

## SCHEDULES

### SCHEDULE 2

Section 3

#### CONTROL OF LOANS ETC TO PERMITTED PARTICIPANTS

##### *Control of loans etc to permitted participants*

- 1 For the purposes of the referendum, the 2000 Act has effect as if after Schedule 15 (in Part 7 of that Act) there were inserted—

“SCHEDULE  
15A

#### CONTROL OF LOANS ETC TO CERTAIN PERMITTED PARTICIPANTS

### PART 1

#### INTRODUCTORY

##### **Introductory**

- 1 (1) This Schedule has effect for controlling regulated transactions entered into by permitted participants that either are not registered parties or are minor parties.
- (2) Accordingly, in the following provisions of this Schedule references to permitted participants do not include a permitted participant which is a registered party other than a minor party.
- (3) In this Schedule—
- “connected transaction” has the meaning given by paragraph 2(9);
  - “credit facility” has the meaning given by paragraph 2(11);
  - “non-qualifying person” means a person who is not a qualifying person;
  - “qualifying person” has the meaning given by paragraph 4(2);
  - “regulated transaction” has the meaning given by paragraph 2.

##### **Regulated transactions**

- 2 (1) An agreement between a permitted participant and another person by which the other person makes a loan of money to the permitted participant is a regulated transaction if the use condition is satisfied.

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- (2) An agreement between a permitted participant and another person by which the other person provides a credit facility to the permitted participant is a regulated transaction if the use condition is satisfied.
- (3) Where—
- (a) a permitted participant and another person (“A”) enter into a regulated transaction of a description mentioned in sub-paragraph (1) or (2), or a transaction under which any property, services or facilities are provided for the use or benefit of the permitted participant (including the services of any person),
  - (b) A also enters into an arrangement whereby another person (“B”) gives any form of security (whether real or personal) for a sum owed to A by the permitted participant under the transaction mentioned in paragraph (a), and
  - (c) the use condition is satisfied,
- the arrangement mentioned in paragraph (b) is a regulated transaction.
- (4) An agreement or arrangement is also a regulated transaction if—
- (a) the terms of the agreement or arrangement as first entered into do not constitute a regulated transaction by virtue of sub-paragraph (1), (2) or (3), but
  - (b) the terms are subsequently varied in such a way that the agreement or arrangement becomes a regulated transaction.
- (5) “The use condition” is that the permitted participant intends at the time of entering into a transaction mentioned in sub-paragraph (1), (2) or (3)(a) to use any money or benefit obtained in consequence of the transaction for meeting referendum expenses incurred by or on behalf of the permitted participant.
- (6) For the purposes of sub-paragraph (5), it is immaterial that only part of the money or benefit is intended to be used for meeting referendum expenses incurred by or on behalf of the permitted participant.
- (7) References in sub-paragraphs (1) and (2) to a permitted participant include references to an officer, member, trustee or agent of the permitted participant if that person makes the agreement as such.
- (8) References in sub-paragraph (3) to a permitted participant include references to an officer, member, trustee or agent of the permitted participant if the property, services or facilities are provided to that person as such, or the sum is owed by that person as such.
- (9) A reference in this Schedule to a connected transaction is a reference to the arrangement mentioned in sub-paragraph (3)(b).
- (10) In this paragraph a reference to anything being done by or in relation to a permitted participant or a person includes a reference to its being done directly or indirectly through a third person.
- (11) A “credit facility” is an agreement whereby a permitted participant is enabled to receive from time to time from another party to the agreement a loan of money not exceeding such amount (taking account of any

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repayments made by the permitted participant) as is specified in or determined in accordance with the agreement.

- (12) An agreement or arrangement is not a regulated transaction—
- (a) to the extent that a payment made in pursuance of the agreement or arrangement falls, by virtue of paragraph 9 of Schedule 15, to be included in a return under section 120 (or would do so but for section 120A), or
  - (b) if its value is not more than £500.

### **Valuation of regulated transaction**

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- (1) The value of a regulated transaction which is a loan is the value of the total amount to be lent under the loan agreement.
  - (2) The value of a regulated transaction which is a credit facility is the maximum amount which may be borrowed under the agreement for the facility.
  - (3) The value of a regulated transaction which is an arrangement by which any form of security is given is the contingent liability under the security provided.
  - (4) For the purposes of sub-paragraphs (1) and (2), no account is to be taken of the effect of any provision contained in a loan agreement or an agreement for a credit facility at the time it is entered into which enables outstanding interest to be added to any sum for the time being owed in respect of the loan or credit facility, whether or not any such interest has been so added.

## **PART 2**

### **CONTROLS ON REGULATED TRANSACTIONS**

#### **Regulated transactions with non-qualifying persons**

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- (1) A permitted participant must not—
    - (a) be a party to a regulated transaction to which a person who is not a qualifying person is also a party;
    - (b) derive a benefit in consequence of a connected transaction if any of the parties to that transaction is not a qualifying person.
  - (2) In this Schedule, “qualifying person” means—
    - (a) a permissible donor falling within section 54(2) (but see sub-paragraph (3));
    - (b) a Gibraltar elector;
    - (c) any body falling within any of paragraphs (b) to (g) of section 54(2A);
    - (d) a body incorporated by Royal Charter which does not fall within section 54(2);

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- (e) a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011 or Part 11 of the Charities Act (Northern Ireland) 2008;
  - (f) a Scottish charitable incorporated organisation within the meaning of Chapter 7 of Part 1 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10);
  - (g) a partnership constituted under the law of Scotland which carries on business in the United Kingdom.
- (3) In relation to transactions entered into by a permitted participant other than a designated organisation, references in this Schedule to a qualifying person do not include—
- (a) a registered party, or
  - (b) a political party which is not a registered party but is established in Gibraltar,
- and sub-paragraph (2)(a) and (c) have effect subject to this sub-paragraph.
- (4) In this paragraph “designated organisation” has the meaning given by section 110(5).

