

SCHEDULES

SCHEDULE 1

Section 2

INVESTIGATORY POWERS OF COMMISSION: SCHEDULE TO BE INSERTED INTO THE 2000 ACT

Commencement Information

II Sch. 1 in force at 1.12.2010 by S.I. 2010/2866, art. 3(e) (with art. 5)

“SCHEDULE 19B

Section 146

INVESTIGATORY POWERS OF COMMISSION

Power to require disclosure

- 1 (1) This paragraph applies to the following organisations and individuals—
- (a) a registered party or, in the case of a registered party with accounting units—
 - (i) the central organisation of the party;
 - (ii) an accounting unit of the party;
 - (b) a recognised third party (within the meaning of Part 6);
 - (c) a permitted participant (within the meaning of Part 7);
 - (d) a regulated donee (within the meaning of Schedule 7);
 - (e) a regulated participant (within the meaning of Schedule 7A);
 - (f) a candidate at an election (other than a local government election in Scotland);
 - (g) the election agent for such a candidate;
 - (h) an organisation or individual formerly falling within any of paragraphs (a) to (g).
- (2) The Commission may give a disclosure notice to a person who—
- (a) is the treasurer or another officer of an organisation to which this paragraph applies, or has been at any time in the period of five years ending with the day on which the notice is given; or
 - (b) is an individual to whom this paragraph applies.
- (3) A disclosure notice is a notice requiring the person to whom it is given—
- (a) to produce, for inspection by the Commission or a person authorised by the Commission, any documents which—
 - (i) relate to the income and expenditure of the organisation or individual in question, and
 - (ii) are reasonably required by the Commission for the purposes of carrying out their functions;
- or

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- (b) to provide the Commission, or a person authorised by the Commission, with any information or explanation which relates to that income and expenditure and is reasonably required by the Commission for those purposes.
- (4) A person to whom a disclosure notice is given shall comply with it within such reasonable time as is specified in the notice.

Inspection warrants

- 2 (1) This paragraph applies to the following organisations and individuals—
- (a) a registered party or, in the case of a registered party with accounting units—
 - (i) the central organisation of the party;
 - (ii) an accounting unit of the party;
 - (b) a recognised third party (within the meaning of Part 6);
 - (c) a permitted participant (within the meaning of Part 7);
 - (d) a members association (within the meaning of Schedule 7).
- (2) A justice of the peace may issue an inspection warrant in relation to premises occupied by any such organisation or individual if satisfied, on information on oath given by or on behalf of the Commission, that—
- (a) there are reasonable grounds for believing that on those premises there are documents relating to the income and expenditure of the organisation or individual,
 - (b) the Commission need to inspect the documents for the purposes of carrying out functions of the Commission other than investigatory functions, and
 - (c) permission to inspect the documents on the premises has been requested by the Commission and has been unreasonably refused.
- (3) An inspection warrant is a warrant authorising a member of the Commission's staff—
- (a) at any reasonable time to enter the premises specified in the warrant, and
 - (b) having entered the premises, to inspect any documents within sub-paragraph (2) (a).
- (4) An inspection warrant also authorises the person who executes the warrant to be accompanied by any other persons who the Commission consider are needed to assist in executing it.
- (5) The person executing an inspection warrant must, if required to do so, produce—
- (a) the warrant, and
 - (b) documentary evidence that the person is a member of the Commission's staff, for inspection by the occupier of the premises that are specified in the warrant or by anyone acting on the occupier's behalf.
- (6) An inspection warrant continues in force until the end of the period of one month beginning with the day on which it is issued.
- (7) An inspection warrant may not be used for the purposes of carrying out investigatory functions.
- (8) In this paragraph “investigatory functions” means functions of investigating suspected offences under this Act or suspected contraventions of restrictions or requirements imposed by or by virtue of this Act.

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- (9) In the application of this paragraph to Scotland—
- (a) a reference to a justice of the peace is to be read as a reference to a justice of the peace or a sheriff;
 - (b) a reference to information on oath is to be read as a reference to evidence on oath.

Powers in relation to suspected offences or contraventions

- 3 (1) This paragraph applies where the Commission have reasonable grounds to suspect that—
- (a) a person has committed an offence under this Act, or
 - (b) a person has contravened (otherwise than by committing an offence) any restriction or other requirement imposed by or by virtue of this Act.

In this paragraph “the suspected offence or contravention” means the offence or contravention referred to above.

- (2) The Commission may by notice require any person (including an organisation to which, or an individual to whom, paragraph 1 applies)—
- (a) to produce, for inspection by the Commission or a person authorised by the Commission, any documents that they reasonably require for the purposes of investigating the suspected offence or contravention;
 - (b) to provide the Commission, or a person authorised by the Commission, with any information or explanation that they reasonably require for those purposes.
- (3) A person to whom a notice is given under sub-paragraph (2) shall comply with it within such reasonable time as is specified in the notice.
- (4) A person authorised by the Commission (“the investigator”) may require—
- (a) the person mentioned in sub-paragraph (1), if that person is an individual, or
 - (b) an individual who the investigator reasonably believes has relevant information,
- to attend before the investigator at a specified time and place and answer any questions that the investigator reasonably considers to be relevant.
- (5) In sub-paragraph (4) “relevant” means relevant to an investigation by the Commission of the suspected offence or contravention.

Court order for delivery of documents or provision of information etc

- 4 (1) This paragraph applies where the Commission have given a notice under paragraph 3 requiring documents to be produced.
- (2) The High Court or (in Scotland) the Court of Session may make a document-disclosure order against a person (“the respondent”) if satisfied on an application by the Commission that—
- (a) there are reasonable grounds to suspect that a person (whether or not the respondent) has committed an offence under this Act or has contravened (otherwise than by committing an offence) any restriction or other requirement imposed by or by virtue of this Act, and
 - (b) there are documents referred to in the notice under paragraph 3 which—

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- (i) have not been produced as required by the notice (either within the time specified in the notice for compliance or subsequently),
 - (ii) are reasonably required by the Commission for the purposes of investigating the offence or contravention referred to in paragraph (a), and
 - (iii) are in the custody or under the control of the respondent.
- (3) A document-disclosure order is an order requiring the respondent to deliver to the Commission, within such time as is specified in the order, such documents falling within sub-paragraph (2)(b) as are identified in the order (either specifically or by reference to any category or description of document).
- (4) For the purposes of sub-paragraph (2)(b)(iii) a document is under a person's control if it is in the person's possession or if the person has a right to possession of it.
- (5) A person who fails to comply with a document-disclosure order may not, in respect of that failure, be both punished for contempt of court and convicted of an offence under paragraph 13(1).
- 5 (1) This paragraph applies where the Commission have given a notice under paragraph 3 requiring any information or explanation to be provided.
- (2) The High Court or (in Scotland) the Court of Session may make an information-disclosure order against a person (“the respondent”) if satisfied on an application by the Commission that—
- (a) there are reasonable grounds to suspect that a person (whether or not the respondent) has committed an offence under this Act or has contravened (otherwise than by committing an offence) any restriction or other requirement imposed by or by virtue of this Act, and
 - (b) there is any information or explanation referred to in the notice under paragraph 3 which—
 - (i) has not been provided as required by the notice (either within the time specified in the notice for compliance or subsequently),
 - (ii) is reasonably required by the Commission for the purposes of investigating the offence or contravention referred to in paragraph (a), and
 - (iii) the respondent is able to provide.
- (3) An information-disclosure order is an order requiring the respondent to provide to the Commission, within such time as is specified in the order, such information or explanation falling within sub-paragraph (2)(b) as is identified in the order.
- (4) A person who fails to comply with an information-disclosure order may not, in respect of that failure, be both punished for contempt of court and convicted of an offence under paragraph 13(1).

Retention of documents delivered under paragraph 4

- 6 (1) The Commission may retain any documents delivered to them in compliance with an order under paragraph 4 for a period of three months (or for longer if any of following sub-paragraphs applies).

In this paragraph “the documents” and “the three-month period” mean the documents and the period mentioned above.

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- (2) If within the three-month period proceedings to which the documents are relevant are commenced against any person for any criminal offence, the documents may be retained until the conclusion of those proceedings.
- (3) If within the three-month period the Commission serve a notice under paragraph 2(1) of Schedule 19C of a proposal to impose a fixed monetary penalty on any person and the documents are relevant to the decision to serve the notice, the documents may be retained—
- (a) until liability for the penalty is discharged as mentioned in paragraph 2(2) of that Schedule (if it is);
 - (b) until the Commission decide not to impose a fixed monetary penalty (if that is what they decide);
 - (c) until the end of the period given by sub-paragraph (5) (if they do impose a fixed monetary penalty).
- (4) If within the three-month period the Commission serve a notice under paragraph 6(1) of Schedule 19C of a proposal to impose a discretionary requirement on any person and the documents are relevant to the decision to serve the notice, the documents may be retained—
- (a) until the Commission decide not to impose a discretionary requirement (if that is what they decide);
 - (b) until the end of the period given by sub-paragraph (5) (if they do impose a discretionary requirement).
- (5) If within the three-month period—
- (a) a notice is served imposing a fixed monetary penalty on any person under paragraph 2(4) of Schedule 19C and the documents are relevant to the decision to impose the penalty, or
 - (b) a notice is served imposing a discretionary requirement on any person under paragraph 6(5) of that Schedule and the documents are relevant to the decision to impose the requirement,
- the documents may be retained until the end of the period allowed for bringing an appeal against that decision or (if an appeal is brought) until the conclusion of proceedings on the appeal.
- (6) If within the three-month period—
- (a) a stop notice is served on any person under paragraph 10 of Schedule 19C, and
 - (b) the documents are relevant to the decision to serve the notice,
- the documents may be retained until the end of the period allowed for bringing an appeal against that decision or (if an appeal is brought) until the conclusion of proceedings on the appeal.
- (7) If within the three-month period or the period given by sub-paragraph (6) (or, if applicable, by sub-paragraph (4) or (5)(b))—
- (a) the Commission, having served a stop notice on any person under paragraph 10 of Schedule 19C, decide not to issue a completion certificate under paragraph 12 of that Schedule in relation to the stop notice, and
 - (b) the documents are relevant to the decision not to issue the certificate,
- the documents may be retained until the end of the period allowed for bringing an appeal against that decision or (if an appeal is brought) until the conclusion of proceedings on the appeal.

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Power to make copies and records

- 7 The Commission or a person authorised by the Commission—
- (a) may make copies of, or make records of any information contained in—
 - (i) any documents produced or inspected under this Schedule;
 - (ii) any documents delivered to them in compliance with an order under paragraph 4;
 - (b) may make copies or records of any information or explanation provided under this Schedule.

Authorisation to be in writing

- 8 An authorisation of a person by the Commission under this Schedule must be in writing.

Meaning of “documents”

- 9 In this Schedule “documents” includes any books or records.

