

Donations

Explanatory Notes for Registered Political Parties

Introduction

The Political Parties, Elections and Referendums Act 2000 (the "PPERA 2000") imposes controls on donations to most registered parties¹. It specifies the people and types of organisations from whom registered political parties may accept donations - these are known as "permitted donors" - and requires party treasurers to keep records of donations and to submit regular reports to the Electoral Commission detailing certain donations which have been accepted or received by the party or, if applicable, any of its accounting units.

The following guidance explains in detail the responsibilities of your party in handling donations. (Separate Explanatory Notes on donations to Recognised Third Parties; Permitted Participants in a Referendum (*in preparation*); Members of a Registered Party, Members Associations and Holders of Elective Office; and for Donors (*in preparation*) are also available). These can be found on the Commission's website at www.electoralcommission.org.uk or obtained from:

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Please note that this guidance sets out the Commission's understanding of the requirements of the legislation. It is not intended as a gloss on the legislation or as a substitute for any authoritative judicial interpretation. You are advised to obtain independent legal advice in cases of doubt. (The Commission may add to or otherwise amend these notes to reflect experience of the provisions of the PERA).

¹ The PERA exempts "Minor Parties" (i.e. parties that have declared the intention of only contesting parish elections in England and/or community elections in Wales) from the donation controls in Part IV of that Act

In addition, the Government has made an Order under Section 70 of the PERA 2000 disapplying these provisions in respect of parties registered in the **Northern Ireland register** for a period of 4 years. The Order came into force on 16 February 2001.

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NOTES

1. What if my party is registered in the Northern Ireland register/a minor party?

The Political Parties, Elections and Referendums Act 2000 (the "PPERA 2000") exempts minor parties (i.e. parties which made a declaration on registration that they would contest only parish or community elections) from the controls on donations set out in Part IV of that Act.

In addition, the Government has made an Order under section 70 of the PPERA 2000 disapplying these provisions in respect of parties registered in the **Northern Ireland register** for a period of four years. The Political Parties, Elections and Referendums Act 2000 (Disapplication of Part IV for Northern Ireland Parties, etc.) Order 2001 came into force on 16 February 2001.

2. What is a donation?

Any of the following (as further defined or explained by the PPERA 2000), if the donation has a value² of more than £200, counts under the PPERA 2000 as a donation to your party (whether given or transferred to your party directly or indirectly through a third person):

- (a) any gift to your party of money or other property;
- (b) any sponsorship (as defined by the Acts) provided in relation to your party;
- (c) any subscription or other fee paid for affiliation to or membership of, your party;
- (d) any money spent (otherwise than by or on behalf of your party) in paying any expenses incurred directly or indirectly by your party;
- (e) any money lent to your party otherwise than on commercial terms;
- (f) the provision otherwise than on commercial terms of any property, service or facilities for the use or benefit of your party (including the services of any person);
- (g) any payment out of public funds (but see paragraph 3 below) including the financial assistance paid to opposition parties in the House of Commons ("Short money") and the House of Lords ("Cranborne money"), and their equivalents in the devolved legislatures (i.e. the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly).

It is immaterial whether the donation is received in the United Kingdom or elsewhere.

A "small" donation of £200 or less is disregarded except for the purpose of reporting obligation imposed by the PPERA on the donor whose small donations in one calendar year reach an aggregate value of over £5,000.

² Please note that references in these Notes to monetary value include both cash donations and donations in kind (i.e. "notional" value)

3. Are any payments, services etc NOT regarded as a donation to my party?

The following are not regarded as donations to your party for the purpose of Part IV of the PPERA 2000:

- (a) any donation whose value is **£200 or less** (except as explained in section 2 above)
- (b) any policy development grant (as defined by s.12 of the PPERA 2000)
- (c) any grant under section 170 of the Criminal Justice and Public Order Act 1994 (security costs at party conferences);
- (d) any payment made by or on behalf of the European Parliament for the purpose of assisting members of the Parliament to perform their functions as such members;
- (e) the transmission by a broadcaster, free of charge, of a party political broadcast or a referendum campaign broadcast;
- (f) any other facilities provided in pursuance of any right conferred on candidates or a party at an election or referendum by any enactment (such as the use of public rooms at elections and the distribution of election addresses to electors);
- (g) the provision of assistance by a person appointed under section 9 of the Local Government and Housing Act 1989;
- (h) the provision by any individual of his/her own services which he/she provides voluntarily in his/her own time and free of charge - for example, if a voluntary officer of your party contributes, freely and in their own time any professional services (such as accountancy) within their personal field of expertise, this is not regarded as a donation to your party. (However, if an individual who provided such services to your party free of charge was nevertheless paid by his/her employer while providing those services, this would count as a donation by the employer);
- (i) any interest accruing to your party in respect of any donation from an impermissible or anonymous donor which is dealt with by your party in accordance with the provisions of the PPERA 2000;
- (j) any donation which (in accordance with any enactment) must be included in a return as to election expenses in respect of a candidate or candidates at a particular election (donations made for the purpose of meeting a candidate's election expenses are the subject of separate statutory controls under the Representation of the People Act 1983 and related legislation);
- (k) in the case of sponsorship, the making of any payment in respect of:
 - (i) any charge for admission to any conference, meeting or other event;
 - (ii) the purchase price of (or any other charge for access to) any publication;
 - (iii) the inclusion of an advertisement in any publication where the payment is made at the commercial rate payable for the inclusion of such an advertisement in any such publication; or

- (iv) the hire of a stand at a party conference organised by or on behalf of your party where (or to the extent that) the payment does not exceed the maximum rates which the Commission has determined to be reasonable or the hire of such stands (see the Commission's website or contact the Registrations and Compliance Team for further details).