#### **Effect of transaction with non-qualifying person**

- 5 (1) This paragraph applies if a permitted participant is a party to a regulated transaction to which a non-qualifying person is also a party.
- (2) The transaction is void.
- (3) Despite sub-paragraph (2)—
- (a) any money received by the permitted participant by virtue of the transaction must be repaid by the responsible person to the person from whom it was received, along with interest at the rate referred to in section 71I(3)(a);
  - (b) the person from whom it was received is entitled to recover the money, along with such interest.
- (4) If—
- (a) the money is not (for whatever reason) repaid as mentioned in sub-paragraph (3)(a), or
  - (b) the person entitled to recover the money refuses or fails to do so,
- the Commission may apply to the court to make such order as it thinks fit to restore (so far as is possible) the parties to the transaction to the position they would have been in if the transaction had not been entered into.
- (5) An order under sub-paragraph (4) may in particular—
- (a) where the transaction is a loan or credit facility, require that any amount owed by the permitted participant be repaid (and that no further sums be advanced under it);
  - (b) where any form of security is given for a sum owed under the transaction, require that security to be discharged.

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- (6) In the case of a regulated transaction where a party other than a permitted participant—
- (a) at the time the permitted participant enters into the transaction, is a qualifying person, but
  - (b) subsequently, for whatever reason, ceases to be a qualifying person,
- the transaction is void and sub-paragraphs (3) to (5) apply with effect from the time when the other party ceased to be a qualifying person.

### **Guarantees and securities involving non-qualifying persons**

- 6 (1) This paragraph applies if—
- (a) a permitted participant and another person (“A”) enter into a transaction of a description mentioned in paragraph 2(3)(a),
  - (b) A is party to a regulated transaction of a description mentioned in paragraph 2(3)(b) (“the connected transaction”) with another person (“B”), and
  - (c) B is not a qualifying person.
- (2) Paragraph 5(2) to (5) applies to the transaction mentioned in sub-paragraph (1)(a).
- (3) The connected transaction is void.
- (4) Sub-paragraph (5) applies if (but only if) A is unable to recover from the permitted participant the whole of the money mentioned in paragraph 5(3)(a) (as applied by sub-paragraph (2) above), along with such interest as is there mentioned.
- (5) Despite sub-paragraph (3), A is entitled to recover from B any part of that money (and such interest) that is not recovered from the permitted participant.
- (6) Sub-paragraph (5) does not entitle A to recover more than the contingent liability under the security provided by virtue of the connected transaction.
- (7) In the case of a connected transaction where B—
- (a) at the time A enters into the transaction, is a qualifying person, but
  - (b) subsequently, for whatever reason, ceases to be a qualifying person,
- sub-paragraphs (2) to (6) apply with effect from the time when B ceased to be a qualifying person.
- (8) If the transaction mentioned in paragraph 2(3)(a) is not a regulated transaction of a description mentioned in paragraph 2(1) or (2), references in this paragraph and paragraph 5(2) to (5) (as applied by sub-paragraph (2) above) to the repayment or recovery of money are to be construed as references to (as the case may be)—
- (a) the return or recovery of any property provided under the transaction,

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- (b) to the extent that such property is incapable of being returned or recovered or its market value has diminished since the time the transaction was entered into, the repayment or recovery of the market value at that time, or
- (c) the repayment or recovery of the market value (at that time) of any facilities or services provided under the transaction.

### **Transfer to non-qualifying person**

- 7 If a qualifying person purports to transfer the person's interest in a regulated transaction to a non-qualifying person, the purported transfer is of no effect.

## **PART 3**

### **OFFENCES**

#### **Offences of knowingly entering into certain transactions**

- 8 (1) An individual who is a permitted participant commits an offence if—
- (a) the individual enters into a regulated transaction of a description mentioned in paragraph 2(1) or (2) to which a non-qualifying person is also a party, and
  - (b) the individual knew or ought reasonably to have known of the matters mentioned in paragraph (a).
- (2) A permitted participant that is not an individual commits an offence if—
- (a) it enters into a regulated transaction of a description mentioned in paragraph 2(1) or (2) to which a non-qualifying person is also a party, and
  - (b) an officer of the permitted participant knew or ought reasonably to have known of the matters mentioned in paragraph (a).
- (3) A person who is the responsible person in relation to a permitted participant that is not an individual commits an offence if—
- (a) the permitted participant enters into a regulated transaction of a description mentioned in paragraph 2(1) or (2) to which a non-qualifying person is also a party, and
  - (b) the responsible person knew or ought reasonably to have known of the matters mentioned in paragraph (a).
- (4) It is a defence for a person charged with an offence under subparagraph (3) to prove that the person took all reasonable steps to prevent the permitted participant from entering into the transaction.

