

Political Parties and Elections Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Ministry of Justice, are published separately as Bill 4 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Jack Straw has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Political Parties and Elections Bill are compatible with the Convention rights.

Political Parties and Elections Bill

CONTENTS

Functions of Electoral Commission

- 1 Compliance with controls imposed by the 2000 Act etc
- 2 Investigatory powers of Commission
- 3 Civil sanctions

Electoral Commissioners etc

- 4 Selection of prospective Electoral Commissioners and Commission chairman
- 5 Four Electoral Commissioners to be persons put forward by parties
- 6 Number of Electoral Commissioners
- 7 Political restrictions on Electoral Commissioners and staff

Political donations and expenditure

- 8 Declaration as to source of donation
- 9 Defence to charge of failing to return donation from impermissible donor
- 10 Person may not be “responsible person” for more than one third party
- 11 Election expenses incurred for person not yet a candidate
- 12 Election expenses: guidance by Commission

Elections and electoral registration

- 13 Election falling within canvass period
- 14 Disposal of election documents in Scotland
- 15 Filling vacant European Parliament seats in Northern Ireland
- 16 Local returning officers for elections to the European Parliament
- 17 CORE information and action to be taken by electoral registration officers

General

- 18 Interpretation
- 19 Amendments and repeals
- 20 Transitional provision
- 21 Money
- 22 Extent
- 23 Commencement
- 24 Short title

-
- Schedule 1 – Investigatory powers of Commission: Schedule to be inserted into the 2000 Act
 - Schedule 2 – Civil sanctions: Schedule to be inserted into the 2000 Act
 - Schedule 3 – Declaration as to source of donation
 - Schedule 4 – Minor and consequential amendments
 - Schedule 5 – Repeals

A
B I L L

TO

Make provision in connection with the Electoral Commission; and to make provision about political donations and expenditure and about elections and electoral registration.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Functions of Electoral Commission

1 Compliance with controls imposed by the 2000 Act etc

- (1) In the Political Parties, Elections and Referendums Act 2000 (c. 41) (“the 2000 Act”) section 145 (general function of Commission with respect to monitoring compliance with controls imposed by that Act etc) is amended as follows. 5
- (2) In subsection (1), for the words before paragraph (a) there is substituted “The Commission shall have the function of monitoring, and taking such steps as they consider appropriate with a view to securing, compliance with”.
- (3) After subsection (6) there is inserted —
- “(6A) The Commission may prepare and publish guidance setting out, in relation to any requirement referred to in subsection (1), their opinion on any of the following matters — 10
- (a) what it is necessary, or is sufficient, to do (or avoid doing) in order to comply with the requirement;
- (b) what it is desirable to do (or avoid doing) in view of the purpose of the requirement.” 15

2 Investigatory powers of Commission

- (1) For section 146 of the 2000 Act there is substituted –

“146 Investigatory powers of Commission

Schedule 19A makes provision about the investigatory powers of the Commission.”

5

- (2) After Schedule 19 to the 2000 Act there is inserted, as Schedule 19A, the Schedule set out in Schedule 1 to this Act.
- (3) In Schedule 20 to the 2000 Act the following entries are inserted at the appropriate place –

| | | |
|--|---|----|
| “Paragraph 13(1) of Schedule 19A (failure to comply with investigation requirement) | On summary conviction: Level 5. | 10 |
| Paragraph 13(2) of Schedule 19A (intentional obstruction of person exercising investigatory power) | On summary conviction: Level 5. | 15 |
| Paragraph 13(3) of Schedule 19A (providing false information in purported compliance with investigation requirement) | 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. | 20 |
| | On indictment: fine or 1 year.” | |

3 Civil sanctions

- (1) For section 147 of the 2000 Act (civil penalty for failure to deliver documents etc) there is substituted –

“147 Civil sanctions

Schedule 19B makes provision for civil sanctions in relation to –

- (a) the commission of offences under this Act;
- (b) the contravention of restrictions or requirements imposed by or by virtue of this Act.”

30

- (2) After Schedule 19A to the 2000 Act (inserted by section 2 above) there is inserted, as Schedule 19B, the Schedule set out in Schedule 2 to this Act.
- (3) In Schedule 20 to the 2000 Act the following entry is inserted at the appropriate place –

35

| | |
|--|---|
| “Paragraph 14 of Schedule 19B (failure to comply with stop notice) | On summary conviction in England and Wales or Scotland: £20,000 or 12 months. |
|--|---|

On summary conviction in Northern Ireland: £20,000 or 6 months.

On indictment: fine or 2 years.”

- (4) In section 156 of the 2000 Act (orders and regulations), after subsection (4) there is inserted – 5
- “(4A) An order under paragraph 16 of Schedule 19B that contains –
- (a) provision made by virtue of paragraph 1(1), (2), (3) or (4), paragraph 5(1), (2), (3) or (4), paragraph 10(2)(b) or (3)(b) or paragraph 15(1)(a) of that Schedule, or 10
- (b) provision amending an Act,
- shall not be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament; and subsection (2) does not apply to such an order.” 15

Electoral Commissioners etc

4 Selection of prospective Electoral Commissioners and Commission chairman

- (1) Section 3 of the 2000 Act (appointment of Electoral Commissioners etc) is amended as follows.
- (2) For subsection (2) there is substituted – 20
- “(2) A motion for such an Address may be made only if –
- (a) the Speaker of the House of Commons agrees that the motion may be made;
- (b) the motion has been the subject of consultation with the registered leader of each registered party to which two or more Members of the House of Commons then belong; and 25
- (c) each person whose appointment is proposed in the motion has been selected in accordance with a procedure put in place and overseen by the Speaker’s Committee.”
- (3) After subsection (5) there is inserted – 30
- “(5A) In the case of a re-appointment (or further re-appointment) of an Electoral Commissioner, the reference in subsection (2)(c) to being selected in accordance with a procedure put in place and overseen by the Speaker’s Committee is to be read as including a reference to being recommended for re-appointment (or further re-appointment) by that Committee.” 35

