These notes refer to the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014 (c.4) which received Royal Assent on 30 January 2014

TRANSPARENCY OF LOBBYING, NON-PARTY CAMPAIGNING AND TRADE UNION ADMINISTRATION ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Registration of Consultant Lobbyists

Section 1: Prohibition on consultant lobbying unless registered

17. Section 1 prohibits any person from carrying on the business of consultant lobbying unless they (or, in the case of an employee, their employer) are entered on the register of consultant lobbyists. Breaching this prohibition is made a criminal offence by section 12 of the Act. Alternatively, breach of this provision can also result in the imposition of a civil penalty under section 14.

Section 2: Meaning of consultant lobbying and Schedule 1: Carrying on the business of consultant lobbying

18. Section 2 defines the activity of "carrying on the business of consultant lobbying". Schedule 1 provides further detail about the meaning of some terms used in that definition and provides that certain types of activity are excluded from the definition.

19. The main defining characteristics of being a consultant lobbyist are that 'in the course of a business' (which requires the person concerned to be engaged in a commercial activity, and so therefore excludes things such as the public duties of elected officials) a person makes communications (either in writing or orally):

- personally to a UK Government Minister or Permanent Secretary (including specified equivalent positions),
- about government policy, legislation, the award of contracts, grants, licences or similar
- about benefits, or the exercise of any other government function such as the exercise of the prerogative,
- on behalf of another person, and
- in return for payment.

20. A person carries on the business of consultant lobbying (and is therefore required to register) only if the person is VAT-registered. This means, in particular, that businesses with a turnover below the VAT registration threshold will not be required to appear on the register of lobbyists (unless they are voluntarily VAT-registered). It also means that employees of a company or firm will not be required to appear on the register of

lobbyists in their own names, because they will not be VAT-registered: their activities as employees will be covered by the VAT registration (if any) of the company or firm.

21. *Subsection (5)* provides a power for Ministers to make regulations to amend *subsection* (3) specifically to include communications made personally to a special adviser in the definition of consultant lobbying if and when that is considered necessary.

22. *Paragraph 1* of Schedule 1 describes an exception to the definition of "carrying on business of consultant lobbying". It provides that where a person's business mostly consists of activities other than the lobbying of Governments, and any communication that they make on behalf of someone else to Ministers and Permanent Secretaries of the UK government is incidental to those non-lobbying activities, then they will not be carrying on the business of consultant lobbying and so will not be required to register.

23. *Paragraphs 2 and 3* provide for further exceptions which will not come within the scope of "consultant lobbying". These exceptions include persons who act generally as representatives of people of a particular class or description and who make lobbying communications only as an incidental part of their representative function, and officials or employees of governments of other countries or international organisations who make communications on behalf of those bodies.

24. *Paragraph 4* clarifies that an individual is not considered to be carrying on the business of consultant lobbying if they are making communications in the course of their employer's business.

25. *Paragraphs 5 and 6* of Schedule 1 make it clear that any kind of payment given to a person for them to engage in lobbying will bring them within the definition of "consultant lobbyist" if the other conditions are engaged, and this includes both direct and indirect payment. Therefore, it will not be possible for lobbyists to avoid the need to register by, for example, structuring their business so as to receive payments from clients via a third party, or to be paid for periods of service rather than for specific communications, or in some non-monetary form. *Paragraph 5(2)* excludes the salaries or expenses paid to Parliamentarians for the exercise of their Parliamentary duties from the definition of payment, with the result that the usual activities of Parliamentarians are not captured by the definition of consultant lobbying. This provision therefore ensures that, even if Parliamentarians when carrying out their official role were to be regarded as carrying on a business under section 2, and even if they do not benefit from the 'incidental' exception in paragraph 1, they would not be required to register as consultant lobbyists.

26. *Paragraph 7* of Schedule 1 explains that communications should not be considered 'in return for payment' where the person conducting the lobbying on behalf of a particular class or description of persons is not wholly or mainly funded by, and does not receive payments for conducting the lobbying from, the person or persons on whose behalf the lobbying is done. Such communications are therefore excluded from the scope of the definition of consultant lobbying. This could for example cover bodies who lobby on a pro-bono basis or who are funded altruistically to undertake work that seeks to benefit others.

27. *Paragraph 9* of Schedule 1 excludes certain types of communication from the scope of consultant lobbying where it is required to be made under a statutory provision or a rule of law.

28. *Paragraph 10* provides that where an individual makes a communication in the course of the business of another, then both the individual and that other business/person are treated as making the communication. If the individual in these circumstances happens to be an employee (as opposed to a contractor or partner etc) then the employee is not to be regarded as making the communication on behalf of their employer, but rather only on behalf of their employer's client.

29. Part 3 of Schedule 1 gives a list of positions which are considered to be equivalent to a permanent secretary for these purposes, so that communicating with them about government policy etc. will, if the other conditions for being a consultant lobbyist are fulfilled, mean that a person must register as a consultant lobbyist.

Section 3: The Registrar of Consultant Lobbyists, Section 4: The Register and Schedule 2: The Registrar of Consultant Lobbyists

30. Sections 3 to 7 and Schedule 2 establish a Registrar of Consultant Lobbyists ("the Registrar") and require them to keep a register with specified information on it and to make that register publicly available. The Registrar will be an independent statutory office-holder appointed by the Secretary of State or the Lord President of the Council ("the Minister") and Schedule 2 sets out more detail about how the Registrar is to be constituted.

31. Section 4 sets out the obligation to keep the register. In particular, it provides that each register entry must contain the name of the relevant registered consultant lobbyist, together with its registered company number (where relevant), its address, the names of any partners or directors (or equivalent), and any other information specified by regulations. Each entry must also contain the names of the clients for whom the entity has engaged in consultant lobbying for (or has received pre-payment to do so) for every quarter that person has been registered and the names of any clients from whom pre-payment has been received in the three months immediately preceding the person's application to join the register. Further, Section 4 provides that each consultant lobbyist must declare in their register entry whether it subscribes to a publicly available code of conduct in relation to its lobbying activity and, if so, where a copy of the code can be accessed.

32. Schedule 2 provides that the Registrar will be a corporation sole. Being a corporation sole will ensure that the Registrar is able to enter into contracts, and to sue and be sued, in his or her capacity as an office holder rather than in any individual capacity and so allows for continuity from one Registrar to the next.

33. The Registrar will be appointed by the Minister after a process of fair and open competition. The Registrar may be appointed for an initial term of up to four years and for one or two further terms of up to three years. The Registrar may resign from the post by giving the Minister written notice. During a term the Minister may dismiss the Registrar if satisfied that he or she is unable, unwilling or unfit to perform his or her functions.

34. Any individual who has been a Minister or permanent secretary or has carried on the business of a consultant lobbyist (or has been the employee of a consultant lobbyist) at any time in the previous 5 years is not eligible to fill the post of Registrar.