#### **Offences of failing to act on finding that transaction was not permitted**

- 9 (1) An individual who is a permitted participant commits an offence if—
- (a) the individual has entered into a regulated transaction of a description mentioned in paragraph 2(1) or (2) to which a non-qualifying person is also a party,

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- (b) the individual neither knew nor ought reasonably to have known that the other party is a non-qualifying person,
  - (c) the individual comes to know of the matters mentioned in paragraph (a), and
  - (d) the individual does not take, as soon as practicable after coming to know of those matters, all reasonable steps to repay any money which he or she has received by virtue of the transaction.
- (2) A permitted participant that is not an individual commits an offence if—
- (a) it has entered into a regulated transaction of a description mentioned in paragraph 2(1) or (2) to which a non-qualifying person is also a party,
  - (b) no officer of the permitted participant knew or ought reasonably to have known that the other party is a non-qualifying person,
  - (c) the responsible person comes to know of the matters mentioned in paragraph (a), and
  - (d) the responsible person does not take, as soon as practicable after coming to know of those matters, all reasonable steps to repay any money which the permitted participant has received by virtue of the transaction.
- (3) A person who is the responsible person in relation to a permitted participant that is not an individual commits an offence if—
- (a) the permitted participant has entered into a regulated transaction of a description mentioned in paragraph 2(1) or (2) to which a non-qualifying person is also a party,
  - (b) paragraph 8(3)(b) does not apply to the responsible person,
  - (c) the responsible person comes to know of the matters mentioned in paragraph (a), and
  - (d) the responsible person does not take, as soon as practicable after coming to know of those matters, all reasonable steps to repay any money which the permitted participant has received by virtue of the transaction.

### **Offences of benefiting from certain connected transactions**

- 10 (1) An individual who is a permitted participant commits an offence if—
- (a) the individual benefits from, or falls to benefit in consequence of, a connected transaction to which a non-qualifying person is a party, and
  - (b) the individual knew or ought reasonably to have known of the matters mentioned in paragraph (a).
- (2) A permitted participant that is not an individual commits an offence if—
- (a) it benefits from, or falls to benefit in consequence of, a connected transaction to which a non-qualifying person is a party, and
  - (b) an officer of the permitted participant knew or ought reasonably to have known of the matters mentioned in paragraph (a).
- (3) A person who is the responsible person in relation to a permitted participant that is not an individual commits an offence if—

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- (a) the permitted participant benefits from, or falls to benefit in consequence of, a connected transaction to which a non-qualifying person is a party, and
  - (b) the person knew or ought reasonably to have known of the matters mentioned in paragraph (a).
- (4) It is a defence for a person charged with an offence under subparagraph (3) to prove that the person took all reasonable steps to prevent the permitted participant from benefiting in consequence of the connected transaction.

### **Offences of failing to act on finding connected transaction was not permitted**

- 11 (1) An individual who is a permitted participant commits an offence if—
- (a) the individual is a party to a transaction of a description mentioned in paragraph 2(3)(a),
  - (b) the individual benefits from, or falls to benefit in consequence of, a connected transaction to which a non-qualifying person is a party,
  - (c) the individual neither knew nor ought reasonably to have known of the matters mentioned in paragraphs (a) and (b),
  - (d) the individual comes to know of those matters, and
  - (e) the individual does not take, as soon as practicable after coming to know of those matters, all reasonable steps to pay to any person who has provided the individual with any benefit in consequence of the connected transaction the value of the benefit.
- (2) A permitted participant that is not an individual commits an offence if—
- (a) it is a party to a transaction of a description mentioned in paragraph 2(3)(a),
  - (b) it benefits from, or falls to benefit in consequence of, a connected transaction to which a non-qualifying person is a party,
  - (c) no officer of the permitted participant knew or ought reasonably to have known of the matters mentioned in paragraphs (a) and (b),
  - (d) the responsible person comes to know of those matters, and
  - (e) the responsible person does not take, as soon as practicable after coming to know of those matters, all reasonable steps to pay to any person who has provided the permitted participant with any benefit in consequence of the connected transaction the value of the benefit.
- (3) A person who is the responsible person in relation to a permitted participant that is not an individual commits an offence if—
- (a) the permitted participant is a party to a transaction of a description mentioned in paragraph 2(3)(a),
  - (b) the permitted participant benefits from, or falls to benefit in consequence of, a connected transaction to which a non-qualifying person is a party,

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- (c) paragraph 10(3)(b) does not apply to the person,
- (d) the responsible person comes to know of the matters mentioned in paragraphs (a) and (b), and
- (e) the responsible person does not take, as soon as practicable after coming to know of those matters, all reasonable steps to pay to any person who has provided the permitted participant with any benefit in consequence of the connected transaction the value of the benefit.

### **Arrangements facilitating transactions with non-qualifying persons**

- 12 A person commits an offence if the person—
- (a) knowingly enters into, or
  - (b) knowingly does any act in furtherance of,
- any arrangement which facilitates or is likely to facilitate, whether by means of concealment or disguise or otherwise, the participation by a permitted participant in a regulated transaction with a non-qualifying person.

### **Offences: interpretation**

- 13 (1) A reference in this Part of this Schedule to a permitted participant entering into a regulated transaction includes a reference to any circumstances in which the terms of a regulated transaction are varied so as to increase the amount of money to which the permitted participant is entitled in consequence of the transaction.
- (2) A reference in paragraph 8 or 9 to entering into a regulated transaction of a description mentioned in paragraph 2(1) or (2) to which a non-qualifying person is also a party includes receiving an amount of money under a regulated transaction of a description mentioned in paragraph 2(1) or (2) at a time when a person who is also a party to the transaction (and who was a qualifying person when the transaction was entered into) has ceased to be a qualifying person.
- (3) It is a defence for a person charged with an offence under paragraph 8 by virtue of sub-paragraph (2) to prove that the person took all reasonable steps, as soon as practicable, to repay the money received as mentioned in sub-paragraph (2).
- (4) Where a person is charged with an offence under paragraph 8(3) by virtue of sub-paragraph (2), paragraph 8(4) does not apply.
- (5) In relation to a case where paragraph 9(1)(a) to (c), (2)(a) to (c) or (3)(a) to (c) apply by reason of sub-paragraph (2), the reference in paragraph 9(1)(d), (2)(d) or (3)(d) to any money received by virtue of the transaction is to be read as a reference to any money so received after the party in question ceased to be a qualifying person.

