



# Recall of MPs Act 2015

## CHAPTER 25

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Explanatory Notes have been produced to assist in the understanding of this Act and are available separately

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# Recall of MPs Act 2015

## 2015 CHAPTER 25

An Act to make provision about the recall of members of the House of Commons; and for connected purposes. [26th March 2015]

**B**E 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:—

### *How an MP becomes subject to a recall petition process*

#### **1 How an MP becomes subject to a recall petition process**

- (1) An MP becomes subject to a recall petition process if—
  - (a) the first, second or third recall condition has been met in relation to the MP, and
  - (b) the Speaker gives notice of that fact under section 5.
- (2) In this Act “recall petition” means a petition calling—
  - (a) for an MP to lose his or her seat in the House of Commons, and
  - (b) for a by-election to be held to decide who should be the MP for the constituency in question.
- (3) The first recall condition is that—
  - (a) the MP has, after becoming an MP, been convicted in the United Kingdom of an offence and sentenced or ordered to be imprisoned or detained, and
  - (b) the appeal period expires without the conviction, sentence or order having been overturned on appeal.

Sections 2 to 4 contain more about the first recall condition.

- (4) The second recall condition is that, following on from a report from the Committee on Standards in relation to the MP, the House of Commons orders the suspension of the MP from the service of the House for a specified period of the requisite length.

- (5) A specified period is “of the requisite length” for the purposes of subsection (4) if—
    - (a) where the period is expressed as a number of sitting days, the period specified is of at least 10 sitting days, or
    - (b) in any other case, the period specified (however expressed) is a period of at least 14 days.
  - (6) For the purposes of subsection (4) it does not matter—
    - (a) when the period of suspension starts, and
    - (b) where that period is expressed as a number of sitting days, what provision (if any) is made by the House regarding what does, or does not, count as a sitting day for the purpose of calculating that period.
  - (7) The reference in subsection (4) to the Committee on Standards is to any committee of the House of Commons concerned with the standards of conduct of individual members of that House.
  - (8) Any question arising under subsection (7) is to be determined by the Speaker.
  - (9) The third recall condition is that—
    - (a) the MP has, after becoming an MP, been convicted of an offence under section 10 of the Parliamentary Standards Act 2009 (offence of providing false or misleading information for allowances claims), and
    - (b) the appeal period expires without the conviction having been overturned on appeal.
- Sections 2 to 4 contain more about the third recall condition.
- (10) The provision made by or under this Act does not affect other ways in which an MP’s seat may be vacated, whether—
    - (a) by the MP’s disqualification - for example, under the Representation of the People Act 1981 (disqualification of certain offenders), or
    - (b) by the MP’s death or otherwise.
  - (11) The loss by an MP of his or her seat under this Act as a result of a recall petition does not prevent him or her standing in the resulting by-election.

## **2 The first and third recall conditions: further provision**

- (1) In section 1(3) and (9) (the first and third recall conditions)—
  - (a) the reference to an offence includes an offence committed before the MP became an MP and an offence committed before the day on which section 1 comes into force, but
  - (b) the reference to an MP being convicted of an offence is only to an MP being convicted of an offence on or after the day on which section 1 comes into force.
- (2) The reference in section 1(3) to an offence does not include an offence mentioned in section 1(9).
- (3) The reference in section 1(3) to an MP being sentenced or ordered—
  - (a) includes the MP being sentenced or ordered where the sentence or order is suspended,
  - (b) does not include the MP being remanded in custody, and

- (c) does not include the MP being authorised to be detained under mental health legislation if there is no sentence or order for imprisonment or detention other than under that legislation.
- (4) “Mental health legislation” means—
  - (a) the Mental Health Act 1983,
  - (b) Part 6 or section 200(2)(b) of the Criminal Procedure (Scotland) Act 1995, or
  - (c) the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)).
- (5) For the purposes of this Act the time at which a person becomes an MP is the beginning of the day after—
  - (a) the polling day for the parliamentary election at which the person is elected as an MP, or
  - (b) where the person has been elected as an MP more than once, the polling day for the parliamentary election at which the person was last so elected.

### **3 The first and third recall conditions: expiry of appeal period**

- (1) For the purposes of section 1(3) and (9) (the first and third recall conditions), the appeal period expires at the earliest time at which—
  - (a) it is no longer possible for there to be a relevant appeal, and
  - (b) all relevant appeals have been determined or otherwise disposed of.
- (2) “Relevant appeal”, in relation to the first recall condition, means—
  - (a) an appeal that—
    - (i) is in respect of the conviction, sentence or order mentioned in section 1(3), and
    - (ii) is brought within the usual period, or
  - (b) an appeal that—
    - (i) is in respect of the determination of an appeal that was itself a relevant appeal, and
    - (ii) is brought within the period of 28 days beginning with the date of that determination or, if it ends earlier, the usual period.
- (3) “Relevant appeal”, in relation to the third recall condition, means—
  - (a) an appeal that—
    - (i) is in respect of the conviction mentioned in section 1(9) or of any sentence or order imposed in relation to that conviction, and
    - (ii) is brought within the usual period, or
  - (b) an appeal that—
    - (i) is in respect of the determination of an appeal that was itself a relevant appeal, and
    - (ii) is brought within the period of 28 days beginning with the date of that determination or, if it ends earlier, the usual period.
- (4) References in this section to an appeal being brought within the usual period are to the appeal being brought within the period allowed for bringing an appeal of the kind in question, disregarding the possibility of an appeal out of time with permission.
- (5) References in this section to an appeal—

- (a) are to an appeal to a court in the United Kingdom;
  - (b) include an application (and accordingly references to an appeal being brought include an application being made);
  - (c) include an appeal under paragraph 13(a) of Schedule 6 to the Scotland Act 1998, paragraph 31(a) of Schedule 10 to the Northern Ireland Act 1998 or paragraph 21(a) of Schedule 9 to the Government of Wales Act 2006 (appeal against a determination, in proceedings in Scotland, of a Scottish, Northern Irish or Welsh devolution issue), or an appeal under section 288AA of the Criminal Procedure (Scotland) Act 1995 (appeal on compatibility issues);
  - (d) do not include a reference under Part 2 of the Criminal Appeal Act 1995 (the Criminal Cases Review Commission) or Part 10A of the Criminal Procedure (Scotland) Act 1995 (the Scottish Criminal Cases Review Commission), or a petition to the nobile officium.
- (6) References in this section to the determination of an appeal are, where the court to which the appeal is brought remits the matter to another court, to the disposal of the proceedings by that other court.

#### **4 The first and third recall conditions: courts to notify the Speaker**

- (1) This section applies if an MP, after becoming an MP –
  - (a) is convicted in the United Kingdom of an offence and sentenced or ordered to be imprisoned or detained within the meaning of section 1(3) (see section 2), or
  - (b) is convicted of an offence mentioned in section 1(9) within the meaning of that provision (see section 2).
- (2) The court that imposes the sentence or order in relation to the conviction must notify the Speaker –
  - (a) of the conviction and of the sentence or order, and
  - (b) whether an appeal may be brought in respect of the conviction, sentence or order.
- (3) Subsections (4) to (6) apply in a case in which an appeal is brought in respect of the conviction, sentence or order (including from a court that determines or otherwise disposes of such an appeal).
- (4) The court to which the appeal is brought must notify the Speaker that an appeal has been brought in respect of the conviction, sentence or order.
- (5) Where the appeal is determined or otherwise disposed of, the relevant court must notify the Speaker –
  - (a) that the appeal has been determined or otherwise disposed of,
  - (b) that –
    - (i) in a case within subsection (1)(a), the conviction, sentence or order has, or has not, been overturned on appeal;
    - (ii) in a case within subsection (1)(b), the conviction has, or has not, been overturned on appeal, and
  - (c) whether any further appeal may be brought in respect of the conviction, sentence or order.
- (6) “The relevant court” means –
  - (a) the court to which the appeal is brought, or
  - (b) if that court remits the matter to another court, that other court.



- (7) Section 3(5) and (6) (interpretation of references to an appeal and to the determination of an appeal) apply in relation to this section as they apply in relation to section 3, except that references in this section to an appeal do include a petition to the nobile officium.
- (8) A court is not required under this section to notify the Speaker if, at any time since the application of the section, the MP's seat has been vacated (whether by the MP's disqualification or death, or otherwise).

## **5 Speaker's notice that first, second or third recall condition has been met**

- (1) As soon as reasonably practicable after becoming aware that the first, second or third recall condition has been met in relation to an MP, the Speaker must give notice of that fact to the petition officer for the MP's constituency.
- (2) But subsection (1) does not apply if it would require the Speaker to give notice at a time –
  - (a) within the period of 6 months ending with the polling day for the next parliamentary general election,
  - (b) when the MP is already subject to a recall petition process, or
  - (c) when the MP's seat has already been vacated (whether by the MP's disqualification or death, or otherwise).
- (3) For the purposes of subsection (2)(a), the possibility that, after the time mentioned in that subsection, the polling day for a parliamentary general election will be altered by virtue of section 1(5) or 2(7) of the Fixed-term Parliaments Act 2011 is to be disregarded.
- (4) For the purposes of subsection (2)(b), an MP is "subject to a recall petition process" during the period beginning with the giving of a notice under this section in relation to the MP and ending with –
  - (a) the receipt by the petition officer of a notice under section 13(6) (early termination of recall petition process) in relation to the recall petition in question, or
  - (b) the giving by the petition officer of a notice under section 14(2)(b) (determination of whether recall petition successful) of the outcome of that recall petition.
- (5) A notice under this section –
  - (a) must specify the day on which it is given,
  - (b) must specify which of the recall conditions has been met in relation to the MP, and
  - (c) in a case in which the first recall condition has been met, must specify the offence of which the MP has been convicted.
- (6) For the purposes of this Act, a notice under this section –
  - (a) is to be treated as given on the day specified in it under subsection (5)(a), and
  - (b) is to be treated as received by the petition officer on the first working day after the day on which it is given.
- (7) References in this Act to a "Speaker's notice" are to a notice under this section.

*Conduct of the recall petition process***6 Petition officers**

- (1) There is to be a petition officer in relation to a recall petition for each constituency as determined as follows –

<i>Location of constituency</i>	<i>Identity of petition officer</i>
England or Wales	The person who is the acting returning officer in relation to the constituency by virtue of section 28 of the Representation of the People Act 1983 (discharge of returning officer's functions in England and Wales).
Scotland	The person who is the returning officer in relation to the constituency by virtue of section 25 of that Act (returning officers: Scotland).
Northern Ireland	The Chief Electoral Officer for Northern Ireland.

- (2) References in this Act to a petition officer are to a petition officer under this section.
- (3) Schedule 1 contains more about petition officers.

**7 Where and from when the recall petition may be signed**

- (1) Where the petition officer for a constituency receives a Speaker's notice, the officer must, as soon as reasonably practicable, designate –
- (a) a place, or places, at which a recall petition is to be made available for signing, and
  - (b) a day from which the petition is to be made available for signing.
- (2) A maximum of 10 places may be designated under subsection (1)(a).
- (3) The petition officer must, in determining which place or places to designate under subsection (1)(a), seek to ensure –
- (a) that all persons entitled to sign the recall petition have such reasonable facilities for signing it as are practicable in the circumstances, and
  - (b) that, so far as is reasonable and practicable, every place designated is accessible to disabled persons.
- (4) The petition officer must designate under subsection (1)(b) –
- (a) the day which is the 10th working day after the day on which the officer received the Speaker's notice, or
  - (b) if it is not reasonably practicable to designate that day, the first subsequent working day that it is reasonably practicable to designate.
- (5) In this Act –

“the designated place or places” means the place or places designated under subsection (1)(a);

“the designated day” means the day designated under subsection (1)(b).

## 8 Notice of petition to be sent to registered electors

- (1) As soon as reasonably practicable after determining the designated place or places and the designated day under section 7, the petition officer must send a notice of petition in accordance with regulations under section 18—
  - (a) to such descriptions of persons registered in the register of parliamentary electors for the constituency as are to be specified in such regulations, and
  - (b) to such other descriptions of persons as may be specified in such regulations.
- (2) Regulations under section 18 must require the notice to contain information relating to the recall condition which has been met in relation to the MP.

## 9 Recall petition to be made available for signing

- (1) The petition officer must ensure that the recall petition is made available for signing throughout the signing period at the designated place or places, and by post, in accordance with regulations under section 18.
- (2) In this Act “the signing period” means the period of 6 weeks beginning with the designated day.
- (3) The recall petition is made available for signing at the designated place or places, or by post, by a separate petition signing sheet being available for signing by each person entitled to sign the petition at that place, or by post, in accordance with regulations under section 18.
- (4) The wording of a petition signing sheet must include the following—

“By signing in the box below, you are signing a petition for *[name of the MP]*, the MP for *[name of constituency]*, to lose *[his/her]* seat in the House of Commons, and for a by-election to be held to decide who should be the MP for that constituency. The loss of *[his/her]* seat does not prevent the MP standing in this by-election.

If at least 10% of eligible registered electors in the constituency sign the petition, the MP will lose *[his/her]* seat in the House of Commons and a by-election will be held for the constituency. If less than 10% of eligible registered electors in the constituency sign the petition, the MP will not lose *[his/her]* seat as a result of the petition and therefore no by-election will be held.”

- (5) The Minister may by regulations amend subsection (4).
- (6) Regulations under subsection (5) are subject to affirmative resolution procedure.

## 10 Persons entitled to sign a recall petition

- (1) A person is entitled to sign a recall petition on a day during the signing period if, on that day—

- (a) the person is registered in the register of parliamentary electors for the constituency,
  - (b) the person is aged 18 or over, or the date of his or her 18th birthday is before the end of the signing period, and
  - (c) the person would be entitled to vote as an elector at a parliamentary election in the constituency.
- (2) Any alteration made to the register of parliamentary electors for the constituency which takes effect –
- (a) after the day on which the Speaker’s notice is given, and
  - (b) on or before the cut-off day,
- does not have effect for the purposes of subsection (1)(a) if it results from a late application for registration.
- (3) Any alteration made to the register of parliamentary electors for the constituency which takes effect after the cut-off day does not have effect for the purposes of subsection (1)(a) unless it takes effect under section 13BC(6) of the Representation of the People Act 1983 (alterations for court orders or errors).
- (4) For the purposes of this Act –
- (a) “the cut-off day” means the 3rd working day before the beginning of the signing period, and
  - (b) “late application for registration” means an application for registration that –
    - (i) is made after the day on which the Speaker’s notice is given, or
    - (ii) is treated as made by virtue of section 10A(2) of the Representation of the People Act 1983 (return of canvass form treated as application for registration) in respect of a form returned after that day.
- (5) For the purposes of subsection (1)(c), section 1(1)(a) and (d) of the Representation of the People Act 1983 (requirement to be registered and of voting age) are to be disregarded.
- (6) Schedule 2 inserts section 13BC of the Representation of the People Act 1983 and makes other amendments relating to the alteration of registers of parliamentary electors.

