

SCHEDULES

SCHEDULE 5

Control of donations to candidates

PART 2

Controls on donations

Prohibition on accepting donations from impermissible donors

6.—(1) A relevant donation received by a candidate or the candidate’s election agent must not be accepted if—

- (a) the person by whom the donation would be made is not, at the time of its receipt by the candidate or (as the case may be) the candidate’s election agent, a permissible donor falling within section 54(2) of the 2000 Act, or
- (b) the candidate or (as the case may be) the candidate’s election agent is (whether because the donation is given anonymously or by reason of any deception or concealment or otherwise) unable to ascertain the identity of the person offering the donation.

(2) For the purposes of this Schedule, any relevant donation received by a candidate or the candidate’s election agent which is an exempt trust donation is to be regarded as a relevant donation received by the candidate or the candidate’s election agent from a permissible donor; and section 162 of the 2000 Act (interpretation: exempt trust donations) applies for the purposes of this Schedule as it applies for the purposes of that Act.

(3) But, for the purposes of this Schedule, any relevant donation received by a candidate or the candidate’s election agent from a trustee of any property (in the trustee’s capacity as such) which is not—

- (a) an exempt trust donation, or
- (b) a relevant donation transmitted by the trustee to the candidate or the candidate’s election agent on behalf of beneficiaries under the trust who are—
 - (i) persons who at the time of its receipt by the candidate or the candidate’s election agent are permissible donors falling within section 54(2) of the 2000 Act, or
 - (ii) the members of an unincorporated association which at that time is such a permissible donor,

is to be regarded as a relevant donation received by the candidate or the candidate’s election agent from a person who is not such a permissible donor.

(4) Where any person (“the principal donor”) causes an amount (“the principal donation”) to be received by a candidate or the candidate’s election agent by way of a relevant donation—

- (a) on behalf of the principal donor and one or more other persons, or
- (b) on behalf of two or more other persons,

then for the purposes of this Part each individual contribution by a person falling within paragraph (a) or (b) of more than £50 is treated as if it were a separate donation received from that person.

Status: This is the original version (as it was originally made).

(5) In relation to each such separate donation, the principal donor must ensure that, at the time when the principal donation is received by the candidate or the candidate's election agent, the candidate or (as the case may be) the candidate's election agent is given—

- (a) (except in the case of a donation which the principal donor is treated as making) all such details in respect of the person treated as making the donation as are required by virtue of paragraph 11(c), and
- (b) (in any case) all such details in respect of the donation as are required by virtue of paragraph 11(a).

(6) Where—

- (a) any person ("the agent") causes an amount to be received by a candidate or the candidate's election agent by way of a donation on behalf of another person ("the donor"), and
- (b) the amount of the donation is more than £50,

the agent must ensure that, at the time when the donation is received by the candidate or the candidate's election agent, the candidate or (as the case may be) the candidate's election agent is given all such details in respect of the donor as are required by virtue of paragraph 11(c).

(7) A person commits an offence if, without reasonable excuse, the person fails to comply with sub-paragraph (5) or (6).

(8) A person guilty of an offence under sub-paragraph (7) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding 6 months (or both);
- (b) on conviction on indictment, to a fine or to a term of imprisonment not exceeding one year (or both).

Acceptance or return of donations

7.—(1) Sections 56 to 60 of the 2000 Act apply for the purposes of this Schedule in relation to—

- (a) a relevant donation received by a candidate or the candidate's election agent, and
- (b) the candidate or (as the case may be) the election agent,

as they apply in relation to a donation received by a registered party and the registered party.

(2) In the application of sections 56 to 60 of that Act in accordance with sub-paragraph (1)—

- (a) section 56(1) has effect as if the reference to the particulars relating to a donor which would be required to be included in a donation report by virtue of paragraph 2 of Schedule 6 to that Act (if the donation were a recordable donation within the meaning of that Schedule) were a reference to the particulars which are required to be included in a return by virtue of paragraph 11(c) of this Schedule,
- (b) section 56(3) has effect as if the reference to the party were omitted and the reference to the treasurer of the party were a reference to the candidate or (as the case may be) the candidate's election agent, and
- (c) section 56(4) has effect as if the reference to the treasurer of the party were a reference to the candidate or (as the case may be) the candidate's election agent.