Documents in electronic form

- 10 (1) In the case of documents kept in electronic form—
- (a) a power of the Commission under this Schedule to require documents to be produced for inspection includes power to require a copy of the documents to be made available for inspection in legible form;
 - (b) a power of a person (“the inspector”) under this Schedule to inspect documents includes power to require any person on the premises in question to give any assistance that the inspector reasonably requires to enable the inspector—
 - (i) to inspect and make copies of the documents in legible form or to make records of information contained in them, or
 - (ii) to inspect and check the operation of any computer, and any associated apparatus or material, that is or has been in use in connection with the keeping of the documents.
- (2) Paragraph 7(a) applies in relation to any copy made available as mentioned in sub-paragraph (1)(a) above.

Legal professional privilege

- 11 Nothing in this Schedule requires a person to produce or provide, or authorises a person to inspect or take possession of, anything in respect of which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

Admissibility of statements

- 12 (1) A statement made by a person (“P”) in compliance with a requirement imposed under this Schedule is admissible in evidence in any proceedings (as long as it also complies with any requirements governing the admissibility of evidence in the circumstances in question).
- (2) But in criminal proceedings in which P is charged with an offence other than one to which sub-paragraph (3) applies or in proceedings within sub-paragraph (4) to which both the Commission and P are parties—

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- (a) no evidence relating to the statement is admissible against P, and
 - (b) no question relating to the statement may be asked on behalf of the prosecution or (as the case may be) the Commission in cross-examination of P,
- unless evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of P.
- (3) This sub-paragraph applies to—
- (a) an offence under paragraph 13(3);
 - (b) an offence under section 5 of the Perjury Act 1911 (false statements made otherwise than on oath);
 - (c) an offence under section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made otherwise than on oath);
 - (d) an offence under Article 10 of the Perjury (Northern Ireland) Order 1979 (false statements made otherwise than on oath).
- (4) Proceedings are within this sub-paragraph if they arise out of the exercise by the Commission of any of their powers under Schedule 19C other than powers in relation to an offence under paragraph 13(3) below.

Offences

- 13 (1) A person who fails, without reasonable excuse, to comply with any requirement imposed under or by virtue of this Schedule commits an offence.
- (2) A person who intentionally obstructs a person authorised by or by virtue of this Schedule in the carrying out of that person's functions under the authorisation commits an offence.
- (3) A person who knowingly or recklessly provides false information in purported compliance with a requirement imposed under or by virtue of this Schedule commits an offence.

Guidance by Commission

- 14 (1) The Commission shall prepare and publish guidance as to—
- (a) the circumstances in which the Commission are likely to give a notice under paragraph 1 or 3(2);
 - (b) the consequences (including criminal sanctions) that may result from a failure to comply with such a notice;
 - (c) the circumstances in which the Commission are likely to apply for a warrant under paragraph 2;
 - (d) the procedures to be followed in connection with questioning under paragraph 3(4);
 - (e) the circumstances in which the Commission are likely to apply for an order under paragraph 4 or 5;
 - (f) the principles and practices to be applied in connection with the exercise of powers under paragraphs 6 and 7;
 - (g) any other matters concerning the exercise of powers under this Schedule about which the Commission consider that guidance would be useful.
- (2) Where appropriate, the Commission shall revise guidance published under this paragraph and publish the revised guidance.

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- (3) The Commission shall consult such persons as they consider appropriate before publishing guidance or revised guidance under this paragraph.
- (4) The Commission shall have regard to the guidance or revised guidance published under this paragraph in exercising their functions.

Information about use of investigatory powers in Commission's annual report

- 15 (1) Each report by the Commission under paragraph 20 of Schedule 1 shall contain information about the use made by the Commission of their powers under this Schedule during the year in question.
- (2) The report shall, in particular, specify—
- (a) the cases in which a notice was given under paragraph 1 or 3(2);
 - (b) the cases in which premises were entered under a warrant issued under paragraph 2;
 - (c) the cases in which a requirement was imposed under paragraph 3(4);
 - (d) the cases in which an order under paragraph 4 or 5—
 - (i) was applied for;
 - (ii) was made.
- (3) This paragraph does not require the Commission to include in a report any information that, in their opinion, it would be inappropriate to include on the ground that to do so—
- (a) would or might be unlawful, or
 - (b) might adversely affect any current investigation or proceedings.”

SCHEDULE 2

Section 3

CIVIL SANCTIONS: SCHEDULE TO BE INSERTED INTO THE 2000 ACT

Commencement Information

I2 [Sch. 2](#) in force at 1.12.2010 by [S.I. 2010/2866](#), [art. 3\(f\)](#) (with [art. 6](#))

“SCHEDULE 19C

Section 147

CIVIL SANCTIONS

PART 1

FIXED MONETARY PENALTIES

Imposition of fixed monetary penalties

- 1 (1) The Commission may by notice impose a fixed monetary penalty on a person if satisfied beyond reasonable doubt that the person—
- (a) has committed a prescribed offence under this Act, or

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- (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (2) The Commission may by notice impose a fixed monetary penalty on a registered party if satisfied beyond reasonable doubt that a person holding an office within that party—
 - (a) has committed a prescribed offence under this Act, or
 - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (3) The Commission may by notice impose a fixed monetary penalty on a recognised third party if satisfied beyond reasonable doubt that the responsible person—
 - (a) has committed a prescribed offence under this Act, or
 - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (4) The Commission may by notice impose a fixed monetary penalty on a permitted participant if satisfied beyond reasonable doubt that the responsible person—
 - (a) has committed a prescribed offence under this Act, or
 - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (5) For the purposes of this Schedule a “fixed monetary penalty” is a requirement to pay to the Commission a penalty of a prescribed amount.
- (6) In the case of a fixed monetary penalty imposed under sub-paragraph (1)(a), (2)(a), (3)(a) or (4)(a), where the offence in question is—
 - (a) triable summarily (whether or not it is also triable on indictment), and
 - (b) punishable on summary conviction by a fine (whether or not it is also punishable by a term of imprisonment),the amount of the penalty may not exceed the maximum amount of that fine.

Representations and appeals etc

- 2 (1) Where the Commission propose to impose a fixed monetary penalty on a person, they shall serve on the person a notice of what is proposed.
- (2) A notice under sub-paragraph (1) must offer the person the opportunity to discharge the person's liability for the fixed monetary penalty by payment of a prescribed sum (which must be less than or equal to the amount of the penalty).

The following provisions of this paragraph apply if the person does not do so.
- (3) The person may make written representations and objections to the Commission in relation to the proposed imposition of the fixed monetary penalty.
- (4) After the end of the period for making such representations and objections (see paragraph 3(2)) the Commission shall decide whether to impose the fixed monetary penalty.

If they decide to do so they shall serve on the person a notice imposing the penalty.
- (5) The Commission may not impose a fixed monetary penalty on a person—
 - (a) if, taking into account (in particular) any matter raised by the person, the Commission are no longer satisfied as mentioned in paragraph 1(1), (2), (3) or (4) (as applicable);

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- (b) in such other circumstances as may be prescribed.
- (6) A person on whom a fixed monetary penalty is imposed may appeal against the decision to impose the penalty on the ground that—
 - (a) it was based on an error of fact,
 - (b) it was wrong in law, or
 - (c) it was unreasonable,
 or on such other grounds as may be prescribed.
- (7) An appeal under sub-paragraph (6) is to a county court or (in Scotland) the sheriff.

Information to be included in notices under paragraph 2

- 3 (1) A notice under paragraph 2(1) must include information as to—
 - (a) the grounds for the proposal to impose the fixed monetary penalty;
 - (b) the effect of payment of the sum referred to in paragraph 2(2);
 - (c) the right to make representations and objections;
 - (d) the circumstances in which the Commission may not impose the fixed monetary penalty.
- (2) Such a notice must also specify—
 - (a) the period within which liability for the fixed monetary penalty may be discharged, and
 - (b) the period within which representations and objections may be made.

Neither period may be more than 28 days beginning with the day on which the notice is received.
- (3) A notice under paragraph 2(4) must include information as to—
 - (a) the grounds for imposing the fixed monetary penalty;
 - (b) how payment may be made;
 - (c) the period within which payment may be made;
 - (d) any early payment discounts or late payment penalties;
 - (e) rights of appeal;
 - (f) the consequences of non-payment.

Fixed monetary penalties: criminal proceedings and conviction

- 4 (1) Where a notice under paragraph 2(1) is served on a person—
 - (a) no criminal proceedings for an offence under this Act may be instituted against the person in respect of the act or omission to which the notice relates before the end of the period within which the person's liability may be discharged as mentioned in paragraph 2(2) (see paragraph 3(2));
 - (b) if the liability is so discharged, the person may not at any time be convicted of an offence under this Act in relation to that act or omission.
- (2) A person on whom a fixed monetary penalty is imposed may not at any time be convicted of an offence under this Act in respect of the act or omission giving rise to the penalty.

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PART 2

DISCRETIONARY REQUIREMENTS

Imposition of discretionary requirements

- 5 (1) The Commission may impose one or more discretionary requirements on a person if satisfied beyond reasonable doubt that the person—
- (a) has committed a prescribed offence under this Act, or
 - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (2) The Commission may impose one or more discretionary requirements on a registered party if satisfied beyond reasonable doubt that a person holding an office within that party—
- (a) has committed a prescribed offence under this Act, or
 - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (3) The Commission may impose one or more discretionary requirements on a recognised third party if satisfied beyond reasonable doubt that the responsible person—
- (a) has committed a prescribed offence under this Act, or
 - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (4) The Commission may impose one or more discretionary requirements on a permitted participant if satisfied beyond reasonable doubt that the responsible person—
- (a) has committed a prescribed offence under this Act, or
 - (b) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act.
- (5) For the purposes of this Schedule a “discretionary requirement” is—
- (a) a requirement to pay a monetary penalty to the Commission of such amount as the Commission may determine,
 - (b) a requirement to take such steps as the Commission may specify, within such period as they may specify, to secure that the offence or contravention does not continue or recur, or
 - (c) a requirement to take such steps as the Commission may specify, within such period as they may specify, to secure that the position is, so far as possible, restored to what it would have been if the offence or contravention had not happened.
- (6) Discretionary requirements may not be imposed on the same person on more than one occasion in relation to the same act or omission.
- (7) In this Schedule—
- “variable monetary penalty” means such a requirement as is referred to in sub-paragraph (5)(a);
 - “non-monetary discretionary requirement” means such a requirement as is referred to in sub-paragraph (5)(b) or (c).
- (8) In the case of a variable monetary penalty imposed under sub-paragraph (1)(a), (2)(a), (3)(a) or (4)(a), where the offence in question is—

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- (a) triable summarily only, and
 - (b) punishable on summary conviction by a fine (whether or not it is also punishable by a term of imprisonment),
- the amount of the penalty may not exceed the maximum amount of that fine.