5 Four Electoral Commissioners to be persons put forward by parties

- (1) In section 3 of the 2000 Act, after subsection (4) (political restrictions on Electoral Commissioners) there is inserted –
- “(4A) Paragraphs (a) and (d) of subsection (4) do not apply to the appointment of a person as a nominated Commissioner (within the meaning of section 3A).” 40

(2) After that section there is inserted –

“3A Four Electoral Commissioners to be persons put forward by parties

- (1) Four of the Electoral Commissioners shall each be a person whom the registered leader of a qualifying party put forward to be considered for appointment as an Electoral Commissioner (a “nominated Commissioner”). 5
- (2) In subsection (1) “qualifying party” means a registered party with two or more Members of the House of Commons at the time of the person’s appointment.
- (3) Three of the nominated Commissioners shall each be a person put forward by the registered leader of one of the three largest nominating parties at the time of the person’s appointment. 10
- (4) In subsection (3) “nominating party” means a party whose registered leader –
- (a) has put forward two or more persons to be considered for appointment as a nominated Commissioner, or 15
 - (b) previously put forward persons one of whom was appointed as a nominated Commissioner and is expected to continue to hold office.
- (5) No appointment may be made that would result in two or more nominated Commissioners being persons put forward by the leader of the same party (and nothing in this section has effect so as to require that result). 20
- (6) A nominated Commissioner may not be appointed as the chairman of the Commission. 25
- (7) For the purposes of this section, the relative size of any two or more registered parties shall be determined according to the number of Members of the House of Commons belonging to each party at the time in question (or, in the case of two parties with the same number of Members, according to the total number of votes cast for persons standing for election in the name of each of those parties at the most recent parliamentary general election). 30
- (8) A reference in this section to a Member of the House of Commons does not include any Member of that House who at the time in question –
- (a) has not made and subscribed the oath required by the Parliamentary Oaths Act 1866 (or the corresponding affirmation), or 35
 - (b) is disqualified from sitting and voting in that House.”
- (3) In section 14 of the 2000 Act (Boundary Committees), in subsection (4), for “an Electoral Commissioner or a deputy Electoral Commissioner” there is substituted “an Electoral Commissioner who is not a nominated Commissioner (within the meaning of section 3A), or a deputy Electoral Commissioner,”. 40

6 Number of Electoral Commissioners

In section 1 of the 2000 Act (establishment of Electoral Commission), in subsection (3) (number of Commissioners), for “not less than five, but not more than nine,” there is substituted “nine or ten”. 45

7 Political restrictions on Electoral Commissioners and staff

- (1) In section 3(4)(d) of the 2000 Act (persons not to be appointed as Electoral Commissioners within ten years of engaging in certain political activities), for “within the last ten years” there is substituted “within the last five years”.
- (2) In Schedule 1 to the 2000 Act (the Electoral Commission), after paragraph 11 there is inserted – 5

“Political restrictions on staff

- 11A (1) A person may not be appointed as a member of the staff of the Commission if the person –
- (a) is an officer or employee of a registered party or of any accounting unit of such a party; 10
 - (b) holds a relevant elective office (within the meaning of Schedule 7);
 - (c) has at any time within the relevant period (see sub-paragraph (2)) – 15
 - (i) been such an officer or employee as is mentioned in paragraph (a), or
 - (ii) held such an office as is mentioned in paragraph (b), or
 - (iii) been named as a donor in the register of donations reported under Chapter 3 or 5 of Part 4, or 20
 - (iv) been named as a participant in the register of recordable transactions reported under Part 4A.
- (2) The relevant period is –
- (a) in relation to appointment as chief executive of the Commission, the last five years; 25
 - (b) in relation to appointment as any other member of the staff of the Commission, the last 12 months.
- (3) A member of a registered party may not be appointed as chief executive of the Commission. 30
- (4) The appointment of any member of the staff of the Commission shall terminate –
- (a) in the case of the chief executive, on the occurrence of such an event as is mentioned in any of paragraphs (a) to (d) of paragraph 3(3); 35
 - (b) in any other case, on the occurrence of such an event as is mentioned in any of paragraphs (a) to (ca) of paragraph 3(3).”

Political donations and expenditure

8 Declaration as to source of donation

- (1) In section 54 of the 2000 Act (permissible donors), in subsection (1) (circumstances in which party may not accept donation), after paragraph (a) 40

there is inserted –

“(aa) in the case of a donation of an amount exceeding £5,000, or £1,000 where subsection (5) of section 54A applies, the party has not been given a declaration as required by that section; or”.

