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

POLITICAL PARTIES AND ELECTIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: the Electoral Commission

Section 1: Compliance with controls imposed by the 2000 Act etc

10. *Subsections (1)* and *(2)* of section 1 amend section 145 of the 2000 Act to provide that, in addition to its existing function of monitoring compliance with various requirements (relating to registered party accounting, political donations, campaign and election expenditure, and referendums), the Commission shall have the function of taking such steps as they consider appropriate to secure compliance with those requirements. The purpose of this provision is to clarify that the Commission are required to both monitor and regulate compliance. *Subsection (3)* allows the Commission to publish guidance as to what conduct they consider to be necessary or sufficient in order to comply with the legislative requirements, and what conduct they consider to be desirable (that is, best practice) in view of the purpose of those requirements.

Section 2: Investigatory powers of the Commission

11. *Subsection (1)* of this section substitutes a new section 146 of the 2000 Act (investigatory powers of the Commission). This new section gives effect to new Schedule 19B which is inserted into the 2000 Act by *subsection (2).* Schedule 1 to the Act contains new Schedule 19B. Schedule 19B provides the Commission with powers to enable them to require access to information for certain purposes (including where it is conducting an investigation into a potential criminal offence) and, in relation to limited categories of individual or body and only after obtaining a warrant from a magistrate, to enter premises to inspect and make copies of relevant documents in circumstances where they are not conducting any criminal investigation. *Subsection (3)* makes provision as to the penalties for offences under the new Schedule.

Section 3: Civil sanctions

12. Section 3 gives the Electoral Commission new powers to apply a range of civil sanctions to offences and contraventions under the 2000 Act.

13. *Subsection (1)* substitutes a new section 147 of the 2000 Act (civil sanctions). This new section gives effect to new Schedule 19C, which is inserted into the 2000 Act by *subsection (2),* and is contained in Schedule 2 to the Act. It sets out the range of new civil penalties available to the Commission, including monetary penalties, discretionary requirements, stop notices and enforcement undertakings. The new Schedule also explains how and when the Commission are able to apply these sanctions, who they apply to and what appeal processes are available to an individual or organisation subject to a sanction. *Subsection (3)* of section 3 inserts a new entry into Schedule 20 to the

2000 Act which sets out the penalty for commission of the offence, set out in new Schedule 19C, of failing to comply with a stop notice.

14. *Subsection (4)* inserts new subsection (4A) into section 156 of the 2000 Act. This specifies that an order made under paragraph 16 of new Schedule 19C is subject to the affirmative resolution procedure if it is of the nature of any of the following orders:

- An order prescribing the offences or restrictions and requirements of the 2000 Act in respect of which the Commission can impose a fixed monetary penalty (see paragraphs 1(1) to (4) of Schedule 19C);
- An order prescribing the level of a fixed monetary penalty (see paragraph 1(5) of Schedule 19C);
- An order prescribing the offences or restrictions and requirements in respect of which the Commission can impose a discretionary requirement (see paragraphs 5(1) to (4) of Schedule 19C);
- An order prescribing the offences or restrictions and requirements the occurrence or likely occurrence of which the Commission must hold a reasonable suspicion about in order to consider imposing a stop notice (see paragraphs 10(2)(b) and (3)(b) of Schedule 19C);
- An order prescribing the offences or restrictions and requirements the occurrence of which the Commission must hold a reasonable suspicion about in order to consider accepting enforcement undertakings (see paragraphs 15 (1)(a) of Schedule 19C); and
- Any order amending an Act.

Section 4: Selection of prospective Electoral Commissioners and Commission chairman

15. Section 4 amends section 3 of the 2000 Act, which governs the appointment of Electoral Commissioners and the Commission chairman. *Subsection (2)* of the section inserts a new subsection (2) into section 3, which expands the series of requirements which must be met in relation to the appointment procedures. Her Majesty will continue to appoint Commissioners on presentation of an Address from the House of Commons; but, in addition to the existing requirements set out in current subsection (2) that the Speaker agree to the making of the motion and that the leader of each party which has two or more members in the House of Commons be consulted on the motion, paragraph (c) of the substituted subsection (2) requires that each person proposed for appointment must have been selected in accordance with a procedure put in place and overseen by the Speaker's Committee.

16. *Subsection (3)* inserts a subsection (5A) into section 3 of the 2000 Act, providing that a Commissioner may be re-appointed without undergoing a fresh selection procedure if so recommended by the Speaker's Committee.

Section 5: Four Electoral Commissioners to be put forward by parties

17. Section 5 makes provision facilitating the appointment to the Commission of four Commissioners with recent political experience, and provides for the appointment of Electoral Commissioners put forward by the largest political parties ("nominated Commissioners").

18. *Subsection (1)* inserts new subsection (4A) into section 3 of the 2000 Act which disapplies, for the nominated Commissioner positions, the restrictions which would normally prevent a person who belongs to a political party or has been engaged in recent political activity from being appointed. Subsection (4A) does not alter the prohibition

on appointing a serving officer or employee of a political party or the holder of a relevant elected office.

19. *Subsection (2)* inserts new section 3A into the 2000 Act, which makes provision about the appointment of nominated Commissioners. Subsections (1) and (2) of the new section provide that there shall be four nominated Commissioners, each of whom shall be nominated by the leader of a party with two or more representatives in the House of Commons ("a qualifying party"). Subsections (3) and (4) provide that, of those four Commissioners, three must be selected from the three largest parties (measured according to the criteria set out in subsection (8) of new section 3A) that have nominated three candidates each for consideration for appointment or that have previously nominated individuals, one of whom was appointed and is expected to continue to hold office.

20. Subsection (5) of the new section prevents the appointment of two or more nominated Commissioners from the same political party. The effect of this provision is to ensure that the fourth nominated Commissioner must be nominated by the leader of a party which is not one of the three largest parties. Subsection (7) prevents a nominated Commissioner from being appointed as Chair of the Electoral Commission. Subsection (8) provides that Members of the House of Commons who have not sworn the oath required by the Parliamentary Oaths Act 1866 (or the corresponding affirmation) or who have been disqualified from sitting and voting in the House are not counted for the purposes of the new section.

21. *Subsection (3)* of section 5 amends section 14 of the 2000 Act which sets out the Commission's boundary functions, to prevent a nominated Commissioner from being appointed to a Boundary Committee.

Section 6: Number of Electoral Commissioners

22. This section amends section 1 of the 2000 Act to increase the minimum and maximum number of Electoral Commissioners that may be appointed. The effect of the section is to increase the minimum from 5 to 9, and the maximum from 9 to 10. The increase in the minimum is intended to ensure that the nominated Commissioners will always be a minority of Commissioners.

Section 7: Political restrictions on Electoral Commissioners and staff

23. Section 7 relaxes the restrictions that apply to the political activities of Electoral Commissioners (other than nominated Commissioners) and Electoral Commission staff.

24. *Subsection (1)* of section 7 amends section 3 of the 2000 Act so that a person will only be prohibited from appointment as an Electoral Commissioner if they have engaged in certain political activities within the past five years, rather than the past 10 years as is currently the case.

25. *Subsection (2)* inserts a new paragraph 11A in Schedule 1 to the 2000 Act which reduces the restrictions which currently apply to the political activities of Electoral Commission staff, both on appointment and while they hold office. Sub-paragraph (1) of paragraph 11A specifies that staff cannot be appointed to the Electoral Commission if they have been engaged in certain political activities within the "relevant period". Sub-paragraph (2) defines this period (which was previously the last 10 years for all staff) as the last five years for the post of chief executive of the Commission and the last 12 months for all other members of staff.

26. Sub-paragraph (3) of the new paragraph 11A provides that the chief executive of the Commission cannot be a member of a registered party. Sub-paragraph (4) provides that the appointment of a member of staff shall be terminated if, after appointment, they

become engaged in any of the types of political activity that would have prevented their appointment.

27. Some of the provisions of the new paragraph 11A restate sub-paragraphs (2) and (4) of paragraph 11 of Schedule 1 to the 2000 Act, and these sub-paragraphs are accordingly repealed (in Schedule 7).

28. *Subsection (2)* also inserts a new paragraph 11B in Schedule 1 to the 2000 Act which provides the Chief Executive with the power to designate certain other Commission posts as being subject to a longer restriction period of between two and five years, if he or she reasonably believes that it is necessary to do so in order to maintain public confidence in the effectiveness of the Commission in carrying out their functions. In determining the length of the period to be specified by the designation the Chief Executive is required to take into account the seniority of the post to be designated and the likelihood of the post-holder being required to deal with politically sensitive matters. The Chief Executive is required to consult the Speaker's Committee on the posts that he or she intends to designate. Such a designation would take effect from the day it was received by the Speaker's Committee and expire at the end of three years (unless the Chief Executive gives a cancellation notice in the interim).

29. *Subsection (3)* of section 7 excludes all Commission staff dealing with electoral boundary work from the reduced restrictions (from ten years to one) in section 7 of the Act, as the Government envisages that they will eventually transfer to the independent Local Government Boundary Committee to be established by the Local Democracy, Economic Development and Construction Bill. Under these arrangements staff employed by the new Committee will be subject to a ten year restriction that mirrors that currently in the 2000 Act. This is intended to ensure that the level of political restriction on the appointment of boundary staff remains consistent in the intervening period between the commencement of section 7 and the creation of the new Committee.

