (a) a form prescribed for those purposes, or
    - (b) a form to the same effect.

Paragraph (b) does not apply in Northern Ireland and, in Great Britain, does not apply if or to the extent that regulations so provide.”;
- (b) in subsection (4A), for “a canvass in Northern Ireland” there is substituted “a canvass”;
  - (c) in subsection (4A)(c), at the beginning of sub-paragraph (ii) there is inserted “in the case of a canvass in Northern Ireland,”;
  - (d) in subsection (4B), for “The Chief Electoral Officer for Northern Ireland” there is substituted “A registration officer”;
  - (e) after that subsection there is inserted—
    - “(4C) In relation to each person without a national insurance number to whom the form mentioned in subsection (4) above relates,

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regulations may require the form to be accompanied by such other evidence to identify the person as may be prescribed.

(4D) A registration officer shall keep a record showing the information obtained under subsection (4A) above or by virtue of subsection (4C) above.”

(4) In section 10ZB (the relevant registration objectives)—

- (a) in the heading, the words “(Northern Ireland)” are omitted;
- (b) in subsection (3), for “the Chief Electoral Officer for Northern Ireland” there is substituted “ a registration officer ”;
- (c) in subsections (4) and (5)(a), for “the Chief Electoral Officer” there is substituted “ the registration officer concerned ”.

(5) In section 10A (maintenance of registers: registration of electors)—

- (a) in subsection (1A), the words “in respect of an address in Northern Ireland” are omitted;
- (b) in subsection (1A)(c), at the beginning of sub-paragraph (ii) there is inserted “ in the case of an application for registration in respect of an address in Northern Ireland, ”;
- (c) in subsection (1B), for “The Chief Electoral Officer for Northern Ireland” there is substituted “ A registration officer ”;
- (d) after that subsection there is inserted—

“(1C) In relation to each person without a national insurance number to whom an application for registration relates, regulations may require the application to be accompanied by such other evidence to identify the person as may be prescribed.

(1D) A registration officer shall keep a record showing the information obtained under subsection (1A) above or by virtue of subsection (1C) above.”;

- (e) in subsection (2)(a), for the words from “the form” to “in a register” there is substituted “ a completed form specifies any person as a person who is entitled to be registered in a register in respect of a particular address ”;
- (f) in subsection (5)(a), for sub-paragraph (i) there is substituted—
  - “(i) no canvass form was returned showing the elector as resident at that address on that date, or”;
- (g) in subsection (5A), for the words in paragraph (a) from the beginning to “does not include” there is substituted “ a canvass form has been returned showing the elector as resident at that address but the form does not include ”;
- (h) in subsection (7), for the words after “in cases where” there is substituted “ no canvass form has been returned in respect of the person in question ”;
- (i) in subsection (9), before the definition of “determines” there is inserted—

““canvass form” means the form mentioned in section 10(4) above;”.

(6) In section 13A (alteration of registers)—

- (a) in subsection (2A), the words “in respect of an address in Northern Ireland” are omitted;

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- (b) in subsection (2A)(c), at the beginning of sub-paragraph (ii) there is inserted “ in the case of an application for registration in respect of an address in Northern Ireland, ”;
- (c) in subsection (2B), for “The Chief Electoral Officer for Northern Ireland” there is substituted “ A registration officer ”;
- (d) after that subsection there is inserted—
- “(2C) In relation to each person without a national insurance number to whom an application for registration under subsection (1)(a) above relates, regulations may require the application to be accompanied by such other evidence to identify the person as may be prescribed.
- (2D) A registration officer shall keep a record showing the information obtained under subsection (2A) above or by virtue of subsection (2C) above.”
- (7) In section 13BB (election falling within canvass period) (inserted by section 23 above), in subsection (1)(a)—
- (a) for “the form returned in respect of an address (“the relevant address”)” there is substituted “ a form ”;
- (b) for “an application for registration is treated as having been made in respect of that address” there is substituted “ an application for registration in respect of a particular address (“the relevant address”) is treated as having been made ”.
- (8) In section 13D (provision of false information), in subsection (2), for “the Chief Electoral Officer for Northern Ireland” there is substituted “ a registration officer ”.
- (9) In section 201 (regulations), after subsection (2A) there is inserted—
- “(2B) In the case of regulations under section 10(4C), 10A(1C) or 13A(2C), in carrying out the consultation required by section 7 of the Political Parties, Elections and Referendums Act 2000 the Secretary of State shall seek the views of the Electoral Commission as to whether the provision to be made by the regulations would help or hinder the achievement of the registration objectives (within the meaning given by section 10ZB).”
- (10) In Schedule 2 (provisions which may be contained in regulations as to registration etc), in paragraph 1—
- (a) after sub-paragraph (4) there is inserted—
- “(4ZA) Provisions for the disclosure (otherwise than by virtue of sub-paragraph (4) above) by the authority responsible for national insurance numbers (the “relevant authority”) to a registration officer or a CORE keeper, following a request by that person, of—
- (a) the national insurance number recorded in respect of an individual specified or described in the request, or the fact that the individual is not recorded as having a national insurance number, and
- (b) in the case of such an individual recorded as having a national insurance number, any further information about the individual that is recorded by the relevant authority,

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for the purpose of checking the accuracy of any information that appears in a register or other record kept by a registration officer or checking a person's entitlement to be registered in such a register.

(4ZB) Provisions authorising the relevant authority to charge fees to a person making a request of the kind mentioned in sub-paragraph (4ZA) to cover the authority's reasonable expenses in complying with such requests.

(4ZC) Provisions for the disclosure by a CORE keeper to a registration officer, for the purpose mentioned in sub-paragraph (4ZA), of information within paragraph (a) or (b) of that sub-paragraph.”;

(b) in sub-paragraph (4A), for “such authority or person” there is substituted “authority or person within paragraph (a) or (b) of sub-paragraph (4)”, and for “such records” there is substituted “any records within sub-paragraph (4)”;

(c) in sub-paragraph (5), for “sub-paragraph (4) or (4A)” there is substituted “sub-paragraph (4), (4ZA) or (4A)”;

(d) for sub-paragraph (6) there is substituted—

“(6) But provision made under sub-paragraph (4ZA), (4ZC) or (4A) may not permit information obtained by a registration officer or CORE keeper under that provision to be disclosed by the officer or CORE keeper except—

(a) for the purpose mentioned in sub-paragraph (4ZA) or, as the case may be, sub-paragraph (4A), or

(b) for the purposes of any criminal or civil proceedings, or, in the case of information obtained by a registration officer, to a person to whom the officer may delegate functions.”;

(e) after sub-paragraph (6) there is inserted—

“(6A) In sub-paragraphs (4ZA) and (4ZC) “CORE keeper” has the same meaning as in Part 1 of the Electoral Administration Act 2006.”;

(f) sub-paragraph (8) is omitted.

(11) In paragraph 13 of that Schedule, for sub-paragraph (1ZA) there is substituted—

“(1ZA) Provisions making a person who discloses information in breach of paragraph 1(6) guilty of an offence punishable—

(a) on conviction on indictment, by imprisonment for a term not exceeding two years or a fine, or both;

(b) on summary conviction in England and Wales and Scotland, by imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum, or both;

(c) on summary conviction in Northern Ireland, by imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum, or both.”



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VALID FROM 10/06/2014

### **34 Provision supplementing section 33**

- (1) Where on the commencement of section 33 a person is registered in a register maintained by a registration officer, the person's name is not to be removed from the register by virtue of section 10A(5A) of the 1983 Act (canvass form not including required information, etc) until the conclusion of the third canvass to be concluded after the commencement of that section.
- (2) An order bringing section 33 into force may—
  - (a) repeal any provision of sections 30, 31 and 32;
  - (b) make amendments to any enactment that are consequential on the coming into force of section 33.
- (3) The Secretary of State may (either before, at the same time as or after section 33 is brought into force) by regulations—
  - (a) amend section 10(4A) or (4B), section 10A(1A) or (1B) or section 13A(2A) or (2B) of the 1983 Act;
  - (b) make any other amendments to the 1983 Act that appear to the Secretary of State to be necessary or desirable in consequence of an amendment made by virtue of paragraph (a).
- (4) Regulations under subsection (3)—
  - (a) may make different provision for different purposes or different areas;
  - (b) may make transitional or saving provision.
- (5) The power to make regulations under subsection (3) is exercisable by statutory instrument.
- (6) Before making regulations under subsection (3) the Secretary of State must—
  - (a) consult the Electoral Commission, and
  - (b) in the case of regulations containing provision amending section 10(4A) or (4B), section 10A(1A) or (1B) or section 13A(2A) or (2B) of the 1983 Act, seek the Commission's views as to whether the provision would help or hinder the achievement of the registration objectives.
- (7) An order containing provision made by virtue of paragraph (b) of subsection (2), or regulations under subsection (3), may not be made unless a draft of the statutory instrument containing the order or regulations has been laid before, and approved by a resolution of, each House of Parliament.

VALID FROM 01/01/2011

### *Data schemes*

### **35 Schemes for provision of data to registration officers**

- (1) The Secretary of State may by order made by statutory instrument make provision (referred to below as a “scheme”) authorising or requiring specified persons

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to provide to a specified registration officer, for the purpose mentioned in subsection (2), information contained in records kept by those persons.

- (2) The purpose is assisting the registration officer to meet the registration objectives and, in particular, assisting the officer—
  - (a) to ascertain to what extent those objectives are being met, and
  - (b) to determine what steps should be taken for meeting them.
- (3) A scheme may authorise or require information to be provided at specified times or in specified circumstances.
- (4) A scheme may not authorise or require information to be provided by a person other than—
  - (a) a local or public authority, or
  - (b) a person providing services to, or authorised to exercise any function of, a local or public authority.
- (5) An order under this section may include more than one scheme.
- (6) An order under this section has effect despite any statutory or other restriction on the disclosure of information (but may not permit disclosure in breach of subsection (7)).
- (7) Information provided to a registration officer under an order under this section may not be disclosed to a person other than one to whom the officer may delegate his or her functions, except—
  - (a) for the purpose mentioned in subsection (2), or
  - (b) for the purposes of any criminal or civil proceedings.
- (8) A person who discloses information in breach of subsection (7) is guilty of an offence and liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both;
  - (b) on summary conviction in England and Wales and Scotland, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both;
  - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both.
- (9) An order under this section may contain incidental, supplemental, transitional or saving provision.
- (10) An order under this section must not be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- (11) In this section “specified” means specified in an order under this section.

### **36 Schemes under section 35: proposals, consultation and evaluation**

- (1) A scheme may be included in an order under section 35 only if a proposal has been submitted to the Secretary of State by the registration officer to whom the scheme relates and the scheme gives effect to the proposal, either—
  - (a) without modification, or

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- (b) with modifications suggested by the Secretary of State and agreed to by the officer.
- (2) The Secretary of State may not make an order under section 35 without first consulting—
- (a) the Electoral Commission;
  - (b) any person authorised or required by the order to provide information to a registration officer;
  - (c) the Information Commissioner.
- (3) An order under section 35 must specify a date (the “evaluation date”) for each scheme included in the order.
- The Electoral Commission must prepare a report on the operation of each scheme and, no later than the evaluation date, give a copy of it—
- (a) to the registration officer concerned, and
  - (b) to the Secretary of State.
- (4) A report under subsection (3) must set out the terms of the scheme and must contain—
- (a) a description of the scheme;
  - (b) an assessment of the matters set out in subsection (5);
  - (c) anything else specified in the order under section 35.
- (5) The matters are—
- (a) the extent to which the scheme has achieved the purpose mentioned in section 35(2);
  - (b) whether there was any objection to the scheme, and if so how much;
  - (c) how easy the scheme was to administer;
  - (d) the extent to which the scheme resulted in savings of time and costs, or the opposite.
- (6) The registration officer concerned—
- (a) must give the Electoral Commission whatever assistance they reasonably require in connection with the preparation of the report;
  - (b) must publish the report in whatever way the officer thinks appropriate.
- (7) In this section “scheme” has the same meaning as in section 35.

VALID FROM 01/01/2011

### *Interpretation*

#### **37 Meaning of expressions relating to registration**

In this Part (except in section 33)—

“false”, in relation to a signature, means that the signature is not the usual signature of, or was written by a person other than, the person whose signature it purports to be;

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“register”, in relation to a registration officer, means a register maintained by that officer under section 9 of the 1983 Act;

“registered person” means a person registered in such a register;

“registration objectives” has the meaning given by section 31(8);

“registration officer” has the same meaning as in the 1983 Act (see section 8 of that Act) except that it does not include the Chief Electoral Officer for Northern Ireland.

## PART 5

### GENERAL

#### 38 Meaning of “the 1983 Act” and “the 2000 Act”

In this Act—

“the 1983 Act” means the Representation of the People Act 1983 (c. 2);

“the 2000 Act” means the Political Parties, Elections and Referendums Act 2000 (c. 41).