Transfer of donations received by candidate to election agent

8.—(1) Sub-paragraph (2) applies in relation to any relevant donation received by a candidate after the deadline for appointing an election agent (unless the candidate is, or is deemed to be, also acting as the election agent at the time of receipt of the donation).

(2) The candidate must, on receipt of any such donation as is mentioned in sub-paragraph (1), forthwith deliver to the candidate's election agent—

- (a) the donation,
 - (b) where paragraph 6(5) or (6) applies in relation to the donation, the information provided to the candidate in pursuance of that provision, and
 - (c) any other information which the candidate has about the donation and its donor which might reasonably be expected to assist the election agent in the discharge of any duties imposed on the agent, in relation to the donation, under this Part or Part 3 of this Schedule.
- (3) Where a donation is delivered to an election agent in accordance with sub-paragraph (2), the donation is treated for the purposes of paragraph 6(1) to (4) and the provisions applied by paragraph 7 as if it had been—
- (a) originally received by the election agent, and
 - (b) so received by the agent on the date on which it was received by the candidate.
- (4) Where a candidate receives a relevant donation before the deadline for appointing an election agent but at a time when an appointment of a person (other than the candidate) as election agent is in force the candidate must either—
- (a) forthwith deliver the donation and the information mentioned in sub-paragraph (2)(b) and (c) to the election agent, or
 - (b) (if the candidate fails to make such delivery) deal with the donation in accordance with section 56 of the 2000 Act.
- (5) Sub-paragraph (3) has effect in relation to any relevant donation delivered to an election agent in accordance with sub-paragraph (4)(a) as it has effect in relation to a donation delivered to the election agent in accordance with sub-paragraph (2).
- (6) Sub-paragraph (7) applies where—
- (a) a relevant donation received by a candidate before the deadline for appointing an election agent has been dealt with by the candidate in accordance with section 56 of the 2000 Act either because—
 - (i) it was received by the candidate at a time when no appointment of another person as the candidate's election agent was in force, or
 - (ii) although such an appointment was in force, the candidate was by virtue of sub-paragraph (4)(b) required to deal with the donation, and
 - (b) an appointment of a person (other than the candidate) as election agent is in force at, or at any time after—
 - (i) the deadline for appointing an election agent, or
 - (ii) if later, the time when the candidate has dealt with the donation in accordance with section 56 of the 2000 Act.
- (7) Subject to sub-paragraph (9), the candidate must, as soon as reasonably practicable after the relevant time, deliver to the election agent—
- (a) the donation (if it has been accepted by the candidate), and
 - (b) any information which the candidate has about the donation and the donor which might reasonably be expected to assist the election agent in the discharge of any duties imposed on the agent, in relation to the donation, under Part 3 of this Schedule.
- (8) The relevant time for the purposes of sub-paragraph (7) is—
- (a) the time mentioned in sub-paragraph (6)(b)(i) or (ii) (as the case may be) if the appointment of another person as election agent is in force at that time, or
 - (b) otherwise, the time when any such appointment subsequently comes into force.

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(9) The duty imposed on a candidate by sub-paragraph (7)(a) does not apply to any relevant donation to the extent to which it has been lawfully used by the candidate for the purpose of paying election expenses.

(10) In this paragraph—

(a) any reference to the deadline for appointing an election agent is a reference to the latest time by which an election agent may in accordance with article 26(1) be named as election agent by the candidate, and

(b) any reference to any provision of section 56 of the 2000 Act is a reference to that provision as applied by paragraph 7.

Evasion of restrictions on donations

9. Section 61 of the 2000 Act applies for the purposes of this Schedule as if—

(a) any reference to donations were to relevant donations,

(b) any reference to a registered party were, in relation to a relevant donation, a reference to a candidate or (as the case may be) the candidate's election agent, and

(c) any reference in subsection (2) to the treasurer of a registered party were, in relation to a relevant donation, a reference to either the candidate or the candidate's election agent (or both).