4. Are there any restrictions on who may make a donation to my party?

Yes. Your party may only accept a donation of more than £200 from a person (or organisation) who, at the time the donation is received, is a "permitted donor" (see section 5 below) or if the donation is one which, under the PPERA, is to be treated as a donation from a permissible donor. Your party therefore must not accept such donations from anonymous donors or, if the donor is otherwise unidentifiable where, for example, a false identity appears to have been given.

5. Who are permitted donors?

A permitted donor is any of the following:

- (a) an individual registered in an electoral register (see section 32 for the definition of an electoral register);
- (b) a company -
 - (i) registered under the Companies Act 1985 or the Companies (Northern Ireland) Order 1986, and
 - (ii) incorporated within the United Kingdom or another member State of the European Community, which carries on business in the UK;
- (c) a registered party, except a party on the Northern Ireland register³;
- (d) a trade union in the list kept under the Trade Union and Labour Relations (Consolidation) Act 1992 or the Industrial Relations (Northern Ireland) Order 1992;
- (e) a building society (within the meaning of the Building Societies Act 1986);
- (f) a limited liability partnership registered under the Limited Liability Partnerships Act 2000, or any corresponding enactment in force in Northern Ireland, which carries on business in the United Kingdom;
- (g) a friendly society registered under the Friendly Societies Act 1974 or a society registered (or deemed to be registered) under the Industrial and Provident Societies Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969; and
- (h) any other unincorporated association of two or more persons which does not fall within any of the above categories but which carries on business or other activities wholly or mainly in the United Kingdom and whose main office is there.

³ The Political Parties, Elections and Referendums Act 2001 (Disapplication of Part IV for Northern Ireland Parties, etc.) Order 2001 exempts, for a period of four years, parties on the Northern Ireland register from the controls on donations in sections 50 - 69 and Schedule 6 of the PPERA. (The Order came into force on 16th February 2001). A donation by a NI party to a party on the GB register must therefore be treated as a donation from an impermissible donor.

In addition the following are regarded as donations from a permissible donor:

- (i) any donation (which would not otherwise fall to be regarded as a donation from a permitted donor) may be treated as coming from a permissible donor if, and to the extent that, its purpose is to meet the reasonable costs of any member or officer of your party in respect of:
 - (a) travelling between the United Kingdom and a country or territory outside the UK; or
 - (b) travelling, accommodation or subsistence whilst visiting a country (or territory) outside the UK
- (ii) any donation from a trustee of any property (in/her capacity as that trustee) which is:
 - (a) an exempt trust donation as defined by the PPERA 2000 provided that the donation has not been made by the exercise of any discretion which is vested by the trust in the trustee or any other person; or
 - (b) a donation transmitted by the trustee to the party on behalf of beneficiaries under the trust who are:
 - (i) a permissible donor(s) at the date when the donation is received by your party; or
 - (ii) members of an unincorporated association which is a permitted donor at the date when the donation is received

6. What if the donation is £200 or less?

Donations to the value of £200 or less are not subject to the controls imposed on parties in Part IV of the PPERA 2000 (but may need to be reported to the Commission by the donor – see s68 of the Act). Your party may therefore accept such a donation without checking whether it is from a permitted source. It may also accept donations of £200 or less from unidentifiable donors. However, your party should be aware of any unusual donations with a value of £200 or less, for example, numerous electronic transfers to the party's account of £200. In such cases, your party will need to consider whether these donations are intended to evade the controls on donations imposed by the PPERA 2000. (It is a criminal offence for anyone to knowingly participate in an arrangement so as to evade the restrictions on donations). In cases of concern, your party should report its findings to the Electoral Commission's Registrations and Compliance Team.

7. Can my party accept donations from donors in the Channel Islands?

The Channel Islands and Isle of Man are not Member States of the EU, and are not part of the UK. Your party will therefore only be able to accept donations from individuals in the Channel Islands who are registered on a UK electoral register, and from organisations that meet the requirements of section 54 of the PPERA.

8. To whom in my party should donations be made?

A donation to your party may be given or transferred to any of the following:

- (a) your party (or the central organisation of your party, if your party has Accounting Units (AUs)); or
- (b) one of your party's AUs; or

- (c) any officer, member, trustee or agent of your party in his/her official capacity (N.B. a donation to a member or officer of your party for use otherwise than on the business of the party as such - for example in assisting him/her in standing for an internal election - is not a donation to your party. However, separate controls apply to such donations – see Explanatory Notes on Donations to Regulated Donees).

9. When is my party deemed to have received a donation?

This is the date on which your party takes possession of the donation. Where the donation has been paid into your party's bank or other financial account, the date of receipt is the date on which your party is notified in the usual way of that payment. For example, if the donation is paid into your party's bank account on 31 March, and your party is notified of the donation when it appears in the next bank statement which is received on 15 April, this latter date is the relevant date of receipt.

