

SCHEDULES

SCHEDULE 4

CONTROL OF DONATIONS TO ACCREDITED CAMPAIGNERS

PART 2

CONTROL OF DONATIONS

Prohibition on accepting donations from impermissible or unidentifiable donors

- 9 A relevant donation received by an accredited campaigner must not be accepted by the accredited campaigner if—
- (a) the donor is not, at the time of its receipt, a permissible donor, or
 - (b) the accredited campaigner is unable to ascertain the identity of the donor (whether because the donation is given anonymously or by reason of any deception or concealment or otherwise).

Donations treated as received or not received from permissible donors

- 10 (1) For the purposes of this Schedule—
- (a) a relevant donation received by an accredited campaigner which is an exempt trust donation is treated as a relevant donation received from a permissible donor;
 - (b) any other relevant donation received by an accredited campaigner from a trustee of any property (in the trustee's capacity as such) is treated as a relevant donation received otherwise than from a permissible donor.
- (2) Sub-paragraph (1)(b) does not apply to a relevant donation transmitted by the trustee to the accredited campaigner on behalf of beneficiaries under the trust all of whom are—
- (a) persons who are, at the time of its receipt, permissible donors, or
 - (b) members of an unincorporated association which is, at that time, a permissible donor.

Meaning of “exempt trust donation” in paragraph 10

- 11 (1) In paragraph 10 “exempt trust donation” means a donation that—
- (a) meets condition A or B, and
 - (b) is not received from a trustee of any property pursuant to the exercise of any discretion vested by a trust in the trustee or any other person.
- (2) Condition A is that—
- (a) the donation is received from a trustee of any property in accordance with the terms of a relevant trust, and

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- (b) at or before the time of the receipt of the donation, the trustee gives the recipient of the donation the full name of the person who created the trust and of every other person by whom, or under whose will, property was transferred to the trust before that date.
- (3) “Relevant trust” means a trust—
- (a) which was created before 27th July 1999,
 - (b) to which no property has been transferred on or after that date, and
 - (c) whose terms have not been varied on or after that date.
- (4) Condition B is that—
- (a) the donation is received from a trustee of any property in accordance with the terms of a qualifying trust, and
 - (b) at or before the time of the receipt of the donation, the trustee gives the recipient of the donation all such details in respect of the donor as are required by paragraph 3(1)(a)(iii) of Schedule 5 (recall petition returns).
- (5) “Qualifying trust” means a trust—
- (a) which was created by—
 - (i) a person who was a permissible donor at the time the trust was created, or
 - (ii) in the case of a donation in the form of a bequest, the will of an individual within paragraph 6(3), and
 - (b) to which no property has been transferred otherwise than—
 - (i) by a person who was a permissible donor at the time of the transfer, or
 - (ii) in the case of a donation in the form of a bequest, under the will of an individual within paragraph 6(3).
- (6) In this paragraph—
- (a) “property”, in the context of the transfer of property to a trust, does not include income of the trust;
 - (b) “trust” includes a trust created by a will;
 - (c) a reference to a donation received from a trustee—
 - (i) is a reference to a donation received from the trustee in the trustee’s capacity as such, but
 - (ii) does not include a donation transmitted on behalf of a beneficiary under a trust.

Donations made on behalf of other persons

- 12 (1) Sub-paragraphs (2) and (3) apply where—
- (a) a person (“the agent”) causes an amount (“the relevant amount”) to be received by an accredited campaigner—
 - (i) on behalf of the agent and one or more other persons, or
 - (ii) on behalf of two or more other persons, and
 - (b) the agent acts as mentioned in paragraph (a) for the purpose of—
 - (i) meeting petition expenses incurred by or on behalf of the accredited campaigner, or
 - (ii) securing that petition expenses are not so incurred.

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- (2) For the purposes of this Schedule each individual contribution by a person within sub-paragraph (1)(a)(i) or (ii) of more than £500 is treated as if it were a separate donation received from that person.
- (3) In relation to each such separate donation, the agent must ensure that, at the time when the relevant amount is received by the accredited campaigner, the responsible person is given—
 - (a) all such details in respect of the donation as are required by paragraph 3(1)(a)(i) of Schedule 5 (recall petition returns), and
 - (b) except in the case of a donation which the agent is treated as making, all such details in respect of the donor as are required by paragraph 3(1)(a)(iii) of that Schedule.
- (4) Sub-paragraph (5) applies where a person (“the agent”) causes an amount to be received by an accredited campaigner by way of a relevant donation on behalf of one other person (“the donor”).
- (5) The agent must ensure that, at the time when the donation is received by the accredited campaigner, the responsible person is given all such details in respect of the donor as are required by paragraph 3(1)(a)(iii) of Schedule 5.
- (6) A person commits an offence if, without reasonable excuse, the person fails to comply with sub-paragraph (3) or (5).
- (7) A person guilty of an offence under this paragraph is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding 12 months or a fine (or both), and
 - (b) on summary conviction—
 - (i) in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both),
 - (ii) in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both), and
 - (iii) in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both).