### **Penalties**

- 14 (1) A person guilty of an offence under paragraph 8(1) or (2), 9(1), 10(1) or (2) or 11(1) is liable—

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- (a) on conviction on indictment, to a fine;
  - (b) on summary conviction in England and Wales, to a fine;
  - (c) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum;
  - (d) on summary conviction in Gibraltar, to a fine not exceeding level 5 on the Gibraltar standard scale.
- (2) A person guilty of an offence under paragraph 8(3), 9(2) or (3), 10(3), 11(2) or (3) or 12 is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 12 months or to a fine, or to both;
  - (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine, or to both;
  - (c) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;
  - (d) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both;
  - (e) on summary conviction in Gibraltar, to imprisonment for a term not exceeding 12 months or to a fine not exceeding level 5 on the Gibraltar standard scale, or to both.
- (3) The reference in sub-paragraph (2)(b) to 12 months is to be read as a reference to 6 months in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003.
- (4) In this paragraph “the Gibraltar standard scale” means the standard scale set out in Part A of Schedule 9 to the Criminal Procedure and Evidence Act.

## PART 4

### REPORTING OF REGULATED TRANSACTIONS

#### Statement of regulated transactions

- 15 (1) The responsible person in relation to a permitted participant must include in any return required to be prepared under section 120 a statement of regulated transactions entered into by the permitted participant.
- (2) The statement must comply with paragraphs 16 to 20.
- (3) For the purposes of those paragraphs a regulated transaction is a “recordable transaction”—
- (a) if the value of the transaction is more than £7,500, or
  - (b) if the aggregate value of it and any other relevant benefit or benefits is more than that amount.

In paragraph (b) “relevant benefit” means any relevant donation (within the meaning of Schedule 15) or regulated transaction made by, or entered

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into with, the person with whom the regulated transaction was entered into.

### **Information about qualifying persons**

- 16 (1) The statement must record, in relation to each recordable transaction to which a qualifying person was a party—
- (a) the information about the qualifying person which is, in connection with transactions entered into by registered parties, required to be recorded in transaction reports by virtue of paragraph 2 of Schedule 6A (reading references in that paragraph to an authorised participant as references to a qualifying person who is a party to the transaction), or
  - (b) where the qualifying person is within any of paragraphs (d) to (g) of paragraph 4(2), the information mentioned in sub-paragraph (2) below.
- (2) The information referred to in sub-paragraph (1)(b) is—
- (a) where the qualifying person is a body within paragraph 4(2)(d) (body incorporated by Royal Charter)—
    - (i) the name of the body, and
    - (ii) the address of its main office in the United Kingdom;
  - (b) where the qualifying person is a body within paragraph 4(2)(e) or (f) (charitable incorporated organisation)—
    - (i) the name of the body, and
    - (ii) the address of its principal office;
  - (c) where the qualifying person is a body within paragraph 4(2)(g) (Scottish partnership)—
    - (i) the name of the body, and
    - (ii) the address of its main office in the United Kingdom.
- (3) In sub-paragraph (1), the reference to paragraph 2 of Schedule 6A is to be taken as a reference to that paragraph without the modifications of that paragraph made by Schedule 2 to the European Union Referendum Act 2015.

### **Information about non-qualifying persons**

- 17 The statement must record, in relation to each recordable transaction to which a non-qualifying person was a party—
- (a) the name and address of the person;
  - (b) the date when and the manner in which sub-paragraphs (3) to (5) of paragraph 5, or those sub-paragraphs as applied by paragraph 5(6) or 6(2), were complied with.

### **Details of transaction**

- 18 (1) The statement must record, in relation to each recordable transaction, the information about the transaction which is, in connection with transactions entered into by registered parties, required to be recorded in transaction reports by virtue of paragraph 5(2), (3) and (4)

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of Schedule 6A (read with the modifications mentioned in sub-paragraph (2) and any other necessary modifications).

- (2) In relation to the statement—
- (a) paragraph 5(4) of Schedule 6A has effect as if the reference to the relevant date for the transaction determined in accordance with paragraph 8 of that Schedule were a reference to the relevant date for the transaction determined in accordance with paragraph 8(1) of that Schedule, and
  - (b) paragraph 8(1) of that Schedule has effect as if—
    - (i) the reference to a quarterly report were a reference to the statement,
    - (ii) the reference to section 71M(4)(a) or (7)(a) were a reference to paragraph 15(3)(a) of this Schedule, and
    - (iii) the reference to section 71M(4)(b) or (7)(b) were a reference to paragraph 15(3)(b) of this Schedule.
- (3) The statement must record, in relation to each recordable transaction of a description mentioned in paragraph 2(1) or (2) above, the information about the transaction which is, in connection with transactions entered into by registered parties, required to be recorded in transaction reports by virtue of paragraph 6 of Schedule 6A.
- (4) The statement must record, in relation to each recordable transaction of a description mentioned in paragraph 2(3)(b) above, the information about the transaction which is, in connection with transactions entered into by registered parties, required to be recorded in transaction reports by virtue of paragraph 7(2)(b), (3) and (4) of Schedule 6A.

