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## SCHEDULE 1

### Amendments to the 1962 Act

#### Part 1

##### Amendments to Part 4 (officers) and Part 6 (the election campaign)

1. The 1962 Act is amended as follows.
2. After section 14A(2) <sup>M1</sup> (appointment of persons to assist Chief Electoral Officer) insert—

“(2A) The Chief Electoral Officer may give persons specified in Article 9(2) of the Electoral Law (Northern Ireland) Order 1972 <sup>M2</sup> directions about the discharge of functions under the Local Elections Rules which have been delegated to them pursuant to subsection (2).”.

#### Marginal Citations

- M1** Section 14 was substituted, and sections 14A and 14B inserted, by [S.I. 1972/1264 \(N.I. 13\)](#). Functions conferred on the Governor, Minister and the Ministry of Finance were transferred in accordance with [S.I. 1973/2163](#). Section 14 was subsequently amended by the [Northern Ireland Assembly Disqualification Act 1975 \(c. 25\)](#), the [Elected Authorities \(Northern Ireland\) Act 1989 \(c. 3\)](#) (“the 1989 Act”) and the [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\)](#); section 14A was subsequently amended by [S.I. 1985/454](#) and the 1989 Act; and section 14B was amended by the 1989 Act.
- M2** [S.I. 1972/1264 \(N.I. 13\)](#).

3. In section 22(2) (remuneration and expenses of returning officer at parliamentary election) for “Act” substitute “Part”.
4. After section 34(4) <sup>M3</sup> (appointment of election agent) insert—

“(4A) The declaration as a candidate's election agent at a local election of a person (“P”) other than the candidate is of no effect under this section unless it is made and signed by P or is accompanied by a written declaration of acceptance signed by P.”.

#### Marginal Citations

- M3** Section 34(4) was amended by [S.I. 1987/168](#).

5. After section 37 <sup>M4</sup> (default in appointing election agent) insert—

#### “37A Control of donations to candidates at local elections

(1) In the case of any candidate (“C”) at a local election, any money or other property provided (whether as a gift or loan)—

- (a) by any person other than C or C's election agent, and
- (b) for the purpose of meeting election expenses incurred by or on behalf of C,

must be provided to C or C's election agent.

(2) Subsection (1) does not apply to any money or other property so provided for the purpose of meeting any such expenses which may be lawfully paid by a person other than C or C's election agent.

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(3) Schedule 3A has effect for the purpose of controlling donations to candidates.

(4) In this section and that Schedule “property” includes any description of property, and references to the provision of property accordingly include the supply of goods.”.

#### Marginal Citations

**M4** Section 37 was amended by S.I. 1972/1264 (N.I.15) and S.I. 1987/168.

6. Omit section 38 (making of contracts through election agent).

7. For section 39<sup>M5</sup> (payment of expenses at an election through election agent) substitute—

#### “39 Payment of expenses through an election agent

(1) Subject to subsection (3), no payment (of whatever nature) may be made by—

- (a) a candidate at an election, or
- (b) any other person,

in respect of election expenses incurred by or on behalf of the candidate unless it is made by or through the candidate's election agent.

(2) Every payment made by an election agent in respect of any election expenses must, except where less than £20, be vouched by a bill stating the particulars or by a receipt.

(3) This section does not apply to—

- (a) any expenses which are, in accordance with section 40(1) or (1A), 43(3) or 44(2), paid by the candidate;
- (b) any expenses which are paid in accordance with section 40(2) by a person authorised as mentioned in that provision;
- (c) any expenses included in a declaration made by the election agent under section 40A;
- (d) any expenses which are to be regarded as incurred by or on behalf of the candidate by virtue of section 52A(5).”.

#### Marginal Citations

**M5** Section 39 was amended by S.I. 1972/1264 (N.I.15) and S.I. 1987/168.

8.—(1) Section 40<sup>M6</sup> (personal expenses of candidate and petty expenses at an election) is amended as follows.

(2) After subsection (1) insert—

“(1A) The candidate at a local election may also pay any election expenses (other than expenses falling within subsection (1)) which were incurred by the candidate or on the candidate's behalf and in respect of which payment falls to be made before the date on which an election agent is appointed (or deemed to have been appointed).”.

(3) In subsection (2), after “telegrams” insert “ (or any similar means of communication) ”.

(4) In subsection (3)(a), for “personal expenses paid by him under subsection (1)” substitute “ expenses paid as mentioned in subsections (1) and (1A) ”.