- (2) After that section there is inserted – 5
- “54A Declaration as to source of donation**
- (1) Where a person (P) causes an amount exceeding £5,000 to be received by a registered party by way of a donation, a written declaration must be given to the party – 10
- (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 subsection (2) applies to the donation.
- (2) This subsection applies to the donation if – 15
- (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 £5,000.
- (3) Where a declaration under this section contains a statement to the effect that subsection (2) applies to the donation, it must also – 20
- (a) state whether or not, in the opinion of the person making the declaration –
- (i) subsection (4) of section 54 applies to the donation;
- (ii) subsection (6) of that section applies to it;
- (b) if the person’s opinion is that neither of those subsections applies to the donation, give the person’s reasons for that opinion. 25
- (4) A declaration under this section must also state the full name and address of the person by whom it is made and, where subsection (1)(b) applies – 30
- (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) In the case of a registered party with accounting units, where it is an accounting unit of the party that is offered the donation this section has effect as if “£1,000” were substituted for “£5,000” in subsections (1) and (2)(b). 35
- (6) A person who knowingly or recklessly makes a false declaration under this section commits an offence.
- (7) 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 subsection (2).” 40
- (3) In section 56 of the 2000 Act (acceptance or return of donations: general), in subsection (2) (steps to be taken if donation to be refused) –
- (a) in paragraph (a), for “section 54(1)(b)” there is substituted “section 54(1)(aa) or (b)”; 45

- (b) after that paragraph there is inserted –
- “(aa) if the donation falls within section 54(1)(aa) (but not section 54(1)(b)), the donation, or a payment of an equivalent amount, must be sent back to the person appearing to be the donor;”
- (c) in paragraph (b), for “that provision” there is substituted “section 54(1)(b)”.
- (4) Before subsection (4) of that section there is inserted –
- “(3B) Where –
- (a) subsection (2)(aa) applies in relation to a donation, and
- (b) the donation is not dealt with in accordance with that provision, the party and the treasurer of the party are each guilty of an offence.”
- (5) In Schedule 6 to the 2000 Act (details to be given in donation reports), after paragraph 1 there is inserted –
- “*Declarations as to source of donation*
- 1A (1) In relation to each recordable donation in the case of which a declaration under section 54A has been given, a quarterly or weekly report must confirm (if it is the case) that all such steps as are required to be taken by subsection (6) of that section have been taken, and 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.”
- (6) In paragraph 6 of that Schedule (donations from impermissible donors) –
- (a) in the heading, at the end there is inserted “or without required declaration”;
- (b) for “section 54(1)(a)” there is substituted “section 54(1)(a) or (aa)”;
- (c) in paragraph (a), after “the donor” there is inserted “or the person appearing to be the donor”;
- (d) in paragraph (b), for “section 56(2)(a)” there is substituted “section 56(2)(a) or (aa)”.
- (7) In Schedule 20 to the 2000 Act (penalties) the following entry is inserted at the appropriate place –
- | | | | |
|--|--|--|---------------------|
| <p>“Section 54A(6) (making a false declaration as to source of donation)</p> | | <p>On summary conviction in England and Wales or Scotland: statutory maximum or 12 months.</p> <p>On summary conviction in Northern Ireland: statutory maximum or 6 months.</p> <p>On indictment: fine or 1 year.”</p> | <p>35</p> <p>40</p> |
|--|--|--|---------------------|
- (8) Schedule 3 has effect.
- That Schedule makes amendments to –

- (a) Schedules 7, 11 and 15 to the 2000 Act (control of donations to individuals and members associations; to recognised third parties; and to permitted participants), and
- (b) Schedule 20 to the 2000 Act (penalties),
corresponding to those made by subsections (1) to (7). 5
- (9) The Secretary of State, after consulting the Electoral Commission, may make an order that –
- (a) amends or modifies a provision of the 2000 Act inserted by this section or Schedule 3 so far as it applies in relation to Northern Ireland;
- (b) makes provision that is consequential on or supplemental to that made by virtue of paragraph (a) (including provision amending or modifying any provision of the 2000 Act). 10
- (10) The power to make an order under section (9) is exercisable by statutory instrument.
- (11) No order may be made under subsection (9) unless a draft of the instrument containing the order has been laid before and approved by a resolution of each House of Parliament. 15
- 9 Defence to charge of failing to return donation from impermissible donor**
- In section 56 of the 2000 Act (acceptance or return of donations: general), after subsection (3) there is inserted – 20
- “(3A) Where a party or its treasurer is charged with an offence under subsection (3), it shall be a defence to prove that –
- (a) all reasonable steps were taken by or on behalf of the party to verify (or ascertain) whether the donor was a permissible donor, and 25
- (b) as a result, the treasurer believed the donor to be a permissible donor.”
- 10 Person may not be “responsible person” for more than one third party**
- (1) Section 88 of the 2000 Act (third parties recognised for the purposes of Part 6 of that Act) is amended as follows. 30
- (2) In subsection (2)(a), after “(as defined by section 54(8))” there is inserted “who is not the responsible person in relation to another third party”.
- (3) After subsection (3) there is inserted –
- “(3A) A notification given by a third party does not comply with the requirement in subsection (3)(b)(iii) or (c)(ii) (to state the name of the person who will be responsible for compliance) if the person whose name is stated is – 35
- (a) the responsible person in relation to another third party,
- (b) an individual who gives a notification under subsection (1) at the same time, or 40
- (c) the person whose name is stated, in purported compliance with the requirement in subsection (3)(b)(iii) or (c)(ii), in a notification given at the same time by another third party.

In this subsection “the person”, in relation to a notification to which subsection (3)(c) applies, is to be read as “the person or officer”.

- (4) Where—
- (a) a third party gives a notification under section 88(4)(b) of the 2000 Act (“the renewal notification”) in respect of a notification under section 88(1) (“the original notification”) that was given before the commencement of this section, and 5
 - (b) the original notification contained a statement under section 88(3)(b)(iii) or (c)(ii) naming someone who, at the time when the renewal notification is given, is the responsible person in relation to another third party, 10
- the renewal notification must indicate (under section 88(6)(b)) that the statement is replaced by a statement naming someone who is not the responsible person in relation to another third party.