35. The Registrar may pay remuneration and other amounts to the individual appointed Registrar but the amounts will be controlled by the Minister. The Minister may make grants or loans to the Registrar.

36. It is not expected that the Registrar will engage staff directly but may make arrangements for staff to be seconded by the Minister or other persons. Those staff may be paid by the Registrar either directly or via the Minister or other persons.

37. The Registrar is required to prepare a statement of accounts for each financial year, reported on by the Comptroller and Auditor General and laid before Parliament. The Registrar is also required to abide by the requirements of the Public Records Act 1958 and will be subject to the provisions of the Freedom of Information Act 2000. The Registrar is also an authority which is subject to investigation by the Parliamentary Commissioner (who is also known as the Parliamentary and Health Service Ombudsman).

Section 5: Notification of client information and changes

38. Registered lobbyists must update their register entry each quarter by providing details of any clients for whom they have engaged in consultant lobbying in the previous quarter (whether or not the payment for it has actually been received) or from whom they have received payment in that quarter to engage in lobbying in the future (whether or not the lobbying has actually been done). Registered lobbyists must also update their register entry by notifying the Registrar of any changes to the particulars outlined in section 4 (i.e. company name, number, address, directors etc). These updates must be made within 2 weeks of the end of the quarter to which the update relates.

39. If registered persons have not engaged in consultant lobbying nor received payment to lobby in the future in the previous quarter, they must submit a statement to that effect (see *subsection (5)* of section 5). If they have ceased to act as a consultant lobbyist, they can seek to discontinue their registration (see section 6(6)). In the former case the lobbyist may be listed as inactive but remains registered and so can still return to lobbying at any time with immediate effect, as they remain on the register. They also remain obliged to provide any updates necessary in relation to the company name, number, address, directors etc. and information for their registration. In the latter case the lobbyist's register entry will be discontinued (though the historic record will remain) and they will no longer be obliged to provide updates regarding their business and clients. As such, they will be prohibited from lobbying unless they apply to register again and are entered on to the Register.

Section 6: Duty to update the register and Section 7: Duty to publish the register

40. The Registrar must keep the register up to date by processing register entries, and updates to entries, within 4 working days of receiving them if they are received by the Registrar within the 2 week period set by section 5(6), or within 8 working days where updates are received after that deadline.

41. If the Registrar considers that a registered person is no longer a consultant lobbyist, the Registrar may mark the entry as inactive or remove it from the register.

42. The Registrar must publish the register online and in any other format he or she thinks appropriate. The Registrar may also publish the historic entries, in part or in full, of persons who were previously entered on the Register but who are no longer registered.

Section 8: Duty to monitor

43. This section places a duty on the Registrar to monitor the compliance of consultant lobbyists with the registration requirement and the other obligations imposed by this Part.

Sections 9 and 10: Notice to supply information and limitations on duty to supply information and use of information supplied

44. The Registrar has the power to issue an information notice in order to obtain from a consultant lobbyist, or someone he or she reasonably believes is a consultant lobbyist, information relating to compliance with the requirements imposed by this Part.

45. The information notice must specify what information must be supplied and by what date, and must contain details of the appeals procedure. The Registrar may cancel an information notice. Regulations may make provision prohibiting certain descriptions of information from being requested under an information notice, such as information engaging legal professional privilege.

46. Section 10 sets limitations on the information which may be demanded under an information notice, and limits the use which may be made of that information. These limits give effect to the existing privilege against self-incrimination. However, *subsection (2)* of section 10 provides in effect that the privilege against self-

incrimination does not apply in relation to offences under this Part and various false statement offences that could be used in relation to false responses to information notices. This is justified and proportionate because the purpose of the power to issue an information notice is to investigate possible offences under this Part and so applying the principle against self incrimination to those offences would render the information notice power pointless.

Section 11: Right to appeal against information notice

47. If served with an information notice, a person may appeal against the notice to the Tribunal. If they do so, they will not be required to provide the information until the appeal is finally determined or withdrawn.

Section 12: Offences and Section 13: Bodies corporate and Scottish partnerships

48. It is an offence to carry on the business of consultant lobbying without an accurate and up to date register entry. This offence may be committed by an individual or an organisation, as well as by any person engaging in lobbying in the course of the business of that individual or organisation. It is also an offence to fail to supply an information return required under section 5, or information required by an information notice under section 9, or to supply inaccurate or incomplete information. It is a defence to demonstrate that the person exercised all due diligence to avoid committing any of these offences.

49. The offences in section 12 may be tried in either the Magistrates Count or the Crown Court. A person guilty of either offence is liable to a fine not exceeding the statutory maximum on summary conviction (currently £5000) or an unlimited fine if convicted in the Crown Court. When section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the fine on summary conviction in England and Wales will be unlimited.

50. Where an offence is committed by a body corporate, such as a company, then senior individuals within a company (such as directors or managers) or partners of a partnership in Scotland may also be guilty of the offence if the individuals have consented to, planned, or allowed through their neglect the criminal behaviour to take place.

Section 14: Civil penalties

51. This section enables the Registrar to choose to impose a civil penalty instead of prosecuting a person for committing any of the offences set out in section 12. The defence of due diligence does not apply in relation to a penalty and for the purposes of civil penalties a person's conduct also includes a failure to act. It is anticipated that the Registrar will wish to pursue this option for less serious instances of non-compliance, for example due to administrative oversight.

Section 15: Notice of intention to impose civil penalty

52. Before imposing a civil penalty the Registrar must serve a notice of intent detailing the suspected breach, the reasons the Registrar is satisfied that the person did engage in that conduct and the anticipated amount of the associated penalty. The notice must also provide details of the period in which the person may make written representation in response to the notice and the Registrar must consider any such representation before proceeding with the imposition of the penalty.

Section 16: Imposition of penalty

53. Where the Registrar decides to impose a civil penalty, he or she must serve a penalty notice detailing the transgression committed, the reasons the Registrar is satisfied that the person did engage in that conduct, the amount of the penalty (which must not exceed

£7,500), the time period within which it should be paid, and details of the appeals procedure. The Registrar may vary or cancel a penalty notice.

Section 17: Right to appeal against imposition of a civil penalty

54. Both the decision to impose a penalty and the amount of that penalty may be appealed to the Tribunal, as may any decision to vary a penalty notice. If an appeal is brought, the person will not be required to pay the penalty until the appeal is finally determined or withdrawn. Regulations may make further provision about the determination of such appeals.

Section 18: Civil penalties and criminal proceedings

55. The Registrar may not impose a civil penalty on a person who is currently subject to criminal proceedings for the same offence or who has been convicted of an offence under this Part. Nor may a person who has had a civil penalty imposed on them be convicted of a criminal offence under this Part for the same conduct.

Section 19: Enforcement

56. This section makes provision to ensure that penalties can be enforced if they are not paid. It also provides that any sum received in response to a penalty notice is to be paid in to the Consolidated Fund, rather than being retained by the Registrar.

