

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.

Section 10: Non-resident donors etc

43. **Section 10** prohibits a registered party from accepting a donation of more than £7,500 from an individual who is not resident, ordinarily resident and domiciled in the United Kingdom for the purposes of income tax, and requires donors who are individuals to give a declaration as to whether they satisfy this condition.
44. *Subsection (1)* substitutes paragraph (aa) of subsection 54(1) (replacing the paragraph (aa) inserted by section 9) of the 2000 Act, which provides that a party cannot accept a donation if the party has not been given a declaration required by section 54A of the 2000 Act.
45. *Subsection (2)* amends section 54(2)(a) of the 2000 Act so that an individual donor, as well as having to be registered on a United Kingdom electoral register, cannot be a permissible donor (and as a result, a party cannot accept a donation from him or her) unless the individual meets the condition set out in new subsection 54(2ZA), subject to new subsections (2ZB) and (2ZC), each of which is inserted by subsection (3). This condition is that the individual must be resident, ordinarily resident and domiciled in the United Kingdom for income tax purposes in the tax year in which the donation is made. Under new section 54(2ZB) this requirement only applies to an individual who causes a donation and/or relevant benefits in excess of £7,500 to be received by a party in one calendar year. A “relevant benefit” for this purpose means any relevant donation accepted by a party from a donor, or any relevant transaction, such as a loan or a credit agreement, entered into by a party with a participant (as defined by section 62(3A) of the 2000 Act).
46. *Subsection (4)* inserts new section 54B into the 2000 Act. The effect of this is to require a person who causes more than £7,500 to be received by a party within a calendar year to provide a declaration stating whether or not they meet the condition in section 54(2ZA); and makes it a criminal offence for a person to knowingly or recklessly provide a false declaration. Subsection (4) of section 54B allows the Secretary of State to make regulations concerning the retention of such declarations; and subsection (5) disapplies

the requirement to provide a written declaration to Irish citizens who make donations to Northern Ireland parties.

47. *Subsection (5)* of section 10 inserts a new subsection (1A) into section 56 of the 2000 Act. This provides that a party is regarded as having complied with the requirement under section 56(1) to take reasonable steps to verify or ascertain whether an individual has met the condition inserted in section 54(2ZA) if it has received a declaration under section 54B and has no reasonable grounds for thinking that the declaration is incorrect.
48. *Subsection (6)* amends paragraph 1A of Schedule 6 to the 2000 Act (inserted by section 9) so that a quarterly donation report must include a statement to the effect that no reason was found for thinking that a declaration required to be given by section 54B was incorrect; or give details of any respect in which the report was found to be incorrect.
49. *Subsection (7)* amends Schedule 20 to the 2000 Act to set out the sanctions for making a false declaration about whether or not the residence condition has been satisfied in relation to donations to political parties.
50. *Subsection (8)* gives effect to Schedule 4, which makes provision equivalent to the above in respect of individuals and members associations, recognised third parties and permitted participants as defined by the 2000 Act.

Section 11: Non-resident lenders etc

51. **Section 11** applies the new requirements introduced by section 10 in respect of donations so that they also apply in respect of regulated transactions such as loans, credit facilities or security for debts (as defined by section 71F of the 2000 Act). The effect of insertion by section 10 of the new permissibility condition in section 54 is that the condition applies equally to those individuals who seek to enter into regulated transactions with parties as it does to donors (see the effect of section 71H(3) of the 2000 Act, which provides that a political party may only be a party to a regulated transaction with authorised participants, that is, those individuals or organisations from whom political parties are currently permitted to accept donations). Section 11 then supplements section 10 by requiring an individual who is a party to a regulated transaction to give a declaration confirming that they satisfy the new condition.
52. *Subsection (1)* inserts new section 71HZA into the 2000 Act. This prohibits a registered party from entering into a regulated transaction with a value which exceeds £7,500 (either as a single transaction or in aggregate with other relevant transactions within a calendar year), unless it has received a written declaration from each individual party to the transaction stating that they meet the condition in section 54(2ZA) (inserted by section 10); and makes it a criminal offence for a person knowingly or recklessly to provide a false declaration. Subsection (6) of section 71HZA enables the Secretary of State to make regulations concerning the retention of such declarations; and subsection (7) disapplies the requirement to provide a written declaration to Irish citizens who make donations to Northern Ireland parties.
53. *Subsection (2)* of section 11 inserts new subsection (9A) into section 71L of the 2000 Act. This provides that a party or a party officer will not commit an offence by entering into a regulated transaction with a person whom it ought to have known did not satisfy the residency condition in section 54(2ZA), if the party has received a declaration under section 71HZA and has no reasonable grounds for thinking that the declaration was incorrect.
54. *Subsection (3)* inserts in Schedule 6A to the 2000 Act a new paragraph 1A requiring that where a report is required to be made in respect of a regulated transaction to which section 71HZA applies, the report must include a statement from the party either confirming that the party has no reason to suspect that the declaration was incorrect or

giving details of any respects in which the declaration was found or suspected to be incorrect.