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#### Marginal Citations

**M6** Section 40 was amended by S.I. 1972/1264 (N.I.13).

9. After section 40 insert—

#### “40A Expenses incurred at a local election otherwise than for election purposes

(1) Sections 39, 43 and 44<sup>M7</sup> do not apply to election expenses—

- (a) which are incurred by or on behalf of a candidate otherwise than for the purposes of the candidate's election, but
- (b) which by virtue of section 52A(1)<sup>M8</sup> fall to be regarded as election expenses by reason of the property, services or facilities in respect of which they were incurred being used for the purposes of the candidate's election.

(2) The candidate's election agent must make a declaration of the amount of any election expenses falling within subsection (1).

(3) In this section “for the purposes of the candidate's election” has the same meaning as in sections 52A and 52B.”.

#### Marginal Citations

**M7** Section 43 was amended by S.I. 1972/1264 and S.I. 1987/168.

**M8** Sections 52A and 52B are inserted by this Order.

10.—(1) Section 41<sup>M9</sup> (prohibition of unauthorised expenses) is amended as follows.

(2) In subsection (1)—

- (a) for the words from “sub-sections (2)” to “Ninth Schedule” substitute “ subsections (2) to (3) ”; and
- (b) after “be incurred” insert “ after a person becomes a candidate ”.

(3) After subsection (1) insert—

“(1A) For the purposes of subsection (1) expenditure incurred before or on the date when a candidate becomes a candidate at a local election is to be treated as having been incurred after that date if it is incurred in connection with anything which is used or takes place after that date.”.

(4) For subsection (2)(i) substitute—

“(i) restrict the publication of any matter relating to the election in—

- (a) a newspaper or other periodical;
- (b) a broadcast made by the British Broadcasting Corporation; or
- (c) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990<sup>M10</sup> or Part 1 or 2 of the Broadcasting Act 1996<sup>M11</sup>; or”.

#### Marginal Citations

**M9** Section 41 was amended by S.I. 1972/1264 (N.I.13); S.I. 1986/168; and S.I. 2001/417.

**M10** 1990 c. 42; amendments have been made to this Act but they are not relevant to this Order.

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**M11** 1996 c. 55; amendments have been made to this Act but they are not relevant to this Order.

**11.**—(1) Section 42 (limitation of expenses at an election) is amended as follows.

(2) For the heading substitute “ Limitation of election expenses ”.

(3) In subsection (1) for “, and for a candidate” to the end of that subsection substitute “ . This subsection does not apply at a local election. ”.

(4) After subsection (1) insert—

“(1ZA) The election expenses incurred by or on behalf of a candidate at a local election must not in the aggregate exceed the maximum amount specified in subsection (1ZB).

(1ZB) The maximum amount is £600 together with 5p for every entry in the register of electors.”.

(5) In subsection (1A) for “(1)” substitute “ (1ZA) ”.

(6) After subsection (6) insert—

“(7) Where at a local election a poll is countermanded or abandoned by reason of a candidate's death, the maximum amount of election expenses shall, for any of the other candidates who remain validly nominated, be twice or, if there has been a previous increase under this subsection, three times what it would have been but for any increase under this subsection; but the maximum amount shall not be affected for any candidate by any change in timing.”.

**12.** In section 44(4) (disputed claims) omit “and (4)” and for “they apply” substitute “ it applies ”.

**13.**—(1) Section 46 <sup>M12</sup> (return as to expenses at an election) is amended as follows.

(2) For the heading substitute “ return as to election expenses ”.

(3) In subsection (1)—

(a) omit “in the form numbered 4 in the Tenth Schedule,”; and

(b) for the words from “that candidate” to the end substitute

“that candidate—

(a) a statement of all payments made by the election agent together with all the relevant bills or receipts; and

(b) a statement of all the election expenses incurred by or on behalf of that candidate.”.

(4) For subsections (2) to (4) substitute—

“(2) A return under this section must—

(a) specify the poll by virtue of which the return is required;

(b) specify the candidate's name and the election agent's name;

(c) deal under a separate heading with any expenses in respect of which a return is required by virtue of section 41(5); and

(d) deal under a separate heading with any expenses that are on account of remuneration or expenses of speakers at public meetings.

(3) The return must also contain as respects that candidate—

(a) a statement of all payments made—

(i) by the candidate in accordance with section 40(1) or (1A), or

(ii) by any other person in accordance with section 40(2),

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together with all bills or receipts relating to any such payments made in accordance with section 40(1A) or (2);

- (b) a statement of all disputed claims of which the election agent is aware;
- (c) a statement of all the unpaid claims, if any, of which the election agent is aware, in respect of which application has been or is about to be made to the High Court or county court;
- (d) any declarations of value falling to be made by the candidate's election agent by virtue of section 40A(2) or 52B(2);
- (e) a declaration of the amount of expenses which are to be regarded as election expenses incurred by or on behalf of the candidate by virtue of section 52A(5);
- (f) a statement of donations made to the candidate or the candidate's election agent which complies with the requirements of paragraphs 11 and 12 of Schedule 3A; and
- (g) a statement of the amount, if any, of money provided by the candidate from the candidate's own resources for the purpose of meeting election expenses incurred by the candidate or on his or her own behalf.”.