Section 20: Further provision about civil penalties

57. This section allows regulations to make further provision in relation to civil penalties.

Section 21: Guidance

58. This section provides that the Registrar may issue guidance regarding compliance with the requirement to register and the Registrar's functions under the Part more generally, particularly in relation to who may, or may not, be considered to be carrying on the business of consultant lobbying. The Registrar may also issue guidance in relation to the circumstances in which the Registrar would consider removing or making inactive a consultant lobbyist's entry on the register, the circumstances where it would be appropriate to impose a civil penalty, and the method by which the amount of a civil penalty is determined. The Registrar may revise or replace any such guidance issued, and the Registrar must publish the guidance by making it available online and in other such forms as they think appropriate.

Section 22: Charges

59. This section includes a power for the charges to be imposed by the Registrar. It is intended that these charges recover the full cost of all of the activities of the Registrar.

60. The charges will either be specifically set by the regulations or the regulations will set the method for determining the charges.

Section 23: Power to make further provision; Section 24: Regulations; and Section 25: Interpretation

61. There is also a general power for the Minister to make regulations to give effect to provisions of this Part. Wherever regulations are made which amend or modify a provision of this Part, the affirmative resolution procedure must be used. In other cases a negative resolution procedure is to be used. Further, regulations under clauses 4(5)(a) or 5(4), and the first regulations to be made under clauses 11(3) and 17(3) must be made by the affirmative procedure.

Part 2 – Non-Party Campaigning Etc.

Section 26: Meaning of "controlled expenditure"

62. Section 26 amends the definition of what is regarded as controlled expenditure for third parties in section 85 of PPERA to take account of the extension in the range of activities which count as controlled expenditure set out in new Schedule 8A.

63. *Subsection (2)* amends the definition of controlled expenditure to include expenses incurred by or on behalf of a third party which fall within Part 1 of new Schedule 8A to PPERA (see below) and which can reasonably be regarded as intended to promote or procure the electoral success of a party or candidates. The second part of this test largely replicates the current PPERA test. However, expenditure which would reasonably be regarded as "otherwise enhancing the standing" of parties or candidates is no longer included within the definition of controlled expenditure. This is a small change, but ensures that the activity must have a connection with "electoral success" at a relevant election. The new section 85(4)(c) and (4A) of PPERA (inserted by *subsections (4)(c) and (5)*) contain provision similar to provision formerly in section 85(3) and (4); the restructuring is in consequence of the changes to section 85(2).

64. *Subsection (9)* introduces a defence, for a person or third party charged with an offence of incurring controlled expenditure in excess of a spending limit (i.e. above the limit in a part of the UK or the constituency limit) to show that they complied with the relevant code of practice. The defence will also be available in relation to a charge of exceeding a spending threshold.

65. *Subsection (12)* is a consequential change as "election material" is no longer defined in section 85 of PPERA. Subsection 12 inserts new section 143A into PPERA. This provides the test for whether material is "election material" for the purposes of section 143 of PPERA. This section relates to the details that have to appear on third party controlled or political party campaign material (often referred to as "imprints"). The test in new section 143A mirrors the test for controlled expenditure in section 85 of PPERA.

Schedule 3: Controlled expenditure: qualifying expenses

66. Schedule 3 inserts a new Schedule 8A into PPERA. *Paragraph 1*of new Schedule 8A lists matters on which expenses may be incurred for the purposes of controlled expenditure. The list of activities is set out so as to be more closely aligned with the list of matters for political parties as set out in Schedule 8 to PPERA. Any expenditure on a matter set out in this list during the regulated period for an election (which meets the test in section 85(2)(b) of PPERA, as inserted by section 26(2) of this Act) will need to be accounted for as controlled expenditure. Qualifying expenses include expenses incurred in respect of material (paragraph 1(1)). This replaces "election material" which is controlled expenditure under section 85(3) of PPERA, and is described in largely the same terms. *Paragraphs 1(2) to (5)* add new matters expenditure in respect of which may be controlled expenditure and hence regulated.

67. Thus, for example the full fees and costs in the regulated period before a UK Parliamentary General election associated with any materials made available to the public, or with the organisation of any press conference or organised media events or public rallies or events, will count as controlled expenditure. The matters listed do not cover material or activities unless they involve the public in a specified way. Material or activities which do not (for example material available only to members of the third party or meetings to which the public are not admitted) will accordingly not be regulated.

68. *Paragraph 2* of new Schedule 8A inserts a list of exclusions from controlled expenditure into Schedule 8A. Some of these exclusions were previously in section 87 of PPERA. The additional exclusions are:

- Expenses in respect of, or in consequence of, translating materials from English to Welsh or from Welsh to English.
- Expenses reasonably attributable to an individual's disability. Disability has the same meaning as in the Equality Act 2010.

69. *Paragraph 3* of new Schedule 8A enables the Electoral Commission to prepare a code of practice giving guidance on the types of expenditure which may be captured by Part 1 of new Schedule 8A. Before a code of practice comes into effect it must be approved by the Secretary of State and laid before Parliament. Although the code of practice is not made by statutory instrument, an equivalent of the negative resolution procedure applies so that either House of Parliament may resolve not to approve the draft code.

70. *Paragraph* 4 of new Schedule 8A empowers the Secretary of State to amend Part 1 of the Schedule by order. An order made under this provision may only be made so as to give effect to a recommendation of the Electoral Commission or after consulting them.

Section 27: Arrangements between third parties notified to the Electoral Commission

71. Section 27 inserts a new section, section 94A into PPERA. This section provides that a recognised third party may notify the Electoral Commission that it has agreed to be a "lead campaigner" for a plan or arrangement under which more than one third party agree to each incur controlled expenditure for a common purpose.

72. The notice to the Electoral Commission must identify other third parties that would be considered "minor campaigners" in respect of that arrangement. The minor campaigners' expenditure (as well as being counted towards the lead campaigner's spending limit in accordance with section 94(6)) must also be included for the purposes of the "lead campaigner's" spending return (in accordance with sections 96 to 99A).

73. A "minor campaigner", provided the other controlled expenditure incurred by a minor campaigner (i.e. otherwise than in its capacity as a minor campaigner) does not breach any relevant threshold (i.e. is within the thresholds for each part of the UK and, where relevant, for each constituency), the minor campaigners will not be subject to any administrative requirements, including registration. To benefit from this regime, a minor campaigner's expenditure as part of an arrangement must be incurred after a notification in relation to that "minor campaigner" has been given to the Electoral Commission. The regime allows several "lead campaigners" to report for different "minor campaigners;" an arrangement may also contain third parties who do not wish to be considered 'minor campaigners.'

74. The Electoral Commission must enter details of the notification it receives from the "lead campaigner" into its register of third parties, and identify the relevant "minor campaigners."