#### 39 Amendments and repeals

Schedules 6 (minor and consequential amendments) and 7 (repeals) have effect.

#### Commencement Information

**I13** S. 39 partly in force; s. 39 in force for certain purposes at Royal Assent see s. 43(5); s. 39 in force for certain purposes at 4.9.2009 by [S.I. 2009/2395, art. 2\(c\)](#) (with [art. 3](#)); for certain purposes at 25.11.2009 and 1.1.2010 by [S.I. 2009/3084, arts. 3\(b\)\(c\)\(d\), 4\(i\)](#)

#### 40 Transitional provision

In relation to England and Wales, a reference in this Act to imprisonment for a term not exceeding 12 months (including any such reference inserted in any other Act) is to be read, in the case of an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (general limit on magistrates' court's power to impose imprisonment), as a reference to imprisonment for a term not exceeding six months.

#### 41 Money

- (1) There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable under any other Act out of money so provided.
- (2) There shall be charged on and paid out of the Consolidated Fund any increase attributable to this Act in the sums to be charged on and paid out of that Fund under any other Act.
- (3) There shall be paid into the Consolidated Fund any increase attributable to this Act in the sums payable into that Fund under any other Act.

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## 42 Extent

- (1) This Act extends to England and Wales, Scotland and Northern Ireland.
- (2) The following provisions extend also to Gibraltar—
  - section 1(1) and (3);
  - section 4;
  - sections 5 to 7, paragraphs 9, 10, 11 and 27 of Schedule 6 and the entry in Schedule 7 relating to Schedule 1 to the 2000 Act;
  - section 12.

## 43 Commencement

- (1) This Act comes into force on whatever day or days the Secretary of State appoints by order made by statutory instrument.
- (2) An order under subsection (1)—
  - (a) may make different provision for different purposes or different areas;
  - (b) may make transitional or saving provision.
- (3) An order under subsection (1) bringing into force any provision of section 10 or 11, or Schedule 4, may make such supplementary, incidental or consequential provision as the Secretary of State considers appropriate—
  - (a) for the general purposes, or any particular purposes, of those sections or that Schedule, or
  - (b) in consequence of, or for giving full effect to, any provision of those sections or that Schedule.
- (4) An order made by virtue of subsection (3) may make provision amending this Act or the 2000 Act.

An order that makes any such provision must not be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.

- (5) Subsection (1) does not apply to—
  - (a) section 1(1) and (3),
  - (b) sections 4, 5 and 7, paragraphs 9, 10, 11 and 27 of Schedule 6 and the entry in Schedule 7 relating to Schedule 1 to the 2000 Act,
  - (c) section 19 and Schedule 5,
  - (d) section 22,
  - (e) section 26,
  - (f) section 32(6),
  - (g) section 38,
  - (h) section 39 so far as relating to provisions in Schedules 6 and 7 mentioned above, and
  - (i) sections 40 to 44,

which accordingly come into force on the day on which this Act is passed.

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#### Subordinate Legislation Made

- P1** S. 43(1)(2)(b) power partly exercised: 4.9.2009 appointed for specified provisions by {S.I. 2009/2395}, art. 2 (with transitional provisions in art. 3); different dates appointed for specified provisions by {S.I. 2009/3084}, arts. 3, 4 (with arts. 5, 6)

#### 44 Short title

This Act may be cited as the Political Parties and Elections Act 2009.

## SCHEDULES

VALID FROM 01/12/2010

## SCHEDULE 1

Section 2

INVESTIGATORY POWERS OF COMMISSION:  
SCHEDULE TO BE INSERTED INTO THE 2000 ACT

## “SCHEDULE 19B

Section 146

## INVESTIGATORY POWERS OF COMMISSION

*Power to require disclosure*

- 1 (1) This paragraph applies to the following organisations and individuals—
- (a) a registered party or, in the case of a registered party with accounting units—
    - (i) the central organisation of the party;
    - (ii) an accounting unit of the party;
  - (b) a recognised third party (within the meaning of Part 6);
  - (c) a permitted participant (within the meaning of Part 7);
  - (d) a regulated donee (within the meaning of Schedule 7);
  - (e) a regulated participant (within the meaning of Schedule 7A);
  - (f) a candidate at an election (other than a local government election in Scotland);
  - (g) the election agent for such a candidate;
  - (h) an organisation or individual formerly falling within any of paragraphs (a) to (g).
- (2) The Commission may give a disclosure notice to a person who—
- (a) is the treasurer or another officer of an organisation to which this paragraph applies, or has been at any time in the period of five years ending with the day on which the notice is given; or
  - (b) is an individual to whom this paragraph applies.
- (3) A disclosure notice is a notice requiring the person to whom it is given—
- (a) to produce, for inspection by the Commission or a person authorised by the Commission, any documents which—
    - (i) relate to the income and expenditure of the organisation or individual in question, and
    - (ii) are reasonably required by the Commission for the purposes of carrying out their functions;

or

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- (b) to provide the Commission, or a person authorised by the Commission, with any information or explanation which relates to that income and expenditure and is reasonably required by the Commission for those purposes.
- (4) A person to whom a disclosure notice is given shall comply with it within such reasonable time as is specified in the notice.

#### *Inspection warrants*

- 2 (1) This paragraph applies to the following organisations and individuals—
  - (a) a registered party or, in the case of a registered party with accounting units—
    - (i) the central organisation of the party;
    - (ii) an accounting unit of the party;
  - (b) a recognised third party (within the meaning of Part 6);
  - (c) a permitted participant (within the meaning of Part 7);
  - (d) a members association (within the meaning of Schedule 7).
- (2) A justice of the peace may issue an inspection warrant in relation to premises occupied by any such organisation or individual if satisfied, on information on oath given by or on behalf of the Commission, that—
  - (a) there are reasonable grounds for believing that on those premises there are documents relating to the income and expenditure of the organisation or individual,
  - (b) the Commission need to inspect the documents for the purposes of carrying out functions of the Commission other than investigatory functions, and
  - (c) permission to inspect the documents on the premises has been requested by the Commission and has been unreasonably refused.
- (3) An inspection warrant is a warrant authorising a member of the Commission's staff—
  - (a) at any reasonable time to enter the premises specified in the warrant, and
  - (b) having entered the premises, to inspect any documents within subparagraph (2)(a).
- (4) An inspection warrant also authorises the person who executes the warrant to be accompanied by any other persons who the Commission consider are needed to assist in executing it.
- (5) The person executing an inspection warrant must, if required to do so, produce—
  - (a) the warrant, and
  - (b) documentary evidence that the person is a member of the Commission's staff,
 for inspection by the occupier of the premises that are specified in the warrant or by anyone acting on the occupier's behalf.
- (6) An inspection warrant continues in force until the end of the period of one month beginning with the day on which it is issued.
- (7) An inspection warrant may not be used for the purposes of carrying out investigatory functions.
- (8) In this paragraph “investigatory functions” means functions of investigating suspected offences under this Act or suspected contraventions of restrictions or requirements imposed by or by virtue of this Act.



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(9) In the application of this paragraph to Scotland—

- (a) a reference to a justice of the peace is to be read as a reference to a justice of the peace or a sheriff;
- (b) a reference to information on oath is to be read as a reference to evidence on oath.

*Powers in relation to suspected offences or contraventions*

3 (1) This paragraph applies where the Commission have reasonable grounds to suspect that—

- (a) a person has committed an offence under this Act, or
- (b) a person has contravened (otherwise than by committing an offence) any restriction or other requirement imposed by or by virtue of this Act.

In this paragraph “the suspected offence or contravention” means the offence or contravention referred to above.

(2) The Commission may by notice require any person (including an organisation to which, or an individual to whom, paragraph 1 applies)—

- (a) to produce, for inspection by the Commission or a person authorised by the Commission, any documents that they reasonably require for the purposes of investigating the suspected offence or contravention;
- (b) to provide the Commission, or a person authorised by the Commission, with any information or explanation that they reasonably require for those purposes.

(3) A person to whom a notice is given under sub-paragraph (2) shall comply with it within such reasonable time as is specified in the notice.

(4) A person authorised by the Commission (“the investigator”) may require—

- (a) the person mentioned in sub-paragraph (1), if that person is an individual, or
- (b) an individual who the investigator reasonably believes has relevant information,

to attend before the investigator at a specified time and place and answer any questions that the investigator reasonably considers to be relevant.

(5) In sub-paragraph (4) “relevant” means relevant to an investigation by the Commission of the suspected offence or contravention.

*Court order for delivery of documents or provision of information etc*

4 (1) This paragraph applies where the Commission have given a notice under paragraph 3 requiring documents to be produced.

(2) The High Court or (in Scotland) the Court of Session may make a document-disclosure order against a person (“the respondent”) if satisfied on an application by the Commission that—

- (a) there are reasonable grounds to suspect that a person (whether or not the respondent) has committed an offence under this Act or has contravened (otherwise than by committing an offence) any restriction or other requirement imposed by or by virtue of this Act, and
- (b) there are documents referred to in the notice under paragraph 3 which—

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- (i) have not been produced as required by the notice (either within the time specified in the notice for compliance or subsequently),
  - (ii) are reasonably required by the Commission for the purposes of investigating the offence or contravention referred to in paragraph (a), and
  - (iii) are in the custody or under the control of the respondent.
- (3) A document-disclosure order is an order requiring the respondent to deliver to the Commission, within such time as is specified in the order, such documents falling within sub-paragraph (2)(b) as are identified in the order (either specifically or by reference to any category or description of document).
- (4) For the purposes of sub-paragraph (2)(b)(iii) a document is under a person's control if it is in the person's possession or if the person has a right to possession of it.
- (5) A person who fails to comply with a document-disclosure order may not, in respect of that failure, be both punished for contempt of court and convicted of an offence under paragraph 13(1).
- 5 (1) This paragraph applies where the Commission have given a notice under paragraph 3 requiring any information or explanation to be provided.
- (2) The High Court or (in Scotland) the Court of Session may make an information-disclosure order against a person (“the respondent”) if satisfied on an application by the Commission that—
- (a) there are reasonable grounds to suspect that a person (whether or not the respondent) has committed an offence under this Act or has contravened (otherwise than by committing an offence) any restriction or other requirement imposed by or by virtue of this Act, and
  - (b) there is any information or explanation referred to in the notice under paragraph 3 which—
    - (i) has not been provided as required by the notice (either within the time specified in the notice for compliance or subsequently),
    - (ii) is reasonably required by the Commission for the purposes of investigating the offence or contravention referred to in paragraph (a), and
    - (iii) the respondent is able to provide.
- (3) An information-disclosure order is an order requiring the respondent to provide to the Commission, within such time as is specified in the order, such information or explanation falling within sub-paragraph (2)(b) as is identified in the order.
- (4) A person who fails to comply with an information-disclosure order may not, in respect of that failure, be both punished for contempt of court and convicted of an offence under paragraph 13(1).

*Retention of documents delivered under paragraph 4*

- 6 (1) The Commission may retain any documents delivered to them in compliance with an order under paragraph 4 for a period of three months (or for longer if any of following sub-paragraphs applies).

In this paragraph “the documents” and “the three-month period” mean the documents and the period mentioned above.

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- (2) If within the three-month period proceedings to which the documents are relevant are commenced against any person for any criminal offence, the documents may be retained until the conclusion of those proceedings.
- (3) If within the three-month period the Commission serve a notice under paragraph 2(1) of Schedule 19C of a proposal to impose a fixed monetary penalty on any person and the documents are relevant to the decision to serve the notice, the documents may be retained—
  - (a) until liability for the penalty is discharged as mentioned in paragraph 2(2) of that Schedule (if it is);
  - (b) until the Commission decide not to impose a fixed monetary penalty (if that is what they decide);
  - (c) until the end of the period given by sub-paragraph (5) (if they do impose a fixed monetary penalty).
- (4) If within the three-month period the Commission serve a notice under paragraph 6(1) of Schedule 19C of a proposal to impose a discretionary requirement on any person and the documents are relevant to the decision to serve the notice, the documents may be retained—
  - (a) until the Commission decide not to impose a discretionary requirement (if that is what they decide);
  - (b) until the end of the period given by sub-paragraph (5) (if they do impose a discretionary requirement).
- (5) If within the three-month period—
  - (a) a notice is served imposing a fixed monetary penalty on any person under paragraph 2(4) of Schedule 19C and the documents are relevant to the decision to impose the penalty, or
  - (b) a notice is served imposing a discretionary requirement on any person under paragraph 6(5) of that Schedule and the documents are relevant to the decision to impose the requirement,the documents may be retained until the end of the period allowed for bringing an appeal against that decision or (if an appeal is brought) until the conclusion of proceedings on the appeal.
- (6) If within the three-month period—
  - (a) a stop notice is served on any person under paragraph 10 of Schedule 19C, and
  - (b) the documents are relevant to the decision to serve the notice,the documents may be retained until the end of the period allowed for bringing an appeal against that decision or (if an appeal is brought) until the conclusion of proceedings on the appeal.
- (7) If within the three-month period or the period given by sub-paragraph (6) (or, if applicable, by sub-paragraph (4) or (5)(b))—
  - (a) the Commission, having served a stop notice on any person under paragraph 10 of Schedule 19C, decide not to issue a completion certificate under paragraph 12 of that Schedule in relation to the stop notice, and
  - (b) the documents are relevant to the decision not to issue the certificate,

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the documents may be retained until the end of the period allowed for bringing an appeal against that decision or (if an appeal is brought) until the conclusion of proceedings on the appeal.