Section 8: Education about systems of Government and EU institutions

30. Section 8 amends section 13 of the 2000 Act to remove the obligation imposed on the Electoral Commission to promote awareness of current and pending systems of local and national government and the institutions of the European Union. The removal of that obligation does not prevent the Commission from continuing to provide information about systems of government and EU institutions insofar as it is needed to help promote understanding of electoral systems in the United Kingdom.

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.

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 our 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).

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.

Part 3: Elections

Section 23: Election falling within canvass period

111. Section 23 introduces new arrangements designed to expedite the registration of eligible electors in the event of an election falling within a canvass period. *Subsection (1)* inserts new section 13BB into the 1983 Act, which enables electoral registration officers to amend the published register of electors before the election is held to show details of new electors or other changes that have been recorded on a canvass form.

112. Subsection (1) of new section 13BB provides that the power to amend the register is triggered when an application for registration is made on a canvass form and notice of an election is published, the poll for which will be held in the period between 1 July and 1 December in the year of that canvass.

113. Subsection (2) of new section 13BB provides that when the power to amend the register is triggered, the elector shall be treated as if they made their application for registration on the date the form is received by the returning officer or the date the notice of election is published, whichever is later. This subsection also allows the Secretary of State to prescribe circumstances in which the application should not be treated as made on either date (for instance where the elector has not yet taken up residence at the relevant address).

114. Subsection (3) of new section 13BB provides that the registration officer may not determine an application as if it were made before the election if the canvass form was received by the returning officer after the last point at which it can be determined before the poll (currently the 11th day before the poll). Subsection (4) requires that amendments to the register must be made by way of a notice specifying the appropriate alterations. Subsection (5) provides that where, as a result of the determination that a person is entitled to be registered, that person's entry falls to be removed from the register for another area, and an election is going to be held in that other area during the canvass period, then the registration officer for the other area must (if they are informed about the determination in time) also amend their register to delete that person's entry.

115. Subsection (6) of new section 13BB provides that a notice altering the register must be issued on the appropriate publication date (currently the 5th or 6th day before the poll) and that the alteration comes into effect from the beginning of the day on which it is published. Subsection (7) provides that the requirement to publish a notice altering the register will not apply if the registration officer publishes a revised register taking the changes into account before the 5th or 6th day before the poll date.

116. *Subsection (2)* of Section 23 inserts new subsection (1A) into section 13 of the 1983 Act. The effect of this new provision is that, in the event of an election taking place during the period from 1st July to 1st December, the electoral registration officer may suspend publication of the electoral register from 1st December until 1st February in the following year to allow time to compile the revised register.

Section 24: Candidate at parliamentary election may withhold home address from publication

117. This section makes amendments to the parliamentary elections rules (PERs), found at Schedule 1 to the 1983 Act, to allow candidates at a parliamentary election to choose that their home address does not appear on the ballot paper at the election. Under rule 6 of the PERs (concerning the nomination of candidates), candidates at a parliamentary election are nominated by completing the nomination paper. The PERs currently require the candidate's home address to be included on the nomination paper. Under rule 14 (publication of statement of persons nominated), the returning officer will publish a statement showing the persons who have been nominated to stand at the election. The statement will include the names and addresses of the candidates as shown on their nomination papers. The names and addresses of the candidates on the statement of persons nominated are in turn transferred onto the ballot paper for the election.

118. *Subsection (2)* of section 24 amends rule 6 of the PERs to provide that the candidate's nomination paper will no longer include the candidate's home address in full. Instead, the nomination paper must be accompanied by a form known as the "home address form" which must show the candidate's full names and home address in full. Provisions concerning the delivery of nomination papers to the returning officer will apply equally to the delivery of the home address form. On the home address form, the candidate may make a statement that he or she requires the home address not to be made public. If so, then the form must also state the constituency within which the candidate's home

address is situated, or if that address is outside the United Kingdom, the country within which it is situated.

119. *Subsection (3)* amends rule 11 of the PERs (right to attend nomination) to provide that those specified persons who are entitled to attend the proceedings during the time for delivery of nomination papers or for making objections to them (that is, other candidates, agents and election observers from the Electoral Commission) also have the right to inspect and object to the contents of the home address form. Otherwise, new rule 11(5) prohibits the returning officer from disclosing the home address form, except for some other purpose authorised by law.

120. *Subsection (4)* amends rule 12 of the PERs (validity of nomination papers) to provide that the provisions in this rule concerning the nomination paper and the candidate's consent to it, also apply to the home address form. As a result, if a candidate fails to return a home address form or to complete it in accordance with rule 6, then the returning officer may hold the candidate's nomination to be invalid.

121. *Subsection (5)* inserts new provision into rule 14 of the PERs (publication of statement of persons nominated). The effect is that where a candidate has stated on the home address form that he or she does not wish his or her home address to be made public, the information provided about the constituency (or country) within which the candidate's home address is situated will appear on the statement of persons nominated, instead of his or her home address.

122. *Subsection (6)* also inserts new provisions into rule 14 of the PERs to address the situation where two or more candidates have the same or similar names, each of them wishes to withhold their home address and their home addresses are in the same constituency (or country). Where, in the returning officer's opinion, these circumstances are likely to cause confusion (for example where both are also independent candidates), the returning officer may cause any of their particulars to be shown on the statement of persons nominated with such amendments or additions as the officer thinks appropriate, in order to reduce the likelihood of confusion.

123. *Subsection (7)* inserts a new rule 53A in the PERs (destruction of home addresses), which provides that the returning officer shall destroy each candidate's home address form on the next working day following the 21st day after the election (being the deadline for submission of an election petition based on the contents of a home address form) or the conclusion either of proceedings arising from any petition submitted during that period or any appeal resulting from such proceedings.

Section 25: Disposal of election documents in Scotland

124. Section 25 amends section 63 of, and Schedule 1 to, the 1983 Act. The amendment to section 63 omits the words "Sheriff Clerk". The amendment to Schedule 1 substitutes a revised rule 58 in the PERs, which confers responsibility for the storage of, and provision of access to, the election records and documents for a United Kingdom Parliamentary election in Scotland on the Parliamentary Returning Officer for the election.

Section 26: Filling vacant European Parliament seats in Northern Ireland

125. Section 26 amends section 5 of the European Parliamentary Elections Act 2002 ("the 2002 Act") to extend the power to make regulations in respect of filling vacant European Parliament seats in Northern Ireland. Currently, section 5 of the 2002 Act only enables regulations to provide either that a by-election is held to fill a vacant seat or that it is filled from a party's list. As the party list system does not operate in Northern Ireland this means a by-election must be held if a Northern Ireland seat in the European Parliament becomes vacant.

126. Section 26(1) inserts new section 5(4) and (5) which will apply specifically to filling vacant seats in Northern Ireland. Subsection (4) enables regulations to make provision for seats to be filled in three ways depending on whether or not the previous member of the European Parliament (MEP) stood in the name of a registered party when elected, two or more registered parties when elected or was an independent candidate. Where the previous MEP stood in the name of a registered party when returned, regulations may require the vacancy to be filled by a person nominated by the nominating officer of that party. Where the previous MEP stood in the name of two or more registered parties, regulations may require the vacancy to be filled by a person nominated jointly by the nominating officers of both (or all) of those parties. If the MEP was not a member of a registered party when returned, the regulations may provide for a person named in a list of substitutes submitted by him or her to fill the vacancy.

127. By virtue of section 26(2) the regulations made under the 2002 Act to reflect this new provision will also apply to any vacancies in the seats of Northern Ireland MEPs that have already arisen providing that the notice of by-election has not been published by the time the regulations come into force.

Section 27: Returning Officers for elections to the European Parliament

128. Section 27 amends section 6 of the European Parliamentary Elections Act 2002 to provide for the proper officer of the Greater London Authority to be eligible to be designated by the Secretary of State as a returning officer for European Parliamentary elections in a region in England and Wales and makes related provision.

129. *Subsection (2)* provides that the Greater London Returning Officer, who is the proper officer of the Greater London Authority and is responsible for running elections for the London Mayor and London Assembly, will be eligible to be designated as returning officer for European Parliamentary elections, in addition to acting returning officers for United Kingdom Parliamentary elections in England and Wales.

130. *Subsection (3)* substitutes a new definition of "local returning officer" for that previously contained in section 6(5A)(a) of the European Parliamentary Elections Act 2002. The effect of the new definition is that the local returning officers for European Parliamentary elections will be the persons who are returning officers for the local authority elections specified in the new subsection, rather than the persons who are returning officers for United Kingdom Parliamentary general elections.

131. *Subsection (4)* inserts in section 6 a new subsection (9) to provide that where the proper officer of the Greater London Authority is designated as returning officer for the London electoral region, the Greater London Authority must place the services of its employees at that person's disposal for the purpose of assisting the proper officer in performing his or her functions as returning officer.