10. What action must my party take when it receives a donation of more than £200?

You must first decide whether there is any reason for you to decide immediately not to accept the donation. If no such decision is taken, all reasonable steps must be taken forthwith by or on behalf of your party to confirm (or, if necessary find out) the following details:

- (a) the identity of the donor;
- (b) whether he/she is a permissible donor;
- (c) in the case of an:
 - (i) **Individual** – the full name of the donor and either:
 - (a) if his/her address is, at the date of receipt of the donation, shown in an electoral register, that address; or
 - (b) otherwise, his/her home address, whether in the UK or elsewhere; or
 - (c) in the case of a **bequest**, his/her address at the time of his/her death, or if he/she was not then registered in an electoral register at that address, the last address at which he/she was so registered during the period of five years ending with the date of his/her death; or
 - (d) in the case of a donation transmitted to your party by a trustee on behalf of a **beneficiary** of the trust, the full name and address of the beneficiary;
 - (ii) **Registered party** – the name of the party and the address of its registered party headquarters;
 - (iii) **Company** - the company's registered name, the address of its registered office and the number with which it is registered;
 - (iv) **Trade Union** - the union's name and the address of its head or main office;
 - (v) **Building Society** – the society's name and the address of its principal office;
 - (vi) **Limited Liability Partnership** – the partnership's name and the address of its registered office;
 - (vii) **Friendly or other Registered Society** – the name of the society and the address of its registered office;
 - (viii) **Unincorporated Association** – the name of the association and the address of its main office in the UK;
 - (ix) **Public funds** - the name of the public body and the address of its headquarters/main office, and details of the statutory or other provision under which the payment has been made;
 - (x) **Visits** - where the donation is to meet qualifying expenses for a visit outside the UK, the full name and address of the donor;

- (xi) **Exempt Trusts** – a statement that the donation was from the trustee of an exempt trust and:
- (a) where the trust was created before 27 July 1999:
 - ◆ the date the trust was created; and
 - ◆ 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 27 July 1999; or
 - (b) where the trust was created by a permissible donor, the details required by paragraphs (i) to (vii) above in respect of:
 - ◆ the person who created the trust; and
 - ◆ every other person by whom, or under whose will, property has been transferred to the trust

Under the PPERA 2000, your party is allowed a period of 30 days (starting with the date of receipt of the donation) in which to make any enquiries, and to take any necessary action. After that time your party will be regarded as having accepted the donation, unless a record can be produced showing that it has been returned to the donor or otherwise been disposed of in accordance with the requirements of the Act. Within that period the donation may be held in your party's account whilst enquiries are being undertaken.

11. What if my party receives a donation of more than £200 from an impermissible donor?

If the donation has a value of more than £200, your party must return the donation, or a payment of an equivalent amount, to the person who made the donation (or any person appearing to be acting on his/her behalf) within 30 days, beginning with the date when the donation is received by your party.

12. What if my party receives an anonymous donation, or a donation from a donor whose true identity is not known, of more than £200?

If your party is unable to find out the identity of a donor it must take the following action within 30 days of the date of receipt of the donation:

- (a) if the donation was transmitted by a person (other than the donor) and the identity of that person is known, the donation (or a payment of an equivalent amount) must be returned to that person; or
- (b) if paragraph (a) does not apply, but it is apparent that the donor has used any facility provided by an identifiable financial institution in connection with the donation, it should be returned to that institution; or
- (c) in any other case the donation should be sent to the Principal Finance Officer of the Commission (cheque or postal order made payable to the "Electoral Commission") together with an explanation of the circumstances. The Commission will then surrender the donation to the Consolidated Fund.

13. What if my party does not want to accept a donation of more than £200 from a permissible donor?

The donation must be returned to the donor within 30 days of the date on which it is received, otherwise it will be treated as having been accepted by your party. If the donation is both received **and** returned within the 30 day period it need not be shown in the relevant donation return.

Your party may also choose to keep just part of a donation from a permitted donor. Again, that portion of the donation, which you do not wish to keep, must be returned within 30 days starting with the date of receipt. Your party will need to report only that part of the donation which it has accepted. For example, if your party receives a donation of £20,000, but returns £12,000 of that amount to the donor, the donation return will need to show that you have accepted a donation of £8,000.

14. What if the donation is from a Trust?

Where the trustee of any property (acting in his/her capacity as trustee) transmits a donation of more than £200 to your party, this must be regarded as a donation from an impermissible donor **unless**:

- (a) the donation is made from an exempt trust (see section 33 below); or
- (b) a trustee the donation on behalf of a person who is a permissible donor; or
- (c) in the case of a bequest, that the person on whose behalf the trustee is acting was registered to vote at any time in the five years before his/her death.

15. What if the donation is a bequest?

Your party may accept a donation with a value of more than £200 resulting from a bequest **only** if the individual making that bequest was registered in a relevant electoral register at any time in the five years before his/her death.

16. What if the donation is from a company?

There are additional special rules governing political donations by companies. These are a matter for the company itself and its shareholders. Your party needs to be satisfied that the company meets the requirements of Part IV of the PPERA 2000 to be a permitted donor. In addition, it will need to consider for itself what view it ought to take about establishing whether or not a donation has been made in compliance with statutory requirements on companies.

17. When does release of an employee to work for a political party count as a donation by the employer?

This will depend on the precise circumstances. Section 50(2)(g) provides that no donation is made to a party in respect of “the provision by any individual of his own services which he provides voluntarily in his own time and free of charge”.

An employer will therefore not make a donation to the party where an employee works (at no cost) for the party during unpaid leave or ordinary paid annual leave. In the latter case, it will be necessary to demonstrate that the individual’s leave allowance does not contain an additional element (whether as a contractual right or by any other arrangement) in order that he/she might undertake such voluntary work.

An employer will make a donation to a party where it continues to pay the salary of an employee who is working as a volunteer on secondment to a party, or where it increases an individual’s annual paid leave entitlement so that they can undertake such voluntary work.

Companies will need to ensure that they have complied with the requirements of Part IX and Schedule 19 (shareholder approval etc). Although your party is not legally required to check whether a donation from a company has been approved by the company's shareholders before it accepts the donation, you may regard it as prudent to do so, especially where large sums are involved.