**Marginal Citations**

**M12** Section 46 was amended by [S.I. 1972/1264 \(N.I. 13\)](#) and [S.I. 1987/168](#).

**14.** In section 47(1) and (2) <sup>M13</sup> (declaration as to expenses at a parliamentary election) omit “before a justice of the peace”.

**Marginal Citations**

**M13** Section 47(4) was inserted by [S.I. 1987/168](#).

**15.—**(1) Section 52 <sup>M14</sup> (inspection of returns and declarations) is amended as follows.

(2) For subsection (1) substitute—

“(1) Where the returning officer receives any return or declaration under section 41 or 46 the officer must—

- (a) make a copy of the return or declaration, and any accompanying documents, available for public inspection at an appropriate place and at all reasonable times for the period of 12 months beginning with the date on which they are received by the officer; and
- (b) if requested to do so by a person, and on payment of a fee of 20p for each side of each page, supply the person with a copy of the return, declaration or accompanying documents or any part of them.

(1A) In subsection (1) “appropriate place” means—

- (a) the office of the returning officer; or
- (b) some other convenient place chosen by the returning officer.

(1B) If a return under section 46 contains a statement of donations in accordance with paragraph 10 of Schedule 3A the returning officer must ensure that any copy of the statement made available for public inspection or supplied under subsection (1) excludes the address of any individual who has made a donation.”.

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- (3) In subsection (2) for “two years” substitute “ 12 months ”.

#### Marginal Citations

**M14** The sum in section 52 was converted by virtue of the [Decimal Currency Act 1969 \(c.19\)](#); the section was amended by [S.I. 1985/454](#) and [S.I. 1987/168](#).

16. After section 52 insert—

#### “52A Meaning of “election expenses” at a local election

(1) In this Part “election expenses” in relation to a candidate at a local election means (subject to subsection (2) and section 52B) any expenses incurred at any time in respect of any matter specified in Part 1 of Schedule 3B which is used for the purposes of the candidate's election after the date when the candidate becomes a candidate at the election.

(2) No election expenses are to be regarded as incurred by virtue of subsection (1) or section 52B in respect of any matter specified in Part 2 of Schedule 3B.

(3) In this section and in section 52B, “for the purposes of the candidate's election” means with a view to, or otherwise in connection with, promoting or procuring the candidate's election at the election.

(4) For the purposes of this Part election expenses are incurred by or on behalf of a candidate at an election if they are incurred—

- (a) by the candidate or the candidate's election agent, or
- (b) by any person authorised by the candidate or the candidate's election agent to incur expenses.

(5) A reference in this Part 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.

(6) In this Part and in Parts 9 and 10, any reference (in whatever terms) to promoting or procuring a candidate's election at a local election includes doing so by prejudicing the electoral prospects of another candidate at the election.

(7) Schedule 3B has effect.

#### 52B Property, goods, services etc provided free of charge or at a discount

(1) This section applies where, in the case of a candidate at a local election—

- (a) either—
  - (i) property or goods is or are transferred to the candidate or the candidate's election agent free of charge or at a discount of more than 10 per cent of the market value of the property or goods, or
  - (ii) property, goods, services or facilities is or are provided for the use or benefit of the candidate free of charge or at a discount of more than 10 per cent of the commercial rate for the use of the property or for the provision of the goods, services or facilities, and
- (b) the property, goods, services or facilities is or are made use of by or on behalf of the candidate in circumstances such that, if any expenses were to be (or are) actually incurred by or on behalf of the candidate in respect of that use, they would be (or are) election expenses incurred by or on behalf of the candidate.

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- (2) Where this section applies—
- (a) an amount of election expenses determined in accordance with this section (“the appropriate amount”) is to be treated, for the purposes of this Part, as incurred by the candidate, and
  - (b) the candidate's election agent must make a declaration of that amount, unless that amount is not more than £50.

This subsection has effect subject to Part 2 of Schedule 3B.

(3) Where subsection (1)(a)(i) applies, the appropriate amount is such proportion of either—

- (a) the market value of the property or goods (where the property or goods is or are transferred free of charge), or
- (b) the difference between the market value of the property or goods and the amount of expenses actually incurred by or on behalf of the candidate in respect of the property or goods (where the property or goods is or are transferred at a discount),

as is reasonably attributable to the use made of the property or goods as mentioned in subsection (1)(b).

