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Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014

2014 CHAPTER 4

PART 2

NON-PARTY CAMPAIGNING ETC

Recognised third parties, information and reports

VALID FROM 23/05/2014

32 Recognised third parties

- (1) Section 88 of the Political Parties, Elections and Referendums Act 2000 (recognised third parties) is amended as follows.
- (2) In subsection (2), after paragraph (c) insert—
 - “(ca) a body incorporated by Royal Charter which does not fall within any of those paragraphs of section 54(2),
 - (cb) a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011 or within the meaning of the Charities Act (Northern Ireland) 2008,
 - (cc) a Scottish charitable incorporated organisation within the meaning of Chapter 7 of Part 1 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10),
 - (cd) a partnership constituted under the law of Scotland which carries on business in the United Kingdom.”.
- (3) In subsection (3)(c), after sub-paragraph (i) (before the “and” at the end) insert—

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“(ia) in the case of a body falling within any of paragraphs (b) and (d) to (h) of section 54(2), the names of the relevant participators in relation to the body (see subsection (3B)),”.

(4) After subsection (3)(c) insert—

“(d) if given by a body falling within any of paragraphs (ca) to (cd) of subsection (2), state—

- (i) the relevant details in relation to the body (see subsection (3C)), and
- (ii) the name of the person or officer who will be responsible for compliance on the part of the body with the provisions of Chapter 2,

and be signed by the body's secretary or a person who acts in a similar capacity in relation to the body.”

(5) In subsection (3A)—

- (a) for “or (c)(ii)” (in both places) substitute “, (c)(ii) or (d)(ii)”;
- (b) after “(3)(c)” insert “ or (d) ”.

(6) After subsection (3A) insert—

“(3B) For the purposes of subsection (3)(c), the “relevant participators” in relation to a body are—

- (a) in the case of a body falling within section 54(2)(b) (companies), the body's directors;
- (b) in the case of a body falling within section 54(2)(d) (trade unions), the body's officers (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992: see section 119 of that Act);
- (c) in the case of a body falling within section 54(2)(e) (building societies), the body's directors;
- (d) in the case of a body falling within section 54(2)(f) (limited liability partnerships), the body's members;
- (e) in the case of a body falling within section 54(2)(g) (friendly societies etc)—
 - (i) where the body is a friendly society, the members of the body's committee of management;
 - (ii) otherwise, the members of the body's committee of management or other directing body;
- (f) in the case of a body falling within section 54(2)(h) (unincorporated associations)—
 - (i) where the body has more than 15 members and has officers or a governing body, those officers or the members of that governing body;
 - (ii) otherwise, the body's members.

(3C) For the purposes of subsection (3)(d), the “relevant details” in relation to a body are—

- (a) in the case of a body falling within subsection (2)(ca) (body incorporated by Royal Charter)—
 - (i) the name of the body,

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- (ii) the address of its main office in the United Kingdom, and
 - (iii) the names of its officers or the members of its governing body;
 - (b) in the case of a body falling within subsection (2)(cb) or (cc) (charitable incorporated organisation)—
 - (i) the name of the body,
 - (ii) the address of its principal office, and
 - (iii) the names of its charity trustees within the meaning of the Charities Act 2011, the Charities Act (Northern Ireland) 2008 or the Charities and Trustee Investment (Scotland) Act 2005 (asp 10);
 - (c) in the case of a body falling within subsection (2)(cd) (Scottish partnership)—
 - (i) the name of the body,
 - (ii) the address of its main office in the United Kingdom, and
 - (iii) the names of the partners.”
- (7) In section 85(7)(c) of that Act (definition of “responsible person”), after “88(3)(c)(ii)” insert “ or (d)(ii) ”.

33 Reporting of donations to recognised third parties

- (1) The Political Parties, Elections and Referendums Act 2000 is amended in accordance with subsections (2) to (8).
- (2) After section 95 (control of donations to recognised third parties) insert—

“Quarterly and weekly reports of donations to recognised third parties

95A Quarterly donation reports

- (1) The responsible person in relation to a recognised third party must, in respect of each reporting period that falls within a pre-dissolution period, prepare a report about reportable donations (“a quarterly report”).
- (2) The reporting periods are—
 - (a) the period of 3 months beginning with the first day of the pre-dissolution period,
 - (b) each succeeding period of 3 months falling within the pre-dissolution period, and
 - (c) any final period of less than 3 months falling within that period.
- (3) A “pre-dissolution period” means a period—
 - (a) beginning with the first day of a qualifying regulated period, and
 - (b) ending with the day before the day (or the last day) during that qualifying regulated period on which Parliament is dissolved.
- (4) A “qualifying regulated period” is a period in relation to which any limit is imposed by paragraph 3, 9, 10 or 11 of Schedule 10 (periods involving parliamentary general elections) other than a period including the date of the poll for an early parliamentary general election.

