

SCHEDULES

SCHEDULE 7

Section 71.

CONTROL OF DONATIONS TO INDIVIDUALS AND MEMBERS ASSOCIATIONS

PART I

INTRODUCTORY

Operation and interpretation of Schedule

- 1 (1) This Schedule has effect for controlling donations to—
- (a) members of registered parties;
 - (b) members associations; and
 - (c) holders of relevant elective offices.
- (2) The following provisions have effect for the purposes of this Schedule.
- (3) “Controlled donation”—
- (a) in relation to a member of a registered party, means a donation received by that person which is—
 - (i) offered to him, or
 - (ii) where it has been accepted, retained by him,for his use or benefit in connection with any of his political activities as a member of the party;
 - (b) in relation to a members association, means a donation received by the association which is—
 - (i) offered to the association, or
 - (ii) where it has been accepted, retained by the association,for its use or benefit in connection with any of its political activities;
 - (c) in relation to a holder of a relevant elective office, means a donation received by that person which is—
 - (i) offered to him, or
 - (ii) where it has been accepted, retained by him,for his use or benefit (as the holder of such an office) in connection with any of his political activities.
- (4) For the purposes of this Schedule the political activities of a party member or (as the case may be) of a members association include, in particular—
- (a) promoting or procuring the election of any person to any position in, or to any committee of, the party in question;
 - (b) promoting or procuring the selection of any person as the party’s candidate for election to a relevant elective office; and
 - (c) promoting or developing policies with a view to their adoption by the party;

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and in the application of paragraph (a) or (b) to a party member the reference to any person includes that member.

- (5) “Donation” shall be construed in accordance with paragraphs 2 to 4; and (in the absence of any express indication) a donation shall be taken to have been offered to, or retained by, a person or organisation as mentioned in sub-paragraph (1)(a), (b) or (c) if, having regard to all the circumstances, it must reasonably be assumed to have been so offered or retained.
- (6) “Members association” means any organisation whose membership consists wholly or mainly of members of a registered party, other than—
- (a) a registered party falling within section 26(2)(a); or
 - (b) an organisation falling within section 26(2)(b) (that is, the central organisation of a registered party or an accounting unit of such a party).
- (7) “Regulated donee” means—
- (a) a member of a registered party;
 - (b) a members association; or
 - (c) the holder of a relevant elective office, whether or not he is a member of a registered party.
- (8) “Relevant elective office” means the office of—
- (a) member of the House of Commons;
 - (b) member of the European Parliament elected in the United Kingdom;
 - (c) member of the Scottish Parliament;
 - (d) member of the National Assembly for Wales;
 - (e) member of the Northern Ireland Assembly;
 - (f) member of—
 - (i) any local authority in any part of the United Kingdom, including the Common Council of the City of London but excluding a parish or community council, or
 - (ii) the Greater London Assembly; or
 - (g) Mayor of London or elected mayor within the meaning of Part II of the Local Government Act 2000.
- (9) “The responsible person”, in relation to a members association, means—
- (a) the treasurer, if there is one, and
 - (b) otherwise any person responsible for dealing with donations to the association.
- (10) Where—
- (a) at a time when any order is in force under section 70(1) a donation is received by a regulated donee resident or carrying on activities in Great Britain, and
 - (b) the order provides for this sub-paragraph to apply to any such donation,
- section 54(2)(c) shall have effect in relation to the donation as if it referred only to a registered party which is registered in the Great Britain register.

Donations: general rules

- 2 (1) “Donation”, in relation to a regulated donee, means (subject to paragraph 4)—
- (a) any gift to the donee of money or other property;

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- (b) any sponsorship provided in relation to the donee (as defined by paragraph 3);
- (c) any money spent (otherwise than by or on behalf of the donee) in paying any expenses incurred directly or indirectly by the donee;
- (d) any money lent to the donee 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 donee (including the services of any person);
- (f) (where the donee is a members association) any subscription or other fee paid for affiliation to, or membership of, the donee.

(2) Where—

- (a) any money or other property is transferred to a regulated donee pursuant to any transaction or arrangement involving the provision by or on behalf of the donee 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 donee 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 donee 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 regulated donee 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 regulated donee 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 donee in respect of the loan or the provision of the property, services or facilities.