11 Election expenses incurred for person not yet a candidate 15

- (1) In the Representation of the People Act 1983 (c. 2) (“the 1983 Act”) section 90ZA (meaning of “election expenses”) is amended as follows.
- (2) In subsection (1)—
- (a) for “subject to subsection (2)” there is substituted “subject to subsections (1A) and (2)”;
 - (b) the words “after the date when he becomes a candidate at the election” are omitted. 20
- (3) After that subsection there is inserted—
- “(1A) In relation to a candidate at—
- (a) a parliamentary by-election, or
 - (b) a local government election,
- a reference in this Part of this Act to election expenses does not include expenses incurred in respect of any matter which is used on or before the date when the person becomes a candidate at the election.” 25
- (4) For subsection (5) there is substituted— 30
- “(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.”
- (5) The amendments made by this section do not apply to any expenses incurred before the commencement of this section. 35

12 Election expenses: guidance by Commission

- In Schedule 4A to the 1983 Act (election expenses), in paragraph 14 (guidance by Electoral Commission), for the words in sub-paragraph (1) from “giving guidance” to the end there is substituted “giving— 40
- (a) guidance as to the matters which do, or do not, fall within Part 1 or Part 2 of this Schedule;
 - (b) guidance (supplementing the definition in section 90ZA(3) above) as to the cases or circumstances in which expenses are,

or are not, to be regarded as incurred for the purposes of a candidate's election.”

Elections and electoral registration

13 Election falling within canvass period

- (1) After section 13BA of the 1983 Act there is inserted – 5
- “13BB Election falling within canvass period**
- (1) This section applies where –
- (a) in connection with a canvass under section 10 above, the form returned in respect of an address (“the relevant address”) is completed in such a way that, by virtue of section 10A(2) above, an application for registration is treated as having been made in respect of that address; and 10
- (b) notice is published of an election to which section 13B above applies that is to be held – 15
- (i) in an area which includes the relevant address,
- (ii) during the period starting with 1st July in the year of the canvass and ending with 1st December in that year.
- (2) The application shall be treated as made –
- (a) when the notice of election is published (if the canvass form has already been returned), 20
- (b) when the form is returned (if the notice has already been published), or
- (c) at such other time as may be prescribed.
- (3) Subsection (2) above does not apply if –
- (a) the canvass form is returned after the appropriate publication date; or 25
- (b) the form is returned too late for the application to be determined in accordance with regulations on or before that date (even without there being any delay in dealing with the application or any objections to the registration). 30
- (4) Where, in consequence of the determination of the application, an entry relating to a person falls to be made in (or removed from) a register covering the relevant address, the registration officer by whom that register is maintained shall issue, in the prescribed manner, a notice specifying the appropriate alteration. 35
- (5) Where –
- (a) in consequence of the determination of the application, a person's entry in respect of an address other than the relevant address falls to be removed from a register maintained by a registration officer other than the one referred to in subsection (4) above, 40
- (b) at the time of the determination, notice has been published of an election to which section 13B above applies that is to be held –
- (i) in an area which includes that other address,

- (ii) during the period starting with 1st July in the year of the canvass and ending with 1st December in that year,
and
- (c) the determination is made before the appropriate publication date for that election, 5
the other registration officer shall, on being informed of the determination, issue in the prescribed manner a notice specifying the appropriate alteration.
- (6) A notice under subsection (4) or (5) above shall be issued on the appropriate publication date for the election in question, and the alteration shall take effect as from the beginning of that day. 10
- (7) A requirement imposed by subsection (4) or (5) above does not apply if, before the appropriate publication date for the election in question, the registration officer concerned publishes a revised version of the register incorporating the appropriate alteration. 15
- (8) In this section –
“the appropriate publication date” has the same meaning as in section 13B above;
“canvass form” means the form mentioned in subsection (1)(a) above. 20
- (9) For the purposes of this section, a canvass form is “returned” when it is received by the registration officer.”
- (2) In section 13 of that Act (publication of registers), after subsection (1) there is inserted –
- “(1A) Subsection (1)(a) above has effect, in the case of a registration officer acting for an area in which (or in part of which) an election to which section 13B below applies is held during the period – 25
(a) starting with 1st July in the year in question, and
(b) ending with 1st December in that year,
as if for “1st December in that year” there were substituted “1st February in the following year”.” 30

14 Disposal of election documents in Scotland

In the 1983 Act –

- (a) in section 63 (breach of official duty), in subsection (3)(b), the words “sheriff clerk,” are omitted; 35
- (b) in Schedule 1 (parliamentary elections rules), for rule 58 there is substituted –
- “58 (1) This rule modifies rules 55 to 57 in relation to elections in Scotland.
- (2) In relation to such elections – 40
(a) the documents mentioned in rule 55(1) –
(i) are not to be forwarded by the returning officer as required by that rule,

- (ii) instead, are to remain in the returning officer's custody (and be endorsed by the officer as required by that rule),
- (b) the references in rules 56 and 57 to the relevant registration officer are to be read as references to the returning officer (and rule 55(1A) is to be disregarded), 5
- (c) the reference in rule 57(1) to the documents to be retained is to be read as a reference to the documents remaining in the returning officer's custody under sub-paragraph (a)(ii). 10

15 Filling vacant European Parliament seats in Northern Ireland

- (1) In section 5 of the European Parliamentary Elections Act 2002 (c. 24) (filling vacant seats), after subsection (3) there is inserted –
- “(4) As regards a seat in Northern Ireland, the regulations may, in specified circumstances, require it to be filled as follows –
- (a) where the previous MEP stood in the name of a registered party when elected (or most recently elected), by a person nominated by the nominating officer of that party;
 - (b) where paragraph (a) does not apply but the previous MEP gave a notice in accordance with regulations under this Act naming one or more persons as substitutes, by a person so named. 20
- (5) In subsection (4) –
- “nominating officer”, in relation to a registered party, means the person registered as its nominating officer under the Political Parties, Elections and Referendums Act 2000 in the Northern Ireland register (within the meaning of that Act); 25
 - “registered party” means a party registered under that Act in that register;
 - “the previous MEP”, in relation to a vacancy, means the person who was the MEP immediately before the vacancy arose.” 30
- (2) Regulations containing provision made by virtue of this section may specify that the provision has effect in relation to any seat that is vacant at the time the provision comes into force and in respect of which notice of a by-election has not been published at that time. 35