18. How should my party calculate the value of a donation relating to the secondment of an employee?

Where the services provided by the individual to the party are of the particular type which the employer is in business to provide (such as IT services) the value of the donation should be taken to be the commercial charge the employer would normally have made for those services. In all other cases, the donation will be the amount of the remuneration or allowances payable to the employee by his employer in respect of the period for which his services are made available (but not including any amount in respect of other contributions or payments for which the employer is liable in respect of the employee). ie NI, Pensions contributions, etc.

19. Where can my party/a company obtain advice on issues of shareholder consent?

Donations by companies under Part IX and Schedule 19 to the PPERA are a matter of company law. The Commission has no enforcement powers in this area. Further advice should be obtained from the Department for Trade and Industry (tel: 020 7215 0211).

20. What about donations to All-Party Parliamentary Groups?

The Commission takes the view that payments to bodies recognised by the House authorities as All-Party Parliamentary Groups are not a donation for the purpose of Part IV (or Schedule 7) of the Act.

21. How should my party calculate the value of a donation made at a fundraising auction?

The Commission takes the view that any sum paid in excess of the price which the item might reasonably have been expected to fetch at auction, should be treated as a donation. Parties should be able to justify the valuation of such donations by reference to sums paid (or that might be expected to be bid) for similar items at commercial auctions.

22. What if the donation relates to an overseas visit?

Your party may accept a donation from a person or organisation who would not otherwise be considered to be a permitted donor where, and to the extent that the donation is a reasonable sum provided to meet the costs of any member or officer of your party in respect of a visit overseas. This applies only to the extent that the donation is intended to meet the cost of:

- (a) travelling between the United Kingdom and a country or territory outside the UK; or
- (b) travelling, accommodation or subsistence whilst visiting a country (or territory) outside the UK

23. When is my party deemed to have accepted a donation in relation to a foreign visit?

The Commission takes the view that a donation under section 55(3) will usually be accepted when the donee makes the visit abroad. Thus, if he/she is sent an air ticket in advance, the date of acceptance will be the date on which the ticket is used, rather than the date on which it is received. However, if the donee is sent, and cashes before departure, a cheque to cover his/her travel expenses, the donation will be deemed to

have been accepted on the date on which the cheque was cashed.

24. How should my party value a donation in kind received in relation to a foreign visit?

It is the Commission's view that, in order to comply with the requirements of the PPERA, a best estimate should be made of the costs incurred during your trip. For example, you should include the cost of a flight to that destination had you flown independently (at the same standard) with the same airline, or the amount you would have had to pay to stay at your hotel or a similar establishment. Where it is not possible to estimate costs in this way eg if you are provided with private accommodation by your hosts, this might be valued by reference to what you would have been charged, had you stayed at a hotel of a reasonable standard.

25. What if my party receives money raised by a Members Association?

Where a Members Association (within the meaning of Schedule 7) holds a fundraising event and passes all the money raised to your party, the Association is deemed to be acting as an agent for each of the donors who made such a contribution. It will therefore need to supply, at the time that it passes the money to your party, the full name and address of each individual donor who contributed more than £200. As the donee, your party will have to check that each of these was a permissible donor, and to report any relevant donations in the subsequent quarterly (and weekly, where relevant) donation return.

26. What if a person gives a donation of more than £200 on behalf of more than one person?

Where a person transmits a donation to your party on behalf of:

- (a) him/herself and one or more other persons; or
- (b) on behalf of two or more other persons

each individual contribution of more than £200 must be recorded as if it were a separate donation from the person contributing that sum.

When making the donation the principal donor must give your party details of the amount of each contribution exceeding £200, or of its value and nature, as appropriate. Unless the principal donor is treated as making the whole donation (i.e. where none of the individual contributions are for more than £200), he/she must also give the full name and address (and company registered number, if applicable) of each of the other donor(s) whose contribution exceeds £200. Failure to comply with this requirement, without reasonable excuse, is a criminal offence.

For example, if a man gives a donation of £300 on behalf of himself, his brother and his sister, where £230 of that sum has been contributed by the brother, he must give the full name and address of both himself and his brother. However, if each sibling contributes £100, the principal donor need only provide his own full name and address.

27. What if a person transmits a donation of more than £200 to my party on behalf of someone else?

The person transmitting the donation must, at the same time, give your party the full name and address (and company registered number, if applicable) of the person giving the donation. Failure to comply with this requirement, without reasonable excuse, is a criminal offence.

28. What if my party receives donations by standing order/direct debit?

In normal circumstances, the Commission considers that an individual payment of £200 or less will usually constitute a separate donation. However, especially in the case of multiple payments by standing order or direct debit, this needs to be seen in

the context of the requirements not to accept donations from impermissible donors, and of the offences created by section 61 of the PPERA concerning evasion of the restrictions on donations.

Details of donations by standing order or direct debit will in any case need to be recorded if individual payments are more than £200, and to be reported to the Commission where the aggregate value is more than £5,000 in a calendar year. Where several payments each of which is less than £200 are made in these ways, the question may arise where, in all the circumstances, two or more of them in fact constitute a controlled donation under the Act. For the purpose of the offences in section 61 of the PPERA, the question may also arise whether the donor's purpose in making multiple payments of £200 or less (or the purpose of anyone acting in furtherance of any arrangement with the donor) is, for example, to conceal or disguise the making of a donation from an impermissible donor.

You will therefore need to be aware of unusual arrangements involving multiple payments, and should seek the advice of the Registrations and Compliance Team in cases of doubt.

