

SCHEDULE 3 CAMPAIGN RULES

PART 3

REFERENDUM EXPENSES

Referendum expenses

- 11 (1) The following provisions have effect for the purposes of this schedule.
- (2) “Referendum expenses” means expenses incurred by or on behalf of any individual or body which are—
- (a) expenses falling within paragraph 12, and
 - (b) incurred for referendum purposes.
- (3) Expenses are incurred for referendum purposes if they are incurred—
- (a) in connection with the conduct or management of a referendum campaign, or
 - (b) otherwise in connection with promoting or procuring any particular outcome in the referendum.

Expenses qualifying where incurred for referendum purposes

- 12 (1) For the purposes of paragraph 11(2)(a) the expenses falling within this paragraph are expenses incurred in respect of any of the matters set out in the following list—
1. Referendum campaign broadcasts.

(Expenses in respect of such broadcasts include agency fees, design costs and other costs in connection with preparing and producing such broadcasts.)
 2. 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.)
 3. Unsolicited material addressed to voters (whether addressed to them by name or intended for delivery to households within any particular area or areas).

(Expenses in respect of such material include design costs and other costs in connection with preparing, producing or distributing or otherwise disseminating such material (including the cost of postage).)
 4. Any material to which paragraph 27 applies.

(Expenses in respect of such material include design costs and other costs in connection with preparing, producing or distributing or otherwise disseminating such material.)
 5. Market research or canvassing conducted for the purpose of ascertaining voting intentions.
 6. The provision of any services or facilities in connection with press conferences or other dealings with the media.
 7. Transport (by any means) of persons to any place or places with a view to obtaining publicity in connection with a referendum campaign.

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(Expenses in respect of such transport include the costs of hiring a particular means of transport for the whole or part of the period during which the campaign is being conducted.)

8. Rallies and other events, including public meetings (but not annual or other party conferences) organised so as to obtain publicity in connection with a referendum campaign or for other purposes connected with a referendum campaign.

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

- (2) Nothing in sub-paragraph (1) is to be taken as extending to—
- (a) any expenses in respect of any property, services or facilities so far as those expenses fall to be met out of public funds,
 - (b) any expenses incurred in respect of the remuneration or allowances payable to any member of the staff (whether permanent or otherwise) of the campaign organiser,
 - (c) reasonable expenses incurred that are reasonably attributable to individuals' disability,
 - (d) reasonable expenses incurred in providing for the protection of persons or property at rallies or other public events,
 - (e) reasonable expenses incurred that are reasonably attributable to the translation of anything into languages other than English,
 - (f) any expenses incurred in respect of an individual ("A") by way of travelling expenses (by any means of transport) or in providing for A's accommodation or other personal needs to the extent that the expenses are paid by A from A's own resources and are not reimbursed to A, or
 - (g) any expenses incurred in respect of the publication of any matter relating to the referendum (other than an advertisement) in—
 - (i) a newspaper or periodical,
 - (ii) a broadcast made by the British Broadcasting Corporation, or
 - (iii) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990 or Part 1 or 2 of the Broadcasting Act 1996.
- (3) The Electoral Commission may issue, and from time to time revise, a code of practice giving guidance as to the kinds of expenses which do, or do not, fall within this paragraph.
- (4) As soon as practicable after issuing or revising a code of practice under sub-paragraph (3), the Commission must send a copy to the Scottish Ministers.
- (5) The Scottish Ministers must lay before the Scottish Parliament a copy of the code or (as the case may be) the revised code.

Notional referendum expenses

- 13 (1) This paragraph applies where, in the case of any individual or body—
- (a) either—
 - (i) property is transferred to the individual or body free of charge or at a discount of more than 10 per cent of its market value, or