55. *Subsections (4) to (6)* of section 11 make amendments to Schedule 7A of the 2000 Act in relation to controlled transactions (within the meaning given by paragraph 2 of that Schedule) between individuals and members associations which correspond to the amendments made in relation to regulated transactions with political parties by subsections (1) to (3).
56. *Subsection (7)* of section 11 amends Schedule 20 to the 2000 Act to set out the sanctions for making a false declaration about whether or not the residence condition has been satisfied in relation to regulated transactions with political parties, individuals and members' associations.

Section 12: Defence to charge of failing to return donation from impermissible donor

57. **Section 12** amends section 56 of the 2000 Act by inserting a new subsection (3A). New subsection (3A) provides that if a party or a treasurer is charged with an offence of accepting an impermissible donation, the party or party treasurer will not be guilty if they can show that they took all reasonable steps to verify that the donor was a permissible donor, and having done so, believed that that was the case.

Section 13: "Reasonable excuse" in relation to certain offences under the 2000 Act

58. **Section 13** makes amendments relating to certain offences contained in the 2000 Act relating to the reporting of accounts, donations and loans and associated defences. The offences and defences in question are listed in *subsections (2) to (6)*. These amendments insert the phrase "without reasonable excuse" in the appropriate place in respect of those offences, and therefore ensures that whether or not there is an reasonable excuse for the act or omission in question is considered in determining whether or not an offence has been committed.
59. In consequence, the amendments also remove the existing separate defence to each offence of having taken all reasonable steps or having exercised all due diligence to ensure that the relevant act or omission did not occur.
60. The offences that are revised so that no offence will be committed where there is a reasonable excuse for the breach are:
 - Section 47 – failure to submit proper statement of accounts by registered party to the Electoral Commission;
 - Section 65 – submission of late or incomplete report to Commission by party Treasurer;
 - Section 71S – submission of late or incomplete loans report to Commission by party Treasurer;
 - Paragraph 12 of Schedule 7 – submission of late or incomplete donation report to Commission by regulated donee or responsible person where the regulated participant is a members association; and
 - Paragraph 12 of Schedule 7A – submission of late or incomplete transaction report to Commission by regulated participant or responsible person where the regulated participant is a members association.

Section 14: Control of donations to members associations: responsible persons

61. *Subsection (1)* of section 14 amends Schedule 7 to the 2000 Act which deals with the reporting of donations by regulated donees. It places a requirement on a members association with no treasurer to appoint a responsible person, in circumstances where

the association is in receipt of a reportable permissible donation (that is a transaction with a value of more than £7,500), or an impermissible recordable donation above £500.

62. *Subsection (3)* inserts new paragraphs 1A and 1B into Schedule 7. Paragraph 1B sets out the procedure that must be followed once a members association becomes subject to the requirement to appoint a “responsible person”. It provides that such a person must be appointed by giving notice to the Electoral Commission within 30 days of receipt of the relevant donation if there is not already an appointment in place. In addition, a members association may appoint a responsible person under this provision even if it has not become subject to the requirement to do so.
63. Sub-paragraphs (1) to (3) of new paragraph 1A set out the procedure that must be followed by a members association when appointing a reasonable person, and also set out the form and content of the notice to be given.
64. Sub-paragraph (4) provides that a notice shall take effect from the date it is received by the Electoral Commission and will be valid for 12 months from that date unless the members association or responsible person gives the Commission a renewal notice within one month of the date on which the original notice will expire. Any such renewal notice will extend the validity of the original notice for a further 12 months and must either confirm that all the statements contained in the original notice are still accurate or update the previous information. New paragraph 1A also makes provision for alteration or termination of notices issued under the paragraph.
65. New paragraph 1B provides that it is an offence to fail to appoint, without reasonable excuse, a responsible person as required under paragraph 1A. Any offence under this paragraph may attract a fine to level 5 on the standard scale in the event of summary conviction. *Subsection (4)* provides that where an offence is committed under paragraph 12 of Schedule 7 (failure to deliver a donation report) in respect of a members association, both the members association and the responsible person may be liable.