Representations and appeals etc

- 6 (1) Where the Commission propose to impose a discretionary requirement on a person, they shall serve on the person a notice of what is proposed.
- (2) A person served with a notice under sub-paragraph (1) may make written representations and objections to the Commission in relation to the proposed imposition of the discretionary requirement.
- (3) After the end of the period for making such representations and objections (see paragraph 7(2)) the Commission shall decide whether—
- (a) to impose the discretionary requirement, with or without modifications, or
 - (b) to impose any other discretionary requirement that the Commission have power to impose under paragraph 5.
- (4) The Commission may not impose a discretionary requirement on a person—
- (a) if, taking into account (in particular) any matter raised by the person, the Commission are no longer satisfied as mentioned in paragraph 5(1), (2), (3) or (4) (as applicable);
 - (b) in such other circumstances as may be prescribed.
- (5) Where the Commission decide to impose a discretionary requirement on a person, they shall serve on the person a notice specifying what the requirement is.
- (6) A person on whom a discretionary requirement is imposed may appeal against the decision to impose the requirement on the ground—
- (a) that the decision was based on an error of fact,
 - (b) that the decision was wrong in law,
 - (c) in the case of a variable monetary penalty, that the amount of the penalty is unreasonable,
 - (d) in the case of a non-monetary discretionary requirement, that the nature of the requirement is unreasonable, or
 - (e) that the decision is unreasonable for any other reason,
- or on such other grounds as may be prescribed.
- (7) An appeal under sub-paragraph (6) is to a county court or (in Scotland) the sheriff.

Information to be included in notices under paragraph 6

- 7 (1) A notice under paragraph 6(1) must include information as to—
- (a) the grounds for the proposal to impose the discretionary requirement;
 - (b) the right to make representations and objections;
 - (c) the circumstances in which the Commission may not impose the discretionary requirement.
- (2) Such a notice must also specify the period within which representations and objections may be made.

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That period may not be less than 28 days beginning with the day on which the notice is received.

- (3) A notice under paragraph 6(5) must include information as to—
- (a) the grounds for imposing the discretionary requirement;
 - (b) where the discretionary requirement is a variable monetary penalty—
 - (i) how payment may be made,
 - (ii) the period within which payment must be made, and
 - (iii) any early payment discounts or late payment penalties;
 - (c) rights of appeal;
 - (d) the consequences of non-compliance.

Discretionary requirements: criminal conviction

- 8 (1) A person on whom a discretionary requirement is imposed may not at any time be convicted of an offence under this Act in respect of the act or omission giving rise to the requirement.
- (2) Sub-paragraph (1) does not apply where—
- (a) a non-monetary discretionary requirement is imposed on the person,
 - (b) no variable monetary penalty is imposed on the person, and
 - (c) the person fails to comply with the non-monetary discretionary requirement.

Failure to comply with discretionary requirements

- 9 (1) The Commission may by notice impose a monetary penalty (a “non-compliance penalty”) on a person for failing to comply with a non-monetary discretionary requirement imposed on the person.
- (2) Subject to any prescribed criteria, or any prescribed maximum or minimum amounts, the amount of a non-compliance penalty is to be such as the Commission may determine.
- (3) A person served with a notice imposing a non-compliance penalty may appeal against the notice on the ground that the decision to serve the notice—
- (a) was based on an error of fact,
 - (b) was wrong in law, or
 - (c) was unfair or unreasonable for any reason (for example because the amount is unreasonable),
- or on such other grounds as may be prescribed.
- (4) An appeal under sub-paragraph (3) is to a county court or (in Scotland) the sheriff.

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PART 3

STOP NOTICES

Imposition of stop notices

- 10 (1) Where sub-paragraph (2) or (3) applies, the Commission may serve on a person a notice (a “stop notice”) prohibiting the person from carrying on an activity specified in the notice until the person has taken the steps specified in the notice.
- (2) This sub-paragraph applies where—
- (a) the person is carrying on the activity,
 - (b) the Commission reasonably believe that the activity as carried on by the person involves or is likely to involve the person—
 - (i) committing a prescribed offence under this Act, or
 - (ii) contravening (otherwise than by committing an offence under this Act) a prescribed restriction or requirement imposed by or by virtue of this Act,
- and
- (c) the Commission reasonably believe that the activity as carried on by the person is seriously damaging public confidence in the effectiveness of the controls in this Act on the income and expenditure of registered parties and others, or presents a significant risk of doing so.
- (3) This sub-paragraph applies where—
- (a) the person is likely to carry on the activity,
 - (b) the Commission reasonably believe that the activity as carried on by the person will involve or will be likely to involve the person—
 - (i) committing a prescribed offence under this Act, or
 - (ii) contravening (otherwise than by committing an offence under this Act) a prescribed restriction or requirement imposed by or by virtue of this Act,
- and
- (c) the Commission reasonably believe that the activity as likely to be carried on by the person will seriously damage public confidence in the effectiveness of the controls mentioned in sub-paragraph (2)(c), or will present a significant risk of doing so.
- (4) The steps referred to in sub-paragraph (1) must be steps to secure that the activity is carried on or (as the case may be) will be carried on in a way that does not involve the person acting as mentioned in sub-paragraph (2)(b) or (3)(b).

Information to be included in stop notices

- 11 A stop notice must include information as to—
- (a) the grounds for serving the notice;
 - (b) rights of appeal;
 - (c) the consequences of not complying with the notice.

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Completion certificates

- 12 (1) Where, after the service of a stop notice on a person, the Commission are satisfied that the person has taken the steps specified in the notice, they shall issue a certificate to that effect (a “completion certificate”).
- (2) A stop notice ceases to have effect on the issue of a completion certificate relating to that notice.
- (3) A person on whom a stop notice is served may at any time apply for a completion certificate.

The Commission shall make a decision whether to issue a completion certificate within 14 days of the day on which they receive such an application.

Appeals etc

- 13 (1) A person served with a stop notice may appeal against the decision to serve it on the ground that—
- (a) the decision was based on an error of fact,
 - (b) the decision was wrong in law,
 - (c) the decision was unreasonable,
 - (d) any step specified in the notice is unreasonable, or
 - (e) the person has not acted as mentioned in paragraph 10(2)(b) or (3)(b) and would not have done so even if the stop notice had not been served,
- or on such other grounds as may be prescribed.
- (2) A person served with a stop notice may appeal against a decision not to issue a completion certificate on the ground that the decision—
- (a) was based on an error of fact,
 - (b) was wrong in law, or
 - (c) was unfair or unreasonable,
- or on such other grounds as may be prescribed.
- (3) An appeal under sub-paragraph (1) or (2) is to a county court or (in Scotland) the sheriff.

Failure to comply with stop notice

- 14 A person served with a stop notice who does not comply with it is guilty of an offence.

PART 4

ENFORCEMENT UNDERTAKINGS

- 15 (1) This paragraph applies where—
- (a) the Commission have reasonable grounds to suspect that a person—
 - (i) has committed a prescribed offence under this Act, or
 - (ii) has (otherwise than by committing an offence under this Act) contravened a prescribed restriction or requirement imposed by or by virtue of this Act,
 - (b) the person offers an undertaking (an “enforcement undertaking”) to take such action, within such period, as is specified in the undertaking,

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- (c) the action so specified is—
 - (i) action to secure that the offence or contravention does not continue or recur,
 - (ii) action to secure that the position is, so far as possible, restored to what it would have been if the offence or contravention had not happened, or
 - (iii) action of a prescribed description,
 and
 - (d) the Commission accept the undertaking.
- (2) Unless the person has failed to comply with the undertaking or any part of it—
- (a) the person may not at any time be convicted of an offence under this Act in respect of the act or omission to which the undertaking relates;
 - (b) the Commission may not impose on the person any fixed monetary penalty that they would otherwise have power to impose by virtue of paragraph 1 in respect of that act or omission;
 - (c) the Commission may not impose on the person any discretionary requirement that they would otherwise have power to impose by virtue of paragraph 5 in respect of that act or omission.

PART 5

POWER TO MAKE SUPPLEMENTARY PROVISION ETC BY ORDER

Supplementary orders: general

- 16 (1) The Secretary of State may by order (a “supplementary order”)—
- (a) make provision (including transitional provision) supplementing that made by this Schedule;
 - (b) make provision that is consequential on or incidental to that made by this Schedule.
- (2) The following provisions of this Part are not to be read as limiting the power conferred by sub-paragraph (1).
- (3) A supplementary order may make provision amending, repealing or revoking an enactment (whenever passed or made).

Consultation

- 17 (1) Before making a supplementary order the Secretary of State shall consult the Commission and such other persons (if any) as the Secretary of State considers appropriate.
- (2) If, as a result of any consultation required by sub-paragraph (1), it appears to the Secretary of State that it is appropriate substantially to change the whole or any part of the proposals, the Secretary of State shall undertake such further consultation with respect to the changes as the Secretary of State considers appropriate.
- (3) If, before the day on which this Schedule comes into effect, any consultation was undertaken which, had it been undertaken after that day, would to any extent have satisfied the requirements of this paragraph, those requirements may to that extent be taken to have been satisfied.

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Monetary penalties

- 18 (1) A supplementary order may make any of the following provision in relation to the power of the Commission to require a person to pay a fixed monetary penalty, a variable monetary penalty or a non-compliance penalty—
- (a) provision for early payment discounts;
 - (b) provision for the payment of interest or other financial penalties for late payment;
 - (c) provision for enforcement.
- (2) Provision made by virtue of sub-paragraph (1)(b) must secure that the interest or other financial penalties for late payment do not in total exceed the amount of the penalty itself.
- (3) Provision made by virtue of sub-paragraph (1)(c) may include—
- (a) provision for the Commission to recover the penalty, and any interest or other financial penalty for late payment, as a civil debt;
 - (b) provision for the penalty, and any interest or other financial penalty for late payment, to be recoverable, on the order of a court, as if payable under a court order.
- (4) In relation to the power of the Commission to require a person to pay a fixed monetary penalty, a variable monetary penalty or a non-compliance penalty for failing to comply with a requirement or undertaking by the end of a particular period, a supplementary order may—
- (a) make provision under which the amount of the penalty is determined by reference to the length of time between the end of that period and the time of compliance;
 - (b) make provision for successive penalties to be payable in a case of continued failure to comply.

Enforcement undertakings

- 19 A supplementary order may make any of the following provision in relation to an enforcement undertaking—
- (a) provision as to the procedure for entering into an undertaking;
 - (b) provision as to the terms of an undertaking;
 - (c) provision as to publication of an undertaking by the Commission;
 - (d) provision as to variation of an undertaking;
 - (e) provision as to circumstances in which a person may be regarded as having complied with an undertaking;
 - (f) provision as to monitoring by the Commission of compliance with an undertaking;
 - (g) provision as to certification by the Commission that an undertaking has been complied with;
 - (h) provision for appeals against refusal to give such certification;
 - (i) in a case where a person has given inaccurate, misleading or incomplete information in relation to an undertaking, provision for the person to be regarded as not having complied with it;

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- (j) in a case where a person has complied partly but not fully with an undertaking, provision for that part-compliance to be taken into account in the imposition of any criminal or other sanction on the person.