Duty to verify identity of donor

- 13 (1) This paragraph applies where—
 - (a) a relevant donation is received by an accredited campaigner, and
 - (b) it is not immediately decided that the accredited campaigner should (for whatever reason) refuse the donation.
- (2) All reasonable steps must be taken immediately by or on behalf of the accredited campaigner to verify (or, so far as any of the following is not apparent, ascertain)—
 - (a) the identity of the donor,
 - (b) whether the donor is a permissible donor, and
 - (c) if it appears that the donor is a permissible donor, all such details in respect of the donor as are required by paragraph 3(1)(a)(iii) of Schedule 5 (recall petition returns).

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Duty to return donations from impermissible donors

- 14 (1) This paragraph applies where an accredited campaigner receives a relevant donation which the accredited campaigner is prohibited from accepting by virtue of paragraph 9(a) (impermissible donor) but not by virtue of paragraph 9(b) (unidentifiable donor).
- (2) The donation must, before the end of the period of 30 days beginning with the day on which the donation is received, be returned to—
- (a) the donor, or
 - (b) any person appearing to be acting on that person’s behalf.
- (3) If sub-paragraph (2) is not complied with, an offence is committed by—
- (a) the accredited campaigner, and
 - (b) the responsible person.
- (4) It is a defence for a person charged with an offence under this paragraph to show that—
- (a) all reasonable steps were taken by or on behalf of the accredited campaigner to verify (or ascertain) whether the donor was a permissible donor, and
 - (b) as a result, the relevant person believed the donor to be a permissible donor.
- (5) “The relevant person” means—
- (a) where the person charged with the offence is an individual, that individual, and
 - (b) otherwise, the responsible person.
- (6) A person guilty of an offence under this paragraph is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 12 months or a fine (or both), and
 - (b) on summary conviction—
 - (i) in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both),
 - (ii) in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both), and
 - (iii) in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both).

Duty to return donations from unidentifiable donors

- 15 (1) This paragraph applies where an accredited campaigner receives a relevant donation which the accredited campaigner is prohibited from accepting by virtue of paragraph 9(b) (unidentifiable donor).
- (2) The donation must be returned to the appropriate person before the end of the period of 30 days beginning with the day on which the donation is received.
- (3) “The appropriate person” means—
- (a) where the donation was transmitted by a person other than the donor, and the identity of that person is apparent, that person,
 - (b) where the identity of the person by whom the donation was transmitted is not apparent, but it is apparent that the donor has, in connection with the

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- donation, used any facility provided by an identifiable financial institution, that institution, and
- (c) in any other case, the Electoral Commission.
- (4) If sub-paragraph (2) is not complied with an offence is committed by—
- (a) the accredited campaigner, and
- (b) the responsible person.
- (5) A person guilty of an offence under this paragraph is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 12 months or a fine (or both), and
- (b) on summary conviction—
- (i) in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both),
- (ii) in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both), and
- (iii) in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both).
- (6) The Electoral Commission must pay into the Consolidated Fund any amount received by virtue of this paragraph.

Circumstances in which donations treated as accepted or received

- 16 (1) A relevant donation received by an accredited campaigner that is not accepted before the end of the period of 30 days beginning with the day on which it is received is treated for the purposes of this Act as accepted by the accredited campaigner at the end of that period.
- (2) Sub-paragraph (1) does not apply where—
- (a) paragraph 14(2) or 15(2) (return of donations from impermissible or unidentifiable donors) has been complied with in relation to the donation, and
- (b) a record can be produced of the receipt of the donation, and of the donation being returned as required by paragraph 14(2) or 15(2).
- (3) Where a relevant donation is received by an accredited campaigner in the form of an amount paid into an account held by the accredited campaigner with a financial institution, it is treated for the purposes of this Act as received at the time the accredited campaigner is notified in the usual way of the payment into the account.

Forfeiture of donations made by impermissible or unidentifiable donors

- 17 (1) This paragraph applies where an accredited campaigner accepts a relevant donation in contravention of paragraph 9.
- (2) The court may, on an application made by the Electoral Commission, order the forfeiture by the accredited campaigner of an amount equal to—
- (a) the amount of the donation, where it is of money, or
- (b) the value of the donation, where it is not of money.
- (3) The standard of proof in proceedings on an application under this paragraph is that applicable to civil proceedings.

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- (4) An order may be made under this paragraph whether or not proceedings are brought against any person for an offence connected with the donation.
- (5) In this paragraph “the court” means—
 - (a) in relation to England and Wales, a magistrates’ court;
 - (b) in relation to Scotland, the sheriff;
 - (c) in relation to Northern Ireland, a court of summary jurisdiction.
- (6) Proceedings on an application under this paragraph to the sheriff are civil proceedings.

