



# Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014

## 2014 CHAPTER 4

### PART 1

#### REGISTRATION OF CONSULTANT LOBBYISTS

##### *Requirement to register*

VALID FROM 01/04/2015

#### **1 Prohibition on consultant lobbying unless registered**

- (1) A person must not carry on the business of consultant lobbying unless the person is entered in the register of consultant lobbyists.
- (2) Sections 3 to 7 make provision about the keeping and publication of the register.

#### **2 Meaning of consultant lobbying**

- (1) For the purposes of this Part, a person carries on the business of consultant lobbying if—
  - (a) in the course of a business and in return for payment, the person makes communications within subsection (3) on behalf of another person or persons,
  - (b) the person is registered under the Value Added Tax Act 1994, and
  - (c) none of the exceptions in Part 1 of Schedule 1 applies.
- (2) Part 2 of that Schedule makes provision about the meaning, for the purposes of this Part of this Act, of terms used in subsection (1).

**Status:** Point in time view as at 30/01/2014. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, Part 1. (See end of Document for details)

- (3) The communications within this subsection are oral or written communications made personally to a Minister of the Crown or permanent secretary relating to—
- (a) the development, adoption or modification of any proposal of the government to make or amend primary or subordinate legislation;
  - (b) the development, adoption or modification of any other policy of the government;
  - (c) the making, giving or issuing by the government of, or the taking of any other steps by the government in relation to,—
    - (i) any contract or other agreement,
    - (ii) any grant or other financial assistance, or
    - (iii) any licence or other authorisation; or
  - (d) the exercise of any other function of the government.
- (4) It does not matter whether the person to whom the communication is made, or the person making it, or both, are outside the United Kingdom when the communication is made.
- (5) Regulations may amend subsection (3) so as to provide that communications made personally to a special adviser are within that subsection.
- (6) In this section—
- “the government” means Her Majesty's Government in the United Kingdom;
- “Minister of the Crown” means the holder of an office in the government, and includes the Treasury;
- “permanent secretary” means a person serving the government in—
- (a) the position of permanent secretary or second permanent secretary in the civil service of the State, or
  - (b) a position listed in Part 3 of Schedule 1 (positions equivalent to those mentioned in paragraph (a));
- “special adviser” means a person who serves the government in a position in the civil service of the State and whose appointment to that position meets the requirements applicable to that position set out in section 15(1) of the Constitutional Reform and Governance Act 2010.

#### **Commencement Information**

**II** S. 2 partly in force; s. 2(5) in force for certain purposes at Royal Assent, see s. 45(3)(a)

### *Keeping the register*

VALID FROM 23/05/2014

## **3 The Registrar of Consultant Lobbyists**

- (1) There is to be a Registrar of Consultant Lobbyists.
- (2) Schedule 2 makes provision about the Registrar.

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## 4 The register

- (1) The Registrar must keep and publish a register of consultant lobbyists.
- (2) The entry for each registered person must include—
  - (a) in the case of a company—
    - (i) its name, its registered number and the address of its registered office, and
    - (ii) the names of its directors and of any secretary and any shadow directors;
  - (b) in the case of a partnership (including a limited liability partnership), the names of the partners and the address of its main office or place of business;
  - (c) in the case of an individual, the individual's name and the address of the individual's main place of business (or, if there is no such place, the individual's residence);
  - (d) in the case of any other person (including persons outside the United Kingdom), the equivalent information as specified in regulations;
  - (e) any name or names, not included under paragraphs (a) to (d), under which the person carries on business as a consultant lobbyist;
  - (f) such other information regarding the identity of the person as may be determined by the Registrar;
  - (g) a statement of—
    - (i) whether there is in place an undertaking by the person to comply with a relevant code of conduct, and
    - (ii) if so, where a copy of the code may be inspected;
  - (h) such other information as may be specified in regulations.
- (3) Each entry must also include—
  - (a) for each quarter in which the registered person has been entered in the register, the person's client information (see section 5(3)) or the statement under section 5(5), and
  - (b) if the person received payment in the pre-registration quarter to engage in lobbying, the name of the person or persons on whose behalf the lobbying was or is to be done.
- (4) The pre-registration quarter is the period of 3 months ending on the date on which the person applied to be entered in the register.
- (5) Regulations may make further provision in connection with the register; and in particular may—
  - (a) specify other information about the persons mentioned in subsection (3)(b) which must be included in the register;
  - (b) make provision about applications to be entered in the register, including the form and content of those applications.
- (6) In this section—
  - (a) any expression which is used in subsection (2)(a) and in the Companies Acts has the meaning which it has in those Acts (see, in particular, Schedule 8 to the Companies Act 2006);
  - (b) a “relevant code of conduct” (in subsection (2)(g)) is a code of conduct which governs the carrying on of the business of consultant lobbying (whether or