*Power to make copies and records*

- 7 The Commission or a person authorised by the Commission—
- (a) may make copies of, or make records of any information contained in—
    - (i) any documents produced or inspected under this Schedule;
    - (ii) any documents delivered to them in compliance with an order under paragraph 4;
  - (b) may make copies or records of any information or explanation provided under this Schedule.

*Authorisation to be in writing*

- 8 An authorisation of a person by the Commission under this Schedule must be in writing.

*Meaning of “documents”*

- 9 In this Schedule “documents” includes any books or records.

*Documents in electronic form*

- 10 (1) In the case of documents kept in electronic form—
- (a) a power of the Commission under this Schedule to require documents to be produced for inspection includes power to require a copy of the documents to be made available for inspection in legible form;
  - (b) a power of a person (“the inspector”) under this Schedule to inspect documents includes power to require any person on the premises in question to give any assistance that the inspector reasonably requires to enable the inspector—
    - (i) to inspect and make copies of the documents in legible form or to make records of information contained in them, or
    - (ii) to inspect and check the operation of any computer, and any associated apparatus or material, that is or has been in use in connection with the keeping of the documents.
- (2) Paragraph 7(a) applies in relation to any copy made available as mentioned in subparagraph (1)(a) above.

*Legal professional privilege*

- 11 Nothing in this Schedule requires a person to produce or provide, or authorises a person to inspect or take possession of, anything in respect of which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

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#### *Admissibility of statements*

- 12 (1) A statement made by a person (“P”) in compliance with a requirement imposed under this Schedule is admissible in evidence in any proceedings (as long as it also complies with any requirements governing the admissibility of evidence in the circumstances in question).
- (2) But in criminal proceedings in which P is charged with an offence other than one to which sub-paragraph (3) applies or in proceedings within sub-paragraph (4) to which both the Commission and P are parties—
- (a) no evidence relating to the statement is admissible against P, and
  - (b) no question relating to the statement may be asked on behalf of the prosecution or (as the case may be) the Commission in cross-examination of P,
- unless evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of P.
- (3) This sub-paragraph applies to—
- (a) an offence under paragraph 13(3);
  - (b) an offence under section 5 of the Perjury Act 1911 (false statements made otherwise than on oath);
  - (c) an offence under section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made otherwise than on oath);
  - (d) an offence under Article 10 of the Perjury (Northern Ireland) Order 1979 (false statements made otherwise than on oath).
- (4) Proceedings are within this sub-paragraph if they arise out of the exercise by the Commission of any of their powers under Schedule 19C other than powers in relation to an offence under paragraph 13(3) below.

#### *Offences*

- 13 (1) A person who fails, without reasonable excuse, to comply with any requirement imposed under or by virtue of this Schedule commits an offence.
- (2) A person who intentionally obstructs a person authorised by or by virtue of this Schedule in the carrying out of that person's functions under the authorisation commits an offence.
- (3) A person who knowingly or recklessly provides false information in purported compliance with a requirement imposed under or by virtue of this Schedule commits an offence.

#### *Guidance by Commission*

- 14 (1) The Commission shall prepare and publish guidance as to—
- (a) the circumstances in which the Commission are likely to give a notice under paragraph 1 or 3(2);
  - (b) the consequences (including criminal sanctions) that may result from a failure to comply with such a notice;
  - (c) the circumstances in which the Commission are likely to apply for a warrant under paragraph 2;

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- (d) the procedures to be followed in connection with questioning under paragraph 3(4);
  - (e) the circumstances in which the Commission are likely to apply for an order under paragraph 4 or 5;
  - (f) the principles and practices to be applied in connection with the exercise of powers under paragraphs 6 and 7;
  - (g) any other matters concerning the exercise of powers under this Schedule about which the Commission consider that guidance would be useful.
- (2) Where appropriate, the Commission shall revise guidance published under this paragraph and publish the revised guidance.
- (3) The Commission shall consult such persons as they consider appropriate before publishing guidance or revised guidance under this paragraph.
- (4) The Commission shall have regard to the guidance or revised guidance published under this paragraph in exercising their functions.

*Information about use of investigatory powers in Commission's annual report*

- 15 (1) Each report by the Commission under paragraph 20 of Schedule 1 shall contain information about the use made by the Commission of their powers under this Schedule during the year in question.
- (2) The report shall, in particular, specify—
- (a) the cases in which a notice was given under paragraph 1 or 3(2);
  - (b) the cases in which premises were entered under a warrant issued under paragraph 2;
  - (c) the cases in which a requirement was imposed under paragraph 3(4);
  - (d) the cases in which an order under paragraph 4 or 5—
    - (i) was applied for;
    - (ii) was made.
- (3) This paragraph does not require the Commission to include in a report any information that, in their opinion, it would be inappropriate to include on the ground that to do so—
- (a) would or might be unlawful, or
  - (b) might adversely affect any current investigation or proceedings.”

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VALID FROM 01/12/2010

## SCHEDULE 2

Section 3

### CIVIL SANCTIONS: SCHEDULE TO BE INSERTED INTO THE 2000 ACT

#### “SCHEDULE 19C

Section 147

#### CIVIL SANCTIONS

### PART 1

#### FIXED MONETARY PENALTIES

##### *Imposition of fixed monetary penalties*

- 1 (1) The Commission may by notice impose a fixed monetary penalty on a person if satisfied beyond reasonable doubt that the person—
  - (a) has committed a prescribed offence under this Act, or
  - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (2) The Commission may by notice impose a fixed monetary penalty on a registered party if satisfied beyond reasonable doubt that a person holding an office within that party—
  - (a) has committed a prescribed offence under this Act, or
  - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (3) The Commission may by notice impose a fixed monetary penalty on a recognised third party if satisfied beyond reasonable doubt that the responsible person—
  - (a) has committed a prescribed offence under this Act, or
  - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (4) The Commission may by notice impose a fixed monetary penalty on a permitted participant if satisfied beyond reasonable doubt that the responsible person—
  - (a) has committed a prescribed offence under this Act, or
  - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (5) For the purposes of this Schedule a “fixed monetary penalty” is a requirement to pay to the Commission a penalty of a prescribed amount.
- (6) In the case of a fixed monetary penalty imposed under sub-paragraph (1)(a), (2)(a), (3)(a) or (4)(a), where the offence in question is—
  - (a) triable summarily (whether or not it is also triable on indictment), and
  - (b) punishable on summary conviction by a fine (whether or not it is also punishable by a term of imprisonment),

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the amount of the penalty may not exceed the maximum amount of that fine.

*Representations and appeals etc*

- 2 (1) Where the Commission propose to impose a fixed monetary penalty on a person, they shall serve on the person a notice of what is proposed.

- (2) A notice under sub-paragraph (1) must offer the person the opportunity to discharge the person's liability for the fixed monetary penalty by payment of a prescribed sum (which must be less than or equal to the amount of the penalty).

The following provisions of this paragraph apply if the person does not do so.

- (3) The person may make written representations and objections to the Commission in relation to the proposed imposition of the fixed monetary penalty.

- (4) After the end of the period for making such representations and objections (see paragraph 3(2)) the Commission shall decide whether to impose the fixed monetary penalty.

If they decide to do so they shall serve on the person a notice imposing the penalty.

- (5) The Commission may not impose a fixed monetary penalty on a person—  
 (a) if, taking into account (in particular) any matter raised by the person, the Commission are no longer satisfied as mentioned in paragraph 1(1), (2), (3) or (4) (as applicable);  
 (b) in such other circumstances as may be prescribed.

- (6) A person on whom a fixed monetary penalty is imposed may appeal against the decision to impose the penalty on the ground that—  
 (a) it was based on an error of fact,  
 (b) it was wrong in law, or  
 (c) it was unreasonable,  
 or on such other grounds as may be prescribed.

- (7) An appeal under sub-paragraph (6) is to a county court or (in Scotland) the sheriff.

*Information to be included in notices under paragraph 2*

- 3 (1) A notice under paragraph 2(1) must include information as to—  
 (a) the grounds for the proposal to impose the fixed monetary penalty;  
 (b) the effect of payment of the sum referred to in paragraph 2(2);  
 (c) the right to make representations and objections;  
 (d) the circumstances in which the Commission may not impose the fixed monetary penalty.

- (2) Such a notice must also specify—  
 (a) the period within which liability for the fixed monetary penalty may be discharged, and  
 (b) the period within which representations and objections may be made.

Neither period may be more than 28 days beginning with the day on which the notice is received.



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- (3) A notice under paragraph 2(4) must include information as to—
- (a) the grounds for imposing the fixed monetary penalty;
  - (b) how payment may be made;
  - (c) the period within which payment may be made;
  - (d) any early payment discounts or late payment penalties;
  - (e) rights of appeal;
  - (f) the consequences of non-payment.

*Fixed monetary penalties: criminal proceedings and conviction*

- 4 (1) Where a notice under paragraph 2(1) is served on a person—
- (a) no criminal proceedings for an offence under this Act may be instituted against the person in respect of the act or omission to which the notice relates before the end of the period within which the person's liability may be discharged as mentioned in paragraph 2(2) (see paragraph 3(2));
  - (b) if the liability is so discharged, the person may not at any time be convicted of an offence under this Act in relation to that act or omission.
- (2) A person on whom a fixed monetary penalty is imposed may not at any time be convicted of an offence under this Act in respect of the act or omission giving rise to the penalty.

## PART 2

### DISCRETIONARY REQUIREMENTS

*Imposition of discretionary requirements*

- 5 (1) The Commission may impose one or more discretionary requirements on a person if satisfied beyond reasonable doubt that the person—
- (a) has committed a prescribed offence under this Act, or
  - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (2) The Commission may impose one or more discretionary requirements on a registered party if satisfied beyond reasonable doubt that a person holding an office within that party—
- (a) has committed a prescribed offence under this Act, or
  - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (3) The Commission may impose one or more discretionary requirements on a recognised third party if satisfied beyond reasonable doubt that the responsible person—
- (a) has committed a prescribed offence under this Act, or
  - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (4) The Commission may impose one or more discretionary requirements on a permitted participant if satisfied beyond reasonable doubt that the responsible person—

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- (a) has committed a prescribed offence under this Act, or
  - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (5) For the purposes of this Schedule a “discretionary requirement” is—
- (a) a requirement to pay a monetary penalty to the Commission of such amount as the Commission may determine,
  - (b) a requirement to take such steps as the Commission may specify, within such period as they may specify, to secure that the offence or contravention does not continue or recur, or
  - (c) a requirement to take such steps as the Commission may specify, within such period as they may specify, to secure that the position is, so far as possible, restored to what it would have been if the offence or contravention had not happened.
- (6) Discretionary requirements may not be imposed on the same person on more than one occasion in relation to the same act or omission.
- (7) In this Schedule—
- “variable monetary penalty” means such a requirement as is referred to in sub-paragraph (5)(a);
  - “non-monetary discretionary requirement” means such a requirement as is referred to in sub-paragraph (5)(b) or (c).
- (8) In the case of a variable monetary penalty imposed under sub-paragraph (1)(a), (2)(a), (3)(a) or (4)(a), where the offence in question is—
- (a) triable summarily only, and
  - (b) punishable on summary conviction by a fine (whether or not it is also punishable by a term of imprisonment),
- the amount of the penalty may not exceed the maximum amount of that fine.

*Representations and appeals etc*

- 6 (1) Where the Commission propose to impose a discretionary requirement on a person, they shall serve on the person a notice of what is proposed.
- (2) A person served with a notice under sub-paragraph (1) may make written representations and objections to the Commission in relation to the proposed imposition of the discretionary requirement.
- (3) After the end of the period for making such representations and objections (see paragraph 7(2)) the Commission shall decide whether—
- (a) to impose the discretionary requirement, with or without modifications, or
  - (b) to impose any other discretionary requirement that the Commission have power to impose under paragraph 5.
- (4) The Commission may not impose a discretionary requirement on a person—
- (a) if, taking into account (in particular) any matter raised by the person, the Commission are no longer satisfied as mentioned in paragraph 5(1), (2), (3) or (4) (as applicable);
  - (b) in such other circumstances as may be prescribed.