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- (ii) property, services or facilities is or are provided for the use or benefit of the individual or body free of charge or at a discount of more than 10 per cent of the commercial rate for the use of the property or for the provision of the services or facilities, and
 - (b) the property, services or facilities is or are made use of by or on behalf of the individual or body in circumstances such that, if any expenses were to be (or are) actually incurred by or on behalf of the individual or body in respect of that use, they would be (or are) referendum expenses incurred by or on behalf of the individual or body.
- (2) Where this paragraph applies, an amount of referendum expenses determined in accordance with this paragraph (“the appropriate amount”) is to be treated, for the purposes of this schedule, as incurred by the individual or body during the period for which the property, services or facilities is or are made use of as mentioned in sub-paragraph (1)(b).
- (3) Sub-paragraph (2) is subject to sub-paragraph (13).
- (4) Where sub-paragraph (1)(a)(i) applies, the appropriate amount is such proportion as is reasonably attributable to the use made of the property as mentioned in sub-paragraph (1)(b) of either—
 - (a) the market value of the property (where the property is transferred free of charge), or
 - (b) the difference between the market value of the property and the amount of expenses actually incurred by or on behalf of the individual or body in respect of the property (where the property is transferred at a discount).
- (5) Where sub-paragraph (1)(a)(ii) applies, the appropriate amount is such proportion as is reasonably attributable to the use made of the property, services or facilities as mentioned in sub-paragraph (1)(b) of either—
 - (a) the commercial rate for the use of the property or the provision of the services or facilities (where the property, services or facilities is or are provided free of charge), or
 - (b) the difference between that commercial rate and the amount of expenses actually incurred by or on behalf of the individual or body in respect of the use of the property or the provision of the services or facilities (where the property, services or facilities is or are provided at a discount).
- (6) Sub-paragraph (7) applies where the services of an employee are made available by the employee’s employer for the use or benefit of an individual or body.
- (7) For the purposes of this paragraph, the amount which is to be taken as constituting the commercial rate for the provision of those services is the amount of the remuneration or allowances payable to the employee by the employer in respect of the period for which the employee’s services are made available (but do not include any amount in respect of contributions or other payments for which the employer is liable in respect of the employee).
- (8) Where an amount of referendum expenses is treated, by virtue of sub-paragraph (2), as incurred by or on behalf of an individual or body during any period the whole or part of which falls within the referendum period, then—
 - (a) the amount mentioned in sub-paragraph (10) is to be treated as incurred by or on behalf of the individual or body during the referendum period, and

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- (b) if a return falls to be prepared under paragraph 22 in respect of referendum expenses incurred by or on behalf of the individual or body during that period, the responsible person must make a declaration of that amount.
- (9) Sub-paragraph (8) does not apply if the amount referred to in sub-paragraph (8)(a) does not exceed £200.
- (10) The amount referred to in sub-paragraph (8)(a) is such proportion of the appropriate amount (determined in accordance with sub-paragraph (4) or (5)) as reasonably represents the use made of the property, services or facilities as mentioned in sub-paragraph (1)(b) during the referendum period.
- (11) A person commits an offence if the person knowingly or recklessly makes a false declaration under sub-paragraph (8)(b).
- (12) A person who commits an offence under sub-paragraph (11) is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or both),
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 12 months or to a fine (or both).
- (13) No amount of referendum expenses is to be regarded as incurred by virtue of sub-paragraph (2) in respect of—
 - (a) the transmission by a broadcaster of a referendum campaign broadcast,
 - (b) the provision of any rights conferred on a designated organisation (or persons authorised by such an organisation) by virtue of—
 - (i) paragraph 9 or 10, or
 - (ii) any enactment conferring a right to send free of charge postal communications containing matter relating to the referendum, or
 - (c) the provision by any individual of the individual's own services which are provided voluntarily in the individual's own time and free of charge.
- (14) Paragraph 31(5) and (6)(a) applies with any necessary modifications for the purpose of determining, for the purposes of sub-paragraph (1), whether property is transferred to an individual or body.

Restriction on incurring referendum expenses

- 14 (1) No amount of referendum expenses is to be incurred by or on behalf of a permitted participant except with the authority of—
 - (a) the responsible person, or
 - (b) a person authorised in writing by the responsible person.
- (2) A person commits an offence if, without reasonable excuse, the person incurs any expenses in contravention of sub-paragraph (1).
- (3) A person who commits an offence under sub-paragraph (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) Where, in the case of a permitted participant that is a registered party, any expenses are incurred in contravention of sub-paragraph (1), the expenses do not count for the purposes of paragraphs 19 to 25 as referendum expenses incurred by or on behalf of the permitted participant.