Part 4: Electoral Registration

Section 28: Establishment of corporation sole to be CORE keeper

132. Part 1 of the Electoral Administration Act 2006 ("the 2006 Act") contains provisions for the establishment, by order made by the Secretary of State, of one or more Co-ordinated On-line Record of Electors ("CORE") schemes. A CORE scheme will be run by a CORE keeper designated by the Secretary of State and will consolidate into a centralised record electoral registers and related information maintained by the electoral registration officers ("EROs") in the area covered by the scheme.

133. *Subsection (3)* of section 28 inserts new section 3A into the 2006 Act, which enables the Secretary of State to establish a new corporation sole to be the CORE keeper. It also provides the Secretary of State with the power to establish, by order, a panel for the purpose of advising the corporation on such matters as the corporation may refer to it or which the panel chooses to consider of its own motion. Subsection (3)(h) of the

new section enables the order to require the corporation to consult the advisory panel in respect of particular matters or in particular circumstances; these might include, for example, issues relating to data sharing and security policy.

134. New section 3A(3) provides for necessary matters of detail in relation to the corporation and the panel to be set out in the order. New section 3A(4) enables the order to bring the corporation within the remit of the Public Records Act 1958 and Parliamentary Commissioner Act 1967 by adding entries to those Acts. It also enables the order to add entries to the House of Commons Disqualification Act 1975 and Northern Ireland Assembly Disqualification Act 1975 so as to disqualify from election to the House of Commons or Northern Ireland Assembly the office-holder, directors, deputies, other officers or staff of the corporation or members of the panel.

135. Provision is made in new section 3A(5) for the Secretary of State to make payments to the corporation to enable it to fulfil its functions subject to such conditions that the Secretary of State may consider to be appropriate. These may include, for example, a requirement for the corporation not to incur expenditure above a specified threshold without the consent of the Secretary of State or to follow specified procedures in relation to its costs and expenditure.

136. New section 3A(6) specifies that the corporation is not to be regarded as part of the Crown or, therefore, of the Government; it will be a non-departmental public body. The office-holder, directors, deputies, other officers and staff of the corporation and members of the panel will not be servants or agents of the Crown, nor will they have the Crown's status, immunity or privileges.

137. *Subsection (4)* of section 28 amends section 6(1) of the 2006 Act to provide that the power to establish the new corporation sole is exercisable by statutory instrument. The order will be subject to the affirmative resolution procedure, thus requiring approval by both Houses of Parliament. *Subsection (4)* also introduces new section 6(6) into the 2006 Act to require the Secretary of State to consult the Information Commissioner and the Electoral Commission before making the order.

138. Section 1(10) of the 2006 Act provides that the person designated as the CORE keeper must be a "public authority". *Subsection (2)* of section 28 widens this to include a new corporation sole established for the purpose.

Section 29: Use of CORE information

139. This section makes a number of amendments to section 2 of the 2006 Act regarding the use of CORE information. Section 2(2) of the 2006 Act provides that the CORE keeper will be bound by the same regulations governing the supply of and access to electoral registers and other documents that apply to EROs. While the application of these regulations to the CORE keeper does not expand the range of bodies who are entitled to access the material or the purposes for which it may be used, the CORE keeper will be able to supply information on a national scale whereas EROs can do so only in relation to the area for which they are responsible. In light of this, specific arrangements may be required where material is to be supplied by the CORE keeper. Accordingly, *subsection (2)* of section 29 supplements the Secretary of State's power in section 2(3) of the 2006 Act to modify the application of the regulations to the CORE keeper so that modifications can provide for the supply of material by a CORE keeper to be subject to conditions or restrictions which do not apply in the case of an ERO or which differ from those that apply in the case of an ERO.

140. Section 3 of the Juries Act 1974 provides that every ERO must, on publication, supply copies of the electoral register to the body responsible for summoning jurors. *Subsection (3)* of section 29 creates a power for a CORE scheme to amend this section so as to instead require the CORE keeper to supply copies of the electoral register for jury summoning purposes at such times as are specified in the CORE scheme. The

amendment also enables the power to require EROs to continue to supply the register for this purpose but only in response to a request from the relevant body.

141. The amendments in *subsection (4)* of section 29 extend the circumstances of which the CORE keeper is required to inform an ERO in accordance with section 2(5) of the 2006 Act. Their effect is that the CORE keeper must inform an ERO where more than a specified number of postal votes are requested in respect of the same address, and where the same person is appointed as, or votes as, proxy for more than two electors.

142. *Subsections (5)* and *(7)* of section 29 extend the order-making powers of the Secretary of State in relation to the establishment of a CORE scheme. *Subsection (5)* inserts new subsection (6A) into section 2 of the 2006 Act, which provides that where the CORE keeper informs an ERO of the circumstances in section 2(6) of the 2006 Act or of any suspicions that the CORE keeper has concerning the commission of an offence under the 1983 Act, or other impropriety, a CORE scheme may require the ERO to respond by taking such steps, if any, as appear to be appropriate to the ERO. It also provides that a CORE scheme may require an ERO to notify the CORE keeper of the steps taken, or of the reasons for not taking any. The amendments in *subsection (7)* enable the CORE scheme to authorise an ERO to share information with another ERO when responding to information provided by the CORE keeper.

143. *Subsection (6)* enables the CORE keeper to provide an ERO with such information as the CORE keeper thinks is relevant about suspicions that the CORE keeper has concerning the commission of an offence under the 1983 Act or other impropriety.

144. *Subsection (8)* enables a CORE scheme to authorise the CORE keeper to supply information to the Electoral Commission. The intention is to ensure that the CORE keeper can furnish the Electoral Commission with information relevant to the performance of the Commission's functions. This may include, for example, statistical reports regarding registration patterns or regarding potential anomalies identified in the registers. The power could also be used to enable the CORE keeper to advise the Commission where a particular ERO has not complied with a requirement in a CORE scheme to notify the CORE keeper of the steps taken in response to information received from the CORE keeper about, for example, suspected absent voter fraud or other improprieties.

Section 30: Voluntary provision of identifying information

145. Section 30 contains provisions requiring registration officers, after 1 July 2010, to take steps to collect identifying information from electors for the purpose of improving the accuracy of the electoral register. At this stage it will not be compulsory for electors to provide such information.

146. *Subsection (1)* specifies that the identifying information to be collected is the elector's signature, date of birth and National Insurance ("NI") number (or an indication that the person does not have a NI number). Under *subsection (2)*, where a person is prevented from providing a signature because of a disability or inability to read they can instead give an indication confirm that that is the case.

147. *Subsection (3)* determines the role of registration officers in obtaining this information as part of their responsibility to maintain the registers. A registration officer is required to take steps to obtain identifying information from eligible electors under their duty to take all necessary steps to register eligible electors and when conducting an annual household canvass, including determining applications for registration.

148. *Subsection (4)* states what compulsory steps should be taken by the registration officer as a result of *subsection (3)*. In taking those steps it must be explained that there is no compulsion on the elector to provide the requested information. Furthermore, the reasons for collecting the information should be explained: namely that identifying information can help to improve the accuracy of the registers.

149. *Subsection (5)* requires that a record be kept by the registration officer showing the information that has been collected during the process of maintaining registers, conducting canvasses and determining applications for registration.

150. *Subsection (6)* gives a timeframe for the application of these duties: registration officers will not be required to collect identifying information before 1 July 2010.

Section 31: Regulations amending or supplementing section 30

151. Section 31 provides for the Secretary of State, after consulting the Electoral Commission, to make regulations by statutory instrument either to amend or to supplement the provisions in relation to the collection of identifiers set out in section 30, so as to secure the registration objectives.

152. *Subsection (1)* gives powers for the Secretary of State to amend, by regulations, subsection (1) or (2) of section 30 in relation to identifying information: the signature, date of birth and NI number of electors, or indications to that effect for those without NI numbers or those who cannot give a signature. Consequently, the Secretary of State may also make other amendments to that section that seem desirable or necessary as a result of using that power.

153. *Subsection (1)* also gives the Secretary of State the power to make Regulations to supplement section 30. *Subsection (2)* gives further details of the kind of provision that may be made in such regulations. Of particular note is that the regulations may enable disclosure of NI information by the authority responsible for managing NI numbers to EROs, or the CORE Keeper. Regulations may only enable such information to be shared. The purpose of requesting this information is to ensure the accuracy of the register, or whether an individual is entitled to be registered, and for checking that an electoral register is accurate, or whether a person is entitled to be registered on it.

154. *Subsection (3)* sets out the terms of onward disclosure for a registration officer or CORE keeper: identifying information may only be disclosed for the purposes of checking the accuracy of the register or a person's entitlement to be registered or for the purposes of criminal or civil proceedings. In addition, information may be shared by an ERO with a person to whom the ERO has delegated functions , such as members of the ERO's administrative team.

155. *Subsection (4)* makes it an offence to disclose information outside the terms of *subsection (3)* and sets out the relevant penalties.

156. *Subsection (5)* provides that the Regulations may contain transitional or saving provision.

157. *Subsection (6)* states that the authority held by the Secretary of State to make Regulations to amend or supplement section 31 is exercisable under secondary legislation by statutory instrument. The relevant procedure for the first set of regulations is the affirmative resolution procedure (see *subsection (9)*). Any subsequent regulations will be subject to the negative resolution procedure (*subsection (10)*).

