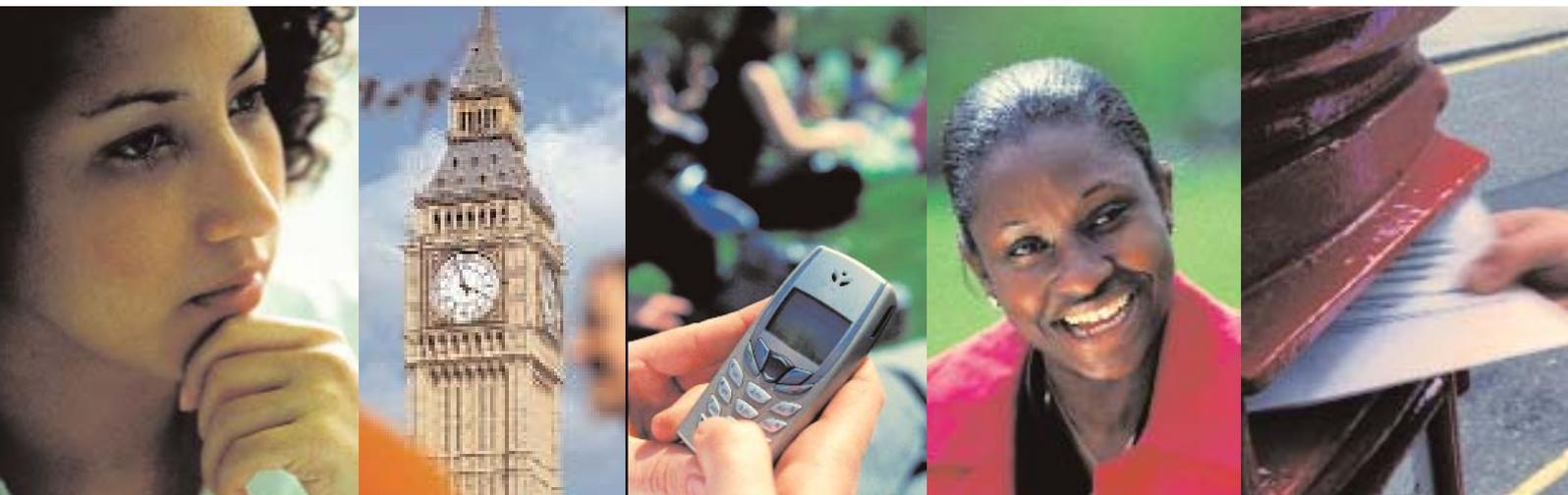


Donations and loans: guidance for regulated donees in Great Britain

September 2006 (Revised version January 2010)



Translations and other formats

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Introduction to revised version January 2010

This revised version of the 2006 donations and loans guidance for regulated donees in Great Britain has been updated to reflect changes to the thresholds for reporting donations, loans, and permissibility checks which were introduced by the Political Parties and Elections Act 2009.

In addition, Members of Parliament no longer need to report permissible donations and loans received from 1 July 2009 to us. Instead the Registrar of Members' Financial Interests will pass the relevant information to us so that we can check permissibility and publish details on our registers.

Members still need to report to us directly if they return a donation or end a loan because the donor/lender is not permissible.

For more information please see 'Donations and loans to Members of Parliament: a brief guide to permissible sources and reporting', which can be downloaded from our website www.electoralcommission.org.uk.

Summary

Regulated donees are:

- members of registered political parties
- holders of relevant elective office
- members associations

Regulated donees are subject to controls on the donations and loans they can accept in connection with their political activities in their capacity as a regulated donee.

Regulated donees must report to the Commission on any donations or loans they accept. Reports must be made within 30 days of accepting the donation or entering into the loan. These reports are published on the Commission's website.

Controlled loans are those received by the regulated donee in their capacity as a donee and with the intention that all or any part of the value of the loan will be used for the donee's political activities.

Political activities

A regulated donee's political activities are:

- for a member of a registered party, activities carried out in connection with their membership of the party
- for a members association, activities it carries out
- for holders of elective office, activities in connection with the holding of office, including both party political and governmental activities

For members of registered parties and members associations, political activities include:

- promoting the election of someone to a position or committee in the party
- promoting the selection of someone as the party's candidate for election
- promoting policies for adoption by the party

Permissibility

Donations and loans can only be accepted if they come from permissible sources. A permissible donor or lender must be one of the following:

- an individual registered in a UK electoral register (including bequests)
- a UK registered company which is incorporated within the European Union (EU) and carries on business in the UK
- a Great Britain registered political party
- a UK registered trade union
- a UK registered building society

- a UK registered limited liability partnership that carries on business in the UK
- a UK registered friendly society
- a UK based unincorporated association that carries on business or other activities in the UK

Special rules on permissibility apply for MEPs representing the combined region of the South West of England and Gibraltar and for members associations connected with Gibraltarian parties. These allow the acceptance of donations from Gibraltarian sources.

Funding for overseas visits can come from any source as long as the amount given does not exceed the cost of the trip.

Donations

Regulated donees must report to the Commission all donations – whether in the form of money or goods or services provided without charge or on non-commercial terms – if they exceed the reporting thresholds. Donations over £7,500 to a members association or £1,500 to an individual regulated donee must be declared. Multiple donations from a single source which aggregate to more than the threshold must be reported, as well as aggregating loans and donations from the same source.

Regulated donees must provide the value of the donation and the name, address and other relevant details of the donor. They must report any donations they have been given that were returned because the donor was unidentifiable or impermissible.

Loans

Loans and other credit arrangements, including credit facilities and the provision of security or a guarantee on behalf of a regulated donee, must also be reported. The same thresholds and rules about aggregation apply to reporting of loans as to donations.

Regulated donees must provide the name, address and other relevant details of the lender or guarantor. Details of the value, terms and conditions of the loan must also be reported.

Regulated donees must also report any changes to the terms and conditions of existing loans. The changes must be reported as they occur.

1 Introduction

1.1 Under Schedule 7 of the Political Parties, Elections and Referendums Act 2000 (PPERA), regulated donees are subject to controls on the acceptance and reporting of donations. The Electoral Administration Act 2006 (EAA) added Schedule 7A to PERPA, which subjects regulated participants to controls on the acceptance and reporting of loans. The terms 'regulated donees' and 'regulated participants' are both defined as:

- members of registered parties
- members associations
- holders of relevant elective offices

In this document, 'regulated donees' and 'regulated participants' will both be referred to as 'regulated donees'. Further, the category 'regulated transactions' introduced by Schedule 7A – and which comprises loans, credit facilities and guarantees – will be referred to as 'loans'.

1.2 Under Schedule 7 of PERPA, regulated donees can only accept a donation of more than £500 made to them in connection with their political activities if it is from a 'permissible donor'. Donations of more than £500 cannot be accepted if the donor is an impermissible donor or cannot be identified. Under Schedule 7A, regulated donees can only enter into a loan, credit facility or security arrangement with a value of over £500 if they intend to use it in connection with their political activities if all parties to the transaction are 'authorised participants'. To comply with the reporting requirements of PERPA, regulated donees must report to the Electoral Commission details of the following donations and loans:

Members associations

- any donations of more than £7,500 accepted from permissible donors
- any donation of more than £500 received from an impermissible or unidentified donor
- new loans entered into by the regulated donee with a value of over £7,500 where the other participants are authorised participants
- loans whose terms have changed, including loans that have ended with a value of over £7,500 where the other participants are authorised participants
- loans entered into by the regulated donee with a value of over £500 where one or more of the other participants is not an authorised participant
- aggregations of donations and loans of over £7,500

Individual regulated donees:

- any donations of more than £1,500 accepted from permissible donors
- any donation of more than £500 received from an impermissible or unidentified donor
- new loans entered into by the regulated donee with a value of over £1,500 where the other participants are authorised participants
- loans whose terms have changed, including loans that have ended with a value of over £1,500 where the other participants are authorised participants

- loans entered into by the regulated donee with a value of over £500 where one or more of the other participants is not an authorised participant
- aggregations of donations and loans of over £1,500

1.3 This document has been written to provide guidance to regulated donees on the regulatory framework of Schedules 7 and 7A of PPERA, and to assist them in complying with the requirements of the Act. It outlines:

- what constitutes a donation
- what constitutes a regulated transaction
- who can make a donation or enter into a loan
- how to deal with donations and loans
- reporting donations and loans

1.4 Where applicable, the appropriate statutory reference is included, showing either the relevant paragraph number of PPERA (e.g. Schedule 7A, Paragraph (10(1))) or the relevant section number of PPERA (e.g. Section 56). Section numbers with a letter after them (e.g. Section 71F) were inserted into PPERA by the EAA.

1.5 The guidance cannot substitute for the actual effect of the statute, but represents the Commission's interpretation of the law. The Commission may amend this document on the basis of any future legislation, experience or judicial rulings.

1.6 While this document provides detailed guidance and examples on the application of PPERA, it remains a general guide and inevitably does not cover all the circumstances that may arise in relation to the acceptance of donations and loans by regulated donees.

1.7 Guidance on queries not covered in this document can be obtained from:

Party and Election Finance
The Electoral Commission
Trevelyan House
Great Peter Street
London SW1P 2HW

Tel: 020 7271 0616
Fax: 020 7271 0505
Email: pef@electoralcommission.org.uk
www.electoralcommission.org.uk

2 Defining regulated donees, donations, regulated transactions and political activities

Regulated donees

2.1 Schedule 7 of the Political Parties, Elections and Referendums Act 2000 (PPERA) defines regulated donees as:

- members of registered parties
- members associations
- holders of relevant elective offices

Schedule 7A defines regulated participants in the same way. This document will use the term regulated donees throughout, as both terms refer to the same people.