Restriction on payments in respect of referendum expenses

- 15 (1) No payment (of whatever nature) may be made in respect of any referendum expenses incurred or to be incurred by or on behalf of a permitted participant except by—
- (a) the responsible person, or
 - (b) a person authorised in writing by the responsible person.
- (2) A payment made in respect of any such expenses by a person within paragraph (a) or (b) of sub-paragraph (1) must be supported by an invoice or a receipt unless the amount of the payment does not exceed £200.
- (3) Where a person within paragraph (b) of sub-paragraph (1) makes a payment to which sub-paragraph (2) applies, the person must, as soon as possible after making the payment, deliver to the responsible person—
- (a) notification that the payment has been made, and
 - (b) the supporting invoice or receipt.
- (4) A person commits an offence if, without reasonable excuse, the person—
- (a) makes a payment in contravention of sub-paragraph (1), or
 - (b) contravenes sub-paragraph (3).
- (5) A person who commits an offence under sub-paragraph (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Restriction on making claims in respect of referendum expenses

- 16 (1) A claim for payment in respect of referendum expenses incurred by or on behalf of a permitted participant during the referendum period is not payable unless the claim is sent within the period of 30 days after the end of the referendum period to—
- (a) the responsible person, or
 - (b) any other person authorised under paragraph 14 to incur the expenses.
- (2) A claim sent in accordance with sub-paragraph (1) must be paid within the period of 60 days after the end of the referendum period.
- (3) A person commits an offence if, without reasonable excuse, the person—
- (a) pays a claim which by virtue of sub-paragraph (1) is not payable, or
 - (b) makes a payment in respect of a claim after the end of the period allowed under sub-paragraph (2).
- (4) A person who commits an offence under sub-paragraph (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) In the case of a claim to which sub-paragraph (1) applies—
- (a) the person making the claim, or
 - (b) the person with whose authority the expenses in question were incurred,
- may apply to the Electoral Commission for leave for the claim to be paid although sent in after the end of the period mentioned in that sub-paragraph; and the Commission, if satisfied that it is appropriate to do so, may grant the leave.
- (6) Nothing in sub-paragraph (1) or (2) applies in relation to any sum paid in pursuance of the leave granted by the Commission.

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- (7) Sub-paragraph (2) is without prejudice to any rights of a creditor of a permitted participant to obtain payment before the end of the period allowed under that sub-paragraph.
- (8) Subsections (9) and (10) of section 77 of the 2000 Act apply for the purposes of this paragraph as if—
- (a) any reference to subsection (1) or (2) of that section were a reference to sub-paragraph (1) or (2) above,
 - (b) any reference to campaign expenditure were a reference to referendum expenses, and
 - (c) any reference to the treasurer or deputy treasurer of the registered party were a reference to the responsible person in relation to the permitted participant.

Disputed claims

- 17 (1) This paragraph applies where—
- (a) a claim for payment in respect of referendum expenses incurred by or on behalf of a permitted participant as mentioned in paragraph 16(1) is sent to—
 - (i) the responsible person, or
 - (ii) any other person with whose authority it is alleged that the expenses were incurred,
 within the period allowed under that provision, and
 - (b) the responsible person or other person to whom the claim is sent fails or refuses to pay the claim within the period allowed under paragraph 16(2).
- (2) A claim to which this paragraph applies is referred to in this paragraph as “the disputed claim”.
- (3) The person by whom the disputed claim is made may bring an action for the disputed claim, and nothing in paragraph 16(2) applies in relation to any sum paid in pursuance of any judgment or order made by a court in the proceedings.
- (4) For the purposes of this paragraph, sub-paragraphs (5) and (6) of paragraph 16 apply in relation to an application made by the person mentioned in sub-paragraph (1)(b) above for leave to pay the disputed claim as they apply in relation to an application for leave to pay a claim (whether it is disputed or otherwise) which is sent in after the period allowed under paragraph 16(1).

Rights of creditors

- 18 Nothing in this schedule which prohibits—
- (a) payments and contracts for payments,
 - (b) the payment or incurring of referendum expenses in excess of the maximum amount allowed by this schedule, or
 - (c) the incurring of expenses not authorised as mentioned in paragraph 14,
- affects the right of any creditor who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of this schedule.