(4) Where subsection (1)(a)(ii) applies, the appropriate amount is such proportion of either—

- (a) the commercial rate for the use of the property or the provision of the goods, services or facilities (where the property, goods, services or facilities is or are provided free of charge), or
- (b) the difference between that commercial rate and the amount of expenses actually incurred by or on behalf of the candidate in respect of the use of the property or the provision of the services or facilities (where the property, goods, services or facilities is or are provided at a discount),

as is reasonably attributable to the use made of the property, goods, services or facilities as mentioned in subsection (1)(b).

(5) Where the services of an employee are made available by an employer for the use or benefit of a candidate, then for the purposes of this section the commercial rate for the provision of those services is the amount of the remuneration and allowances payable to the employee by the employer in respect of the period for which the employee's services are so made available (but does not include any amount in respect of any contributions or other payments for which the employer is liable in respect of the employee).

(6) In this section “market value”, in relation to any property or goods, means the price which might reasonably be expected to be paid for the property or goods on a sale in the open market; and paragraph 2(6)(a) of Schedule 3A applies with any necessary modifications for the purpose of determining, for the purposes of subsection (1) whether property or goods is or are transferred to a candidate or the candidate's election agent.”.

**17.—**(1) Section 53<sup>M15</sup> (right to send election address post free) is amended as follows.

- (2) In subsection (1) for “two ounces” substitute “ 60 grammes ”.
- (3) Omit subsection (4).

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**M15** Section 53 was extended to apply to local elections by S.I. 1977/428. It was amended by S.I. 1985/454 and S.I. 2001/1149.

18. After section 57<sup>M16</sup> (rules for conduct of elections) insert—

**“57A Returning officers: correction of procedural errors**

(1) The returning officer at a local election may take such steps as the returning officer thinks appropriate to remedy any act or omission on the returning officer's part, or on the part of a relevant person, which—

- (a) arises in connection with any function the returning officer or relevant person has in relation to the election; and
- (b) is not in accordance with the rules or any other requirements applicable to the election.

(2) But a returning officer may not under subsection (1) re-count the votes given at an election after the result has been declared.

(3) These are the relevant persons—

- (a) the registration officer;
- (b) a presiding officer;
- (c) a person providing goods or services to the returning officer;
- (d) a deputy of any person mentioned in paragraph (a) to (c) or a person appointed to assist, or in the course of that person's employment assisting, such a person in connection with any function that person has in relation to the election.”.

**Marginal Citations**

**M16** Section 57 was amended by S.I. 1972/1264 (N.I. 13).

19. After Schedule 3<sup>M17</sup> to the 1962 Act insert—

“SCHEDULE 3A

CONTROL OF DONATIONS TO CANDIDATES AT A LOCAL ELECTION

**Part 1**

Introductory

**Operation and interpretation of Schedule**

1.—(1) This Schedule has effect for controlling donations to candidates at a local election.

(2) The following provisions have effect for the purposes of this Schedule.

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(3) “Relevant donation”, in relation to a candidate at an election, means a donation to the candidate or the candidate's election agent for the purpose of meeting election expenses incurred by or on behalf of the candidate.

(4) In sub-paragraph (3) the reference to a donation for the purpose of meeting election expenses incurred by or on behalf of a candidate includes a reference to a donation for the purpose of securing that any such expenses are not so incurred; and a donation shall be taken to be a donation for either of those purposes if, having regard to all the circumstances, it must be reasonably assumed to be such a donation.

(5) “Donation” shall be construed in accordance with paragraphs 2 to 4.

(6) “2000 Act” means the Political Parties, Elections and Referendums Act 2000<sup>M18</sup>.

### **Donations: general rules**

**2.—**(1) “Donation”, in relation to a candidate at an election, means (subject to paragraph 4)—

- (a) any gift to the candidate or the candidate's election agent of money or other property;
- (b) any sponsorship provided in relation to the candidate (as defined by paragraph 3);
- (c) any money spent (otherwise than by the candidate, or the candidate's election agent) in paying any election expenses incurred by or on behalf of the candidate;
- (d) any money lent to the candidate or the candidate's election agent otherwise than on commercial terms;
- (e) the provision otherwise than on commercial terms of any property, services or facilities for the use or benefit of the candidate (including the services of any person).

(2) Where—

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

the transfer of the money or property shall (subject to sub-paragraph (4)) constitute a gift to the candidate or (as the case may be) the candidate's election agent for the purposes of sub-paragraph (1)(a).