2.2 A person is a member of a registered party if they are a member of a political party registered with the Electoral Commission on either the register of political parties for Great Britain or the register of political parties for Northern Ireland.¹

2.3 An organisation is a members association if its membership consists **wholly or mainly** of members of a political party registered with the Electoral Commission. Registered political parties and accounting units of registered parties are not members associations and are subject to separate controls.

2.4 An individual is a holder of relevant elective office if they are:

- a member of the House of Commons²
- a member of the European Parliament elected in the UK (including the combined region)³
- a member of the Scottish Parliament⁴
- a member of the National Assembly for Wales
- a member of the Northern Ireland Assembly⁵
- a member of any local authority in the UK, excluding parish or community councils⁶
- a member of the Greater London Authority
- the Mayor of London or any other elected mayor⁷

¹ Please refer to our guidance on donations and loans for regulated donees in Northern Ireland, available at www.electoralcommission.org.uk/__data/assets/pdf_file/0005/56894/Ni-Loans-Guidance-Regulated-Donees.pdf.

² Members of Parliament are advised to refer to www.electoralcommission.org.uk/__data/assets/pdf_file/0020/78230/EC_permissibility_brief_guide.pdf.

³ The combined region is the South West region of England and Gibraltar at European Parliament elections.

⁴ Members of the Scottish Parliament are only subject to controls on loans if they are also members of a political party.

⁵ But see note 1 above.

⁶ Local councillors in Scotland are only subject to controls on loans if they are also members of a political party.

⁷ An elected mayor under Part II of the Local Government Act 2000.

2.5 Members associations are organisations which are separate from but which may be affiliated to registered parties, for example organisations that seek to promote a certain policy within the party.

2.6 Additionally, organisations which are the subject of an order under Section 26(8)(c) of PPERA should consider whether they fall within the definition of a members association. Organisations specified under such an order are those with close links to a registered party (e.g. they may be referred to in a registered party's constitution) but which are not constituent or affiliated parts of the party.⁸

Example box 1

An organisation comprised of members of the Big Party (which is registered with the Electoral Commission) has a specific policy interest in welfare issues, and calls itself the Big Party Welfare Society. As the organisation is mainly comprised of members of a registered party, the organisation is a members association, and comes within the scope of Schedule 7 and Schedule 7A.

Donations and regulated transactions

2.7 Schedule 7 of PPERA regulates any donation received by a regulated donee which has been:

- offered to them, or
- where the donation has been accepted, retained by them

where the donation is intended for their use or benefit in connection with:

- **a member of a political party:** any of their political activities as a member of the party (Schedule 7, Paragraph 1(3)(a))
- **a members association:** any of its political activities (Schedule 7, Paragraph 1(3)(b))
- **a holder of a relevant elective office,** the donation is regulated if it is for their use or benefit (as the holder of such an office) in connection with any of their political activities (Schedule 7, Paragraph 1(3)(c))

2.8 Schedule 7A of PPERA regulates the following transactions involving regulated donees that are undertaken with the intention that any part of the money or benefit will be used in connection with their political activities:

- an agreement between the regulated donee and another person by which the other person makes a loan of money to the regulated donee (Schedule 7A, Paragraph 2(1))

⁸ See The Registered Parties (Non-constituent and Non-affiliated Organisations) Order 2000 (SI 2000 No. 3183) and The Registered Parties (Non-constituent and Non-affiliated Organisations) Amendment Order 2002 (SI 2002 No. 414).

- an agreement between a regulated donee and another person by which the other person provides a credit facility to the donee (Schedule 7A, Paragraph 2(2))
- where a regulated participant has entered into a loan or credit facility and someone other than the donor or lender provides security or a guarantee on behalf of the donee (Schedule 7A, Paragraph 2(3)).

2.9 If the person is a regulated donee by virtue of being a member of a political party, only their political activities as a member of that party are relevant for the purposes of deciding whether a transaction is a regulated transaction (Schedule 7A, Paragraph 2(8)(a)).

2.10 As mentioned in paragraph 1.1, throughout this document, the term ‘loans’ encompasses all regulated transactions. See paragraph 3.8 for more on the different types of regulated transaction.

Political activities

2.11 A donation or loan to a regulated donee is regulated **only** if it is made in connection with the donee’s political activities in their capacity as a regulated donee. The Commission’s interpretation of this definition in relation to each type of regulated donee is set out below.

Members of registered parties

2.12 The political activities of a member of a registered party are those activities that are carried out by the member in connection with their membership of the party, for example activities that are undertaken as a result of the individual’s membership of the party. This definition does not include the political activities of officers of a political party in their capacity as party officers, which should be treated as donations to the party itself.

2.13 Examples of a member of a registered party’s political activities specified in PPERA include:

- promoting or procuring the election of any person to any position in the party or to any committee in the party
- promoting or procuring the selection of any person as the party’s candidate for election to a relevant office
- promoting or developing policies with a view to their adoption by the party

Example box 2

A member of a registered party decides to seek election as that party's candidate for a local government election. He is given a small donation to cover the cost of producing a letter to be sent to local party members which outlines what he would do if selected as the party's candidate. This is a donation in connection with his political activities as a party member.

A member of a registered party wishes to promote the adoption of certain environmental policies by her party. She produces a leaflet to distribute at a party meeting, the cost of which is met by an environmental organisation. This is a donation in connection with her political activities as a party member.

Members associations

2.14 The political activities of a members association include those activities specified in paragraph 2.13 above, for example promoting or developing policies for adoption by a party or promoting candidates for internal office within the party.

2.15 For the purposes of deciding whether an event held by a members association is part of its political activities, it does not matter whether the audience of the event includes or excludes members of the political party.

2.16 Members associations should confirm with the Commission or through independent legal advice whether any other activities undertaken by them fall within the definition of political activities.

Example box 3

A pro-Europe organisation affiliated to a political party hosts a conference at which leading business people and politicians advance the case for closer ties with Europe. The event is targeted at leading figures within the party, and is held exclusively for party members. The event is sponsored by a non-party organisation.

The contribution to the cost of hosting the event is a donation to the members association in connection with the organisation's political activities.

Holders of relevant elective office

2.17 The political activities of holders of relevant elective office include both party political activities and activities concerned with government. Political activities could include making a party speech on a certain issue in the institution where the regulated donee holds office or undertaking visits in an office holder's constituency.

Example box 4

A Member of the National Assembly for Wales hosts a meeting to bring together representatives of businesses, community groups and councillors from his constituency. In order to host the event, he is given a donation from the one of the businesses represented at the event. This is a donation to him in connection with his political activities.

A group of councillors representing the same party in a region where there is to be a referendum on whether to establish a regional assembly are invited to Germany as the guests of a German party with similar policies, in order to gain an understanding of how regional government works in Germany. This should be treated as a donation to the councillors in connection with their political activities.

3 Types of donation and loan

Donations

3.1 Any of the following should be treated as a donation if their value is more than £500 (Schedule 7, Paragraph 2(1)):

- a gift of money or other property (including from a bequest), for example:
 - a cash donation
 - a photocopier
 - a bequest
- sponsorship provided to a regulated donee in relation to the following:
 - a meeting or other event hosted by or on behalf of the donee (e.g. a drinks reception hosted by a Member of the Scottish Parliament (MSP) for their constituents or a policy forum hosted by a members association to debate future party policies)
 - a document produced by or on behalf of a regulated donee (e.g. a leaflet produced by a party member to support their bid to win selection as a party's candidate for a seat)
 - research undertaken by or on behalf of a regulated donee (e.g. research into the views of party members on a particular policy issue)
- money spent (other than by the regulated donee) paying expenses, for example the payment of a donee's monthly office rental cost
- the provision other than on commercial terms of property, services or facilities for the use of a regulated donee, for example:
 - office space provided to a donee without charge
 - provision by an employer of an individual to work for a regulated donee at no cost to the donee
 - a 50% discount offered to a regulated donee when purchasing new office equipment

Overseas visits

3.2 In addition to the types of donation listed above, regulated donees should treat as donations the cost of any overseas visits undertaken in connection with their political activities. Guidance on overseas visits can be found in paragraph 4.13.

Commercial transactions

3.3 There is no requirement to treat as a donation any payment made on commercial terms, for example where a regulated donee provides services to an individual or organisation and receives payment for the provision of these services. This applies to any services a donee may provide in their private capacity (e.g. legal services) or any services in connection with their political activities (e.g. giving a speech).

3.4 However, where a regulated donee provides services, and the payment received by the donee is greater than the value of the services provided, then the excess payment should be regarded as a gift (Schedule 7, Paragraph 2(2)).

3.5 In case of doubt as to whether or not payments have exceeded the market value of the services provided, the regulated donee is advised to obtain three commercial quotes for the same service. The average of these quotes should be taken to be the value of the service. A donation is only made if the difference between the value of the service and the price paid exceeds £500.

Example box 5

A members association seeks to promote the interests of professionals in the NHS, and is asked by an independent think tank to produce a four-page contribution for a document bringing together the views of different stakeholders about the NHS. The association is paid a £750 fee for producing the article.

Since the payment is made in respect of work undertaken by the members association, the payment is not a donation.

Payments that are not donations

3.6 Certain payments and services that are provided to regulated donees are not treated as donations, and hence are exempted from the requirements of the Political Parties, Elections and Referendums Act 2000 (PPERA) (Schedule 7, Paragraph 4(1)–(3)).