Section 28: Changes to existing limits

75. *Subsection (3)* amends section 94(5) of PPERA so that a third party wishing to spend £20,000 in England or £10,000 in each of Scotland, Northern Ireland and Wales must register as a recognised third party with the Electoral Commission in accordance with section 88 of PPERA. A third party spending in excess of these thresholds without having registered as a recognised third party commits an offence. These replace the existing registration spending thresholds of £10,000 in England or £5,000 in each of Scotland, Wales and Northern Ireland.

76. *Subsections (2) and (4)* set a further registration limit at an amount equal to the constituency limit (see section 29) – 0.05% of the maximum campaign expenditure limit for political parties. The maximum campaign expenditure limit is defined as the limit imposed by paragraph 3 of Schedule 9 to PPERA and currently amounts to a

total of £19.5 million (£30,000 x 650 constituencies). The constituency limit therefore amounts to £9,750. This threshold applies in all parts of the United Kingdom and only applies in regulated periods involving a UK Parliamentary General election. If a third party incurs expenditure in a particular constituency in excess of £9,750, it commits an offence: either the offence for a recognised third party of exceeding the constituency limit (introduced by section 29 of this Act), or the offence under this provision of exceeding the constituency threshold without being a recognised third party.

77. *Subsection (7)* amends paragraph 3(2) of Schedule 10 to PPERA so that a recognised third party can spend 2% of the maximum campaign expenditure limit in England, and 2% plus £20,000 in each of Scotland, Wales and Northern Ireland.. The table below shows the maximum amount of controlled expenditure that a recognised third party is permitted to incur in each part of United Kingdom:

England	£319,800
Scotland	£55,400
Wales	£44,000
Northern Ireland	£30,800

Section 29: Constituency limits

78. *Subsection (2)* amends section 94 of PPERA to place limits on the amount of controlled expenditure a recognised third party can spend within an individual constituency during the regulated period.

79. *Subsection (3)* amends section 96 of PPERA to require recognised third parties to include as part of their return as to controlled expenditure under section 96, a statement listing each constituency, if any, where the recognised third party has incurred, at any time during the regulated period, controlled expenditure amounting to more than 0.04% of the maximum campaign expenditure limit for political parties. This is equivalent to £7,800. A statement prepared under subsection (3) of section 96 of PPERA should include all payments made in respect of controlled expenditure in that constituency during the regulated period. (In accordance with section 34 below, a section 96 return as to controlled expenditure is not required where a third party has not incurred expenditure in excess of a spending threshold).

80. *Subsection (5)* sets out how controlled expenditure should be attributed to a constituency or constituencies. Subsection (5) inserts a new paragraph, paragraph 2A into Schedule 10 and states that where a recognised third party has incurred controlled expenditure it should be attributed to each parliamentary constituency in equal proportions. The exception to this is where the effects of controlled expenditure are confined to a single or several constituencies and have no significant effects in any other constituency or constituencies. Where this occurs, the recognised third party shall attribute the controlled expenditure incurred, in equal measures, to the constituencies significantly affected (if there is more than one) or solely to an affected constituency. The effect of this "significant effect" test is that the specific geographic location where, for example, an event takes place need not be determinative; the significant effect may be in another constituency, or in other constituencies, or in that constituency in which the event takes place. In case which an event has a national effect, the expenditure will be attributed equally amongst all constituencies.

81. *Subsection (6)* inserts sub-paragraph (2A) into paragraph 3 of Schedule 10 to PPERA. This places a limit on the controlled expenditure which can be incurred in a constituency, of 0.05% of the total maximum campaign expenditure limit (£9,750).

82. *Subsections (7)* amends paragraph 9 of Schedule 10 to PPERA, which is about combined limits where a UK Parliamentary General election and another election are

pending. For the purposes of the combined period (of the two regulated periods), new sub-paragraphs (3A) and (3B) in paragraphs 9 specifies that the relevant constituency limit can be calculated by dividing the number of days in the combined period, by the number of days in what is ordinarily the regulated period for a UK parliamentary General election, and multiplying the amount by the constituency limit – £9,750, as in new paragraph 3(2A) of Schedule 10. For example:

Combined period 470 daysRegulated period 365 days. × £9,750 (new paragraph 3(2A))

83. The constituency limit in this instance (a combined European Parliamentary and UK Parliamentary General election) would be £12,555.

84. New *sub-paragraphs (5A) and (5B)* in *paragraph 9* of Schedule 10, new *sub-paragraphs (3A) and (3B)* in *paragraph 10* and new *sub-paragraphs (4A) and (4B)* in *paragraph 11* provide, in a similar manner, for a proportion of the constituency limit to be calculated for the various combined regulated periods involving UK Parliamentary General elections and other elections.

Section 30: Targeted expenditure limits

85. *Subsection (2)* amends section 79 of PPERA to identify the new provision in Part 6 of that Act under which certain controlled expenditure incurred by or on behalf of a recognised third party, which is targeted at a registered party, must be counted towards that registered party's overall campaign expenditure limit.

86. *Subsection (3)* amends section 80(4) of PPERA so that returns as to campaign expenditure must also include a declaration by the treasurer or deputy treasurer where authorised expenditure has been incurred. The requirement to make the declaration is provided by new section 94D(5).

87. *Subsection (8)* inserts new sections 94C to 94H into PPERA. These sections impose limits on, and make other provisions relating to, controlled expenditure incurred by or on behalf of a third party where the expenditure is targeted at a particular registered party.

88. New section 94D(1) defines when controlled expenditure is regarded as targeted at a registered party – when it is intended to benefit that party or its candidates, and no other party or its candidates.

89. New section 94D(3) provides that targeted controlled expenditure limits apply during the regulated period for a UK Parliamentary General election.

90. New section 94D(4)(a) introduces limits on the targeted controlled expenditure a recognised third party can incur in parts of the United Kingdom during what is ordinarily the regulated period for a UK Parliamentary General election. These are 0.2% of the maximum campaign expenditure limits for each part of the UK, and are as follows:

England	£31,980
Scotland	£3,540
Wales	£2,400
Northern Ireland	£1,080

91. New Section 94D(4)(b) refers to combined limits where a UK Parliamentary General election and another election are pending. For the purposes of the combined period (of the two regulated periods), subsection (4)(b) specifies that the relevant targeted controlled expenditure limit can be calculated by dividing the number of days in the combined period, by the number of days in what is ordinarily the regulated period for

a UK Parliamentary General election and multiplying the amount by the limit for the relevant part of the United Kingdom. For example:

Combined period 470 daysRegulated period 365 days × £31,980 (subsection 4(a))

92. The targeted controlled expenditure limit in this instance for England (for a combined European Parliamentary and UK Parliamentary General election) would be £41,180.

