

POLITICAL PARTIES AND ELECTIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

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

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

was made. *Sub-paragraphs (2)(a) and (4)* have the effect of requiring the Commission to give 45 days notice of its intention to include in the register details about the person who made the gift. If, within that time, the Commission receives 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.