158. *Subsection (7)* provides that the Secretary of State is required to consult with the Electoral Commission prior to making regulations under this section. In addition, amendments to the type of identifying information to be requested from electors (as found in *subsection (1)* and *subsection (2)* of section 31) must be referred to the Electoral Commission for their views on whether the registration objectives would be met if it became compulsory for electors to provide identifying information to register.

159. *Subsection (8)* defines the registration objectives for the purposes of this Part. It outlines the priorities of accuracy and completeness in the register: those who are entitled to be registered should be registered; those who are not entitled should not be registered; and no information relating to a registered person should be false.

Section 32: Report by Electoral Commission on provision of identifying information

160. Section 32 requires the Electoral Commission both to monitor the operation of the section 30 arrangements (and any regulations made under section 31) and to submit an annual report to the Secretary of State. The outcome of the 2014 annual report must contain a recommendation which will help determine whether voluntary provision of identifying information by electors should become obligatory.

161. *Subsection (1)* sets out the Electoral Commission's monitoring role.

162. *Subsection (2)* requires that the Electoral Commission produce an annual report, beginning one calendar year after that in which the section 30 duties first arise. The Commission are required to submit the report to the Secretary of State and to publish it in whatever way it sees fit.

163. *Subsection (3)* elaborates on the scope of the report by the Commission, requiring that they assess the adequacy of the electoral registration system in Great Britain, especially concerning the effectiveness of registration officers in meeting the registration objectives. Furthermore, the Commission must suggest any possible changes to the system in order to meet those objectives should it become compulsory for electors to provide identifying information.

164. *Subsections (4)* and *(5)* set out further requirements for the 2014 report, in addition to therequirements set out in *Subsection (3)*. In 2014, the Commission should assess whether it would help or hinder the achievement of the registration objectives to make it compulsory for electors to provide identifying information. The Commission report must also make a recommendation as to whether Great Britain is ready to move to a system where voters must provide identifying information to register. The report should be submitted to the Secretary of State by 31 July 2014 and should subsequently be laid before Parliament as soon as possible by the Secretary of State.

165. *Subsection (6)* details conditions under which obligatory provision of identifying information, as provided for in section 33, should be brought into force: namely, that the Commission's report recommends that the provision of identifying information by electors should be made compulsory, and that the recommendation receives Parliamentary approval in each House.

166. *Subsections (7)* and *(8)* explain the procedure to be followed should either the 2014 report not contain a recommendation that the Government make provision of identifying information by electors obligatory, or if the report contains a recommendation that it should become obligatory but Parliamentary approval is not received. Should either situation arise, the Secretary of State must require the Electoral Commission to submit an additional report under this section, addressing the topics laid down in *subsection (4).* The Secretary of State must, within 12 months, inform the Commission that he or she requires another report. Once the requirement is imposed the Commission will have up to a further two years from the date on which the requirement is imposed to deliver the report. If the report did not recommend that the collection of identifying information be made obligatory the 12 month period mentioned above is to be calculated by reference to the date on which the report which contains ether recommendation was submitted. If the report did recommend that it become obligatory but that recommendation did not receive parliamentary approval the 12 month period runs from the date when Parliament indicated that it would not approve it.

167. *Subsection (9)* clarifies that, should any further report be required after 2014, the same procedure applies as applied to the 2014 report.

168. *Subsection (10)* is intended to aid in the Electoral Commission's production of the annual reports. So that the reports contain a full picture of the health of the registration system, registration officers are required to assist the Commission by providing them with information as they produce the annual reports.

Section 33: Obligatory provision of identifying information

169. Section 33 deals with what would happen should the conditions laid out in section 32 be met, and a decision taken to make obligatory the provision of identifiers by electors in the United Kingdom. The effect of this section would be to extend those provisions made in Northern Ireland (by section 1 of the Electoral Fraud (Northern Ireland) Act 2002) to the whole of the United Kingdom.

170. *Subsections (2)* to *(11)* set out how the 1983 Act is amended in order to introduce obligatory provision of identifying information across the United Kingdom.

171. *Subsection (3)* amends provisions in section 10 of the 1983 Act concerning prescribed forms or forms to be used to the same effect, and the extent to which they apply for Northern Ireland and the whole of the United Kingdom. References to Northern Ireland and the Chief Electoral Officer for Northern Ireland are changed so as to apply to the whole of the United Kingdom and not just Northern Ireland. The subsection also inserts provision for Regulations allowing those without NI numbers to provide alternative evidence to identify themselves. The registration officer should keep a record showing the identifying information that has been taken.

172. *Subsection (4)* amends the relevant registration objectives of Section 10ZB of the 1983 Act, omitting references to Northern Ireland so as to extend the provisions which were previously in force there to the whole of the United Kingdom. These concern the fact that Northern Ireland has one Chief Electoral Officer, so in order to make the section apply to the whole of the United Kingdom, this must be replaced by "the registration officer concerned".

173. *Subsection (5)* replaces references regarding addresses and canvass forms that are Northern Ireland-specific with references that can apply to the whole of the United Kingdom. The subsection also sets out the requirement in Regulations for other evidence to be provided in the event that an elector does not have an NI number. The registration officer must also keep a record of all information obtained in applications. Northern Ireland previously had a different canvass form to the rest of the United Kingdom. References in the 1983 Act to this form not being received are now removed as the introduction of the provision of identifiers by electors means there is no need to distinguish between Northern Ireland and the rest of the United Kingdom.

174. *Subsection (6)* amends the 1983 Act so far as it concerns alteration of registers that relate solely to Northern Ireland. Currently subsections (2A) to (2D) of section 13A of the 1983 Act provide for collection of identifiers from electors applying in respect of an address in Northern Ireland. *Subsection (6)(c)* transfers to registration officers powers which previously rested with the Chief Electoral Officer for Northern Ireland, allowing registration officers to dispense with the requirement for a signature from those who cannot make one due to incapacity or illiteracy. For those who do not have an NI number, *subsection (6)(d)* states that the registration officer may require additional evidence and a record must be kept of information obtained.

175. *Subsection (7)* makes minor and technical changes to section 13BB of the 1983 Act (as inserted by section 23 of this Act) which covers elections falling within the canvass period.

176. *Subsection (8)* relates to the provision of false information and amends section 13D to recognise that the provision applies to all registration officers, not just the Chief Electoral Officer for Northern Ireland.

177. *Subsection (9)* has the effect that any Regulations made under section 10(4C), 10A(1C) or 13A(2C) of the 1983 Act by the Secretary of State regarding those voters who do not have NI numbers must be referred to the Electoral Commission to seek their views as to whether the Regulations would help or hinder the registration objectives.

178. *Subsection (10)* inserts provisions into Schedule 2 to the 1983 Act, in order to enable regulations made under section 53 of that Act to give a power to the authority holding the NI number database to release NI information to a registration officer or CORE keeper. This may only be done to assist the registration objectives, checking accuracy of the register or an elector's entitlement to vote and cannot be released to a third party by the registration officer or CORE Keeper except for the purposes of criminal or civil proceedings. In addition, information may be disclosed by a registration officer to a person to whom the officer may delegate functions. The authority holding the NI numbers is permitted to make charges to cover reasonable expenses in complying with this request. Furthermore, sub-paragraphs within the Schedule which currently relate only to Northern Ireland are removed, so that the provisions apply to the whole of the United Kingdom.

179. *Subsection (11)* provides that anyone who discloses information in breach of the terms set out in the subsection is guilty of an offence triable either way and punishable by imprisonment or a fine, or both.

Section 34: Provision supplementing section 33

180. Section 34 deals with provisions supplementing section 33. It gives the Secretary of State power to make amendments to various sections of the 1983 Act relating to the obligatory collection of identifiers. It sets out the procedure for making supplementary provisions or amendments, including consulting the Electoral Commission to seek their views and laying the statutory instrument before Parliament to gain the affirmative resolution of both Houses.

181. *Subsection (1)* relates to section 10A(5A) of the 1983 Act, which allows for names to be removed from the register if an elector's registration form does not contain the identifying information required to be provided once collection becomes obligatory, or if the registration officer is not satisfied with the information that has been provided. When section 33 comes into effect, it will not be possible to remove names from the register under section 10A (5A) of the 1983 Act until the conclusion of the third canvass to be concluded after the commencement of section 33. This allows for electors who fail to provide identifying information to remain on the register for two years after it becomes obligatory to provide identifying information without having provided it.

182. *Subsection (2)* recognises that moving to the obligatory period of providing identifying information will make obsolete the provisions relating to the voluntary period. Orders bringing section 33 into force may thus repeal any provisions from sections 30, 31 and 32, and amendments may be made to any enactment that is consequential on the coming into force of section 33.

183. *Subsection (3)* makes provision for the Secretary of State to amend the sections of the 1983 Act relating to the collection of identifying information as amended by this Act, and for further amendments to be made to the 1983 Act that are necessary as a consequence of those amendments.

184. *Subsection (4)* states that Regulations under subsection (3) may make different provision for different purposes or different areas, and may make transitional or saving provision.