Extension of time for taking criminal proceedings

- 20 For the purposes of enabling criminal proceedings to be instituted against a person in respect of an offence under this Act—
- (a) in the case referred to in paragraph 8(2), or
 - (b) in a case where there has been a breach of an enforcement undertaking or any part of an enforcement undertaking,
- a supplementary order may make provision extending any period within which such proceedings may be instituted.

Appeals

- 21 (1) A supplementary order may make any of the following provision in relation to an appeal in respect of the imposition of a requirement, or the service of a notice, under this Schedule—
- (a) provision suspending the requirement or notice pending determination of the appeal;
 - (b) provision as to the powers of the court to which the appeal is made;
 - (c) provision as to how a sum payable in pursuance of a decision of that court is to be recoverable.
- (2) Provision made by virtue of sub-paragraph (1)(b) may in particular include provision conferring on the court to which the appeal is made—
- (a) power to withdraw the requirement or notice;
 - (b) power to confirm the requirement or notice;
 - (c) power to take such steps as the Commission could take in relation to the act or omission giving rise to the requirement or notice;
 - (d) power to remit the decision whether to confirm the requirement or notice, or any matter relating to that decision, to the Commission;
 - (e) power to award costs or (in the case of a court in Scotland) expenses.

PART 6

GENERAL AND SUPPLEMENTAL

Combination of sanctions

- 22 (1) The Commission may not serve on a person a notice under paragraph 2(1) (notice of proposed fixed monetary penalty) in relation to any act or omission in relation to which—
- (a) a discretionary requirement has been imposed on that person, or
 - (b) a stop notice has been served on that person.
- (2) The Commission may not serve on a person a notice under paragraph 6(1) (notice of proposed discretionary requirement), or serve a stop notice on a person, in relation to any act or omission in relation to which—

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- (a) a fixed monetary penalty has been imposed on that person, or
- (b) the person's liability for a fixed monetary penalty has been discharged as mentioned in paragraph 2(2).

Use of statements made compulsorily

- 23 (1) The Commission must not take into account a statement made by a person in compliance with a requirement imposed under Schedule 19B in deciding whether—
- (a) to impose a fixed monetary penalty on the person;
 - (b) to impose a discretionary requirement on the person;
 - (c) to serve a stop notice on the person.
- (2) Sub-paragraph (1)(a) or (b) does not apply to a penalty or requirement imposed in respect of an offence under paragraph 13(3) of Schedule 19B (providing false information in purported compliance with a requirement under that Schedule).

Unincorporated associations

- 24 Any amount that is payable under this Schedule by an unincorporated association shall be paid out of the funds of the association.

Guidance as to enforcement

- 25 (1) The Commission shall prepare and publish guidance as to—
- (a) the sanctions (including criminal sanctions) that may be imposed on a person who—
 - (i) commits an offence under this Act, or
 - (ii) contravenes a restriction or requirement that is prescribed for the purposes of paragraph 1, 5, 10 or 15;
 - (b) the action that the Commission may take in relation to such a person (whether by virtue of this Schedule or otherwise);
 - (c) the circumstances in which the Commission are likely to take any such action.
- (2) The guidance must include guidance about the Commission's use of the power to impose a fixed monetary penalty, with information as to—
- (a) the circumstances in which such a penalty may not be imposed;
 - (b) the amount of such a penalty;
 - (c) how liability for such a penalty may be discharged and the effect of discharge;
 - (d) rights to make representations and objections and rights of appeal in relation to such a penalty.
- (3) The guidance must include guidance about the Commission's use of the power to impose a discretionary requirement, with information as to—
- (a) the circumstances in which such a requirement may not be imposed;
 - (b) rights to make representations and objections and rights of appeal in relation to such a requirement;
 - (c) in the case of a variable monetary penalty, the matters likely to be taken into account by the Commission in determining the amount of the penalty (including, where relevant, any discounts for voluntary reporting of non-compliance).

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- (4) The guidance must include guidance about the Commission's use of the power to serve a stop notice, with information as to—
 - (a) the circumstances in which such a notice may not be served;
 - (b) rights of appeal in relation to such a notice.
- (5) The guidance must include guidance about the Commission's use of the power to accept an enforcement undertaking.
- (6) Where appropriate, the Commission shall revise guidance published under this paragraph and publish the revised guidance.
- (7) The Commission shall consult such persons as they consider appropriate before publishing guidance or revised guidance under this paragraph.
- (8) The Commission shall have regard to the guidance or revised guidance published under this paragraph in exercising their functions.

Payment of penalties etc into Consolidated Fund

- 26 Where, in pursuance of any provision contained in or made under this Schedule, the Commission receive—
- (a) a fixed monetary penalty, a variable monetary penalty or a non-compliance penalty,
 - (b) any interest or other financial penalty for late payment of such a penalty, or
 - (c) a sum paid as mentioned in paragraph 2(2) (in discharge of liability for a fixed monetary penalty),
- they shall pay it into the Consolidated Fund.

Reports on use of civil sanctions

- 27 (1) Each report by the Commission under paragraph 20 of Schedule 1 shall contain information about the use made by the Commission of their powers under this Schedule during the year in question.
- (2) The report shall, in particular, specify—
- (a) the cases in which a fixed monetary penalty or discretionary requirement was imposed or a stop notice served (other than cases in which the penalty, requirement or notice was overturned on appeal);
 - (b) the cases in which liability for a fixed monetary penalty was discharged as mentioned in paragraph 2(2);
 - (c) the cases in which an enforcement undertaking was accepted.
- (3) This paragraph does not require the Commission to include in a report any information that, in their opinion, it would be inappropriate to include on the ground that to do so—
- (a) would or might be unlawful, or
 - (b) might adversely affect any current investigation or proceedings.

Disclosure of information

- 28 (1) Information held by or on behalf of—
- (a) the Crown Prosecution Service,
 - (b) a member of a police force in England and Wales,

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- (c) a Procurator Fiscal,
 - (d) a constable of a police force in Scotland,
 - (e) the Public Prosecution Service for Northern Ireland, or
 - (f) a member of the Police Service of Northern Ireland,
- may be disclosed to the Commission for the purpose of the exercise by the Commission of any powers conferred on them under or by virtue of this Schedule.
- (2) It is immaterial for the purposes of sub-paragraph (1) whether the information was obtained before or after the coming into effect of this Schedule.
 - (3) A disclosure under this paragraph is not to be taken to breach any restriction on the disclosure of information (however imposed).
 - (4) Nothing in this paragraph authorises the making of a disclosure in contravention of—
 - (a) the Data Protection Act 1998, or
 - (b) Part 1 of the Regulation of Investigatory Powers Act 2000.
 - (5) This paragraph does not affect a power to disclose that exists apart from this paragraph.

PART 7

INTERPRETATION

Interpretation of Schedule

- 29 In this Schedule—
- “completion certificate” has the meaning given in paragraph 12(1);
 - “discretionary requirement” has the meaning given in paragraph 5(5);
 - “enforcement undertaking” has the meaning given in paragraph 15(1)(b);
 - “fixed monetary penalty” has the meaning given in paragraph 1(5);
 - “non-compliance penalty” has the meaning given in paragraph 9(1);
 - “non-monetary discretionary requirement” has the meaning given in paragraph 5(7);
 - “permitted participant” has the meaning given in section 105(1);
 - “prescribed” means prescribed in a supplementary order;
 - “recognised third party” has the meaning given in section 85(5);
 - “responsible person”—
 - (a) in relation to a recognised third party, has the meaning given in section 85(7);
 - (b) in relation to a permitted participant, has the meaning given in section 105(2);
 - “stop notice” has the meaning given in paragraph 10(1);
 - “supplementary order” has the meaning given in paragraph 16(1);
 - “variable monetary penalty” has the meaning given in paragraph 5(7).”

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PROSPECTIVE

SCHEDULE 3

Section 9

DECLARATION AS TO SOURCE OF DONATION

Schedule 7 to the 2000 Act (control of donations to individuals and members associations)

1 (1) In paragraph 6 of Schedule 7 to the 2000 Act (prohibition on accepting donations from impermissible donors), after paragraph (a) of sub-paragraph (1) there is inserted—

“(aa) in the case of a donation of an amount exceeding £7,500, the donee has not been given a declaration as required by paragraph 6A, or”.

(2) After paragraph 6 of that Schedule there is inserted—

“Declaration as to source of donation

6A (1) Where a person (P) causes an amount exceeding £7,500 to be received by a regulated donee by way of a donation, a written declaration must be given to the donee—

- (a) by P, if P is an individual, or
- (b) if not, by an individual authorised by P to make the declaration, stating, to the best of the individual's knowledge and belief, whether or not sub-paragraph (2) applies to the donation.

(2) This sub-paragraph applies to the donation if—

- (a) a person other than P has provided, or is expected to provide, money or any other benefit to P with a view to, or otherwise in connection with, the making of the donation, and
- (b) the money, or the value of the benefit, is more than £7,500.

(3) Where a declaration under this paragraph contains a statement to the effect that sub-paragraph (2) applies to the donation, it must also—

- (a) state whether or not, in the opinion of the person making the declaration—
 - (i) sub-paragraph (2) of paragraph 6 applies to the donation;
 - (ii) sub-paragraph (4) of that paragraph applies to it;
- (b) if the person's opinion is that neither of those sub-paragraphs applies to the donation, give the person's reasons for that opinion.

(4) The declaration must also state the full name and address of the person by whom it is made and, where sub-paragraph (1)(b) applies—

- (a) state that the person is authorised by P to make the declaration;
- (b) describe the person's role or position in relation to P.