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not it also governs other activities) and is open to inspection by members of the public.

#### Commencement Information

**I2** S. 4 partly in force; s. 4(5) in force for certain purposes at Royal Assent, see s. 45(3)(a)

### 5 Notification of client information and changes

- (1) A registered person must submit an information return to the Registrar for each quarter.
- (2) The information return for a quarter must contain—
  - (a) either the client information for that quarter or a statement under subsection (5), and
  - (b) details of any change in that quarter in the particulars included in the register under section 4(2).
- (3) The client information for a quarter is—
  - (a) if the registered person engaged in lobbying in the quarter in return for payment (whether or not the payment has been received), the name of the person or persons on whose behalf the lobbying was done, and
  - (b) if the registered person received payment in the quarter to engage in lobbying (whether or not the lobbying has been done), the name of the person or persons on whose behalf the lobbying is or was to be done.
- (4) Regulations may specify other information about the persons mentioned in subsection (3) which must be included in an information return.
- (5) A statement under this subsection is a statement that, in the quarter in question, the registered person neither engaged in lobbying in return for payment nor received payment to engage in lobbying.
- (6) The information return for a quarter must be submitted before the end of the period of 2 weeks beginning immediately after the end of the quarter.

#### Commencement Information

**I3** S. 5 partly in force; s. 5(4) in force for certain purposes at Royal Assent, see s. 45(3)(a)

VALID FROM 01/04/2015

### 6 Duty to update register

- (1) The Registrar must keep the register up to date.
- (2) In particular, the Registrar must comply with subsections (3) and (4).
- (3) Where a person applies, in accordance with regulations, to be entered in the register, the Registrar must register the person before the end of the period of 4 working days beginning with the day after the day on which the application is received.

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- (4) The Registrar must update the register to include any information or change which is notified in an information return.
- (5) The Registrar must comply with subsection (4)—
  - (a) if the return is received before the end of the period specified in section 5(6), before the end of the period of 4 working days beginning with the day after the day on which the return is received, or
  - (b) if the return is received after the end of that period, before the end of the period of 8 working days beginning with the day after the day on which the return is received.
- (6) If the Registrar has reasonable grounds for believing that a registered person is not (or is no longer) a consultant lobbyist, the Registrar may decide that—
  - (a) the person's entry should include a statement to that effect, or
  - (b) the person's entry should be removed from the register.
- (7) In this section “working day” means any day other than—
  - (a) a Saturday or Sunday, or
  - (b) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

VALID FROM 01/04/2015

## **7 Publication of register**

- (1) The Registrar must publish the register as kept in accordance with section 6.
- (2) The Registrar may publish such entries, or parts of entries, as the Registrar considers appropriate in respect of persons who were, but are no longer, entered in the register.
- (3) Publication under this section is to be—
  - (a) on a website, and
  - (b) in such other form or forms as the Registrar considers appropriate.

### *Compliance*

VALID FROM 01/04/2015

## **8 Duty to monitor**

The Registrar must monitor compliance with the obligations imposed by or under this Part.