93. New section 94E provides that where a recognised third party is not authorised by the registered party to incur targeted controlled expenditure in excess of the limits outlined in new section 94D and it still does so, it (and, in the case of a third party that is not an individual, the responsible person) is guilty of an offence. A third party is also guilty of an offence if it is authorised to incur targeted controlled expenditure, but exceeds any cap specified in the authorisation. The penalties for the offences are inserted into Schedule 20 to PPERA by subsection (9).

94. New section 94F provides that where a recognised third party incurs authorised targeted controlled expenditure, only the amount of controlled expenditure incurred above the limit specified in new section 94D, and up to any specified cap, will count towards the overall campaign expenditure limit of the registered party.

95. In determining whether the treasurer or a deputy treasurer commits an offence where the registered party exceeds its campaign expenditure limit as a result of this new rule, references in section 79(2) of PPERA to the authorisation of expenditure by the treasurer or a deputy treasurer will be treated as references to the signing of the authorisation (of targeted controlled expenditure) under new section 94G.

96. New section 94F(5) specifies that the treasurer or a deputy treasurer of the registered party must make a declaration of the amount of expenditure that may be incurred by the third party, and of the amount of that expenditure that is actually incurred and counts towards the registered party's limit under Part 5 of PPERA. The treasurer (or deputy treasurer) will commit an offence if a false declaration is knowingly or recklessly made (new section 94F(6)). The penalty for the offence is inserted into Schedule 20 to PPERA by *subsection (9)*.

97. New section 94G makes provision about how a registered party may give authorisation to a recognised third party, so it may incur spend above the limits in 94D. Authorisation must be in writing, signed by the party treasurer or deputy treasurer, and must specify the part of the UK it relates to. The authorisation may also stipulate a cap, above which targeted controlled expenditure cannot be incurred. Authorisation will only come into effect once a copy has been provided by the registered party to the Electoral Commission.

98. A registered political party may withdraw authorisation at any time, provided it is in writing and signed by a relevant officer. It will only come into effect on registration with the Electoral Commission.

99. New section 94H defines for the purposes of this new regime what it is to exceed a targeted expenditure limit, or a cap specified by the registered party when authorising expenditure. Whether or not any item of expenditure incurred by or on behalf of the third party exceeds a limit or cap depends on the cumulative amount incurred by or on behalf of that recognised third party in the regulated period in question and in the relevant part of the United Kingdom. The definition makes clear that a separate cumulative total needs to be calculated of expenditure targeted at separate registered parties.

Section 31: Extension of power to vary specified sums

100. This section amends section 155 of PPERA to allow the Secretary of State (or, by virtue of section 159A of that Act, the Lord President of the Council) to amend, by order, the percentages set out in section 94(5ZA), section 96(2)(aa) and paragraph

2A of Schedule 10 (which sets the limits for controlled expenditure in an individual constituency during the regulated period of a UK Parliamentary General election), in new section 94D of PPERA, (which sets out the limit for targeted expenditure) and in paragraph 3(2) of Schedule 10, (which sets the limits for controlled expenditure in each part of the United Kingdom). The Secretary of State can only amend the percentages upon the recommendation of the Electoral Commission.

Section 32: Recognised third parties

101. Where a third party intends to incur controlled expenditure in excess of £20,000 in England or £10,000 in each of Scotland, Wales or Northern Ireland during a regulated period for an election, it must provide the Electoral Commission with a notification as required under section 88 of PPERA. The notification must specify the name and address of the third party and, in the case of a company or unincorporated association, the person who will be responsible for ensuring compliance with the accounting and disclosure provisions contained within Part 6 of PPERA.

102. *Subsection (2)* allows a body incorporated by Royal Charter, a Charitable Incorporated Organisation, a Scottish Charitable Incorporated Organisation or a Scottish partnership to register as a recognised third party with the Electoral Commission.

103. *Subsection (3)* amends the notification requirements under section 88 of PPERA by including a new provision, section 88(3)(c)(ia) into that Act, stating that the notification should include the names of relevant participators of the body.

104. Relevant participators of a body are defined by the new section 88(3B) and new section 88(3C) as:

- For companies – the body's directors;
- For trade unions – the body's officers;
- For building societies – the body's directors;
- For limited liability companies – the body's members;
- For friendly societies – the members of the body's committee of management;
- For unincorporated associations – the body's members or the members of its governing body;
- For bodies incorporated by Royal Charter – the names of its officers or the members of its governing body;
- For charitable incorporated organisations/Scottish charitable incorporated organisations – the names of its charity trustees; and
- For Scottish partnerships – the names of the partners.

Section 33 and Schedule 4: Reporting of donations to recognised third parties

105. This section inserts new sections 95A to 95F into PPERA. The new sections impose requirements on those recognised third parties (and their responsible persons) which receive reportable donations in the relevant period, to prepare a quarterly report on donations, which they are obliged to submit to the Electoral Commission within 30 days of the end of the reporting period. There are additional requirements for more frequent reporting during a general election period.

106. New section 95A provides for the responsible person for the recognised third party to provide a quarterly donation report for each reporting period which falls within the regulated period for UK Parliamentary General elections. Subsection (4) of new section 95A states that the quarterly report must comply with the requirements of the new Schedule 11A and must include all details of all accepted donations of more than

£7,500, as well as any donation which, when added to other donations from the same source during the regulated period for UK Parliamentary General elections, brings the amount up to more than £7,500. Subsequent accepted donations from the same source must be reported if more than £1,500 (either alone or in aggregate).

107. New section 95A(6) provides for quarterly reports to be delivered to the Electoral Commission within 30 days of the end of the reporting period to which it relates. The quarterly return must be accompanied by a declaration signed by the responsible person stating that all reportable donations accepted by the recognised third party are from permissible donors.

108. In accordance with new section 95A(10), a recognised third party will not have to provide a quarterly report to the Electoral Commission where they do not accept, or deal with (that is refuse, or reject as impermissible), any reportable donations during that quarter.

109. The provisions of new section 95A do not extend to a party which is registered with the Electoral Commission (other than a minor party) or to a recognised Gibraltar third party.

110. New section 95B provides for the responsible person for the recognised third party to provide weekly donation reports for each period of 7 days falling within the period beginning with the date on which Parliament is dissolved and ending with the date of poll for the UK Parliamentary General election. New section 95B states that the weekly report must comply with the requirements of the new Schedule 11A and must include all donations of £7,500 or more.

111. New section 95B(7) provides for weekly reports to be delivered to the Electoral Commission within 7 days of the end of the reporting period to which it relates.

112. In accordance with new section 95B(9), a recognised third party will not have to provide a weekly report to the Electoral Commission where they do not receive any reportable donations during the reporting period.

113. The provisions of new section 95C do not extend to a party which is registered with the Electoral Commission (other than a minor party) or to a recognised Gibraltar third party.

114. New section 95C provides for the related offences to which a responsible person of a recognised third party may be subject.

115. New section 95D provides for a court, on an application made by the Electoral Commission, to require the forfeiture of a relevant donation by a recognised third party.