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

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

(6) In this paragraph—

- (a) any reference to anything being given or transferred to a regulated donee or any other person is a reference to its being so given or transferred either directly or indirectly through any third person;
- (b) “gift” includes bequest.

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Sponsorship

- 3 (1) For the purposes of this Schedule sponsorship is provided in relation to a regulated donee if—
- (a) any money or other property is transferred to the donee or to any person for the benefit of the donee, 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 donee with meeting, or to meet, to any extent any defined expenses incurred or to be incurred by or on behalf of the donee, or
 - (ii) to secure that to any extent any such expenses are not so incurred.
- (2) In sub-paragraph (1) “defined expenses” means expenses in connection with—
- (a) any conference, meeting or other event organised by or on behalf of the donee,
 - (b) the preparation, production or dissemination of any publication by or on behalf of the donee, or
 - (c) any study or research organised by or on behalf of the donee.
- (3) The following do not, however, constitute sponsorship by virtue of sub-paragraph (1) —
- (a) the making of any payment in respect of—
 - (i) any charge for admission to any conference, meeting or other event, or
 - (ii) the purchase price of, or any other charge for access to, any publication;
 - (b) the making of any payment in respect of the inclusion of an advertisement in any publication where the payment is made at the commercial rate payable for the inclusion of such an advertisement in any such publication.
- (4) The Secretary of State may by order made on the recommendation of the Commission amend sub-paragraph (2) or (3).
- (5) In this paragraph “publication” means a publication made available in whatever form and by whatever means (whether or not to the public at large or any section of the public).

Payments etc. not to be regarded as donations

- 4 (1) None of the following shall be regarded as a donation—
- (a) any facility provided in pursuance of any right conferred on candidates at an election by any enactment;
 - (b) the provision of assistance by a person appointed under section 9 of the Local Government and Housing Act 1989;
 - (c) the provision by any individual of his own services which he provides voluntarily and in his own time;
 - (d) any interest accruing to a regulated donee in respect of any donation which is dealt with by the donee in accordance with section 56(2)(a) or (b) (as applied by paragraph 8);
 - (e) any money or other property, or any services or facilities, provided out of public funds for the personal security of a regulated donee who is an individual.

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- (2) For the avoidance of doubt no remuneration or allowances paid to the holder of a relevant elective office in his capacity as such shall be regarded as a donation.
- (3) There shall also be disregarded—
 - (a) any donation which (in accordance with any enactment) falls to be included in a return as to election expenses in respect of a candidate or candidates at a particular election; and
 - (b) except for the purposes of paragraph 14, any donation whose value (as determined in accordance with paragraph 5) is not more than £200.

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 donee.
- (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 donee 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 donee
- (5) Where a donation such as is mentioned in sub-paragraph (4) confers an enduring benefit on the donee over a particular period, the value of the donation—
 - (a) shall be determined at the time when it is made, but
 - (b) shall be so determined by reference to the total benefit accruing to the donee over that period.

PART II

CONTROLS ON DONATIONS

Prohibition on accepting donations from impermissible donors

- 6 (1) A controlled donation received by a regulated donee must not be accepted by the donee if—
- (a) the person by whom the donation would be made is not, at the time of its receipt by the donee, a permissible donor, or
 - (b) the donee is (whether because the donation is given anonymously or by reason of any deception or concealment or otherwise) unable to ascertain the identity of that person.
- (2) Where any person (“the principal donor”) causes an amount (“the principal donation”) to be received by a regulated donee by way of a donation—
- (a) on behalf of himself and one or more other persons, or
 - (b) on behalf of two or more other persons,
- then for the purposes of this Schedule each individual contribution by a person falling within paragraph (a) or (b) of more than £200 shall be treated as if it were a separate donation received from that person.
- (3) In relation to each such separate donation, the principal donor must ensure that, at the time when the principal donation is received by the regulated donee, the responsible person is given—
- (a) (except in the case of a donation which the principal donor is treated as making) all such details in respect of the person treated as making the donation as are required by virtue of paragraph 2 of Schedule 6 to be given in respect of the donor of a recordable donation to a registered party; and
 - (b) (in any case) all such details in respect of the donation as are required by virtue of paragraph 4 of Schedule 6 to be given in respect of a recordable donation to a registered party.
- (4) Where—
- (a) any person (“the agent”) causes an amount to be received by a regulated donee by way of a donation on behalf of another person (“the donor”), and
 - (b) the amount of the donation is more than £200,
- the agent must ensure that, at the time when the donation is received by the regulated donee, the responsible person is given all such details in respect of the donor as are required by virtue of paragraph 2 of Schedule 6 to be given in respect of the donor of a recordable donation to a registered party.
- (5) A person commits an offence if, without reasonable excuse, he fails to comply with sub-paragraph (3) or (4).