General restriction on referendum expenses

- 19 (1) This paragraph applies in relation to an individual or body that is not a permitted participant.
- (2) The total referendum expenses incurred by or on behalf of an individual or a body to which this paragraph applies during the referendum period must not exceed £10,000.
- (3) Where, during the referendum period, any referendum expenses are incurred by or on behalf of an individual to which this paragraph applies in excess of the limit imposed by sub-paragraph (2), the individual commits an offence if the individual knew, or ought reasonably to have known, that the expenses were being incurred in excess of that limit.
- (4) An individual who commits an offence under sub-paragraph (3) is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or both),
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 12 months or to a fine (or both).
- (5) Where, during the referendum period, any referendum expenses are incurred by or on behalf of a body to which this paragraph applies in excess of the limit imposed by sub-paragraph (2), then—
- (a) the body commits an offence, and
 - (b) any person who authorised the expenses to be incurred by or on behalf of the body also commits an offence if the person knew, or ought reasonably to have known, that the expenses would be incurred in excess of that limit.
- (6) A body or person who commits an offence under sub-paragraph (5) is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or both),
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 12 months or to a fine (or both).
- (7) It is a defence for an individual, body or other person charged with an offence under sub-paragraph (3) or (5) to show—
- (a) that any code of practice for the time being issued under paragraph 12(3) was complied with in determining whether to incur any expenses, and
 - (b) that the limit would not have been exceeded on the basis of compliance with the code of practice as it had effect at that time.
- (8) Sub-paragraph (9) applies where—
- (a) before the beginning of the referendum period, any expenses are incurred by or on behalf of an individual or body to which this paragraph applies in respect of any property, services or facilities, and
 - (b) the property, services or facilities is or are made use of by or on behalf of the individual or body during the referendum period in circumstances such that, had any expenses been incurred in respect of that use during that period, they would by virtue of paragraph 11(2) have constituted referendum expenses incurred by or on behalf of the individual or body during that period.
- (9) The appropriate proportion of the expenses mentioned in sub-paragraph (8)(a) is to be treated for the purposes of this paragraph as referendum expenses incurred by or on behalf of the individual or body during that period.

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- (10) For the purposes of sub-paragraph (9) the appropriate proportion of the expenses mentioned in paragraph (a) of sub-paragraph (8) is such proportion of those expenses as is reasonably attributable to the use made of the property, services or facilities as mentioned in paragraph (b) of that sub-paragraph.

Special restrictions on referendum expenses by permitted participants

- 20 (1) The total referendum expenses incurred by or on behalf of a permitted participant during the referendum period must not exceed—
- (a) if the permitted participant is a designated organisation, £1,500,000,
 - (b) if the permitted participant is not a designated organisation but is a registered party and has a relevant percentage, whichever is the greater of—
 - (i) the sum calculated by multiplying the sum of £3,000,000 by the party’s relevant percentage, or
 - (ii) £150,000, or
 - (c) if the permitted participant is not a designated organisation nor such a registered party, £150,000.
- (2) For the purposes of sub-paragraph (1)(b)—
- (a) a registered party has a relevant percentage if, at the general election for membership of the Scottish Parliament last occurring before the relevant day (“the election”), constituency votes were cast for one or more candidates at the election authorised to use the party’s registered name and regional votes were cast for the party, and
 - (b) a registered party’s relevant percentage is equal to the sum (rounded to one decimal place) of—
 - (i) the total number of constituency votes cast at the election for the candidate or candidates mentioned in paragraph (a) expressed as a percentage of the total number of constituency votes cast at that election for all candidates, multiplied by 56.6%, and
 - (ii) the total number of regional votes cast at the election for the party expressed as a percentage of the total number of regional votes cast at that election for all registered parties and individual candidates, multiplied by 43.4%.
- (3) In sub-paragraph (2)(a) the “relevant day” is the day on which the Act of the Scottish Parliament referred to in section 1(2) or regulations made under that Act come into force.
- (4) Sub-paragraph (5) applies in the case where, at the election, a candidate stood for return as a constituency member in the name of more than one registered party.
- (5) For the purposes of sub-paragraph (2)(b)(i), the number of constituency votes cast for the candidate is to be divided equally among each of the registered parties in whose name the candidate stood.
- (6) In sub-paragraphs (2) to (5)—
- “constituency member” has the meaning given in section 126(1) of the Scotland Act 1998,
 - “constituency vote” means a vote cast for a candidate standing for return as a constituency member,
 - “regional vote” has the meaning given in section 6(2) of the Scotland Act 1998.