185. *Subsection (5)* explains that the Secretary of State is given the powers to make regulations under subsection (3) in the form of secondary legislation exercisable by statutory instrument.

186. *Subsection (6)* requires the Secretary of State to consult the Electoral Commission before making any regulations under subsection (3) and to seek their views as to whether the proposed provision in those regulations would help or hinder the achievement of the registration objectives where any amendment made by the regulations is to the provisions in the 1983 Act which relate to the nature of identifying information.

187. *Subsection (7)* states that any regulations which seek to amend either any enactment consequential to the coming into force of section 33 of this Act, or the provisions referred to in subsection (3), are to be subject to the affirmative resolution procedure.

Section 35: Schemes for provision of data to registration officers

188. Section 35 contains provisions empowering the Secretary of State to create, by order, a scheme which requires a public or local authority to supply a registration officer with data which they can use for the purpose of maintaining a complete and accurate electoral register and ensuring that any other information they hold on electors is accurate.

189. *Subsection (1)* provides that the Secretary of State may create an order, referred to as a scheme, which will authorise or require specified persons to provide a registration officer with information from their records, which the registration officer may use for the purposes set out in subsection (2) of the section.

190. *Subsection (2)* sets out the purposes for which the registration officer may use the information provided under a scheme. These purposes include ensuring that their records are accurate, and that all those who are eligible to be registered are included in the register, as well as determining whether the objectives of the scheme are being met.

191. To ensure the scheme can be tailored to the specific circumstances of the registration officer or any public authority affected by the scheme, subsection (3) provides that a scheme may authorise information to be provided at specified times or in specified circumstances.

192. *Subsection (4)* sets out those persons that may be required to provide information under a scheme, namely local or public authorities and/or persons undertaking functions or services on behalf of an authority.

193. *Subsection (5)* allows the Secretary of State, to create more than one data sharing scheme in the same statutory instrument.

194. *Subsection (6)* provides that an order under the new power, will have the effect of removing all barriers to data sharing, statutory or otherwise, that might otherwise have obstructed the establishment of the scheme. It is anticipated that those sharing data under the auspices of any scheme made by order will have regard to the effect of Article 8 of the ECHR, the common law of confidence or any relevant provisions of the Data Protection Act 1998.

195. *Subsection (7)* places restrictions on the onward disclosure by a registration officer of data provided under a scheme. The registration officer may share the data with a person to whom the officer may delegate his or her functions, or to another person where that is for the purposes set out in subsection (2) or is for the purposes of civil or criminal proceedings. A person who breaches these restrictions is guilty of an offence and will be liable to a fine on summary conviction.

196. *Subsection (8)* provides that a scheme order contain incidental, supplemental, transitional or saving provision. This is to ensure that the order can be tailored appropriately to the individual circumstances of any scheme.

197. *Subsection (9)* provides that a scheme can only be made following the affirmative resolution procedure.

Section 36: Schemes under section 35: proposals, consultation and evaluation

198. Section 36 creates a number of procedural steps which must be followed before an order under section 35 can be made to create a scheme.

199. *Subsection (1)* provides that a scheme can only be created where a registration officer has submitted a proposal to the Secretary of State for consideration and the Secretary

of State implements that proposal or does so with modifications agreed to by the registration officer.

200. *Subsection (2)* provides that before making an order, the Secretary of State must consult the Electoral Commission, the person who authorised or required by the order to provide data to the registration officer and the Information Commissioner.

201. *Subsection (3)* requires that each order must include a specific evaluation date, by which the Electoral Commission must prepare a report on that scheme.

202. *Subsections (4)* and *(5)* provide the matters which must be included in the report, including a description of the scheme, and an assessment of the matters set out in subsection (5) and any other matters which are specified in the order. The report will establish the extent to which the scheme has enabled the registration officer to enhance the accuracy and completeness of his or her register, as well as whether there were any issues around administration, time, and costs. It will also enable a better understanding as to whether there were any objections to the scheme, for example from members of the public.

203. *Subsection (6)* provides that the registration officer must give the Electoral Commission such assistance as they may reasonably require while preparing the report and that on receipt of the report from the Electoral Commission, the registration officer must publish it as they think appropriate.

Section 37: Meaning of expressions relating to registration

204. Section 37 provides a number of definitions for terms used in Part 4.

Part 5: General

Section 38: Meaning of "the 1983 Act" and "the 2000 Act"

205. Section 38 provides definitions of these terms, which are used throughout the Act.

Section 39: Amendments and repeals

206. Section 39 gives effect to Schedules 6 and 7. Schedule 6 makes minor and consequential amendments and Schedule 7 contains repeals.

Section 40: Transitional provision

207. Section 40 is a transitional provision which is needed to take account of the fact that certain provisions of the Criminal Justice Act 2003 increasing the sentencing powers of magistrates' courts (in England and Wales) are not yet in force.

Section 41: Money

208. Section 41 makes provision to deal with circumstances in which the provisions in this Act cause any increase in sums paid under other Acts.

Section 42: Extent

209. Section 42 sets out that the Act extends generally to England, Wales, Scotland and Northern Ireland and specifies the provisions that extend to Gibraltar.

Section 43: Commencement

210. Section 43 sets out the commencement arrangements for the provisions of this Act.

211. *Subsections (1) and (2)* provide that, as a general rule, provisions of the Act will come into force on day appointed by order, which may make different or transitional provision.

212. *Subsections (3) and (4)* make specific provision about the content of an order made under subsection (1) in respect of section 10 or 11 or Schedule 4. Such an order may make appropriate supplementary, incidental or consequential provision that is necessary for the purposes of, or giving full effect to those parts of the Act. Any such provision that amends this Act or the 2000 Act will be subject to the affirmative resolution procedure.

213. *Subsection (5)* specifies the provisions that come into force on the date on which the Act is passed. These are listed in the "Commencement Dates" segment of these Notes which appear at paragraph 295 below.

Section 44: Short title

214. Section 44 sets out the short title of the Act.

Schedule 1: Investigatory powers of the Commission: Schedule to be inserted into the 2000 Act

215. Schedule 1 of the Act contains new Schedule 19B to the 2000 Act. This gives the Electoral Commission increased investigatory powers.

216. *Paragraph 1* of the new Schedule restates powers that the Electoral Commission have in relation to registered parties and others and which are contained in the current section 146 of the 2000 Act. Sub-paragraph (1) lists the individuals and organisations to which the investigatory powers to require information set out in paragraph 1 can be applied. Broadly, these individuals and organisations are those considered to be the primary focus of the Commission's function of monitoring compliance as, together, they are the individuals and organisations on whom obligations under the 2000 Act are principally imposed.

217. *Sub-paragraphs (2)* and *(3)* allow the Commission, after issuing a "disclosure notice", to require an individual, or an officer of an organisation, to produce or provide documents or an explanation in relation to income or expenditure where the information in question is reasonably required by the Commission to carry out their functions. *Sub-paragraph (4)* obliges the person to comply with a requirement set out in a disclosure notice within a reasonable time. It is a criminal offence not to do so without reasonable excuse, under paragraph 13 of the Schedule.

218. *Paragraph 2* enables a person authorised by the Commission to enter premises at any reasonable time and inspect relevant documentation, to enable the Commission to carry out their functions. This power can only be exercised after the Commission have obtained a warrant from a magistrate authorising entry of the specified premises and is restricted so that it can only be used in relation to registered parties, recognised third parties, permitted participants and members associations.

219. An inspection warrant will be valid for a period of one month from the day on which it is issued and may not be used in connection with an investigation by the Commission of a suspected breach or offence.

220. *Paragraph 3* provides the Commission with a new power in cases where they have reasonable grounds for suspecting that an offence under the 2000 Act has been committed or that a contravention of any restriction or requirement of the Act has taken place. Where the Commission hold such a suspicion they may, under *sub-paragraph (2),* issue a notice to a person requiring that person to produce or provide any documents or explanation reasonably required for an investigation by them of the suspected offence or contravention. *Sub-paragraph (3)* obliges the person to comply with the notice within a reasonable time. It is a criminal offence not to do so without reasonable excuse, under paragraph 13 of the same Schedule. This power is wider than that set out in paragraph 1 because it is not restricted to documentation or information relating to income or expenditure nor is it restricted to a list of specified individuals or bodies.

221. *Sub-paragraph (4)* allows an investigator authorised by the Commission to require a person to come and answer in person any questions that the investigator reasonably considers relevant to the investigation. The powers created by paragraph 3 can be used in relation to a person who is also covered by paragraph 1, albeit for a different purpose (i.e. that of investigating purported wrongdoing), and may be used against any other person who holds, or is thought to hold, information reasonably required for an investigation by the Commission. It follows that use of the power may be used in respect of the individual or body suspected by the Commission of having committed an offence or contravention but is not limited to such an individual or body.

222. *Paragraph 4* applies where the Commission have given a notice under paragraph 3 requiring documents to be produced. *Sub-paragraph (2)* allows a High Court or (in Scotland) the Court of Session to issue an order against a person following an application from the Commission if satisfied of four things. First, that there are reasonable grounds for believing that there has been an offence under, or other contravention of, the 2000 Act. Second, that documents referred to in the notice under paragraph 3 have not been produced in response to that notice. Third, that the documents are in the custody of the person against whom the order is issued. Finally, that the documents are reasonably required for the purposes of an investigation.