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- (5) Where the Commission decide to impose a discretionary requirement on a person, they shall serve on the person a notice specifying what the requirement is.
- (6) A person on whom a discretionary requirement is imposed may appeal against the decision to impose the requirement on the ground—
  - (a) that the decision was based on an error of fact,
  - (b) that the decision was wrong in law,
  - (c) in the case of a variable monetary penalty, that the amount of the penalty is unreasonable,
  - (d) in the case of a non-monetary discretionary requirement, that the nature of the requirement is unreasonable, or
  - (e) that the decision is unreasonable for any other reason,or on such other grounds as may be prescribed.
- (7) An appeal under sub-paragraph (6) is to a county court or (in Scotland) the sheriff.

*Information to be included in notices under paragraph 6*

- 7 (1) A notice under paragraph 6(1) must include information as to—
  - (a) the grounds for the proposal to impose the discretionary requirement;
  - (b) the right to make representations and objections;
  - (c) the circumstances in which the Commission may not impose the discretionary requirement.
- (2) Such a notice must also specify the period within which representations and objections may be made.

That period may not be less than 28 days beginning with the day on which the notice is received.
- (3) A notice under paragraph 6(5) must include information as to—
  - (a) the grounds for imposing the discretionary requirement;
  - (b) where the discretionary requirement is a variable monetary penalty—
    - (i) how payment may be made,
    - (ii) the period within which payment must be made, and
    - (iii) any early payment discounts or late payment penalties;
  - (c) rights of appeal;
  - (d) the consequences of non-compliance.

*Discretionary requirements: criminal conviction*

- 8 (1) A person on whom a discretionary requirement is imposed may not at any time be convicted of an offence under this Act in respect of the act or omission giving rise to the requirement.
- (2) Sub-paragraph (1) does not apply where—
  - (a) a non-monetary discretionary requirement is imposed on the person,
  - (b) no variable monetary penalty is imposed on the person, and
  - (c) the person fails to comply with the non-monetary discretionary requirement.

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*Failure to comply with discretionary requirements*

- 9 (1) The Commission may by notice impose a monetary penalty (a “non-compliance penalty”) on a person for failing to comply with a non-monetary discretionary requirement imposed on the person.
- (2) Subject to any prescribed criteria, or any prescribed maximum or minimum amounts, the amount of a non-compliance penalty is to be such as the Commission may determine.
- (3) A person served with a notice imposing a non-compliance penalty may appeal against the notice on the ground that the decision to serve the notice—
- (a) was based on an error of fact,
  - (b) was wrong in law, or
  - (c) was unfair or unreasonable for any reason (for example because the amount is unreasonable),
- or on such other grounds as may be prescribed.
- (4) An appeal under sub-paragraph (3) is to a county court or (in Scotland) the sheriff.

**PART 3**

STOP NOTICES

*Imposition of stop notices*

- 10 (1) Where sub-paragraph (2) or (3) applies, the Commission may serve on a person a notice (a “stop notice”) prohibiting the person from carrying on an activity specified in the notice until the person has taken the steps specified in the notice.
- (2) This sub-paragraph applies where—
- (a) the person is carrying on the activity,
  - (b) the Commission reasonably believe that the activity as carried on by the person involves or is likely to involve the person—
    - (i) committing a prescribed offence under this Act, or
    - (ii) contravening (otherwise than by committing an offence under this Act) a prescribed restriction or requirement imposed by or by virtue of this Act,
- and
- (c) the Commission reasonably believe that the activity as carried on by the person is seriously damaging public confidence in the effectiveness of the controls in this Act on the income and expenditure of registered parties and others, or presents a significant risk of doing so.
- (3) This sub-paragraph applies where—
- (a) the person is likely to carry on the activity,
  - (b) the Commission reasonably believe that the activity as carried on by the person will involve or will be likely to involve the person—
    - (i) committing a prescribed offence under this Act, or

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(ii) contravening (otherwise than by committing an offence under this Act) a prescribed restriction or requirement imposed by or by virtue of this Act,

and

(c) the Commission reasonably believe that the activity as likely to be carried on by the person will seriously damage public confidence in the effectiveness of the controls mentioned in sub-paragraph (2)(c), or will present a significant risk of doing so.

(4) The steps referred to in sub-paragraph (1) must be steps to secure that the activity is carried on or (as the case may be) will be carried on in a way that does not involve the person acting as mentioned in sub-paragraph (2)(b) or (3)(b).

#### *Information to be included in stop notices*

- 11 A stop notice must include information as to—
- (a) the grounds for serving the notice;
  - (b) rights of appeal;
  - (c) the consequences of not complying with the notice.

#### *Completion certificates*

- 12 (1) Where, after the service of a stop notice on a person, the Commission are satisfied that the person has taken the steps specified in the notice, they shall issue a certificate to that effect (a “completion certificate”).
- (2) A stop notice ceases to have effect on the issue of a completion certificate relating to that notice.
- (3) A person on whom a stop notice is served may at any time apply for a completion certificate.

The Commission shall make a decision whether to issue a completion certificate within 14 days of the day on which they receive such an application.

#### *Appeals etc*

- 13 (1) A person served with a stop notice may appeal against the decision to serve it on the ground that—
- (a) the decision was based on an error of fact,
  - (b) the decision was wrong in law,
  - (c) the decision was unreasonable,
  - (d) any step specified in the notice is unreasonable, or
  - (e) the person has not acted as mentioned in paragraph 10(2)(b) or (3)(b) and would not have done so even if the stop notice had not been served,
- or on such other grounds as may be prescribed.
- (2) A person served with a stop notice may appeal against a decision not to issue a completion certificate on the ground that the decision—
- (a) was based on an error of fact,
  - (b) was wrong in law, or
  - (c) was unfair or unreasonable,

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or an such other grounds as may be prescribed.

- (3) An appeal under sub-paragraph (1) or (2) is to a county court or (in Scotland) the sheriff.

*Failure to comply with stop notice*

- 14 A person served with a stop notice who does not comply with it is guilty of an offence.

**PART 4**

ENFORCEMENT UNDERTAKINGS

- 15 (1) This paragraph applies where—
- (a) the Commission have reasonable grounds to suspect that a person—
    - (i) has committed a prescribed offence under this Act, or
    - (ii) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act,
  - (b) the person offers an undertaking (an “enforcement undertaking”) to take such action, within such period, as is specified in the undertaking,
  - (c) the action so specified is—
    - (i) action to secure that the offence or contravention does not continue or recur,
    - (ii) action to secure that the position is, so far as possible, restored to what it would have been if the offence or contravention had not happened, or
    - (iii) action of a prescribed description,
 and
  - (d) the Commission accept the undertaking.
- (2) Unless the person has failed to comply with the undertaking or any part of it—
- (a) the person may not at any time be convicted of an offence under this Act in respect of the act or omission to which the undertaking relates;
  - (b) the Commission may not impose on the person any fixed monetary penalty that they would otherwise have power to impose by virtue of paragraph 1 in respect of that act or omission;
  - (c) the Commission may not impose on the person any discretionary requirement that they would otherwise have power to impose by virtue of paragraph 5 in respect of that act or omission.

**PART 5**

POWER TO MAKE SUPPLEMENTARY PROVISION ETC BY ORDER

*Supplementary orders: general*

- 16 (1) The Secretary of State may by order (a “supplementary order”)—

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- (a) make provision (including transitional provision) supplementing that made by this Schedule;
  - (b) make provision that is consequential on or incidental to that made by this Schedule.
- (2) The following provisions of this Part are not to be read as limiting the power conferred by sub-paragraph (1).
- (3) A supplementary order may make provision amending, repealing or revoking an enactment (whenever passed or made).

#### *Consultation*

- 17 (1) Before making a supplementary order the Secretary of State shall consult the Commission and such other persons (if any) as the Secretary of State considers appropriate.
- (2) If, as a result of any consultation required by sub-paragraph (1), it appears to the Secretary of State that it is appropriate substantially to change the whole or any part of the proposals, the Secretary of State shall undertake such further consultation with respect to the changes as the Secretary of State considers appropriate.
- (3) If, before the day on which this Schedule comes into effect, any consultation was undertaken which, had it been undertaken after that day, would to any extent have satisfied the requirements of this paragraph, those requirements may to that extent be taken to have been satisfied.

#### *Monetary penalties*

- 18 (1) A supplementary order may make any of the following provision in relation to the power of the Commission to require a person to pay a fixed monetary penalty, a variable monetary penalty or a non-compliance penalty—
- (a) provision for early payment discounts;
  - (b) provision for the payment of interest or other financial penalties for late payment;
  - (c) provision for enforcement.
- (2) Provision made by virtue of sub-paragraph (1)(b) must secure that the interest or other financial penalties for late payment do not in total exceed the amount of the penalty itself.
- (3) Provision made by virtue of sub-paragraph (1)(c) may include—
- (a) provision for the Commission to recover the penalty, and any interest or other financial penalty for late payment, as a civil debt;
  - (b) provision for the penalty, and any interest or other financial penalty for late payment, to be recoverable, on the order of a court, as if payable under a court order.
- (4) In relation to the power of the Commission to require a person to pay a fixed monetary penalty, a variable monetary penalty or a non-compliance penalty for failing to comply with a requirement or undertaking by the end of a particular period, a supplementary order may—

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- (a) make provision under which the amount of the penalty is determined by reference to the length of time between the end of that period and the time of compliance;
- (b) make provision for successive penalties to be payable in a case of continued failure to comply.

*Enforcement undertakings*

- 19 A supplementary order may make any of the following provision in relation to an enforcement undertaking—
- (a) provision as to the procedure for entering into an undertaking;
  - (b) provision as to the terms of an undertaking;
  - (c) provision as to publication of an undertaking by the Commission;
  - (d) provision as to variation of an undertaking;
  - (e) provision as to circumstances in which a person may be regarded as having complied with an undertaking;
  - (f) provision as to monitoring by the Commission of compliance with an undertaking;
  - (g) provision as to certification by the Commission that an undertaking has been complied with;
  - (h) provision for appeals against refusal to give such certification;
  - (i) in a case where a person has given inaccurate, misleading or incomplete information in relation to an undertaking, provision for the person to be regarded as not having complied with it;
  - (j) in a case where a person has complied partly but not fully with an undertaking, provision for that part-compliance to be taken into account in the imposition of any criminal or other sanction on the person.

*Extension of time for taking criminal proceedings*

- 20 For the purposes of enabling criminal proceedings to be instituted against a person in respect of an offence under this Act—
- (a) in the case referred to in paragraph 8(2), or
  - (b) in a case where there has been a breach of an enforcement undertaking or any part of an enforcement undertaking,
- a supplementary order may make provision extending any period within which such proceedings may be instituted.

*Appeals*

- 21 (1) A supplementary order may make any of the following provision in relation to an appeal in respect of the imposition of a requirement, or the service of a notice, under this Schedule—
- (a) provision suspending the requirement or notice pending determination of the appeal;
  - (b) provision as to the powers of the court to which the appeal is made;
  - (c) provision as to how a sum payable in pursuance of a decision of that court is to be recoverable.



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- (2) Provision made by virtue of sub-paragraph (1)(b) may in particular include provision conferring on the court to which the appeal is made—
- (a) power to withdraw the requirement or notice;
  - (b) power to confirm the requirement or notice;
  - (c) power to take such steps as the Commission could take in relation to the act or omission giving rise to the requirement or notice;
  - (d) power to remit the decision whether to confirm the requirement or notice, or any matter relating to that decision, to the Commission;
  - (e) power to award costs or (in the case of a court in Scotland) expenses.

## PART 6

### GENERAL AND SUPPLEMENTAL

#### *Combination of sanctions*

- 22 (1) The Commission may not serve on a person a notice under paragraph 2(1) (notice of proposed fixed monetary penalty) in relation to any act or omission in relation to which—
- (a) a discretionary requirement has been imposed on that person, or
  - (b) a stop notice has been served on that person.
- (2) The Commission may not serve on a person a notice under paragraph 6(1) (notice of proposed discretionary requirement), or serve a stop notice on a person, in relation to any act or omission in relation to which—
- (a) a fixed monetary penalty has been imposed on that person, or
  - (b) the person's liability for a fixed monetary penalty has been discharged as mentioned in paragraph 2(2).

#### *Use of statements made compulsorily*

- 23 (1) The Commission must not take into account a statement made by a person in compliance with a requirement imposed under Schedule 19B in deciding whether—
- (a) to impose a fixed monetary penalty on the person;
  - (b) to impose a discretionary requirement on the person;
  - (c) to serve a stop notice on the person.
- (2) Sub-paragraph (1)(a) or (b) does not apply to a penalty or requirement imposed in respect of an offence under paragraph 13(3) of Schedule 19B (providing false information in purported compliance with a requirement under that Schedule).