Payments etc. which are (or are not) to be treated as donations by permissible donors

- 7 (1) The following provisions have effect for the purposes of this Schedule.
- (2) Any payment out of public funds received by a regulated donee which is a members association, for its use and benefit in connection with any of its political activities, shall be regarded as a controlled donation received by the association from a permissible donor.

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- (3) Any donation received by a regulated donee shall (if it would not otherwise fall to be so regarded) be regarded as a controlled donation received by the donee from a permissible donor if and to the extent that—
- (a) the purpose of the donation is to meet qualifying costs incurred or to be incurred in connection with any visit—
 - (i) by the donee in connection with any of the donee’s political activities, or
 - (ii) in the case of a members association, by any member or officer of the association in connection with any of its political activities,to a country or territory outside the United Kingdom, and
 - (b) the amount of the donation does not exceed a reasonable amount in respect of such costs.
- (4) In sub-paragraph (3) “qualifying costs”, in relation to the donee or (as the case may be) any member or officer of the donee, means costs relating to that person in respect of—
- (a) travelling between the United Kingdom and the country or territory in question; or
 - (b) travelling, accommodation or subsistence while within that country or territory.
- (5) Any controlled donation received by a regulated donee which is an exempt trust donation shall be regarded as a controlled donation received by the donee from a permissible donor.
- (6) But any controlled donation received by a regulated donee from a trustee of any property (in his capacity as such) which is not—
- (a) an exempt trust donation, or
 - (b) a controlled donation transmitted by the trustee to the donee on behalf of beneficiaries under the trust who are—
 - (i) persons who at the time of its receipt by the donee are permissible donors falling within section 54(2), or
 - (ii) the members of an unincorporated association which at that time is a permissible donor,
- shall be regarded as a controlled donation received by the donee from a person who is not a permissible donor.

Acceptance or return of donations

- 8 (1) Sections 56 to 60 shall apply for the purposes of this Schedule in relation to a regulated donee and any controlled donation received by a regulated donee as they apply for the purposes of this Part in relation to a registered party and any donation received by a registered party.
- (2) In its application in accordance with sub-paragraph (1), section 56(3) and (4) shall each have effect as if the reference to the treasurer of the party were construed—
- (a) in relation to a regulated donee other than a members association, as a reference to the donee; and
 - (b) in relation to a members association, as a reference to the responsible person.

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Evasion of restrictions on donations

- 9 Section 61 shall apply for the purposes of this Schedule as if—
- (a) any reference to donations were to controlled donations;
 - (b) any reference to a registered party were to a regulated donee; and
 - (c) any reference to the treasurer of such a party were construed as mentioned in paragraph 8(2)(a) or (b).