## **11 How entitlement to sign a recall petition is to be exercised**

- (1) A person who is entitled to sign a recall petition may sign it –
- (a) in person,
  - (b) by post, or
  - (c) by proxy,
- subject to meeting the requirements of regulations under section 18 about signing it by that method.
- (2) A person who is entitled to sign a recall petition may sign it only once.
- (3) Once a recall petition has been signed, the signature cannot be withdrawn.
- (4) Unless stated otherwise, references in this Act (however expressed) to the signing of a recall petition by a person are to the person signing it by any of the methods mentioned in subsection (1) otherwise than as a proxy for another person.

## 12 Double signing

- (1) A person commits an offence if the person signs the same recall petition, otherwise than by proxy, more than once.
- (2) A person commits an offence if the person signs a recall petition in person or by post knowing that a person appointed to sign the petition as his or her proxy –
  - (a) has already signed the petition in person as his or her proxy, or
  - (b) in accordance with provision made by regulations under section 18, is entitled to sign the petition as his or her proxy by post.
- (3) A person commits an offence if the person signs the same recall petition as proxy for the same person more than once.
- (4) A person commits an offence if the person signs a recall petition as proxy for another person knowing that the other person has already signed the petition in person or by post.
- (5) An offence under this section is treated –
  - (a) for the purposes of section 169 of the Representation of the People Act 1983 (mode of prosecution and penalty for illegal practices) as an illegal practice,
  - (b) for the purposes of section 173 of that Act (incapacities on conviction of corrupt or illegal practice) as an illegal practice under section 61 of that Act (other voting offences),
  - (c) for the purposes of section 178 of that Act (prosecution of offences committed outside the United Kingdom) as an offence under that Act, and
  - (d) for the purposes of section 112 of the Electoral Law Act (Northern Ireland) 1962 (c. 14 (N.I.)) (incapacities on conviction of corrupt or illegal practice) as an illegal practice under paragraph 12A of Schedule 9 to that Act (other voting offences).
- (6) The court before which a person is convicted of an offence under this section may, if it thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of –
  - (a) section 173 of the Representation of the People Act 1983, or
  - (b) section 112 of the Electoral Law Act (Northern Ireland) 1962.

### *Early termination of recall petition process*

## 13 Early termination of recall petition process

- (1) This section applies where any of the following conditions is met at any time after the Speaker's notice is given but before notice of the outcome of the recall petition has been given under section 14(2)(b).
- (2) The first condition is that –
  - (a) the polling day for the next parliamentary general election is brought forward by virtue of section 2(7) of the Fixed-term Parliaments Act 2011, and
  - (b) the new day is within the period of 6 months beginning with the day on which the Speaker's notice was given.

- (3) The second condition is that the MP's seat is vacated (whether by the MP's disqualification or death, or otherwise).
- (4) The third condition is that, in a case in which the first recall condition was met in relation to the MP, the conviction, sentence or order in question is overturned on appeal.
- (5) The fourth condition is that, in a case in which the third recall condition was met in relation to the MP, the conviction in question is overturned on appeal.
- (6) As soon as reasonably practicable after becoming aware that this section applies, the Speaker must notify the petition officer that the section applies, specifying which of the conditions above has been met.
- (7) On the petition officer receiving a notice under subsection (6) –
  - (a) sections 7 to 11 cease to apply in relation to the recall petition, and
  - (b) no further action is to be taken under or by virtue of this Act in relation to the process relating to the signing of the recall petition except –
    - (i) the action required under subsection (8), and
    - (ii) any action which may be required or permitted by regulations under section 18 in relation to the termination of that process.
- (8) As soon as reasonably practicable after receiving a notice under subsection (6), the petition officer must –
  - (a) take such steps as the officer considers necessary to terminate the process relating to the signing of the recall petition, and
  - (b) give a public notice of the termination of that process in accordance with regulations under section 18.
- (9) The Speaker must lay before the House of Commons any notice given under subsection (6).

#### *Outcome of recall petition*

### **14 Determination of whether recall petition successful**

- (1) This section applies unless the petition officer has received a notice under section 13(6) (early termination of recall petition process).
- (2) As soon as reasonably practicable after the end of the signing period, the petition officer must –
  - (a) determine whether the recall petition was successful,
  - (b) notify the Speaker that the recall petition was successful or unsuccessful, as the case may be, and
  - (c) having done that, give a public notice of the outcome of the recall petition in accordance with regulations under section 18.
- (3) For the purposes of this Act, a recall petition is successful if the number of persons who validly sign the petition is at least 10% of the number of eligible registered electors.

“The number of eligible registered electors” is the number of persons registered in the register of parliamentary electors for the constituency on the last day of the signing period excluding those who, according to their entry in the register, are aged under 18 on that day.

- (4) Any alteration made to the register of parliamentary electors for the constituency which takes effect –
  - (a) after the day on which the Speaker’s notice is given, and
  - (b) on or before the cut-off day,does not have effect for the purposes of subsection (3) if it results from a late application for registration.
- (5) Any alteration made to the register of parliamentary electors for the constituency which takes effect after the cut-off day does not have effect for the purposes of subsection (3) unless it takes effect under section 13BC(6) of the Representation of the People Act 1983 (alterations for court orders or errors).
- (6) For the purposes of subsection (3), a person validly signs a recall petition if –
  - (a) the person signs the petition on a day during the signing period on which the person is entitled to do so under section 10,
  - (b) the person has not previously signed the petition,
  - (c) each condition (if any) imposed by regulations under section 18 of the kind mentioned in section 18(3)(d)(i) (conditions for the exercise of entitlement to sign) applicable to the method of signing used is met,
  - (d) the person’s signing of the petition is not invalid for the purposes of this Act under regulations under section 18 of the kind mentioned in section 18(3)(d)(iv), and
  - (e) the person is not within subsection (7).
- (7) A person is within this subsection if, on the last day of the signing period, the person is not registered in the register of parliamentary electors for the constituency because the person’s entry has been removed by an alteration taking effect under section 13BC(6) of the Representation of the People Act 1983.
- (8) The Speaker must lay before the House of Commons any notice received under subsection (2)(b).

## **15 Effect of successful petition**

- (1) If the petition officer notifies the Speaker under section 14(2)(b) that the recall petition was successful, the MP’s seat becomes vacant on the giving of that notice.
- (2) That does not apply if the seat has already been vacated (whether by the MP’s disqualification or death, or otherwise).
- (3) Subsection (1) is subject to regulations under section 18 about the questioning of the outcome of the recall petition.

### *Financial controls*

## **16 Expenses, donations and reporting**

- (1) Schedule 3 regulates expenditure in relation to recall petitions.
- (2) Schedule 4 regulates donations in relation to recall petitions.
- (3) Schedule 5 imposes reporting requirements in connection with the financial control of recall petitions.

- (4) The Minister may by regulations amend Schedule 4 or 5 to make provision corresponding or similar to any of the modifications to Schedule 15 to PPERA 2000 (control of donations to permitted participants) made by or under the Political Parties and Elections Act 2009 (other than section 20 of that Act).
- (5) Regulations under subsection (4) are subject to affirmative resolution procedure.

## 17 Loans

- (1) Section 62 of the Electoral Administration Act 2006 (regulation of loans: power to make provision) is amended as follows.
- (2) In the heading, for “**and referendums**” substitute “, **referendums and recall petitions**”.
- (3) In subsection (2), after paragraph (c) insert –
  - “(d) an accredited campaigner in relation to a recall petition.”
- (4) In subsection (3A), for “recognised third party or a permitted participant in a referendum” substitute “relevant person”.
- (5) After that subsection insert –
 

“(3B) In subsection (3A) “a relevant person” means –

  - (a) a recognised third party,
  - (b) a permitted participant in a referendum, or
  - (c) an accredited campaigner in relation to a recall petition.”
- (6) In subsection (8), at the appropriate places insert –
 

““accredited campaigner” has the same meaning as in Schedule 3 to the Recall of MPs Act 2015 (see Part 5 of that Schedule);”;

““recall petition” has the same meaning as in the Recall of MPs Act 2015 (see section 1(2) of that Act);”.

### *Final provisions*

## 18 Power to make further provision about conduct of a recall petition etc

- (1) The Minister may by regulations –
  - (a) make further provision about the conduct of a recall petition;
  - (b) make provision about the questioning of the outcome of a recall petition and the consequences of irregularities;
  - (c) make further provision about the giving, sending, delivery or receipt of notices or other documents under this Act.
- (2) Regulations under subsection (1) may –
  - (a) apply or incorporate any provision of electoral legislation (with or without modifications or exceptions);
  - (b) amend any form contained in a provision of electoral legislation for use in relation to recall petitions;
  - (c) make provision conferring a discretion on any person;
  - (d) make provision creating a criminal offence;
  - (e) make further provision about criminal offences under this Act.



- (3) The provision that may be made under subsection (1)(a) includes, in particular –
- (a) provision about the notice of petition under section 8, the petition signing sheet under section 9 or the public notice required under section 13(8)(b) or 14(2)(c);
  - (b) provision permitting or requiring the petition officer not to make the recall petition available for signing at the designated place or places at particular times of the day or on particular days;
  - (c) provision allocating persons registered in the register of parliamentary electors for a constituency to a particular designated place and limiting the availability of the petition for signing at that place to signing by persons so allocated who are entitled to sign it;
  - (d) provision about signing a recall petition in person, by post or by proxy, and in particular –
    - (i) provision under which an entitlement to sign a recall petition in person, by post or by proxy may be exercised only where conditions specified in the regulations are met;
    - (ii) provision about what a person must do in order to be regarded as having signed a recall petition for the purposes of this Act;
    - (iii) provision about when a person who signs a recall petition by post is treated as signing it for the purposes of this Act;
    - (iv) provision about when a person’s signing of a recall petition is invalid for the purposes of this Act;
  - (e) provision permitting or requiring the petition officer, in determining under section 14(2)(a) whether a recall petition was successful, to treat a person who signed the petition as having validly signed it for the purposes of section 14(3);
  - (f) provision about access to, or the supply of copies of, the register of parliamentary electors for a constituency or documents produced in relation to a recall petition;
  - (g) provision about the retention or disposal of documents or other information in relation to a recall petition;
  - (h) further provision about the regulation of campaigning in relation to a recall petition.
- (4) Provision made as mentioned in subsection (3)(e) does not affect –
- (a) the question of whether, for the purposes of provision made under subsection (1)(b), a person validly signed a recall petition for the purposes of section 14(3) (determination of whether recall petition successful), or
  - (b) liability to any penalty arising from a person signing a recall petition but failing to validly sign it for the purposes of section 14(3).
- (5) The outcome of a recall petition may be questioned only in accordance with provision made under subsection (1)(b).
- (6) The provision that may be made under subsection (1)(c) includes –
- (a) provision about how a notice or other document authorised or required under this Act to be given, sent or delivered is given, sent or delivered;
  - (b) provision about the circumstances in which, and the time at which, a notice or other document is (or is to be treated as having been) given, sent, delivered or received.
- (7) For the purposes of this section, “a provision of electoral legislation” means –

- (a) a provision of, or made under, the Representation of the People Acts, or
  - (b) a provision of other legislation which is a provision relating to elections.
- (8) Regulations under this section are subject to affirmative resolution procedure.

## **19 Performance of the Speaker's functions by others**

- (1) If a relevant circumstance arises, the functions of the Speaker under or by virtue of this Act ("the Speaker's functions") are to be performed by the Chairman of Ways and Means or a Deputy Chairman of Ways and Means.
- (2) For the purposes of this section, a "relevant circumstance" arises if—
- (a) the Speaker is unable to perform the Speaker's functions because of absence, illness or for any other reason,
  - (b) the first, second or third recall condition has been met in relation to the Speaker, or
  - (c) there is a vacancy in the office of the Speaker.

## **20 Minor and consequential amendments**

Schedule 6 contains minor and consequential amendments.

## **21 Regulations**

- (1) Regulations under this Act are to be made by statutory instrument.
- (2) But that does not apply to regulations under—
- (a) paragraph 3(9) of Schedule 1 (regulations made by the Minister about petition officer's accounts), or
  - (b) paragraph 1(4) of Schedule 5 (regulations made by the Electoral Commission about the form of a recall petition return).
- (3) Regulations under this Act may—
- (a) make consequential, supplementary, incidental, transitional or saving provision;
  - (b) make different provision for different purposes or areas.
- (4) The power under subsection (3)(a) includes, in the case of regulations under section 18 (power to make further provision about conduct of a recall petition etc), the power to amend legislation.
- (5) Section 26 of the Welsh Language Act 1993 (power to prescribe Welsh version) applies in relation to regulations under this Act as it applies in relation to Acts of Parliament.
- (6) Where regulations under this Act—
- (a) are subject to "affirmative resolution procedure" they must not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament;
  - (b) are subject to "negative resolution procedure" the statutory instrument containing them is subject to annulment in pursuance of a resolution of either House of Parliament.

- (7) Provision that may be made by regulations under this Act for which no Parliamentary procedure is required may be included in regulations subject to affirmative or negative resolution procedure.
- (8) Provision that may be made by regulations under this Act subject to negative resolution procedure may be included in regulations subject to affirmative resolution procedure.
- (9) This section (apart from subsection (7)) does not apply to regulations under section 24 (commencement).

## 22 Interpretation

- (1) In this Act –
  - “the cut-off day” has the meaning given by section 10(4)(a);
  - “the designated day” has the meaning given by section 7(5);
  - “the designated place or places” has the meaning given by section 7(5);
  - “late application for registration” has the meaning given by section 10(4)(b);
  - “legislation” means –
    - (a) an Act of Parliament,
    - (b) an Act of the Scottish Parliament,
    - (c) an Act or Measure of the National Assembly for Wales,
    - (d) Northern Ireland legislation, or
    - (e) an instrument made under legislation as mentioned in any of paragraphs (a) to (d) above;
  - “the Minister” means the Lord President of the Council or the Secretary of State;
  - “modifications” includes additions, omissions and amendments;
  - “MP” means member of the House of Commons (and see section 2(5) regarding the time at which a person becomes an MP);
  - “overturned on appeal” means –
    - (a) in relation to a conviction, that there is no longer a conviction for the purposes of section 1(3) or (9) (as the case may be), and
    - (b) in relation to a sentence or order –
      - (i) varied so that it is no longer a sentence or order that the MP be imprisoned or detained within the meaning of section 1(3), or
      - (ii) replaced with another sentence or order that is not a sentence or order that the MP be imprisoned or detained within the meaning of that provision;
  - “petition officer” has the meaning given by section 6(2);
  - “PPERA 2000” means the Political Parties, Elections and Referendums Act 2000;
  - “recall petition” has the meaning given by section 1(2);
  - “the signing period” has the meaning given by section 9(2);
  - “the Speaker” means the Speaker of the House of Commons;
  - “Speaker’s notice” has the meaning given by section 5(7) (and see section 5(6) regarding when it is given and received);
  - “working day” means a day that is not –
    - (a) a Saturday or Sunday,

- (b) Christmas Eve, Christmas Day or Good Friday, or
  - (c) a bank holiday or a day appointed for public thanksgiving or mourning,  
and for that purpose “bank holiday” means a day that is a bank holiday in the part of the United Kingdom in which the MP’s constituency is situated.
- (2) References in this Act to the register of parliamentary electors for a constituency are to the register of parliamentary electors for the constituency maintained under section 9 of the Representation of the People Act 1983.
- (3) Where under that section two or more registration officers maintain registers of parliamentary electors in respect of different parts of the same constituency, then in relation to that constituency –
  - (a) references in this Act (other than in section 14(3) and (7)) to the register of parliamentary electors for the constituency are to be read as references to one of those registers in respect of a part of the constituency,
  - (b) the reference in section 14(3) to “the number of persons registered in the register of parliamentary electors for the constituency on the last day of the signing period excluding those who, according to their entry in the register, are aged under 18 on that day” is to be read as a reference to the number given by –
    - (i) determining, in the case of each of those registers in respect of a part of the constituency, the number of persons registered in that register on that day excluding those who, according to their entry in that register, are aged under 18 on that day, and
    - (ii) then adding together the numbers so determined, and
  - (c) the reference in section 14(7) to a person who is not registered in the register of parliamentary electors for the constituency is to be read as a reference to a person who is not registered in any of those registers.
- (4) References in this Act (however expressed) to the signing of a recall petition by a person are to be read in accordance with section 11(4).
- (5) A duty under this Act to notify (however expressed) is a duty to give notice in writing.