Appeal against order under paragraph 17

- 18 (1) Sub-paragraphs (2) to (5) apply where an order is made under paragraph 17 by—
 - (a) a magistrates’ court, or
 - (b) a court of summary jurisdiction in Northern Ireland.
- (2) The accredited campaigner may, before the end of the period of 30 days beginning with the day on which the order is made, appeal to the Crown Court or, in Northern Ireland, to a county court.
- (3) An appeal under sub-paragraph (2) is by way of a rehearing.
- (4) The standard of proof in proceedings on an appeal under sub-paragraph (2) is that applicable to civil proceedings.
- (5) The court on hearing an appeal under sub-paragraph (2)—
 - (a) may make such order as it considers appropriate, and
 - (b) may make an order whether or not proceedings are brought against any person for an offence connected with the donation.
- (6) Where an order is made under paragraph 17 by the sheriff, the accredited campaigner may appeal against the order to the Court of Session.

Supplementary provision about orders under paragraph 17 or 18

- 19 (1) Provision may be made by rules of court—
 - (a) with respect to applications or appeals under paragraph 17 or 18 to any court,
 - (b) for the giving of notice of such applications or appeals to persons affected,
 - (c) for the joinder, or in Scotland sisting, of such persons as parties, or
 - (d) otherwise in respect of the procedure under those paragraphs before any court.
- (2) Sub-paragraph (1) is without prejudice to the generality of any other power to make rules of court.
- (3) Any amount forfeited in compliance with an order under paragraph 17 or 18 must be paid into the Consolidated Fund.
- (4) Sub-paragraph (3) does not apply—
 - (a) where the forfeiture was ordered under paragraph 17 by a magistrates’ court or a court of summary jurisdiction in Northern Ireland, before the end of the period of 30 days beginning with the day on which the order is made;

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- (b) where the forfeiture was ordered by the sheriff under paragraph 17, before the end of any period within which, in accordance with rules of court, any appeal under paragraph 18(6) must be made;
 - (c) where an appeal is made under paragraph 18, before the appeal is determined or otherwise disposed of.
- (5) Where the accredited campaigner is an unincorporated body—
- (a) proceedings under paragraph 17 or 18 are to be brought against or by the body in its own name (and not in that of any of its members),
 - (b) for the purposes of any such proceedings, any rules of court relating to the service of documents apply as if the body were a body corporate, and
 - (c) any amount forfeited in accordance with an order under paragraph 17 or 18 is to be paid out of the funds of the body.

Evasion of restrictions on donations

- 20 (1) A person commits an offence if the person—
- (a) knowingly enters into an evasion arrangement, or
 - (b) knowingly does any act in furtherance of an evasion arrangement.
- (2) “An evasion arrangement” is any arrangement which facilitates or is likely to facilitate, whether by means of any concealment or disguise or otherwise, the making of relevant donations to an accredited campaigner by any person other than a permissible donor.
- (3) A person commits an offence if the person knowingly gives the responsible person in relation to an accredited campaigner—
- (a) information relating to the amount or value of any relevant donation made to the accredited campaigner which is false in a material particular, or
 - (b) information relating to the person making such a donation which is false in a material particular.
- (4) A person commits an offence if the person, with intent to deceive, withholds from the responsible person in relation to an accredited campaigner—
- (a) material information relating to the amount or value of any relevant donation made to the accredited campaigner, or
 - (b) material information relating to the person making such a donation.
- (5) A person guilty of an offence under this paragraph is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 12 months or a fine (or both), and
 - (b) on summary conviction—
 - (i) in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both),
 - (ii) in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both), and
 - (iii) in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both).

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Further provision about offences under this Schedule

- 21 (1) The following provisions of PPERA 2000 apply in relation to offences under this Schedule as they apply in relation to offences under that Act—
- (a) section 151 (summary proceedings);
 - (b) section 152 (offences committed by bodies corporate);
 - (c) section 153 (offences committed by unincorporated associations);
 - (d) section 154 (court to report convictions to Electoral Commission).
- (2) In paragraphs 12(7)(b)(i), 14(6)(b)(i), 15(5)(b)(i) and 20(5)(b)(i)—
- (a) the reference to 12 months is to be read as a reference to 6 months in relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, and
 - (b) the reference to a fine is to be read as a reference to a fine not exceeding the statutory maximum in relation to an offence committed before section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force.

Application of defined terms in PPERA 2000

- 22 In this Schedule, the following expressions have the same meaning as in PPERA 2000: “bequest”; “business”; “combined region”; “Gibraltar party”; “market value”; “property” (see section 160(1) of that Act).