PART III

REPORTING OF DONATIONS BY REGULATED DONEES

Donation reports: donations from permissible donors

- 10 (1) A regulated donee shall—
- (a) prepare a report under this paragraph in respect of each controlled donation accepted by the donee which is a recordable donation; and
 - (b) deliver the report to the Commission within the period of 30 days beginning with the date of acceptance of the donation.
- (2) For the purposes of this paragraph a controlled donation is a recordable donation—
- (a) if it is a donation of more than £5,000 (where the donee is a members association) or £1,000 (in any other case); or
 - (b) if, when it is added to any other controlled donation or donations accepted by the donee—
 - (i) which have been made by the same permissible donor and in the same calendar year, and
 - (ii) in respect of which no report has been previously made under this paragraph,
 the aggregate amount of the donations is more than £5,000 (where the donee is a members association) or £1,000 (in any other case).
- (3) Each report prepared by virtue of sub-paragraph (1) must—
- (a) give the name and address of the donee; and
 - (b) if he is the holder of a relevant elective office, specify the office in question.
- (4) Each such report must also give—
- (a) such information as is required to be given, in the case of a report prepared by virtue of section 62 by virtue of paragraphs 2 and 4 of Schedule 6;
 - (b) the date when the donation was accepted by the donee, and
 - (c) such other information as is required by regulations made by the Commission.
- (5) In the application of paragraphs 2 and 4 of Schedule 6 in accordance with sub-paragraph (4) above—
- (a) any reference to a recordable donation within the meaning of that Schedule shall be construed as a reference to a recordable donation within the meaning of this paragraph;
 - (b) any reference to section 55(2) or to section 55(3) shall be construed as a reference to paragraph 7(2) above or to paragraph 7(3) above respectively; and

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- (c) any reference to section 53 shall be construed as a reference to paragraph 5 above.
- (6) In the case of a donation to which paragraph 7(2) applies, sub-paragraph (2)(b) above shall have effect as if for “by the same permissible donor” there were substituted “in circumstances falling within paragraph 7(2)”.
- (7) In the case of a donation to which paragraph 7(3) applies—
 - (a) sub-paragraph (2)(b) above shall have effect as if for “by the same permissible donor” there were substituted “in circumstances falling within paragraph 7(3) by the same donor”; and
 - (b) any report prepared by virtue of sub-paragraph (1) above in respect of the donation must give—
 - (i) the date or dates on or between which the visit to which the donation relates took place, and
 - (ii) the destination and purpose of the visit.

Donation reports: donations from impermissible or unidentifiable donors

- 11 (1) A regulated donee shall—
- (a) prepare a report under this paragraph in respect of each controlled donation received by the donee and falling within paragraph 6(1)(a) or (b); and
 - (b) deliver the report to the Commission within the period of 30 days beginning with the date when the donation was dealt with in accordance with section 56(2)(a) or (b).
- (2) Each such report must—
- (a) give the name and address of the donee; and
 - (b) if he is the holder of a relevant elective office, specify the office in question.
- (3) Each such report in respect of a donation falling within paragraph 6(1)(a) must also give—
- (a) the name and address of the donor;
 - (b) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value as determined in accordance with paragraph 5;
 - (c) the date when the donation was received and the date when, and the manner in which, it was dealt with in accordance with section 56(2)(a); and
 - (d) such other information as is required by regulations made by the Commission.
- (4) Each such report in respect of a donation falling within paragraph 6(1)(b) must also give—
- (a) details of the manner in which it was made;
 - (b) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value as determined in accordance with paragraph 5;
 - (c) the date when the donation was received, and the date when, and the manner in which, it was dealt with in accordance with section 56(2)(b); and
 - (d) such other information as is required by regulations made by the Commission.

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- (5) In this paragraph any reference to any provision of section 56 is a reference to that provision as applied by paragraph 8.

Offence of failing to deliver donation report

- 12 (1) Where a report required to be delivered to the Commission under paragraph 10(1) or 11(1) is not delivered by the end of the period of 30 days mentioned in that provision—
- (a) the regulated donee, or
 - (b) (if a members association) the responsible person,
- is guilty of an offence.
- (2) If such a report is delivered to the Commission which does not comply with any requirements of paragraph 10 or 11 as regards the information to be given in such a report—
- (a) the regulated donee, or
 - (b) (if a members association) the responsible person,
- is guilty of an offence.
- (3) Where a person is charged with an offence under this paragraph, it shall be a defence to prove that he took all reasonable steps, and exercised all due diligence, to ensure that any requirements—
- (a) as regards the preparation and delivery of a report in respect of the donation in question, or
 - (b) as regards the information to be given in the report in question,
- as the case may be, were complied with in relation to that donation or report.
- (4) Where the court is satisfied, on an application made by the Commission, that any failure to comply with any such requirements in relation to any donation to the regulated donee was attributable to an intention on the part of any person to conceal the existence or true amount of the donation, the court may order the forfeiture by the donee of an amount equal to the value of the donation.
- (5) The following provisions, namely—
- (a) subsections (3) to (5) of section 58, and
 - (b) sections 59 and 60,
- shall apply for the purposes, or in connection with the operation, of sub-paragraph (4) in relation to a regulated donee as they apply for the purposes, or in connection with the operation, of section 58 in relation to a registered party.