- (7) Where any referendum expenses are incurred by or on behalf of a permitted participant during the referendum period in excess of the limit imposed by sub-paragraph (1), then—
- (a) if the permitted participant is a registered party—
 - (i) the party commits an offence, and
 - (ii) the responsible person or any deputy treasurer of the party also commits an offence if the person or deputy treasurer authorised the expenses to be incurred by or on behalf of the party and knew or ought reasonably to have known that the expenses would be incurred in excess of that limit,
 - (b) if the permitted participant is an individual, that individual commits an offence if the individual knew or ought reasonably to have known that the expenses would be incurred in excess of that limit,
 - (c) if the permitted participant is a body other than a registered party—
 - (i) the body commits an offence, and
 - (ii) the responsible person commits an offence if the person authorised the expenses to be incurred by or on behalf of the body and knew or ought reasonably to have known that the expenses would be incurred in excess of that limit.
- (8) A person who commits an offence under sub-paragraph (7) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum,
 - (b) on conviction on indictment, to a fine.
- (9) It is a defence for a permitted participant or other person charged with an offence under sub-paragraph (7) to show—
- (a) that any code of practice for the time being issued under paragraph 12(3) was complied with in determining the items and amounts of referendum expenses to be entered in the relevant return under paragraph 22, and
 - (b) that the limit would not have been exceeded on the basis of the items and amounts entered in that return.
- (10) Sub-paragraphs (8) to (10) of paragraph 19 apply for the purposes of this paragraph and paragraphs 22 to 25 as they apply for the purposes of paragraph 19, but as if references in them to an individual or body to which that paragraph applies were references to a permitted participant.
- (11) For the purposes of this paragraph and paragraphs 22 to 25 any reference to referendum expenses incurred by or on behalf of a permitted participant during the referendum period includes any referendum expenses so incurred at any time before the individual or body became a permitted participant.

Referendum expenses incurred as part of common plan

- 21 (1) This paragraph applies where—
- (a) referendum expenses are incurred by or on behalf of an individual or body during the referendum period,
 - (b) the expenses are incurred as part of a common plan or other arrangement with one or more other individuals or bodies,
 - (c) the common plan or arrangement is one whereby referendum expenses are to be incurred by or on behalf of both or all of the individuals or bodies

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- involved in the common plan or arrangement with a view to, or otherwise in connection with, promoting or procuring one particular outcome in the referendum, and
- (d) there is a designated organisation in respect of each of the possible outcomes in the referendum.
- (2) Subject to sub-paragraph (4), the expenses referred to in sub-paragraph (1)(a) are to be treated for the purposes of paragraphs 19 and 20 as having also been incurred by each of the other individuals or bodies involved in the common plan or arrangement.
- (3) This paragraph applies whether or not any of the individuals or bodies involved in the common plan or arrangement is a permitted participant.
- (4) Where a designated organisation is involved in the common plan or arrangement, the expenses referred to in sub-paragraph (1)(a)—
- (a) so far as—
- (i) incurred by or on behalf of an individual or body that is not a permitted participant, and
- (ii) the total amount of such expenses incurred by or on behalf of that individual or body does not exceed £10,000,
- are to be treated for the purposes of paragraphs 19 and 20 as having been incurred only by the designated organisation,
- (b) so far as incurred by or on behalf of a permitted participant other than the designated organisation, are to be treated for the purposes of paragraphs 19 and 20 as having been incurred only by the designated organisation, and
- (c) so far as incurred by or on behalf of the designated organisation, are not to be treated for any purposes as having been incurred also by or on behalf of any other individual or body.

Returns as to referendum expenses

- 22 (1) The responsible person in relation to a permitted participant must make a return under this paragraph in respect of any referendum expenses incurred by or on behalf of the permitted participant during the referendum period.
- (2) A return under this paragraph must contain—
- (a) a statement of all payments made in respect of referendum expenses incurred by or on behalf of the permitted participant during the referendum period,
- (b) a statement of all disputed claims (within the meaning of paragraph 17),
- (c) a statement of all the unpaid claims (if any) of which the responsible person is aware in respect of which an application has been made, or is about to be made, to the Electoral Commission under paragraph 16(5),
- (d) a declaration under sub-paragraph (5),
- (e) a declaration under sub-paragraph (6), and
- (f) in a case where the permitted participant either is not a registered party or is a minor party—
- (i) the statement required by paragraph 40, and
- (ii) a statement of regulated transactions entered into in respect of the referendum which complies with the requirements of paragraphs 55 to 59.
- (3) A return under this paragraph must be accompanied by—