## **23 Extent**

- (1) An amendment or repeal by this Act has the same extent as the provision of legislation to which it relates.
- (2) Subject to that, this Act extends to England and Wales, Scotland and Northern Ireland.

## **24 Commencement**

- (1) The following provisions come into force on the day on which this Act is passed –
  - (a) section 9(5) and (6) (power by regulations to amend section 9(4) (wording of petition signing sheet));
  - (b) section 16(4) and (5) (power by regulations to amend Schedule 4 or 5);
  - (c) section 17 (amendments to the Electoral Administration Act 2006 conferring power by order to make provision about loans);

- (d) section 18 (power to make further provision about conduct of a recall petition etc);
  - (e) section 21 (regulations);
  - (f) sections 22 and 23 (interpretation and extent);
  - (g) this section;
  - (h) section 25 (short title).
- (2) The following provisions (which contain other regulation-making powers and related provision) also come into force on the day on which this Act is passed –
- (a) section 6(3) and paragraph 3 of Schedule 1, for the purposes of making regulations under that paragraph;
  - (b) section 8 so far as relating to the making of regulations under section 18;
  - (c) section 10(6) and paragraphs 1 and 7 of Schedule 2, for the purposes of making regulations under section 13BC of the Representation of the People Act 1983 (as inserted by paragraph 7);
  - (d) paragraphs 16, 23 and 24 of Schedule 3 (and section 16(1) so far as relating to those paragraphs);
  - (e) paragraphs 3(4) to (6) and 8 of Schedule 4 (and section 16(2) so far as relating to those provisions of that Schedule);
  - (f) section 16(3) and paragraphs 1, 3, 4 and 9 of Schedule 5, for the purposes of making regulations under those paragraphs;
  - (g) paragraph 3(6) of Schedule 6 (which amends section 7(2) of PPERA 2000) (and paragraphs 2 and 3(1) of that Schedule, and section 20, so far as relating to paragraph 3(6)).
- (3) The remaining provisions of this Act come into force on such day as the Minister may by regulations made by statutory instrument appoint.
- (4) Those regulations –
- (a) may appoint different days for different purposes;
  - (b) may make transitional, transitory or saving provision.

## 25 Short title

This Act may be cited as the Recall of MPs Act 2015.

## SCHEDULES

### SCHEDULE 1

Section 6

#### PETITION OFFICERS

##### *Petition officer's general duty*

- 1 It is the petition officer's general duty to do anything necessary for effectually conducting a recall petition in accordance with this Act and regulations made under it.

##### *Performance of petition officer's functions: delegation, assistance etc*

- 2 (1) Sub-paragraphs (2) and (3) apply in relation to a petition officer for a constituency in England, Wales or Scotland.
  - (2) The petition officer may appoint one or more deputies to perform any or all of the officer's functions under or by virtue of this Act.
  - (3) Each local authority whose area falls wholly or partly within the constituency must place the services of its officers at the disposal of the petition officer for the purpose of assisting the petition officer in the performance of the officer's functions under or by virtue of this Act.
  - (4) "Local authority" means –
    - (a) a district council,
    - (b) a county council in England for a county in which there are no district councils,
    - (c) a London borough council,
    - (d) the Common Council of the City of London,
    - (e) the Council of the Isles of Scilly,
    - (f) a county council or county borough council in Wales, or
    - (g) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39).
  - (5) Sections 14(5) and 14A(2) and (3) of the Electoral Law Act (Northern Ireland) 1962 (c. 14 (N.I.)) (appointment of temporary deputy, delegation to assistants and involvement of officers of local authorities) have effect in relation to the Chief Electoral Officer for Northern Ireland in his or her capacity as a petition officer in relation to a recall petition.

##### *Expenditure*

- 3 (1) A petition officer may recover from the Minister charges in respect of services rendered, or expenses incurred, by the officer for or in connection with the performance of the officer's functions under or by virtue of this Act if –

- (a) the services were necessarily rendered, or the expenses were necessarily incurred, for the efficient and effective performance of those functions, and
  - (b) the total of the officer's charges does not exceed the amount ("the overall maximum recoverable amount") specified in, or determined in accordance with, regulations made by the Minister, with the consent of the Treasury, for the purposes of this sub-paragraph.
- (2) Regulations under sub-paragraph (1) may specify, or make provision for determining in accordance with the regulations, a maximum recoverable amount for services or expenses of any specified description.
- (3) The petition officer may not recover more than the specified maximum recoverable amount in respect of any specified services or expenses.
- (4) But in a particular case the Minister may, if satisfied that the conditions in sub-paragraph (5) are met, and with the consent of the Treasury, authorise the payment of –
  - (a) more than the overall maximum recoverable amount, or
  - (b) more than the specified maximum recoverable amount for any specified services or expenses.
- (5) Those conditions are –
  - (a) that it was reasonable for the petition officer to render the services or incur the expenses, and
  - (b) that the charges in question are reasonable.
- (6) The amount of any charges recoverable in accordance with this paragraph is to be paid by the Minister on an account being submitted to the Minister.
- (7) But the Minister may, before payment, apply for the account to be taxed under paragraph 4.
- (8) On the request of a petition officer for an advance on account of the officer's charges, the Minister may make an advance on such terms as the Minister thinks fit.
- (9) The Minister may by regulations make provision as to –
  - (a) the time when accounts are to be rendered to the Minister for the purposes of the payment of a petition officer's charges, and
  - (b) the manner and form in which such accounts are to be so rendered.
- (10) Any sums required by the Minister for making payments under this paragraph are to be charged on, and paid out of, the Consolidated Fund.
- (11) In sub-paragraphs (2) to (4), "specified" means specified in, or determined in accordance with, regulations under sub-paragraph (1).

*Taxation of petition officer's account*

- 4 (1) An application under paragraph 3(7) for a petition officer's account to be taxed ("a taxation application") is made –
  - (a) in the case of a petition officer for a constituency in England or Wales, to the county court,
  - (b) in the case of a petition officer for a constituency in Scotland, to the Auditor of the Court of Session ("the Auditor"), and

- (c) in the case of a petition officer for a constituency in Northern Ireland, to the county court that has jurisdiction where the headquarters of the Chief Electoral Officer for Northern Ireland are situated.
- (2) On a taxation application the court or Auditor has jurisdiction –
  - (a) to tax the account in such manner, and at such time and place, as the court or Auditor thinks fit, and
  - (b) finally to determine the amount payable to the petition officer.
- (3) On a taxation application the petition officer may apply to the court or Auditor to examine any claim made by any person (“the claimant”) against the officer in respect of matters charged in the account.
- (4) Where such an application is made in respect of a claim –
  - (a) notice of the application must be given to the claimant;
  - (b) the court or Auditor must give the claimant an opportunity to be heard and to tender any evidence;
  - (c) the court or Auditor may allow, disallow or reduce the claim, with or without costs;
  - (d) the determination of the court or Auditor is final for all purposes and as against all persons.

## SCHEDULE 2

Section 10

## ALTERATION OF REGISTERS OF PARLIAMENTARY ELECTORS

- 1 Part 1 of the Representation of the People Act 1983 (parliamentary franchise etc) is amended as follows.
- 2 In section 13 (publication of registers), in subsection (5)(b), for “13BA” substitute “13BC”.
- 3 (1) Section 13A (alteration of registers) is amended as follows.
  - (2) In subsection (4), for “or 13BA(3), (6) or (9)” substitute “, 13BA(3), (6) or (9) or 13BC(3) or (6)”.
  - (3) In subsection (5), for “or section 13BA” substitute “, section 13BA or section 13BC”.
- 4 (1) Section 13AB (alteration of registers: interim publication dates) is amended as follows.
  - (2) In subsection (7)(a), after “13A(2)” insert “or 13BC(3) or (6)”.
  - (3) In subsection (7), for paragraph (b) substitute –
    - “(b) in relation to the second interim publication date –
      - (i) section 13A(2);
      - (ii) section 13BC(3) or (6);
      - (iii) subsection (3) of this section as it applies in relation to the first interim publication date.”



- (4) After subsection (7), insert –
- “(7A) In determining for the purposes of subsection (1)(c) whether an alteration made in consequence of the determination, requirement or decision is due to take effect under section 13BC(3) on or before the interim publication date, the reference to section 13AB in section 13BC(2) is to be disregarded.”
- (5) After subsection (9), insert –
- “(10) Subsection (2) does not require a registration officer to issue a notice under that subsection in a case where section 13BC(3) or (6) requires the officer to issue a notice under that provision at an earlier time.”
- 5 (1) Section 13B (alteration of registers: pending elections), as it has effect in England and Wales and Scotland, is amended as follows.
- (2) In subsection (1), after “section 13A(2) above” insert “or section 13BC(3) or (6) below”.
- (3) In subsection (2)(c), for “or section 13AB(3)” substitute “, or under section 13AB(3) or section 13BC(3) or (6),”.
- (4) After subsection (3), insert –
- “(3ZA) In determining for the purposes of subsection (2)(c) whether an alteration made in consequence of the determination, requirement or decision is due to take effect under section 13BC(3) on or before the fifth day before the date of the poll, the reference to section 13B in section 13BC(2) is to be disregarded.
- (3ZB) Subsection (3) does not require a registration officer to issue a notice under that subsection in a case where section 13BC(3) or (6) requires the officer to issue a notice under that provision at an earlier time.”
- 6 (1) Section 13BA (alteration of registers in Northern Ireland: pending elections) is amended as follows.
- (2) In subsection (1), after “section 13A(2)” insert “or section 13BC(3) or (6)”.
- (3) In subsection (2)(b), after “section 13A(2)” insert “, or section 13BC(3),”.
- (4) After subsection (3), insert –
- “(3A) In determining for the purposes of subsection (2)(b) whether an alteration made in consequence of the determination or requirement is due to take effect under section 13BC(3) on or before the final nomination day, the reference to section 13BA in section 13BC(2) is to be disregarded.
- (3B) Subsection (3) does not require the Chief Electoral Officer to issue a notice under that subsection in a case where section 13BC(3) requires the officer to issue a notice under that provision at an earlier time.”
- (5) In subsection (5)(b), after “section 13A(2)” insert “, or section 13BC(3) or (6),”.
- (6) After subsection (6), insert –
- “(6A) In determining for the purposes of subsection (5)(b) whether an alteration made in consequence of the decision or determination is due to take effect under section 13BC(3) on or before the fifth day

before the date of the poll, the reference to section 13BA in section 13BC(2) is to be disregarded.

- (6B) Subsection (6) does not require the Chief Electoral Officer to issue a notice under that subsection in a case where section 13BC(3) or (6) requires the officer to issue a notice under that provision at an earlier time.”

7 Before section 13C, insert –

**“13BC Alteration of registers: recall petition**

- (1) This section applies if –
  - (a) a Speaker’s notice is given in relation to a recall petition in respect of an MP under the Recall of MPs Act 2015 (“the 2015 Act”), and
  - (b) a day is designated in relation to that petition under section 7(1)(b) of that Act (first day of the signing period).
- (2) Subsection (3) applies where –
  - (a) at any time before the cut-off day, section 13A applies to a registration officer, by virtue of subsection (1) of that section, in connection with –
    - (i) a requirement or determination falling within paragraph (za) or (a) of that subsection in respect of a qualifying application for registration,
    - (ii) a requirement falling within paragraph (zb) of that subsection in respect of an entry in the register resulting from a qualifying application for registration, or
    - (iii) a requirement, decision or determination falling within any of paragraphs (b) to (d) of that subsection,
  - (b) in consequence of the requirement, determination or decision, an entry relating to a person falls to be made or altered in, or removed from, the relevant register,
  - (c) no alteration made in consequence of the requirement, determination or decision has already taken effect, or is due to take effect, under section 13A, 13AB, 13B or 13BA on or before the cut-off day, and
  - (d) if the relevant register is for a constituency in Northern Ireland, the Chief Electoral Officer for Northern Ireland is supplied on or before the prescribed date with such additional material as is prescribed supporting the appropriate alteration in the register.
- (3) In such a case –
  - (a) the registration officer must issue, in the prescribed manner on the cut-off day, a notice specifying the appropriate alteration in the register, and
  - (b) subject to sections 13B(1) and 13BA(1), the alteration is to take effect as from the beginning of the day on which the notice is issued.
- (4) In determining for the purposes of subsection (2)(c) whether an alteration made in consequence of the requirement, determination or decision is due to take effect under section 13AB, 13B or 13BA on or

before the cut-off day, the references to section 13BC(3) in section 13AB(7), 13B(2) and 13BA(2) and (5) are to be disregarded.

- (5) Subsection (6) applies where –
  - (a) at any time on or after the cut-off day but before the prescribed time on the last day of the signing period, section 13A applies to a registration officer, by virtue of subsection (1) of that section, in connection with –
    - (i) a notification mentioned in paragraph (c) of that subsection, or
    - (ii) a determination falling within paragraph (d) of that subsection, and
  - (b) in consequence of the notification or determination, an entry relating to a person falls to be made or altered in, or removed from, the relevant register.
- (6) In such a case –
  - (a) the registration officer must issue, in the prescribed manner and on the appropriate day, a notice specifying the appropriate alteration in the register, and
  - (b) subject to sections 13B(1) and 13BA(1), the alteration is to take effect as from the beginning of the day on which the notice is issued.
- (7) “The appropriate day” means –
  - (a) in a case falling within subsection (5)(a)(i), the day when the registration officer receives the notification referred to in that provision (or, if that is not a working day, the next working day);
  - (b) in a case falling within subsection (5)(a)(ii), the day when the registration officer makes the determination referred to in that provision (or, if that is not a working day, the next working day).
- (8) If the petition officer in relation to the recall petition receives a notice under section 13(6) of the 2015 Act (early termination of recall petition process), this section ceases to apply in the case of that petition.
- (9) But if, at the time when that notice is so received –
  - (a) the registration officer is under a duty under subsection (3) or (6) of this section to issue a notice, but
  - (b) has not yet issued the notice,the registration officer remains under that duty to issue the notice at the time at which it would have been required to be issued if subsection (8) had not applied.
- (10) In this section –
  - (a) “the cut-off day” means the 3rd working day before the beginning of the signing period,
  - (b) “qualifying application for registration” means an application for registration that –
    - (i) is made on or before the day on which the Speaker’s notice is given, or

- (ii) is treated as made by virtue of section 10A(2) (return of canvass form treated as application for registration) in respect of a form returned on or before that day,
  - (c) “relevant register” means the register of parliamentary electors for the MP’s constituency,
  - (d) the following expressions have the same meaning as in the 2015 Act: “MP”, “petition officer”, “recall petition”, “the signing period”, “Speaker’s notice” and “working day” (see section 22 of that Act), and
  - (e) any reference to a notice given under the 2015 Act or the time at which such a notice is given has the same meaning as in that Act.”
- 8 (1) Section 56 (registration appeals: England and Wales) is amended as follows.
- (2) In subsection (4), for “and 13B” substitute “, 13B and 13BC”.
  - (3) In subsection (4A), after “13B(3) or (3B)” insert “or 13BC(3) or (6)”.
- 9 (1) Section 58 (registration appeals: Northern Ireland) is amended as follows.
- (2) In subsection (4), for “and 13BA” substitute “, 13BA and 13BC”.
  - (3) In subsection (5), for “or 13BA(6) or (9)” substitute “, 13BA(6) or (9) or 13BC(3) or (6)”.