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- (5) A person who knowingly or recklessly makes a false declaration under this paragraph commits an offence.
- (6) Regulations made by the Secretary of State may make provision as to how the value of a benefit is to be calculated for the purposes of sub-paragraph (2).”
- 2 (1) Paragraph 10 of that Schedule (donation reports: donations from permissible donors) is amended as follows.
- (2) In the heading, at the end there is inserted “ *etc.* ”.
- (3) In sub-paragraph (1), for the words from “each controlled donation” to the end there is substituted “each controlled donation which is a recordable donation and either—
- (a) has been accepted by the donee, or
- (b) has not been accepted by the donee but is a donation in the case of which a declaration under paragraph 6A has been given.”
- (4) In sub-paragraph (4)(a), for “by virtue of paragraphs 2, 2A and 4” there is substituted “, by virtue of paragraphs 1A, 2, 2A and 4 ”.
- (5) In sub-paragraph (5)—
- (a) for “paragraphs 2, 2A and 4” there is substituted “ paragraphs 1A, 2, 2A and 4 ”;
- (b) after paragraph (a) there is inserted—
- “(aa) any reference to section 54A shall be read as a reference to paragraph 6A above;”.
- 3 (1) Paragraph 11 of that Schedule (donation reports: donations from impermissible or unidentifiable donors) is amended as follows.
- (2) In the heading, at the end there is inserted “ *or without required declaration* ”.
- (3) In sub-paragraph (1)(a), for “paragraph 6(1)(a) or (b)” there is substituted “ paragraph 6(1)(a), (aa) or (b) ”.
- (4) In sub-paragraph (1)(b), for “section 56(2)(a) or (b)” there is substituted “ section 56(2)(a), (aa) or (b) ”.
- (5) In sub-paragraph (3), for “paragraph 6(1)(a)” there is substituted “ paragraph 6(1)(a) or (aa) ”.
- (6) In sub-paragraph (3)(a), after “the donor” there is inserted “ or the person appearing to be the donor ”.
- (7) In sub-paragraph (3)(c), for “section 56(2)(a)” there is substituted “ section 56(2)(a) or (aa) ”.
- Schedule 11 to the 2000 Act (control of donations to recognised third parties)*
- 4 (1) In paragraph 6 of Schedule 11 to the 2000 Act (prohibition on accepting donations from impermissible donors), after paragraph (a) of sub-paragraph (1) there is inserted—
- “(aa) in the case of a donation of an amount exceeding £7,500, the recognised third party has not been given a declaration as required by paragraph 6A; or”.

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(2) After paragraph 6 of that Schedule there is inserted—

“Declaration as to source of donation

- 6A (1) Where a person (P) causes an amount exceeding £7,500 to be received by a recognised third party by way of a donation, a written declaration must be given to the recognised third party—
- (a) by P, if P is an individual, or
 - (b) if not, by an individual authorised by P to make the declaration, stating, to the best of the individual's knowledge and belief, whether or not sub-paragraph (2) applies to the donation.
- (2) This sub-paragraph applies to the donation if—
- (a) a person other than P has provided, or is expected to provide, money or any other benefit to P with a view to, or otherwise in connection with, the making of the donation, and
 - (b) the money, or the value of the benefit, is more than £7,500.
- (3) Where a declaration under this paragraph contains a statement to the effect that sub-paragraph (2) applies to the donation, it must also—
- (a) state whether or not, in the opinion of the person making the declaration—
 - (i) sub-paragraph (4) of paragraph 6 applies to the donation;
 - (ii) sub-paragraph (6) of that paragraph applies to it;
 - (b) if the person's opinion is that neither of those sub-paragraphs applies to the donation, give the person's reasons for that opinion.
- (4) The declaration must also state the full name and address of the person by whom it is made and, where sub-paragraph (1)(b) applies—
- (a) state that the person is authorised by P to make the declaration;
 - (b) describe the person's role or position in relation to P.
- (5) A person who knowingly or recklessly makes a false declaration under this paragraph commits an offence.
- (6) Regulations made by the Secretary of State may make provision as to how the value of a benefit is to be calculated for the purposes of sub-paragraph (2).”

5 (1) In paragraph 9 of that Schedule (statement of relevant donations), for “paragraphs 10 and 11” there is substituted “ paragraphs 9A to 11 ”.

(2) After that paragraph there is inserted—

“Declarations under paragraph 6A

- 9A In relation to each relevant donation falling within paragraph 10(2) in the case of which a declaration under paragraph 6A has been given, the statement must either—
- (a) state that no reason was found to think that the declaration was untruthful or inaccurate, or

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- (b) give details of any respects in which the declaration was found or suspected to be untruthful or inaccurate.”
- 6 (1) Paragraph 11 of that Schedule (donations from impermissible donors) is amended as follows.
- (2) In the heading, for “*impermissible donors*” there is substituted “ *impermissible or unidentifiable donors or without required declaration* ”.
- (3) In sub-paragraph (1), for “paragraph 6(1)(a) or (b)” there is substituted “ paragraph 6(1)(a), (aa) or (b) ”.
- (4) In sub-paragraph (2), for “paragraph 6(1)(a)” there is substituted “ paragraph 6(1)(a) or (aa) ”.
- (5) In sub-paragraph (2)(a), after “the donor” there is inserted “ or the person appearing to be the donor ”.
- (6) In sub-paragraph (2)(c), for “section 56(2)(a)” there is substituted “ section 56(2)(a) or (aa) ”.

Schedule 15 to the 2000 Act (control of donations to permitted participants)

- 7 (1) In paragraph 6 of Schedule 15 to the 2000 Act (prohibition on accepting donations from impermissible donors), after paragraph (a) of sub-paragraph (1) there is inserted—
- “(aa) in the case of a donation of an amount exceeding £7,500, the permitted participant has not been given a declaration as required by paragraph 6A, or”.
- (2) After paragraph 6 of that Schedule there is inserted—

“Declaration as to source of donation

- 6A (1) Where a person (P) causes an amount exceeding £7,500 to be received by a permitted participant by way of a donation, a written declaration must be given to the permitted participant—
- (a) by P, if P is an individual, or
- (b) if not, by an individual authorised by P to make the declaration, stating, to the best of the individual's knowledge and belief, whether or not sub-paragraph (2) applies to the donation.
- (2) This sub-paragraph applies to the donation if—
- (a) a person other than P has provided, or is expected to provide, money or any other benefit to P with a view to, or otherwise in connection with, the making of the donation, and
- (b) the money, or the value of the benefit, is more than £7,500.
- (3) Where a declaration under this paragraph contains a statement to the effect that sub-paragraph (2) applies to the donation, it must also—
- (a) state whether or not, in the opinion of the person making the declaration—
- (i) sub-paragraph (5) of paragraph 6 applies to the donation;

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- (ii) sub-paragraph (7) of that paragraph applies to it;
- (b) if the person's opinion is that neither of those sub-paragraphs applies to the donation, give the person's reasons for that opinion.
- (4) The declaration must also state the full name and address of the person by whom it is made and, where sub-paragraph (1)(b) applies—
- (a) state that the person is authorised by P to make the declaration;
- (b) describe the person's role or position in relation to P.
- (5) A person who knowingly or recklessly makes a false declaration under this paragraph commits an offence.
- (6) Regulations made by the Secretary of State may make provision as to how the value of a benefit is to be calculated for the purposes of sub-paragraph (2).”
- 8 (1) In paragraph 9 of that Schedule (statement of relevant donations), for “paragraphs 10 and 11” there is substituted “ paragraphs 9A to 11 ”.
- (2) After that paragraph there is inserted—
- “Declarations under paragraph 6A*
- 9A In relation to each relevant donation falling within paragraph 10(2) in the case of which a declaration under paragraph 6A has been given, the statement must either—
- (a) state that no reason was found to think that the declaration was untruthful or inaccurate, or
- (b) give details of any respects in which the declaration was found or suspected to be untruthful or inaccurate.”
- 9 (1) Paragraph 11 of that Schedule (donations from impermissible or unidentified donors) is amended as follows.
- (2) In the heading, at the end there is inserted “ *or without required declaration* ”.
- (3) In sub-paragraph (1), for “paragraph 6(1)(a) or (b)” there is substituted “ paragraph 6(1)(a), (aa) or (b) ”.
- (4) In sub-paragraph (2), for “paragraph 6(1)(a)” there is substituted “ paragraph 6(1)(a) or (aa) ”.
- (5) In sub-paragraph (2)(a), after “the donor” there is inserted “ or the person appearing to be the donor ”.
- (6) In sub-paragraph (2)(c), for “section 56(2)(a)” there is substituted “ section 56(2)(a) or (aa) ”.
- Schedule 20 to the 2000 Act (penalties)*
- 10 In Schedule 20 (penalties) the following entries are inserted at the appropriate places—

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“Paragraph 6A(5) of Schedule 7 (making a false declaration as to source of donation)	On summary conviction in England and Wales or Scotland: statutory maximum or 12 months On summary conviction in Northern Ireland: statutory maximum or 6 months On indictment: fine or 1 year”
“Paragraph 6A(5) of Schedule 11 (making a false declaration as to source of donation)	On summary conviction in England and Wales or Scotland: statutory maximum or 12 months On summary conviction in Northern Ireland: statutory maximum or 6 months On indictment: fine or 1 year”
“Paragraph 6A(5) of Schedule 15 (making a false declaration as to source of donation)	On summary conviction in England and Wales or Scotland: statutory maximum or 12 months On summary conviction in Northern Ireland: statutory maximum or 6 months On indictment: fine or 1 year”.

PROSPECTIVE

SCHEDULE 4

Section 10

DECLARATION AS TO WHETHER RESIDENCE ETC CONDITION SATISFIED

Schedule 7 to the 2000 Act (control of donations to individuals and members associations)

- 1 (1) In paragraph 6 of Schedule 7 to the 2000 Act (prohibition on accepting donations from impermissible donors), for paragraph (aa) of sub-paragraph (1) (inserted by Schedule 3 above) there is substituted—

“(aa) any declaration required to be made in respect of the donation by paragraph 6A or 6B has not been received by the donee, or”.

- (2) After paragraph 6A of that Schedule (inserted by Schedule 3 above) there is inserted—

“Declaration as to whether residence etc condition satisfied

- 6B (1) An individual making to a regulated donee a donation in relation to which the condition set out in section 54(2ZA) applies must give to the donee a written declaration stating whether or not the individual satisfies that condition.
- (2) A declaration under this paragraph must also state the individual's full name and address.

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- (3) A person who knowingly or recklessly makes a false declaration under this paragraph commits an offence.
- (4) The Secretary of State may by regulations make provision requiring a declaration under this paragraph to be retained for a specified period.
- (5) The requirement in sub-paragraph (1) does not apply where, by reason of section 71B(1)(a), the individual by whom the donation would be made is a permissible donor in relation to the donation at the time of its receipt by the donee.”

2 In paragraph 8 of that Schedule (acceptance or return of donations), after sub-paragraph (1) there is inserted—

“(1A) In its application in accordance with sub-paragraph (1), section 56(1A) (a) shall have effect as if the reference to a declaration under section 54B were construed as a reference to a declaration under paragraph 6B above.”

3 (1) Paragraph 10 of that Schedule (donation reports: donations from permissible donors) (as amended by Schedule 3 above) is amended as follows.

- (2) In sub-paragraph (1)(b), after “paragraph 6A” there is inserted “ or 6B ”.
- (3) In sub-paragraph (5), at the end of paragraph (aa) there is inserted “ , and any reference to section 54B shall be read as a reference to paragraph 6B above ”.