3.7 These payments/services are:

- the provision of any facilities provided to a candidate in accordance with any enactment, for example provision of free postal facility
- the provision of assistance to a holder of local elective office by a person employed to provide support to a political group on a council⁹
- the provision by an individual of their own services, provided voluntarily and in their own time, for example a party member who uses their weekends to manage another member's campaign to be selected as a party office holder
- any interest accruing to a regulated donee from a donation dealt with in accordance with PERA, for example interest arising from a donation held in a bank account, but which is subsequently returned because the donor is an impermissible donor
- any money or other property, service or facility provided out of public funds for the personal security of an individual regulated donee
- any remuneration or allowances paid to the holder of an elective office in their capacity as such, for example:
 - payment of travel allowances to a local councillor
- any donation which needs to be included in a candidate's election expenses return (Schedule 2A to the Representation of the People Act (RPA) 1983), for

⁹ A person appointed under Section 9 of the Local Government and Housing Act 1989.

example a donation made for the purpose of helping an individual seeking re-election as a local councillor to meet their election expenses

- **any donation of £500 or less**

Loans

3.8 Regulated transactions are defined by PPERA (Section 71F) as:

- a loan to a regulated donee, for example:
 - a mortgage owed to a bank on an MSP's constituency office
 - the loan of cash by a supporter to pay for a party member's leadership campaign
- a credit facility extended to a regulated donee where the donee can later draw on a loan of money not exceeding an amount specified in the credit facility agreement, for example:
 - a bank overdraft
 - a credit card

where, when the loan is taken out, it is intended that any part of the money or benefit will be used in connection with the donee's political activities.

3.9 It is the existence of a credit facility and not its use which constitutes the regulated transaction.

3.10 If **any** part of the value of a loan is used in connection with the regulated donee's political activities, it is a regulated loan. **This includes loans taken out for any other purpose** (e.g. a personal credit card), any part of which is used in connection with the donee's political activities as long as it was the donee's intention in taking out the loan that it would be used for those activities.

3.11 Another type of regulated transaction under PPERA is a 'connected transaction' (Section 71F(9)). This is defined as the provision of security on behalf of a regulated donee where any part of the money or benefit from the original transaction is used in connection with the donee's political activities, for example:

- a supporter provides a personal guarantee to a bank to repay a members association's mortgage if they are unable to do so
- a supporter gives a supplier a charge against their own property if a regulated donee fails to meet their trade credit agreements

Transactions that are not regulated transactions

3.12 The following are not regulated transactions:

- the provision of trade credit for the purchase of goods or services from a merchant where no cash is made available to the regulated donee
- finance leases where a regulated donee pays for equipment over an extended time period where it does not involve a credit facility (see Appendix A, 'Glossary')

- any transactions whose value is less than £500
- the loan of property other than money (though this may be considered a donation as specified above)

3.13 It should, however, be noted that connected transactions can arise even in respect of transactions that are not regulated transactions. For example, if a supporter provides a guarantee so that a regulated donee can receive trade credit, this would be a regulated connected transaction if its value exceeded £500.

The value of a regulated transaction

3.14 The value of the transaction should be calculated as follows (Section 71G):

- for a loan, the total amount to be lent under the loan agreement (not including interest)
- for a credit facility, the maximum that can be borrowed under the facility
- where an individual has provided a guarantee or security on behalf of a party, the maximum amount the individual could be liable to pay

The value does not include a calculation to take account of any provision for interest to be added on to the capital outstanding on the loan, rather than being repaid.

4 Permissible donors, lenders and donations

4.1 The Political Parties, Elections and Referendums Act 2000 (PPERA) specifies a list of individuals and organisations that are permissible donors for the purposes of accepting a donation and authorised participants for the purposes of loans. The legislation also identifies other types and sources of donations, which can be accepted by regulated donees.

4.2 To avoid confusion, 'authorised participants' will be described as 'permissible lenders' throughout this document. This means the term 'lender' also includes someone who provides a guarantee or other security on behalf of a regulated donee.

4.3 It is the legal responsibility of a regulated donee when receiving a donation to take all reasonable steps forthwith to satisfy themselves that the source of a donation is permissible within the relevant PERA rules. If a donation is received from an impermissible source, it must be returned within 30 days (Schedule 7, Paragraph 8). After this time, it is a criminal offence to retain the donation, with a potential penalty of a fine and up to one year in prison (see Appendix B, 'Penalties'). Additionally, a sum equivalent to the value of the donation may be forfeited (Schedule 7, Paragraph 8). If a donation is returned because it was impermissible, the return of the donation must be reported to the Commission. Regulated donees must have robust procedures in place to ensure that they are able to complete the required checks within the 30-day time frame allowed by the legislation.

4.4 Regulated donees may not legally enter into loans with impermissible lenders. No 30-day period exists for the regulated donee to check the status of the lenders. Therefore, regulated donees should carry out all checks on the status of lenders **before** entering into the loan. Entering into a loan with an impermissible lender is a criminal offence. Such a transaction is void. More information on the treatment of impermissible loans can be found in paragraph 6.33.

Permissible donors and lenders

4.5 Regulated donees can only accept a donation or loan (as defined in Chapter 3, 'Types of donation and loan') with a value of more than £500 if it is from one of the following:

- an individual registered in a UK electoral register (including bequests)
- a UK registered company which is incorporated within the EU and **carries on business** in the UK
- a Great Britain registered political party¹⁰
- a UK registered trade union
- a UK registered building society
- a UK registered limited liability partnership that **carries on business** in the UK
- a UK registered friendly society

¹⁰ Northern Ireland parties are not included as permissible donors because of the different rules on donations which they are subject to.

- a UK based unincorporated association that **carries on business or other activities** in the UK (Schedule 7, Paragraph 6(1))

4.6 Paragraph 6.6 provides details of how to check whether an individual or organisation is a permissible donor or lender.

4.7 A regulated donee can accept a donation in the form of a bequest if the individual leaving the bequest was on the electoral register at any time in the five years before their death.

4.8 **Except for the sources of donations specified below, a donation of more than £500 cannot be accepted if it is from any individual or organisation that does not fall into one of the categories above, or if the donation is from a source that cannot be identified** (e.g. a cash donation of £550 given to a regulated donee anonymously).

4.9 **A loan cannot be entered into unless all the parties to the transaction fall into the categories of permissible lenders above.** The lender in any transaction must be an authorised participant, but if any individual or organisation guarantees or otherwise provides security on behalf of the regulated donee, they must also be permissible.

4.10 For the avoidance of any doubt, **local councils are not permissible donors or lenders.** Regulated donees may not accept loans or donations, including the use of council facilities at a reduced rate, from any local council.

4.11 If a loan or credit facility was entered into before 11 September 2006, it is not a requirement that the other participants in the transaction must be permissible. However, if the terms of the loan or facility change substantially after that date, regulated donees are strongly urged to consider whether the transaction has changed enough that it should be considered a new transaction to which the permissibility rules apply.

Other types of permissible donation

4.12 The following exceptions to the above rules apply only to donations and not to loans.

Overseas visits

4.13 The legislation takes into account that as part of their responsibilities an individual regulated donee or a member or officer of a members association may undertake overseas visits, the costs of which are met by an individual or organisation which is not a permissible donor as defined by PPERA. PPERA therefore provides that regulated donees can accept donations from individuals and organisations that are not permissible donors, **provided that the purpose of the donation is to meet the costs of an overseas visit** (Schedule 7, Paragraph 7(3)).

4.14 A donation provided to a regulated donee to meet the cost of an overseas visit is regarded as a donation from a permissible donor if it is made to meet 'qualifying

costs' (i.e. travel, accommodation or subsistence costs) incurred during a visit made in connection with the regulated donee's political activities (Schedule 7, Paragraph 7(3)). The legislation specifies that any donation to meet the cost of an overseas visit should only be treated as a donation from a permissible source to the extent that it does not exceed a reasonable amount in respect of such costs. In the Commission's view, a reasonable amount would not significantly exceed the likely cost of the visit.

4.15 In cases where regulated donees do not receive a cash donation to meet the cost of a visit because the costs are met by the host organisation or individual, they should calculate the notional value of the trip, based on the equivalent commercial travel and accommodation costs.

4.16 In line with the reporting requirements for permissible donations, a donation to meet the cost of an overseas visit should be reported to the Commission if it exceeds £1,500.

Example box 6

An officer of a members association, which favours UK entry into the euro and campaigns to promote the adoption of this policy by the relevant party, travels to a number of European countries to meet business leaders. The cost of the trip is met by a Brussels-based think tank.

The cost of the visit should be treated as a donation to the members association.

Trusts

4.17 Regulated donees can accept donations made from trusts that meet certain permissibility requirements specified by PPERA. There are two types of exempt trusts from which regulated donees can accept donations: pre-1999 exempt trusts and permissible donor exempt trusts (Schedule 7, Paragraph 7(5)).

Pre-1999 exempt trusts

4.18 A trust falls into this category if it meets all the following criteria:

- it was created before 27 July 1999
- no property has been transferred to the trust since that date
- the terms of the trust have not varied since that date

4.19 Trusts created before 27 July 1999 are not exempt trusts if property has been received into the trust or the terms of the trust have been changed since 27 July 1999 (but see the information on permissible donor exempt trusts below).

Permissible donor exempt trusts

4.20 A trust is a permissible donor exempt trust if it meets both of the following criteria:

- It was created by a person who was a permissible donor under PPERA at the time the trust was created.
- No property has been transferred into the trust other than by a person who was a permissible donor under PPERA at the time of the transfer.