Declaration in donation report

- 13 (1) Each report under paragraph 10 or 11 must, when delivered to the Commission, be accompanied by a declaration made by—
- (a) the regulated donee, or
 - (b) (if a members association) the responsible person,
- which complies with sub-paragraph (2) or (3).
- (2) In the case of a report under paragraph 10, the declaration must state that, to the best of the declarant's knowledge and belief, any donation recorded in the report as having been accepted by the donee was from a permissible donor.

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- (3) In the case of a report under paragraph 11, the declaration must state that, to the best of the declarant's knowledge and belief, the donation recorded in the report as having been received by the donee, or a payment of an equivalent amount, has been returned to the donor or otherwise dealt with in accordance with the provisions of Chapter II of Part IV of this Act.
- (4) A person commits an offence if he knowingly or recklessly makes a false declaration under this paragraph.

PART IV

REPORTING OF DONATIONS BY DONORS

- 14 (1) This paragraph applies where a person ("the donor") has during the course of a calendar year made small donations to a regulated donee whose aggregate value is more than £5,000 (where the donee is a members association) or £1,000 (in any other case).
- (2) The donor must make a report to the Commission in respect of the donations which gives the following details—
 - (a) the aggregate value of the donations and the year in which they were made;
 - (b) the name of the regulated donee to whom they were made; and
 - (c) the full name and address of the donor (if an individual) and (in any other case) the details required by virtue of paragraph 2 of Schedule 6 in respect of the donor of a recordable donation.
- (3) The report must be delivered to the Commission by 31st January in the year following that in which the donations were made.
- (4) The report must, when delivered to the Commission, be accompanied by a declaration by the donor stating—
 - (a) that small donations whose aggregate value was that specified in the report were made by him to the specified regulated donee during the specified year, and
 - (b) that no other small donations were made by him to that regulated donee during that year.
- (5) A person commits an offence if—
 - (a) he delivers a report under this paragraph which does not comply with sub-paragraph (2);
 - (b) he fails to deliver such a report in accordance with sub-paragraph (3) or such a report, when delivered by him, is not accompanied by a declaration under sub-paragraph (4); or
 - (c) he knowingly or recklessly makes a false declaration under that sub-paragraph.
- (6) In this paragraph—
 - (a) "small donation" means a controlled donation whose value is not more than £200; and
 - (b) "specified" means specified in the report in question.

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PART V

REGISTER OF DONATIONS

Register of recordable donations

- 15 (1) Section 69 shall apply in relation to donations reported to the Commission under this Schedule (“relevant donations”) as it applies to donations reported to them under Chapter III of Part IV of this Act.
- (2) But in its application in accordance with sub-paragraph (1), section 69 shall have effect with the modifications set out in sub-paragraph (3).
- (3) Those modifications are as follows—
- (a) subsection (2) shall have effect in relation to a relevant donation as if (instead of requiring the register to contain the details mentioned in paragraphs (a) to (c) of that subsection) it required the register to contain such details as have been given in relation to the donation in pursuance of paragraph 10(3), 10(4), 11(2), 11(3) or 11(4); and
 - (b) subsection (3) shall be read as referring to paragraph 14 and sub-paragraph (2) of that paragraph instead of to section 68 and subsection (2) of that section.

PART VI

POWER TO MAKE SPECIAL PROVISION

Exemption from disclosure

- 16 (1) The power conferred by section 70(1)(b) shall include power to make provision for disapplying any specified provisions of Part IV of this Act, for such period as is specified, in relation to regulated donees who are—
- (a) individuals ordinarily resident in Northern Ireland; or
 - (b) members associations wholly or mainly consisting of members of a Northern Ireland party.
- (2) Each order under section 70(1)(b) (as applied by sub-paragraph (1)) shall be so made as to—
- (a) apply to every person or members association falling within sub-paragraph (1)(a) or (b), and
 - (b) make the same provision with respect to every such person or members association.
- (3) In this paragraph “specified” and “Northern Ireland party” have the same meaning as in section 70.