Schedule 11 to the 2000 Act (control of donations to recognised third parties)

4 (1) In paragraph 6 of Schedule 11 to the 2000 Act (prohibition on accepting donations from impermissible donors), for paragraph (aa) of sub-paragraph (1) (inserted by Schedule 3 above) there is substituted—

“(aa) any declaration required to be made in respect of the donation by paragraph 6A or 6B has not been received by the recognised third party; or”.

(2) After paragraph 6A of that Schedule (inserted by Schedule 3 above) there is inserted—

“Declaration as to whether residence etc condition satisfied

- 6B (1) An individual making to a recognised third party a donation in relation to which the condition set out in section 54(2ZA) applies must give to the recognised third party a written declaration stating whether or not the individual satisfies that condition.
- (2) A declaration under this paragraph must also state the full name and address of the person by whom it is made.
- (3) A person who knowingly or recklessly makes a false declaration under this paragraph commits an offence.
- (4) The Secretary of State may by regulations make provision requiring a declaration under this paragraph to be retained for a specified period.”

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5 In paragraph 7 of that Schedule (acceptance or return of donations), after paragraph (a) of sub-paragraph (2) there is inserted—
“(aa) section 56(1A)(a) shall have effect as if the reference to a declaration under section 54B were construed as a reference to a declaration under paragraph 6B above; and”.

6 In paragraph 9A of that Schedule (inserted by Schedule 3 above)—
(a) in the heading, after “*paragraph 6A*” there is inserted “ *or 6B* ”;
(b) at the end of that paragraph (which becomes sub-paragraph (1)) there is inserted—
“(2) In relation to each relevant donation falling with paragraph 10(2) in the case of which a declaration under paragraph 6B has been given, the statement must either—
(a) state that no reason was found for thinking that the declaration was incorrect, or
(b) give details of any respects in which the declaration was found or suspected to be incorrect.”

Schedule 15 to the 2000 Act (control of donations to permitted participants)

7 (1) In paragraph 6 of Schedule 15 to the 2000 Act (prohibition on accepting donations from impermissible donors), for paragraph (aa) of sub-paragraph (1) (inserted by Schedule 3 above) there is substituted—
“(aa) any declaration required to be made in respect of the donation by paragraph 6A or 6B has not been received by the permitted participant, or”.

(2) After paragraph 6A of that Schedule (inserted by Schedule 3 above) there is inserted—

“Declaration as to whether residence etc condition satisfied

6B (1) An individual making to a permitted participant a donation in relation to which the condition set out in section 54(2ZA) applies must give to the permitted participant a declaration stating whether or not the individual satisfies that condition.

(2) A declaration under this paragraph must also state the individual's full name and address.

(3) A person who knowingly or recklessly makes a false declaration under this paragraph commits an offence.

(4) The Secretary of State may by regulations make provision requiring a declaration under this paragraph to be retained for a specified period.”

8 In paragraph 7 of that Schedule (acceptance or return of donations), after paragraph (a) of sub-paragraph (2) there is inserted—
“(aa) section 56(1A)(a) shall have effect as if the reference to a declaration under section 54B were construed as a reference to a declaration under paragraph 6B above; and”.

9 In paragraph 9A of that Schedule (inserted by Schedule 3 above)—
(a) in the heading, after “*paragraph 6A*” there is inserted “ *or 6B* ”;

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(b) at the end of that paragraph (which becomes sub-paragraph (1)) there is inserted—

“(2) In relation to each relevant donation falling with paragraph 10(2) in the case of which a declaration under paragraph 6B has been given, the statement must either—

- (a) state that no reason was found for thinking that the declaration was incorrect, or
- (b) give details of any respects in which the declaration was found or suspected to be incorrect.”

Schedule 20 to the 2000 Act (penalties)

10 In Schedule 20 (penalties) the following entries are inserted at the appropriate places—

“Paragraph 6B(3) of Schedule 7 (making a false declaration as to whether residence etc condition satisfied)	On summary conviction in England and Wales or Scotland: statutory maximum or 12 months On summary conviction in Northern Ireland: statutory maximum or 6 months On indictment: fine or 1 year”
“Paragraph 6B(3) of Schedule 11 (making a false declaration as to whether residence etc condition satisfied)	On summary conviction in England and Wales or Scotland: statutory maximum or 12 months On summary conviction in Northern Ireland: statutory maximum or 6 months On indictment: fine or 1 year”
“Paragraph 6B(3) of Schedule 15 (making a false declaration as to whether residence etc condition satisfied)	On summary conviction in England and Wales or Scotland: statutory maximum or 12 months On summary conviction in Northern Ireland: statutory maximum or 6 months On indictment: fine or 1 year”.

Changes to legislation: There are currently no known outstanding effects for the Political Parties and Elections Act 2009. (See end of Document for details)

SCHEDULE 5

Section 19

REPORTS OF GIFTS RECEIVED BY UNINCORPORATED ASSOCIATIONS MAKING
POLITICAL CONTRIBUTIONS: SCHEDULE TO BE INSERTED INTO THE 2000 ACT

“SCHEDULE 19A

Section 140A

REPORTS OF GIFTS RECEIVED BY UNINCORPORATED
ASSOCIATIONS MAKING POLITICAL CONTRIBUTIONS

Requirement to notify Commission of political contributions over £25,000

- 1 (1) Where in any calendar year an unincorporated association falling within section 54(2)(h)—
- (a) makes a political contribution of more than £25,000, not having previously made any political contributions in that year, or
 - (b) makes a political contribution which takes the total amount of such contributions made by it in that year above £25,000,
- the association must notify the Commission accordingly within the period of 30 days beginning with the date on which the contribution was made.
- (2) An unincorporated association makes a “political contribution” in any of the following cases—
- (a) it makes a donation (within the meaning of Part 4) to a registered party;
 - (b) it makes a loan of money to a registered party, or discharges (to any extent) a liability of a registered party, in pursuance of a regulated transaction (within the meaning of Part 4A);
 - (c) it makes a donation (within the meaning of Schedule 7) to a regulated donee;
 - (d) it makes a loan of money to a regulated donee, or discharges (to any extent) a liability of a regulated donee, in pursuance of a controlled transaction (within the meaning of Schedule 7A);
 - (e) it makes a donation (within the meaning of Schedule 11) to a recognised third party;
 - (f) it makes a donation (within the meaning of Schedule 15) to a permitted participant.
- (3) For the purposes of sub-paragraph (1)(b) a contribution is not counted towards the total unless it is a contribution of more than £500.
- (4) In this paragraph—
- “permitted participant” has the meaning given in section 105 except that it does not include a registered party other than a minor party;
 - “recognised third party” has the meaning given in section 85;
 - “regulated donee” has the meaning given in Part 1 of Schedule 7.
- (5) For the purposes of this paragraph—
- (a) the value of a donation to a registered party shall be determined in accordance with section 53;
 - (b) the value of a donation to a regulated donee shall be determined in accordance with paragraph 5 of Schedule 7;
 - (c) the value of a donation to a recognised third party shall be determined in accordance with paragraph 5 of Schedule 11;

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- (d) the value of a donation to a permitted participant shall be determined in accordance with paragraph 5 of Schedule 15;
 - (e) the value of a contribution within sub-paragraph (2)(b) or (d) is the amount of money lent or liability discharged.
- (6) Where a donation, or a sum of money lent, is sent on one day and received on another, the donation or loan is treated for the purposes of this paragraph as made on the earlier of those days.

Requirement to report gifts received to Commission

- 2 (1) This paragraph applies where the making of a political contribution by an unincorporated association causes the association to be subject to the notification requirement in paragraph 1; and in this paragraph—
- “the contribution date” means the date on which that contribution was made;
 - “quarter” means a period of three months ending on 31st March, 30th June, 30th September or 31st December.
- (2) Within the period of 60 days beginning with the contribution date, the unincorporated association must make a report to the Commission—
- (a) specifying every gift of more than £7,500 received by the association in the period—
 - (i) beginning at the start of the calendar year preceding the year in which the contribution date falls, and
 - (ii) ending with the contribution date,
 - or
 - (b) (if it is the case) stating that the association received no such gifts in the period mentioned in paragraph (a).
- (3) Within the period of 30 days following the end of the first quarter to begin after the contribution date, the unincorporated association must make a report to the Commission—
- (a) specifying every gift of more than £7,500 received by the association in the period—
 - (i) beginning with the day after the contribution date, and
 - (ii) ending with the end of the quarter,
 - or
 - (b) (if it is the case) stating that the association received no such gifts in the period mentioned in paragraph (a).
- (4) In relation to each subsequent quarter ending in the calendar year in which the contribution date falls or in the following calendar year, the unincorporated association must within the period of 30 days following the end of the quarter make a report to the Commission—
- (a) specifying every gift of more than £7,500 received by the association in the quarter, or
 - (b) (if it is the case) stating that the association received no such gifts in the quarter.
- (5) Where—
- (a) an unincorporated association receives two or more gifts of more than £500 from the same person in the same calendar year, and

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- (b) those gifts amount to more than £7,500 in total,
the association is treated for the purposes of this paragraph as receiving a gift of more than £7,500 on the day on which it receives the gift that takes the total amount of gifts from that person in that year above £7,500.
- (6) Where—
- (a) an unincorporated association receives (or is treated by sub-paragraph (5) as receiving) a gift of more than £7,500 from a particular person, and
- (b) later in the same calendar year the association receives a gift of more than £1,500 from the same person,
- that subsequent gift is treated for the purposes of this paragraph in the same way as a gift of more than £7,500.
- (7) A reference in this paragraph to a gift of more than a certain amount is to be read, in the case of a gift in a form other than money, as a reference to a gift with a value of more than that amount.
- (8) Nothing in this paragraph requires an unincorporated association to report to the Commission—
- (a) any gift that it has already reported to them under this paragraph, or
- (b) in the case of an association that at the relevant time was a members association within the meaning of Schedule 7, any gift that it is required to report to them under Part 3 of that Schedule.

Information to be included in reports under paragraph 2

- 3 (1) A report under paragraph 2 must give the following information in relation to each gift that is required to be specified—
- (a) the date on which it was received;
- (b) the form that it took;
- (c) the amount or value of it;
- (d) whatever details the unincorporated association knows of the name and address of the person by whom the gift was made.
- (2) Where paragraph 2(5) applies, each of the gifts of more than £500 mentioned in that provision is required to be specified separately for the purposes of sub-paragraph (1).
- (3) Where a person (“P”) makes a gift indirectly through one or more intermediaries, the reference in sub-paragraph (1)(d) to the person by whom the gift was made is to be read as a reference to P and each of the intermediaries.

Declaration by authorised individual

- 4 A notification under paragraph 1 or a report under paragraph 2 must contain a declaration, made by an individual authorised to do so by the unincorporated association concerned, that to the best of the individual's knowledge and belief—
- (a) everything stated in the notification or report is accurate, and
- (b) the notification or report contains everything that it is required to contain by this Schedule.