(3) In determining—

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

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

(4) Where (apart from this sub-paragraph) anything would be a donation both by virtue of sub-paragraph (1)(b) and by virtue of any other provision of this paragraph, sub-

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paragraph (1)(b) (together with paragraph 3) shall apply in relation to it to the exclusion of the other provision of this paragraph.

(5) The reference in sub-paragraph (1)(c) to money spent as mentioned in that provision is a reference to money so spent by a person, other than the candidate or the candidate's election agent, out of his or her own resources (with no right to reimbursement out of the resources of any such other person); and where, by virtue of sub-paragraph (1)(c), money so spent constitutes a donation to the candidate, the candidate shall be treated as receiving an equivalent amount on the date on which the money is paid to the creditor in respect of the expenses in question.

(6) In this paragraph—

- (a) any reference to anything being given or transferred to a candidate or the candidate's election agent includes a reference to its being given or transferred either directly or indirectly through any third person;
- (b) “gift” includes a bequest or any other form of testamentary disposition.

### **Sponsorship**

3.—(1) For the purposes of this Schedule sponsorship is provided in relation to a candidate if—

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

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

- (a) any conference, meeting or other event organised by or on behalf of the candidate,
- (b) the preparation, production or dissemination of any publication by or on behalf of the candidate, or
- (c) any study or research organised by or on behalf of the candidate.

(3) The following do not, however, constitute sponsorship by virtue of sub-paragraph (1) above—

- (a) the making of any payment in respect of—
  - (i) any charge for admission to any conference, meeting or other event, or
  - (ii) the purchase price of, or any other charge for access to, any publication;
- (b) the making of any payment in respect of the inclusion of an advertisement in any publication where the payment is made at the commercial rate payable for the inclusion of such an advertisement in any such publication.

(4) In this paragraph “publication” means a publication made available in whatever form and by whatever means (whether or not to the public at large or any section of the public).

### **Payments etc not to be regarded as donations**

4.—(1) None of the following shall be regarded as a donation—

- (a) the provision of any facilities provided in pursuance of any right conferred on a candidate at an election by this Act;

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- (b) the provision by an individual of the individual's own services which the individual provides voluntarily in the individual's own time and free of charge;
- (c) any interest accruing to a candidate or the candidate's election agent in respect of any donation which is dealt with by the candidate or (as the case may be) the candidate's election agent in accordance with section 56(2)(a) or (b) <sup>MI9</sup> of the 2000 Act (as applied by paragraph 7).

(2) There shall also be disregarded any donation whose value (determined in accordance with paragraph 5) is not more than £50.

### **Value of donations**

**5.—**(1) The value of any donation falling within paragraph 2(1)(a) (other than money) shall be taken to be the market value of the property in question.

(2) Where, however, paragraph 2(1)(a) applies by virtue of paragraph 2(2), the value of the donation shall be taken to be the difference between—

- (a) the value of the money, or the market value of the property, in question, and
- (b) the total value in monetary terms of the consideration provided by or on behalf of the candidate or the candidate's election agent.

(3) The value of any donation falling within paragraph 2(1)(b) shall be taken to be the value of the money, or (as the case may be) the market value of the property, transferred as mentioned in paragraph 3(1); and accordingly any value in monetary terms of any benefit conferred on the person providing the sponsorship in question shall be disregarded.

(4) The value of any donation falling within paragraph 2(1)(d) or (e) shall be taken to be the amount representing the difference between—

- (a) the total value in monetary terms of the consideration that would have had to be provided by or on behalf of the candidate or the candidate's election agent in respect of the loan or the provision of the property, services or facilities if—
  - (i) the loan had been made, or
  - (ii) the property, services or facilities had been provided,

on commercial terms, and

- (b) the total value in monetary terms of the consideration (if any) actually so provided by or on behalf of the candidate or the candidate's election agent.

(5) Where a donation such as is mentioned in sub-paragraph (4) confers an enduring benefit on the donee over a particular period, the value of the donation—

- (a) shall be determined at the time when it is made, but
- (b) shall be so determined by reference to the total benefit accruing to the donee over that period.

(6) In this paragraph “market value” in relation to any property, means the price which might reasonably be expected to be paid for the property on a sale in the open market.

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## Part 2

### Controls on donations

#### Prohibition on accepting donations from impermissible donors

6.—(1) A relevant donation received by a candidate or the candidate's election agent must not be accepted if—

- (a) the person by whom the donation would be made is not, at the time of its receipt by the candidate or (as the case may be) the candidate's election agent, a permissible donor falling within section 54(2)<sup>M20</sup> of the 2000 Act; or
- (b) the candidate or (as the case may be) the candidate's election agent is (whether because the donation is given anonymously or by reason of any deception or concealment or otherwise) unable to ascertain the identity of the person offering the donation.