16 Local returning officers for elections to the European Parliament

In section 6 of the European Parliamentary Elections Act 2002 (returning officers), in subsection (5A) (meaning of “local returning officer”), for paragraph (a) there is substituted –

- “(a) a person who, by virtue of section 35 of the Representation of the People Act 1983, is a returning officer for –
- (i) elections of councillors of a district or London borough,
 - (ii) elections of councillors of a county in which there are no district councils,
 - (iii) elections to the Council of the Isles of Scilly, or 45
 - (iv) elections of councillors of a county or county borough in Wales,

or who by virtue of section 41 of that Act is a returning officer for elections of councillors for a local authority in Scotland; or”.

- 17 CORE information and action to be taken by electoral registration officers**
- (1) Section 2 of the Electoral Administration Act 2006 (c. 22) (co-ordinated on-line record of electors: use of information) is amended as follows. 5
- (2) In subsection (6) –
- (a) in paragraph (b), after “is requested” there is inserted “in respect of the same address or”;
- (b) in paragraph (c), for “acts as” there is substituted “is appointed as, or votes as,”. 10
- (3) After subsection (6) there is inserted –
- “(6A) A CORE scheme may require that where a CORE keeper informs an ERO as mentioned in subsection (5), or informs an ERO of any suspicions that the CORE keeper has concerning the commission of an offence under the 1983 Act or other impropriety – 15
- (a) the ERO must take such steps (if any) as appear to the ERO to be appropriate in response to being so informed;
- (b) the ERO must notify the CORE keeper of the steps taken (or of the reasons for not taking any), within such period and in such form and manner as is specified – 20
- (i) in the scheme, or
- (ii) by the CORE keeper in accordance with the scheme.”
- (4) In subsection (7)(b), after “relating to the person” there is inserted “, or to any such suspicions as are mentioned in subsection (6A),”.
- (5) In subsection (11) – 25
- (a) for “must not authorise” there is substituted “must not –
- (a) authorise”;
- (b) at the end there is inserted –
- “(b) authorise one ERO to supply information to another.”
- General* 30
- 18 Interpretation**
- In this Act –
- “the 1983 Act” means the Representation of the People Act 1983 (c. 2);
- “the 2000 Act” means the Political Parties, Elections and Referendums Act 2000 (c. 41). 35
- 19 Amendments and repeals**
- Schedules 4 (minor and consequential amendments) and 5 (repeals) have effect.

20 Transitional provision

In relation to England and Wales, a reference inserted by this Act in Schedule 20 to the 2000 Act (penalties) to imprisonment for 12 months is to be read, in the case of an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (general limit on magistrates' court's power to impose imprisonment), as a reference to imprisonment for six months. 5

21 Money

- (1) There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable under any other Act out of money so provided. 10
- (2) There shall be charged on and paid out of the Consolidated Fund any increase attributable to this Act in the sums to be charged on and paid out of that Fund under any other Act.
- (3) There shall be paid into the Consolidated Fund any increase attributable to this Act in the sums payable into that Fund under any other Act. 15

22 Extent

- (1) This Act extends to England and Wales, Scotland and Northern Ireland.
- (2) The following provisions extend also to Gibraltar – 20
 - section 1(1) and (3);
 - section 4;
 - sections 5 to 7, paragraphs 4, 5, 6 and 19 of Schedule 4 and the entry in Schedule 5 relating to Schedule 1 to the 2000 Act;
 - section 9.

23 Commencement

- (1) This Act comes into force on whatever day or days the Secretary of State appoints by order made by statutory instrument.
- (2) An order under subsection (1) – 30
 - (a) may make different provision for different purposes or different areas;
 - (b) may make transitional or saving provision.
- (3) An order under subsection (1) bringing section 16 into force may make any provision amending regulations under the European Parliamentary Elections Act 2002 (c. 24) that is incidental to or consequential on the amendment made by that section.
- (4) Subsection (1) does not apply to – 35
 - (a) section 1(1) and (3),
 - (b) sections 4, 5 and 7, paragraphs 4, 5, 6 and 19 of Schedule 4 and the entry in Schedule 5 relating to Schedule 1 to the 2000 Act,
 - (c) sections 11 and 12 and the entry in Schedule 5 relating to section 90ZA(1) of the 1983 Act, 40
 - (d) section 15,
 - (e) section 18,

- (f) section 19 so far as relating to provisions in Schedules 4 and 5 mentioned above, and
 - (g) sections 20 to 24,
- which accordingly come into force on the day on which this Act is passed.

24 Short title

5

This Act may be cited as the Political Parties and Elections Act 2008.

SCHEDULES

SCHEDULE 1

Section 2

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

“SCHEDULE 19A

Section 146

INVESTIGATORY POWERS OF COMMISSION

5

Powers in relation to registered parties and others

- 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 or has been the treasurer or another officer of an organisation to which this paragraph applies, 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
 - (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.
- (5) A person authorised by the Commission may, for the purposes of the carrying out by the Commission of their functions— 5
- (a) at any reasonable time enter premises occupied by an organisation to which, or an individual to whom, this paragraph applies, and
- (b) having entered the premises, inspect any documents relating to the income and expenditure of the organisation or individual. 10

This is subject to paragraph 2(6).