### **Changes**

- 19 (1) Where another qualifying person has become a party to a regulated transaction (whether in place of or in addition to any existing party), or there has been any other change in any of the information that is required by paragraphs 16 to 18 to be included in the statement, the statement must record—
- (a) the information as it was both before and after the change;
  - (b) the date of the change.
- (2) Where a recordable transaction has come to an end, the statement must—
- (a) record that fact;
  - (b) record the date when it happened;
  - (c) in the case of a loan, state how the loan has come to an end.
- (3) For the purposes of sub-paragraph (2), a loan comes to an end if—
- (a) the whole debt (or all the remaining debt) is repaid;
  - (b) the creditor releases the whole debt.

### **Total value of non-recordable transactions**

- 20 The statement must record the total value of any regulated transactions that are not recordable transactions.

## PART 5

### SUPPLEMENTAL

#### **Non-disclosure with intent to conceal**

- 21 (1) This paragraph applies where, on an application made by the Commission, the court is satisfied that any failure to comply with a requirement of Part 4 of this Schedule in relation to—
- (a) any transaction entered into by the permitted participant, or
  - (b) any change made to a transaction to which the permitted participant is a party,
- was attributable to an intention on the part of any person to conceal the existence or true value of the transaction.
- (2) The court may make such order as it thinks fit to restore (so far as is possible) the parties to the transaction to the position they would have been in if the transaction had not been entered into.
- (3) An order under this paragraph may in particular—
- (a) where the transaction is a loan or credit facility, require that any amount owed by the permitted participant be repaid (and that no further sums be advanced under it);
  - (b) where any form of security is given for a sum owed under the transaction, or the transaction is an arrangement by which any form of security is given, require that the security be discharged.

#### **Proceedings under paragraphs 5 and 21**

- 22 (1) This paragraph has effect in relation to proceedings on an application under paragraph 5(4) or 21.
- (2) The court referred to in paragraphs 5(4) and 21 is—
- (a) in England and Wales or Northern Ireland, the county court;
  - (b) in Gibraltar, the Gibraltar court.
- In Scotland, the court is the sheriff and the proceedings are civil proceedings.
- (3) The standard of proof is that applicable to civil proceedings.
- (4) An order may be made whether or not proceedings are brought against any person for an offence under this Schedule or section 123.
- (5) An appeal against an order made by the sheriff may be made to the Court of Session.
- (6) Rules of court in any part of the United Kingdom may make provision—
- (a) with respect to applications or appeals from proceedings on such applications;
  - (b) for the giving of notice of such applications or appeals to persons affected;

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- (c) for the joinder, or in Scotland sisting, of such persons as parties;
- (d) generally with respect to procedure in such applications or appeals.

(7) Sub-paragraph (6) does not affect any existing power to make rules.

### **Interpretation of provisions relating to reporting of transactions**

23 For the purposes of any provision of this Schedule relating to the reporting of transactions, anything required to be done by a permitted participant in consequence of the participant's being a party to a regulated transaction must also be done by the participant, if the participant is a party to a transaction of a description mentioned in paragraph 2(3)(a), as if the participant were a party to the connected transaction."

#### *Further modifications of 2000 Act relating to loans etc*

2 (1) Section 120 of the 2000 Act (returns in respect of referendum expenses and donations) has effect in relation to the referendum as if at the end of subsection (2)(d) there were inserted "and a statement of regulated transactions entered into in respect of the referendum which complies with the requirements of paragraphs 16 to 20 of Schedule 15A".

(2) Section 123 of the 2000 Act (declaration of responsible person as to return under section 120) has effect in relation to the referendum as if after subsection (3) (as modified by Schedule 1) there were inserted—

"(3A) In a case where the permitted participant either is not a registered party or is a minor party, the declaration must also, in relation to all regulated transactions recorded in the return as having been entered into by the permitted participant—

- (a) state that none of the transactions was made void by paragraph 5(2) or (6) or 6(3) of Schedule 15A, or
- (b) state whether or not paragraph 5(3)(a) of that Schedule was complied with in the case of each of the transactions that was made void by paragraph 5(2) or (6) of that Schedule."

(3) Section 124 of the 2000 Act (public inspection of returns under section 120) has effect in relation to the referendum as if after subsection (2) there were inserted—

"(2A) If the return contains a statement of regulated transactions in accordance with section 120(2)(d), the Commission shall secure that the copy of the statement made available for public inspection does not include, in the case of a transaction entered into by the permitted participant with an individual, the individual's address."

(4) For the purposes of the referendum, the following provisions of Schedule 15 to the 2000 Act are to be treated as omitted—

- (a) paragraph 2(1)(d),
- (b) in paragraph 2(3)—
  - (i) paragraph (a), and
  - (ii) the words "the loan or", and
- (c) in paragraph 5(4)—

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- (i) the words “(d) or”,
- (ii) in paragraph (a) the words “the loan or”, and
- (iii) paragraph (a)(i).

Accordingly, paragraph 2(3)(b) of that Schedule has effect for the purposes of the referendum as if for “such terms” there were substituted “commercial terms”.