## SCHEDULE 3

Section 16

## REGULATION OF EXPENDITURE

## PART 1

## INTRODUCTION

*Overview*

- 1 (1) This Schedule regulates expenditure in relation to recall petitions.
- (2) Part 2 limits the amount of petition expenses that may be incurred during the recall petition period –
    - (a) by or on behalf of persons who are not accredited campaigners, and
    - (b) by or on behalf of accredited campaigners.
  - (3) Part 3 imposes further controls on the petition expenses of accredited campaigners.
  - (4) Part 4 defines “petition expense”.
  - (5) Part 5 defines “accredited campaigner” and identifies the responsible person in relation to an accredited campaigner.
  - (6) Part 6 contains supplementary provision, including –
    - (a) provision about offences under this Schedule which are a corrupt or illegal practice, and

- (b) provision applying the definitions of “registered party”, “minor party” and certain other expressions used in PPERA 2000.
- (7) In this Schedule, “the recall petition period”, in relation to a recall petition, means the period –
- (a) beginning with the day after that on which the Speaker’s notice is given, and
  - (b) ending with the day on which the petition officer –
    - (i) receives a notice under section 13(6) (early termination of recall petition process), or
    - (ii) gives a notice under section 14(2)(b) (determination of whether recall petition successful).

## PART 2

### LIMITS ON EXPENDITURE

#### *Limit on petition expenditure: persons other than accredited campaigners*

- 2 (1) The total petition expenses incurred during the recall petition period by or on behalf of a person who is not an accredited campaigner must not exceed £500.
- (2) The following provisions of this paragraph apply where –
- (a) at any time during the recall petition period any petition expenses are incurred by or on behalf of a person (“P”) in excess of the limit imposed by sub-paragraph (1), and
  - (b) P is not at that time an accredited campaigner.
- (3) Where P is an individual, P commits an offence if P knew or ought reasonably to have known that the expenses would be incurred in excess of that limit.
- (4) Where P is a body –
- (a) P commits an offence, and
  - (b) any person who authorised the expenses to be incurred by or on behalf of P commits an offence if the person knew or ought reasonably to have known that the expenses would be incurred in excess of that limit.
- (5) An offence under this paragraph is a corrupt practice.

#### *Limit on petition expenditure: accredited campaigners*

- 3 (1) The total petition expenses incurred during the recall petition period by or on behalf of an accredited campaigner must not exceed £10,000.
- (2) The following provisions of this paragraph apply where –
- (a) at any time during the recall petition period any petition expenses are incurred by or on behalf of a person (“P”) in excess of the limit imposed by sub-paragraph (1), and
  - (b) P is at that time an accredited campaigner.
- (3) Where P is an individual –
- (a) P commits an offence if P knew or ought reasonably to have known that the expenses would be incurred in excess of that limit, and

- (b) where the responsible person is a different individual, the responsible person commits an offence if he or she –
  - (i) authorised the expenses to be incurred by or on behalf of P, and
  - (ii) knew or ought reasonably to have known that the expenses would be incurred in excess of that limit.
- (4) Where P is a registered party or is a body that is not a registered party –
  - (a) P commits an offence, and
  - (b) the responsible person commits an offence if he or she –
    - (i) authorised the expenses to be incurred by or on behalf of P, and
    - (ii) knew or ought reasonably to have known that the expenses would be incurred in excess of that limit.
- (5) In proceedings for an offence under this paragraph it is a defence to show that –
  - (a) any code of practice for the time being in force under paragraph 16 (guidance as to meaning of “petition expense”) was complied with in determining the items and amounts of petition expenses to be entered in the relevant return under paragraph 1 of Schedule 5 (reporting requirements), and
  - (b) the limit imposed by sub-paragraph (1) would not have been exceeded on the basis of the items and amounts entered in that return.
- (6) A person is taken to have shown the matters specified in sub-paragraph (5) if –
  - (a) sufficient evidence of those matters is adduced to raise an issue with respect to them, and
  - (b) the contrary is not proved beyond reasonable doubt.
- (7) An offence under this paragraph is an illegal practice.

*Expenses incurred by persons acting in concert*

- 4 (1) This paragraph applies where petition expenses are incurred by or on behalf of a person in pursuance of a relevant plan.
- (2) “Relevant plan” means a plan or other arrangement by which –
  - (a) petition expenses are to be incurred by or on behalf of the person mentioned in sub-paragraph (1), and
  - (b) petition expenses are to be incurred by or on behalf of one or more other persons,
 with a view to, or otherwise in connection with, promoting or procuring the success or failure of the recall petition.
- (3) The expenses mentioned in sub-paragraph (1) are treated for the purposes of this Part of this Schedule (apart from this paragraph) as also having been incurred by or on behalf of the other person (or, as the case may be, each of the other persons) mentioned in sub-paragraph (2)(b).

*Expenses incurred before the recall petition period*

- 5 (1) This paragraph applies where –

- (a) before the beginning of the recall petition period, a petition expense is incurred by or on behalf of a person in respect of property, services or facilities, and
  - (b) the property, services or facilities is or are made use of by or on behalf of the person during the recall petition period with a view to, or otherwise in connection with, promoting or procuring the success or failure of the recall petition.
- (2) The appropriate proportion of the petition expense is treated for the purposes of this Part of this Schedule as incurred during the recall petition period by or on behalf of the person.
- (3) The “appropriate proportion” of the expense is such proportion of it as is reasonably attributable to the use made of the property, services or facilities as mentioned in sub-paragraph (1)(b).

*Notional petition expenses*

- 6 (1) This paragraph applies where the following two conditions are met in relation to a person (“P”).
- (2) The first condition is that –
  - (a) property is transferred to P free of charge or at a discount of more than 10% of the market value of the property, or
  - (b) property, services or facilities is or are provided for the use or benefit of P free of charge or at a discount of more than 10% of the commercial rate for the use of the property or for the provision of the services or facilities.
- (3) The second condition is that the property, services or facilities is or are made use of by or on behalf of P –
  - (a) for a period any part of which falls within the recall petition period, and
  - (b) in circumstances such that, if any expenses were to be (or are) actually incurred by or on behalf of P in respect of that use, they would be (or are) petition expenses by virtue of Part 4 of this Schedule.
- (4) Where this paragraph applies –
  - (a) an amount of expenses determined in accordance with the following provisions of this paragraph (“the gross notional amount”) is treated for the purposes of this Part of this Schedule as incurred by P, and
  - (b) the appropriate proportion of the gross notional amount is treated for the purposes of this Part of this Schedule as petition expenses incurred by P during the recall petition period.
- (5) The “appropriate proportion” of the gross notional amount is such proportion of that amount as is reasonably attributable to the use made of the property, services or facilities as mentioned in sub-paragraph (3) during the recall petition period.
- (6) Where sub-paragraph (2)(a) applies, the gross notional amount is such proportion of either –
  - (a) the market value of the property (where the property is transferred free of charge), or

- (b) the difference between the market value of the property and the amount of expenses actually incurred by or on behalf of P in respect of the property (where the property is transferred at a discount), as is reasonably attributable to the use made of the property as mentioned in sub-paragraph (3) during the recall petition period.
- (7) Where sub-paragraph (2)(b) applies, the gross notional amount is such proportion of either –
- (a) the commercial rate for the use of the property or the provision of the services or facilities (where the property, services or facilities is or are provided free of charge), or
  - (b) the difference between that commercial rate and the amount of expenses actually incurred by or on behalf of P in respect of the use of the property or the provision of the services or facilities (where the property, services or facilities is or are provided at a discount), as is reasonably attributable to the use made of the property, services or facilities as mentioned in sub-paragraph (3) during the recall petition period.
- (8) Where the services of an employee are made available by his or her employer for the use or benefit of a person, then for the purposes of this paragraph the amount that is to be taken as constituting the commercial rate for the provision of those services is –
- (a) the amount of the remuneration and allowances payable to the employee by the employer in respect of the period for which the employee's services are made available, but
  - (b) excluding from the amount mentioned in paragraph (a) any amount in respect of contributions or other payments for which the employer is liable in respect of the employee.
- (9) Sub-paragraph (4)(b) does not apply if it would (apart from this sub-paragraph) treat an amount of £50 or less as petition expenses incurred by P during the recall petition period.
- (10) In this paragraph a reference to property being transferred to P, or to property, services or facilities being provided for the use or benefit of P, includes –
- (a) property being transferred to, or property, services or facilities being provided for the use or benefit of, any officer, member, trustee or agent of P in his or her capacity as such, and
  - (b) property being transferred, or property, services or facilities being provided, indirectly through a third person.

*Petition expenses incurred before becoming an accredited campaigner*

- 7 A reference in this Part of this Schedule to a petition expense incurred during the recall petition period by or on behalf of an accredited campaigner includes –
- (a) any petition expense incurred during that period by or on behalf of a person who is not an accredited campaigner in relation to the recall petition in question at the time the expense is incurred but who subsequently becomes such an accredited campaigner, and
  - (b) any petition expense treated by virtue of paragraph 5 or 6 as incurred during that period by or on behalf of a person where that person becomes an accredited campaigner in relation to the recall petition in question during that period.



PART 3

PETITION EXPENSES OF ACCREDITED CAMPAIGNERS: GENERAL CONTROLS

*Restriction on incurring petition expenses*

- 8 (1) No petition expenses are to be incurred by or on behalf of an accredited campaigner unless they are incurred with the authority of –
- (a) the responsible person, or
  - (b) a person authorised in writing by the responsible person to incur the expenses.
- (2) A person commits an offence if, without reasonable excuse, the person incurs an expense in contravention of sub-paragraph (1).
- (3) An offence under this paragraph is a corrupt practice.

*Restriction on payments in respect of petition expenses*

- 9 (1) No payment may be made in respect of petition expenses incurred, or to be incurred, by or on behalf of an accredited campaigner unless it is made by –
- (a) the responsible person, or
  - (b) a person authorised in writing by the responsible person to make the payment.
- (2) Any payment of £20 or more made in respect of such expenses by a person within sub-paragraph (1)(a) or (b) must be supported by an invoice or receipt.
- (3) Where a person within sub-paragraph (1)(b) (“P”) makes a payment required by sub-paragraph (2) to be supported by an invoice or receipt, P must, as soon as reasonably practicable after making the payment, deliver to the responsible person –
- (a) notification that P has made the payment, and
  - (b) the supporting invoice or receipt.
- (4) A person commits an offence if, without reasonable excuse, the person –
- (a) makes a payment in contravention of sub-paragraph (1), or
  - (b) contravenes sub-paragraph (3).
- (5) An offence under this paragraph is an illegal practice.

*Restrictions on payment of claims in respect of petition expenses*

- 10 (1) A relevant claim is not payable unless it –
- (a) is sent to the responsible person or to a person authorised under paragraph 8 to incur the expenses, and
  - (b) is sent before the end of the period of 21 days beginning with the first day after the recall petition period.
- (2) A relevant claim must be paid before the end of the period of 28 days beginning with the first day after the recall petition period.
- (3) In this Part of this Schedule “relevant claim” means a claim for payment in respect of petition expenses incurred during the recall petition period by or on behalf of an accredited campaigner.

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- (4) A person commits an offence if, without reasonable excuse, the person—
- (a) makes a payment in respect of a relevant claim which by virtue of sub-paragraph (1) is not payable, or
  - (b) makes a payment in respect of a relevant claim after the end of the period allowed under sub-paragraph (2).
- (5) An offence under this paragraph is an illegal practice.
- (6) Where the period allowed under sub-paragraph (1)(b) or (2) would, apart from this sub-paragraph, end on a day that is not a qualifying day, the period instead ends on the first subsequent day that is a qualifying day.
- (7) “Qualifying day” means a day that is not—
- (a) a Saturday or Sunday,
  - (b) Christmas Eve, Christmas Day or Good Friday, or
  - (c) a bank holiday or a day appointed for public thanksgiving or mourning.
- (8) For this purpose “bank holiday” means a bank holiday in—
- (a) the part of the United Kingdom in which is situated the office of the person to whom the claim is sent pursuant to sub-paragraph (1), or
  - (b) the part of the United Kingdom in which the person providing the property, services or facilities to which the expenses in question relate conducts business (or, if that person conducts business in more than one part of the United Kingdom, the part of the United Kingdom in which is situated the office from which dealings relating to the expenses were conducted).
- (9) Sub-paragraph (2) does not—
- (a) affect any right of a creditor of an accredited campaigner to obtain payment before the end of the period allowed under that sub-paragraph, or
  - (b) impose an obligation to pay a relevant claim that is not payable apart from that sub-paragraph.

*Payment of claims in respect of petition expenses: application for leave to pay late claims*

- 11 (1) An application may be made to the appropriate court for leave for a relevant claim to be paid although sent to a person mentioned in paragraph 10(1)(a) after the end of the period allowed under paragraph 10(1)(b); and the appropriate court, if satisfied that for any special reason it is appropriate to do so, may by order grant the leave.
- (2) An application under sub-paragraph (1) may be made by—
- (a) the person making the claim, or
  - (b) the person with whose authority the expenses in question were incurred.
- (3) In this paragraph “appropriate court” means—
- (a) in England and Wales, the High Court or the county court,
  - (b) in Scotland, the Court of Session or the sheriff, or
  - (c) in Northern Ireland, the High Court or a county court.
- (4) Paragraph 10(1) and (2) do not apply in relation to any sum paid in pursuance of the order of leave.

- (5) The jurisdiction conferred by this paragraph on the Court of Session or the sheriff may be exercised in such manner as is prescribed by Act of Sederunt; and any order made by the sheriff by virtue of this paragraph may be appealed to the Court of Session.
- (6) Article 60 of the County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3)) (appeals from county courts) applies in relation to an order of a county court in Northern Ireland made by virtue of this paragraph as it applies in relation to any such decree of a county court as is mentioned in paragraph (1) of that Article.