#### *Unincorporated associations*

- 24 Any amount that is payable under this Schedule by an unincorporated association shall be paid out of the funds of the association.

#### *Guidance as to enforcement*

- 25 (1) The Commission shall prepare and publish guidance as to—

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- (a) the sanctions (including criminal sanctions) that may be imposed on a person who—
    - (i) commits an offence under this Act, or
    - (ii) contravenes a restriction or requirement that is prescribed for the purposes of paragraph 1, 5, 10 or 15;
  - (b) the action that the Commission may take in relation to such a person (whether by virtue of this Schedule or otherwise);
  - (c) the circumstances in which the Commission are likely to take any such action.
- (2) The guidance must include guidance about the Commission's use of the power to impose a fixed monetary penalty, with information as to—
- (a) the circumstances in which such a penalty may not be imposed;
  - (b) the amount of such a penalty;
  - (c) how liability for such a penalty may be discharged and the effect of discharge;
  - (d) rights to make representations and objections and rights of appeal in relation to such a penalty.
- (3) The guidance must include guidance about the Commission's use of the power to impose a discretionary requirement, with information as to—
- (a) the circumstances in which such a requirement may not be imposed;
  - (b) rights to make representations and objections and rights of appeal in relation to such a requirement;
  - (c) in the case of a variable monetary penalty, the matters likely to be taken into account by the Commission in determining the amount of the penalty (including, where relevant, any discounts for voluntary reporting of non-compliance).
- (4) The guidance must include guidance about the Commission's use of the power to serve a stop notice, with information as to—
- (a) the circumstances in which such a notice may not be served;
  - (b) rights of appeal in relation to such a notice.
- (5) The guidance must include guidance about the Commission's use of the power to accept an enforcement undertaking.
- (6) Where appropriate, the Commission shall revise guidance published under this paragraph and publish the revised guidance.
- (7) The Commission shall consult such persons as they consider appropriate before publishing guidance or revised guidance under this paragraph.
- (8) The Commission shall have regard to the guidance or revised guidance published under this paragraph in exercising their functions.

*Payment of penalties etc into Consolidated Fund*

- 26 Where, in pursuance of any provision contained in or made under this Schedule, the Commission receive—
- (a) a fixed monetary penalty, a variable monetary penalty or a non-compliance penalty,

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- (b) any interest or other financial penalty for late payment of such a penalty, or
  - (c) a sum paid as mentioned in paragraph 2(2) (in discharge of liability for a fixed monetary penalty),
- they shall pay it into the Consolidated Fund.

#### *Reports on use of civil sanctions*

- 27 (1) Each report by the Commission under paragraph 20 of Schedule 1 shall contain information about the use made by the Commission of their powers under this Schedule during the year in question.
- (2) The report shall, in particular, specify—
- (a) the cases in which a fixed monetary penalty or discretionary requirement was imposed or a stop notice served (other than cases in which the penalty, requirement or notice was overturned on appeal);
  - (b) the cases in which liability for a fixed monetary penalty was discharged as mentioned in paragraph 2(2);
  - (c) the cases in which an enforcement undertaking was accepted.
- (3) This paragraph does not require the Commission to include in a report any information that, in their opinion, it would be inappropriate to include on the ground that to do so—
- (a) would or might be unlawful, or
  - (b) might adversely affect any current investigation or proceedings.

#### *Disclosure of information*

- 28 (1) Information held by or on behalf of—
- (a) the Crown Prosecution Service,
  - (b) a member of a police force in England and Wales,
  - (c) a Procurator Fiscal,
  - (d) a constable of a police force in Scotland,
  - (e) the Public Prosecution Service for Northern Ireland, or
  - (f) a member of the Police Service of Northern Ireland,
- may be disclosed to the Commission for the purpose of the exercise by the Commission of any powers conferred on them under or by virtue of this Schedule.
- (2) It is immaterial for the purposes of sub-paragraph (1) whether the information was obtained before or after the coming into effect of this Schedule.
- (3) A disclosure under this paragraph is not to be taken to breach any restriction on the disclosure of information (however imposed).
- (4) Nothing in this paragraph authorises the making of a disclosure in contravention of—
- (a) the Data Protection Act 1998, or
  - (b) Part 1 of the Regulation of Investigatory Powers Act 2000.
- (5) This paragraph does not affect a power to disclose that exists apart from this paragraph.

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## PART 7

### INTERPRETATION

#### *Interpretation of Schedule*

- 29 In this Schedule—
- “completion certificate” has the meaning given in paragraph 12(1);
  - “discretionary requirement” has the meaning given in paragraph 5(5);
  - “enforcement undertaking” has the meaning given in paragraph 15(1)(b);
  - “fixed monetary penalty” has the meaning given in paragraph 1(5);
  - “non-compliance penalty” has the meaning given in paragraph 9(1);
  - “non-monetary discretionary requirement” has the meaning given in paragraph 5(7);
  - “permitted participant” has the meaning given in section 105(1);
  - “prescribed” means prescribed in a supplementary order;
  - “recognised third party” has the meaning given in section 85(5);
  - “responsible person”—
    - (a) in relation to a recognised third party, has the meaning given in section 85(7);
    - (b) in relation to a permitted participant, has the meaning given in section 105(2);
  - “stop notice” has the meaning given in paragraph 10(1);
  - “supplementary order” has the meaning given in paragraph 16(1);
  - “variable monetary penalty” has the meaning given in paragraph 5(7).”

## PROSPECTIVE

### SCHEDULE 3

Section 9

#### DECLARATION AS TO SOURCE OF DONATION

##### *Schedule 7 to the 2000 Act (control of donations to individuals and members associations)*

- 1 (1) In paragraph 6 of Schedule 7 to the 2000 Act (prohibition on accepting donations from impermissible donors), after paragraph (a) of sub-paragraph (1) there is inserted—
- “(aa) in the case of a donation of an amount exceeding £7,500, the donee has not been given a declaration as required by paragraph 6A, or”.
- (2) After paragraph 6 of that Schedule there is inserted—

##### *“Declaration as to source of donation*

- 6A (1) Where a person (P) causes an amount exceeding £7,500 to be received by a regulated donee by way of a donation, a written declaration must be given to the donee—

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- (a) by P, if P is an individual, or
    - (b) if not, by an individual authorised by P to make the declaration, stating, to the best of the individual's knowledge and belief, whether or not sub-paragraph (2) applies to the donation.
  - (2) This sub-paragraph applies to the donation if—
    - (a) a person other than P has provided, or is expected to provide, money or any other benefit to P with a view to, or otherwise in connection with, the making of the donation, and
    - (b) the money, or the value of the benefit, is more than £7,500.
  - (3) Where a declaration under this paragraph contains a statement to the effect that sub-paragraph (2) applies to the donation, it must also—
    - (a) state whether or not, in the opinion of the person making the declaration—
      - (i) sub-paragraph (2) of paragraph 6 applies to the donation;
      - (ii) sub-paragraph (4) of that paragraph applies to it;
    - (b) if the person's opinion is that neither of those sub-paragraphs applies to the donation, give the person's reasons for that opinion.
  - (4) The declaration must also state the full name and address of the person by whom it is made and, where sub-paragraph (1)(b) applies—
    - (a) state that the person is authorised by P to make the declaration;
    - (b) describe the person's role or position in relation to P.
  - (5) A person who knowingly or recklessly makes a false declaration under this paragraph commits an offence.
  - (6) Regulations made by the Secretary of State may make provision as to how the value of a benefit is to be calculated for the purposes of sub-paragraph (2).”
- 2 (1) Paragraph 10 of that Schedule (donation reports: donations from permissible donors) is amended as follows.
- (2) In the heading, at the end there is inserted “ *etc.* ”.
  - (3) In sub-paragraph (1), for the words from “each controlled donation” to the end there is substituted “each controlled donation which is a recordable donation and either—
    - (a) has been accepted by the donee, or
    - (b) has not been accepted by the donee but is a donation in the case of which a declaration under paragraph 6A has been given.”
  - (4) In sub-paragraph (4)(a), for “by virtue of paragraphs 2, 2A and 4” there is substituted “, by virtue of paragraphs 1A, 2, 2A and 4 ”.
  - (5) In sub-paragraph (5)—
    - (a) for “paragraphs 2, 2A and 4” there is substituted “ paragraphs 1A, 2, 2A and 4 ”;
    - (b) after paragraph (a) there is inserted—
      - “(aa) any reference to section 54A shall be read as a reference to paragraph 6A above;”.

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- 3 (1) Paragraph 11 of that Schedule (donation reports: donations from impermissible or unidentifiable donors) is amended as follows.
- (2) In the heading, at the end there is inserted “ *or without required declaration* ”.
- (3) In sub-paragraph (1)(a), for “paragraph 6(1)(a) or (b)” there is substituted “ paragraph 6(1)(a), (aa) or (b) ”.
- (4) In sub-paragraph (1)(b), for “section 56(2)(a) or (b)” there is substituted “ section 56(2)(a), (aa) or (b) ”.
- (5) In sub-paragraph (3), for “paragraph 6(1)(a)” there is substituted “ paragraph 6(1)(a) or (aa) ”.
- (6) In sub-paragraph (3)(a), after “the donor” there is inserted “ or the person appearing to be the donor ”.
- (7) In sub-paragraph (3)(c), for “section 56(2)(a)” there is substituted “ section 56(2)(a) or (aa) ”.

*Schedule 11 to the 2000 Act (control of donations to recognised third parties)*

- 4 (1) In paragraph 6 of Schedule 11 to the 2000 Act (prohibition on accepting donations from impermissible donors), after paragraph (a) of sub-paragraph (1) there is inserted—
- “(aa) in the case of a donation of an amount exceeding £7,500, the recognised third party has not been given a declaration as required by paragraph 6A; or”.
- (2) After paragraph 6 of that Schedule there is inserted—

*“Declaration as to source of donation*

- 6A (1) Where a person (P) causes an amount exceeding £7,500 to be received by a recognised third party by way of a donation, a written declaration must be given to the recognised third party—
- (a) by P, if P is an individual, or
- (b) if not, by an individual authorised by P to make the declaration, stating, to the best of the individual's knowledge and belief, whether or not sub-paragraph (2) applies to the donation.
- (2) This sub-paragraph applies to the donation if—
- (a) a person other than P has provided, or is expected to provide, money or any other benefit to P with a view to, or otherwise in connection with, the making of the donation, and
- (b) the money, or the value of the benefit, is more than £7,500.
- (3) Where a declaration under this paragraph contains a statement to the effect that sub-paragraph (2) applies to the donation, it must also—
- (a) state whether or not, in the opinion of the person making the declaration—
- (i) sub-paragraph (4) of paragraph 6 applies to the donation;
- (ii) sub-paragraph (6) of that paragraph applies to it;

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- (b) if the person's opinion is that neither of those sub-paragraphs applies to the donation, give the person's reasons for that opinion.
- (4) The declaration must also state the full name and address of the person by whom it is made and, where sub-paragraph (1)(b) applies—
- (a) state that the person is authorised by P to make the declaration;
- (b) describe the person's role or position in relation to P.
- (5) A person who knowingly or recklessly makes a false declaration under this paragraph commits an offence.
- (6) Regulations made by the Secretary of State may make provision as to how the value of a benefit is to be calculated for the purposes of sub-paragraph (2).”
- 5 (1) In paragraph 9 of that Schedule (statement of relevant donations), for “paragraphs 10 and 11” there is substituted “ paragraphs 9A to 11 ”.
- (2) After that paragraph there is inserted—
- “Declarations under paragraph 6A*
- 9A In relation to each relevant donation falling within paragraph 10(2) in the case of which a declaration under paragraph 6A has been given, the statement must either—
- (a) state that no reason was found to think that the declaration was untruthful or inaccurate, or
- (b) give details of any respects in which the declaration was found or suspected to be untruthful or inaccurate.”
- 6 (1) Paragraph 11 of that Schedule (donations from impermissible donors) is amended as follows.
- (2) In the heading, for “*impermissible donors*” there is substituted “ *impermissible or unidentifiable donors or without required declaration* ”.
- (3) In sub-paragraph (1), for “paragraph 6(1)(a) or (b)” there is substituted “ paragraph 6(1)(a), (aa) or (b) ”.
- (4) In sub-paragraph (2), for “paragraph 6(1)(a)” there is substituted “ paragraph 6(1)(a) or (aa) ”.
- (5) In sub-paragraph (2)(a), after “the donor” there is inserted “ or the person appearing to be the donor ”.
- (6) In sub-paragraph (2)(c), for “section 56(2)(a)” there is substituted “ section 56(2)(a) or (aa) ”.
- Schedule 15 to the 2000 Act (control of donations to permitted participants)*
- 7 (1) In paragraph 6 of Schedule 15 to the 2000 Act (prohibition on accepting donations from impermissible donors), after paragraph (a) of sub-paragraph (1) there is inserted—

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“(aa) in the case of a donation of an amount exceeding £7,500, the permitted participant has not been given a declaration as required by paragraph 6A, or”.