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Additional matters to be included in notifications and reports

- 5 A notification under paragraph 1 or a report under paragraph 2 must (as well as containing the things that paragraphs 1 and 4 or paragraphs 3 and 4 require it to contain) —
- (a) state the name of the unincorporated association by which it is given;
 - (b) state the address of the association's main office in the United Kingdom;
 - (c) state the full name and address of the individual making the declaration under paragraph 4;
 - (d) state that the individual is authorised by the unincorporated association to make the declaration;
 - (e) describe the individual's role or position in relation to the association.

Offences

- 6 (1) An unincorporated association commits an offence if it—
- (a) is required by paragraph 1 to give a notification to the Commission, or
 - (b) is required by paragraph 2 to make a report to the Commission,
- and fails without reasonable excuse to do so within the permitted period.
- (2) An unincorporated association commits an offence if, without reasonable excuse, it—
- (a) gives a notification to the Commission under paragraph 1, or
 - (b) makes a report to the Commission under paragraph 2,
- which fails to comply with any requirement of this Schedule applying to the notification or report.
- (3) An individual who knowingly or recklessly makes a false declaration under paragraph 4 commits an offence.
- (4) For the purposes of sub-paragraph (1) the “permitted period” is—
- (a) in relation to a notification under paragraph 1, the period of 30 days mentioned in paragraph 1(1);
 - (b) in relation to a notice under sub-paragraph (2) of paragraph 2, the period of 60 days mentioned in that sub-paragraph;
 - (c) in relation to a notice under sub-paragraph (3) of paragraph 2, the period of 30 days mentioned in that sub-paragraph;
 - (d) in relation to a notice under sub-paragraph (4) of paragraph 2, the period of 30 days mentioned in that sub-paragraph.

Register of recordable gifts to unincorporated associations

- 7 (1) The Commission shall maintain a register of all notifications made to them under paragraph 1 and all gifts reported to them under paragraph 2.
- (2) The register shall be maintained by the Commission in such form as they may determine and shall contain the following details—
- (a) in the case of each notification under paragraph 1—
 - (i) the name of the unincorporated association by which the notification was given;
 - (ii) the address of the association's main office in the United Kingdom;
 - (iii) the date on which the notification was given;

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- (b) in the case of each gift reported under paragraph 2—
 - (i) the name of the unincorporated association by which the report was given;
 - (ii) the address of the association's main office in the United Kingdom;
 - (iii) (subject to sub-paragraph (4) and paragraph 8) the information provided under paragraph 3.
 - (3) Where the Commission are given any notification under paragraph 1 or any report under paragraph 2, they shall cause the details mentioned in sub-paragraph (2)(a) (in respect of a notification) or sub-paragraph (2)(b) (in respect of a report) to be entered in the register as soon as is reasonably practicable.
 - (4) The information to be entered in the register in respect of any individual shall not include the individual's home address.
- 8 (1) This paragraph applies where—
- (a) an unincorporated association receives a gift in respect of which an entry falls to be made in the register under paragraph 7, and
 - (b) at the time when the gift is received there is no entry in the register in respect of that unincorporated association.
- (2) The Commission shall not include in the register any information that would or might identify a person as someone by or through whom the gift was made unless—
- (a) they have given to the person a notice stating that they propose to include such information, and inviting representations on the matter, and
 - (b) they decide, having considered any representations made by the person, that it is reasonable to include such information in the register.
- (3) The Commission shall make reasonable efforts to give a notice under sub-paragraph (2)
- (a) in any case where, if a notice is not given, sub-paragraph (2) prevents information from being included in the register.
- (4) The Commission shall not make a decision on the matter referred to in sub-paragraph (2)
- (b) until after the period of 45 days beginning with the date on which they gave the notice under sub-paragraph (2)(a), unless representations from the person concerned are received before the end of that period.
- (5) Once they have made a decision on that matter the Commission shall give notification of it to the person concerned.

Meaning of “gift”, etc

- 9 (1) In this Schedule “gift” includes bequest.
- (2) Anything given or transferred to any officer, member, trustee or agent of an unincorporated association in that person's capacity as such (and not for the person's own use or benefit) is to be regarded for the purposes of this Schedule as given or transferred to the association (and references to gifts received by an unincorporated association are to be read accordingly).
- (3) Regulations made by the Secretary of State may—
- (a) make provision as to things that are, or are not, to be regarded as gifts to unincorporated associations for the purposes of this Schedule;

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- (b) make provision as to how the value of a gift to an unincorporated association is to be calculated for the purposes of this Schedule.
- (4) Provision made under sub-paragraph (3)(a) may, in particular, provide for a person to be treated as making a gift where that person—
- (a) pays expenses incurred by another;
 - (b) lends money to another otherwise than on commercial terms;
 - (c) provides any property, services or facilities for the use or benefit of another otherwise than on commercial terms;
 - (d) transfers any money or other property for a consideration that is worth less than what is transferred (or for no consideration).”

SCHEDULE 6

Section 39

MINOR AND CONSEQUENTIAL AMENDMENTS

Representation of the People Act 1983 (c. 2)

- 1 (1) Section 10A (maintenance of registers: registration of electors) is amended as follows.
- (2) In subsection (2), the words “, on the 15th October in the year in question,” are omitted.
- (3) After that subsection there is inserted—
- “(2A) The application referred to in subsection (2) above shall (subject to section 13BB(2)) be treated as made on the 15th October in the year in question.”

.....

Commencement Information

I3 Sch. 6 para. 1 wholly in force at 4.9.2009; Sch. 6 para. 1 not in force at Royal Assent see s. 43(1); Sch. 6 para. 1 in force at 4.9.2009 by S.I. 2009/2395, art. 2(d) (with art. 3)

- 2 In section 13 (publication of registers), in subsection (5)(b), for “section 13A, 13B or 13BA” there is substituted “ any of sections 13A to 13BB ”.

.....

Commencement Information

I4 Sch. 6 para. 2 wholly in force at 4.9.2009; Sch. 6 para. 2 not in force at Royal Assent see s. 43(1); Sch. 6 para. 2 in force at 4.9.2009 by S.I. 2009/2395, art. 2(d) (with art. 3)

- 3 In section 13A (alteration of registers), in subsection (5), for “this section and section 13B or 13BA below” there is substituted “ this section, section 13B or 13BA below or section 13BB below ”.

Changes to legislation: There are currently no known outstanding effects for the Political Parties and Elections Act 2009. (See end of Document for details)

Commencement Information

I5 Sch. 6 para. 3 wholly in force at 4.9.2009; Sch. 6 para. 3 not in force at Royal Assent see s. 43(1); Sch. 6 para. 3 in force at 4.9.2009 by S.I. 2009/2395, art. 2(d) (with art. 3)

- 4 In section 65A (false statements in nomination papers etc), in subsection (1), after paragraph (a) there is inserted—
- “(aa) (where the election is a parliamentary election) a statement under rule 6(5)(b) of Schedule 1 to this Act which he knows to be false in any particular; or”.

Commencement Information

I6 Sch. 6 para. 4 wholly in force at 4.9.2009; Sch. 6 para. 4 not in force at Royal Assent see s. 43(1); Sch. 6 para. 4 in force at 4.9.2009 by S.I. 2009/2395, art. 2(d) (with art. 3)

- 5 (1) Section 70 (effect of default in election agent's appointment) is amended as follows.
- (2) In subsection (4)(a), after “the statement as to persons nominated” there is inserted “(or where, in the case of a parliamentary election, the address is not given on that statement, the address as given under rule 6(4) of Schedule 1 to this Act) ”.
- (3) After subsection (6) there is inserted—
- “(7) In the case of a parliamentary election, subsection (6) above applies whether or not a statement has been made under rule 6(5) of Schedule 1 to this Act requiring the candidate's home address not to be made public.”

Commencement Information

I7 Sch. 6 para. 5 wholly in force at 4.9.2009; Sch. 6 para. 5 not in force at Royal Assent see s. 43(1); Sch. 6 para. 5 in force at 4.9.2009 by S.I. 2009/2395, art. 2(d) (with art. 3)

- 6 In section 76A (power to vary provisions about election expenses), after paragraph (d) of subsection (2) there is inserted—
- “(e) section 76ZA(2) above.”
- 7 In section 90ZA (meaning of “election expenses”), for subsection (5) there is substituted—
- “(5) A reference in this Part of this Act to a candidate at an election, in relation to election expenses, includes (where the context allows) a reference to a person who becomes a candidate at the election after the expenses are incurred.”
- 8 (1) Schedule 1 (parliamentary elections rules) is amended as follows.
- (2) In rule 6 (nomination of candidates), in paragraph (2)(a), after “names,” there is inserted “ and ”.
- (3) In rule 9 (deposit), in paragraph (3), for “rule 6(1)” there is substituted “ rule 6(4) ”.
- (4) In rule 14 (publication of statement of persons nominated), in paragraph (2), after “nomination papers” there is inserted “ and home address forms ”.
- (5) In rule 14A (correction of minor errors)—

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- (a) in paragraph (1), after “nomination paper” there is inserted “ or home address form ”;
 - (b) in paragraph (2), after sub-paragraph (b) there is inserted —
 - “(c) in the home address form, errors as to the information mentioned in rule 6(5)(b).”
- (6) In the Appendix of forms—
- (a) in the Form of nomination paper, in the first table following the words “candidate at the said election”, the final column (home address) is omitted;
 - (b) in the Form of Front of Ballot Paper, for the address after “Richard Edgbaston” there is substituted— “ (address in the Birmingham Northfield Constituency) ”;
 - (c) in the directions as to printing the ballot paper, in paragraph 3(b), after “address” there is inserted “ (or the constituency in which that address is situated) ”.

Commencement Information

- 18** Sch. 6 para. 8 wholly in force at 4.9.2009; Sch. 6 para. 8 not in force at Royal Assent see s. 43(1); Sch. 6 para. 8 in force at 4.9.2009 by S.I. 2009/2395, art. 2(d) (with art. 3)

Political Parties, Elections and Referendums Act 2000 (c. 41)

- 9 In section 1 (establishment of the Electoral Commission), in subsection (5) (appointment of chairman), after “in accordance with section 3” there is inserted “ but subject to section 3A(6) ”.
- 10 In section 3 (appointment of Electoral Commissioners and Commission chairman), in subsection (4) (political restrictions), for “A person may not be appointed” there is substituted “ Subject to subsection (4A), a person may not be appointed ”.
- 11 In section 15 (Deputy Electoral Commissioners), in subsection (3) (Deputy Electoral Commissioner must be eligible for appointment as Electoral Commissioner), for the words after “he is” there is substituted “ prevented by section 3(4) (read without regard to section 3(4A)) from being appointed as an Electoral Commissioner ”.

PROSPECTIVE

- 12 In section 54 (permissible donors), in subsection (1)(b), for “that person” there is substituted “ the person offering the donation ”.