Section 15: Control of donations to holders of elective office: compliance officers

66. **Section 15** amends the 2000 Act to provide for the appointment of compliance officers to assist holders of relevant elective office with their obligations to report donations under that Act.
67. *Subsection (1)* inserts a new Part 7 into Schedule 7 to the 2000 Act, which is the Schedule concerned with the control of donations to regulated donees (being certain individuals and members associations). Part 7 contains new paragraphs 17, 18 and 19.
68. Paragraph 17(1) allows, but does not oblige, the holder of a relevant elective office to appoint a ‘compliance officer’. Holders of relevant elective office are defined in paragraph 1(8) of Schedule 7 to the 2000 Act (namely, a member of a registered party, a members association, or a holder of a relevant elective office, whether or not a party member).
69. Paragraph 17(2) sets out the duties that a compliance officer may discharge on behalf of the officer holder and the offences for which they will be held liable if provisions in the 2000 Act are breached. Specifically:
 - a) Paragraph 17(2)(a) allows the compliance officer (in addition to the office-holder) to take responsibility for reporting permissible donations (paragraph 10) and impermissible donations (paragraph 11) to the Electoral Commission. As part of this, the compliance officer may make the declaration that must be made in any donation report regarding its accuracy under paragraph 13 of Schedule 7.
 - b) Paragraph 17(2)(b) sets out the offences in the 2000 Act with which the compliance officer, the office-holder, or both, may be charged. Specifically, this applies to a compliance officer the offences in section 56(3), (3B) and (4) of the 2000 Act (failure to return a donation from an impermissible donor or to take

steps to verify whether the donation is from a permissible donor). It also applies the offences in paragraph 12(1) and 12(2) of Schedule 7 (failing to report to the Commission permissible or impermissible donations within the time limits or failing to report in accordance with the requirements).

- c) Paragraph 17(2)(c) provides that where a compliance officer makes the statutory declaration on a donation report in accordance with paragraph 13 of Schedule 7, the compliance officer instead of the office-holder will be liable for the offence in paragraph 13(4) if he or she knowingly or recklessly makes a false declaration. Where it was the office-holder who made the declaration, the office-holder will remain liable.
70. Paragraph 17(3) protects the compliance officer from liability for the offence under paragraph 12(1) and (2) of Schedule 7 relating to the late or incomplete reporting of any controlled donation received by the office-holder before the compliance officer was appointed. Therefore the office-holder could not seek to share liability for a particular error by appointing the compliance officer after the error has occurred. This protection does not extend to the offence of making a false declaration under paragraph 13 of the same Schedule.
71. Paragraph 17(4) provides that anybody giving false information to a compliance officer relating to the amount of a donation or its source is guilty of an offence. This mirrors the offences of giving false information to a political party or regulated donee.
72. Paragraph 18(1), (2) and (3) sets out the details that a notice appointing a compliance officer must contain. To ensure that both parties have agreed to the appointment, sub-paragraph (1) states that the office-holder must sign the notice and that it must contain a signed statement by the person to be appointed as compliance officer. Sub-paragraph (2) requires the notice to contain the details of the office-holder including their name, position held, address and party affiliation. Sub-paragraph (3) requires the notice to contain details of the person to be appointed as a compliance officer, including their name, address and party membership if relevant.
73. Paragraph 18(4) provides that the notice will be in force from the date on which it is received by the Commission and will lapse 12 months after this date, unless the office-holder or compliance officer gives the Commission a renewal notice that they both wish the original notice to remain in force. A renewal notice to this effect can be given under paragraph 18(5), which provides that such a notice has the effect of extending the validity of the original notice a further 12 months from the point at which it would have previously elapsed, or from the date of expiry of a previous extension. This renewal notice must be received by the Commission within one month of the date on which the most recent notice is due to expire. Paragraph 18(6) provides that a renewal notice must either confirm that all the statements in the original notice remain accurate, or indicate where any information has changed. Both the office-holder and compliance officer must sign this renewal notice.
74. Paragraph 18(7) allows the office-holder and compliance officer to give a “notice of alteration” to the Commission at any time, making alterations to the information provided in an original notice where circumstances have changed. This notice takes effect on the date it is received by the Commission, unless another later date is specified in the notice itself.
75. Paragraph 18(8) stipulates that a notice of alteration must be signed by the office-holder and either the current compliance officer or the individual who will be replacing them.
76. Paragraph 18(9) allows either the compliance officer or the office-holder to provide a signed “notice of termination” to the Commission at any time. This notice can be signed by both parties or by just one party to the original notice. However, to ensure that both parties know if an appointment is terminated, where it is signed by only one party, sub-paragraph (10) requires the Commission to inform the other party that the termination

notice has been received as soon as reasonably practicable. If it is signed by both parties the Commission are not required to take this step.