(2) For the purposes of this Schedule any relevant donation received by a candidate or the candidate's election agent which is an exempt trust donation shall be regarded as a relevant donation received by the candidate or the candidate's election agent from a permissible donor; and section 162<sup>M21</sup> of the 2000 Act (interpretation: exempt trust donations) shall apply for the purposes of this Schedule as it applies for the purposes of that Act.

(3) But, for the purposes of this Schedule, any relevant donation received by a candidate or a candidate's election agent from a trustee of any property (in the trustee's capacity as such) which is not—

- (a) an exempt trust donation, or
- (b) a relevant donation transmitted by the trustee to the candidate or the candidate's election agent on behalf of beneficiaries under the trust who are—
  - (i) persons who at the time of its receipt by the candidate or the candidate's election agent are permissible donors falling within section 54(2) of the 2000 Act, or
  - (ii) the members of an unincorporated association which at that time is such a permissible donor,

shall be regarded as a relevant donation received by the candidate or the candidate's election agent from a person who is not such a permissible donor.

(4) Where any person (“the principal donor”) causes an amount (“the principal donation”) to be received by a candidate or the candidate's election agent by way of a relevant donation—

- (a) on behalf of himself or herself and one or more other persons, or
- (b) on behalf of two or more other persons,

then for the purposes of this Part each individual contribution by a person falling within paragraph (a) or (b) of more than £50 shall be treated as if it were a separate donation received from that person.

(5) In relation to each such separate donation, the principal donor must ensure that, at the time when the principal donation is received by the candidate or the candidate's election agent, the candidate or (as the case may be) the candidate's election agent is given—

- (a) (except in the case of a donation which the principal donor is treated as making) all such details in respect of the person treated as making the donation as are required by virtue of paragraph 11(c); and

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(b) (in any case) all such details in respect of the donation as are required by virtue of paragraph 11(a).

(6) Where—

(a) any person (“the agent”) causes an amount to be received by a candidate or a candidate's election agent by way of a donation on behalf of another person (“the donor”), and

(b) the amount of the donation is more than £50,

the agent must ensure that, at the time when the donation is received by the candidate or the candidate's election agent, the candidate or (as the case may be) the candidate's election agent is given all such details in respect of the donor as are required by virtue of paragraph 11(c).

(7) A person who fails, without reasonable excuse, to comply with sub-paragraph (5) or (6) commits an offence.

(8) A person guilty of an offence under sub-paragraph (7) shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding 6 months (or both);

(b) on conviction on indictment, to a fine or to a term of imprisonment not exceeding one year (or both).

### **Acceptance or return of donations**

7.—(1) Sections 56 to 59 and section 60(3) to (5)<sup>M22</sup> of the 2000 Act shall apply for the purposes of this Schedule in relation to—

(a) a relevant donation received by a candidate or a candidate's election agent, and

(b) the candidate or (as the case may be) the election agent,

as they apply in relation to a donation received by a registered party and the registered party.

(2) In the application of those sections in accordance with sub-paragraph (1)—

(a) section 56(1) shall have effect as if the reference to the particulars relating to a donor which would be required to be included in a donation report by virtue of paragraph 2 of Schedule 6 (if the donation were a recordable donation within the meaning of the Schedule) were construed as a reference to the particulars which are required to be included in a return by virtue of paragraph 11(c);

(b) section 56(3) shall have effect as if the reference to the party were omitted and the reference to the treasurer of the party were construed as a reference to the candidate or (as the case may be) the candidate's election agent; and

(c) section 56(4) shall have effect as if the reference to the treasurer of the party were construed as a reference to the candidate or (as the case may be) the candidate's election agent.

### **Transfer of donations received by candidate to election agent**

8.—(1) Sub-paragraph (2) applies in relation to any relevant donation received by a candidate after the deadline for appointing an election agent (unless the candidate is, or is deemed to be, his or her own election agent at the time of receipt of the donation).

(2) The candidate shall, on receipt of any such donation as is mentioned in sub-paragraph (1), forthwith deliver to his or her election agent—