4.21 Permissible donor exempt trusts may have been created before or after 27 July 1999. A trust cannot be a permissible donor exempt trust if it has received funding from an impermissible or unidentifiable source.

Other types of trust

4.22 In addition, regulated donees are able to accept donations from trustees acting on behalf of beneficiaries of a trust, if the beneficiaries of the trust (i.e. the donors) are permissible donors (Schedule 7, Paragraph 7(6)).

Gibraltar

4.23 Certain regulated donees are also able to accept donations from permissible Gibraltarian donors. More information about this can be found in Appendix C, 'Special rules about Gibraltar'.

5 Clarifying to whom a donation or loan is made

5.1 The Political Parties, Elections and Referendums Act 2000 (PPERA) and other electoral law (e.g. the Representation of the People Act 1983 (RPA 1983)) regulate donations and loans to political parties, members of political parties, holders of elective office and candidates.

5.2 A loan is made to the person who is responsible for repaying it. So determining who should report a loan should be relatively straightforward. It may, however, be necessary for individual regulated donees to determine the capacity in which they have received a loan (see paragraph 5.9 onwards).

5.3 In some cases where a donation is given to an individual, there may be some uncertainty about the capacity in which they are receiving the donation or loan, i.e. as a candidate at an election, as a Member of the National Assembly for Wales (AM), Member of the Scottish Parliament (MSP) or other holder of office, as a member of a registered party or on behalf of the party itself.

5.4 In terms of compliance with the PERA regulatory framework, it is more important that a relevant donation or loan is reported, rather than how it is reported. Once it has been reported to the Electoral Commission, we will consider the nature and purpose of the donation or loan to determine whether the donation or loan has been reported correctly. However, the following sections provide guidance as to how a donation or loan should be categorised.

Determining whether a donation is to the party or to the individual

Donations to a constituency party

5.5 There may sometimes be uncertainty as to who the actual recipient of a donation is; for example, it may have been given to a constituency party, or to that constituency's MSP.

5.6 There is no requirement for an MSP and their constituency party to submit separate reports of the same donation, since a donation will have been made either to the MSP or to their local party. It may therefore be necessary to clarify with the donor what the donation was to be used for. If the donor intended the donation to be used by the constituency party, then it is the responsibility of the party to report the donation. However, if the donor intended the donation to be used specifically for the benefit of the MSP, then the MSP is responsible for reporting the donation, **even if the donation was made via the party.**

5.7 The reporting requirements for MSPs and parties are different, since donations to branches of political parties are regulated under Part IV of PERA rather than under Schedule 7. Political parties submit quarterly donation returns detailing donations of more than £7,500 that have been accepted by the party headquarters and donations of more than £1,500 that have been accepted by the party's accounting units. Regulated donees only need to report loans made in connection

with their political activities, whereas parties must report all loans received that are above the reporting threshold.

Example box 7

A party supporter gives £2,000 to the local party to help fund the refurbishment of the constituency office. This should be treated as a donation to the party and therefore reported by the local treasurer.

If a party supporter gives a donation of £1,700 specifically for the purpose of helping the AM to purchase equipment for his own office, this must be treated as a donation to the AM rather than to the party, so the AM must submit a donation report to the Commission.

Donations to the central party

5.8 In some circumstances, a holder of elective office who also holds a position in their party will need to determine whether a donation is being made to them as the holder of that elective office or as an office holder of that party. It may be the case, for example, that an individual AM or MSP benefits from a donation provided to a specified post in the party, and that if they moved to another post within the party, the person who succeeds them would receive the donation instead. In such circumstances, the donation should be treated as a donation to the party rather than the particular AM or MSP (Section 50(6)).

Example box 8

A supporter meets the cost of hiring and refitting a bus for the party leader to use in promoting the party. This should be treated as a donation to the party, since the intention is to assist the party leader in his role as leader of the party, rather than in his capacity as an MSP.

If, however, the party leader receives a donation from a constituent for the purpose of helping him to undertake his constituency duties, this should be treated as a donation to him as an MSP.

A group of MSPs who comprise a party's shadow health team receive assistance from an employee seconded to the shadow health team by a pharmaceuticals firm. The employee undertakes work only in connection with the MSPs' work on the shadow health team, and is based for part of the week in each MSP's office, depending upon the specific tasks arising from the team's work.

In this example, this is a donation to the party, rather than to each individual MSP in the team. The donation should be calculated by reference to the employer's business rates (i.e. if the employer is a consultancy firm, it should be calculated on the basis of the employer's normal charge-out rate; if not it should be based on their salary and allowances) for the duration of the time the employee works for the shadow health team.

Donation or loan to a candidate

5.9 Holders of elective office seeking re-election may receive donations or loans made specifically to assist them run their election campaigns. A donation or loan made to a person in this capacity should **not** be reported by the individual under Schedule 7 or 7A of PPERA. Instead, a donation or loan for the purpose of helping an individual to fight their campaign should be treated as a donation to them as a candidate.

5.10 'Elective office' in this case does not include internal party offices such as party leader. Donations and loans made to an individual to support their campaign for an internal party office must declare such donations or loans under Schedule 7 or 7A (see paragraph 5.14).

5.11 A donation or loan to a candidate is one made for the purpose of helping a candidate to meet their election expenses, after the point at which the person is legally regarded as a candidate (i.e. the date of dissolution of Parliament at UK Parliamentary or Scottish Parliamentary elections, or the last date for publication of notice of election at all other elections) (Section 71A, the RPA 1983).

5.12 Candidates at all elections (excluding parish or community elections) are required to give details in their election expenses returns of all donations **of more than £50** which are made to help them meet their election expenses.

5.13 At present, loans to candidates are not regulated, but the EAA gave the Government power to make such regulations. Further guidance to candidates on the reporting of loans will be available from the Commission when such regulations come into effect.

Example box 9

A constituent gives an AM a donation specifically to help her manage her re-election campaign. The purpose of the donation is to assist the candidate in purchasing election posters with her name on them.

The donation should therefore be treated as a donation to a candidate, since it was made and used by the individual in her capacity as a candidate, to meet her election expenses, rather than in connection with her activities as an AM. The donation must be reported in the election expenses return regardless of whether the AM is re-elected.

Determining whether a donation or loan is made to a member of a registered party

5.14 In some circumstances, an individual may receive a donation or loan in their capacity as a member of a registered party, rather than in their capacity as a holder of elective office, or on behalf of the party.

5.15 Controls on donations and loans apply to an individual who is a member of a registered party where, for example, they are promoting the selection of any individual as the party's candidate for an election or promoting the election of any person (including themselves) to any position or committee within the party.

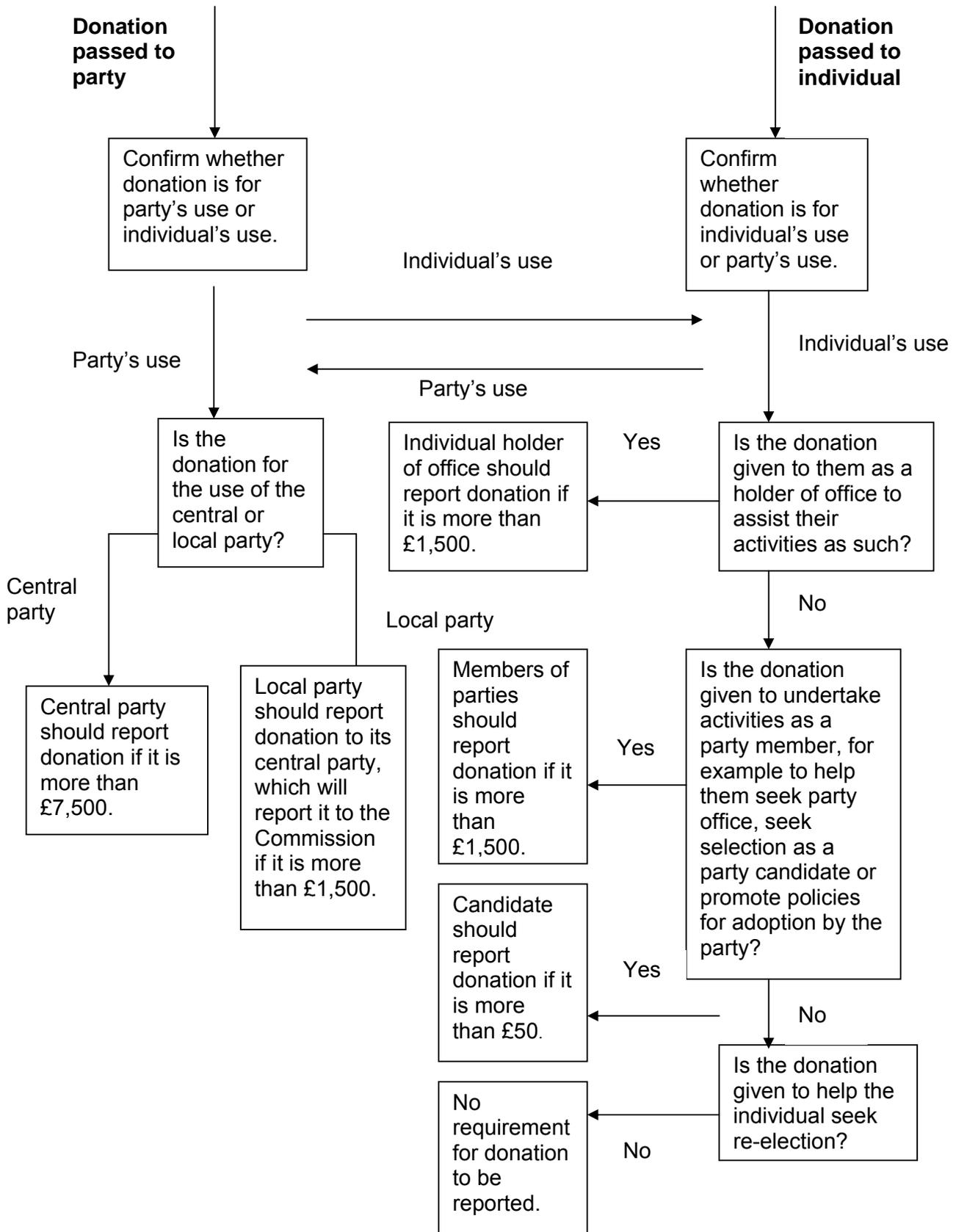
5.16 Members of registered parties are subject to the same reporting requirements as other individual regulated donees, i.e. all donations and loans of more than £1,500 should be reported to the Commission within 30 days of the date of acceptance of the donation or entry into the loan.