77. Paragraph 19(1) requires the Commission to maintain a register of the notices of appointment of compliance officers which are currently in force. Paragraph 19(2) and (3) requires the Commission to maintain a register of all compliance officer notices, in a form for them to determine and with any new information to be included as soon as is practicable. However, paragraph 19(4) provides that the information entered onto the register shall not include the home addresses of individuals.
78. *Subsection (2)* of the section inserts provision into Schedule 20 of the 2000 Act, setting out the relevant sanctions available for the offence contained in new paragraph 17(4) of Schedule 7 to the 2000 Act.

Section 16: Control of loans etc to members associations: responsible persons

79. **Section 16** amends Schedule 7A to the 2000 Act, which makes provision in relation to control of loans to members associations.
80. *Subsection (2)* inserts new sub-paragraphs (7A), (7B) and (7C) into paragraph 1 of Schedule 7A. These replicate in their effect the provisions inserted into Schedule 7 by section 12 of this Act. In particular, these provisions replicate the effect of the provisions in Schedule 7 which create the offence of failure to appoint a responsible person and which make either the responsible person or a members association liable for failure to comply with reporting requirements.
81. Additionally, a notice under paragraph 1A of Schedule 7 to appoint a responsible person in relation to donations above the threshold will also have effect as a notice under Schedule 7A in relation to controlled recordable transactions (and *vice versa*).

Section 17: Control of loans etc to holders of elective office: compliance officers

82. **Section 17** amends Schedule 7A to the 2000 Act by inserting a new paragraph 18 that provides that a compliance officer appointed according to the provisions of paragraph 17 of Schedule 7 of the 2000 Act (as inserted by section 15 of this Act) can assist the office-holder with his or her obligations in relation to the reporting of regulated transactions under that Act.
83. New paragraph 18(2)(a) provides that where a notice under paragraph 17 of Schedule 7 is in force any duty imposed under paragraphs 9, 10, 11 or 13 of Schedule 7A may be carried out by either the compliance officer or the office-holder. These paragraphs relate to the reporting to the Electoral Commission of a regulated transaction with an authorised participant, the reporting of a transaction with an unauthorised participant, the reporting of changes to a recorded transaction and also the giving of the declaration contained in a report.
84. Sub-paragraph (2)(b) has the effect that a compliance officer may also be liable, in addition to the office-holder, for the offences in paragraph 12(1) and (2) of Schedule 7A. These offences are failing to report to the Commission a transaction with either an authorised participant or unauthorised participant within the time limits or failing to report in accordance with the requirements set out in the 2000 Act.
85. Sub-paragraph (2)(c) provides that where, instead of the office-holder, a compliance officer makes the statutory declaration on a transaction report in accordance with paragraph 13 of Schedule 7A, the compliance officer will be liable, and not the office-holder, for any offence under paragraph 13(4) of knowingly or recklessly making a false declaration.
86. Sub-paragraph (3) protects the compliance officer from liability for any offence under paragraph 12(1) and (2) of Schedule 7A relating to any controlled transaction entered into by the office-holder before he or she was appointed.