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- (a) all invoices or receipts relating to the payments mentioned in sub-paragraph (2)(a), and
 - (b) in the case of any referendum expenses treated as incurred by virtue of paragraph 13, any declaration falling to be made with respect to those expenses in accordance with paragraph 13(8).
- (4) Sub-paragraphs (2)(a) to (c) and (3) do not apply to any referendum expenses incurred at any time before the individual or body became a permitted participant, but the return must be accompanied by a declaration made by the responsible person of the total amount of such expenses incurred at any such time.
- (5) For the purposes of sub-paragraph (2)(d), a declaration under this sub-paragraph is a declaration of—
 - (a) whether there are any referendum expenses incurred by or on behalf of an individual or body other than the permitted participant that must under paragraph 21 be treated as having been incurred during the referendum period by or on behalf of the permitted participant, and
 - (b) if so, in the case of each such individual or body—
 - (i) the individual's or body's name, and
 - (ii) the amount of referendum expenses incurred by or on behalf of the individual or body that must be treated as mentioned in paragraph (a).
- (6) For the purposes of sub-paragraph (2)(e), a declaration under this sub-paragraph is a declaration of—
 - (a) whether there are any referendum expenses incurred by or on behalf of the permitted participant that must under paragraph 21 be treated as having been incurred during the referendum period by or on behalf of another individual or body, and
 - (b) if so, in the case of each such individual or body—
 - (i) the individual's or body's name, and
 - (ii) the amount of referendum expenses incurred by or on behalf of the permitted participant that must be treated as mentioned in paragraph (a).
- (7) The reference in sub-paragraph (6) to referendum expenses incurred by or on behalf of the permitted participant includes referendum expenses incurred before the individual or body by or on whose behalf the expenses were incurred became a permitted participant.
- (8) A reference in sub-paragraph (5) or (6) to referendum expenses that must be treated under paragraph 21 as having been incurred during the referendum period by or on behalf of a particular person includes—
 - (a) referendum expenses that, under that paragraph, must be treated as having been incurred by or on behalf of that person only, and
 - (b) referendum expenses that, under that paragraph, must be treated as having also been incurred by or on behalf of that person.
- (9) A reference in sub-paragraph (5) or (6) to the name of an individual or body is to be read, in the case where the individual or body is a permitted participant, as a reference to the name under which the permitted participant is registered in the register maintained under paragraph 6.

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- (10) Sub-paragraph (11) applies where the responsible person in relation to a permitted participant makes a declaration that, to the best of the person's knowledge and belief—
- (a) no referendum expenses have been incurred by or on behalf of a permitted participant during the referendum period, or
 - (b) the total amount of such expenses incurred by or on behalf of a permitted participant during that period does not exceed £10,000.
- (11) The responsible person in relation to the permitted participant—
- (a) is not required to make a return under this paragraph, but
 - (b) must instead deliver the declaration referred to in sub-paragraph (10) to the Electoral Commission within the period of 3 months beginning with the end of the referendum period.
- (12) The responsible person commits an offence if—
- (a) without reasonable excuse, the person fails to comply with the requirements of sub-paragraph (11) in relation to a declaration, or
 - (b) the person knowingly or recklessly makes a false declaration under that sub-paragraph.
- (13) A person who commits an offence under sub-paragraph (12)(a) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (14) A person who commits an offence under sub-paragraph (12)(b) is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or both),
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 12 months or to a fine (or both).
- (15) The Electoral Commission may issue guidance about the form of return to be used for the purposes of this paragraph.

Auditor's report on return

- 23 (1) Where the return prepared under paragraph 22 in respect of the referendum expenses incurred by or on behalf of a permitted participant indicates that the expenses incurred exceed £250,000, a report must be prepared by a qualified auditor on the return.
- (2) An auditor appointed to carry out an audit under this paragraph—
- (a) has a right of access at all reasonable times to such books, documents and other records of the permitted participant as the auditor thinks necessary for the purpose of carrying out of the audit,
 - (b) is entitled to require from the responsible person in relation to the permitted participant such information and explanations as the auditor thinks necessary for that purpose.
- (3) If a person fails to provide the auditor with any access, information or explanation to which the auditor has a right or is entitled by virtue of sub-paragraph (2), the Commission may give the person such written directions as they consider appropriate for ensuring that the failure is remedied.

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- (4) If the person fails to comply with the directions, the Court of Session may, on the application of the Commission, deal with the person as if the person had failed to comply with an order of the Court.
- (5) A person commits an offence if the person knowingly or recklessly makes to an auditor appointed to carry out an audit under this paragraph a statement (whether written or oral) which—
 - (a) conveys or purports to convey any information or explanation to which the auditor is entitled by virtue of sub-paragraph (2), and
 - (b) is misleading, false or deceptive in a material particular.
- (6) A person who commits an offence under sub-paragraph (5) is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or both),
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 12 months or to a fine (or both).