Example box 10

A sitting MSP is given a donation to help her fund a letter to be sent to members of her local party which outlines her case for re-selection as the party's candidate for the constituency. This should be treated as a donation to the MSP in her capacity as a member of the registered party rather than as an MSP, and this should be indicated on the relevant reporting form.

A party leader resigns in Wales and a leadership contest is held to elect a new leader. Each of the sitting AMs standing for leadership of the party receives donations from their supporters. These donations should be treated as donations to the AMs in their capacity as members of a registered party rather than in their capacity as AMs.

Figure 1: Clarifying to whom a donation is made



6 Dealing with donations and loans

6.1 For the purposes of reporting donations, it is important to be clear about the distinction between the date of receiving a donation (i.e. the date on which a regulated donee takes receipt of a donation) and the date of acceptance of a donation (i.e. the date on which the donee decides that they will keep the donation rather than return it).

6.2 For the purposes of a loan, a regulated donee should record the date they enter into the loan or arrangement. If the terms of the loan are changed at any time, the regulated donee should record the date the terms were changed.

Receiving a donation

6.3 On receipt of a donation, a regulated donee is required to deal with it in accordance with the requirements of the Political Parties, Elections and Referendums Act 2000 (PPERA).

6.4 A regulated donee receives a donation on the date on which they take actual possession of the donation. For example, where a donation is provided in cash, the date of the receipt is the date on which the cash is physically received by the donee.

6.5 Where a donation is transferred directly into a bank account, the date of receipt of the donation is the date on which the regulated donee is notified of the donation, for example the date of the next bank statement or when an online bank record is checked (Section 56(6)).

Verifying permissibility

6.6 On receipt of a donation, a regulated donee should decide whether or not there is any reason why the donation should be immediately refused, for example the donation is from an unidentifiable source. If the donation is not immediately returned, a donee has 30 days in which to decide whether or not to accept a donation. This 30-day period from the date of receipt should be used to ascertain whether the donor is permissible (Section 56).

6.7 A regulated donee should check whether the lender is permissible **before** entering into a loan. This includes checking the permissibility of anyone who provides a guarantee or security on behalf of the regulated donee to the lender.

6.8 In order to identify whether or not a donor or lender is permissible, regulated donees must confirm that the individual or organisation making the donation or loan is registered in the UK. Table 1 outlines the relevant legislation under which a donor or lender must be registered in order to be permissible.

Table 1: Checks on UK donors and lenders

Type of permissible donor/lender	Register/legislation/Order under which they must be registered to be permissible
Individual	Either a register of Parliamentary or local government electors maintained under the Representation of the People Act 1983 (RPA 1983); a register of relevant citizens of the EU under the European Parliamentary Elections Regulations 2004; or a register of peers maintained under Section 3 of the Representation of the People Act 1985 (RPA 1985).
Company	The Companies Act 1985 or the Companies (Northern Ireland) Order 1986; incorporated within the EU; and carry on business* in the UK.
Registered party	The Great Britain register of political parties maintained by the Electoral Commission under Part II of PPERA.
Trade union	The list maintained under the Trade Union and Labour Relations (Consolidation) Act 1992 or the Industrial Relations (Northern Ireland) Order 1992.
Building society	A building society within the meaning of the Building Societies Act 1986.
Limited Liability Partnership	The Limited Liability Partnerships Act 2000 (or equivalent Northern Ireland legislation) and carry on business in the UK.
Friendly society	The Friendly Societies Act 1974 or the Industrial and Provident Societies Act 1965 or the Provident Societies Act (Northern Ireland) 1969.
Unincorporated association	An association of two or more people which carries on business or other activities in the UK and whose main office is in the UK.

Note: * For further guidance on the interpretation of carrying on business, see paragraph 6.19.

Individuals

6.9 The Electoral Administration Act 2006 (EAA) introduced measures to allow individuals in Great Britain to have an anonymous entry on the register of electors. This means that their names and addresses will not appear on any version of the register. Individuals who are anonymously registered will be entitled to receive written confirmation of this from their local Electoral Registration Officer. Where a person is anonymously registered, the regulated donee should ask to see this written confirmation to confirm the person's permissibility as a donor or lender.

6.10 Even where a person is an anonymously registered elector, if they give a regulated donee a reportable donation or loan, their name will appear on the

Commission's public register. However, as is the case with all donations and loans from individuals, their address will not appear on the register.

Registered companies

6.11 The following paragraphs provide regulated donees with further guidance about determining the permissibility of donors or lenders that are registered companies.

Registration and incorporation

6.12 Establishing whether a company is registered under the Companies Act 1985 or the Companies (Northern Ireland) Order 1986 and whether it is incorporated within the UK or another EU member state is relatively straightforward.

6.13 Information held on registered companies can be found on the Companies House website: www.companieshouse.gov.uk. Information can also be verified by telephoning Companies House on 0870 333 3636.

6.14 A company is registered under the Companies Act 1985 if it appears on the Companies House register with the appropriate prefix to its registration number.

6.15 The regulated donee should obtain from a company its company registration number and official address and check these against the records at Companies House. A company registered in England and Wales should have a registration number consisting of eight numbers. A company registered in Scotland should have a registration number beginning with SC and consisting of a further six digits. A company registered in Northern Ireland should have a registration number beginning with NI and consisting of a further six digits. Other prefixes to company registration numbers and their meanings can be found in Appendix D, 'Company registration prefixes'.

6.16 The regulated donee should make sure that the name of the company given on the return matches the Companies House records exactly. If this is not the case, the donee should consult the company to resolve the discrepancy.

6.17 Regulated donees should note that the Isle of Man, the Channel Islands and Gibraltar¹¹ do not form part of the UK and that companies registered there are not permissible donors or lenders under PPERA.

6.18 A company is incorporated in the place where it is originally set up. An overseas company may be a permissible donor if it was incorporated in an EU state, provided it meets the other tests. These companies will have a registration number with a prefix of FC, SF or NF. In this case, the regulated donee should check whether the address or country name in the listing as the place of origin or overseas address is within the EU. For more details, see Appendix E, 'List of EU member countries'.

¹¹ But see Appendix C, 'Special rules about Gibraltar'.

Carrying on business

6.19 In order to be a permissible donor or lender, a company must also be carrying on business in the UK. The question of whether or not a company 'carries on business' is less straightforward to establish than the first two tests. PPERA donation controls are untested in court. Where regulated donees remain uncertain about the permissibility of a donation they are advised to seek their own legal advice or advice from the Commission **within the first 30 days** of receiving the donation. If they are uncertain about whether a lender is permissible, they should seek legal advice or contact the Commission **before** entering into the loan.

6.20 The Commission considers that regulated donees should bear in mind the following points:

- The term 'business' includes trades, professions and occupations. This includes all commercial activity such as the buying and selling of goods or the provision of services.
- The phrase does not require any element of profit: a charity¹² or non-profit making organisation may be 'carrying on business'.
- Although the phrase implies a continued series of transactions, a single transaction may constitute 'carrying on business' where it is intended that further transactions will follow. If it seems that a company might be in this position, a regulated donee might ask the company for evidence that it intends to continue carrying on business. This might include a business plan or contracts with suppliers.

6.21 Inevitably, some cases will be less clear-cut than others. For example, a new company starting up may have performed acts in preparation for trading. The question of whether preparatory acts such as leasing premises and hiring staff are 'carrying on business' when the entity itself has yet to enter into its first contract, take its first order, or buy stock has not been considered by the courts, to the best of the Commission's knowledge. On balance, based on the courts' approach to other case law on the meaning of the phrase in other contexts, it seems likely that a court would find such preparatory acts to be 'carrying on business', provided that there is a genuine intention to engage in business on an ongoing basis and those preparatory acts are necessary for that business to occur. Similar proofs to those mentioned in the above paragraph might be sought by a regulated donee to establish the intention of the company.

6.22 Registered companies file accounts with Companies House which are available on payment of a fee. The information in a company's accounts can provide an indication as to whether a company is carrying on business. This will, however, only confirm the company's status at the end of the previous financial year and will not necessarily constitute proof that the company was carrying on business at the time the donation was made. For a new company that has yet to file any accounts, the

¹² While there is nothing in PPERA that would make a charity an impermissible donor if it meets the other requirements, the Charity Commission (in England and Wales), Office of the Scottish Charity Regulator (in Scotland) or the Voluntary and Community Unit of the Department for Social Development (in Northern Ireland) may have other rules. Regulated donees offered donations from charities should inquire to see if the charity has cleared the donation with the relevant regulatory body.

regulated donee might obtain from the company a statement signed by a registered director of the company or the company secretary confirming that they are carrying on business. In cases where a regulated donee has any doubt about the status of the company, the Commission **strongly** suggests that they obtain a copy of one or both of these items **before** accepting the donation or entering into the loan.