## **9 Notice to supply information**

- (1) In connection with the duty under section 8, the Registrar may serve a notice (an “information notice”) on a person mentioned in subsection (2) requiring the person to supply information specified in the notice.

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- (2) The persons are—
  - (a) any registered person;
  - (b) any person who is not entered in the register but whom the Registrar has reasonable grounds for believing to be a consultant lobbyist.
- (3) Regulations may specify descriptions of information which the Registrar may not require a person to supply under this section.
- (4) An information notice must—
  - (a) specify the form in which the information must be supplied,
  - (b) specify the date by which the information must be supplied, and
  - (c) contain particulars of the right to appeal under section 11.
- (5) The date specified under subsection (4)(b) must not be before the end of the period within which an appeal under section 11 can be brought.
- (6) Section 10 sets out limitations on—
  - (a) what information is required to be supplied under a notice, and
  - (b) how information which is supplied may be used.
- (7) Where an information notice has been served on a person, the Registrar may cancel it by serving written notice to that effect on the person.

#### Commencement Information

**I4** S. 9 partly in force; s. 9(3) in force for certain purposes at Royal Assent, see s. 45(3)(a)

VALID FROM 01/04/2015

### **10 Limitations on duty to supply information and use of information supplied**

- (1) An information notice does not require a person to supply information if—
  - (a) doing so would disclose evidence of the commission of an offence, other than an offence excluded by subsection (2), and
  - (b) the disclosure would expose the person to proceedings for that offence.
- (2) The following offences are excluded from subsection (1)—
  - (a) an offence under this Part;
  - (b) an offence under section 5 of the Perjury Act 1911 (false statements made otherwise than on oath);
  - (c) an offence under section 44 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 (S.I. 1979/1714 (N.I. 19)) (false statutory declarations etc).
- (3) Any relevant statement made by a person (“P”) in response to a requirement in an information notice may not be used in evidence against P on a prosecution for an offence under this Part (except section 12(4)) unless the conditions in subsection (4) are met.
- (4) The conditions are that in the proceedings—

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- (a) in giving evidence P provides information inconsistent with the relevant statement, and
  - (b) evidence relating to the statement is adduced, or a question relating to it is asked, by P or on P's behalf.
- (5) In subsection (3) “relevant statement”, in relation to a requirement in an information notice, means—
- (a) an oral statement, or
  - (b) a written statement made for the purposes of the requirement.

## 11 Right to appeal against information notice

- (1) A person on whom an information notice has been served may appeal to the Tribunal against the notice.
- (2) If an appeal is brought under this section, the person is not required to supply the information until the date on which the appeal is finally determined or withdrawn.
- (3) Regulations may make provision for and in connection with the determination of appeals under this section.

### Commencement Information

**I5** S. 11 partly in force; s. 11(3) in force for certain purposes at Royal Assent, see s. 45(3)(a)

VALID FROM 01/04/2015

## *Offences*

### 12 Offences

- (1) If a person carries on the business of consultant lobbying in breach of section 1(1) (lobbying whilst unregistered), an offence is committed by—
  - (a) the person, and
  - (b) any individual who, not being entered in the register, engages in lobbying in the course of that business.
- (2) It is an offence for a registered person to engage in lobbying if—
  - (a) the person's entry in the register is inaccurate or incomplete in a material particular, and
  - (b) the person has failed, when required to submit an information return under section 5, to provide sufficient information in or accompanying the return to enable the inaccuracy or omission to be rectified.
- (3) Where a person is required to submit an information return under section 5, it is an offence for the person—
  - (a) to fail to do so within the period specified in section 5(6), or
  - (b) to provide information which is inaccurate or incomplete in a material particular.