Powers in relation to suspected offences or contraventions

- 2 (1) This paragraph applies where the Commission have reasonable grounds to suspect that— 15
- (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. 20
- 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)— 25
- (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. 30
- (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. 35
- (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, 40
- 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. 45

- (6) The power conferred by paragraph 1(5) may not be used to enter premises and inspect documents for the purposes of an investigation by the Commission of the suspected offence or contravention.

Powers of entry and search etc by warrant 5

- 3 (1) A justice of the peace may issue a warrant under this paragraph if satisfied, on information on oath given by or on behalf of the Commission, that there are reasonable grounds for believing that—
- (a) a person has committed an offence under this Act, or 10
 - (b) a person has contravened (otherwise than by committing an offence) any restriction or other requirement imposed by or by virtue of this Act,
- and that there are on any premises documents to which sub-paragraph (2) applies. 15
- (2) This sub-paragraph applies to—
- (a) documents which a person has been required to produce under paragraph 2(2) but which have not been produced in compliance with the requirement;
 - (b) any other documents relevant to an investigation by the Commission of the offence or contravention mentioned in sub-paragraph (1). 20
- (3) A warrant under this paragraph authorises a constable, together with any other person named in it and any other constables—
- (a) to enter the premises specified in the information, using such force as is reasonably necessary for the purpose; 25
 - (b) to search the premises and take possession of any documents that appear to be ones to which sub-paragraph (2) applies, or to take, in relation to any such documents, any other steps that may appear to be necessary for preserving them or preventing interference with them; 30
 - (c) to require any person named in the warrant to provide an explanation of any such documents or to state where they may be found.
- (4) A warrant under this paragraph continues in force until the end of the period of one month beginning with the day on which it is issued. 35
- (5) 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; 40
 - (b) a reference to information on oath is to be read as a reference to evidence on oath.

Authorisation of application for warrant under paragraph 3

- 4 (1) An application for a warrant under paragraph 3 may not be made without the written authorisation of— 45
- (a) the chief executive of the Commission, or

(b) where the office of chief executive is vacant or the chief executive is absent or unable to act, a member of the staff of the Commission who has previously been designated by the chief executive for the purposes of this paragraph and whose designation is still in force. 5

(2) A person may be designated under sub-paragraph (1)(b) only if the chief executive considers the person to be suitable having regard to the person's experience and level of seniority as a member of the staff of the Commission.

Retention of documents taken under paragraph 3 10

5 (1) Any documents of which possession is taken under paragraph 3 may be retained 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. 15

(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 19B 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 – 20

(a) until liability for the penalty is discharged as mentioned in paragraph 2(2) of that Schedule (if it is); 25

(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). 30

(4) If within the three-month period the Commission serve a notice under paragraph 6(1) of Schedule 19B 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 – 35

(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 – 40

(a) a notice is served imposing a fixed monetary penalty on any person under paragraph 2(4) of Schedule 19B 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, 45

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 19B, and 5
 - (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. 10
- (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 19B, decide not to issue a completion certificate under paragraph 12 of that Schedule in relation to the stop notice, and 15
 - (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. 20

Power to make copies and records

- 6 The Commission or a person authorised by the Commission –
- (a) may make copies of, or make records of any information contained in – 25
 - (i) any documents produced or inspected under this Schedule;
 - (ii) any documents in relation to which the powers mentioned in paragraph 3(3)(b) are exercisable; 30
 - (b) may make copies or records of any information or explanation provided under this Schedule.

Authorisation to be in writing

- 7 An authorisation of a person by the Commission under this Schedule must be in writing. 35

Evidence of authority to enter premises etc

- 8 A person exercising in relation to any premises a power under –
- (a) paragraph 1(5), or
 - (b) a warrant issued under paragraph 3,
- shall produce evidence of the person’s authorisation or warrant if required to do so by or on behalf of the owner, occupier or person in charge of the premises. 40

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; 5
 - (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 – 10
 - (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. 15
- (2) Paragraph 6(a) applies in relation to any copy made available as mentioned in sub-paragraph (1)(a) above. 20

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. 25

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). 30
- (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 – 35
- (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, 40
- 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 – 45
- (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). 5
- (4) Proceedings are within this sub-paragraph if they arise out of the exercise by the Commission of any of their powers under Schedule 19B other than powers in relation to an offence under paragraph 13(3) below. 10

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. 15
- (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. 20

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 2(2);
 - (b) the consequences (including criminal sanctions) that may result from a failure to comply with such a notice; 25
 - (c) the circumstances in which the Commission are likely to exercise their power under paragraph 1(5);
 - (d) the procedures to be followed in connection with questioning under paragraph 2(4); 30
 - (e) the circumstances in which the Commission are likely to apply for a warrant under paragraph 3;
 - (f) the principles and practices to be applied in connection with taking possession of, or taking other steps in relation to, documents that appear to be ones to which paragraph 3(2) applies; 35
 - (g) the principles and practices to be applied in connection with the exercise of powers under paragraphs 5 and 6;
 - (h) any other matters concerning the exercise of powers under this Schedule about which the Commission consider that guidance would be useful. 40
- (2) Where appropriate, the Commission shall revise guidance published under this paragraph and publish the revised guidance.
- (3) The Commission shall consult such persons as they consider appropriate before publishing guidance or revised guidance under this paragraph. 45

- (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. 5
- (2) The report shall, in particular, specify –
- (a) the cases in which a notice was given under paragraph 1 or 2(2); 10
 - (b) the cases in which premises were entered under paragraph 1(5);
 - (c) the cases in which a requirement was imposed under paragraph 2(4);
 - (d) the cases in which a warrant under paragraph 3 – 15
 - (i) was applied for;
 - (ii) was issued;
 - (iii) was executed;
 - (e) in relation to each warrant under paragraph 3 that was executed – 20
 - (i) what force (if any) was used to enter the premises;
 - (ii) whether documents were seized;
 - (iii) any other noteworthy details.
- (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 – 25
- (a) would or might be unlawful, or
 - (b) might adversely affect any current investigation or proceedings.”