#### *Disputed claims*

- 12 (1) A person who makes a disputed claim may bring an action for it; and paragraph 10(2) does not apply in relation to any sum paid in pursuance of a judgment or order made by a court in the proceedings.
- (2) In this paragraph “disputed claim” means a relevant claim that –
  - (a) is sent as mentioned in paragraph 10(1)(a) and (b), but
  - (b) is not paid before the end of the period allowed under paragraph 10(2).
- (3) A person to whom a disputed claim is sent may make an application to the appropriate court for leave for it to be paid after the end of the period allowed under paragraph 10(2); and the appropriate court, if satisfied that for any special reason it is appropriate to do so, may by order grant the leave.
- (4) In this paragraph “appropriate court” has the same meaning as in paragraph 11.
- (5) Paragraph 10(2) does not apply in relation to any sum paid in pursuance of an order of leave granted under sub-paragraph (3).
- (6) The jurisdiction conferred by sub-paragraph (3) on the Court of Session or the sheriff may be exercised in such manner as is prescribed by Act of Sederunt; and any order made by the sheriff by virtue of that sub-paragraph may be appealed to the Court of Session.
- (7) Article 60 of the County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3)) (appeals from county courts) applies in relation to an order of a county court in Northern Ireland made by virtue of sub-paragraph (3) as it applies in relation to any such decree of a county court as is mentioned in paragraph (1) of that Article.

#### PART 4

##### MEANING OF “PETITION EXPENSE”

#### *Meaning of “petition expense”*

- 13 (1) For the purposes of this Schedule an expense is a “petition expense” if –
  - (a) it is incurred with a view to, or otherwise in connection with, promoting or procuring the success or failure of a recall petition,
  - (b) it is incurred in respect of a matter listed in paragraph 14,
  - (c) it is not incurred in respect of a matter listed in paragraph 15, and

- (d) it is not a relevant personal expense of an individual (“P”) that is paid by P from P’s own resources and is not reimbursed to P.
- (2) For the purposes of sub-paragraph (1)(d) an expense is a “relevant personal expense” of P if it is incurred in respect of –
- (a) transport for P (by any means),
  - (b) accommodation for P, or
  - (c) other personal needs of P.

*List of matters*

- 14 (1) The matters referred to in paragraph 13(1)(b) are as follows.
- (2) Advertising of any nature (whatever the medium used).  
 Expenses incurred in respect of this matter include agency fees, design costs and other costs in connection with preparing, producing, distributing or otherwise disseminating such advertising or anything incorporating such advertising and intended to be distributed for the purpose of disseminating it.
- (3) Unsolicited material addressed to persons entitled to sign the recall petition (whether addressed to them by name or intended for delivery to households within any particular area).  
 Expenses incurred in respect of this matter include design costs and other costs in connection with preparing, producing or distributing such material (including the cost of postage).
- (4) Transport (by any means) of persons to any place.  
 Expenses incurred in respect of this matter include the costs of hiring a means of transport for a particular period.
- (5) Public meetings (of any kind).  
 Expenses incurred in respect of this matter include costs incurred in connection with the attendance of persons at such meetings, the hire of premises for the purposes of such meetings or the provision of goods, services or facilities at them.
- (6) The services of a responsible person in relation to an accredited campaigner, or of any other person engaged in connection with promoting or procuring the success or failure of the recall petition.
- (7) Accommodation and administrative costs.

*General exclusions*

- 15 (1) The matters referred to in paragraph 13(1)(c) are as follows.
- (2) The publication of any matter, other than an advertisement, relating to the recall petition in –
- (a) a newspaper or periodical,
  - (b) a broadcast made by the British Broadcasting Corporation or by Sianel Pedwar Cymru, or
  - (c) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990 or Part 1 or 2 of the Broadcasting Act 1996.

- (3) The provision by an individual of his or her own services where the services are provided voluntarily in his or her own time and free of charge.
- (4) The provision by an individual of accommodation which is his or her sole or main residence if the provision is made free of charge.
- (5) The provision by an individual of transport if the means of transport was acquired by him or her principally for his or her personal use and the provision is made free of charge.
- (6) The provision by an individual of computing or printing equipment if the equipment was acquired by him or her principally for his or her personal use and the provision is made free of charge.

#### *Guidance*

- 16 (1) The Electoral Commission (“the Commission”) may prepare, and from time to time revise, a code of practice giving—
  - (a) guidance as to the cases or circumstances in which expenses are, or are not, within paragraph 13(1)(a);
  - (b) guidance as to the matters which are, or are not, within paragraph 14 or 15.
- (2) Once the Commission have prepared a draft code under this paragraph, they must submit it to the Minister for approval.
- (3) The Minister may approve a draft code either without modification or with such modifications as the Minister may determine.
- (4) Once the Minister has approved a draft code, the Minister must lay before Parliament—
  - (a) a copy of the draft, incorporating any modifications determined under sub-paragraph (3), and
  - (b) if the draft incorporates any such modifications, a statement of the Minister’s reasons for making them.
- (5) If, within the 40-day period, either House of Parliament resolves not to approve the draft, neither the Minister nor the Commission are to take any further step in relation to the draft code.
- (6) If no such resolution is made within the 40-day period—
  - (a) the Commission must arrange for the code to be published, in such manner as they think appropriate, and
  - (b) the code comes into force on such date as the Minister may by regulations appoint.
- (7) Sub-paragraph (5) does not prevent a new draft code from being laid before Parliament.
- (8) In this paragraph “the 40-day period”, in relation to a draft code, means—
  - (a) if the draft is laid before the two Houses of Parliament on different days, the period of 40 days beginning with the later of the two days, and
  - (b) in any other case, the period of 40 days beginning with the day on which the draft is laid before each House.

For that purpose, no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.

- (9) In this paragraph references to a draft code include a revised draft code.

## PART 5

### ACCREDITED CAMPAIGNERS AND RESPONSIBLE PERSONS

#### *Meaning of “accredited campaigner”*

- 17 (1) In this Schedule “accredited campaigner” means a person (“P”) who –
- (a) is eligible to be an accredited campaigner (see paragraph 18),
  - (b) has delivered to the petition officer an accreditation notice (see paragraph 19), and
  - (c) has delivered to the petition officer a statement, signed by the individual named under paragraph 19(1)(d), confirming that he or she is willing to exercise the functions conferred by or by virtue of this Act on the responsible person in relation to P.
- (2) Sub-paragraph (1)(c) does not apply where –
- (a) P is a registered party but is not a minor party, or
  - (b) P is the individual named under paragraph 19(1)(d).

#### *Eligibility to be an accredited campaigner*

- 18 (1) A person is eligible to be an accredited campaigner if the person is any of the following –
- (a) a registered party;
  - (b) an individual who is resident in the United Kingdom;
  - (c) an individual who is registered in an electoral register;
  - (d) a company incorporated in the United Kingdom or another member State that is registered under the Companies Act 2006 and carries on business in the United Kingdom;
  - (e) a trade union entered in the list kept under the Trade Union and Labour Relations (Consolidation) Act 1992 or the Industrial Relations (Northern Ireland) Order 1992 (S.I. 1992/807 (N.I. 5));
  - (f) a building society (within the meaning of the Building Societies Act 1986);
  - (g) a limited liability partnership, registered under the Limited Liability Partnerships Act 2000, that carries on business in the United Kingdom;
  - (h) a friendly society registered under the Friendly Societies Act 1974, a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014 or a society registered (or deemed to be registered) under the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24 (N.I.));
  - (i) an unincorporated association of two or more persons that is not within any of the preceding paragraphs but carries on business or other activities wholly or mainly in the United Kingdom and whose main office is there.
- (2) In this paragraph “an electoral register” means –

- (a) a register of parliamentary or local government electors maintained under section 9 of the Representation of the People Act 1983,
- (b) a register of relevant citizens of the European Union prepared under the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001 (S.I. 2001/1184), or
- (c) a register of peers prepared under regulations under section 3 of the Representation of the People Act 1985.

*Accreditation notice*

- 19 (1) In this Part of this Schedule, “accreditation notice”, in relation to a person (“P”) who is eligible to be an accredited campaigner, means a notice –
- (a) identifying the recall petition to which it relates,
  - (b) stating whether P proposes to campaign for the success or failure of the petition,
  - (c) giving such further information as is required under sub-paragraph (3) in relation to P,
  - (d) naming an individual who is to exercise the functions conferred by or by virtue of this Act on the responsible person in relation to P, and
  - (e) signed by a person authorised under sub-paragraph (4) to sign it in relation to P.
- (2) Sub-paragraph (1)(d) –
- (a) does not apply where P is a registered party but is not a minor party (see paragraph 21(1));
  - (b) may be complied with, where P is an individual, by naming P or another individual;
  - (c) may be complied with by naming the holder of an office.
- (3) The further information mentioned in sub-paragraph (1)(c) is as set out in the following table –

<i>Where P is....</i>	<i>The further information required is...</i>
a registered party	(a) the party’s registered name, and (b) the address of the party’s headquarters or, if it has no headquarters, the address to which communications to the party may be sent
an individual	(a) the individual’s full name, and (b) the individual’s home address in the United Kingdom or, if he or she has no home address in the United Kingdom, his or her home address elsewhere
a company within paragraph 18(1)(d)	(a) the company’s registered name, (b) the address of its registered office, and (c) its registered number

<i>Where P is....</i>	<i>The further information required is...</i>
a trade union within paragraph 18(1)(e)	(a) the name of the union as shown in the list kept under the Trade Union and Labour Relations (Consolidation) Act 1992 or the Industrial Relations (Northern Ireland) Order 1992 (S.I. 1992/807 (N.I. 5)), and (b) the address of its head or main office, as shown in that list
a building society within paragraph 18(1)(f)	(a) the name of the society, and (b) the address of its principal office
a limited liability partnership within paragraph 18(1)(g)	(a) the partnership's registered name, and (b) the address of its registered office
a friendly or other society within paragraph 18(1)(h)	(a) the name of the society, and (b) the address of its registered office
an unincorporated association within paragraph 18(1)(i)	(a) the name of the association, and (b) the address of its main office in the United Kingdom

- (4) The persons authorised for the purposes of sub-paragraph (1)(e) to sign an accreditation notice are –
- (a) where P is an individual, P;
  - (b) where P is a registered party, the responsible officers of the party (within the meaning of section 64 of PPERA 2000);
  - (c) where P is a body other than a registered party, the body's secretary or a person who acts in a similar capacity in relation to the body.

#### *Notice of alteration*

- 20 (1) This paragraph applies if, at any time before the end of the compliance period, any information which in accordance with this Schedule is contained in an accreditation notice ceases to be accurate.
- (2) The accredited campaigner must, as soon as reasonably practicable after becoming aware of the inaccuracy, deliver a notice ("a notice of alteration") to the petition officer –
- (a) indicating that the accreditation notice has become inaccurate, and
  - (b) containing a corrected version of the accreditation notice.
- (3) References in sub-paragraphs (1) and (2) to an accreditation notice include a corrected version of an accreditation notice.
- (4) The accredited campaigner commits an offence if the accredited campaigner fails to deliver a notice of alteration in accordance with sub-paragraph (2).
- (5) A person guilty of an offence under this paragraph is liable on summary conviction –
- (a) in England and Wales, to a fine,



- (b) in Scotland, to a fine not exceeding level 5 on the standard scale, and
  - (c) in Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (6) Where a notice of alteration names a new individual who is to exercise the functions conferred by or by virtue of this Act on the responsible person in relation to the accredited campaigner, it must be accompanied by a statement, signed by that individual, confirming that he or she is willing to exercise those functions.
- (7) Sub-paragraph (6) does not apply where the new individual named in the notice of alteration is the accredited campaigner.
- (8) In this paragraph “the compliance period” means the period during which any provision of –
- (a) this Schedule (apart from this paragraph),
  - (b) Schedule 4 (control of donations to accredited campaigners),
  - (c) Schedule 5 (recall petition returns), or
  - (d) any order under section 62 of the Electoral Administration Act 2006 (loans),
- remains to be complied with on the part of the accredited campaigner.
- (9) In sub-paragraph (5)(a), the reference to a fine is to be read as a reference to a fine not exceeding level 5 on the standard scale in relation to an offence committed before section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force.

#### *The responsible person*

- 21 (1) If the accredited campaigner is a registered party but is not a minor party, the responsible person in relation to the accredited campaigner is the treasurer of the party.
- (2) In any other case, the responsible person in relation to the accredited campaigner is –
- (a) the individual named in the accreditation notice as the person who is to exercise the functions conferred by or by virtue of this Act on the responsible person in relation to the accredited campaigner, or
  - (b) if a notice of alteration has been delivered which names a new individual who is to exercise those functions, the individual named in that notice.
- (3) But where the individual named as mentioned in sub-paragraph (2)(a) or (b) is not the accredited campaigner, that named individual is the responsible person in relation to the accredited campaigner only if –
- (a) in a case within sub-paragraph (2)(a), the accreditation notice is accompanied by the statement required by paragraph 17(1)(c), or
  - (b) in a case within sub-paragraph (2)(b), the notice of alteration is accompanied by the statement required by paragraph 20(6).

#### *Duty of petition officer to publish information about accredited campaigners*

- 22 (1) The petition officer must, as soon as reasonably practicable after receiving an accreditation notice under paragraph 17 or a corrected version of an

accreditation notice under paragraph 20, make the information contained in it available to the public in any way the officer thinks fit.

- (2) But the petition officer must not make available to the public the home address of an accredited campaigner who is an individual.

## PART 6

### FINAL PROVISIONS

#### *Power to alter meaning of “petition expense”*

- 23 (1) The Minister may by regulations amend paragraph 14 or 15.
- (2) Before making regulations under this paragraph the Minister must consult the Electoral Commission.
- (3) Regulations under this paragraph are subject to affirmative resolution procedure.

#### *Power to alter certain financial limits*

- 24 (1) The Minister may by regulations amend any of the following provisions so as to substitute a different amount for the amount for the time being mentioned in the provision—
- (a) paragraph 2(1) (limit on petition expenditure for person other than an accredited campaigner);
  - (b) paragraph 3(1) (limit on petition expenditure for accredited campaigner);
  - (c) paragraph 6(9) (amount at or below which notional petition expense is to be disregarded);
  - (d) paragraph 9(2) (amount at or above which petition expense of accredited campaigner must be supported by invoice or receipt).
- (2) Before making regulations under this paragraph the Minister must consult the Electoral Commission.
- (3) Regulations under this paragraph are subject to affirmative resolution procedure.
- (4) Sub-paragraphs (2) and (3) do not apply where the Minister considers that the substitution is expedient in consequence of changes in the value of money.

#### *Corrupt and illegal practices*

- 25 (1) An offence that is a corrupt practice under this Schedule is treated—
- (a) for the purposes of section 168 of the Representation of the People Act 1983 (mode of prosecution and penalty for corrupt practices) as a corrupt practice,
  - (b) for the purposes of section 173 of that Act (incapacities on conviction of corrupt or illegal practice) as a corrupt practice,
  - (c) for the purposes of section 173A of that Act (incapacity to hold public or judicial office in Scotland) as a corrupt practice,

- (d) for the purposes of section 178 of that Act (prosecution of offences committed outside the United Kingdom) as an offence under that Act,
  - (e) for the purposes of section 179 of that Act (offences by associations) as a corrupt practice, and
  - (f) for the purposes of section 112 of the Electoral Law Act (Northern Ireland) 1962 (c. 14 (N.I.)) (incapacities on conviction of corrupt or illegal practice) as a corrupt practice.
- (2) An offence that is an illegal practice under this Schedule is treated –
- (a) for the purposes of section 169 of the Representation of the People Act 1983 (mode of prosecution and penalty for illegal practices) as an illegal practice,
  - (b) for the purposes of section 173 of that Act (incapacities on conviction of corrupt or illegal practice) as an illegal practice,
  - (c) for the purposes of section 178 of that Act (prosecution of offences committed outside the United Kingdom) as an offence under that Act,
  - (d) for the purposes of section 179 of that Act (offences by associations) as an illegal practice, and
  - (e) for the purposes of section 112 of the Electoral Law Act (Northern Ireland) 1962 (incapacities on conviction of corrupt or illegal practice) as an illegal practice.