6.23 Please note that the Companies House register indicates in the entry whether a company is dormant or in liquidation. While indication of such a status does not automatically mean that the company is not a permissible donor or lender, recipients are encouraged to be especially careful in making checks on companies whose active company status may be in question.

Accepting a donation

6.24 If a donation has not been returned after 30 days, the donation is deemed to have been accepted (Section 56). This means that regulated donees must complete their checks within the 30-day period, and if it cannot be established that the donor is permissible, the Commission recommends that the donee return the donation as though the donor were impermissible.

6.25 Having confirmed that the donation is from a permissible source, regulated donees should ensure that they record the relevant information about the donation (Section 56), to enable them to maintain accurate records of donations and submit a report to the Electoral Commission as necessary. The relevant information for each type of permissible donor is given in Chapter 7, 'Recording and reporting donations and loans'.

Returning a donation

6.26 Where a donation is received from an impermissible source, or if a regulated donee decides not to accept a donation, it should be returned to the donor or to any person acting on the donor's behalf (Section 56) within 30 days of receipt. Interest accruing to a donee from retaining the donation until it is returned does **not** need to be treated as a donation (Schedule 7, Paragraph 4(1)(d)).

6.27 Where a donation is received from an unidentifiable source, the regulated donee must return the donation to either:

- the person who transferred the donation to the donee, if identifiable
- the financial institution used to transfer the donation, if identifiable or
- in any other case, the Electoral Commission (which will transfer the donation to the Government's consolidated fund) (Section 57)

6.28 Where a donation is received from an impermissible or unidentifiable donor, the regulated donee must record details of the donation. Guidance on the information required is given in Chapter 7, 'Recording and reporting donations and loans'.

Donations from multiple donors

6.29 Where a donor makes a donation on behalf of themselves and one (or more) other donor(s), each individual contribution of more than £500 is treated as a separate donation from each person. For each separate donation, the principal donor must ensure that the regulated donee has the relevant information about the donor (see Chapter 7, 'Recording and reporting donations and loans') (Schedule 7, Paragraph 6(2)–(3)).

Donations from an agent of the donor

6.30 In some cases, an individual or organisation may act as an agent in facilitating a donation to a regulated donee, for example where a donor transfers a donation to an agent, who then transfers the donation to the donee. Where a person acts as an agent in making a donation, they must ensure that the donee is given all the relevant information as given in Chapter 7, 'Recording and reporting donations and loans' (Schedule 7, Paragraph 6(4)). Transferring a donation to an agent rather than directly to a regulated donee must not be used as an attempt to evade the controls on permissibility and transparency.

Small donations and loans

6.31 Gifts or loans of £500 or less are outside the scope of PPERA, and there is no requirement for regulated donees to check the identity of individuals or organisations making gifts or loans of this size. However, donees should be aware of circumstances in which it appears that a donor or lender may be attempting to evade the regulatory framework of PPERA, for example where six donations of £499 are received in similar circumstances from what appears to be the same source, or where an impermissible lender makes numerous loans of £490. In cases of doubt, regulated donees should contact the Commission, return the relevant donation or not accept the loan.

6.32 **Important:** It is an offence to attempt to evade the controls on donations and loans. Appendix B, 'Penalties' lists the offences that can be committed in relation to the donation and loan requirements in PPERA.

Loans from an impermissible lender

6.33 If a regulated donee enters into a loan with an impermissible lender, a criminal act has been committed and the transaction is void. Any money received by the donee as a result of the loan must be repaid. The donee may also have to pay interest to the lender at a rate set by the Secretary of State. It is also an offence not to repay a loan once it has been determined to be impermissible. Further information about criminal offences and penalties can be found in Appendix B, 'Penalties'.

6.34 It is thus important that a regulated donee checks the permissibility of a lender **before** entering into a loan, credit facility or guarantee arrangement.

6.35 If a regulated donee has received a loan from an individual or organisation that was a permissible lender at the time the loan was made but later, for whatever reason, is no longer an permissible lender, the transaction is void with effect from the time the lender ceased to be permissible, and the donee must repay any outstanding money to the impermissible lender.

7 Recording and reporting donations and loans

7.1 Regulated donees must report all the donations and loans they receive that are over the relevant reporting threshold within 30 days of accepting the donation or entering into the loan. Various rules on aggregation of donations and loans from the same source apply, including the aggregation of donations and loans together. Aggregated loans and donations are reported when the aggregation exceeds the reporting threshold.

Recording donations

7.2 Regulated donees are required to report details to the Electoral Commission of any of the following relevant donations:

- **members associations:** donations of more than £7,500 which are accepted from a permissible donor
- **individuals:** donations of more than £1,500 which are accepted from a permissible donor
- **all regulated donees:** donations of more than £500 which are received from an impermissible donor
- **all regulated donees:** donations of more than £500 which are received from an unidentifiable donor (Schedule 7, Paragraphs 10(1) and 11(1))

The reporting form to be used by regulated donees to report a donation to the Commission can be found on our website at www.electoralcommission.org.uk/guidance/those-we-regulate.

7.3 . In order to report the donations listed above, the following information must be provided to the Commission:

Permissible donations

7.4 Where a regulated donee accepts a donation of more than £500 from a permissible donor, they should record the following information (Schedule 7, Paragraph 10(3)–(4)):

- the amount or nature and value of the donation
- the full name of the donor
 - the registered address of the donor
 - in the case of individuals, the address at which the donor is registered to vote
 - in the case of a donation from a bequest, the address at which the donor was last registered to vote in the five years before their death
 - in the case of an individual who is anonymously registered, a statement to this effect
- where the donor is a company, the company registration number
- the date on which the donation was received
- the date on which the donation was accepted

7.5 Where the donation is from a trust, the following information should be recorded.

Pre-1999 exempt trusts:

- the amount or nature and value of the donation
- the date on which the trust was created
- the full name of the person who created the trust
- the full name of every person who transferred property to the trust before 27 July 1999
- the date on which the donation from the trust was received
- the date on which the donation was accepted

Permissible donor exempt trusts:

- the amount or nature and value of the donation
- the name and registered address of the permissible donor who created the trust and, in the case of a company, the registration number
- the name and registered address of all the permissible donors who have transferred property to the trust and, in the case of a company, the registration number
- the date on which the donation from the trust was received
- the date on which the donation was accepted

Overseas visit

7.6 Where the donation is made in relation to an overseas visit, the following information should be recorded:

- the amount or nature and value (or estimated value) of the donation
- the date(s) on which the visit took place
- the destination and purpose of the visit
- the full name and address of the donor

Impermissible donations

7.7 Where a regulated donee receives a donation of more than £500 from an impermissible source, they must record the following information (Schedule 7, Paragraph 11(3)):

- the amount or nature and value of the donation
- the name of the donor
- the address of the donor
- the date on which the donation was received
- the date on which the donation was returned
- the manner in which it was dealt with (i.e. the person or institution to whom it was returned)

Donations from unidentifiable sources

7.8 Where a regulated donee receives a donation of more than £500 from a donor who cannot be identified, they must record the following information (Schedule 7, Paragraph 11(4)):

- the amount or nature and value of the donation
- details of the manner in which the donation was made
- the date on which the donation was received
- the date on which the donation was returned
- the manner in which it was dealt with (i.e. the person or institution to whom it was returned)

Reporting donations

7.9 Relevant donations must be reported to the Commission within 30 days of the date on which the donation was accepted or returned (Schedule 7, Paragraphs 10(1) and 11(1)). See www.electoralcommission.org.uk/guidance/those-we-regulate.

7.10 **Important:** It is an offence not to submit a donation report within this time limit or to submit an incomplete or false report of donations. Appendix B, 'Penalties' lists the offences that can be committed in relation to the donation requirements in PPERA.

Aggregating donations¹³

7.11 All donations of more than £7,500 made to a members association or more than £1,500 made to an individual regulated donee must be reported to the Commission, whether they are made in a single sum or in aggregate (Schedule 7, Paragraph 10(2)(b)). It is therefore important that regulated donees correctly record details of all permissible donations of more than £500, in order that they can report aggregate donations of more than £7,500 (members associations) or £1,500 (individual regulated donees).

7.12 Aggregate donations should be reported within 30 days of the date of acceptance of the donation that caused the total donation level to exceed £7,500 or £1,500.

7.13 If a regulated donee has previously reported donations from a particular source, they must report any further donations from that source in the same calendar year of over £1,500. This applies even if the donations are made to a members association whose normal reporting threshold is £7,500.

¹³ See also paragraph 7.26 for aggregating donations and loans.

Example box 11

An individual member of a party stands in a party leadership contest. Prior to announcing her candidature, she receives a £600 donation from a supporter who wants to encourage her to stand. On entering the leadership campaign, she receives a further £1,000 donation from the same individual.

The party member should report details of a £1,600 donation within 30 days of the date of acceptance of the second donation.

Example box 12

A constituent makes a cash donation to an MSP in January, to enable him to purchase extra equipment for his office. The value of the donation is £650. The dates of receipt and acceptance of the donation are 14 and 21 January respectively.

In March, the same constituent provides the MSP with a new computer. The value of the computer is £900. The donation is received and accepted on 15 March.

In aggregate, the value of the donation from the constituent is £1,550. The date of receipt and acceptance of the donation is 15 March.

The donation should therefore be reported to the Commission within 30 days of the date of acceptance of the computer, i.e. by 14 April.