SCHEDULE 2 Section 3 30

CIVIL SANCTIONS: SCHEDULE TO BE INSERTED INTO THE 2000 ACT

“SCHEDULE 19B Section 147

CIVIL SANCTIONS

PART 1

FIXED MONETARY PENALTIES 35

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

- (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 – 5
- (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. 10
- (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. 15
- (4) The Commission may by notice impose a fixed monetary penalty on a permitted participant if satisfied beyond reasonable doubt that the responsible person – 20
- (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. 25
- (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 – 30
- (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. 35

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. 40
- (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. 45

- (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. 5
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 – 10
(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);
(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 – 15
(a) it was based on an error of fact,
(b) it was wrong in law, or
(c) it was unreasonable, 20
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 – 25
(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; 30
(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 35
(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 – 40
(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; 45
(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)); 5
 - (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. 10
- (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.

PART 2 15

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 – 20
- (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 – 25
- (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. 30
- (3) The Commission may impose one or more discretionary requirements on a recognised third party if satisfied beyond reasonable doubt that the responsible person – 35
- (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 – 40
- (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. 45

- (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, 5
 - (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. 10
- (6) Discretionary requirements may not be imposed on the same person on more than one occasion in relation to the same act or omission. 15
- (7) In this Schedule –
- “variable monetary penalty” means such a requirement as is referred to in sub-paragraph (5)(a); 20
 - “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 – 25
- (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. 30

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. 35
- (3) After the end of the period for making such representations and objections (see paragraph 7(2)) the Commission shall decide whether – 40
- (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. 45
- (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. 5
- (6) A person on whom a discretionary requirement is imposed may appeal against the decision to impose the requirement on the ground— 10
- (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 15
- (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. 20

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; 25
- (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. 30
 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— 35
- (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; 40
- (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 – 5
- (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. 10

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. 15
- (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 – 20
- (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), 25
- 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.

PART 3 30

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. 35
- (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 – 40
- (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. 5
- (3) This sub-paragraph applies where – 10
- (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 15
 (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. 20
- (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). 25

Information to be included in stop notices

- 11 A stop notice must include information as to – 30
- (a) the grounds for serving the notice;
 (b) rights of appeal;
 (c) the consequences of not complying with the notice.

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”). 35
- (2) A stop notice ceases to have effect on the issue of a completion certificate relating to that notice. 40
- (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. 45

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, 5
 - (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, 10
- 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, 15
 - (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. 20

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 25

- 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 30
 - (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, 35
 - (c) the action so specified is—
 - (i) action to secure that the offence or contravention does not continue or recur, 40
 - (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, 45
- 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; 5
- (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; 10
- (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 15

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; 20
- (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). 25

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. 30
- (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. 35
- (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. 40

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; 5
 - (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 – 10
- (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. 15
- (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 – 20
- (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. 25

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; 30
 - (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; 35
 - (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; 40
 - (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; 45

- (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 5

- 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. 10

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 – 15
- (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; 20
 - (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 – 25
- (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; 30
 - (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. 35

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 – 40
- (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—

- (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).

5

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 19A in deciding whether—

10

- (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.

15

(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 19A (providing false information in purported compliance with a requirement under that Schedule).

Unincorporated associations

20

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—

25

- (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.

30

35

(2) The guidance must include guidance about the Commissioners’ 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.

40

45

- (3) The guidance must include guidance about the Commissioners' 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; 5
 - (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). 10
- (4) The guidance must include guidance about the Commissioners' 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; 15
 - (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. 20
- (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. 25

Payment of penalties etc into Consolidated Fund

- 26 Where, in pursuance of any provision contained in or made under this Schedule, the Commission receive – 30
- (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), 35
- they shall pay it into the Consolidated Fund.

Reports on use of civil sanctions

- 27 (1) The Commission shall from time to time publish reports specifying – 40
- (a) the cases in which a fixed monetary penalty or discretionary requirement has been imposed or a stop notice served (other than cases in which the penalty, requirement or notice has been overturned on appeal);
 - (b) the cases in which liability for a fixed monetary penalty has been discharged as mentioned in paragraph 2(2); 45

- (c) the cases in which an enforcement undertaking has been accepted.
- (2) The Commission need not include in a report under this paragraph any information that, in their opinion, it would be inappropriate to include on the ground that to do so would or might be unlawful. 5

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, 10
 - (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. 15
- (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. 20
- (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. 25
- (5) This paragraph does not affect a power to disclose that exists apart from this paragraph.

PART 7

INTERPRETATION 30

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); 35
 - “enforcement undertaking” has the meaning given in paragraph 15(1)(b);
 - “fixed monetary penalty” has the meaning given in paragraph 1(5); 40
 - “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; | 5 |
| “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); | 10 |
| (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); | 15 |
| “variable monetary penalty” has the meaning given in paragraph 5(7).” | |

SCHEDULE 3

Section 8

DECLARATION AS TO SOURCE OF DONATION

| | |
|---|----|
| <i>Schedule 7 to the 2000 Act (control of donations to individuals and members associations)</i> | 20 |
| 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 £5,000 (where the regulated donee is a members association) or £1,000 (in any other case), the donee has not been given a declaration as required by paragraph 6A, or”. | 25 |
| (2) After paragraph 6 of that Schedule there is inserted – | |
| “ <i>Declaration as to source of donation</i> | |
| 6A (1) Where a person (P) causes an amount exceeding £5,000 to be received by a members association by way of a donation, or an amount exceeding £1,000 to be received by a regulated donee other than a members association by way of a donation, a written declaration must be given to the donee – | 30 |
| (a) by P, if P is an individual, or | 35 |
| (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 – | 40 |
| (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 £5,000
(where the regulated donee is a members association) or
£1,000 (in any other case). 5
- (3) Where a declaration under this section 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 – 10
- (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 15
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 20
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 25
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.”. 30
- (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 35
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) – 40
- (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 and subsection (6) of
that section shall be read as a reference to 45
paragraph 6A above and sub-paragraph (6) of that
paragraph respectively;”.