*Application of defined terms in PPERA 2000*

- 26 (1) In this Schedule, the following expressions have the same meaning as in PPERA 2000: “business”; “market value”; “minor party”; “property”; “registered party”; “treasurer” (see section 160(1) of that Act).
- (2) In the case of references to the treasurer of a registered party, see section 25(7) of that Act (which is inserted by paragraph 4(3) of Schedule 6 to this Act).

SCHEDULE 4

Section 16

CONTROL OF DONATIONS TO ACCREDITED CAMPAIGNERS

PART 1

INTRODUCTION AND INTERPRETATION

*Operation of Schedule and meaning of “accredited campaigner” and “relevant donation” etc*

- 1 (1) This Schedule has effect for controlling relevant donations to accredited campaigners who –
- (a) are not registered parties, or
  - (b) are registered parties but are minor parties.
- (2) In this Schedule, “accredited campaigner” has the same meaning as in Schedule 3 (see Part 5 of that Schedule) but does not include an accredited campaigner that is a registered party unless it is a minor party.

- (3) In this Schedule, “relevant donation”, in relation to an accredited campaigner, means a donation to the accredited campaigner for—
- (a) the purpose of meeting petition expenses incurred by or on behalf of the accredited campaigner, or
  - (b) the purpose of securing that petition expenses are not so incurred.
- (4) A donation is to be taken to be for the purpose mentioned in sub-paragraph (3)(a) or (b) if, having regard to all the circumstances, it must reasonably be assumed to be for that purpose.
- (5) For the meaning of “donation” see paragraphs 2 to 4.
- (6) In this Schedule—
- “minor party” and “registered party” have the same meaning as in PPERA 2000 (see section 160(1) of that Act);
  - “petition expense” has the same meaning as in Schedule 3 (see Part 4 of that Schedule);
  - “responsible person” means the person determined in accordance with paragraph 21 of that Schedule.

*Donations: general rules*

- 2 (1) In this Schedule, “donation”, in relation to an accredited campaigner, means—
- (a) a gift to the accredited campaigner of money or other property,
  - (b) sponsorship provided in relation to the accredited campaigner (see paragraph 3),
  - (c) money spent by a person other than the accredited campaigner in paying petition expenses where—
    - (i) the petition expenses were incurred by or on behalf of the accredited campaigner, and
    - (ii) the payments are out of the person’s own resources (with no right to reimbursement by the accredited campaigner),
  - (d) money lent to the accredited campaigner otherwise than on commercial terms,
  - (e) the provision, otherwise than on commercial terms, of property, services or facilities for the use or benefit of the accredited campaigner (including the services of a person), or
  - (f) in the case of an accredited campaigner other than an individual, a subscription or other fee paid for affiliation to, or membership of, the accredited campaigner.

But this sub-paragraph is subject to the exceptions in paragraph 4.

- (2) In sub-paragraph (1)(a), “gift” includes a transfer of money or other property where—
- (a) the transfer is in pursuance of a transaction or arrangement involving the provision by or on behalf of the accredited campaigner of any property, services or facilities or other consideration of monetary value, and
  - (b) the total value in monetary terms of the consideration so provided is less than the value of the money, or the market value of the property, transferred.

- (3) Where, by virtue of sub-paragraph (1)(c), money spent constitutes a donation to an accredited campaigner, the accredited campaigner is treated as receiving an equivalent amount on the date on which the money is paid to the creditor in respect of the expenses in question.
- (4) In determining –
  - (a) for the purposes of sub-paragraph (1)(d) whether money lent to an accredited campaigner is lent otherwise than on commercial terms, or
  - (b) for the purposes of sub-paragraph (1)(e) whether property, services or facilities provided for the use or benefit of an accredited campaigner is or are provided otherwise than on commercial terms,regard is to be had to the total value in monetary terms of the consideration provided by or on behalf of the accredited campaigner in respect of the loan or the provision of the property, services or facilities.
- (5) Where, apart from this sub-paragraph, anything would be a donation –
  - (a) by virtue of sub-paragraph (1)(b), and
  - (b) by virtue of any other provision of this paragraph,sub-paragraph (1)(b) applies in relation to it to the exclusion of the other provision of this paragraph.
- (6) A reference in this Schedule –
  - (a) to property being transferred to the accredited campaigner includes property being transferred to any officer, member, trustee or agent of the accredited campaigner in his or her capacity as such, or
  - (b) to property, services or facilities being provided for the use or benefit of the accredited campaigner, includes property, services or facilities being provided for the use or benefit of any officer, member, trustee or agent of the accredited campaigner in his or her capacity as such.
- (7) In this paragraph –
  - (a) references to a thing being given or transferred include its being given or transferred indirectly through a third person, and
  - (b) “gift” includes bequest.
- (8) For the purposes of this Schedule it is immaterial whether a donation is made or received in the United Kingdom or elsewhere.

### *Sponsorship*

- 3 (1) For the purposes of this Schedule sponsorship is provided in relation to an accredited campaigner if –
  - (a) money or other property is transferred to the accredited campaigner or to any person for the benefit of the accredited campaigner, and
  - (b) the purpose (or one of the purposes) of the transfer is (or, having regard to all the circumstances, must reasonably be assumed to be) –
    - (i) to help the accredited campaigner with meeting, or to meet, to any extent, defined expenses incurred or to be incurred by or on behalf of the accredited campaigner, or
    - (ii) to secure that, to any extent, defined expenses are not incurred by or on behalf of the accredited campaigner.
- (2) “Defined expenses” means expenses in connection with –

- (a) a conference, meeting or other event organised by or on behalf of the accredited campaigner,
  - (b) the preparation, production or dissemination of any publication by or on behalf of the accredited campaigner, or
  - (c) study or research organised by or on behalf of the accredited campaigner.
- (3) But the following do not constitute sponsorship for the purposes of this Schedule—
- (a) the making of a payment in respect of a charge for admission to a conference, meeting or other event;
  - (b) the making of a payment in respect of the purchase price of, or any other charge for access to, any publication;
  - (c) the making of a payment in respect of the inclusion of an advertisement in any publication where the payment is made at a commercial rate.
- (4) The Minister may by regulations amend sub-paragraph (2) or (3).
- (5) Before making regulations under this paragraph the Minister must consult the Electoral Commission.
- (6) Regulations under this paragraph are subject to affirmative resolution procedure.
- (7) In this paragraph “publication” means a publication made available in any form and by any means (whether or not to the public or any section of the public).

*Payments etc not to be regarded as donations*

- 4 (1) In this Schedule “donation” does not include—
- (a) a donation as described in paragraph 2(1)(a) to (f)—
    - (i) whose amount, where the donation is of money, is £500 or less, or
    - (ii) whose value (as determined in accordance with paragraph 5), where the donation is not of money, is £500 or less,
  - (b) the provision by an individual of his or her own services where the services are provided voluntarily in his or her own time and free of charge,
  - (c) interest accruing to an accredited campaigner in respect of a donation which is dealt with by the accredited campaigner in accordance with paragraph 14(2) or 15(2) (duty to return donations from impermissible or unidentifiable donors), or
  - (d) a grant provided out of public funds.
- (2) “Provided out of public funds” has the same meaning as in PPERA 2000 (see section 160(4) of that Act).

*Value of donations*

- 5 (1) This paragraph has effect for the purposes of this Schedule.
- (2) The value of a donation within paragraph 2(1)(a) is the value of the money or the market value of the property.

- (3) But where that provision applies by virtue of paragraph 2(2), the value of the donation is the difference between—
  - (a) the value of the money, or the market value of the property, and
  - (b) the total value in monetary terms of the consideration provided by or on behalf of the accredited campaigner.
- (4) The value of a donation within paragraph 2(1)(b) is—
  - (a) the value of the money transferred as mentioned in paragraph 3(1), or
  - (b) the market value of the property so transferred;and accordingly the value in monetary terms of any benefit conferred on the person providing the sponsorship in question is to be disregarded.
- (5) The value of a donation within paragraph 2(1)(d) is the difference between—
  - (a) the total value in monetary terms of the consideration that would have had to be provided by or on behalf of the accredited campaigner in respect of the loan if the loan had been made on commercial terms, and
  - (b) the total value in monetary terms of the consideration (if any) actually provided by or on behalf of the accredited campaigner in respect of the loan.
- (6) The value of a donation within paragraph 2(1)(e) is the difference between—
  - (a) the total value in monetary terms of the consideration that would have had to be provided by or on behalf of the accredited campaigner in respect of the provision of the property, services or facilities if the property, services or facilities had been provided on commercial terms, and
  - (b) the total value in monetary terms of the consideration (if any) actually provided by or on behalf of the accredited campaigner in respect of the provision of the property, services or facilities.
- (7) Where a donation within paragraph 2(1)(d) or (e) confers an enduring benefit on the donee over a particular period, the value of the donation—
  - (a) is to be determined at the time the donation is received, and
  - (b) must be determined by reference to the total benefit accruing to the donee over that period.

*Meaning of “permissible donor”*

- 6 (1) In this Schedule “permissible donor” means—
  - (a) a registered party (other than a Gibraltar party whose entry in the register includes a statement that it intends to contest one or more elections to the European Parliament in the combined region),
  - (b) an individual who is registered in an electoral register,
  - (c) a company incorporated in the United Kingdom or another member State that is registered under the Companies Act 2006 and carries on business in the United Kingdom,
  - (d) a trade union entered in the list kept under the Trade Union and Labour Relations (Consolidation) Act 1992 or the Industrial Relations (Northern Ireland) Order 1992 (S.I. 1992/807 (N.I. 5)),
  - (e) a building society (within the meaning of the Building Societies Act 1986),

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- (f) a limited liability partnership, registered under the Limited Liability Partnerships Act 2000, that carries on business in the United Kingdom,
  - (g) a friendly society registered under the Friendly Societies Act 1974, a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014 or a society registered (or deemed to be registered) under the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24 (N.I.)), or
  - (h) an unincorporated association of two or more persons that is not within any of the preceding paragraphs but carries on business or other activities wholly or mainly in the United Kingdom and whose main office is there.
- (2) But “permissible donor” does not include, in relation to a recall petition in respect of an MP for a constituency in Great Britain, a party registered in the Northern Ireland register maintained by the Electoral Commission under Part 2 of PPERA 2000 (registration of political parties).
- (3) In relation to a donation in the form of a bequest, sub-paragraph (1)(b) has effect as if it referred to an individual who was, at any time within the period of 5 years ending with the date of his or her death, registered in an electoral register.
- (4) In this paragraph “an electoral register” means –
- (a) a register of parliamentary or local government electors maintained under section 9 of the Representation of the People Act 1983,
  - (b) a register of relevant citizens of the European Union prepared under the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001 (S.I. 2001/1184), or
  - (c) a register of peers prepared under regulations under section 3 of the Representation of the People Act 1985.

#### *Return of donations*

- 7       References in this Schedule to returning a donation (however expressed) include returning an equivalent amount or, where the donation is not of money, returning an amount equivalent to the value of the donation.

#### *Power to alter certain financial limits*

- 8       (1) The Minister may by regulations amend any of the following provisions so as to substitute a different amount for the amount for the time being mentioned in the provision –
- (a) paragraph 4(1)(a)(i) or (ii) (amount at or below which donation is to be disregarded);
  - (b) paragraph 12(2) (amount above which donations made on behalf of other persons are treated as separate donations).
- (2) Before making regulations under this paragraph the Minister must consult the Electoral Commission.
- (3) Regulations under this paragraph are subject to affirmative resolution procedure.



- (4) Sub-paragraphs (2) and (3) do not apply where the Minister considers that the substitution is expedient in consequence of changes in the value of money.

## PART 2

### CONTROL OF DONATIONS

#### *Prohibition on accepting donations from impermissible or unidentifiable donors*

- 9 A relevant donation received by an accredited campaigner must not be accepted by the accredited campaigner if—
- (a) the donor is not, at the time of its receipt, a permissible donor, or
  - (b) the accredited campaigner is unable to ascertain the identity of the donor (whether because the donation is given anonymously or by reason of any deception or concealment or otherwise).

#### *Donations treated as received or not received from permissible donors*

- 10 (1) For the purposes of this Schedule—
- (a) a relevant donation received by an accredited campaigner which is an exempt trust donation is treated as a relevant donation received from a permissible donor;
  - (b) any other relevant donation received by an accredited campaigner from a trustee of any property (in the trustee's capacity as such) is treated as a relevant donation received otherwise than from a permissible donor.
- (2) Sub-paragraph (1)(b) does not apply to a relevant donation transmitted by the trustee to the accredited campaigner on behalf of beneficiaries under the trust all of whom are—
- (a) persons who are, at the time of its receipt, permissible donors, or
  - (b) members of an unincorporated association which is, at that time, a permissible donor.

#### *Meaning of “exempt trust donation” in paragraph 10*

- 11 (1) In paragraph 10 “exempt trust donation” means a donation that—
- (a) meets condition A or B, and
  - (b) is not received from a trustee of any property pursuant to the exercise of any discretion vested by a trust in the trustee or any other person.
- (2) Condition A is that—
- (a) the donation is received from a trustee of any property in accordance with the terms of a relevant trust, and
  - (b) at or before the time of the receipt of the donation, the trustee gives the recipient of the donation the full name of the person who created the trust and of every other person by whom, or under whose will, property was transferred to the trust before that date.
- (3) “Relevant trust” means a trust—
- (a) which was created before 27th July 1999,
  - (b) to which no property has been transferred on or after that date, and

- (c) whose terms have not been varied on or after that date.
- (4) Condition B is that—
- (a) the donation is received from a trustee of any property in accordance with the terms of a qualifying trust, and
  - (b) at or before the time of the receipt of the donation, the trustee gives the recipient of the donation all such details in respect of the donor as are required by paragraph 3(1)(a)(iii) of Schedule 5 (recall petition returns).
- (5) “Qualifying trust” means a trust—
- (a) which was created by—
    - (i) a person who was a permissible donor at the time the trust was created, or
    - (ii) in the case of a donation in the form of a bequest, the will of an individual within paragraph 6(3), and
  - (b) to which no property has been transferred otherwise than—
    - (i) by a person who was a permissible donor at the time of the transfer, or
    - (ii) in the case of a donation in the form of a bequest, under the will of an individual within paragraph 6(3).
- (6) In this paragraph—
- (a) “property”, in the context of the transfer of property to a trust, does not include income of the trust;
  - (b) “trust” includes a trust created by a will;
  - (c) a reference to a donation received from a trustee—
    - (i) is a reference to a donation received from the trustee in the trustee’s capacity as such, but
    - (ii) does not include a donation transmitted on behalf of a beneficiary under a trust.