29. What record of donations should my party keep?

The Commission may ask to inspect details of donations to your party. Parties are therefore advised to record the following information in respect of all donations of more than £200 made to either the central organisation of the party or one of its Accounting Units (you will also need to keep these records in order to be able to report aggregate donations):

(a) For each donation **accepted** by your party:

- (i) the full name and address of the donor;
- (ii) the status of the donor e.g. individual, trade union etc
- (iii) company registered number (if applicable);
- (iv) the amount (if the donation was a donation of money) or value and nature of the donation (if the donation was in kind);
- (v) if a donation in relation to a visit, details of the date(s), destination and purpose of the visit;
- (vi) if a public fund payment, details of the statutory or other basis for the payment;
- (vii) if a donation from an exempt trust, the date the trust was created; the name of the person who created the trust and of any other person who has transferred property to the trust and the date of the transfer; and, where the trust was created by a permissible donor, the address of all such persons
- (viii) the date on which the donation was received and by whom (i.e. central organisation of the registered party or accounting unit)
- (ix) the date the donation was accepted

(b) For each **impermissible donation**:

- (i) the full name and address of the donor;

- (ii) the amount or value and nature of the donation;
- (iii) the date of receipt
- (iv) the name of the person to whom the donation was returned and the date this action was taken

(c) For each donation from an **unidentifiable donor**:

- (i) the manner in which the donation was made;
- (ii) any attempt at deception/concealment;
- (iii) the amount or value and nature of the donation;
- (iv) the date of receipt;
- (v) the date and nature of action taken

30. What about donations of more than £200 made to my party's Accounting Units?

Donations of more than £200 from the same donor made to a number of different accounting units during the same calendar year must be recorded and reported as donations made to your party's central organisation if the aggregate value of the donations is more than £5,000.

Details of any donations with a value of more than £1,000 (or with an aggregate value of more than £1,000 where more than one donation has been received by a single AU during that calendar year from the same source) received by any of your party's

Accounting Units (AU) must be included in the relevant quarterly donation report to the Commission.

It is the responsibility of AU treasurers to ensure that party treasurers are provided with relevant information about all donations of more than £200 which are accepted by the AU. However, the handling of donations to AUs is an internal matter for your party (for example, whether the AU itself or your party's central organisation should be responsible for confirming that a donation is from a permissible donor).

31. How often must my party submit a donation report to the Commission?

The treasurer of your party must submit, in respect of each calendar year, **quarterly** donation reports for the periods (even if a nil return):

- (a) January to March;
- (b) April to June;
- (c) July to September; and
- (d) October to December

If you are a party with Accounting Units, the report must include details of any reportable donations to AUs. Accounting Units are not required to submit separate returns to the Commission.

In addition, during a general election period (i.e. beginning with the date on which Her Majesty's intention to dissolve Parliament is announced in connection with a forthcoming general election, and ending with the date of the poll) your party must also submit **weekly** donation reports to the Commission.

Important: The requirement for quarterly reporting of donations does not cease during a general election period.

32. What if my party has made a Declaration of Exemption/ does not intend to field candidates at the General Election?

If your party has made a Declaration of Exemption stating that it has no intention of contesting a particular General Election (or any parliamentary general elections), you do not have to submit weekly donation reports in connection with that election. However, your party must still submit a quarterly report for that period in the normal way.

33. What if my party has made a Declaration of Exemption but nevertheless has one or more candidates at a General Election?

If your party has made a Declaration of Exemption which would cover a particular General Election, but your party has one or more candidates at that election, the exemption declaration is treated as if it had been withdrawn at the beginning of the General Election period. Your party is therefore required to submit weekly donation reports to the Commission with effect from the start of the election period. Where your party's candidate does not stand until after the start of the election period, the requirement to submit weekly report applies retrospectively from the start of the election period.

34. How long does my party have to submit a donation report?

Quarterly donation reports must be delivered by your party's treasurer to the Electoral Commission within 30 days of the date on which the relevant reporting period ended. (In other words, the report for the period January to March must reach the Commission no later than 30 April).

Weekly donation reports must be delivered to the Commission within 7 days of the end of the reporting period to which it relates. The reporting periods are:

- (i) the period of seven days beginning with the first day of the general election period (for example, if the election period begins on 1 May, the first weekly report will need to reach the Commission by 14 May);
- (ii) each succeeding period of seven days falling with the general election period; and
- (iii) any final period of less than seven days falling within that period

Where a *Declaration of Exemption* has been withdrawn, the report must be submitted within 7 days beginning with the first day on which your party has a candidate at the election in question.

35. What form should my party use to report its donations?

Your party should use forms RP10 for reporting quarterly donation returns, and RP10(W) for weekly donation returns. Forms and accompanying guidance notes are available on the Commission's website at www.electoralcommission.org.uk, or may be obtained from the address below:

Registrations and Compliance Team
The Electoral Commission
Trevelyan House
30 Great Peter Street
London SW1P 2HW

Tel: 020 7271 0500

Fax: 020 7271 0505

E-mail: r&c@electoralcommission.org.uk

36. What information does my party have to submit in a quarterly donation report?

Quarterly reports must give details of the following:

- (a) each donation of more than £5,000 **accepted** by your party (your party's central organisation if a party with accounting units) during that quarter – this includes aggregate donations where the same donor has made donations of more than £200 each to a number of different Accounting Units during that calendar year;
- (b) any donation **accepted** by your party (your party's central organisation if a party with accounting units) which, when added to other donations from the same source during the relevant calendar year, brings the amount up to more than £5,000;
- (c) each donation of an amount or aggregate amount of more than £1,000 **accepted** by one of your party's accounting units (AU));
- (d) any further **accepted** donations of more than £1,000 (whether to the central party or to an AU) from a source which, during the same calendar year, has already been (or should have been) recorded in a donation report;
- (e) each donation of more than £200 from an impermissible source or from an anonymous donor **returned** during that quarter to the donor or otherwise dealt with in the required manner; or
- (f) if your party has not received any relevant donations during the reporting period, the donation report must make a declaration stating a **nil return**.