(a) the donation,

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- (b) where paragraph 6(5) or (6) applies in relation to the donation, the information provided to the candidate in pursuance of that provision, and
  - (c) any other information which the candidate has about the donation and its donor which might reasonably be expected to assist in the discharge of any duties imposed on the election agent, in relation to the donation, under this Part or Part 3 of this Schedule.
- (3) Where a donation is delivered to an election agent in accordance with sub-paragraph (2), the donation shall be treated for the purposes of paragraph 6(1) to (4) and the provisions applied by paragraph 7 as if it had been—
- (a) originally received by the election agent, and
  - (b) so received by the election agent on the date on which it was received by the candidate.
- (4) Where a candidate receives a relevant donation before the deadline for appointing an election agent but at a time when an appointment of a person (other than the candidate) as election agent is in force the candidate shall either—
- (a) forthwith deliver the donation and the information mentioned in sub-paragraph (2)(b) and (c) to the agent, or
  - (b) (if the candidate fails to do so) deal with the donation in accordance with section 56 of the 2000 Act.
- (5) Sub-paragraph (3) shall have effect in relation to any relevant donation delivered to an election agent in accordance with sub-paragraph (4)(a) as it has effect in relation to a donation delivered to the election agent in accordance with sub-paragraph (2).
- (6) Sub-paragraph (7) applies where—
- (a) a relevant donation received by a candidate before the deadline for appointing an election agent has been dealt with by the candidate in accordance with section 56 of the 2000 Act either because—
    - (i) it was received by the candidate at a time when no appointment of another person as the candidate's election agent was in force, or
    - (ii) although such an appointment was in force, the candidate was by virtue of sub-paragraph (4)(b) required to deal with the donation; and
  - (b) an appointment of a person (other than the candidate) as election agent is in force at, or at any time after—
    - (i) the deadline for appointing an election agent, or
    - (ii) if later, the time when the candidate has dealt with the donation in accordance with section 56 of the 2000 Act.
- (7) Subject to sub-paragraph (9), the candidate shall, as soon as reasonably practicable after the relevant time, deliver to the election agent—
- (a) the donation (if the candidate has accepted it), and
  - (b) any information which the candidate has about the donation and the donor which might reasonably be expected to assist in the discharge of any duties imposed on the election agent, in relation to the donation, under Part 3 of this Schedule.
- (8) The relevant time for the purposes of sub-paragraph (7) is—
- (a) the time mentioned in sub-paragraph (6)(b)(i) or (ii) (as the case may be) if the appointment of another person as election agent is in force at that time, or
  - (b) otherwise, the time when any such appointment subsequently comes into force.

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(9) The duty imposed on a candidate by sub-paragraph (7)(a) does not apply to any relevant donation to the extent to which it has been lawfully used by the candidate for the purpose of paying expenses at an election.

(10) In this paragraph—

- (a) any reference to the deadline for appointing an election agent is a reference to the latest time by which an election agent may in accordance with section 34 of this Act be named as election agent by the candidate; and
- (b) any reference to any provision of section 56 of the 2000 Act is a reference to that provision as applied by paragraph 7.

### **Evasion of restrictions on donations**

9. Section 61 of the 2000 Act shall apply for the purposes of this Schedule as if—

- (a) any reference to donations were to relevant donations;
- (b) any reference to a registered party were, in relation to a relevant donation, a reference to a candidate or (as the case may be) the candidate's election agent; and
- (c) any reference in subsection (2) to the treasurer of a registered party were, in relation to a relevant donation, a reference to either the candidate or the candidate's election agent (or both).

## **Part 3**

### **Reporting of donations**

#### **Statement of relevant donations**

10. The candidate's election agent must include in any return required to be delivered under section 46 of this Act a statement of relevant donations which complies with paragraphs 11 and 12.

#### **Donations from permissible donors**

11. The statement must record, in relation to each relevant donation accepted by the candidate or the candidate's election agent—

- (a) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value as determined in accordance with paragraph 5;
- (b) the date when the donation was accepted by the candidate or the candidate's election agent; and
- (c) the information about the donor which is, in connection with recordable donations to registered parties, required to be recorded in donation reports by virtue of paragraph 2 of Schedule 6<sup>M23</sup> to the 2000 Act.

#### **Donations from impermissible donors**

12.—(1) This paragraph applies to relevant donations falling within paragraph 6(1)(a) or (b).

(2) Where paragraph 6(1)(a) applies, the statement must record—

- (a) the name and address of the donor;

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- (b) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value as determined in accordance with paragraph 5; and
  - (c) the date when the donation was received, and the date when, and the manner in which, it was dealt with in accordance with section 56(2)(a) of the 2000 Act.
- (3) Where paragraph 6(1)(b) applies, the statement must record—
- (a) details of the manner in which the donation was made;
  - (b) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value as determined in accordance with paragraph 5; and
  - (c) the date when the donation was received, and the date when, and the manner in which, it was dealt with in accordance with section 56(2)(b) of the 2000 Act.
- (4) In this paragraph any reference to any provision of section 56 of the 2000 Act is a reference to that provision as applied by paragraph 7.

## SCHEDULE 3B

### LOCAL ELECTION: ELECTION EXPENSES

#### **Part 1**

##### List of Matters

1

Advertising of any nature (whatever the medium used).