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- (5) An “early parliamentary general election” is a parliamentary general election the date of the poll for which is appointed under section 2(7) of the Fixed-term Parliaments Act 2011.
- (6) A quarterly report must comply with the requirements of Schedule 11A.
- (7) A “reportable donation” means a relevant donation (within the meaning of Schedule 11) which—
- (a) is received by the recognised third party in respect of the relevant election or elections the poll or polls for which take place during the qualifying regulated period, and
 - (b) is accepted, or is dealt with in accordance with section 56(2) (as applied by paragraph 7 of Schedule 11), by the recognised third party during the reporting period.
- (8) A quarterly report must be delivered to the Commission by the responsible person within the period of 30 days beginning with the end of the reporting period to which it relates.
- (9) The report must be accompanied by a declaration signed by the responsible person stating that, to the best of that person's knowledge and belief—
- (a) all reportable donations (if any) recorded in the report as having been accepted by the recognised third party are from permissible donors, and
 - (b) there are no reportable donations which are required to be recorded in the report in accordance with Schedule 11A which are not so recorded.
- (10) This section does not require the preparation of a quarterly report in respect of a reporting period if no reportable donations are accepted, or dealt with, as described in subsection (7)(b), by the recognised third party during that period.
- (11) This section does not apply in relation to—
- (a) a recognised third party which is a registered party other than a minor party, or
 - (b) a recognised Gibraltar third party.

95B Weekly donation reports during general election periods

- (1) The responsible person in relation to a recognised third party must, in respect of each reporting period that falls within a general election period, prepare a report about substantial donations (“a weekly report”).
- (2) The reporting periods are—
- (a) the period of 7 days beginning with the first day of the general election period,
 - (b) each succeeding period of 7 days falling within the general election period, and
 - (c) any final period of less than 7 days falling within that period.
- (3) A “general election period” means the period—

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- (a) beginning with the day on which Parliament is dissolved for a parliamentary general election, and
 - (b) ending with the date during a qualifying regulated period which is the date of the poll for that election.
- (4) A weekly report must comply with the requirements of Schedule 11A.
- (5) A “substantial donation” means a relevant donation of a substantial value which is received by the recognised third party during the reporting period in respect of the relevant election or elections the poll or polls for which take place during the qualifying regulated period.
- (6) A relevant donation is “of a substantial value” if its value (as determined in accordance with paragraph 5 of Schedule 11) is more than £7,500.
- (7) A weekly report must be delivered to the Commission by the responsible person within the period of 7 days beginning with the end of the reporting period to which it relates.
- (8) The report must be accompanied by a declaration signed by the responsible person stating that, to the best of that person's knowledge and belief, no substantial donations have been received by the recognised third party during the reporting period which are required to be recorded in the report in accordance with Schedule 11A and are not so recorded.
- (9) This section does not require the preparation of a weekly report in respect of a reporting period if no substantial donations are received by the recognised third party during that period.
- (10) In this section—
- “qualifying regulated period” means a period in relation to which any limit is imposed by paragraph 3, 9, 10 or 11 of Schedule 10 (periods involving parliamentary general elections);
 - “relevant donation” has the same meaning as in Schedule 11.
- (11) This section does not apply in relation to—
- (a) a recognised third party which is a registered party other than a minor party, or
 - (b) a recognised Gibraltar third party.

95C Related offences

- (1) The responsible person in relation to a recognised third party commits an offence if, without reasonable excuse, the responsible person—
- (a) fails to deliver a quarterly or weekly report in accordance with section 95A(8) or 95B(7),
 - (b) delivers a quarterly or weekly report to the Commission without the accompanying declaration required under section 95A(9) or 95B(8), or
 - (c) delivers a quarterly or weekly report to the Commission which does not comply with the requirements of Schedule 11A.

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- (2) The responsible person in relation to a recognised third party commits an offence if the person knowingly or recklessly makes a false declaration under section 95A(9) or 95B(8).

