

POLITICAL PARTIES AND ELECTIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Political Donations Etc and Expenditure

Section 9: Declaration as to source of donation

31. **Section 9** creates a new requirement for a person who causes money to be received by a registered party to make a written declaration in respect of a donation over a single threshold of £7,500, irrespective of whether the donation is made to a party's central organisation or to a local accounting unit of the same party.
32. *Subsection (1)* inserts a new section 54(1)(aa) into the 2000 Act, which provides that a party cannot accept a donation exceeding £7,500 if the party has not been given the declaration required by new section 54A of the 2000 Act (inserted by *subsection (3)* of section 9).
33. *Subsection (2)* inserts new section 54A into the 2000 Act. Subsections (1) and (2) of new section 54A require a person who causes a donation of over £7,500 to be given to a registered party to make a written declaration as to whether another person has provided or is expected to provide the person making the donation with money or any other benefit worth over £7,500 with a view to, or otherwise in connection with, making of the donation.
34. Subsection (3) of new section 54A provides that where a person makes a declaration that they have been given money or a benefit as described in subsection (2), then they must also declare whether or not they are acting as an agent for another person, or as the principal donor for several persons collectively, where they have each given over £7,500 with a view to, or otherwise in connection with, the making of the donation. The declaration requirement is designed to reveal whether the person apparently making the donation is the true donor or is acting on behalf of someone else. If the person states that they have received money or a benefit in connection with the making of the donation, but they are nonetheless the true donor, they must state why they believe this.
35. Subsection (4) of new section 54A provides that the declaration must provide the full name and address of the person who makes it. If the declaration is made by a person authorised to do so on behalf of a body it must also state that the person is authorised to make it and describe their role or position in the body in question.
36. Subsection (5) of new section 54A makes it a criminal offence for a person knowingly or recklessly to make a false declaration about a donation.
37. Subsection (6) provides that the Secretary of State may make provision in regulations as to how the value of a benefit is to be calculated for the purposes of subsection (2). By virtue of section 156 of the 2000 Act, the regulations must be made by statutory instrument, subject to the negative resolution procedure.

*These notes refer to the Political Parties and Elections Act
2009 (c.12) which received Royal Assent on 21 July 2009*

38. *Subsection (3)* of section 9 makes changes to section 56 of the 2000 Act so that the donation, or an equivalent amount, must be returned to the person appearing to be the donor if a declaration under section 54A has not been received. *Subsection (4)* makes the party and the treasurer guilty of an offence if they fail to do so.
39. *Subsection (5)* inserts in Schedule 6 to the 2000 Act a new paragraph 1A requiring that where a donation report is required to be made in respect of a donation to which section 54A applies, the report must include a statement from the party either confirming that the party has no reason to suspect that the declaration is untruthful or inaccurate, or giving details of any respects in which the declaration was found or suspected to be untruthful or inaccurate.
40. *Subsection (6)* amends Schedule 6 so that where a donation is made without a declaration the party must report this to the Commission under paragraph 6 of the Schedule.
41. *Subsection (7)* of section 9 amends Schedule 20 to the 2000 Act to set out the sanctions for committing the offence of making a false declaration.
42. *Subsection (8)* gives effect to Schedule 3, which makes equivalent provision to the above in respect of individuals and members associations, recognised third parties and permitted participants as defined by the 2000 Act. *Subsection (9)* provides that, after consultation with the Electoral Commission, the Secretary of State may by order amend the insertions made by this section or the related Schedule, in their application to Northern Ireland; and may make consequential or supplemental provision. *Subsections (10)* and *(11)* require orders made under this provision to be by way of a statutory instrument, which is subject to affirmative resolution of both Houses.