Section 18: Person may not be “responsible person” for more than one third party

87. **Section 18** makes amendments to section 88 of the 2000 Act to change the notification requirements that third parties (that is, campaigning entities which are not political parties or candidates seeking election) must comply with.
88. Third parties which spend above the limits set out in section 94(5) of the 2000 Act are required to submit a notification to the Electoral Commission in accordance with section 88 of the 2000 Act. Third parties that submit such a notification become recognised third parties for the purposes of Part 6 of the 2000 Act and are subject to additional regulation and a higher spending limit than those that are not recognised. The responsible person for each third party, as defined by section 85(7) of the 2000 Act, is responsible for compliance with the 2000 Act.
89. *Subsection (2)* of the section amends subsection (2)(a) of Section 88 of the 2000 Act to provide that an individual who is the responsible person in relation to another recognised third party cannot become a recognised third party in their own right.
90. *Subsection (3)* of the section inserts subsection (3A) into section 88 of the 2000 Act. This new subsection provides that a notification to the Commission in respect of a third party organisation does not comply with the requirement to name a responsible person, if the responsible person that it names is already the responsible person in relation to another third party (whether as an individual or for another organisation); or an individual who would become a responsible person by virtue of a notification given for another third party at the same time.
91. *Subsection (4)* of the section makes transitional provision in respect of notifications made before section 18 comes into force. Section 88 of the 2000 Act provides that a third party’s status as a recognised third party lapses 15 months after the original notification is given to the Commission or where that falls within a regulated period before an election, at the end of that period. However, a recognised third party can give a renewal notification to the commission in advance of the notification lapsing. The effect of subsection (4) is that where a notification made prior to the commencement of the amendments to section 88 named a responsible person who is a responsible person for another third party then the renewal notification must, when it is required to be made, name a different responsible person.

Section 19: Reports of gifts received by unincorporated associations making political contributions

92. **Section 19** inserts a new section 140A into the 2000 Act. That section introduces new Schedule 19A into the 2000 Act, which is set out in Schedule 5 to this Act. Unincorporated associations are permissible donors as detailed in section 54(2) of the 2000 Act. The broad effect of Schedule 5 is that an unincorporated association which makes a political contribution of more than £25,000 to any recipient regulated by the 2000 Act (including political parties) in a calendar year will be subject to a new reporting regime in respect of gifts of a certain value it has received within a specified period. Political contributions in this context can take the form of donations, loans (including credit facilities and securities), or a combination of these.
93. *Subsection 4* inserts a new subsection (3A) into section 62 of the 2000 Act, enabling regulations made under subsection 3(e) of that section to make provision amending paragraph 1 of schedule 19A. This would enable a loan from an unincorporated association to a third party or a permitted participant to be regarded as a political contribution for the purposes of Schedule 19A.
94. *Subsections (5) to (7)* of section 19 provide that, after consultation with the Electoral Commission, the Secretary of State may by affirmative 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.

95. *Subsection (8)* sets out two matters for the purposes of Schedule 19A. First, the first calendar year for which the new reporting requirements in respect of political contributions of more than £25,000 will apply is 2010. Second, no gift will be required to be reported under the Schedule if it was received before the day on which the Act receives Royal Assent.

Section 20: Increased thresholds in relation to donations etc

96. **Section 20** amends a number of sections of and Schedules to the 2000 Act. The effect of these amendments is to increase:
- a) the financial limit above which a payment or benefit in kind is regarded as a donation, loan or other regulated transaction for the purposes of the 2000 Act (“the donation threshold”); and
 - b) the financial limit which, when exceeded, requires details of a donation, loan or regulated transaction to be reported to the Electoral Commission (“the reporting threshold”).
97. *Subsection (1)* amends the 2000 Act so that the donation threshold is raised from £200 to £500. This threshold is raised in respect of:
- a) donations, loans and other regulated transactions to registered parties (by virtue of the amendments made to sections 52, 54 and 71F of the 2000 Act);
 - b) donations, loans and other regulated transactions to individuals and members associations (by virtue of the amendments made to Schedules 7 and 7A of the 2000 Act);
 - c) donations to recognised third parties (by virtue of the amendments made to Schedule 11 of the 2000 Act); and
 - d) donations to permitted participants (defined at section 105 of the 2000 Act as an organisation that has notified the Electoral Commission of its intention to campaign in relation to a referendum) that either are not registered parties or are minor parties (by virtue of the amendments made to Schedule 15 of the 2000 Act).
98. *Subsection (2)* of section 20 amends the 2000 Act so that the reporting threshold is raised from £1,000 to £1,500. This threshold is raised in respect of:
- a) donations, loans and other regulated transactions to registered parties where any previous benefits have been required to be reported (by virtue of the amendments made to sections 62(6A), 62(7), 71M(7) and 71M(8) of the 2000 Act);
 - b) donations, loans and other regulated transactions to accounting units of a registered party (by virtue of the amendments made to sections 62(11) and 71M(11) of the 2000 Act); and
 - c) donations, loans and other regulated transactions to individuals (by virtue of the amendments made to Schedules 7 and 7A of the 2000 Act).
99. *Subsection (3)* of section 20 amends the 2000 Act such that the reporting threshold in certain circumstances is raised from £5,000 to £7,500. This threshold is raised in respect of:
- a) donations, loans and other regulated transactions to registered parties (by virtue of the amendments made to sections 62, 63, 71M and 71Q of the 2000 Act);
 - b) donations, loans and other regulated transactions to members associations (by virtue of the amendments made to Schedules 7 and 7A of the 2000 Act);
 - c) donations to recognised third parties (by virtue of the amendments made to Schedule 11 of the 2000 Act); and