116. New section 95E provides for supplementary provisions to new sections 95A to 95D. New section 95E provides that where a recognised third party's notification under section 88(1) of PPERA lapses during the regulated period (and it therefore ceases to be a "recognised" third party), it must still provide reports under new sections 95A or 95B which cover the period during which the notification lapses and any previous reporting periods falling within the regulated period. If a recognised third party's notification lapses at, or after the end of the regulated period, the recognised third party must still provide reports as required under new sections 95A or 95B for that period.

117. New section 95F provides that the Electoral Commission must make quarterly and weekly reports available for public inspection, but ensuring that these documents do not include the donor's address if the donor is an individual. The Electoral Commission may destroy these reports or return them to the recognised third party after a period of 2 years beginning with the date when the report was received by the Electoral Commission.

118. *Subsection (3)* amends section 149 of PPERA so that it applies to the quarterly and weekly reports which are open to inspection under new section 95F in the same way as it applies to other documents which the Electoral Commission are required to make available for inspection.

119. *Subsection (4)* amends section 155 of PPERA to include new section 95B and Schedule 11A, in the list of provisions to which *subsection (4)* of section 155 applies. The effect is that in each Parliament the Secretary of State or Lord President of the Council must make an order changing the £7,500 and £1,500 figures specified in new section 95B and Schedule 11A to take account of inflation or lay a statement before Parliament explaining why no order is being made.

120. *Subsection (5)* amends Schedule 1 to PPERA to ensure that an Electoral Commissioner will cease to be a Commissioner should they appear as a donor to a recognised third party in a quarterly or weekly report.

121. *Subsection (6)* amends the heading in Part 3 of Schedule 11 to PPERA to "Reporting of donations in section 96 return".

122. *Subsection (7)* inserts a new Schedule 11A into PPERA. Part 1 of the new Schedule 11A sets out various definitions which apply for the purposes of the Schedule.

123. Part 2 of the new Schedule 11A deals with quarterly reports. It provides that quarterly reports must contain a statement about each reportable donation of a substantial value accepted by the third party during the reporting period. The statement must contain details about the donor, the date the donation was accepted, where the donation is not money, the nature of the donation and its value and any other information required by regulations made by the Electoral Commission. Paragraph 4 of new Schedule 11A defines when a donation is "of a substantial value" i.e. donations of more than £7,500 (either alone or in aggregate) from the same donor which are accepted during the regulated period; and subsequent donations accepted from the same donor in later reporting periods which are more than £1,500 (either alone or in aggregate). Provision is made in paragraph 2(2) of new Schedule 11A to ensure that where an individual who has an anonymous entry in the electoral register is a donor, their name is not to be provided in any quarterly report. The report must also include a statement of the total value of all reportable donations not of a substantial value which are accepted during the reporting period.

124. Part 2 of the new Schedule 11A also sets out the details which must be included in a quarterly report of reportable donations from impermissible or unidentifiable donors dealt with during the reporting period. Paragraph 5 of new Schedule 11A provides that the quarterly report must include details of the name and address of the donor (where the donor is identifiable), the amount of the donation (where the donation is not money, the nature and value of the donation), the date the donation was received and the date and manner in which the donation was dealt with in accordance with section 56(2) of PPERA.

125. Part 3 of the new Schedule 11A deals with weekly reports. It states that weekly reports must contain a statement recording the appropriate details in relation to each substantial donation received by a recognised third party during that period. Appropriate details to be included within the weekly report include information about the donor, where the donation is money, the amount of the donation, where the donation is not money, the nature of the donation and its value, the date the donation was received and any other information required by regulations made by the Electoral Commission.

Section 34: Returns as to controlled expenditure

126. Section 34 provides that a recognised third party will not have to provide a spending return, or a statement of accounts, under section 96 of PPERA where they have registered with the Electoral Commission but have not incurred controlled expenditure in excess of the registration thresholds in section 94(5) or (5ZA) of PPERA. A return must include details of controlled expenditure for every part of the UK in which expenditure is incurred.

Section 35: Statements of accounts by recognised third parties

127. *Subsection (3)* inserts a new section, section 96A into PPERA. This section states that a recognised third party, as part of the return on controlled expenditure incurred during the regulated period for a UK Parliamentary General election prepared under section 96 of PPERA, will have to provide a statement of accounts for the regulated period subject to the exceptions in subsections (8) and (9) of new section 96A.

128. The new section 96A requires that the statement of accounts provide details of the income and expenditure of the recognised third party during the regulated period, alongside a statement of the recognised third parties assets and liabilities at the end of the period. The statement of accounts prepared under this section must comply with any requirement as to form and content which may be prescribed by the Electoral Commission. Individuals, who are a recognised third party, are excluded from the provisions in new section 96A. Additionally, recognised third parties (e.g. trade unions or companies) who prepare accounts under another enactment do not need to prepare accounts under section 96A if such accounts contain equivalent information, and can be inspected by the Commission. Provision is made for what constitutes 'equivalent information' for these purposes. The new section 96A states that the requirement to prepare a statement of accounts does not apply if the recognised third party is an individual, a recognised Gibraltar third party, or the Electoral Commission is satisfied that the recognised third party prepares accounts under another enactment. It also provides that a statement of accounts must be submitted to the Electoral Commission within 9 months of the end of the regulated period (where the accounts do not have to be audited) or 12 months (where the accounts do have to be audited).

129. *Subsection (4)* amends section 97 of PPERA to provide that where a recognised third party incurs gross income or total expenditure over £250,000 during the regulated period, the statement of accounts must be audited. The statement of accounts must also be audited where a report is required to be prepared under section 97(1) on a section 96A(1)(a) return.

130. *Subsection (5)* amends section 98 of PPERA and provides for a statement of accounts, which is required to be audited, to be delivered to the Electoral Commission within 12 months of the end of the regulated period.

131. *Subsection (6)* amends section 98(4) to include the offence of failing to prepare or deliver a statement accounts within the requirements of the new section 96A within the current offence in section 98 of PPERA.

132. *Subsection (7)* inserts a new section, section 99A, into PPERA which requires that the statement of accounts must be accompanied by a declaration by the responsible person of a recognised third party stating that the statement of accounts is a complete and correct record.

133. *Subsection (8)* amends section 100 of PPERA to require statements of accounts to be made available to the public by the Electoral Commission, alongside spending returns under section 96. After a period of two years, beginning with the date when the return is received by the Commission, the return, and any accounts accompanying it, may be destroyed or, if requested by the responsible person of a third party, be returned to that person.

134. *Subsection (9*) amends Schedule 20 to PPERA by providing for the penalties applicable for any offences committed under section 98 or the new section 99A. Subsection (9) states that if section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force before this Act is passed, then it applies to penalties under the new sections 98 and 99A.