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- (4) Where an information notice has been served on a person, it is an offence for the person—
  - (a) to fail to supply the required information on or before the date by which the person is required to do so, or
  - (b) to provide information which is inaccurate or incomplete in a material particular.
- (5) It is a defence for a person charged under any of subsections (1) to (4) to show that the person exercised all due diligence to avoid committing the offence.
- (6) A person is taken to have shown the fact mentioned in subsection (5) if—
  - (a) sufficient evidence of the fact is adduced to raise an issue with respect to it, and
  - (b) the contrary is not proved beyond reasonable doubt.
- (7) A person guilty of an offence under any of subsections (1) to (4) is liable—
  - (a) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum;
  - (b) on summary conviction in England and Wales, or on conviction on indictment, to a fine.
- (8) In the case of a summary conviction in England and Wales for an offence committed before the coming into force of section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, the fine under subsection (7) must not exceed the statutory maximum.
- (9) Proceedings for an offence under this Part may be instituted—
  - (a) in England and Wales, only by or with the consent of the Director of Public Prosecutions;
  - (b) in Northern Ireland, only by or with the consent of the Director of Public Prosecutions for Northern Ireland.

### **13 Bodies corporate and Scottish partnerships**

- (1) Where an offence under this Part is committed by a body corporate and is proved—
  - (a) to have been committed with the consent or connivance of a director, manager, secretary or other similar officer, or
  - (b) to be attributable to any neglect on the part of any such individual,the individual as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and omissions of a member in connection with that management as if the member were a director of the body corporate.
- (3) Where an offence under this Part is committed by a partnership constituted under the law of Scotland and is proved—
  - (a) to have been committed with the consent or connivance of a partner, or
  - (b) to be attributable to any neglect on the part of any such individual,the individual as well as the partnership is guilty of the offence and is liable to be proceeded against and punished accordingly.



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## Civil penalties

VALID FROM 01/04/2015

### 14 Civil penalties

- (1) The Registrar may impose a civil penalty on a person (in accordance with sections 15 to 18) if the Registrar is satisfied that the person's conduct amounts to an offence under any of subsections (1) to (4) of section 12.
- (2) For this purpose—
  - (a) section 12(5) (defence of due diligence) is to be ignored, and
  - (b) a person's conduct includes a failure to act.

VALID FROM 01/04/2015

### 15 Notice of intention to impose civil penalty

- (1) Before imposing a civil penalty on a person, the Registrar must serve on that person a notice stating that the Registrar proposes to impose the penalty.
- (2) The notice must—
  - (a) set out the conduct on which the proposal to impose the penalty is based,
  - (b) set out the reasons why the Registrar is satisfied that the person has engaged in that conduct,
  - (c) state the amount of the proposed penalty, and
  - (d) inform the person that the person may, within a period specified in the notice, make written representations in relation to the proposal.
- (3) The Registrar must not impose the penalty before the end of the period specified under subsection (2)(d).
- (4) The Registrar must consider any written representations received before the end of that period.

### 16 Imposition of penalty

- (1) If the Registrar decides to impose a civil penalty, the Registrar must serve on the person a notice to that effect (a “penalty notice”).
- (2) The notice must—
  - (a) set out the conduct on which the decision to impose the penalty is based,
  - (b) set out the reasons why the Registrar is satisfied that the person has engaged in that conduct,
  - (c) state the amount of the penalty,
  - (d) specify the period within which and the form in which the penalty must be paid, and
  - (e) contain particulars of the right to appeal under section 17.

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- (3) The amount specified in a penalty notice must not exceed £7,500.
- (4) Regulations may amend subsection (3) by substituting a different maximum figure.
- (5) The period specified under subsection (2)(d) must not end before the end of the period within which an appeal under section 17 can be brought.
- (6) The person must pay the amount before the end of that period (but this is subject to section 17(2)).
- (7) Where a penalty notice has been served on a person, the Registrar may vary or cancel it by serving written notice to that effect on the person.