Example box 13

A members association promoting the adoption of environmentally friendly policies by a party receives a monthly direct debit from a supporter, beginning in January. The value of the direct debit is £950. The value of the donation should be reported in August, when the eighth direct debit payment causes the total donation to exceed the £7,500 threshold. The members association should report further donations in October and December, when the unreported portion of the donation exceeds £1,500.

Recording and reporting loans

7.14 Regulated donees are required to report details of any of the following relevant transactions:

- **members association:** any loan with a value of more than £7,500 where all participants in the loan are permissible lenders
- **individual:** any loan with a value of more than £1,500 where all participants in the loan are permissible lenders
- **all regulated donees:** any loan with a value of over £1,500 where a donation or loan has previously been reported from the same source and where all the participants in the transaction are permissible lenders
- **all regulated donees:** any loan of more than £500 entered into where one or more of the other participants in the transaction is an impermissible lender

7.15 Within 30 days, the regulated donee must report details for:

- new loans entered into
- loans whose terms have changed, including loans that have ended

7.16 Regulated donees should report a credit facility in the quarter in which it is set up. The reportable transaction is the **existence** of the facility, not when it is drawn down. The details of a credit facility need to be reported again only if the terms of the facility change or when it ends, not because it is used.

Example box 14

A members association gets a new a corporate charge card from its bank with a limit of £10,000. It intends to use this to pay for some items that are used in connection with its political activities. On a monthly basis, it charges £2,000 – £3,000 on the card. It pays the balance off in full at the end of each month.

The members association should report the charge card as a credit facility with a value of £10,000 within 30 days of getting the card from the bank. It should report all further details of the charge card as required in the return. It does not need to report the charge card again unless the reportable terms and conditions of the charge card change or the members association no longer has the card.

7.17 Additionally, within 60 days of these provisions coming into effect, regulated donees must report any existing loans. However, there will not be a requirement that all participants in these loans are authorised participants unless the terms of the loan change substantially.

Details to be reported

7.18 Where a regulated donee enters into a loan with a value of more than £500 with permissible lenders, they should record the following information (Schedule 7A, Paragraph 9):

- the name of all authorised participants in the loan
- the registered address of the authorised participant(s):
 - in the case of individuals, the address at which they are registered to vote
 - in the case of an individual who is anonymously registered, a statement to this effect
- where the authorised participant is a company, the company registration number
- the nature of the transaction (i.e. whether it is a loan, a credit facility or an arrangement where security has been given)
- the value of the benefit arising from the transaction (see paragraph 7.22)
- the date the transaction was entered into
- whether the transaction is reportable because of aggregation

7.19 In the case of a regulated transaction that is a loan or credit facility, the following details must be supplied in the report:

- the date the loan is to be repaid or the credit facility will end; or a statement that the loan or facility is indefinite; or if the date is to be determined by the agreement, how it will be determined
- the fixed rate of interest payable; or a statement that no interest is payable; or if the rate of interest is variable, how it will be determined
- a statement of whether the terms of the loan allow any interest payable to be added to the sum due
- whether any form of security is given in respect of the loan or credit facility

7.20 In the case of a connected transaction, the following details must be supplied in the transaction report:

- if the transaction is connected to a reported regulated transaction, details to identify the reported transaction, including the date it was reported; otherwise a description of the features of the other transaction must be given
- if the security includes rights over any property, the nature of that property
- if the person giving the security will receive anything from the regulated donee for providing the security, a description of what they will receive; or a statement that they will not receive anything

Changes to terms of loans

7.21 Where there is any change in a given quarter to any aspect of the reported terms of a previously reported loan or credit facility, the regulated donee must report on the changes within 30 days of the change taking effect. Enough information should be given to identify the transaction that has changed, and the changed terms should be reported. Full details of existing transactions need not be reported again (Schedule 7A, Paragraph 11).

The value of the benefit arising from the transaction

7.22 The value of the transaction should be calculated as set out in paragraph 3.14. Where a credit facility, security or guarantee has no upper limit, this should be indicated instead of giving a value. Note that the value of a transaction does not include a calculation to take account of any provision for interest to be added on to the outstanding capital on the loan, rather than being repaid.

Impermissible loans

7.23 Where a regulated donee enters into a loan or credit facility with an impermissible lender, it must record the following information in addition to the information that would be reported for transactions with permissible lenders (Schedule 7A, Paragraph 10):

- the date on which the transaction was dealt with
- the manner in which it was dealt with

Aggregation

7.24 All loans or credit facilities of more than £1,500 made to an individual or more than £7,500 made to a members association must be reported to the Commission, whether they are a single transaction or in aggregate over a calendar year (Schedule 7A, Paragraph 9(2)(b)). It is therefore important that regulated donees correctly record details of all loans with a value of more than £500 in order that they can report aggregate loans when the threshold is breached. Aggregate loans should be reported within 30 days of receiving the loan that causes them to exceed the reporting threshold.

7.25 If a regulated donee has previously reported loans from a particular source, they must report any further loans with a value of over £1,500 from that source in the same calendar year. This applies even if the loans are entered into by a members association whose normal reporting threshold is £7,500.

Aggregating donations and loans together

7.26 Regulated donees must report any loans and donations from a single source which together have a value above the reporting threshold, even if the loan or donation element would individually be beneath the reporting threshold. This is known as aggregation of 'controlled benefits'. The value of loans and donations from any given source should be aggregated and the loan **and** donation reported if the **combined** value exceeds the reporting threshold, even if the individual elements are both less than the reporting threshold. The donation should be reported in a donation return and the loan should be reported in a regulated transaction return.

8 Common types of donation

8.1 This section gives typical examples of donation that might be received by a regulated donee.

Provision of free office space

8.2 A common donation to a regulated donee is the provision of space for use as an office. The provision of office space without charge or at a discount should be treated as a non-cash donation to the regulated donee, and can only be accepted by the donee if it is from a permissible donor.

Example box 15

A party supporter allows a member of a registered party working on policy initiatives for the party rent-free use of an office which he owns and which would normally be let out at a rent of £600 per month. This constitutes a non-cash donation to the member of the registered party and should be reported to the Commission when the value of the donation exceeds £1,500.

If the member of the registered party knows that they will be given use of the office for a year, they could report to the Commission the full value of use of the office for the year in which he intends to occupy it, i.e. $12 \times £600 = £7,200$. This would be reported within 30 days of the date on which the donation is accepted (i.e. the date on which the member of the registered party moves into the office) (Schedule 7, Paragraph 5(5)). Alternatively, the member of the registered party could report the donation in the third month, when the value has exceeded £1,500, and again in the sixth, ninth and twelfth months of the calendar year.

If the member of a registered party does not know how long he will occupy the premises when he moves in, he should report to the Commission when the value of the lease exceeds £1,500, i.e. in the third month of the year. If he subsequently remains in the office for another three months, this should also be reported.

Staffing

8.3 Where an individual works for a regulated donee while their salary is paid by someone else, the value of the work is a donation to the regulated donee.

8.4 Holders of elective office are only required to report the provision of research or office assistance if the assistance has been provided to help them with their own duties.

8.5 There is no requirement for a regulated donee to report details of any work undertaken for them by an individual who volunteers and works for them free of charge and in their own time.

8.6 The value of this type of donation is determined by whether the services provided are of the type that the employer is in business to provide (such as IT services or consultancy work). Where this is the case, the value of the donation is the normal rate the employer would charge for the employee's services. In all other cases, the donation will be the amount of remuneration or other allowances paid to the employee by the employer during the period in which they work for the regulated donee (but not including any other contributions or payments for which the employer is liable, for example employer's National Insurance contribution, pension contributions, etc).

Example box 16

A public affairs firm seconded an employee to work as research assistant for a Member of the European Parliament (MEP) for six months. The secondment is undertaken in order to increase the employee's knowledge about the European Parliament and the work of MEPs.

During his secondment, the employee continues to be paid by the public affairs consultancy firm. The value of a standard consultancy fee charged by the firm for the services of this employee should therefore be treated as a donation to the MEP. The standard total consultancy fee for the six-month period would be £19,500. The MEP should therefore report the provision of a research assistant as a £19,500 non-cash donation.

Example box 17

An educational services company seconded one of its employees to a members association whose focus is the education policy of their party. The employee works as a policy advisor for the association.

The policy advisor is paid £18,500 per year by the company. This should be treated as a non-cash donation to the members association.

Overseas visits

8.7 As explained in paragraph 4.13, a donation to meet the cost of an overseas visit made in connection with the political activities of an individual regulated donee or a member or officer of a members association should be treated as a donation from a permissible source, regardless of who makes the donation.

Example box 18

An officer of a members association that works to improve relations and increase links between Arab states and her party travels to a number of Arab countries to meet political leaders. The cost of the trip is met by a Kuwaiti-based non-governmental organisation.

Return flights cost £680 and accommodation costs £920. A total of £1,600 should be treated as a non-cash donation to the members association. As the value of the donation is under £7,500 and is made to the members association as opposed to an individual regulated donee, this donation does not need to be reported to the Commission.

Example box 19

A Member of the Scottish Parliament (MSP) with an interest in international development undertakes three visits as the guest of an overseas aid organisation. The visits take place in January, March and November. One of the visits is a two-day trip to Brussels to meet officials in the European Parliament. The second visit is a two-day trip to Germany to attend a conference about international aid. The third is a five-day trip to Mozambique.

The aggregate value of the trips exceeds £3,500, and should be reported to the Commission. The report should give details of the visits undertaken, including dates, destinations and purpose.