- (5) Paragraph 10 of Schedule 15 to the 2000 Act, which is modified by paragraph 34 of Schedule 1, also has effect in relation to the referendum as if for paragraph (b) of sub-paragraph (2) there were substituted—
  - “(b) the value of it and any other relevant benefit or benefits is more than that amount; and “relevant benefit” here means any relevant donation or regulated transaction (within the meaning of Schedule 15A) made by, or entered into with, the person who made the donation.”
- (6) Paragraph 1 of Schedule 19A to the 2000 Act (requirement to notify Commission of certain political contributions) has effect in relation to the referendum as if—
  - (a) in sub-paragraph (2) after paragraph (f) there were inserted—
    - “(fa) it makes a loan of money to a permitted participant, or discharges (to any extent) a liability of a permitted participant, in pursuance of a regulated transaction (within the meaning of Schedule 15A);”, and
  - (b) in sub-paragraph (5)(e) for “sub-paragraph (2)(b) or (d)” there were substituted “sub-paragraph (2)(b), (d) or (fa)”.
- (7) Schedule 19C to the 2000 Act (civil sanctions), and any order under Part 5 of that Schedule, have effect as if offences under paragraphs 8 to 11 of the Schedule treated as inserted by paragraph 1 above were offences prescribed in an order under that Part.
- (8) Nothing in sub-paragraph (6) or (7) (read with section 12) is to be taken to mean that Schedule 19A or 19C of the 2000 Act extends or applies to Gibraltar for the purposes of the referendum.

*Transactions entered into before commencement: operation of paragraphs 1 and 2*

- 3 (1) In this paragraph and paragraph 4 “Schedule 15A” means the Schedule treated as inserted by paragraph 1.
- (2) The following provisions of Schedule 15A—
  - (a) paragraphs 1 and 3, and
  - (b) Parts 4 and 5, except paragraph 17(b),apply to a relevant varied transaction as they apply to a regulated transaction within the meaning of Schedule 15A.
- (3) Accordingly, any reference to a regulated transaction in a provision of the 2000 Act modified by paragraph 2 of this Schedule includes a relevant varied transaction.
- (4) For the purposes of this paragraph and paragraph 4 a transaction is a “relevant varied transaction” if—
  - (a) the transaction was entered into, before or after the commencement of paragraph 1 of this Schedule, by a person who after entering into the transaction became a permitted participant,

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- (b) the transaction would have been a regulated transaction within the meaning given by paragraph 2 of Schedule 15A if at the time when that person entered into the transaction—
    - (i) that person had been a permitted participant, and
    - (ii) the use condition mentioned in paragraph 2(5) of Schedule 15A had been satisfied (if it was not in fact satisfied at the time the transaction was entered into),
  - (c) at a time after the commencement of paragraph 1 of this Schedule, and after that person became a permitted participant, the terms of that transaction were varied so as to increase the amount of money or benefit to which the permitted participant is entitled in consequence of the transaction, and
  - (d) at the time of that variation, the permitted participant intends to use any money or benefit obtained in consequence of the transaction for meeting referendum expenses incurred by or on behalf of the permitted participant.
- (5) For the purposes of sub-paragraph (4)(d) it is immaterial whether only part of the money or benefit is intended to be used as mentioned there.
- (6) In this paragraph “permitted participant” has the same meaning as it has in Schedule 15A (see paragraph 1(2) of that Schedule).
- (7) In sub-paragraph (4)—
- (a) the reference in paragraph (a) to a person who after entering into the transaction became a permitted participant includes an officer, member, trustee or agent of any such person, and
  - (b) in relation to a case where such an officer, member, trustee or agent entered into the transaction, the references in paragraphs (b)(i) and (c) to “that person” are to be read as references to the person for whom the person who entered into the agreement is an officer, member, trustee or agent.
- 4 Parts 2 and 3 of Schedule 15A do not apply to a relevant varied transaction (or to any other transaction which was entered into before the commencement of paragraph 1 of this Schedule or before a party to the transaction became a permitted participant).

*Reporting of regulated transactions during referendum period*

- 5 (1) In this paragraph references to a permitted participant are to a permitted participant which either is not a registered party or is a minor party.
- (2) In relation to the referendum, the responsible person in relation to a permitted participant must prepare reports under this paragraph in respect of—
- (a) the period (“the first reporting period”) beginning with the commencement day and ending with the 7th day of the referendum period, and
  - (b) such other periods ending before the date of the referendum as may be prescribed by regulations made by the Minister;
- and in paragraph (a) “the commencement day” means the day on which that paragraph comes into force.
- (3) The report for a period must record, in relation to each regulated transaction having a value exceeding £7,500 which is entered into by the permitted participant during the period—
- (a) the nature of the transaction (that is to say whether it is a loan, a credit facility or an arrangement by which any form of security is given),

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- (b) the value of the transaction (determined in accordance with paragraph 3 of the Schedule treated as inserted by paragraph 1 above (“Schedule 15A”)) or, in the case of a credit facility or security to which no limit is specified, a statement to that effect,
  - (c) the date when the transaction was entered into by the permitted participant,
  - (d) the same information about the transaction as would be required by paragraph 18(3) and (4) of Schedule 15A to be recorded in the statement referred to in paragraph 15 of that Schedule,
  - (e) the information about each qualifying person who is a party to the transaction which is, in connection with recordable transactions entered into by registered parties, required to be recorded in weekly transaction reports by paragraph 3 of Schedule 6A to the 2000 Act (reading references in that paragraph to an authorised participant as references to a qualifying person who is a party to the transaction), and
  - (f) in relation to a transaction to which a person who is not a qualifying person is a party, the information referred to in paragraph 17 of Schedule 15A.
- (4) If during any period no regulated transactions having a value exceeding £7,500 were entered into by the permitted participant, the report for the period must contain a statement of that fact.
- (5) A report under this paragraph in respect of a period must be delivered by the responsible person to the Electoral Commission—
- (a) in the case of the report for the first reporting period, within 7 days beginning with the end of that period;
  - (b) in the case of the report for a period prescribed under sub-paragraph (2)(b), within such time as may be prescribed by regulations made by the Minister.
- (6) If, in relation to a regulated transaction entered into with an individual who has an anonymous entry in an electoral register, a report under this paragraph contains a statement that the permitted participant has seen evidence that the individual has such an anonymous entry, the report must be accompanied by a copy of the evidence.
- (7) The Minister may by regulations modify the operation of sub-paragraphs (2) to (4) in relation to cases where an individual or body becomes a permitted participant during a period prescribed under sub-paragraph (2)(b).
- (8) Regulations under sub-paragraph (5) or (7) may make different provision for different cases.
- (9) The responsible person commits an offence if, without reasonable excuse, that person—
- (a) fails to comply with the requirements of sub-paragraph (5) in relation to a report under this paragraph, or
  - (b) delivers a report to the Electoral Commission that does not comply with the requirements of sub-paragraph (3), (4) or (6).
- (10) A person guilty of an offence under sub-paragraph (9)(a) is liable—
- (a) on summary conviction in England and Wales, to a fine;
  - (b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale;
  - (c) on summary conviction in Gibraltar, to a fine not exceeding level 5 on the Gibraltar standard scale.