#### Commencement Information

**I6** S. 16 partly in force; s. 16(4) in force for certain purposes at Royal Assent, see s. 45(3)(a)

### 17 Right to appeal against imposition of civil penalty

- (1) A person on whom a penalty notice has been served may appeal to the Tribunal against—
  - (a) the decision to impose the penalty;
  - (b) if the penalty notice has been varied, the decision to vary it;
  - (c) the amount of the penalty.
- (2) If an appeal is brought under this section, the person is not required to pay the penalty until the date on which the appeal is finally determined or withdrawn.
- (3) Regulations may make provision for and in connection with the determination of appeals under this section.

#### Commencement Information

**I7** S. 17 partly in force; s. 17(3) in force for certain purposes at Royal Assent, see s. 45(3)(a)

VALID FROM 01/04/2015

### 18 Civil penalties and criminal proceedings

- (1) The Registrar may not impose a civil penalty on a person in respect of any conduct—
  - (a) at any time after criminal proceedings for an offence under this Part have been instituted against the person in respect of that conduct and before those proceedings have been concluded, or
  - (b) after the person has been convicted of an offence under this Part in respect of that conduct.
- (2) If the Registrar has imposed a civil penalty on a person in respect of any conduct, the person may not be convicted of an offence under this Part in respect of that conduct.

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VALID FROM 01/04/2015

## 19 Enforcement

- (1) An amount payable to the Registrar as a civil penalty may be recovered by the Registrar as a debt.
- (2) In proceedings for the enforcement of a civil penalty no question may be raised as to—
  - (a) liability to the imposition of the penalty, or
  - (b) the amount of the penalty.
- (3) The Registrar must pay into the Consolidated Fund any sums received by virtue of a penalty notice.

## 20 Further provision about civil penalties

Regulations may make further provision about civil penalties; and in particular may—

- (a) specify circumstances in which a penalty may not be imposed;
- (b) specify steps that the Registrar must take before imposing a penalty;
- (c) set a minimum for the period which must be specified under section 15(2)(d) or 16(2)(d);
- (d) require other matters to be specified in a notice under either of those sections;
- (e) specify a maximum period that may elapse between the service of a notice under section 15 and the service of a penalty notice under section 16;
- (f) provide for the reviewing of a decision to impose a penalty;
- (g) make provision about the variation or cancellation under section 16(7) of penalty notices;
- (h) impose duties on the Registrar about the keeping of accounts and other records in relation to penalties;
- (i) allow for the charging of interest, or an additional penalty, if a penalty is paid late.

### Commencement Information

**18** S. 20 partly in force; s. 20 in force for certain purposes at Royal Assent, see s. 45(3)(a)

*Supplementary*

VALID FROM 23/05/2014

## 21 Guidance

- (1) The Registrar may give guidance about how the Registrar proposes to exercise the functions under this Part.
- (2) The Registrar may do so, in particular, by publishing guidance—

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- (a) as to cases which the Registrar would, or would not, regard as falling within any of the exceptions in Part 1 of Schedule 1;
  - (b) otherwise as to the circumstances in which the Registrar would, or would not, consider that a person is carrying on the business of consultant lobbying;
  - (c) as to the circumstances in which the Registrar would—
    - (i) include in the register a statement under section 6(6)(a), or
    - (ii) remove a person's entry from the register;
  - (d) as to the circumstances in which the Registrar would consider it appropriate to impose a civil penalty;
  - (e) about how the amount of a civil penalty will be determined.
- (3) The Registrar may publish—
- (a) revisions to any guidance published under this section;
  - (b) replacement guidance.
- (4) Publication under this section is to be—
- (a) on a website, and
  - (b) in such other form or forms as the Registrar considers appropriate.