223. *Sub-paragraph (3)* provides that a document-disclosure order is an order requiring the person to whom it is given to deliver to the Commission documents referred to in the order within the timeframe set out in the order.

224. *Sub-paragraph (4)* provides that a document is in a person's control if they have possession of it, or a right to possession of it.

225. *Sub-paragraph (5)* stipulates that a person who fails to comply with a document-disclosure order may not be punished for both contempt of court, and an offence under paragraph 14 of the Schedule.

226. *Paragraph 5* applies where the Commission have given notice under paragraph 3 requiring any information or explanation to be produced. *Sub-paragraph (2)* allows a High Court or (in Scotland) a Court of Session to issue an order against a person following an application from the Commission if satisfied of the three things. First that there are reasonable grounds to suspect a person has committed an offence or contravention under or by virtue of the 2000 Act. Second that there is any information or explanation, referred to the notice issued under paragraph 3 which has not been provided in response to that notice and is reasonably required by the Commission in investigating the offence or contravention. Third, that the respondent is able to provide the information or explanation.

227. *Sub-paragraph (3)* provides that an information-disclosure order is an order requiring the person to whom it is given to provide the Commission with information or explanation referred to in the order within the timeframe set out in the order.

228. *Sub-paragraph (5)* stipulates that a person who fails to comply with an information-disclosure order may not be punished for both contempt of court, and an offence under paragraph 14 of the Schedule.

229. *Paragraph 6* specifies that the Commission may retain documents delivered to them in compliance with an order under paragraph 4 for three months. However, if during that time any relevant criminal proceedings are begun, or notices are issued or penalties imposed under the new civil sanctions powers given by Schedule 19C, the documents may generally be retained until they are no longer required in relation to the proceedings or civil sanctions.

230. *Paragraph 7* provides that the Commission, or a person authorised by the Commission, may make copies or records of relevant information or explanations obtained under the Schedule.

231. *Paragraph 8* requires that any authorisation of a person by the Commission made under this Schedule must be in writing.

232. *Paragraph 9* requires the person entering premises under the powers set out in paragraph 2 to provide evidence of their right to do so if the person on the premises asks for this.

233. *Paragraph 10* deals with documents held in electronic form. Sub-paragraph (1)(a) gives the Commission a power to require such documents to be made available in a legible form. *Sub-paragraph (1)(b)* enables a person authorised to inspect documents to require any person on premises being searched to give reasonable assistance to allow the inspector to make legible copies of electronic documents, or records of information contained in them. Under this power such assistance may also be required by an inspector in order to enable him to inspect and check any computer or associated apparatus used in connection with the information.

234. *Paragraph 11* exempts information subject to legal professional privilege (or confidentiality of communications in Scotland) from any requirement to produce information (in whatever form) under any power provided by this Schedule. The appropriate test is whether a claim to legal professional privilege or, in Scotland, confidentiality of communications could be maintained in legal proceedings in respect of the material in question.

235. *Paragraph 12* deals with the admissibility of statements provided under compulsion. *Sub-paragraph (1)* provides that a statement made in response to a requirement under the Schedule may be used in any proceedings, provided that it complies with any other rules of evidence in those proceedings. But *sub-paragraph (2)* provides that the statement is not admissible against the maker of the statement in criminal proceedings or proceedings under the new Schedule 19C, unless evidence about the statement is relied on, or a question about it is asked, by the maker, or unless the proceedings are for an offence mentioned in *sub-paragraphs (3)* and *(4).* (These offences are similar to perjury).

236. *Paragraph 13* provides that it is an offence to fail to comply with any requirement imposed under the Schedule (for example, to refuse to supply the Commission with information requested under paragraph 1 or 3); to obstruct intentionally somebody performing functions under the Schedule; or knowingly or recklessly provide false information in response to a requirement imposed under the Schedule.

237. *Paragraph 14* imposes a duty on the Electoral Commission to publish guidance on the matters set out in *sub-paragraph (1),* which concern the ways in which it will make use of the investigatory powers set out in Schedule 19B. *Sub-paragraph (2)* obliges the Commission to keep the guidance under review, and *sub-paragraph (3)* places a requirement on the Commission to consult such persons as they consider appropriate before publishing guidance or revised guidance. *Sub-paragraph (4)* requires the Commission to have regard to the guidance or revised guidance in exercising their functions.

238. *Paragraph 15* requires the Electoral Commission to report on its use of the investigatory powers contained in new Schedule 19B in its annual report which it lays before Parliament under paragraph 20 of Schedule 1 to the 2000 Act.

239. *Sub-paragraph (2)* explains what information the Commission must include in the report on the use of their investigatory powers. *Sub-paragraph (3)* exempts the Commission from having to report any information that, in their opinion, it would be inappropriate to include because it would be unlawful or because it would prejudice an ongoing investigation or proceedings.

Schedule 2: Civil sanctions: Schedule to be inserted into the 2000 Act

240. Schedule 2 to the Act inserts new Schedule 19C into the 2000 Act. It sets out the range of new civil sanctions available to the Commission.

Part 1: Fixed monetary penalties

241. *Paragraph 1* allows the Electoral Commission to impose fixed monetary penalties where they are satisfied beyond reasonable doubt that a prescribed offence under the 2000 Act has been committed or that a contravention of a prescribed requirement or restriction contained in that Act has taken place. "Prescribed" means prescribed in an order by the Secretary of State. Under sub-paragraph (1) a fixed monetary penalty can be imposed on a person who has committed the breach. In this context a "person" means any entity regulated under PPERA, including a regulated individual, party, third party or permitted participant.

242. *Sub-paragraphs (2)* to *(4)* allow the Commission to impose a fixed monetary penalty on a political party, a recognised third party or a permitted participant respectively, where a person acting on behalf of that organisation has committed an offence. These sub-paragraphs allow the penalty to be imposed in addition to any penalty imposed under sub-paragraph (1). The purpose of the additional *sub-paragraphs (2)* to *(4)* is primarily to enable an order made under paragraph 16 of this Schedule to replicate or expand upon the approach in the previous section 147 of the 2000 Act, whereby civil sanctions could be imposed on an organisation for the act of one of its officers. So, for example, in the case of a registered party a notice may be served on the party itself if the Commission are satisfied beyond reasonable doubt that a person holding office within the party has committed an offence or contravened a requirement that has been prescribed for the purposes of sub-paragraph (2). Doing so would have no effect on the position that the individual or the party may, as a separate matter, be primarily liable itself for an offence or breach of requirement, and therefore subject to a penalty, that has been prescribed for the purposes of sub-paragraph (1).

243. *Sub-paragraph (5)* explains that the imposition of a fixed monetary penalty will require the individual or other person concerned to pay a prescribed amount of money to the Commission. *Sub-paragraph (6)* states that where an individual is issued with a fixed monetary penalty for an offence which is triable summarily (whether or not it can also be tried on indictment) and punishable on summary conviction by a fine, the penalty imposed must not be higher than the maximum fine available in summary proceedings.

244. *Paragraph 2* sets out the representations and appeals processes. *Sub-paragraph (1)* requires the Commission to serve notice of any intention to impose a fixed monetary penalty on a person. This notice must offer the person the opportunity to discharge the penalty at that point by paying a prescribed amount, which cannot exceed the amount of the proposed penalty *(sub-paragraph (2))*. Alternatively, the person can opt to make written representations and objections to the Commission against the proposal to impose the penalty *(sub-paragraph (3))*. If the deadline for making representations and objections passes without the person having paid the prescribed amount under sub-paragraph (2), the Commission must decide whether to impose the penalty. If the Commission does decide to impose it, a further notice recording that must be served on the relevant person *(sub-paragraph (4))*. *Sub-paragraph (5)* provides that if the person's representations have raised any matter that leads the Commission to no longer suspect the person of having committed a prescribed offence or contravened a prescribed requirement or restriction of the 2000 Act, the Commission may not impose the penalty. That sub-paragraph also enables the Secretary of State to prescribe other circumstances in which a penalty may not be imposed. The person may appeal against the decision to impose the penalty on the grounds set out in sub-paragraph (6). *Sub-paragraph (7)* specifies that these appeals will be made to a county court, or in Scotland the sheriff.

245. *Paragraph 3* explains what information the Commission must include when giving notice of an intention to impose a fixed monetary penalty on a person or when giving notice of a subsequent decision to impose the penalty. This must include information such as the grounds for imposition of the sanction, the right to make representations or appeals and the time periods in which these can be made.

246. *Paragraph 4* limits the criminal proceedings that can be taken against a person for a prescribed offence or other breach of the 2000 Act that may be dealt with by way of fixed monetary penalty. Under *sub-paragraph (1)* if the Commission notify the person of their intention to impose a fixed monetary penalty for the breach, no criminal proceedings for the breach can be brought during the period when liability can be discharged under *paragraph 2(2).* This sub-paragraph also precludes such proceedings being taken against a person who does discharge liability by making a payment under *paragraph 2(2).* Finally, *paragraph 4(2)* precludes a person on whom the Commission imposes a fixed monetary penalty under *paragraph 2(4)* from being convicted of an offence for the breach.