For each donation **accepted** by your party you must give:

- (a) the full name and address of the donor;
- (b) the status of the donor e.g. individual, trade union etc;
- (c) company registered number (if applicable);
- (d) the amount (if the donation was a donation of money) or value and nature of the donation (if the donation was in kind);
- (e) in the case of a donation in relation to an overseas visit paid for by a person or body who would not otherwise be a permissible donor, details of the date(s), destination and purpose of the visit;
- (f) in the case of a public fund payment, details of the statutory or other basis for the payment;
- (g) if a donation from an exempt trust:
 - (i) in the case of a trust which was created before 27 July 1999 to which no property (on that date or since) has been transferred, and whose terms have not been varied on or after that date:
 - (a) the date on which the trust was created;

- (b) 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; and
- (c) the date on which each property transfer took place; or

(ii) in the case of a trust which was created by a person who was a permissible donor at the time when the trust was created, or by the will of a person who was a permissible donor at the time of his/her death, and to which no property has been transferred except by a person who was a permissible donor at the time of the transfer:

- (a) the full name and address of the person who created the trust;
- (b) the full name and address of every other person by whom (or under whose will) property has been transferred to the trust (including a company registration number, where applicable); and
- (c) the date on which each transfer of property took place

(g) the date the donation was accepted and by whom (i.e. central organisation of the party or an accounting unit)

For each **impermissible donation** your return must give:

- (a) the full name and address of the donor;
- (b) the amount or value and nature of the donation;
- (c) the date the donation was received and by whom (i.e. central organisation of the party or AU);
- (d) the name of the person to whom the donation was returned and the date this action was taken

For each **donation from an unidentifiable donor** your return must give details of:

- (a) the manner in which the donation was made;
- (b) any attempt at deception/concealment;
- (c) the amount or value and nature of the donation;
- (d) the date the donation was received and by whom (i.e. central organisation of the party or AU);
- (e) the date and nature of action taken

Important: Your party's treasurer commits an offence if he/she delivers to the Commission a donation report which does not comply with the requirements of the PPERA 2000. (It is a defence if he/she can prove that he/she took all reasonable steps, and exercised all due diligence, to ensure that any such requirements were met).

37. What information does my party have to submit in a weekly donation report?

Weekly reports must give details of each donation of more than £5,000 received by your party (if it does not have AUs) or by the central organisation of your party (if it has AUs) during the relevant reporting period, whether or not the donation has been accepted. Donations received by Accounting Units do not have to be reported in a weekly return. (Your party does not need to submit weekly reports if it has made a *Declaration of Exemption* that it does not intend to have any candidates at that election.

For each donation your party must give:

- (a) all details of the donor's name and address that are currently known to your party;
- (b) the amount or value and nature of the donation;
- (c) the date the donation was received by your party (your party's central organisation if it has Accounting Units)

Information submitted in a weekly return must be reported again in the relevant quarterly report, if applicable.

Important: Your party's treasurer commits an offence if he/she delivers to the Commission a donation report which does not comply with the requirements of the PPERA 2000. (It is a defence if he/she can prove that he/she took all reasonable steps, and exercised all due diligence, to ensure that any such requirements were met).

38. What if my party has reported receipt of a donation in a weekly return which was later returned to a permissible donor?

Provided that the donation was returned (or otherwise disposed of as required by the PPERA 2000) to the permissible donor within 30 days starting with the date of receipt, this donation will not need to be shown in the quarterly return. However, please enclose a note with the return explaining the action taken in respect of that donation.

39. How should my party calculate the value of a non-cash donation?

This will depend on the nature of the donation, as follows:

- (a) a **gift of property** to your party should be valued at the market value of the property in question, that is the price that it would fetch if sold in the open market;
- (b) where **money** or **property** is transferred to your party as part of an arrangement involving the provision by (or on behalf of) your party of any property, service or facilities or other consideration of monetary value with a total value of less than the transferred property's market value or the true commercial value of the service etc in question, the value of the donation should be calculated as the difference between the total value in monetary terms of the consideration provided by your party and the value of the money, or the market value of the property or commercial value of the donations.

For example, if your party was provided with facilities at a monthly cost to your party of £8,000, where the true commercial cost of those facilities would be £15,000, the notional value of the donation would be £7,000 per calendar month (pcm);

Similarly, if your party holds a fundraising dinner for which it charges £500 per "plate", but the actual cost of the meal is £30, the value of the donation would be £470 per plate. The donation is received by your party when the cheque/cash payment is received by your party, regardless of whether an invoice had been issued. Therefore, if your party issues an invoice for more than £200 in March, but receives the payment in April, the donation should be reported in the April – June quarterly return. Please note that your party will need to obtain full details of the donor in the usual way.