- d) donations to permitted participants that either are not registered parties or are minor parties (by virtue of the amendments made to Schedule 15 of the 2000 Act).
100. *Subsection (4)* inserts new subsections (3) and (4) into section 155 (power to vary specified sums) of the 2000 Act to require the Secretary of State, at least once in the life of a Parliament lasting more than two years, to vary specified thresholds in the 2000 Act relating to the recording and reporting of donations and loans to take account of changes in the value of money or, if the Secretary of State decides not to do so, to make a statement to Parliament explaining the reasons. New subsection (3) of section 155 of the 2000 Act provides that the power for the Secretary of State to review thresholds will apply to recordable and reportable donations and loans to registered parties, accounting units of registered parties, individual regulated donees, members associations, recognised third parties and permitted participants in a referendum. *Subsection (5)* provides that the provisions inserted in the 2000 Act by *subsection (4)* do not apply during the Parliament during which this Act was passed.

Section 21: Limitation of pre-candidacy election expenses for certain general elections

101. Restrictions on candidates' expenses are imposed by Part 2 of the Representation of the People Act 1983 ("the 1983 Act"). *Subsection (1)* of section 21 inserts section 76ZA into Part 2 of the 1983 Act to provide for a second regulated period for candidate election expenses. Where applicable, this operates in addition to the limit set out in section 76 of the 1983 Act.
102. Subsection (1) of section 76ZA specifies that the second spending limit applies only where:
- A Parliament runs for over 55 months before it dissolves, to be counted from the day on which that Parliament was first appointed to meet (subsection (1)(a));
 - The election expenses being regulated by the limit are incurred by or of behalf of a candidate in respect of the general election that is held after the Parliament in question is dissolved (subsection (1)(b)); and
 - The election expenses being regulated by the limit are used between the 55 month point and the day on which the person "becomes a candidate" at the election (subsection (1)(c)). The point when an individual "becomes a candidate" in this sense is set out in section 118A (meaning of candidate) of the 1983 Act.
103. As the second limit regulates election expenses before an individual formally becomes a 'candidate' by virtue of section 118A of the 1983 Act, subsection (1) of section 76ZA provides that section 90ZA (which relates to the meaning of "election expenses") applies to the second limit with the exception of the words "after he becomes a candidate at the election". This enables the second spending limit to apply to individuals who go on to become candidates under section 118A but who are not yet candidates at the time that the second limit starts to apply.
104. Subsection (2) of section 76ZA specifies the level of the second spending limit. The level is the relevant percentage of the aggregate of a fixed sum (£25,000) plus a small amount for each entry in the register of electors. This small amount is 7p where the constituency is designated as a county (less densely populated) constituency and 5p where the constituency is designated as a borough (urban) constituency.
105. Subsection (3) of section 76ZA sets out what fraction of the spending limit set out in subsection (2) applies according to which month of its term a Parliament is dissolved in.
106. Subsection (4) of section 76ZA sets out the meaning of "the register of electors" referred to in subsection (2).

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107. Subsection (5) of section 76ZA provides that it is an illegal practice for any candidate or election agent to incur or authorise the incurring of election expenses in excess of the permitted amount specified in subsection (2), where the candidate or agent knew or ought reasonably to have known that incurring those expenses would exceed the permitted amount.
108. Subsection (6) of section 76ZA provides that a candidate's personal expenses are not to be counted against the second limit.
109. *Subsection (2)(a)* of section 20 states that the provisions in this section do not apply to any expenses incurred before these provisions are commenced. *Subsection (2)(b)* states that the provisions in this section do not apply to any expenses which are used before 1 January 2010. This provision does not exempt from the effect of the provisions any expenditure incurred after commencement of the section but used after 1 January 2010.

Section 22: Election expenses: guidance by Commission

110. **Section 22** amends paragraph 14 of Schedule 4A to the 1983 Act. In addition to their power to issue guidance to candidates on the matters that are caught by the list of election expenses set out in paragraph 1 of that Schedule, section 22 provides that the Electoral Commission have a power to issue guidance about the circumstances in which those expenses are to be regarded as having been incurred for the purpose of a candidate's election.