Part 2: Discretionary requirements

247. *Paragraph 5(1)* allows the Electoral Commission to impose a discretionary requirement on a person where they are satisfied, beyond reasonable doubt, that the person has committed a prescribed offence or contravened a prescribed restriction or requirement of the 2000 Act. *Sub-paragraphs (2)* to *(4)* achieve for discretionary requirements the same effect as is achieved for fixed monetary penalties by paragraph 1(2) to (4) of this Schedule. *Sub-paragraph (5)* defines a discretionary requirement as a sanction that can take the form of a monetary penalty or, alternatively, an instruction to take certain actions designed to either prevent the recurrence of the offence or contravention or restore the position to what it would have been had the offence or contravention not occurred. *Sub-paragraph (6)* limits the use of discretionary requirements by preventing the Commission from imposing a discretionary requirement on a person more than once for the same act or omission. *Sub-paragraph (8)* sets the financial limit of a variable monetary penalty for offences which are triable summarily, stating that, where such offences are punishable by a fine, the variable monetary penalty must not be greater than the maximum fine.

248. *Paragraph 6(1)* requires that, where the Commission intend to impose a discretionary requirement on a person for a prescribed offence or other breach of the 2000 Act, they must first notify the person of their intention. *Sub-paragraph (2)* allows the person to make written representations and objections to the Commission against the proposed penalty. If anything is raised which leads the Commission to no longer be satisfied that the prescribed offence or contravention took place, the Commission may not impose the penalty *(sub-paragraph (4)).* In all other cases, the Commission may proceed to serve on the person a notice formally imposing the discretionary requirement, which will specify what the requirement is *(sub-paragraph (5)).* The person may appeal to a county court (or Sheriff in Scotland) against the decision to impose the discretionary requirement, on a number of specified grounds *(sub-paragraphs (6)* and *(7)).*

249. *Paragraph 7* explains what information the Commission must include when giving the initial notice of an intention to impose a discretionary requirement on a person. This includes the grounds for imposing the requirement and the period within which representations and objections may be made (no less than 28 days from the day on which the notice is received). *Sub-paragraph (3)* sets out the information that must be provided by the Commission when they are imposing a discretionary requirement. This is: the grounds for the proposed discretionary requirement, details of any monetary penalty, rights of appeal and the consequences of non-compliance.

250. *Paragraph 8* limits the use of other sanctions against a person who has had a discretionary requirement imposed upon them. It provides that if a discretionary requirement is imposed on a person for an offence or a contravention of a restriction

or requirement under the 2000 Act, that person cannot be convicted of a criminal offence arising from the same act or omission. However, this protection from future prosecution does not apply in cases where the discretionary requirement imposed was non-monetary, no variable monetary penalty was imposed, and the person failed to comply with the non-monetary discretionary requirement.

251. *Paragraph 9* allows the Commission to impose a "non-compliance penalty" on a person who fails to comply with a non-monetary discretionary requirement; and also sets out the grounds and avenue of appeal against a non-compliance penalty *(sub-paragraphs (3) and (4)).*

Part 3: Stop notices

252. *Paragraph 10* provides that the Electoral Commission can impose a stop notice on a person in order to prevent them from continuing or repeating a particular activity which the Commission reasonably believe is (or is likely to be) a prescribed offence or a contravention of a prescribed requirement or restriction under the 2000 Act. In this context a "person" means any entity regulated under the 200 Act, including political parties. A stop notice can also be imposed where the Commission believe that a person's behaviour is likely to lead to them committing an offence or acting in contravention of a prescribed requirement or restriction contained in the 2000 Act. In both cases the Commission must believe that the activity, or potential activity, is seriously damaging to public confidence in the effectiveness of the controls in the 2000 Act on income or expenditure by registered parties and others, or that it significantly risks doing so.

253. *Paragraphs 11* to*14* set out the details and limitations of how the stop notice system operates. Paragraph 11 lists the information to be included in a stop notice which is the grounds for imposition, rights of appeal and consequences of non-compliance. *Paragraph 12* requires the Commission to issue a "completion certificate" once they are satisfied that the person has taken the steps set out in the stop notice (at which point it will cease to have effect). The person upon whom a notice has been imposed may apply for a completion certificate at any time and the Commission must make a decision on the application within 14 days of receipt. *Paragraph 13* explains how a person may appeal against the imposition of a stop notice, or against a decision not to issue a completion certificate, and provides that any appeal will be heard by a county court (or the sheriff in Scotland). It also sets out the grounds for appeal in both circumstances. *Paragraph 14* provides that a person who does not comply with a stop notice is guilty of an offence.

Part 4: Enforcement undertakings

254. *Paragraph 15* outlines the powers of the Commission to accept an enforcement undertaking from a person whom the Commission have reasonable grounds for believing has committed a prescribed offence or contravened a prescribed restriction or requirement of the 2000 Act. In this context a "person" means any entity regulated under the 2000 Act, including political parties. An enforcement undertaking may be offered by the person suspected of the offence or contravention and outlines the action they will take (within a specified period). The action may be with a view to preventing the recurrence of the offence or contravention or returning the position to what it would have been had the offence or contravention not taken place or it may be action of a kind that has been prescribed in an order by the Secretary of State. *Sub-paragraph (1)(d)* requires that the undertaking will take effect only if the Commission accept it. *Sub-paragraph (2)* provides that a person who has complied with the accepted undertaking will generally be exempt from other sanctions, including criminal proceedings, in relation to the acts or omissions on which the undertaking is based as long as the undertaking is complied with.

Part 5: Power to make supplementary provision etc by order

255. *Paragraph 16* gives the Secretary of State the power to make orders that are supplemental to, consequential on or incidental to this Schedule. Such provisions may include transitional provision. This includes the power to amend, repeal or revoke any enactment.

256. *Paragraph 17* sets out the consultation process that the Secretary of State must carry out prior to making a supplementary order under paragraph 16. As part of this process the Electoral Commission must be consulted, along with other persons that the Secretary of State considers appropriate. Under sub-paragraph (2) further consultation is required where, following the outcome of the initial consultation, it is apparent that substantial changes to an order will be necessary. Any consultations which are conducted prior to the commencement of this Schedule may count for these purposes.

257. *Paragraph 18* sets out the details of what can be included in a supplementary order regarding the Commission's power to impose financial sanctions, including fixed monetary penalties, variable monetary penalties and non-compliance penalties. In particular, provision made by virtue of this paragraph may include detail about early payment discounts, late payment penalties, late payment interest and enforcement.

258. *Paragraph 19* sets out the details of what can be included in a supplementary order in relation to enforcement undertakings. The order may include a wide range of detail about procedural matters relating to undertakings, for example, how undertakings are entered into and in what circumstances undertakings are regarded as having been complied with.

259. *Paragraph 20* states that a supplementary order may extend the time available to institute criminal proceedings against a person in certain instances. The first of these is where a non-monetary discretionary requirement (but no variable monetary penalty) has been imposed and the person has failed to comply with the non-monetary discretionary requirement. The second is where there has been a breach of all or part of an enforcement undertaking.

260. *Paragraph 21* allows a supplementary order to set out the details of the appeals process in relation to the imposition of a requirement or the service of a notice under this Schedule. Such an order may include provision conferring relevant powers on courts (for example, to withdraw the requirement or notice against which there is an appeal).

Part 6: General and supplemental

261. *Paragraph 22* limits the use of fixed monetary penalties, discretionary requirements and stop notices. It explains that a fixed monetary penalty may not be imposed on a person if they are already subject to a discretionary requirement or stop notice for a breach. Additionally, if a person has had a fixed monetary penalty imposed on them for a breach or has paid a sum to discharge liability for a fixed monetary penalty, they cannot be given a discretionary requirement or a stop notice in relation to the breach.

262. *Paragraph 23* provides that, if someone is required under Schedule 19B to the 2000 Act to make a statement as part of an investigation by the Commission, the Commission must not take account of that statement when deciding whether to impose a civil sanction on the person. The only exception is for the offence of providing false information set out in paragraph 12(3) of Schedule 19B to the 2000 Act.

263. *Paragraph 24* stipulates that any financial penalty imposed on an unincorporated association must be paid from its own funds.

264. *Paragraph 25* requires the Commission to publish guidance about enforcement of the 2000 Act. The guidance must include details of the sanctions available (both civil and criminal), the circumstances in which civil sanctions may be used and the rights of appeal available. *Sub-paragraph (7)* requires the Commission to carry out consultations

with persons that they consider appropriate prior to publishing guidance. Under *sub-paragraph (8)* the Commission are required to have regard to the guidance when exercising its functions.

265. *Paragraph 26* stipulates that all monetary penalties paid to the Commission as a result of the imposition of the civil sanctions under the Schedule must be paid into the Consolidated Fund.