- (c) The value of any **sponsorship** is taken to be the monetary value of goods, services or cash provided by the sponsor or, as the case may be, the market value of the property. (Your party should ignore the monetary benefits, if any, which the sponsorship may confer on the donor);
- (d) The value of any money lent to your party at other than commercial terms, or the provision otherwise than on commercial terms of any property, services or facilities for the use of your party (including the services of any person) is the difference between the total value in monetary terms of the consideration that would have had to be provided by or on behalf of your party in respect of the loan or provision of the property, services or facilities if the donation had been provided on commercial terms, and the total value in monetary terms of the consideration (if any) actually so provided by or on behalf of your party. For example:
- (h) If your party purchased IT equipment for £5,000, but the full commercial cost of the equipment normally would be £12,250, the value of the donation would be the difference between the commercial price and that paid by your party i.e. $£12,250 - £5,000 = £7,250$

(ii) If your party takes out a 12 month loan for £150,000 at an interest rate of 2%, where the true commercial interest rate would be 6.5%, the value of the donation would be the difference in the interest payable i.e. $£9,750 - £3,000 = £6,750$.

Where such a donation confers an **enduring benefit or saving** on your party during the whole or part of one or more periods for which a donation report is required to be prepared, the amount to be recorded in any such report must be that proportion of the total value of the donation as accrues during the whole or part of the period to which the report relates. For example, if your party were to rent accommodation for the period January - May 2005 at a cost of £6,000 pcm, where the usual commercial rent for that property would be £14,750 pcm, the value of the donation is the difference between the commercial rent and that paid by your party i.e. $£14,750 - £6,000 = £8,750$ pcm. This would be shown in your quarterly returns as follows:

Jan - Mar 2005 - £26,250 (i.e. 3 x £8,750)

Apr - Jun 2005 - £17,500 (i.e. 2 x £8,750)

If the value of the benefit in any one-quarter is less than £5,000, the donation need not be reported until it reaches an aggregate value of more than £5,000. For example, if your party receives sponsorship for the period January - May, and the value of that sponsorship to your party is £1,500 pcm, this would have to be reported as follows:

Jan - Mar report: total value of donation for the quarter is £4,500 (i.e. 3 x £1,500), therefore nothing needs to be reported

Apr - Jun report: aggregate value of the donation is now £7,500 (i.e. 5 x £1,500), and your party's return should therefore report acceptance of a donation of £7,500

40. What if the donation was in a currency other than £ Sterling?

If your party receives a donation in any currency (including Euros) other than £ Sterling the donation return must report the actual value of the donation in £ sterling. For example, if a British citizen living in Spain who is registered to vote as an overseas voter sends your party a donation in the form of a cheque for Spanish pesetas, the stated value of this donation should be the amount in £ sterling received by your party

when it cashes the cheque at the standard exchange rate (less any charges which may be payable).

41. Will the Commission publish information from my party's donation reports?

Yes. Section 69 of the PPERA 2000 requires the Commission to maintain for public inspection a register of all donations reported to them by registered parties. This will include details of the donor and the value and nature of the donation. However, the home addresses of individual donors will not be included in the register, and therefore will not be available to members of the public searching register entries. Details of any element of deception or concealment in the case of a donation from an unidentifiable donor will also not be disclosed in the public register.

42. Useful words and phrases

Important – these definitions are intended only as a quick guide. You should always consult the PPERA 2000 for the full legal definition

Accounting Unit - a constituent or affiliated organisation which is responsible for its own financial affairs separately from those of the party's central organisation

Bequest - includes any form of testamentary disposition

Date of receipt of a donation – This is the date on which your party takes possession of the donation or learns that the payment has been made. Thus, where the donation has been paid into your party's bank (or other financial) account, this is the date on which your party is notified in the usual way of that payment. For example, if the donation is paid into your party's bank account on 31 March, and your party is first informed of this donation when it appears in the next bank statement which is received on 15 April, this latter date is the relevant date of receipt, whether or not the statement is read on that day.

Declaration of Exemption - a declaration to the Commission, signed by the responsible officers of your party (i.e. your party's leader and nominating officer plus, where these two posts are held by the same person, another registered officer) that your party does not intend to contest a particular general election (or any parliamentary elections)

Donation from an Exempt Trust – any donation received from a trustee of any property in accordance with the terms of a trust which either –

- (a) (i) was created before 27 July 1999,
- (ii) to which no property has been transferred on or after that date, and
- (iii) whose terms have not been varied on or after that date

provided that the trustee gives the recipient of the donation (no later than the date on which the donation is received) all relevant details (see section 26); or

- (b) was created by –
 - (i) a person who was a permissible donor at the time when the trust was created, or
 - (ii) the will of a person who was a permissible donor at the time of his/her death and to which no property has been transferred except by a person who was a permissible donor at the time of the transfer,

provided that the trustee gives the recipient of the donation (no later than the date on which the donation is received) all relevant details,

provided (in the case of either type of exempt trust) that the donation has not been made by the exercise of any discretion which is vested by the trust in the trustee or any other person.

Electoral register - is any of the following:

- (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 Part III of the European Parliamentary Elections (Changes to the Franchise and Qualifications of Representatives) Regulations 1994; or
- (c) a register of peers prepared under regulations under section 3 of the Representation of the People Act 1985

Enactment - includes:

- (a) any provision of an Act;
- (b) any provision of Northern Ireland legislation or of any instrument made under that legislation;
- (c) any provision of subordinate legislation (within the meaning of the Interpretation Act 1978)

Gift – must be read as including:

- (a) a bequest to your party;
- (b) any money or other property which is transferred to your party as part of any transaction or arrangement involving the provision by (or on behalf of) your party of any property, services or facilities or other consideration of monetary value, where the total value in monetary terms of the consideration provided by your party is less than the value of the money or (as the case may be) of the market value of the property transferred. (**Please note:** if such a gift also comes within the definition of sponsorship (see below) it must be treated, for the purpose of donation returns, as sponsorship and not as a gift)