(2) After paragraph 6 of that Schedule there is inserted—

*“Declaration as to source of donation*

6A (1) Where a person (P) causes an amount exceeding £7,500 to be received by a permitted participant by way of a donation, a written declaration must be given to the permitted participant—

- (a) by P, if P is an individual, or
- (b) if not, by an individual authorised by P to make the declaration, stating, to the best of the individual's knowledge and belief, whether or not sub-paragraph (2) applies to the donation.

(2) This sub-paragraph applies to the donation if—

- (a) a person other than P has provided, or is expected to provide, money or any other benefit to P with a view to, or otherwise in connection with, the making of the donation, and
- (b) the money, or the value of the benefit, is more than £7,500.

(3) Where a declaration under this paragraph contains a statement to the effect that sub-paragraph (2) applies to the donation, it must also—

- (a) state whether or not, in the opinion of the person making the declaration—
  - (i) sub-paragraph (5) of paragraph 6 applies to the donation;
  - (ii) sub-paragraph (7) of that paragraph applies to it;
- (b) if the person's opinion is that neither of those sub-paragraphs applies to the donation, give the person's reasons for that opinion.

(4) The declaration must also state the full name and address of the person by whom it is made and, where sub-paragraph (1)(b) applies—

- (a) state that the person is authorised by P to make the declaration;
- (b) describe the person's role or position in relation to P.

(5) A person who knowingly or recklessly makes a false declaration under this paragraph commits an offence.

(6) Regulations made by the Secretary of State may make provision as to how the value of a benefit is to be calculated for the purposes of sub-paragraph (2).”

8 (1) In paragraph 9 of that Schedule (statement of relevant donations), for “paragraphs 10 and 11” there is substituted “ paragraphs 9A to 11 ”.

(2) After that paragraph there is inserted—



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*“Declarations under paragraph 6A*

- 9A In relation to each relevant donation falling within paragraph 10(2) in the case of which a declaration under paragraph 6A has been given, the statement must either—
- (a) state that no reason was found to think that the declaration was untruthful or inaccurate, or
  - (b) give details of any respects in which the declaration was found or suspected to be untruthful or inaccurate.”
- 9 (1) Paragraph 11 of that Schedule (donations from impermissible or unidentified donors) is amended as follows.
- (2) In the heading, at the end there is inserted “ *or without required declaration* ”.
- (3) In sub-paragraph (1), for “paragraph 6(1)(a) or (b)” there is substituted “ paragraph 6(1)(a), (aa) or (b) ”.
- (4) In sub-paragraph (2), for “paragraph 6(1)(a)” there is substituted “ paragraph 6(1)(a) or (aa) ”.
- (5) In sub-paragraph (2)(a), after “the donor” there is inserted “ or the person appearing to be the donor ”.
- (6) In sub-paragraph (2)(c), for “section 56(2)(a)” there is substituted “ section 56(2)(a) or (aa) ”.

*Schedule 20 to the 2000 Act (penalties)*

- 10 In Schedule 20 (penalties) the following entries are inserted at the appropriate places—

“Paragraph 6A(5) of Schedule 7 (making a false declaration as to source of donation)	On summary conviction in England and Wales or Scotland: statutory maximum or 12 months On summary conviction in Northern Ireland: statutory maximum or 6 months On indictment: fine or 1 year”
“Paragraph 6A(5) of Schedule 11 (making a false declaration as to source of donation)	On summary conviction in England and Wales or Scotland: statutory maximum or 12 months On summary conviction in Northern Ireland: statutory maximum or 6 months On indictment: fine or 1 year”
“Paragraph 6A(5) of Schedule 15 (making a false declaration as to source of donation)	On summary conviction in England and Wales or Scotland: statutory maximum or 12 months On summary conviction in Northern Ireland: statutory maximum or 6 months On indictment: fine or 1 year”.

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PROSPECTIVE

## SCHEDULE 4

Section 10

### DECLARATION AS TO WHETHER RESIDENCE ETC CONDITION SATISFIED

*Schedule 7 to the 2000 Act (control of donations to individuals and members associations)*

- 1 (1) In paragraph 6 of Schedule 7 to the 2000 Act (prohibition on accepting donations from impermissible donors), for paragraph (aa) of sub-paragraph (1) (inserted by Schedule 3 above) there is substituted—

“(aa) any declaration required to be made in respect of the donation by paragraph 6A or 6B has not been received by the donee, or”.

- (2) After paragraph 6A of that Schedule (inserted by Schedule 3 above) there is inserted—

*“Declaration as to whether residence etc condition satisfied*

- 6B (1) An individual making to a regulated donee a donation in relation to which the condition set out in section 54(2ZA) applies must give to the donee a written declaration stating whether or not the individual satisfies that condition.

(2) A declaration under this paragraph must also state the individual's full name and address.

(3) A person who knowingly or recklessly makes a false declaration under this paragraph commits an offence.

(4) The Secretary of State may by regulations make provision requiring a declaration under this paragraph to be retained for a specified period.

(5) The requirement in sub-paragraph (1) does not apply where, by reason of section 71B(1)(a), the individual by whom the donation would be made is a permissible donor in relation to the donation at the time of its receipt by the donee.”

- 2 In paragraph 8 of that Schedule (acceptance or return of donations), after sub-paragraph (1) there is inserted—

“(1A) In its application in accordance with sub-paragraph (1), section 56(1A) (a) shall have effect as if the reference to a declaration under section 54B were construed as a reference to a declaration under paragraph 6B above.”

- 3 (1) Paragraph 10 of that Schedule (donation reports: donations from permissible donors) (as amended by Schedule 3 above) is amended as follows.

(2) In sub-paragraph (1)(b), after “paragraph 6A” there is inserted “ or 6B ”.

(3) In sub-paragraph (5), at the end of paragraph (aa) there is inserted “ , and any reference to section 54B shall be read as a reference to paragraph 6B above ”.

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*Schedule 11 to the 2000 Act (control of donations to recognised third parties)*

- 4 (1) In paragraph 6 of Schedule 11 to the 2000 Act (prohibition on accepting donations from impermissible donors), for paragraph (aa) of sub-paragraph (1) (inserted by Schedule 3 above) there is substituted—

“(aa) any declaration required to be made in respect of the donation by paragraph 6A or 6B has not been received by the recognised third party; or”.

- (2) After paragraph 6A of that Schedule (inserted by Schedule 3 above) there is inserted—

*“Declaration as to whether residence etc condition satisfied*

- 6B (1) An individual making to a recognised third party a donation in relation to which the condition set out in section 54(2ZA) applies must give to the recognised third party a written declaration stating whether or not the individual satisfies that condition.

(2) A declaration under this paragraph must also state the full name and address of the person by whom it is made.

(3) A person who knowingly or recklessly makes a false declaration under this paragraph commits an offence.

(4) The Secretary of State may by regulations make provision requiring a declaration under this paragraph to be retained for a specified period.”

- 5 In paragraph 7 of that Schedule (acceptance or return of donations), after paragraph (a) of sub-paragraph (2) there is inserted—

“(aa) section 56(1A)(a) shall have effect as if the reference to a declaration under section 54B were construed as a reference to a declaration under paragraph 6B above; and”.

- 6 In paragraph 9A of that Schedule (inserted by Schedule 3 above)—

(a) in the heading, after “*paragraph 6A*” there is inserted “ *or 6B* ”;

(b) at the end of that paragraph (which becomes sub-paragraph (1)) there is inserted—

“(2) In relation to each relevant donation falling with paragraph 10(2) in the case of which a declaration under paragraph 6B has been given, the statement must either—

(a) state that no reason was found for thinking that the declaration was incorrect, or

(b) give details of any respects in which the declaration was found or suspected to be incorrect.”

*Schedule 15 to the 2000 Act (control of donations to permitted participants)*

- 7 (1) In paragraph 6 of Schedule 15 to the 2000 Act (prohibition on accepting donations from impermissible donors), for paragraph (aa) of sub-paragraph (1) (inserted by Schedule 3 above) there is substituted—

“(aa) any declaration required to be made in respect of the donation by paragraph 6A or 6B has not been received by the permitted participant, or”.

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(2) After paragraph 6A of that Schedule (inserted by Schedule 3 above) there is inserted—

*“Declaration as to whether residence etc condition satisfied*

- 6B (1) An individual making to a permitted participant a donation in relation to which the condition set out in section 54(2ZA) applies must give to the permitted participant a declaration stating whether or not the individual satisfies that condition.
- (2) A declaration under this paragraph must also state the individual's full name and address.
- (3) A person who knowingly or recklessly makes a false declaration under this paragraph commits an offence.
- (4) The Secretary of State may by regulations make provision requiring a declaration under this paragraph to be retained for a specified period.”

8 In paragraph 7 of that Schedule (acceptance or return of donations), after paragraph (a) of sub-paragraph (2) there is inserted—

“(aa) section 56(1A)(a) shall have effect as if the reference to a declaration under section 54B were construed as a reference to a declaration under paragraph 6B above; and”.

9 In paragraph 9A of that Schedule (inserted by Schedule 3 above)—

- (a) in the heading, after “*paragraph 6A*” there is inserted “ *or 6B* ”;
- (b) at the end of that paragraph (which becomes sub-paragraph (1)) there is inserted—

“(2) In relation to each relevant donation falling with paragraph 10(2) in the case of which a declaration under paragraph 6B has been given, the statement must either—

- (a) state that no reason was found for thinking that the declaration was incorrect, or
- (b) give details of any respects in which the declaration was found or suspected to be incorrect.”

*Schedule 20 to the 2000 Act (penalties)*

10 In Schedule 20 (penalties) the following entries are inserted at the appropriate places—

“Paragraph 6B(3) of Schedule 7 (making a false declaration as to whether residence etc condition satisfied)	On summary conviction in England and Wales or Scotland: statutory maximum or 12 months On summary conviction in Northern Ireland: statutory maximum or 6 months On indictment: fine or 1 year”
“Paragraph 6B(3) of Schedule 11 (making a false declaration as to	On summary conviction in England and Wales or Scotland: statutory maximum or 12 months

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whether residence etc condition satisfied)	On summary conviction in Northern Ireland: statutory maximum or 6 months On indictment: fine or 1 year”
“Paragraph 6B(3) of Schedule 15 (making a false declaration as to whether residence etc condition satisfied)	On summary conviction in England and Wales or Scotland: statutory maximum or 12 months On summary conviction in Northern Ireland: statutory maximum or 6 months On indictment: fine or 1 year”.

## SCHEDULE 5

Section 19

REPORTS OF GIFTS RECEIVED BY UNINCORPORATED ASSOCIATIONS MAKING  
POLITICAL CONTRIBUTIONS: SCHEDULE TO BE INSERTED INTO THE 2000 ACT

## “SCHEDULE 19A

Section 140A

REPORTS OF GIFTS RECEIVED BY UNINCORPORATED  
ASSOCIATIONS MAKING POLITICAL CONTRIBUTIONS

*Requirement to notify Commission of political contributions over £25,000*

- 1 (1) Where in any calendar year an unincorporated association falling within section 54(2) (h)—
- (a) makes a political contribution of more than £25,000, not having previously made any political contributions in that year, or
  - (b) makes a political contribution which takes the total amount of such contributions made by it in that year above £25,000,
- the association must notify the Commission accordingly within the period of 30 days beginning with the date on which the contribution was made.
- (2) An unincorporated association makes a “political contribution” in any of the following cases—
- (a) it makes a donation (within the meaning of Part 4) to a registered party;
  - (b) it makes a loan of money to a registered party, or discharges (to any extent) a liability of a registered party, in pursuance of a regulated transaction (within the meaning of Part 4A);
  - (c) it makes a donation (within the meaning of Schedule 7) to a regulated donee;
  - (d) it makes a loan of money to a regulated donee, or discharges (to any extent) a liability of a regulated donee, in pursuance of a controlled transaction (within the meaning of Schedule 7A);
  - (e) it makes a donation (within the meaning of Schedule 11) to a recognised third party;
  - (f) it makes a donation (within the meaning of Schedule 15) to a permitted participant.
- (3) For the purposes of sub-paragraph (1)(b) a contribution is not counted towards the total unless it is a contribution of more than £500.