*Donations made on behalf of other persons*

- 12 (1) Sub-paragraphs (2) and (3) apply where—
- (a) a person (“the agent”) causes an amount (“the relevant amount”) to be received by an accredited campaigner—
    - (i) on behalf of the agent and one or more other persons, or
    - (ii) on behalf of two or more other persons, and
  - (b) the agent acts as mentioned in paragraph (a) for the purpose of—
    - (i) meeting petition expenses incurred by or on behalf of the accredited campaigner, or
    - (ii) securing that petition expenses are not so incurred.
- (2) For the purposes of this Schedule each individual contribution by a person within sub-paragraph (1)(a)(i) or (ii) of more than £500 is treated as if it were a separate donation received from that person.
- (3) In relation to each such separate donation, the agent must ensure that, at the time when the relevant amount is received by the accredited campaigner, the responsible person is given—
- (a) all such details in respect of the donation as are required by paragraph 3(1)(a)(i) of Schedule 5 (recall petition returns), and

- (b) except in the case of a donation which the agent is treated as making, all such details in respect of the donor as are required by paragraph 3(1)(a)(iii) of that Schedule.
- (4) Sub-paragraph (5) applies where a person (“the agent”) causes an amount to be received by an accredited campaigner by way of a relevant donation on behalf of one other person (“the donor”).
- (5) The agent must ensure that, at the time when the donation is received by the accredited campaigner, the responsible person is given all such details in respect of the donor as are required by paragraph 3(1)(a)(iii) of Schedule 5.
- (6) A person commits an offence if, without reasonable excuse, the person fails to comply with sub-paragraph (3) or (5).
- (7) A person guilty of an offence under this paragraph is liable –
  - (a) on conviction on indictment, to imprisonment for a term not exceeding 12 months or a fine (or both), and
  - (b) on summary conviction –
    - (i) in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both),
    - (ii) in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both), and
    - (iii) in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both).

*Duty to verify identity of donor*

- 13 (1) This paragraph applies where –
  - (a) a relevant donation is received by an accredited campaigner, and
  - (b) it is not immediately decided that the accredited campaigner should (for whatever reason) refuse the donation.
- (2) All reasonable steps must be taken immediately by or on behalf of the accredited campaigner to verify (or, so far as any of the following is not apparent, ascertain) –
  - (a) the identity of the donor,
  - (b) whether the donor is a permissible donor, and
  - (c) if it appears that the donor is a permissible donor, all such details in respect of the donor as are required by paragraph 3(1)(a)(iii) of Schedule 5 (recall petition returns).

*Duty to return donations from impermissible donors*

- 14 (1) This paragraph applies where an accredited campaigner receives a relevant donation which the accredited campaigner is prohibited from accepting by virtue of paragraph 9(a) (impermissible donor) but not by virtue of paragraph 9(b) (unidentifiable donor).
- (2) The donation must, before the end of the period of 30 days beginning with the day on which the donation is received, be returned to –
  - (a) the donor, or
  - (b) any person appearing to be acting on that person’s behalf.

- (3) If sub-paragraph (2) is not complied with, an offence is committed by –
  - (a) the accredited campaigner, and
  - (b) the responsible person.
- (4) It is a defence for a person charged with an offence under this paragraph to show that –
  - (a) all reasonable steps were taken by or on behalf of the accredited campaigner to verify (or ascertain) whether the donor was a permissible donor, and
  - (b) as a result, the relevant person believed the donor to be a permissible donor.
- (5) “The relevant person” means –
  - (a) where the person charged with the offence is an individual, that individual, and
  - (b) otherwise, the responsible person.
- (6) A person guilty of an offence under this paragraph is liable –
  - (a) on conviction on indictment, to imprisonment for a term not exceeding 12 months or a fine (or both), and
  - (b) on summary conviction –
    - (i) in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both),
    - (ii) in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both), and
    - (iii) in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both).

*Duty to return donations from unidentifiable donors*

- 15 (1) This paragraph applies where an accredited campaigner receives a relevant donation which the accredited campaigner is prohibited from accepting by virtue of paragraph 9(b) (unidentifiable donor).
- (2) The donation must be returned to the appropriate person before the end of the period of 30 days beginning with the day on which the donation is received.
- (3) “The appropriate person” means –
  - (a) where the donation was transmitted by a person other than the donor, and the identity of that person is apparent, that person,
  - (b) where the identity of the person by whom the donation was transmitted is not apparent, but it is apparent that the donor has, in connection with the donation, used any facility provided by an identifiable financial institution, that institution, and
  - (c) in any other case, the Electoral Commission.
- (4) If sub-paragraph (2) is not complied with an offence is committed by –
  - (a) the accredited campaigner, and
  - (b) the responsible person.
- (5) A person guilty of an offence under this paragraph is liable –

- (a) on conviction on indictment, to imprisonment for a term not exceeding 12 months or a fine (or both), and
  - (b) on summary conviction –
    - (i) in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both),
    - (ii) in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both), and
    - (iii) in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both).
- (6) The Electoral Commission must pay into the Consolidated Fund any amount received by virtue of this paragraph.

*Circumstances in which donations treated as accepted or received*

- 16 (1) A relevant donation received by an accredited campaigner that is not accepted before the end of the period of 30 days beginning with the day on which it is received is treated for the purposes of this Act as accepted by the accredited campaigner at the end of that period.
- (2) Sub-paragraph (1) does not apply where –
- (a) paragraph 14(2) or 15(2) (return of donations from impermissible or unidentifiable donors) has been complied with in relation to the donation, and
  - (b) a record can be produced of the receipt of the donation, and of the donation being returned as required by paragraph 14(2) or 15(2).
- (3) Where a relevant donation is received by an accredited campaigner in the form of an amount paid into an account held by the accredited campaigner with a financial institution, it is treated for the purposes of this Act as received at the time the accredited campaigner is notified in the usual way of the payment into the account.

*Forfeiture of donations made by impermissible or unidentifiable donors*

- 17 (1) This paragraph applies where an accredited campaigner accepts a relevant donation in contravention of paragraph 9.
- (2) The court may, on an application made by the Electoral Commission, order the forfeiture by the accredited campaigner of an amount equal to –
- (a) the amount of the donation, where it is of money, or
  - (b) the value of the donation, where it is not of money.
- (3) The standard of proof in proceedings on an application under this paragraph is that applicable to civil proceedings.
- (4) An order may be made under this paragraph whether or not proceedings are brought against any person for an offence connected with the donation.
- (5) In this paragraph “the court” means –
- (a) in relation to England and Wales, a magistrates’ court;
  - (b) in relation to Scotland, the sheriff;
  - (c) in relation to Northern Ireland, a court of summary jurisdiction.

- (6) Proceedings on an application under this paragraph to the sheriff are civil proceedings.

*Appeal against order under paragraph 17*

- 18 (1) Sub-paragraphs (2) to (5) apply where an order is made under paragraph 17 by –
- (a) a magistrates' court, or
  - (b) a court of summary jurisdiction in Northern Ireland.
- (2) The accredited campaigner may, before the end of the period of 30 days beginning with the day on which the order is made, appeal to the Crown Court or, in Northern Ireland, to a county court.
- (3) An appeal under sub-paragraph (2) is by way of a rehearing.
- (4) The standard of proof in proceedings on an appeal under sub-paragraph (2) is that applicable to civil proceedings.
- (5) The court on hearing an appeal under sub-paragraph (2) –
- (a) may make such order as it considers appropriate, and
  - (b) may make an order whether or not proceedings are brought against any person for an offence connected with the donation.
- (6) Where an order is made under paragraph 17 by the sheriff, the accredited campaigner may appeal against the order to the Court of Session.

*Supplementary provision about orders under paragraph 17 or 18*

- 19 (1) Provision may be made by rules of court –
- (a) with respect to applications or appeals under paragraph 17 or 18 to any court,
  - (b) for the giving of notice of such applications or appeals to persons affected,
  - (c) for the joinder, or in Scotland sisting, of such persons as parties, or
  - (d) otherwise in respect of the procedure under those paragraphs before any court.
- (2) Sub-paragraph (1) is without prejudice to the generality of any other power to make rules of court.
- (3) Any amount forfeited in compliance with an order under paragraph 17 or 18 must be paid into the Consolidated Fund.
- (4) Sub-paragraph (3) does not apply –
- (a) where the forfeiture was ordered under paragraph 17 by a magistrates' court or a court of summary jurisdiction in Northern Ireland, before the end of the period of 30 days beginning with the day on which the order is made;
  - (b) where the forfeiture was ordered by the sheriff under paragraph 17, before the end of any period within which, in accordance with rules of court, any appeal under paragraph 18(6) must be made;
  - (c) where an appeal is made under paragraph 18, before the appeal is determined or otherwise disposed of.
- (5) Where the accredited campaigner is an unincorporated body –

- (a) proceedings under paragraph 17 or 18 are to be brought against or by the body in its own name (and not in that of any of its members),
- (b) for the purposes of any such proceedings, any rules of court relating to the service of documents apply as if the body were a body corporate, and
- (c) any amount forfeited in accordance with an order under paragraph 17 or 18 is to be paid out of the funds of the body.

*Evasion of restrictions on donations*

- 20 (1) A person commits an offence if the person –
- (a) knowingly enters into an evasion arrangement, or
  - (b) knowingly does any act in furtherance of an evasion arrangement.
- (2) “An evasion arrangement” is any arrangement which facilitates or is likely to facilitate, whether by means of any concealment or disguise or otherwise, the making of relevant donations to an accredited campaigner by any person other than a permissible donor.
- (3) A person commits an offence if the person knowingly gives the responsible person in relation to an accredited campaigner –
- (a) information relating to the amount or value of any relevant donation made to the accredited campaigner which is false in a material particular, or
  - (b) information relating to the person making such a donation which is false in a material particular.
- (4) A person commits an offence if the person, with intent to deceive, withholds from the responsible person in relation to an accredited campaigner –
- (a) material information relating to the amount or value of any relevant donation made to the accredited campaigner, or
  - (b) material information relating to the person making such a donation.
- (5) A person guilty of an offence under this paragraph is liable –
- (a) on conviction on indictment, to imprisonment for a term not exceeding 12 months or a fine (or both), and
  - (b) on summary conviction –
    - (i) in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both),
    - (ii) in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both), and
    - (iii) in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both).

*Further provision about offences under this Schedule*

- 21 (1) The following provisions of PPERA 2000 apply in relation to offences under this Schedule as they apply in relation to offences under that Act –
- (a) section 151 (summary proceedings);
  - (b) section 152 (offences committed by bodies corporate);
  - (c) section 153 (offences committed by unincorporated associations);
  - (d) section 154 (court to report convictions to Electoral Commission).

- (2) In paragraphs 12(7)(b)(i), 14(6)(b)(i), 15(5)(b)(i) and 20(5)(b)(i) –
- (a) the reference to 12 months is to be read as a reference to 6 months in relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, and
  - (b) the reference to a fine is to be read as a reference to a fine not exceeding the statutory maximum in relation to an offence committed before section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force.

*Application of defined terms in PPERA 2000*

- 22 In this Schedule, the following expressions have the same meaning as in PPERA 2000: “bequest”; “business”; “combined region”; “Gibraltar party”; “market value”; “property” (see section 160(1) of that Act).

SCHEDULE 5

Section 16

RECALL PETITION RETURNS

*Recall petition returns*

- 1 (1) The responsible person in relation to an accredited campaigner must make a return, referred to in this Schedule as a “recall petition return”.
- (2) The recall petition return must specify the recall petition to which it relates and –
  - (a) must contain the statements, and be accompanied by the documents, mentioned in paragraph 2 (statements and accompanying documents relating to petition expenses),
  - (b) must, in the case of an accredited campaigner to whom this paragraph applies –
    - (i) contain the statement mentioned in paragraph 3(1),
    - (ii) be accompanied, where paragraph 3(2) applies, by the documents required by that provision, and
    - (iii) contain the statement mentioned in paragraph 4, and
  - (c) must be accompanied by the declaration required by paragraph 5 (declaration of responsible person).
- (3) Sub-paragraph (2)(b) applies to an accredited campaigner who –
  - (a) is not a registered party, or
  - (b) is a registered party but is a minor party.
- (4) The Electoral Commission may by regulations prescribe a form of return which may be used for the purposes of this Schedule.
- (5) In this Schedule –
  - “accredited campaigner” has the same meaning as in Schedule 3 (see Part 5 of that Schedule);
  - “minor party” and “registered party” have the same meaning as in PPERA 2000 (see section 160(1) of that Act);
  - “petition expense” has the same meaning as in Schedule 3 (see Part 4 of that Schedule);



- “the recall petition period” has the same meaning as in Schedule 3 (see paragraph 1(7) of that Schedule);
- “relevant donation” has the same meaning as in Schedule 4 (see Part 1 of that Schedule);
- “responsible person” means the person determined in accordance with paragraph 21 of Schedule 3.

*Statements and accompanying documents relating to petition expenses*

- 2 (1) The statements required by paragraph 1(2)(a) to be contained in the recall petition return are –
  - (a) a statement of all payments made in respect of petition expenses incurred by or on behalf of the accredited campaigner during the recall petition period, or a statement that there were no such payments,
  - (b) a statement of all unpaid claims in respect of which the responsible person is aware that an application has been made, or is about to be made, to a court under paragraph 11 of Schedule 3 (application for leave to pay out of time), or a statement that the responsible person is not aware of any such claims, and
  - (c) a statement of all disputed claims (within the meaning of paragraph 12 of that Schedule), or a statement that there were no such claims.
- (2) Sub-paragraph (1) does not apply to payments made in respect of pre-accreditation expenses or to claims for the payment of such expenses.
- (3) The documents required by paragraph 1(2)(a) to accompany the recall petition return are –
  - (a) an invoice or receipt in respect of each payment (if any) that is –
    - (i) included in the statement under sub-paragraph (1)(a), and
    - (ii) required by paragraph 9(2) of Schedule 3 to be supported by an invoice or receipt,
  - (b) a declaration made by the responsible person of all amounts treated under paragraph 4 of that Schedule (expenses incurred by persons acting in concert) as petition expenses incurred by or on behalf of the accredited campaigner during the recall petition period, or a declaration that there were no such amounts,
  - (c) a declaration made by the responsible person of all amounts treated under paragraph 6(4)(b) of that Schedule (notional petition expenses) as petition expenses incurred by the accredited campaigner during the recall petition period, or a declaration that there were no such amounts, and
  - (d) a declaration made by the responsible person of the total amount of pre-accreditation expenses, or a declaration that there were no such expenses.
- (4) In this paragraph “pre-accreditation expenses” means –
  - (a) petition expenses treated as incurred by or on behalf of the accredited campaigner during the recall petition period by virtue of paragraph 5 of Schedule 3 (expenses incurred before recall petition period), and
  - (b) petition expenses of the kind referred to in paragraph 7(a) of that Schedule (expenses incurred during recall petition period but before accreditation).