266. *Paragraph 27* requires the Commission to include in their annual report a list of the cases (other than those where sanctions have been successfully appealed against) in which they have imposed fixed monetary penalties, discretionary notices or stop notices; cases in which liability for a fixed monetary penalty has been accepted through payment of a sum; and cases in which an enforcement undertaking has been accepted. *Sub-paragraph (2)* enables the Commission to exclude information if it might be unlawful for the report to include it (for example, because its inclusion might breach the right to respect for private and family life protected by Article 8 of the European Convention on Human Rights, or there is a statutory restriction on its disclosure). It also enables the Commission to exclude any information that might adversely affect ongoing investigations or proceedings.

267. *Paragraph 28* lists the public bodies from which the Commission may request information when exercising the powers under the Schedule. It also precludes disclosures that would contravene certain other relevant legislation on data protection, and provides that powers of disclosure that are independent of this power are not affected by it.

Part 7: Interpretation

268. *Paragraph 29* sets out definitions of words and expressions used in the Schedule.

Schedule 3: Declaration as to source of donation

269. Schedule 3 makes amendments in relation to donations to individuals and members associations, recognised third parties and permitted participants, which correspond to the amendments made in relation to donations to registered political parties by section 9. *Paragraph 1* inserts new paragraph 6A into Schedule 7 to the 2000 Act (control of donations to individuals and members associations), and *paragraphs 2* and*3* make consequential changes to that Schedule. *Paragraph 4* inserts new paragraph 6A into Schedule 11 to the 2000 Act (control of donations to recognised third parties) and paragraphs 5 and 6 make consequential changes to that Schedule. *Paragraph 7* inserts new paragraph 6A into Schedule 15 to the 2000 Act (control of donations to permitted participants) and *paragraphs 8* and*9* make consequential changes to that Schedule.

270. *Paragraph 10* amends Schedule 20 to the 2000 Act to specify the penalties which will be incurred for making a false declaration as to the source of a donation to individuals and members associations, recognised third parties and permitted participants.

Schedule 4: Declaration as to whether residence etc condition satisfied

271. Schedule 4 makes amendments prohibiting the acceptance of donations from individuals with non resident etc tax status who make donations of above £7500. In doing so it also requires declaration to be received in respect of donations to regulated donees, recognised third parties and permitted participants, which correspond to those required as a result of amendments made in relation to donations to registered political parties by section 10. “Regulated donee”, “recognised third party” and “permitted participant” have the meaning given to them by the 2000 Act (and are explained at paragraph 67, 87 and 97 respectively in these Notes).

272. *Paragraph 1* inserts new paragraph 6B into Schedule 7 to the 2000 Act (control of donations to individuals and members associations), and *paragraphs 2* and*3* make consequential changes to that Schedule.

273. *Paragraph 4* inserts new paragraph 6B into Schedule 11 to the 2000 Act (control of donations to recognised third parties) and *paragraphs 5* and*6* make consequential changes to that Schedule.

274. *Paragraph 7* inserts new paragraph 6B into Schedule 15 to the 2000 Act (control of donations to permitted participants) and *paragraph 8* and*9* make consequential changes to that Schedule.

275. *Paragraph 10* amends Schedule 20 to the 2000 Act to specify the penalties which will be incurred for making a false declaration as to whether the residence etc condition is satisfied in relation to individuals and members associations, recognised third parties and permitted participants.

Schedule 5: Reports of gifts received by unincorporated associations making political contributions: Schedule to be inserted into the 2000 Act

276. Schedule 5 inserts in the 2000 Act a new Schedule 19A for the purpose of imposing reporting requirement in respect of gifts made to unincorporated association (as defined at paragraph 92 above) that make political contributions of significant financial value.

277. *Paragraph 1(1)* of new Schedule 19A provide that where in any calendar year an unincorporated association makes a political contribution with a value of more than £25,000 or makes political contributions in that calendar year which in aggregate exceed £25,000, the association must notify the Electoral Commission accordingly within 30 days beginning with the date on which the donation was made. *Paragraph 1(2)* sets out the things that are to be regarded as political contributions for the purposes of the new reporting requirements. These are:

- Donations to a registered party (within the meaning of Part 4 of the 2000 Act);
- Regulated transactions (including loans, credit facilities or securities) within the meaning of Part 4A of the 2000 Act;
- Donations to regulated donees within the meaning of Schedule 7 of the 2000 Act;
- Controlled transactions to regulated donees (including loans of money, credit facilities or securities) within the scope of Schedule 7A to the 2000 Act;
- Donations to third parties within the meaning of Schedule 11 of the 2000 Act; and
- Donations to permitted participants within the meaning of Schedule 15 of the 2000 Act.

278. *Paragraph 1(3)* provides that only political contributions over £500 count towards the total with respect to exceeding the £25,000 threshold by means of aggregation.

279. *Paragraph 1(4)* provides relevant definitions for the purpose of these provisions.

280. *Paragraph 1(5)* makes provision about how the various types of political contribution are to be valued. Significantly, paragraph (e) provides that in the case of loans or securities it is the value of the money lent or liability discharged (rather than any higher maximum that could be lent under a loan agreement) that is relevant.

281. *Paragraph 1(6)* clarifies the status of a political contribution sent on one day and received on another.

282. *Paragraph 2* of new Schedule 19A sets out the detail of the reporting requirement in relation to unincorporated associations who make a notification under paragraph 1. The requirement is to report to the Commission certain details about gifts (both monetary

and non-monetary) they have received with a value of over £7,500 within the reporting period. *Sub-paragraphs (2)* and *(3)* together provide that the reporting period covers the calendar year in which relevant contributions are made in excess of £25,000, and both the preceding and following calendar years.

283. *Sub-paragraph (2)* also sets out how, and to what timescale, the reporting requirement will apply to gifts that are required to be reported but which were made on or before the date on which the £25,000 limit was exceeded. *Paragraph 2(3)* and *2(4)* goes on to set out the position in relation to gifts that are received after the contribution date and which are required to be reported. Such gifts will be reported on a quarterly basis until the reporting requirement comes to an end. A quarter in this respect means a period running for three months and ending with 31st March, 30th June, 30th September or 31st December.

284. *Paragraph 2(5)* provides for the aggregation of two or more gifts of more than £500 from the same person in the same calendar year. The result is that where those gifts exceed £7,500 in aggregate they fall to be reported in the same way as an individual gift exceeding that amount.

285. *Paragraph 2(6)* provides that where an unincorporated association has received a gift of over £7,500 in a calendar year from a single source and subsequently receives any gift of over £1,500 in the same year from that source, the subsequent gift is to be reported as if it were one of over £7,500.

286. *Paragraph 2(8)* makes provision to exclude from the reporting requirement any gift already reported under a requirement imposed by Schedule 19A or, where the unincorporated association is also a members association, in accordance with Part 3 of Schedule 7 to the 2000 Act.

287. *Paragraph 3* of new Schedule 19A sets out the detail that must be contained in reports required to be made under paragraph 2.

288. *Paragraph 4* of new Schedule 19A requires each notification and report made under paragraphs 1 and 2 respectively to include a declaration, made by a person authorised to do so, as to the content and accuracy of the notification or report.

289. *Paragraph 5* of new Schedule 19A provides for additional detail that must be provided in each notification or report required to be made under the Schedule in respect of an unincorporated association and the person authorised for the purposes of paragraph 4.

290. *Paragraph 6* of new Schedule 19A creates three offences which result from the obligations imposed by the Schedule. First, under *sub-paragraph (1),* an unincorporated association commits an offence if it fails, without reasonable excuse, to give a notification or report to the Commission within the time limits specified. Second, *sub-paragraph (2)* makes it an offence for an unincorporated association to provide, without reasonable excuse, a notification or report that fails to comply with any requirement of this Schedule.. Finally, *sub-paragraph (3)* makes it an offence for an individual to knowingly or recklessly make a false declaration under paragraph 3.

291. *Paragraph 7* of new Schedule 19A imposes a requirement on the Electoral Commission to maintain a register of all notifications and reports given or made under paragraphs 1 and 2 respectively. *Paragraph 7(2)* sets out the details that are to be included in the register in the case of any such notification or report. *Paragraph 7(3*) requires the relevant detail to be added to the register as soon as reasonably practicable. *Paragraph 7(4)* mirrors existing provision in section 69(4) of the 2000 Act regarding non-publication of an individual's home address in a register maintained by the Commission.

292. *Paragraph 8* of new Schedule 19A makes provision in respect of a gift made within the reporting period but prior to inclusion in the register of the fact that a paragraph 1 notification has been made by the unincorporated association to which the relevant gift was made. *Sub-paragraphs (2)(a)* and *(4)* have the effect of requiring the Commission

to give 45 days notice of it intention to include in the register details about the person who made the gift. If, within that time, the Commission receive any representations in response they shall take those into account before deciding whether to include the details in the register.

293. *Paragraph 9* of new Schedule 19A makes provision in relation to the meaning of a gift for the purposes of this Schedule. In particular, *sub-paragraph (3)* enables the Secretary of State to make regulations about matters that may or may not constitute a gift and how gifts are to be valued.

Schedule 6: Minor and consequential amendments and Schedule 7: Repeals

294. Section 39 gives effect to Schedules 6 and 7. Schedule 6 makes minor and consequential amendments. Schedule 7 makes a number of repeals.