Section 36: Third party expenditure in respect of candidates

135. *Subsection (1)* amends the "permitted sum" in section 75(1ZA)(a) of the Representation of the People Act 1983 ("the 1983 Act") so that the level of expenditure a third party can incur when campaigning for or against a candidate without being authorised by the agent increases from £500 to £700. This figure has been increased to £700 in order to take into account the level of inflation since 2000.

136. *Subsection (2)* inserts a new section, section 75ZA into the 1983 Act, which allows for the returning officer, or the Electoral Commission, to request a record of the expenditure of a third party at a candidate level up to six months after the date of poll. Where over £200 has been spent, a full return must be made outlining all incurred expenditure. If an individual incurs expenditure of less than £200, they can state this in their return and they will not have to provide a full record of the expenditure they incurred.

137. *Subsection (2)* inserts a further new section, section 75ZB, which requires a person to comply with a request for a record of expenditure from the returning officer or Electoral Commission within 21 days, and that the return must be accompanied by a declaration and contain details as to what expenses were incurred. A person who fails to provide a return or declaration will be guilty of an illegal practice. A person who knowingly makes a false declaration will be guilty of a corrupt practice.

Section 37: Candidate's personal expenses not to count for local election expenses limit in England and Wales

138. Section 37 excludes personal expenses from being considered towards candidates' expenses limits at local elections in England and Wales. This brings the consideration of personal expenses at those polls in line with the exclusion of personal expenses from candidates' election expenses limits at UK Parliamentary, Police and Crime Commissioner and Greater London Authority elections.

Section 38: Functions of Electoral Commission with respect to compliance

139. This section amends section 145 of PPERA to provide that the Electoral Commission must monitor, and take all reasonable steps to secure, compliance with the restrictions and other requirements imposed by or by virtue of sections 24, 31 and 34 (in Part 2), Parts 3 to 7, and section 143 and 148 (of Part 10) of that Act.

140. This section also extends the Electoral Commission's regulatory remit to cover provisions in Parts 2 and 10 of PPERA where civil sanctions are already available to it. This section also extends the Electoral Commission's regulatory remit into areas concerning party registration and renewal requirements in Part 2 of PPERA, as well as the rules for using imprints in election material in Part 10 of that Act.

Section 39: Post-election review

141. *Subsection (1)* requires the Minister to appoint a person to review the operation of the provisions of Part 6 of PPERA, as amended by Part 2 of this Act within 12 months of Royal Assent. The review will take place in relation to the first UK Parliamentary General election at which amendments made by Part 2 of this Act will have effect (expected to be the 2015 UK Parliamentary General election) in accordance with the provision of this section.

Part 3 - Trade Unions' Registers of Members

Section 40: Duty to provide membership audit certificate

142. The section inserts new section 24ZA into TULRCA which creates the duty on unions to provide a membership audit certificate.

143. This section introduces additional requirements to the existing duty in section 24(1) of TULRCA to maintain an accurate and up-to-date register of members. Those additional requirements are that unions must send, annually, to the CO a membership audit certificate that covers the reporting period. The section defines the reporting period as the same period in relation to which the union must submit an annual return. If a federated trade union is subject to the duty in section 24ZA but is not required to send an annual return, it is to be treated as though it is required to send an annual return for the purposes of sending the membership audit certificate. Where the trade union has more than 10,000 members the membership audit certificate will be provided by an assurer. In all other cases the membership audit certificate will be provided by an officer of the union. Any union branch or section that is subject to the duty in section 24ZA by reason of being a trade union will be treated as having discharged the duty to the extent to which the union of which they are a branch or section discharges the duty instead of it. The CO must at all reasonable hours keep copies of all membership audit certificates sent to the CO available for public inspection and must provide a copy of any certificate to a person on request – either free or on payment of a reasonable charge. The union must supply a copy of its most recent membership audit certificate on request – either free or on payment of a reasonable charge.

Section 41: Duty to appoint assurer etc

144. This section inserts new sections 24ZB to 24ZG into TULRCA which concern the appointment, removal, rights and duties of an assurer.

145. Under section 24ZB a union must appoint a qualified independent person to be an assurer if it has more than 10,000 members. A qualified independent person is someone who satisfies the conditions set out in an order made by the Secretary of State or who is listed by name in the order. They must also be someone the union believes will act competently and independently. The assurer's terms of appointment will require the assurer to provide the membership audit certificate and require the assurer to make whatever enquiries are necessary to do this. Section 24ZD provides that the certificate must state whether, in the assurer's opinion, the union's system for compiling and maintaining the register was satisfactory for the purposes of complying with its duty to compile and maintain a register under section 24(1) throughout the reporting period. The assurer must also state whether, in the assurer's opinion, the assurer was able to obtain in accordance with section 24ZE all the information or explanations needed to carry out the assurer's task. The assurer has powers under section 24ZE to request access to the register of members and other documents the assurer considers may be relevant and to require union officers to provide information or explanations the assurer considers necessary for the performance of the assurer's functions.

146. Section 24ZG imposes a duty on the assurer to treat the register of members as confidential by incorporating that duty into the terms of an assurer's appointment. This section will make consequential changes to sections 24A(3) and 299 of TULRCA to make clear that the meaning of "duty of confidentiality" in those sections is confined to the context of a scrutineer or independent person. The union's own rules must provide for the appointment and removal of an assurer. The appointment will continue until the assurer is removed in any of the circumstances set out in section 24ZC. Any union branch or section that is subject to the duties in sections 24ZB and 24ZC by reason of being a trade union will be treated as having discharged the duties to the extent to which the union of which they are a branch or section discharges the duties instead of it. Section 24ZF requires that an assurer who produces a negative audit certificate must send a copy to the CO as soon as is reasonably practicable after it is provided to the union. A negative certificate states that the system for compiling and maintaining the register is unsatisfactory, or the assurer has failed to obtain the information and explanations the assurer considers necessary. The negative certificate must state the assurer's reasons for making the statement and provide a description of the information or explanations and state whether that information or those explanations were required by the assurer under section 24ZE.

Section 42: Investigatory powers

147. This section inserts new sections 24ZH to 24ZK into TULRCA to provide for the CO to require the production of documents and appoint inspectors to investigate.

148. Section 24ZH gives power to the CO, if the CO thinks there is good reason to do so, to require a union, or any person who appears to be in possession of them, to produce its membership register or any other documents relevant to whether the union has complied with its duties under section 24(1) regarding the register, to the CO, to a member of the CO's staff or anyone else the CO has authorised. The CO or CO's agent has powers to take copies of the documents or to require the person who supplied the documents, an official or ex-official of the union, or an agent or ex-agent of the union (including an assurer), to provide an explanation. If the documents are not produced, the person required to supply them can be required to state, to the best of their knowledge and belief, where the documents are.