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- (4) In this paragraph—
- “permitted participant” has the meaning given in section 105 except that it does not include a registered party other than a minor party;
  - “recognised third party” has the meaning given in section 85;
  - “regulated donee” has the meaning given in Part 1 of Schedule 7.
- (5) For the purposes of this paragraph—
- (a) the value of a donation to a registered party shall be determined in accordance with section 53;
  - (b) the value of a donation to a regulated donee shall be determined in accordance with paragraph 5 of Schedule 7;
  - (c) the value of a donation to a recognised third party shall be determined in accordance with paragraph 5 of Schedule 11;
  - (d) the value of a donation to a permitted participant shall be determined in accordance with paragraph 5 of Schedule 15;
  - (e) the value of a contribution within sub-paragraph (2)(b) or (d) is the amount of money lent or liability discharged.
- (6) Where a donation, or a sum of money lent, is sent on one day and received on another, the donation or loan is treated for the purposes of this paragraph as made on the earlier of those days.

*Requirement to report gifts received to Commission*

- 2 (1) This paragraph applies where the making of a political contribution by an unincorporated association causes the association to be subject to the notification requirement in paragraph 1; and in this paragraph—
- “the contribution date” means the date on which that contribution was made;
  - “quarter” means a period of three months ending on 31st March, 30th June, 30th September or 31st December.
- (2) Within the period of 60 days beginning with the contribution date, the unincorporated association must make a report to the Commission—
- (a) specifying every gift of more than £7,500 received by the association in the period—
    - (i) beginning at the start of the calendar year preceding the year in which the contribution date falls, and
    - (ii) ending with the contribution date,
  - or
  - (b) (if it is the case) stating that the association received no such gifts in the period mentioned in paragraph (a).
- (3) Within the period of 30 days following the end of the first quarter to begin after the contribution date, the unincorporated association must make a report to the Commission—
- (a) specifying every gift of more than £7,500 received by the association in the period—
    - (i) beginning with the day after the contribution date, and
    - (ii) ending with the end of the quarter,
  - or

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**Changes to legislation:** There are currently no known outstanding effects for the Political Parties and Elections Act 2009. (See end of Document for details)

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- (b) (if it is the case) stating that the association received no such gifts in the period mentioned in paragraph (a).
- (4) In relation to each subsequent quarter ending in the calendar year in which the contribution date falls or in the following calendar year, the unincorporated association must within the period of 30 days following the end of the quarter make a report to the Commission—
- (a) specifying every gift of more than £7,500 received by the association in the quarter, or
- (b) (if it is the case) stating that the association received no such gifts in the quarter.
- (5) Where—
- (a) an unincorporated association receives two or more gifts of more than £500 from the same person in the same calendar year, and
- (b) those gifts amount to more than £7,500 in total,
- the association is treated for the purposes of this paragraph as receiving a gift of more than £7,500 on the day on which it receives the gift that takes the total amount of gifts from that person in that year above £7,500.
- (6) Where—
- (a) an unincorporated association receives (or is treated by sub-paragraph (5) as receiving) a gift of more than £7,500 from a particular person, and
- (b) later in the same calendar year the association receives a gift of more than £1,500 from the same person,
- that subsequent gift is treated for the purposes of this paragraph in the same way as a gift of more than £7,500.
- (7) A reference in this paragraph to a gift of more than a certain amount is to be read, in the case of a gift in a form other than money, as a reference to a gift with a value of more than that amount.
- (8) Nothing in this paragraph requires an unincorporated association to report to the Commission—
- (a) any gift that it has already reported to them under this paragraph, or
- (b) in the case of an association that at the relevant time was a members association within the meaning of Schedule 7, any gift that it is required to report to them under Part 3 of that Schedule.

*Information to be included in reports under paragraph 2*

- 3 (1) A report under paragraph 2 must give the following information in relation to each gift that is required to be specified—
- (a) the date on which it was received;
- (b) the form that it took;
- (c) the amount or value of it;
- (d) whatever details the unincorporated association knows of the name and address of the person by whom the gift was made.
- (2) Where paragraph 2(5) applies, each of the gifts of more than £500 mentioned in that provision is required to be specified separately for the purposes of sub-paragraph (1).

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- (3) Where a person (“P”) makes a gift indirectly through one or more intermediaries, the reference in sub-paragraph (1)(d) to the person by whom the gift was made is to be read as a reference to P and each of the intermediaries.

*Declaration by authorised individual*

- 4 A notification under paragraph 1 or a report under paragraph 2 must contain a declaration, made by an individual authorised to do so by the unincorporated association concerned, that to the best of the individual's knowledge and belief—
- (a) everything stated in the notification or report is accurate, and
  - (b) the notification or report contains everything that it is required to contain by this Schedule.

*Additional matters to be included in notifications and reports*

- 5 A notification under paragraph 1 or a report under paragraph 2 must (as well as containing the things that paragraphs 1 and 4 or paragraphs 3 and 4 require it to contain)
- (a) state the name of the unincorporated association by which it is given;
  - (b) state the address of the association's main office in the United Kingdom;
  - (c) state the full name and address of the individual making the declaration under paragraph 4;
  - (d) state that the individual is authorised by the unincorporated association to make the declaration;
  - (e) describe the individual's role or position in relation to the association.

*Offences*

- 6 (1) An unincorporated association commits an offence if it—
- (a) is required by paragraph 1 to give a notification to the Commission, or
  - (b) is required by paragraph 2 to make a report to the Commission,
- and fails without reasonable excuse to do so within the permitted period.
- (2) An unincorporated association commits an offence if, without reasonable excuse, it—
- (a) gives a notification to the Commission under paragraph 1, or
  - (b) makes a report to the Commission under paragraph 2,
- which fails to comply with any requirement of this Schedule applying to the notification or report.
- (3) An individual who knowingly or recklessly makes a false declaration under paragraph 4 commits an offence.
- (4) For the purposes of sub-paragraph (1) the “permitted period” is—
- (a) in relation to a notification under paragraph 1, the period of 30 days mentioned in paragraph 1(1);
  - (b) in relation to a notice under sub-paragraph (2) of paragraph 2, the period of 60 days mentioned in that sub-paragraph;
  - (c) in relation to a notice under sub-paragraph (3) of paragraph 2, the period of 30 days mentioned in that sub-paragraph;



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- (d) in relation to a notice under sub-paragraph (4) of paragraph 2, the period of 30 days mentioned in that sub-paragraph.

*Register of recordable gifts to unincorporated associations*

- 7 (1) The Commission shall maintain a register of all notifications made to them under paragraph 1 and all gifts reported to them under paragraph 2.
- (2) The register shall be maintained by the Commission in such form as they may determine and shall contain the following details—
- (a) in the case of each notification under paragraph 1—
- (i) the name of the unincorporated association by which the notification was given;
- (ii) the address of the association's main office in the United Kingdom;
- (iii) the date on which the notification was given;
- (b) in the case of each gift reported under paragraph 2—
- (i) the name of the unincorporated association by which the report was given;
- (ii) the address of the association's main office in the United Kingdom;
- (iii) (subject to sub-paragraph (4) and paragraph 8) the information provided under paragraph 3.
- (3) Where the Commission are given any notification under paragraph 1 or any report under paragraph 2, they shall cause the details mentioned in sub-paragraph (2)(a) (in respect of a notification) or sub-paragraph (2)(b) (in respect of a report) to be entered in the register as soon as is reasonably practicable.
- (4) The information to be entered in the register in respect of any individual shall not include the individual's home address.
- 8 (1) This paragraph applies where—
- (a) an unincorporated association receives a gift in respect of which an entry falls to be made in the register under paragraph 7, and
- (b) at the time when the gift is received there is no entry in the register in respect of that unincorporated association.
- (2) The Commission shall not include in the register any information that would or might identify a person as someone by or through whom the gift was made unless—
- (a) they have given to the person a notice stating that they propose to include such information, and inviting representations on the matter, and
- (b) they decide, having considered any representations made by the person, that it is reasonable to include such information in the register.
- (3) The Commission shall make reasonable efforts to give a notice under sub-paragraph (2) (a) in any case where, if a notice is not given, sub-paragraph (2) prevents information from being included in the register.
- (4) The Commission shall not make a decision on the matter referred to in sub-paragraph (2) (b) until after the period of 45 days beginning with the date on which they gave the notice under sub-paragraph (2)(a), unless representations from the person concerned are received before the end of that period.

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- (5) Once they have made a decision on that matter the Commission shall give notification of it to the person concerned.

*Meaning of “gift”, etc*

- 9 (1) In this Schedule “gift” includes bequest.
- (2) Anything given or transferred to any officer, member, trustee or agent of an unincorporated association in that person's capacity as such (and not for the person's own use or benefit) is to be regarded for the purposes of this Schedule as given or transferred to the association (and references to gifts received by an unincorporated association are to be read accordingly).
- (3) Regulations made by the Secretary of State may—
- (a) make provision as to things that are, or are not, to be regarded as gifts to unincorporated associations for the purposes of this Schedule;
  - (b) make provision as to how the value of a gift to an unincorporated association is to be calculated for the purposes of this Schedule.
- (4) Provision made under sub-paragraph (3)(a) may, in particular, provide for a person to be treated as making a gift where that person—
- (a) pays expenses incurred by another;
  - (b) lends money to another otherwise than on commercial terms;
  - (c) provides any property, services or facilities for the use or benefit of another otherwise than on commercial terms;
  - (d) transfers any money or other property for a consideration that is worth less than what is transferred (or for no consideration).”

SCHEDULE 6

Section 39

MINOR AND CONSEQUENTIAL AMENDMENTS

*Representation of the People Act 1983 (c. 2)*

- 1 (1) Section 10A (maintenance of registers: registration of electors) is amended as follows.
- (2) In subsection (2), the words “, on the 15th October in the year in question,” are omitted.
- (3) After that subsection there is inserted—
- “(2A) The application referred to in subsection (2) above shall (subject to section 13BB(2)) be treated as made on the 15th October in the year in question.”

**Commencement Information**

**I14** Sch. 6 para. 1 wholly in force at 4.9.2009; Sch. 6 para. 1 not in force at Royal Assent see s. 43(1); Sch. 6 para. 1 in force at 4.9.2009 by S.I. 2009/2395, art. 2(d) (with art. 3)

*Status:* Point in time view as at 01/01/2010. This version of this Act contains provisions that are not valid for this point in time.

*Changes to legislation:* There are currently no known outstanding effects for the Political Parties and Elections Act 2009. (See end of Document for details)

- 2 In section 13 (publication of registers), in subsection (5)(b), for “section 13A, 13B or 13BA” there is substituted “any of sections 13A to 13BB”.

**Commencement Information**

**I15** Sch. 6 para. 2 wholly in force at 4.9.2009; Sch. 6 para. 2 not in force at Royal Assent see s. 43(1); Sch. 6 para. 2 in force at 4.9.2009 by S.I. 2009/2395, art. 2(d) (with art. 3)

- 3 In section 13A (alteration of registers), in subsection (5), for “this section and section 13B or 13BA below” there is substituted “this section, section 13B or 13BA below or section 13BB below”.

**Commencement Information**

**I16** Sch. 6 para. 3 wholly in force at 4.9.2009; Sch. 6 para. 3 not in force at Royal Assent see s. 43(1); Sch. 6 para. 3 in force at 4.9.2009 by S.I. 2009/2395, art. 2(d) (with art. 3)

- 4 In section 65A (false statements in nomination papers etc), in subsection (1), after paragraph (a) there is inserted—  
“(aa) (where the election is a parliamentary election) a statement under rule 6(5)(b) of Schedule 1 to this Act which he knows to be false in any particular; or”.

**Commencement Information**

**I17** Sch. 6 para. 4 wholly in force at 4.9.2009; Sch. 6 para. 4 not in force at Royal Assent see s. 43(1); Sch. 6 para. 4 in force at 4.9.2009 by S.I. 2009/2395, art. 2(d) (with art. 3)

- 5 (1) Section 70 (effect of default in election agent's appointment) is amended as follows.  
(2) In subsection (4)(a), after “the statement as to persons nominated” there is inserted “(or where, in the case of a parliamentary election, the address is not given on that statement, the address as given under rule 6(4) of Schedule 1 to this Act)”.  
(3) After subsection (6) there is inserted—  
“(7) In the case of a parliamentary election, subsection (6) above applies whether or not a statement has been made under rule 6(5) of Schedule 1 to this Act requiring the candidate's home address not to be made public.”

**Commencement Information**

**I18** Sch. 6 para. 5 wholly in force at 4.9.2009; Sch. 6 para. 5 not in force at Royal Assent see s. 43(1); Sch. 6 para. 5 in force at 4.9.2009 by S.I. 2009/2395, art. 2(d) (with art. 3)

- 6 In section 76A (power to vary provisions about election expenses), after paragraph (d) of subsection (2) there is inserted—  
“(e) section 76ZA(2) above.”
- 7 In section 90ZA (meaning of “election expenses”), for subsection (5) there is substituted—

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“(5) A reference in this Part of this Act to a candidate at an election, in relation to election expenses, includes (where the context allows) a reference to a person who becomes a candidate at the election after the expenses are incurred.”