95D Forfeiture

- (1) The court may, on an application made by the Commission, order the forfeiture by a recognised third party of an amount equal to the value of a relevant donation where the court is satisfied that—
- (a) a failure by the responsible person to deliver a quarterly or weekly report in accordance with section 95A(8) or 95B(7), or
 - (b) the delivery by the responsible person of a quarterly or weekly report which fails to comply with a requirement of Schedule 11A,
- was attributable to an intention on the part of any person to conceal the existence or true amount of the donation.
- (2) The standard of proof in proceedings on an application under this section is that applicable to civil proceedings.
- (3) A forfeiture order may be made under this section whether or not proceedings are brought against any person for an offence connected with the donation.
- (4) In this section “the court” means—
- (a) in relation to England and Wales, a magistrates' court;
 - (b) in relation to Scotland, the sheriff;
 - (c) in relation to Northern Ireland, a court of summary jurisdiction.
- (5) Proceedings on an application under this section to the sheriff are civil proceedings.
- (6) Sections 59 and 60 (appeals etc against forfeiture orders) apply for the purposes, or in connection with the operation, of this section in relation to a recognised third party as they apply for the purposes, or in connection with the operation, of section 58 in relation to a registered party.
- (7) In this section “relevant donation” has the same meaning as in Schedule 11.

95E Sections 95A to 95D: supplementary

- (1) This section applies where the requirements in section 95A or 95B to prepare quarterly or weekly reports in the case of a pre-dissolution period or a general election period have effect in relation to a recognised third party.
- (2) If the third party's notification under section 88(1) lapses during the pre-dissolution period or the general election period, the requirements in section 95A or 95B (as the case may be) continue to have effect in relation to the third party—
- (a) in respect of the reporting period in which the notification lapses, and
 - (b) in respect of each reporting period (if any) which preceded that period and which falls within the pre-dissolution period or the general election period.

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- (3) If the third party's notification under section 88(1) lapses at or after the end of the pre-dissolution period or the general election period, the requirements in section 95A or 95B (as the case may be) continue to have effect in relation to the third party in the case of that period.
- (4) In a case where subsection (2) or (3) applies, references in sections 95A to 95D to the responsible person are to be read, for the purposes of, or in connection with, the discharge of obligations of the responsible person under those sections, as references to the person who was the responsible person in relation to the recognised third party immediately before the notification lapsed.
- (5) In this section—
 - (a) “pre-dissolution period” and “reporting period”, in relation to a quarterly report, have the same meaning as in section 95A, and
 - (b) “general election period” and “reporting period”, in relation to a weekly report, have the same meaning as in section 95B.

95F Public inspection of reports

- (1) Where the Commission receive a quarterly or weekly report under section 95A or 95B, they must—
 - (a) as soon as reasonably practicable after receiving the report, make a copy of the report, and of any documents accompanying it, available for public inspection, and
 - (b) keep any such copy available for public inspection for the period for which the report or other document is kept by them.
- (2) The Commission must secure that the copy of the report made available for public inspection does not include, in the case of any donation by an individual, the donor's address.
- (3) At the end of the period of 2 years beginning with the date when any report or other document mentioned in subsection (1) is received by the Commission—
 - (a) they may cause the report or other document to be destroyed, but
 - (b) if requested to do so by the responsible person in relation to the third party concerned, they must arrange for the report or other document to be returned to that person.”
- (3) In section 149(6) (inspection of Commission's registers etc), after paragraph (b) insert—

“(ba) section 95F.”.
- (4) In section 155(3) (power to vary specified sums), after paragraph (c) insert—
 - “(ca) section 95B(6);
 - (cb) Schedule 11A.”.
- (5) In Schedule 1 (the Commission), in paragraph 3(3)(c), for the words from “the register” to the end substitute “—
 - (i) the register of donations reported under Chapter 3 or 5 of Part 4,

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- (ii) any quarterly or weekly report delivered to the Commission under section 95A or 95B, or
 - (iii) any statement of donations included in a return delivered to the Commission under section 98 or 122;”.
- (6) In Schedule 11 (control of donations to recognised third parties), in the heading to Part 3, after “REPORTING OF DONATIONS” insert “IN SECTION 96 RETURN”.
- (7) Schedule 4 inserts a new Schedule 11A into that Act.
- (8) In Schedule 20 (penalties) insert the following entries in the appropriate places—

“Section 95C(1)(a) (failure of responsible person to deliver quarterly or weekly report to Commission) On summary conviction: Level 5”;

“Section 95C(1)(b) (failure to deliver signed declaration with quarterly or weekly report to the Commission) On summary conviction: statutory maximum or 6 months
On indictment: fine or 1 year”;

“Section 95C(1)(c) (failure to comply with requirements for quarterly or weekly reports) On summary conviction: statutory maximum or 6 months
On indictment: fine or 1 year”;

“Section 95C(2) (making a false declaration to Commission when delivering quarterly or weekly report) On summary conviction: statutory maximum or 6 months
On indictment: fine or 1 year”.