## 22 Charges

- (1) The Registrar may impose charges for or in connection with the making, updating and maintenance of entries in the register.
- (2) The charges are to be determined by or in accordance with regulations.
- (3) In making the regulations, the Minister must seek to ensure that the total paid to the Registrar in charges is sufficient to offset the total of the costs incurred by the Registrar in exercising the functions under this Part (whether or not those costs are directly connected with the keeping of the register).
- (4) If a charge imposed for making an application or a return to the Registrar is not paid, the Registrar may treat the application or return as not having been made.
- (5) The Registrar must pay into the Consolidated Fund any sums received in respect of charges under this section.

### Commencement Information

**I9** S. 22 partly in force; s. 22(2)(3) in force for certain purposes at Royal Assent, see s. 45(3)(a)

## 23 Power to make further provision

- (1) Regulations may make such provision as the Minister considers appropriate for the purposes of carrying into effect any provision of this Part.
- (2) Regulations under subsection (1) may in particular make provision (or further provision) about—
  - (a) the date from which an entry in the register is to take effect;
  - (b) the form and content of information returns under section 5;
  - (c) the exercise of the Registrar's powers under section 6(6);

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- (d) the removal of entries in other circumstances;
  - (e) the minimum period between the date on which an information notice is served and the date which must be specified under section 9(4)(b);
  - (f) other matters which must be specified in an information notice;
  - (g) the cancellation of notices under section 9(7).
- (3) Regulations under subsection (1) may make provision permitting or requiring the Commissioners for Her Majesty's Revenue and Customs to supply to the Registrar, on request, such information regarding any person who is, or is required to be, registered under the Value Added Tax Act 1994 as is specified in the regulations.

#### Commencement Information

**I10** S. 23 partly in force; s. 23 in force for certain purposes at Royal Assent, see s. 45(3)(a)

## 24 Regulations

- (1) Any reference in this Part to regulations is to regulations made by the Minister.
- (2) Regulations under this Part may make such consequential, supplementary, incidental or transitional provision as the Minister considers appropriate, including provision amending or modifying the provisions of this Part.
- (3) Regulations under this Part may make different provision for different purposes or cases.
- (4) Regulations under this Part are to be made by statutory instrument.
- (5) A statutory instrument containing any of the following regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament—
- (a) regulations under section 4(5)(a) or 5(4);
  - (b) the first regulations to be made under each of sections 11(3) and 17(3);
  - (c) regulations under this Part which amend or modify the provisions of this Part.
- (6) Any other statutory instrument containing regulations under this Part is to be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Commencement Information

**I11** S. 24 partly in force; s. 24(2)(4) in force for certain purposes at Royal Assent, see s. 45(3)(a)

VALID FROM 23/05/2014

## 25 Interpretation

- (1) In this Part—
- “consultant lobbyist” means a person who carries on the business of consultant lobbying;

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“employee” means an individual who works under a contract of employment;

to “engage in lobbying” means to make a communication within section 2(3) on behalf of another person or persons;

“information notice” means a notice under section 9;

“the Minister” means the Secretary of State or the Lord President of the Council;

“payment”, “in return for payment” and references to receiving payment are to be read in accordance with paragraphs 5 to 7 of Schedule 1;

“penalty notice” means a notice under section 16;

“quarter” means each period of three months beginning with 1 January, 1 April, 1 July or 1 October;

“registered person” means a person entered in the register of consultant lobbyists;

“the Tribunal” means—

(a) the First-tier Tribunal, or

(b) in any case where it is determined by or under Tribunal Procedure Rules that the appeal is to be heard by the Upper Tribunal, that Tribunal.

(2) Where the Registrar is required or permitted to serve a notice on a person, this is to be effected—

(a) if the person is a registered company (within the meaning of the Companies Act 2006), by sending it by post to the company's registered office;

(b) if the person is an individual, by delivering it in person, by sending it by post to the individual's last known place of residence or business, or by leaving it at that place;

(c) in any other case, by sending it by post to the last known main address of that person;

(but this does not prevent the Registrar from sending additional copies of the notice by whatever means the Registrar considers appropriate).

**Status:**

Point in time view as at 30/01/2014. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014, Part 1.