Expenses in respect of such advertising include agency fees, design costs and other costs in connection with preparing, producing, distributing or otherwise disseminating such advertising or anything incorporating such advertising and intended to be distributed for the purpose of disseminating it.

2

Unsolicited material addressed to electors (whether addressed to them by name or intended for delivery to households within any particular area).

Expenses in respect of such material include design costs and other costs in connection with preparing, producing or distributing such material (including the cost of postage).

3

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Transport (by any means) of persons to any place.

Expenses in respect of the transport of such persons include the costs of hiring a means of transport for a particular period.

4

Public meetings (of any kind).

Expenses in respect of such meetings include costs incurred in connection with the attendance of persons at such meetings, the hire of premises for the purposes of such meetings or the provision of goods, services or facilities at them.

5

The services of an election agent or any other person whose services are engaged in connection with the candidate's election.

6

Accommodation and administrative costs.

## **Part 2**

### General Exclusions

7

The publication of any matter, other than an advertisement, relating to the election in—

- (a) a newspaper or periodical;
- (b) a broadcast made by the British Broadcasting Corporation;
- (c) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990<sup>M24</sup> or Part 1 or 2 of the Broadcasting Act 1996<sup>M25</sup>.

8

The provision of any facilities provided in pursuance of any right conferred on candidates at an election by this Act.

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9

The provision by an individual (“A”) of A's own services which A provides voluntarily in A's own time and free of charge.

10

- (1) Accommodation which is the candidate's sole or main residence.
- (2) The provision by any other individual of accommodation which is that individual's sole or main residence if the provision is made free of charge.

11

- (1) Transport by a means of transport which was acquired by the candidate principally for the candidate's own personal use.
- (2) Transport provided free of charge by any other individual if the means of transport was acquired by that individual principally for his or her own personal use.

12

- (1) Computing or printing equipment which was acquired by the candidate principally for the candidate's own personal use.
- (2) The provision by any other individual of computing or printing equipment which was acquired by that individual principally for his or her own personal use if the provision is made free of charge.”.

### Marginal Citations

- M17** [Schedule 3](#) was repealed by the [Elected Authorities \(Northern Ireland\) Act 1989 \(c.3\)](#).
- M18** [2000 c. 41](#). Relevant amendments to this Act were made by Schedules 6 and 7 of the [Political Parties and Elections Act 2009 \(c. 12\)](#).
- M19** [Section 56](#) was amended by [S.I. 2007/2501](#) and section 9 of the [Political Parties and Elections Act 2009 \(c. 12\)](#).
- M20** [Section 54](#) was amended by [S.I. 2001/1184](#); [S.I. 2004/366](#); [S.I. 2007/2501](#); [S.I. 2009/185](#); [S.I. 2009/1941](#); and sections 9, 10, 20 and 39 of the [Political Parties and Elections Act 2009 \(c. 12\)](#) (some of which amendments are not yet in force).
- M21** [Section 162](#) was amended by [S.I. 2004/366](#).
- M22** [2000 c. 41](#); [section 56](#) was amended by [S.I. 2007/2501](#) and sections 9, 10, 12 and 39 of, and Schedule 6 to, the [Political Parties and Elections Act 2009 \(c. 12\)](#), although not all the amendments made by that Act are yet in force; [section 57A](#) was inserted by [S.I. 2004/366](#) and repealed by [S.I. 2009/185](#); and sections 58, 59 and 60 were amended by [S.I. 2004/366](#).
- M23** [2000 c. 41](#); [paragraph 2](#) of [Schedule 6](#) was amended by [S.I. 2004/366](#); [S.I. 2007/2501](#); and [S.I. 2009/185](#).
- M24** [1990 c. 42](#); amendments have been made to this Act but they are not relevant to this Order.
- M25** [1996 c. 55](#); amendments have been made to this Act but they are not relevant to this Order.

- 20.** In Schedule 10 <sup>M26</sup> to the 1962 Act (forms)—
- (a) omit form 4 (return of election expenses required by section 46); and
  - (b) in form 5 (declaration of expenses required by section 47)—

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- (i) in paragraph (3) omit “in relation to my [the candidate's] personal expenses”;
- (ii) omit paragraph (4); and
- (iii) omit the words from “signed and declared by” to “Justice of the Peace for...”.

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**Marginal Citations**

**M26** Form 4 was amended by [S.I. 1972/1264 \(N.I.13\)](#) and [S.I. 1985/454](#); form 5 was amended by [S.I. 1985/45](#) and [S.I. 1987/168](#); forms 1, 6, 7, 8, 9, 10, 11, 12, 14, 18, 19, 20 and 21 have been repealed and forms 13, 15, 16 and 17 are spent.

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