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- (11) A person guilty of an offence under sub-paragraph (9)(b) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 12 months or to a fine, or to both;
  - (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine, or to both;
  - (c) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;
  - (d) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both;
  - (e) on summary conviction in Gibraltar, to imprisonment for a term not exceeding 12 months or to a fine not exceeding level 5 on the Gibraltar standard scale, or to both.
- (12) The reference in sub-paragraph (11)(b) to 12 months is to be read as a reference to 6 months in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003.
- (13) In this paragraph—
- (a) “electoral register” means—
    - (i) an electoral register as defined by 54(8) of the 2000 Act, or
    - (ii) the Gibraltar register as defined by section 14 of the European Parliament (Representation) Act 2003,
  - (b) the following expressions—  
 “qualifying person”, and  
 “regulated transaction”,  
 have the same meaning as in the Schedule treated as inserted by paragraph 1, and
  - (c) references to a regulated transaction entered into by a permitted participant include any transaction entered into at a time before the individual or body concerned became a permitted participant, if the transaction would have been a regulated transaction had the individual or body been a permitted participant at that time.
- (14) Paragraph 23 of the Schedule treated as inserted by paragraph 1 applies for the purposes of this paragraph as it applies for the purposes of the provisions of that Schedule relating to the reporting of transactions.

*Declaration of responsible person as to reports under paragraph 5*

- 6 (1) Each report delivered under paragraph 5 must be accompanied by a declaration which complies with sub-paragraph (2) and is signed by the responsible person.
- (2) The declaration must state—
- (a) that the responsible person has examined the report, and
  - (b) that to the best of the responsible person’s knowledge and belief, it is a complete and correct report as required by law.
- (3) A person commits an offence if—

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- (a) the person knowingly or recklessly makes a false declaration under this paragraph, or
  - (b) sub-paragraph (1) is contravened at a time when the person is the responsible person in the case of the permitted participant to which the report relates.
- (4) A person guilty of an offence under sub-paragraph (3) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 12 months or to a fine, or to both;
  - (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine, or to both;
  - (c) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;
  - (d) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both;
  - (e) on summary conviction in Gibraltar, to imprisonment for a term not exceeding 12 months or to a fine not exceeding level 5 on the Gibraltar standard scale, or to both.
- (5) The reference in sub-paragraph (4)(b) to 12 months is to be read as a reference to 6 months in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003.

*Public inspection of reports under paragraph 5*

- 7 (1) Where the Electoral Commission receive a report under paragraph 5 they must—
- (a) as soon as is reasonably practicable after receiving the report, make a copy of the report and of any document accompanying it available for public inspection, and
  - (b) keep any such copy available for public inspection for the period for which the report or other document is held by them.
- (2) The Electoral Commission must secure that the copy of the report made available for public inspection does not include, in the case of any transaction entered into by the permitted participant with an individual, the individual's address.
- (3) At the end of the period of two years beginning with the date when any report under paragraph 5 or other document accompanying it is received by the Electoral Commission—
- (a) they may cause the report or other document to be destroyed, or
  - (b) if requested to do so by the responsible person in the case of the permitted participant concerned, they must arrange for the report or other document to be returned to that person.
- 8 Section 149(2) to (5) and (7) of the 2000 Act (inspection of Commission's documents) apply in relation to reports and documents which the Electoral Commission are required to make available for public inspection under paragraph 7 as they apply to the documents which the Electoral Commission are required to make available for public inspection by virtue of the provisions of the 2000 Act mentioned in section 149(6) of that Act.

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### *Enforcement*

- 9 (1) Section 145(1)(a) and (6A) of the 2000 Act (general functions of Electoral Commission with respect to compliance) apply in relation to the requirements imposed by this Schedule as they apply in relation to the requirements referred to in section 145(1)(a).
- (2) In section 148 of the 2000 Act (general offences), the references in each of subsections (1) to (3) to any of the provisions of that Act include any of the provisions of this Schedule.
- (3) Sections 151 and 154 of the 2000 Act (summary proceedings, and duty of court to report conviction to Electoral Commission) apply in relation to an offence under this Schedule as they apply in relation to an offence under that Act.
- (4) In paragraphs 3 to 5 of Schedule 19B to the 2000 Act (powers of Electoral Commission in relation to suspected offences or contraventions)—
- (a) the references to an offence under that Act include an offence under this Schedule, and
  - (b) the references to a restriction or other requirement imposed by or by virtue of that Act include a requirement or restriction imposed by or by virtue of this Schedule.
- (5) Schedule 19C to the 2000 Act (civil sanctions), and any order under Part 5 of that Schedule, have effect as if any reference in that Schedule to an offence under the 2000 Act, or to a prescribed offence under that Act, included a reference to an offence under paragraph 5(9) of this Schedule.
- (6) Nothing in sub-paragraph (4) or (5) (read with section 12) is to be taken to mean that Schedule 19B or 19C to the 2000 Act extends or applies to Gibraltar for the purposes of the referendum.