- 8 (1) Schedule 1 (parliamentary elections rules) is amended as follows.
- (2) In rule 6 (nomination of candidates), in paragraph (2)(a), after “names,” there is inserted “ and ”.
- (3) In rule 9 (deposit), in paragraph (3), for “rule 6(1)” there is substituted “ rule 6(4) ”.
- (4) In rule 14 (publication of statement of persons nominated), in paragraph (2), after “nomination papers” there is inserted “ and home address forms ”.
- (5) In rule 14A (correction of minor errors)—
- (a) in paragraph (1), after “nomination paper” there is inserted “ or home address form ”;
- (b) in paragraph (2), after sub-paragraph (b) there is inserted —
- “(c) in the home address form, errors as to the information mentioned in rule 6(5)(b).”
- (6) In the Appendix of forms—
- (a) in the Form of nomination paper, in the first table following the words “candidate at the said election”, the final column (home address) is omitted;
- (b) in the Form of Front of Ballot Paper, for the address after “Richard Edgbaston” there is substituted— “ (address in the Birmingham Northfield Constituency) ”;
- (c) in the directions as to printing the ballot paper, in paragraph 3(b), after “address” there is inserted “ (or the constituency in which that address is situated) ”.

#### **Commencement Information**

**119** Sch. 6 para. 8 wholly in force at 4.9.2009; Sch. 6 para. 8 not in force at Royal Assent see s. 43(1); Sch. 6 para. 8 in force at 4.9.2009 by S.I. 2009/2395, art. 2(d) (with art. 3)

#### *Political Parties, Elections and Referendums Act 2000 (c. 41)*

- 9 In section 1 (establishment of the Electoral Commission), in subsection (5) (appointment of chairman), after “in accordance with section 3” there is inserted “ but subject to section 3A(6) ”.
- 10 In section 3 (appointment of Electoral Commissioners and Commission chairman), in subsection (4) (political restrictions), for “A person may not be appointed” there is substituted “ Subject to subsection (4A), a person may not be appointed ”.
- 11 In section 15 (Deputy Electoral Commissioners), in subsection (3) (Deputy Electoral Commissioner must be eligible for appointment as Electoral Commissioner), for the words after “he is” there is substituted “ prevented by section 3(4) (read without regard to section 3(4A)) from being appointed as an Electoral Commissioner ”.

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*Changes to legislation: There are currently no known outstanding effects for the Political Parties and Elections Act 2009. (See end of Document for details)*

PROSPECTIVE

- 12 In section 54 (permissible donors), in subsection (1)(b), for “that person” there is substituted “ the person offering the donation ”.

PROSPECTIVE

- 13 (1) In section 55 (payments etc which are (or are not) to be treated as donations by permissible donors), at the end of subsection (2) there is inserted— “ But such a payment shall not be regarded as a donation for the purposes of section 54A or paragraph 6A of Schedule 7. ”
- (2) In that section as amended by sub-paragraph (1) above—
- (a) after “section 54A” there is inserted “ or 54B ”;
  - (b) after “paragraph 6A” there is inserted “ or 6B ”.

PROSPECTIVE

- 14 In section 56 (acceptance or return of donations: general), in subsection (5)—
- (a) in paragraph (a), for “paragraph (a) or (b)” there is substituted “ paragraph (a), (aa) or (b) ”;
  - (b) in paragraph (b)(i), for “subsection (2)(a)” there is substituted “ subsection (2)(a) or (aa) ”.

PROSPECTIVE

- 15 In section 58 (forfeiture of donations made by impermissible or unidentifiable donors), in subsection (1)(a) (donations that may not be accepted), for “section 54(1)(a) or (b)” there is substituted “ section 54(1)(a), (aa) or (b) ”.

PROSPECTIVE

- 16 In section 62 (quarterly donation reports), in subsection (9) (donation report to record donations that may not be accepted), for “section 54(1)(a) or (b)” there is substituted “ section 54(1)(a), (aa) or (b) ”.

PROSPECTIVE

- 17 In section 65 (submission of donation reports to Commission), in subsection (4) (offence of failing to comply with reporting requirements), for “the recording of donations in such a report” there is substituted “ the information to be given in such a report ”.

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PROSPECTIVE

18 In section 67 (weekly donation reports in connection with elections other than general elections), in subsection (1)(c) (application of section 147 with modifications), for “section 147” there is substituted “ an order under paragraph 16 of Schedule 19C ”.

PROSPECTIVE

19 In section 71H (authorised participants), after subsection (3) there is inserted—  
 “(3ZA) For the purposes of subsection (3), any reference to a donation in section 54(2ZB) is to be read as a reference to a regulated transaction.”

PROSPECTIVE

20 In section 71U (weekly donation reports in connection with elections other than general elections), in subsection (1)(c) (application of section 147 with modifications), for “section 147” there is substituted “ an order under paragraph 16 of Schedule 19C ”.

PROSPECTIVE

21 In the heading to Part 9, after “COMPANIES” there is inserted “ AND UNINCORPORATED ASSOCIATIONS ”.

VALID FROM 01/12/2010

22 In section 145 (function of Commission with respect to compliance with controls imposed by 2000 Act etc), in subsection (7) (definitions), for “and sections 146 and 148” there is substituted “ , section 148 and Schedule 19B ”.

VALID FROM 01/12/2010

23 In section 148 (general offences), in subsection (1) (offence of tampering with or hiding documents etc), for the words after paragraph (b) there is substituted “ any book, record or other document which is or is liable to be required to be produced for inspection under paragraph 1 or 3 of Schedule 19B, and does so with the intention of falsifying the document or enabling any person to evade any of the provisions of this Act. ”

24 In section 149 (inspection of Commission's registers etc), in subsection (1), after paragraph (d) there is inserted—  
 “(e) paragraph 19 of Schedule 7;  
 (f) paragraph 7 of Schedule 19A.”

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### Commencement Information

**I20** Sch. 6 para. 24 in force at 1.1.2010 by S.I. 2009/3084, art. 4(j)

VALID FROM 01/12/2010

25 In section 156 (orders and regulations), in subsection (2), for “subsections (3) and (4)” there is substituted “ subsections (3) to (4A) ”.

VALID FROM 01/12/2010

26 In section 160 (general interpretation), in subsection (1) (definitions), at the appropriate places there are inserted—  
““contravention” includes a failure to comply, and cognate expressions shall be construed accordingly;”;  
““restriction” includes prohibition;”.

- 27 (1) Schedule 1 (the Electoral Commission) is amended as follows.
- (2) In paragraph 3 (term of office etc of Electoral Commissioners)—
- (a) in sub-paragraph (3) (circumstances in which Electoral Commissioner ceases to hold office), for “An Electoral Commissioner” there is substituted “ Subject to sub-paragraph (3A), an Electoral Commissioner ”;
  - (b) after that sub-paragraph there is inserted—  
“(3A) Paragraph (d) of sub-paragraph (3) does not apply to a nominated Commissioner (within the meaning of section 3A).”
- (3) In paragraph 7 (Assistant Electoral Commissioners), in sub-paragraph (2) (Assistant Electoral Commissioner must be eligible for appointment as Electoral Commissioner), for the words after “he is” there is substituted “ prevented by section 3(4) (read without regard to section 3(4A)) from being appointed as an Electoral Commissioner ”.
- (4) In paragraph 11 (staff)—
- (a) sub-paragraphs (2) and (4) (which are superseded by the provision made by section 7(2) above) are omitted;
  - (b) in sub-paragraph (3), for “sub-paragraph (4)” there is substituted “ paragraph 11A(4) ”.

PROSPECTIVE

- 28 (1) Schedule 7 (control of donations to individuals and members associations) is amended as follows.
- (2) In sub-paragraph (1)(b) of paragraph 6 (prohibition on accepting donations from impermissible donors), for “that person” there is substituted “ the person offering the donation ”.

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- (3) In sub-paragraph (2) of paragraph 8 (acceptance or return of donations), for “section 56(3) and (4)” there is substituted “ section 56(3), (3B) and (4) ”.

PROSPECTIVE

- 29 (1) Schedule 11 (control of donations to recognised third parties) is amended as follows.
- (2) In paragraph 4 (payments etc not to be regarded as donations), at the end there is inserted—
- “(3) Any payment out of public funds shall not be regarded as a donation for the purposes of paragraph 6A.”
- (3) In sub-paragraph (3) of that paragraph (inserted by sub-paragraph (2) above), after “paragraph 6A” there is inserted “ or 6B ”.
- (4) In sub-paragraph (2)(b) of paragraph 7 (acceptance or return of donations), for “section 56(3) and (4)” there is substituted “ section 56(3), (3B) and (4) ”.

PROSPECTIVE

- 30 (1) Schedule 15 (control of donations to permitted participants) is amended as follows.
- (2) In paragraph 4 (payments etc not to be regarded as donations)—
- (a) sub-paragraph (1)(a) is omitted;
- (b) at the end there is inserted—
- “(3) Any payment out of public funds shall not be regarded as a donation for the purposes of paragraph 6A.
- (4) For all other purposes of this Schedule, such a payment shall not be regarded as a donation unless it is a grant provided to a designated organisation by virtue of section 110(2).”
- (3) In sub-paragraph (3) of that paragraph (inserted by sub-paragraph (2)(b) above), after “paragraph 6A” there is inserted “ or 6B ”.
- (4) In sub-paragraph (2)(b) of paragraph 7 (acceptance or return of donations), for “section 56(3) and (4)” there is substituted “ section 56(3), (3B) and (4) ”.

PROSPECTIVE

- 31 In Schedule 20 (penalties), in the entry for section 56(3) or (4), for “(3) or (4)” there is substituted “ (3), (3B) or (4) ”.



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## SCHEDULE 7

Section 39

## REPEALS

**Commencement Information**

**I21** Sch. 7 partly in force; Sch. 7 in force for certain purposes at Royal Assent see s. 43(5); Sch. 7 in force for certain purposes at 4.9.2009 by S.I. 2009/2395, **art. 2(e)** (with **art. 3**); for certain purposes at 25.11.2009 and 1.1.2010 by S.I. 2009/3084, **arts. 3(d), 4(k)**

**Short title and chapter****Extent of repeal**

Representation of the People Act 1983 (c. 2)	<p>In section 10ZB, in the heading, the words “(Northern Ireland)”.</p> <p>In section 10A—</p> <p>(a) in subsection (1A), the words “in respect of an address in Northern Ireland”;</p> <p>(b) in subsection (2), the words “, on the 15th October of the year in question,”.</p> <p>In section 13A(2A), the words “in respect of an address in Northern Ireland”.</p> <p>In section 63(3)(b), the words “sheriff clerk,”.</p> <p>In section 76A(2), the word “or” at the end of paragraph (c).</p> <p>In Schedule 1—</p> <p>(a) in rule 6, sub-paragraph (b) of paragraph (2);</p> <p>(b) in the Appendix of forms, in the Form of nomination paper, in the first table following the words “candidate at the said election”, the final column.</p> <p>In Schedule 2, paragraph 1(8).</p>
Political Parties, Elections and Referendums Act 2000 (c. 41)	<p>In section 13—</p> <p>(a) in subsection (1), paragraphs (b) and (c);</p> <p>(b) in subsection (1A), paragraph (b) and the preceding “and”;</p> <p>(c) in subsection (2), the words “or (b)”;</p> <p>(d) in subsection (3), the words “, or to local government,” and the words after “in Scotland”;</p> <p>(e) in subsection (7), the words “, or to local government,”.</p> <p>In section 47, subsections (2) and (3).</p> <p>In section 54(1), the word “or” at the end of paragraph (a).</p> <p>Section 65(5).</p> <p>Section 71S(6).</p> <p>In section 145, in the heading, the word “monitoring”.</p>

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	In section 149(1), the word “or” at the end of paragraph (c).
	In Schedule 1, paragraph 11(2) and (4).
	In Schedule 7—
	(a) in paragraph 6(1), the word “or” at the end of paragraph (a);
	(b) paragraph 12(3).
	In Schedule 7A—
	(a) in paragraph 1(7)(d), the words after “(in relation to a members association)”;
	(b) paragraph 12(3).
	In paragraph 6(1) of Schedule 11, the word “or” at the end of paragraph (a).
	In Schedule 15—
	(a) paragraph 4(1)(a);
	(b) in paragraph 6(1), the word “or” at the end of paragraph (a).
	In Schedule 20, the entries relating to sections 146(5) and 146(6).
Electoral Fraud (Northern Ireland) Act 2002 (c. 13)	Section 6(3).
Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33)	In Schedule 4, paragraphs 2, 3 and 4(5).

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**Status:**

Point in time view as at 01/01/2010. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Political Parties and Elections Act 2009.