Impermissible donor - any donor whose identity is known to your party but who does not qualify as a permissible donor

Market value - in relation to property, means the price which might reasonably be expected to be paid for the property on a sale in the open market

Nature of a donation - the description of a non-cash donation, such as accountancy services, accommodation etc

Policy development grant - a grant made to a party with at least two members of the House of Commons (who have made and subscribed the oath or corresponding affirmation required by the Parliamentary Oaths Act 1866 and who are not disqualified from sitting or voting in that House) to help that party develop policies for inclusion in any manifesto which will be the basis on which:

- (a) candidates authorised by the party will stand for election at a relevant election; or
- (b) the party itself will seek election

Property - any description of property, including goods

Publication - in respect of sponsorship, this means a publication made available in any form and by whatever means, whether to the public at large or to any section of the public.

Public funds - means any of the following:

- (a) (i) payments out of the Consolidated Fund of the UK, the Scottish Consolidated Fund, or the Consolidated Fund of Northern Ireland; or
- (a) (ii) Money provided by Parliament or appropriated by Act of the Northern Ireland Assembly; or
- (b) payments by any Minister of the Crown, the Scottish Ministers, any Minister within the meaning of the Northern Ireland Act 1998, any government department (including a Northern Ireland department), any part of the Scottish Administration or the Welsh Assembly;
- (c) payments by the Scottish Parliamentary Corporate Body or the Northern Ireland Assembly Commission;
- (d) payments by the Electoral Commission

Sponsorship - any money or other property transferred to your party (or to a person for the benefit of your party) for the purpose of helping your party to meet (or to avoid being incurred) any expenses in respect of the following:

- (a) any conference, meeting or other event organised by or on behalf of your party;
- (b) the preparation, production or dissemination of any publication by or on behalf of your party; or
- (c) any study or research organised by or on behalf of your party

It does not, however, include:

- (a) the making of any payment in respect of:
 - (i) any charge for admission to any conference, meeting or other event, or
 - (ii) the purchase price of, or any other charge for access to, any publication
- (b) the making of any payment in respect of the inclusion of an advertisement in any publications where the payment is made at the commercial rate payable for the inclusion of such an advertisements in any such publication

However the Commission takes the view that these may nevertheless be treated as a donation under section 50(2) of the PPERA.

Trust – includes a trust created by a will

Unidentifiable donor - any donor whose identity your party cannot find out, whether because the donation was made anonymously or through any deception or concealment

43. What if I can't find the answer in these Explanatory Notes?

If you cannot find the answer to your question in the above notes, please contact:

Registrations and Compliance Team
The Electoral Commission
Trevelyan House
30 Great Peter Street
London
SW1P 2HW

The team will be happy to answer any queries that you may have and can be contacted on:

Tel.: 020 7271 0500

Fax.: 020 7271 0505

Email: r&c@electoralcommission.org.uk

Annex A - PENALTIES

Important – you should consult the PPERA for full details of offences and their relevant penalties.

(a) What if my party does not dispose of a donation from an impermissible or unidentifiable source within 30 days of receipt?

If your party has not returned a donation from an impermissible or unidentifiable donor (or otherwise disposed of it as required by the PPERA 2000) within the 30 day period, it will be deemed to have been accepted.

If a donation from an **impermissible** source is accepted, your party and the registered treasurer of your party are each guilty of an offence.

If a donation from an **unidentifiable donor** is accepted, your party's registered treasurer is guilty of an offence.

(b) What happens to a donation from an impermissible or unidentifiable donor accepted by my party?

The Commission may make a civil application to the court (in England and Wales a magistrates court, in Scotland the sheriff, and in Northern Ireland a court of summary jurisdiction) for forfeiture by your party of an amount equal to the value of the prohibited donation. The court may make a forfeiture order whether or not any proceedings are brought against any person for an offence connected with the donation.

If your party is not a body corporate, the proceedings will be brought against your party in its own name (and not in that of any of its members), and any rules of court relating to the service of documents will apply as if your party were a body corporate. Any amount forfeited must be paid out of your party's funds. (This will be paid into the Consolidated Fund).

The PPERA 2000 makes provision for your party to appeal against a forfeiture order.

(c) What if someone tries to evade the restrictions/requirements on donations to my party?

It is a criminal offence for **any** person knowingly to participate in an arrangement or to withhold information, or supply false information, so as to evade the restrictions on the sources of donations. The bringing of criminal proceedings would not preclude the Commission from also applying for forfeiture of the donation in question

(d) What if my party does not submit a donation report within the required time?

The treasurer of your party commits an offence if he/she fails to submit, within the relevant time limit, a report which meets the requirements of the Political Parties, Elections and Referendums Act 2000.

Your party is also liable (in addition to the criminal liability of the treasurer) for a civil penalty. The amount of the penalty is determined by the length of the period between the end of the reporting period and the date on which the report is submitted to the Commission. The penalties are as follows:

- (a) if your party's report is submitted no more than 3 months late - £500
- (b) between 3 and 6 months late - £1,000
- (c) more than 6 months but less than 12 months late - £2,000
- (d) if more than 12 months late - £5,000 in respect of the first 12 months and then £5,000 in respect of each subsequent period of 12 months during any part of which the report has not been submitted.

(e) What if the information in my party's donation report is not correct?

Your party's treasurer commits an offence if he/she delivers to the Commission a donation report which does not comply with the requirements of the PPERA 2000. However, the Act provides that it is a defence if he/she can prove that he/she took all reasonable steps, and exercised all due diligence, to ensure that any such requirements were met.