### *Persons with whom certain registered parties may enter into loan agreements etc*

- 10 (1) Sub-paragraph (2) applies if—
- (a) a permitted participant—
    - (i) is a party to a transaction which is a regulated transaction for the purposes of Part 4A of the 2000 Act, or
    - (ii) derives a benefit from a transaction which is a connected transaction for the purposes of that Part,
  - (b) that transaction is entered into during the referendum period,
  - (c) the permitted participant is a registered party that is not a minor party,
  - (d) any of the other parties to the regulated transaction or any of the parties to the connected transaction (as the case may be) is a person (“the unauthorised person”) who, in relation to that transaction, is not an authorised participant for the purposes of Part 4A of the 2000 Act by virtue of section 71H of that Act, and
  - (e) the unauthorised person is a person within sub-paragraph (3).
- (2) In relation to the transaction mentioned in sub-paragraph (1)(a)(i) or (ii), the unauthorised person is to be regarded for the purposes of Part 4A of the 2000 Act as an authorised participant.
- (3) The persons within this sub-paragraph are—

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- (a) a Gibraltar elector;
  - (b) a body falling within any of paragraphs (b) to (g) of section 54(2A) of the 2000 Act;
  - (c) a body incorporated by Royal Charter which does not fall within section 54(2) of that Act;
  - (d) a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011 or Part 11 of the Charities Act (Northern Ireland) 2008;
  - (e) a Scottish charitable incorporated organisation within the meaning of Chapter 7 of Part 1 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10);
  - (f) a partnership constituted under the law of Scotland which carries on business in the United Kingdom.
- (4) In this paragraph “Gibraltar elector” has the same meaning as in the 2000 Act (see section 160(1) of that Act).
- 11 Where paragraph 10 applies in relation to a transaction to which a permitted participant is a party, or from which a permitted participant derives a benefit, paragraph 2 of Schedule 6A to the 2000 Act (details to be given in quarterly reports) has effect as if—
- (a) in sub-paragraph (1) for “(10)” there were substituted “(10C)”, and
  - (b) the following sub-paragraphs were inserted after sub-paragraph (10)—
    - “(10A) In the case of a body within paragraph 10(3)(c) of Schedule 2 to the European Union Referendum Act 2015 (body incorporated by Royal Charter) the report must give—
      - (a) the name of the body, and
      - (b) the address of its main office in the United Kingdom.
    - (10B) In the case of a body within paragraph 10(3)(d) or (e) of that Schedule (charitable incorporated organisation) the report must give—
      - (a) the name of the body, and
      - (b) the address of its principal office.
    - (10C) In the case of a body within paragraph 10(3)(f) of that Schedule (Scottish partnership) the report must give—
      - (a) the name of the body, and
      - (b) the address of its main office in the United Kingdom.”
- 12 (1) This paragraph applies to a variation of a regulated transaction if—
- (a) the regulated transaction was entered into by a permitted participant during the referendum period,
  - (b) the permitted participant is a registered party that is not a minor party,
  - (c) one of the other parties to the regulated transaction is an authorised participant in relation to the transaction by virtue of paragraph 10 of this Schedule, and
  - (d) the variation has the effect of increasing the value of the regulated transaction or enabling it to be increased.
- (2) It does not matter for the purposes of sub-paragraph (1)(d) when the variation is entered into or when the increase takes effect or could take effect.

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- (3) The variation is to be treated for the purposes of sections 71I(2) to (4) of the 2000 Act as a regulated transaction in which another participant is not an authorised participant.
  - (4) An order made under section 71I(4) of the 2000 Act in relation to a variation to which this paragraph applies may in particular—
    - (a) require that any amount owed as a result of the variation be repaid (and that no further sums be advanced under the terms of the variation);
    - (b) where any additional security is provided under the terms of the variation, require that security to be discharged.
  - (5) In this paragraph—
    - (a) “authorised participant” means an authorised participant for the purposes of Part 4A of the 2000 Act;
    - (b) “regulated transaction” and references to the value of a regulated transaction have the same meaning as in Part 4A of the 2000 Act (see sections 71F and 71G of that Act).
- 13 (1) Section 71L of the 2000 Act (offences relating to regulated transactions) has effect with the following modifications.
- (2) In each of subsections (1)(a), (2)(b), (3)(a) and (4)(a), the reference to entering into a regulated transaction of a description mentioned in section 71F(2) or (3) in which another participant is not an authorised participant includes a reference to entering into a variation to which paragraph 12 of this Schedule applies.
  - (3) In relation to such a variation—
    - (a) subsection (3)(b) has effect as if for the words “that the other participant is not an authorised participant” there were substituted “of the matters mentioned in paragraph (a)”, and
    - (b) subsections (3)(c), (4)(c) and (10) each have effect as if the reference to the transaction were to the variation.
  - (4) In subsection (9), the reference to a regulated transaction with a person other than an authorised participant includes a reference to a variation to which paragraph 12 of this Schedule applies.