149. Under section 24ZI the CO may appoint a member of the CO's staff or a third party to investigate whether a union has complied with its duties under section 24(1) to maintain a membership register and to report back to the CO as required. This power can only be exercised where it appears to the CO that there are circumstances suggesting the union has failed to comply with its duties under that section or under section 24ZA or 24ZB. Officials or agents of a union (including an assurer) or any person who the inspector believes has relevant information may be required to cooperate with the inspector and to produce the membership register or any other documents the inspector considers may be relevant to whether the union has complied with its duties regarding the register. Such persons may also be required to meet the inspectors and to provide all reasonable assistance. Inspectors who are not members of the CO's staff are placed under a duty to treat the register of members as confidential.

150. Section 24ZJ provides for the provision of written interim and final reports to the CO. A final report is to be produced unless the CO directs the inspector to take only specified further steps or no further steps in the investigation and that a final report is not required. An inspector can inform the CO of anything coming to their knowledge as a result of the investigation and must do so if the CO asks.

151. Section 24ZK contains limitations on the duties of disclosure contained in sections 24ZH and 24ZI. Information subject to legal professional privilege is not subject to the disclosure requirements although a lawyer could be required to disclose the name and address of their client. A person cannot refuse to provide an explanation or make a statement on the grounds that it may expose them to proceedings for an offence but any explanation or statement provided can only be used in evidence against them in a prosecution for an offence where that person makes a statement which is inconsistent with it. This section will also make a consequential change to section 24A(4)(b) of TULRCA to provide that one of the permitted circumstances for the disclosure of a member's name and address under that section is where it is required by the CO.

Section 43: Enforcement

152. This section inserts *new sections 24B and 24C* into TULRCA to provide for the enforcement of the new duties on unions and of the new requirements imposed.

153. Section 24B gives the CO power to make a declaration that a trade union has failed to comply with the duties relating to the register of members under section 24(1) and the new duties imposed by section 24ZA to 24ZC. Before doing so, the CO may make enquiries and may give the union an opportunity to make oral representations. He must give the union the opportunity to make written representations and must also give written reasons for making the declaration. If, having given an opportunity for written representations, the CO determines not to make a declaration that the union has failed to comply with a duty the CO must give the union written notice of that determination.

154. Where the CO makes a declaration that the union has failed to comply with a duty, the CO must also make an enforcement order, unless he considers it would be inappropriate to do so.

155. If the CO requests a person to provide information in connection with the CO's enquiries under section 24B the CO must specify a date by which the information must be provided. If that deadline is not met, the CO must proceed to determining whether to make a declaration unless it would be inappropriate to do so. Declarations and enforcement orders made by the CO under the powers contained in section 24B can be relied upon and enforced as though they were an order of the court. They are enforceable by the CO and by any person who is a member of the union and was a member when the enforcement order was made.

156. Section 24C gives the CO power to make an enforcement order requiring a union or person to comply with any requirement to produce documents, to supply information or to cooperate with inspectors under section 24ZH or 24ZI. Any order made must specify what it is that the union or individual has failed to do and the date by which they must comply and can be enforced in the same way as an order of the court. Before making such an order the CO must give the union or any other person an opportunity to be heard and can only make the order if the CO is satisfied that it is reasonably practicable for the union or person to comply with the duty and, where the order is for the production of documents, if the CO is satisfied that the documents are in the possession of that union or person.

157. Section 25 of TULRCA gives the CO a power to determine whether a union is complying with the requirements in section 24 if a member of the union applies for a declaration that the union has failed to do so. The CO is required to ensure that any such application is determined within six months of it being made, insofar as this is reasonably practicable. Section 43(4) amends this section so that circumstances in which it may not be reasonably practicable to fulfil this requirement include those where delay is caused by the exercise of powers under sections 24ZH or 24ZI.

158. Section 43(5) amends section 26 of TULRCA to provide that, where a person applies to the court alleging failure of the union to comply with its duties the court must have regard to any declaration or order regarding that failure made under section 24B. Section 43(6) amends section 45D of TULRCA so that any decision of the CO under section 24B or 24C can be appealed on a question of law to the Employment Appeal Tribunal. Section 43(3) amends section 24(6) of TULRCA to highlight the CO's new powers under section 24B. Section 43(7) extends the power of the CO under section 256(1) of TULRCA so that the CO may regulate the procedure to be followed with respect to new sections 24B and 24C.

Part 4 - Supplementary

Section 45: Commencement

159. This section provides for commencement. Details are in paragraph 169 below.

Section 46: Transitional provision

160. The Act amends the third party controlled expenditure limits (section 28), impacts on expenditure which counts towards the spending limit of a registered political party (section 30), introduces constituency spending limits (section 29), widens the scope of campaign expenditure (section 26 and Schedule 3) and requires third parties to publish a statement of their accounts (section 35). This section ensures that these changes will apply for future regulated periods (which operate in relation to UK Parliamentary General elections and elections to the European Parliament and the devolved legislatures) and will also apply for the regulated period for the next UK Parliamentary General election.

161. Ordinarily, the regulated period for a UK Parliamentary General election starts 365 days before the election. However, where that period overlaps with a regulated period for an election to the European Parliament or a devolved legislature, a longer combined period is substituted. In the absence of this provision, this would have happened for the next UK Parliamentary General election, the date for which has been fixed as 7 May 2015 by section 1(2) of the Fixed-term Parliaments Act 2011, as an election for the European Parliament is due to be held on 22 May 2014. Section 46 however makes provision to deal with this situation by creating bespoke regulated periods that will apply only in relation to the next UK Parliamentary General election.

162. The regulated period for third parties ("the Schedule 10 transitional period").will begin on 19 September 2014 and will run until the date of the parliamentary general election. The regulated period for political parties ("the Schedule 9 transitional period") will begin on 23 May 2014, and will run until the date of the UK Parliamentary General election.

163. *Subsection (7)* provides that the transitional period does not apply in relation to the next parliamentary general election if that election takes place before May 2015.

164. Section 46 also allows the Minister to disapply, by order, the provisions for a transitional period should a poll for an extraordinary general election to the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly take place during the course of the regulated UK Parliamentary General election period. In that instance, the Minister may make, by order, alternative transitional provisions.

Section 47: Power to make consequential provision

165. Section 47 introduces a power to make consequential provision by order. An order may amend PPERA. It would be subject to the affirmative resolution procedure if it were to amend primary legislation. An order may not be made after the date of the poll of the next scheduled UK Parliamentary General election.

Section 48: Extent

166. This section sets out the territorial extent of the various provisions in the Act. Part 1 of the Act extends to the whole of the United Kingdom. Parts 2 and 3 of the Act operate by amending existing legislation. In order to ensure that they work coherently with that legislation, the section provides that they have the same extent as the enactment that they are amending or repealing. In most cases this means they will extend to the United Kingdom, but in some instances in Part 2 they will extend to Gibraltar as well. Part 4, which includes supplementary provision about the Act, extends to the United Kingdom and Gibraltar.

Section 49: Short title

167. This section sets out the short title of the Act.