*Statement and accompanying documents relating to relevant donations accepted*

- 3 (1) The statement required by paragraph 1(2)(b)(i) to be contained in the recall petition return is –
- (a) a statement recording, in relation to each relevant donation accepted by the accredited campaigner –
    - (i) the amount of the donation or, where the donation is not of money, the nature of the donation and its value (as determined in accordance with paragraph 5 of Schedule 4),
    - (ii) the date the donation was accepted by the accredited campaigner,
    - (iii) the information about the donor which is, in connection with recordable donations to registered parties, required to be recorded in donation reports by virtue of paragraph 2 of Schedule 6 to PPERA 2000 (reading references in sub-paragraphs (3B) and (3C) to the registered party as references to the accredited campaigner), and
    - (iv) such other information as may be required by regulations made by the Minister, or
  - (b) a statement recording that no relevant donations were accepted by the accredited campaigner.
- (2) If the information recorded under sub-paragraph (1)(a)(iii) includes a statement of the kind mentioned in paragraph 2(3B) or (3C) of Schedule 6 to PPERA 2000 (statement that accredited campaigner has seen evidence of anonymous entry in electoral register), the return must be accompanied by a copy of the evidence referred to in the statement.
- (3) Before making regulations under this paragraph the Minister must consult the Electoral Commission.
- (4) Regulations under this paragraph are subject to negative resolution procedure.

*Statement relating to relevant donations received from impermissible or unidentifiable donors*

- 4 (1) The statement required by paragraph 1(2)(b)(iii) to be contained in the recall petition return is a statement –
- (a) recording the appropriate details in relation to each relevant donation that the accredited campaigner received but was prohibited from accepting by virtue of paragraph 9(a) of Schedule 4 (impermissible donor), or recording that no relevant donations of that kind were received, and
  - (b) recording the appropriate details in relation to each relevant donation that the accredited campaigner received but was prohibited from accepting by virtue of paragraph 9(b) of that Schedule (unidentifiable donor), or recording that no relevant donations of that kind were received.
- (2) In relation to a relevant donation of the kind mentioned in sub-paragraph (1)(a), “the appropriate details” means –
- (a) the name and address of the donor,
  - (b) where the donation is of money, the amount of the donation,

- (c) where the donation is not of money, the nature of the donation and its value (as determined in accordance with paragraph 5 of Schedule 4),
  - (d) the date the donation was received by the accredited campaigner,
  - (e) the date and manner in which the donation was returned in accordance with paragraph 14(2) of Schedule 4, and
  - (f) such other information as may be required by regulations made by the Minister.
- (3) In relation to a relevant donation of the kind mentioned in sub-paragraph (1)(b), “the appropriate details” means –
- (a) details of the manner in which the donation was made,
  - (b) where the donation is of money, the amount of the donation,
  - (c) where the donation is not of money, the nature of the donation and its value (as determined in accordance with paragraph 5 of Schedule 4),
  - (d) the date the donation was received by the accredited campaigner,
  - (e) the date and manner in which the donation was returned in accordance with paragraph 15(2) of Schedule 4, and
  - (f) such other information as may be required by regulations made by the Minister.
- (4) Before making regulations under this paragraph the Minister must consult the Electoral Commission.
- (5) Regulations under this paragraph are subject to negative resolution procedure.

*Declaration of responsible person as to return*

- 5 (1) The responsible person must make the following declaration –
- (a) that the responsible person has examined the recall petition return, and
  - (b) that to the best of the responsible person’s knowledge and belief –
    - (i) it is a complete and correct return as required by law, and
    - (ii) all expenses shown in it as paid have been paid by the responsible person or a person authorised by the responsible person to make the payment.
- (2) In the case of an accredited campaigner to whom this sub-paragraph applies, the declaration must also state –
- (a) that all relevant donations recorded in the return as having been accepted by the accredited campaigner are from permissible donors (within the meaning of Schedule 4: see paragraph 6 of that Schedule), and
  - (b) that no other relevant donations have been accepted by the accredited campaigner.
- (3) Sub-paragraph (2) applies to an accredited campaigner who –
- (a) is not a registered party, or
  - (b) is a registered party but is a minor party.
- (4) The declaration must be signed by the responsible person.

*Delivery of return etc to petition officer and supplementary returns*

- 6 (1) The responsible person must, within 30 days of the end of the recall petition period, deliver to the petition officer –
- (a) the recall petition return, and
  - (b) all documents required by this Schedule to accompany the return.
- (2) Where, after the date on which the return is delivered to the petition officer, leave is granted by a court under paragraph 11 of Schedule 3 (leave for payment of late claim), the responsible person must, within 7 days of any payment made in pursuance of the order of leave, deliver to the petition officer a supplementary return.
- (3) The supplementary return –
- (a) must state the amount of the payment, and
  - (b) must be accompanied by a copy of the court order granting the leave.

*Offences relating to return*

- 7 (1) The responsible person commits an offence if, without reasonable excuse, he or she –
- (a) fails to deliver a recall petition return in accordance with paragraph 6(1)(a),
  - (b) delivers a recall petition return to the petition officer that does not contain a statement required by paragraph 1(2)(a) or (b),
  - (c) fails to deliver a document, other than a declaration under paragraph 5, in accordance with paragraph 6(1)(b),
  - (d) fails to deliver a supplementary return in accordance with paragraph 6(2), or
  - (e) delivers a supplementary return to the petition officer that does not comply with paragraph 6(3).
- (2) An offence under sub-paragraph (1) is an illegal practice.
- (3) The responsible person commits an offence if without reasonable excuse, he or she fails to deliver a declaration under paragraph 5 in accordance with paragraph 6(1)(b).
- (4) The responsible person commits an offence if he or she delivers a declaration under paragraph 2(3)(b), (c) or (d) or 5 to the petition officer where –
- (a) the declaration is false, and
  - (b) at the time the responsible person made the declaration, he or she knew that it was false, or was reckless as to whether it was false.
- (5) An offence under sub-paragraph (3) or (4) is a corrupt practice.
- (6) Paragraph 25 of Schedule 3 (which is about offences under that Schedule which are corrupt or illegal practices) applies to an offence under this paragraph as it applies to an offence under that Schedule.

*Onward delivery of returns to Electoral Commission*

- 8 (1) The petition officer must deliver to the Electoral Commission –
- (a) a copy of a recall petition return received by the officer;

- (b) a copy of a declaration, or other document, received by the officer accompanying a recall petition return;
  - (c) a copy of a supplementary return received by the officer;
  - (d) a copy of a document accompanying such a return and received by the officer in accordance with paragraph 6(3)(b).
- (2) Delivery under sub-paragraph (1) must be as soon as reasonably practicable after the officer receives the document in question.

*Inspection of returns and accompanying documents*

- 9 (1) The petition officer must –
- (a) as soon as reasonably practicable after receiving –
    - (i) a recall petition return,
    - (ii) a supplementary return, or
    - (iii) a declaration,make the return or declaration available for public inspection at the officer’s office or other convenient place chosen by the officer;
  - (b) continue to make the return or declaration available for inspection at such a place for the period of 2 years beginning with the date on which the return is received;
  - (c) supply a copy of the return or declaration, or of any other document accompanying the return in accordance with this Schedule, to any person who –
    - (i) requests it within that period of 2 years, and
    - (ii) pays such fee as may be prescribed in regulations made by the Minister.
- (2) Where sub-paragraph (1) applies in relation to a recall petition return that contains a statement mentioned in paragraph 3 or 4 that includes the home address of a donor who is an individual, the duties imposed by sub-paragraph (1) apply in relation to a copy of the statement that does not include the donor’s home address.
- (3) The petition officer must, within 40 days of the end of the recall petition period –
- (a) notify the responsible person in relation to each accredited campaigner of the relevant information, and
  - (b) publish the relevant information in such manner as the petition officer thinks fit.
- (4) “The relevant information” means the place at which, and times at which, recall petition returns, supplementary returns (if any) and declarations are to be made available for public inspection under sub-paragraph (1).
- (5) After the expiry of the 2 year period mentioned in sub-paragraph (1)(b), the petition officer must –
- (a) cause the recall petition return (or, as the case may be, the supplementary return), and any declaration or other document accompanying the return, to be destroyed, or
  - (b) if the responsible person in relation to the accredited campaigner in question so requests, cause the return and those documents (or any of them) to be returned to the responsible person.

- (6) Regulations under this paragraph are subject to affirmative resolution procedure.
- (7) References in this paragraph to a declaration are to a declaration under paragraph 2(3)(b), (c) or (d) or 5.

*Application of certain provisions of Schedule 3*

- 10 The following provisions of Schedule 3 (regulation of expenditure) apply for the purposes of this Schedule as they apply for the purposes of Part 2 of that Schedule—
- (a) paragraph 4 (expenses incurred by persons acting in concert);
  - (b) paragraph 5 (expenses incurred before the recall petition period);
  - (c) paragraph 6 (notional petition expenses);
  - (d) paragraph 7 (expenses incurred before becoming an accredited campaigner).

SCHEDULE 6

Section 20

MINOR AND CONSEQUENTIAL AMENDMENTS

*Representation of the People Act 1983 (c. 2)*

- 1 (1) Schedule 1 to the Representation of the People Act 1983 (parliamentary election rules) is amended as follows.
- (2) In the form of writ in the Appendix of Forms at the end of that Schedule—
- (a) for “[~~†~~ in the place of ]” substitute “[~~†~~]”;
  - (b) for the note marked “~~†~~” substitute “~~†~~Except in a general election insert here (as applicable): “as a result of a successful recall petition under the Recall of MPs Act 2015” or “in the place of [A.B.], deceased” or otherwise, stating the cause of vacancy.”

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

- 2 PPERA 2000 is amended as follows.
- 3 (1) Part 1 (the Electoral Commission) is amended as follows.
- (2) In section 5 (reports on elections and referendums)—
- (a) in the heading, for “**and referendums**” substitute “, **referendums etc**”;
  - (b) after subsection (3), insert—
    - “(4) After the end of a recall petition period (within the meaning of Schedule 3 to the Recall of MPs Act 2015), the Commission must prepare and publish (in such manner as the Commission may determine) a report on the actions taken, or not taken, under or by virtue of that Act in relation to the recall petition in question after the giving of the Speaker’s notice under section 5 of that Act in relation to that petition.”
- (3) In section 6 (reviews of electoral and political matters)—

- (a) in subsection (1), after paragraph (b) insert –
    - “(ba) such matters relating to recall petitions as the Commission may so determine;”;
  - (b) in subsection (3), after paragraph (b) insert –
    - “(ba) how a member of the House of Commons becomes subject to a recall petition process under sections 1 to 5 of the Recall of MPs Act 2015;”;
  - (c) in subsection (3)(c), for “and (b)” substitute “to (ba)”;
  - (d) in subsection (4), for “or referendums” (in both places) substitute “, referendums or recall petitions”.
- (4) In section 6A(1) (attendance of representatives of Commission at elections etc), after paragraph (b) insert –
  - “(c) proceedings relating to a recall petition which are the responsibility of the petition officer in relation to the petition.”
- (5) In section 6F (code of practice on attendance of observers at elections etc), after subsection (1) insert –
  - “(1A) The code must also cover the attendance of representatives of the Commission at proceedings relating to a recall petition which are the responsibility of the petition officer in relation to the petition.”
- (6) In section 7(2) (Commission to be consulted on changes to electoral law), after paragraph (j) insert –
  - “(k) regulations under section 9(5) or 18 of the Recall of MPs Act 2015 (wording of the recall petition signing sheet and the conduct of a recall petition etc).”
- (7) In section 10(3)(a) (giving of advice and assistance), omit the “and” at the end of sub-paragraph (iv) and after sub-paragraph (v) insert –
  - “(vi) petition officers in relation to recall petitions, and
  - (vii) accredited campaigners within the meaning of Schedule 3 to the Recall of MPs Act 2015 (see Part 5 of that Schedule);”.
- (8) In section 21 (interpretation of Part 1), make the existing provision subsection (1) and after that subsection insert –
  - “(2) In this Part, “petition officer” and “recall petition” have the same meaning as in the Recall of MPs Act 2015 (see section 22 of that Act).”
- (9) In Schedule 1 (the Electoral Commission), in paragraph 3(3) –
  - (a) in paragraph (b), omit the “or” at the end of sub-paragraph (ii) and in sub-paragraph (iii) after “Part VII” insert “, or
    - (iv) an accredited campaigner within the meaning of Schedule 3 to the Recall of MPs Act 2015 (see Part 5 of that Schedule)”;
  - (b) in paragraph (c)(iii), after “122” insert “or in a recall petition return delivered to a petition officer under paragraph 6 of Schedule 5 to the Recall of MPs Act 2015”.
- 4 (1) Part 2 (registration of political parties) is amended as follows.
- (2) In section 24 (office-holders to be registered) –

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- (a) in subsection (4)(b), after “referendums” insert “and Schedules 3 to 5 to the Recall of MPs Act 2015 (financial controls on recall petitions)”;
  - (b) in subsection (8)(b), for “or a” substitute “, a” and after “Part VII” insert “or a recall petition within the meaning of the Recall of MPs Act 2015 (see section 1(2) of that Act)”.
- (3) In section 25 (parties with campaigns officers) –
- (a) in subsection (2), after “VII” insert “and Schedules 3 to 5 to the Recall of MPs Act 2015 (financial controls on recall petitions)”;
  - (b) after subsection (6), insert –
    - “(7) In relation to any time when a party is (or was) registered as a party with a campaigns officer, the provisions of Schedules 3 to 5 to the Recall of MPs Act 2015 shall apply as if any reference to the treasurer of the party were a reference to the registered campaigns officer.”
- 5 (1) Part 5 (control of campaign expenditure) is amended as follows.
- (2) In section 72(7) (campaign expenditure) –
- (a) the words “a return as to election expenses” to the end become paragraph (a);
  - (b) at the end of that paragraph, insert “, or
    - (b) a recall petition return within the meaning of Schedule 5 to the Recall of MPs Act 2015 (see paragraph 1 of that Schedule).”
- (3) In section 74(3) (officers of registered party with responsibility for campaign expenditure), for “or a” substitute “, a” and after “Part VII” insert “or a recall petition within the meaning of the Recall of MPs Act 2015 (see section 1(2) of that Act)”.
- 6 (1) Part 6 (controls relating to third party national election campaigns) is amended as follows.
- (2) In section 87(1)(b) (expenditure by third parties which is not controlled expenditure) –
- (a) omit the “or” at the end of sub-paragraph (i);
  - (b) at the end of sub-paragraph (ii), insert “or
    - (iii) an amount of expenses falls to be included in a recall petition return within the meaning of Schedule 5 to the Recall of MPs Act 2015 (see paragraph 1 of that Schedule).”
- 7 (1) Part 9 (reports of gifts received by unincorporated associations) is amended as follows.
- (2) In Schedule 19A (reports of gifts received by unincorporated associations making political contributions), in paragraph 1 –
- (a) in sub-paragraph (2), after paragraph (f) insert –
    - “(g) it makes a relevant donation within the meaning of Schedule 4 to the Recall of MPs Act 2015 (see Part 1 of that Schedule) to an accredited campaigner.”;



- (b) in sub-paragraph (4), at the appropriate place insert –
  - ““accredited campaigner” has the same meaning as in Schedule 3 to the Recall of MPs Act 2015 (see Part 5 of that Schedule);”;
- (c) in sub-paragraph (5), after paragraph (e) insert –
  - “(f) the value of a donation to an accredited campaigner shall be determined in accordance with paragraph 5 of Schedule 4 to the Recall of MPs Act 2015.”