Delivery of returns to Electoral Commission

- 24 (1) Sub-paragraph (2) applies where—
- (a) a return falls to be prepared under paragraph 22 in respect of referendum expenses incurred by or on behalf of a permitted participant, and
 - (b) an auditor's report on it falls to be prepared under paragraph 23.
- (2) The responsible person must deliver the return to the Electoral Commission, together with a copy of the auditor's report, within the period of 6 months beginning with the end of the referendum period.
 - (3) In the case of any other return falling to be prepared under paragraph 22, the responsible person must deliver the return to the Commission within the period of 3 months beginning with the end of the referendum period.
 - (4) Where, after the date on which a return is delivered to the Commission under this paragraph, leave is given by the Commission under paragraph 16(5) for any claim to be paid, the responsible person must, within the period of 7 days beginning with the date of the payment, deliver to the Commission a return of any sums paid in pursuance of the leave.
 - (5) The responsible person commits an offence if, without reasonable excuse, the person—
 - (a) fails to comply with the requirements of sub-paragraph (2) or (3) in relation to a return under paragraph 22,
 - (b) delivers a return which does not comply with the requirements of paragraph 22(2) or (3), or
 - (c) fails to comply with the requirements of sub-paragraph (4) in relation to a return under that sub-paragraph.
 - (6) A person who commits an offence under sub-paragraph (5)(c) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
 - (7) A person who commits an offence under sub-paragraph (5)(a) or (b) is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or both),

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- (b) on conviction on indictment, to imprisonment for a term not exceeding 12 months or to a fine (or both).

Declaration of responsible person as to return under paragraph 22

- 25 (1) Each return prepared under paragraph 22 in respect of referendum expenses incurred by or on behalf of a permitted participant must be accompanied by a declaration which complies with sub-paragraph (2) and is signed by the responsible person.
- (2) The declaration must state—
- (a) that the responsible person has examined the return in question, and
 - (b) that to the best of the responsible person’s knowledge and belief—
 - (i) it is a complete and correct return as required by law, and
 - (ii) all expenses shown in it as paid have been paid by the responsible person or a person authorised by the responsible person.
- (3) In a case where the permitted participant either is not a registered party or is a minor party, the declaration must also—
- (a) in relation to all relevant donations recorded in the return as having been accepted by the permitted participant—
 - (i) state that they were all from permissible donors, or
 - (ii) state whether or not paragraph 36(3) was complied with in the case of each of those donations that was not from a permissible donor,
 - (b) in relation to all regulated transactions entered in the return as having been entered into by the permitted participant—
 - (i) state that none of the transactions was made void by paragraph 50(2) or (6), or
 - (ii) state whether or not paragraph 50(3)(a) was complied with in the case of each of the transactions that was made void by paragraph 50(2) or (6).
- (4) A person commits an offence if—
- (a) the person knowingly or recklessly makes a false declaration under this paragraph, or
 - (b) sub-paragraph (1) is contravened at a time when the person is the responsible person in the case of the permitted participant to which the return relates.
- (5) A person who commits an offence under sub-paragraph (4) is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or both),
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 12 months or to a fine (or both).
- (6) In this paragraph—
- “relevant donation” has the same meaning as in paragraph 30, and
 - “regulated transaction” is to be construed in accordance with paragraph 47.

Public inspection of returns under paragraph 22

- 26 (1) Where the Electoral Commission receive any return under paragraph 22 they must—

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- (a) as soon as practicable after receiving the return, make a copy of the return and of the documents accompanying it available for public inspection, and
 - (b) keep any such copy available for public inspection for the period for which the return or other document is kept by them.
- (2) If the return contains a statement of relevant donations or a statement of regulated transactions in accordance with paragraph 22(2)(f), the Commission must secure that the copy of the statement made available for public inspection does not include—
- (a) in the case of any donation by an individual, the donor’s address,
 - (b) in the case of a transaction entered into by the permitted participant with an individual, the individual’s address.
- (3) At the end of the period of two years beginning with the date when any return or other document mentioned in sub-paragraph (1) is received by the Commission—
- (a) they may cause the return or other document to be destroyed, but
 - (b) if requested to do so by the responsible person in the case of the permitted participant concerned, they must arrange for the return or other document to be returned to that person.