PROSPECTIVE

- 13 (1) In section 55 (payments etc which are (or are not) to be treated as donations by permissible donors), at the end of subsection (2) there is inserted— “ But such a payment shall not be regarded as a donation for the purposes of section 54A or paragraph 6A of Schedule 7. ”
- (2) In that section as amended by sub-paragraph (1) above—
- (a) after “section 54A” there is inserted “ or 54B ”;

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(b) after “paragraph 6A” there is inserted “ or 6B ”.

PROSPECTIVE

- 14 In section 56 (acceptance or return of donations: general), in subsection (5)—
- (a) in paragraph (a), for “paragraph (a) or (b)” there is substituted “ paragraph (a), (aa) or (b) ”;
 - (b) in paragraph (b)(i), for “subsection (2)(a)” there is substituted “ subsection (2)(a) or (aa) ”.

PROSPECTIVE

- 15 In section 58 (forfeiture of donations made by impermissible or unidentifiable donors), in subsection (1)(a) (donations that may not be accepted), for “section 54(1)(a) or (b)” there is substituted “ section 54(1)(a), (aa) or (b) ”.

PROSPECTIVE

- 16 In section 62 (quarterly donation reports), in subsection (9) (donation report to record donations that may not be accepted), for “section 54(1)(a) or (b)” there is substituted “ section 54(1)(a), (aa) or (b) ”.

PROSPECTIVE

- 17 In section 65 (submission of donation reports to Commission), in subsection (4) (offence of failing to comply with reporting requirements), for “the recording of donations in such a report” there is substituted “ the information to be given in such a report ”.

PROSPECTIVE

- 18 In section 67 (weekly donation reports in connection with elections other than general elections), in subsection (1)(c) (application of section 147 with modifications), for “section 147” there is substituted “ an order under paragraph 16 of Schedule 19C ”.

PROSPECTIVE

- 19 In section 71H (authorised participants), after subsection (3) there is inserted—
- “(3ZA) For the purposes of subsection (3), any reference to a donation in section 54(2ZB) is to be read as a reference to a regulated transaction.”

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PROSPECTIVE

- 20 In section 71U (weekly donation reports in connection with elections other than general elections), in subsection (1)(c) (application of section 147 with modifications), for “section 147” there is substituted “ an order under paragraph 16 of Schedule 19C ”.

PROSPECTIVE

- 21 In the heading to Part 9, after “COMPANIES” there is inserted “ AND UNINCORPORATED ASSOCIATIONS ”.
- 22 In section 145 (function of Commission with respect to compliance with controls imposed by 2000 Act etc), in subsection (7) (definitions), for “and sections 146 and 148” there is substituted “ , section 148 and Schedule 19B ”.

Commencement Information

19 Sch. 6 para. 22 in force at 1.12.2010 by S.I. 2010/2866, art. 3(g)

- 23 In section 148 (general offences), in subsection (1) (offence of tampering with or hiding documents etc), for the words after paragraph (b) there is substituted “ any book, record or other document which is or is liable to be required to be produced for inspection under paragraph 1 or 3 of Schedule 19B, and does so with the intention of falsifying the document or enabling any person to evade any of the provisions of this Act. ”

Commencement Information

110 Sch. 6 para. 23 in force at 1.12.2010 by S.I. 2010/2866, art. 3(g)

- 24 In section 149 (inspection of Commission's registers etc), in subsection (1), after paragraph (d) there is inserted—
 “(e) paragraph 19 of Schedule 7;
 (f) paragraph 7 of Schedule 19A.”

Commencement Information

111 Sch. 6 para. 24 in force at 1.1.2010 by S.I. 2009/3084, art. 4(j)

- 25 In section 156 (orders and regulations), in subsection (2), for “subsections (3) and (4)” there is substituted “ subsections (3) to (4A) ”.

Commencement Information

112 Sch. 6 para. 25 in force at 1.12.2010 by S.I. 2010/2866, art. 3(g)

- 26 In section 160 (general interpretation), in subsection (1) (definitions), at the appropriate places there are inserted—

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““contravention” includes a failure to comply, and cognate expressions shall be construed accordingly;”;

““restriction” includes prohibition;”.

Commencement Information

I13 Sch. 6 para. 26 in force at 1.12.2010 by S.I. 2010/2866, art. 3(g)

- 27 (1) Schedule 1 (the Electoral Commission) is amended as follows.
- (2) In paragraph 3 (term of office etc of Electoral Commissioners)—
- (a) in sub-paragraph (3) (circumstances in which Electoral Commissioner ceases to hold office), for “An Electoral Commissioner” there is substituted “ Subject to sub-paragraph (3A), an Electoral Commissioner ”;
- (b) after that sub-paragraph there is inserted—
- “(3A) Paragraph (d) of sub-paragraph (3) does not apply to a nominated Commissioner (within the meaning of section 3A).”
- (3) In paragraph 7 (Assistant Electoral Commissioners), in sub-paragraph (2) (Assistant Electoral Commissioner must be eligible for appointment as Electoral Commissioner), for the words after “he is” there is substituted “ prevented by section 3(4) (read without regard to section 3(4A)) from being appointed as an Electoral Commissioner ”.
- (4) In paragraph 11 (staff)—
- (a) sub-paragraphs (2) and (4) (which are superseded by the provision made by section 7(2) above) are omitted;
- (b) in sub-paragraph (3), for “sub-paragraph (4)” there is substituted “ paragraph 11A(4) ”.

PROSPECTIVE

- 28 (1) Schedule 7 (control of donations to individuals and members associations) is amended as follows.
- (2) In sub-paragraph (1)(b) of paragraph 6 (prohibition on accepting donations from impermissible donors), for “that person” there is substituted “ the person offering the donation ”.
- (3) In sub-paragraph (2) of paragraph 8 (acceptance or return of donations), for “section 56(3) and (4)” there is substituted “ section 56(3), (3B) and (4) ”.

PROSPECTIVE

- 29 (1) Schedule 11 (control of donations to recognised third parties) is amended as follows.
- (2) In paragraph 4 (payments etc not to be regarded as donations), at the end there is inserted—
- “(3) Any payment out of public funds shall not be regarded as a donation for the purposes of paragraph 6A.”

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(3) In sub-paragraph (3) of that paragraph (inserted by sub-paragraph (2) above), after “paragraph 6A” there is inserted “ or 6B ”.

(4) In sub-paragraph (2)(b) of paragraph 7 (acceptance or return of donations), for “section 56(3) and (4)” there is substituted “ section 56(3), (3B) and (4) ”.

PROSPECTIVE

30 (1) Schedule 15 (control of donations to permitted participants) is amended as follows.

(2) In paragraph 4 (payments etc not to be regarded as donations)—

- (a) sub-paragraph (1)(a) is omitted;
- (b) at the end there is inserted—

“(3) Any payment out of public funds shall not be regarded as a donation for the purposes of paragraph 6A.

(4) For all other purposes of this Schedule, such a payment shall not be regarded as a donation unless it is a grant provided to a designated organisation by virtue of section 110(2).”

(3) In sub-paragraph (3) of that paragraph (inserted by sub-paragraph (2)(b) above), after “paragraph 6A” there is inserted “ or 6B ”.

(4) In sub-paragraph (2)(b) of paragraph 7 (acceptance or return of donations), for “section 56(3) and (4)” there is substituted “ section 56(3), (3B) and (4) ”.

PROSPECTIVE

31 In Schedule 20 (penalties), in the entry for section 56(3) or (4), for “(3) or (4)” there is substituted “ (3), (3B) or (4) ”.

SCHEDULE 7

Section 39

REPEALS

Commencement Information

- I14** Sch. 7 partly in force; Sch. 7 in force for certain purposes at Royal Assent see s. 43(5); Sch. 7 in force for certain purposes at 4.9.2009 by [S.I. 2009/2395](#), [art. 2\(e\)](#) (with [art. 3](#)); for certain purposes at 25.11.2009 and 1.1.2010 by [S.I. 2009/3084](#), [arts. 3\(d\), 4\(k\)](#)
- I15** Sch. 7 in force at 26.3.2010 for specified purposes by [S.I. 2010/969](#), [art. 2\(c\)](#) (with [art. 3](#))
- I16** Sch. 7 in force at 1.12.2010 for specified purposes by [S.I. 2010/2866](#), [art. 3\(h\)](#) (with [art. 5](#))
- I17** Sch. 7 in force at 1.1.2011 for specified purposes by [S.I. 2010/2866](#), [art. 4\(g\)](#)

Short title and chapter**Extent of repeal**

Representation of the People Act 1983 (c. 2) In section 10ZB, in the heading, the words “(Northern Ireland)”.

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- In section 10A—
- (a) in subsection (1A), the words “in respect of an address in Northern Ireland”;
 - (b) in subsection (2), the words “, on the 15th October of the year in question,”.
- In section 13A(2A), the words “in respect of an address in Northern Ireland”.
- In section 63(3)(b), the words “sheriff clerk,”.
- In section 76A(2), the word “or” at the end of paragraph (c).
- In Schedule 1—
- (a) in rule 6, sub-paragraph (b) of paragraph (2);
 - (b) in the Appendix of forms, in the Form of nomination paper, in the first table following the words “candidate at the said election”, the final column.
- In Schedule 2, paragraph 1(8).
- Political Parties, Elections and Referendums Act 2000 (c. 41)
- In section 13—
- (a) in subsection (1), paragraphs (b) and (c);
 - (b) in subsection (1A), paragraph (b) and the preceding “and”;
 - (c) in subsection (2), the words “or (b)”;
 - (d) in subsection (3), the words “, or to local government,” and the words after “in Scotland”;
 - (e) in subsection (7), the words “, or to local government,”.
- In section 47, subsections (2) and (3).
- In section 54(1), the word “or” at the end of paragraph (a).
- Section 65(5).
- Section 71S(6).
- In section 145, in the heading, the word “monitoring”.
- In section 149(1), the word “or” at the end of paragraph (c).
- In Schedule 1, paragraph 11(2) and (4).
- In Schedule 7—
- (a) in paragraph 6(1), the word “or” at the end of paragraph (a);
 - (b) paragraph 12(3).
- In Schedule 7A—
- (a) in paragraph 1(7)(d), the words after “(in relation to a members association)”;
 - (b) paragraph 12(3).
- In paragraph 6(1) of Schedule 11, the word “or” at the end of paragraph (a).

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	In Schedule 15—
	(a) paragraph 4(1)(a);
	(b) in paragraph 6(1), the word “or” at the end of paragraph (a).
	In Schedule 20, the entries relating to sections 146(5) and 146(6).
Electoral Fraud (Northern Ireland) Act 2002 (c. 13)	Section 6(3).
Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33)	In Schedule 4, paragraphs 2, 3 and 4(5).

Changes to legislation:

There are currently no known outstanding effects for the Political Parties and Elections Act 2009.