- (9) If section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force before the day on which this Act is passed—
- (a) section 85 of that Act (removal of limit on certain fines on conviction by magistrates' court) applies in relation to the offences in section 95C(1) and (2) of the Political Parties, Elections and Referendums Act 2000 (as inserted by this section) on and after that day as if they were relevant offences (as defined in section 85(3) of that Act), and
 - (b) regulations described in section 85(11) of that Act may amend, repeal or otherwise modify amendments made by this section.
- (10) The Minister may by order made by statutory instrument make, in relation to the content of quarterly or weekly reports under section 95A or 95B of the Political Parties, Elections and Referendums Act 2000 (as inserted by this section), such provision as the Minister thinks appropriate which corresponds or is similar to any of the amendments made to Part 3 of Schedule 11 to that Act by the Political Parties and Elections Act 2009.
- (11) An order under subsection (10) may—
- (a) make provision amending this section or the Political Parties, Elections and Referendums Act 2000;
 - (b) make such consequential, supplementary, incidental, transitional or saving provision as the Minister thinks appropriate;

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(c) make different provision for different purposes.

(12) A statutory instrument containing an order under subsection (10) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(13) In subsection (10) “the Minister” means the Secretary of State or the Lord President of the Council.

34 Returns as to controlled expenditure

(1) Section 96 of the Political Parties, Elections and Referendums Act 2000 (returns as to controlled expenditure) is amended as follows.

(2) For subsection (1) substitute—

“(1) Subsection (1A) applies where—

- (a) during a regulated period, any controlled expenditure is incurred by or on behalf of a recognised third party in a relevant part of the United Kingdom, and
- (b) the incurring of that expenditure would, if the third party had not been recognised, have been an offence under section 94(4) (whether because it was incurred in excess of a limit mentioned in section 94(5) or 94(5ZA)).

(1A) The responsible person must prepare a return in respect of the controlled expenditure incurred by or on behalf of the third party during that period in each relevant part of the United Kingdom.”

(3) In subsection (7)—

- (a) in the opening words, for “(1)(a)” substitute “(1A)”; and
- (b) in paragraph (a), omit “falling within subsection (1)(a)”.

35 Statements of accounts by recognised third parties

(1) Part 6 of the Political Parties, Elections and Referendums Act 2000 (controls relating to third party national election campaigns) is amended as follows.

(2) In sections 90(3) and 94(8), (10) and (11), for “99” substitute “99A”.

(3) After section 96 (returns as to controlled expenditure) insert—

“96A Statement of accounts

(1) Where—

- (a) a return falls to be prepared under section 96 in respect of controlled expenditure incurred by or on behalf of a recognised third party during a regulated period, and
- (b) the period is one in relation to which any limit is imposed by paragraph 3, 9, 10 or 11 of Schedule 10 (periods involving parliamentary general elections),

the responsible person must, subject to subsections (8) and (9), also prepare a statement of accounts in respect of the regulated period.

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- (2) A statement of accounts under this section must include—
- (a) a statement of the income and expenditure of the third party for the regulated period, and
 - (b) a statement of its assets and liabilities at the end of that period.
- (3) A statement of accounts under this section must comply with such requirements as to the form and contents of the statement as may be prescribed by regulations made by the Commission.
- (4) Regulations under subsection (3) may in particular—
- (a) require any statement of accounts to be prepared in accordance with such methods and principles as are specified or referred to in the regulations;
 - (b) specify information which is to be provided by way of notes to the accounts.
- (5) Without prejudice to the generality of paragraph 22(7) of Schedule 1 (power to make different provision for different cases), regulations under subsection (3) may impose different requirements according to which of the following bands the gross income or total expenditure of a third party falls within—
- (a) not exceeding £25,000;
 - (b) exceeding £25,000 but not £100,000;
 - (c) exceeding £100,000 but not £250,000;
 - (d) exceeding £250,000.
- (6) The Secretary of State may by order amend subsection (5) by varying the number of bands set out in it.
- (7) The Secretary of State may not make an order under subsection (6) except to give effect to a recommendation of the Commission.
- (8) This section does not apply if the third party is an individual.
- (9) This section does not apply to a third party in relation to a regulated period if the Commission are satisfied—
- (a) that a statement or statements prepared or to be prepared by the third party under any enactment contains or will contain the information required by subsection (2) or equivalent information, and
 - (b) that the Commission are, or will be, able to inspect that statement or those statements.
- (10) Equivalent information is—
- (a) a statement or statements of the income and expenditure for a period or periods other than the regulated period, or
 - (b) a statement or statements of assets and liabilities at a date or dates other than the end of that period,
- but which in the Commission's opinion gives a sufficient indication of the third party's accounts for, or at the end of, the regulated period.
- (11) Where section 96(7) (lapse of notification) applies to the preparation of a return—