-
- 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)”. 5
- (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”. 10
- (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 – 15
- “(aa) in the case of a donation of an amount exceeding £5,000, the recognised third party has not been given a declaration as required by paragraph 6A; or”. 20

- (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 £5,000 to be received by a recognised third party by way of a donation, a written declaration must be given to the recognised third party – 25
- (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. 30
- (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 35
- (b) the money, or the value of the benefit, is more than £5,000.
- (3) Where a declaration under this section 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 – 40
- (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 – 5
- (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. 10
- (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”. 15
- (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 confirm (if it is the case) that all such steps as are required to be taken by paragraph 6A(6) have been taken, and must either – 20
- (a) state that no reason was found to think that the declaration was untruthful or inaccurate, or 25
- (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”. 30
- (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)”. 35
- (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)* 40
- 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 £5,000, 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 – 5
- “Declaration as to source of donation*
- 6A (1) Where a person (P) causes an amount exceeding £5,000 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 10
- (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 – 15
- (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 £5,000. 20
- (3) Where a declaration under this section 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 – 25
- (i) sub-paragraph (5) of paragraph 6 applies to the donation;
- (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. 30
- (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; 35
- (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).” 40
- 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 confirm (if it is the case) that all such steps as are required to be taken by paragraph 6A(6) have been taken, and must either – | 5 |
| | (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.” | 10 |
| 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)”. | 15 |
| | (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”. | 20 |
| | (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 – | 25 | | | | | | |
| | “Paragraph 6A(5) of Schedule 7 (making a false declaration as to source of donation) | <table border="0"> <tr> <td style="padding-right: 10px;">On summary conviction in England and Wales or Scotland: statutory maximum or 12 months.</td> <td></td> </tr> <tr> <td style="padding-right: 10px;">On summary conviction in Northern Ireland: statutory maximum or 6 months.</td> <td style="vertical-align: top; text-align: right; padding-left: 10px;">30</td> </tr> <tr> <td style="padding-right: 10px;">On indictment: fine or 1 year.”</td> <td></td> </tr> </table> | 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. | 30 | On indictment: fine or 1 year.” | |
| 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. | 30 | | | | | | | |
| On indictment: fine or 1 year.” | | | | | | | | |
| | “Paragraph 6A(5) of Schedule 11 (making a false declaration as to source of donation) | <table border="0"> <tr> <td style="padding-right: 10px;">On summary conviction in England and Wales or Scotland: statutory maximum or 12 months.</td> <td></td> </tr> <tr> <td style="padding-right: 10px;">On summary conviction in Northern Ireland: statutory maximum or 6 months.</td> <td style="vertical-align: top; text-align: right; padding-left: 10px;">35</td> </tr> </table> | 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. | 35 | | |
| 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. | 35 | | | | | | | |

| | | |
|---|---|---|
| | 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. | 5 |
| | On indictment: fine or 1 year.” | |

SCHEDULE 4

Section 19

MINOR AND CONSEQUENTIAL AMENDMENTS

10

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. 15
- (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.”
- 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”. 20
- 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”.

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

25

- 4 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)”.
- 5 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”. 30
- 6 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”. 35

- 7 In section 54 (permissible donors), in subsection (1)(b), for “that person” there is substituted “the person offering the donation”.
- 8 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.” 5
- 9 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)”. 10
- 10 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)”. 15
- 11 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)”.
- 12 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”. 20
- 13 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 19B”. 25
- 14 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 19B”. 30
- 15 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 19A”.
- 16 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 2 of Schedule 19A, and does so with the intention of falsifying the document or enabling any person to evade any of the provisions of this Act.” 35
- 17 In section 156 (orders and regulations), in subsection (2), for “subsections (3) and (4)” there is substituted “subsections (3) to (4A)”. 40
- 18 In section 160 (general interpretation), in subsection (1) (definitions), at the appropriate places there are inserted –
““contravention” includes a failure to comply, and cognate expressions shall be construed accordingly;”;
““restriction” includes prohibition;”. 45

- 19 (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”; 5
- (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).” 10
- (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”. 15
- (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)”. 20
- 20 (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”. 25
- (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)”.
- 21 (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.”
- (3) 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)”. 35
- 22 (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 – 40
- “(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

Political Parties and Elections Bill

A

B I L L

To make provision in connection with the Electoral Commission; and to make provision about political donations and expenditure and about elections and electoral registration.

*Presented by Secretary Jack Straw
supported by The Prime Minister,
Mr Chancellor of the Exchequer,
Secretary Hazel Blears,
Secretary Edward Miliband and Mr Michael
Wills.*

*Ordered, by The House of Commons,
to be Printed, 4 December 2008.*

© Parliamentary copyright House of Commons 2008
*Applications for reproduction should be made in writing to the Information Policy Team,
Office of Public Sector Information, Kew, Richmond, Surrey TW9 4DU*

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON – THE STATIONERY OFFICE LIMITED
Printed in the United Kingdom by
The Stationery Office Limited
£x.xx