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- (a) the reference to the responsible person in subsection (1) of this section is to be read as a reference to the person described in section 96(7)(b), and
 - (b) for the purposes of, or in connection with, the discharge of obligations of the responsible person under sections 98 and 99A in relation to a statement of accounts under this section, references to the responsible person are to be read as references to that person.
- (12) In this section and section 97 “gross income” means gross recorded income from all sources.”
- (4) In section 97 (auditor's report on return)—
 - (a) after subsection (1) insert—
 - “(1A) A report must be prepared by a qualified auditor on any statement of accounts prepared under section 96A in respect of a regulated period, if—
 - (a) a report falls to be prepared under subsection (1) on the return mentioned in section 96A(1)(a), or
 - (b) during the regulated period the gross income or total expenditure of the third party exceeds £250,000.”;
 - (b) in subsection (2), after “subsection (1)” insert “ or (1A) ”;
 - (c) in the heading, at the end insert “ **or statement of accounts** ”.
- (5) In section 98 (delivery of returns to the Commission), after subsection (2) insert—
 - “(2A) Where a statement of accounts falls to be prepared under section 96A, the responsible person must deliver—
 - (a) the statement, and
 - (b) if an auditor's report on the statement falls to be prepared under section 97(1A), that report,to the Commission before the end of the period of 6 months beginning with the end of the period under subsection (1) or (2) for the delivery of the relevant section 96 return.
 - (2B) “The relevant section 96 return” means the return mentioned in section 96A(1)(a) which gives rise to the duty to prepare the statement of accounts.”
- (6) In section 98(4) (offences)—
 - (a) after paragraph (a) insert—
 - “(aa) fails to comply with the requirements of subsection (2A) in relation to any statement or report to which that subsection applies; or”;
 - (b) after paragraph (b) insert—
 - “(ba) delivers a statement which does not comply with the requirements of section 96A(2) or (3); or”.
- (7) After section 99 (declaration by responsible person as to return under section 96) insert—

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“99A Declaration by responsible person as to statement of accounts under section 96A

- (1) Each statement of accounts prepared under section 96A must, when delivered to the Commission, be accompanied by a declaration which complies with subsection (2) and is signed by the responsible person.
- (2) The declaration must state—
- (a) that the responsible person has examined the statement in question; and
 - (b) that to the best of that person's knowledge and belief it is a complete and correct statement of accounts as required by law.
- (3) A person commits an offence if—
- (a) that person knowingly or recklessly makes a false declaration under this section; or
 - (b) subsection (1) is contravened without reasonable excuse at a time when that person is the responsible person in the case of the recognised third party to which the statement of accounts relates.”
- (8) In section 100 (public inspection of returns under section 96), after subsection (3) insert—
- “(4) Where a statement of accounts is delivered under section 98(2A), this section applies as if the statement and any documents accompanying it—
- (a) were documents accompanying the relevant section 96 return, and
 - (b) (for the purposes of subsection (3)) were received by the Commission when the return was received.
- (5) In subsection (4)(a), “the relevant section 96 return” has the meaning given by section 98(2B).”
- (9) In Schedule 20 (penalties) insert these entries in the appropriate places—

“Section 98(4)(aa) (failure of responsible person to deliver statement of accounts and auditor's report to Commission)	On summary conviction: Level 5”;
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“Section 98(4)(ba) (failure to comply with requirements for statements of accounts)	On summary conviction: statutory maximum or 6 months On indictment: fine or 1 year”;
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“Section 99A(3)(a) (making a false declaration to Commission when delivering statement of accounts)	On summary conviction: statutory maximum or 6 months On indictment: fine or 1 year
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Section 99A(3)(b) (failure to deliver signed declaration with statement of accounts to Commission)	On summary conviction: statutory maximum or 6 months On indictment: fine or 1 year”.
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- (10) If section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force before the day on which this Act is passed—
- (a) section 85 of that Act (removal of limit on certain fines on conviction by magistrates' court) applies in relation to the offences in section 98(4)(aa) and (ba) and 99A(3) of the Political Parties, Elections and Referendums Act 2000 (as inserted by this section) on and after that day as if they were relevant offences (as defined in section 85(3) of that Act), and
 - (b) regulations described in section 85(11) of that Act may amend, repeal or otherwise modify amendments made by this section.

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