Hospitality

8.8 Hospitality provided to a regulated donee constitutes a gift under the terms of PPERA where it is provided and accepted in connection with their political activities. In many circumstances, hospitality provided in connection with a regulated donee's political activities may not need to be treated as a donation, since it may fall under the £500 donation threshold.

Example box 20

A councillor visits a factory in her borough and is provided with a free lunch. There is no requirement to treat this as a donation unless the value of the lunch exceeds £500. If the councillor is provided with transport to the factory, this should also be included in the calculation of the value of the donation.

A company that believes their business will be damaged if the UK joins the euro holds a dinner for a members association known to be against the euro. The total cost of the dinner and transport provided to members of the members association to get to and from the dinner exceeds £7,500 and should be reported to the Commission by the members association as a non-cash donation.

Appendix A – Glossary

Authorised participant

A person who takes part in a **regulated transaction** and who would be a **permissible donor** under the terms of Section 54.

Combined region

The South West region of England and Gibraltar at European Parliamentary elections.

Connected transaction

An arrangement where a person gives any form of security on behalf of a **regulated donee** in respect of a loan or **credit facility** arranged with someone other than the donee and the person giving security.

Controlled benefit

Either a **donation** accepted by a regulated donee or a **regulated transaction** entered into by the donee. The concept of relevant benefits allows the value of loans and donations to be aggregated so that they are reportable if the aggregate relevant benefit exceeds the reporting threshold, even if neither element of relevant benefit individually exceeds the threshold.

Credit facility

An agreement where a **regulated donee** is entitled to receive a loan of money from time to time from someone else. The credit facility will generally have an upper limit specified in the credit facility agreement. Examples of common credit facilities include overdrafts and credit cards.

Donation

Any gift of more than £500 made to a **regulated donee** in connection with their **political activities**.

Gibraltar register

The register of European Parliamentary electors in Gibraltar.

Gibraltarian building society

A building society within the meaning of the Banking (Extension to Building Societies) Ordinance 1997.

Gibraltarian company

A company registered under the Companies Ordinance and incorporated within Gibraltar, the UK or another EU member state, which carries on business in Gibraltar.

Gibraltarian elector

An individual who:

- (a) is registered in the **Gibraltar register**, or
- (b) if the first version of the Gibraltar register has not been published,

- i. who is registered in the register of electors for House of Assembly elections, or
- ii. who is resident in Gibraltar, aged 16 or over and is a Commonwealth citizen or a citizen of the EU (other than a Commonwealth citizen).

Gibraltar limited liability partnership

A limited liability partnership registered under the Limited Partnerships Ordinance which carries on business in Gibraltar.

Gibraltar party

A party established in Gibraltar 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.

Gibraltar trade union

A trade union within the meaning of the Trade Union and Trade Disputes Ordinance 1997.

Gibraltar unincorporated association

Any unincorporated association of two or more persons which does not fall within any other permissible category but which carries on business or other activities wholly or mainly in Gibraltar and whose main office is there.

Great Britain registered party

A party registered under Part II of the PPERA 2000 on the register of Great Britain political parties maintained by the Commission.

Holders of relevant elective office

Any individual elected in the UK to any of the following bodies:

- the House of Commons
- the European Parliament
- the Scottish Parliament
- the National Assembly for Wales
- the Northern Ireland Assembly
- any local authority in the UK (excluding parish and community councils)
- the Mayor of London or any other elected mayor
- the Greater London Authority

Individual in an electoral register

An individual registered in the register of parliamentary or local government electors (Section 9 of the RPA 1983); the register of relevant citizens of the EU (under Part III of the European Parliamentary Elections Regulations 2004); or a register of peers (regulations under Section 3 of the RPA 1985).

Members association

Any organisation whose membership consists wholly or mainly of members of a registered party (other than a registered party, the central organisation of a registered party, or an accounting unit of such a party).

Overseas visit

A visit undertaken by an individual **regulated donee**, member or officer of a **members association** to a country or territory outside the UK in connection with any of their **political activities**.

Permissible donor

An individual or organisation from which a **regulated donee** can accept a **donation** of more than £500. These are:

- an individual registered in a UK electoral register (including bequests)
- a UK registered company that is incorporated within the EU and carries on business in the UK
- a Great Britain registered political party
- a UK registered trade union
- a UK registered building society
- a UK registered limited liability partnership that carries on business in the UK
- a UK registered friendly society
- a UK based unincorporated association that carries on business or other activities in the UK and whose main office is there

Political activities

In the Commission's view, a **holder of relevant elective office's** political activities include all the activities that they undertake as a politician, including their council/Assembly/Parliamentary/governmental activities (e.g. constituency work) as well as their party political activities (e.g. any activities they undertake as a representative of their party inside or outside the institution to which they were elected).

Qualifying costs

A payment from any source shall be treated as a payment from a permissible donor if it is made to meet 'qualifying costs' incurred in connection with an **overseas visit** undertaken by a **regulated donee** in connection with their **political activities**. These are the costs of travelling to and around the country in question and the costs of accommodation and subsistence while in the country.

Regulated donees

The organisations and individuals regulated by **Schedules 7 and 7A** of PPERA. These are:

- members of registered parties
- **members associations**
- holders of relevant elective office

Regulated transaction

A loan, **credit facility** or **connected transaction** between a **regulated donee** and one or more other individuals or organisations with a value of over £500.

Schedule 7 of PPERA

The schedule outlining the controls on donations applicable to **regulated donees**.

Schedule 7A of PPERA

The schedule outlining the controls on loans applicable to **regulated donees**.

UK registered building society

A building society within the meaning of the Building Societies Act 1986.

UK registered company

A company registered under the Companies Act 1985 or Companies (Northern Ireland) Order 1986 which is incorporated within the UK or another EU member state, and which carries on business in the UK.

UK registered friendly society

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.

UK registered limited liability partnership

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 UK.

UK registered trade union

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.

UK unincorporated association

Any unincorporated association of two or more persons which does not fall within any other category of permissible donor but which carries on business or other activities wholly or mainly in the UK and whose main office is there.

Appendix B – Penalties

The Political Parties and Elections Act 2010 provides the Commission with new powers and sanctions which came into effect on 1 December 2010. These civil sanctions apply to most breaches of the Political Parties, Elections and Referendums Act 2000 (PPERA) and can be used in relation to breaches committed after 1 December 2010.

Enforcement Policy

You can read our Enforcement Policy which contains details of the sanctions now available and how we use them on our website below.

http://www.electoralcommission.org.uk/_data/assets/pdf_file/0003/106743/Enforcement-Policy.pdf

Table of sanctions

You can view a table detailing the offences and contraventions in PPERA with related civil sanctions by clicking the link below.

http://www.electoralcommission.org.uk/_data/assets/pdf_file/0006/106737/Table-of-offences-and-sanctions.pdf

Sanctions available for breaches pre-December 2010

You can view the sanctions available in relation to offences occurring before 1 December by clicking the link below.

http://www.electoralcommission.org.uk/_data/assets/pdf_file/0005/106754/Sanctions-until-30-November-2010.pdf

Our website

More information on our role as a regulator of party and election finance and our enforcement work can be found on our website below.

<http://www.electoralcommission.org.uk/party-finance/enforcement>

Appendix C – Special rules about Gibraltar

Donations from Gibraltar

The European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004 amended PPERA in respect of donations from Gibraltar. This allows certain regulated donees to accept donations from permissible Gibraltar donors ('Gibraltar donations'). These are:

- MEPs elected to the European Parliament to represent the combined region
- members associations whose membership consists wholly or mainly of members of a registered party that is a Gibraltar party (and whose entry in the register of parties includes a statement that it intends to contest one or more elections to the European Parliament in the combined region)
- members of a registered party that is a Gibraltar party (and whose entry in the register of parties includes a statement that it intends to contest one or more elections to the European Parliament in the combined region)

Example box C1

A Member of the European Parliament (MEP) representing the combined region at the European Parliament receives Gibraltar donations of £2,000 in connection with his political activities as an MEP. The MEP is entitled to accept the donations.

A members association linked to a Gibraltar party that has made a statement of intent to contest the combined region receives Gibraltar donations of £10,000. The members association is entitled to accept the donations.

Another members association linked to a registered party based in the UK also receives Gibraltar donations of £10,000. The members association is not entitled to accept the donations and must return them.

There is not currently provision for any regulated donees to accept loans from Gibraltar donors.

Permissible Gibraltar donors

The following individuals and organisations are regarded as permissible Gibraltar donors:

- a Gibraltar elector (including donations from bequests)
- a Gibraltar company
- a Gibraltar party which has made a statement that it intends to contest European Parliament elections in the combined region
- a Gibraltar trade union
- a Gibraltar building society

- a Gibraltarian limited liability partnership
- a Gibraltarian unincorporated association

Exempt Gibraltar trusts

In addition, donations from exempt Gibraltar trusts are permissible if they are received by a regulated donee who is able to accept Gibraltar donations (see paragraph 4.17). Exempt Gibraltar trusts are trusts that were created by a permissible Gibraltarian donor, and to which no property has been transferred other than from a permissible Gibraltarian donor.

Checking the permissibility of donors

A regulated donee must confirm that any donations from Gibraltar sources are from permissible Gibraltarian donors. Table C1 outlines the relevant legislation or ordinance under which a donor must be registered in order to be permissible.

Table C1: Checks on Gibraltar donors

Type of permissible Gibraltarian donor	Register/ordinance under which they must be registered to be a permissible donor
Gibraltar elector	An individual who is: <ul style="list-style-type: none"> (a) registered in the Gibraltar register; (b) if the first version of the Gibraltar register has not been published, who is <ul style="list-style-type: none"> (i) registered in the register of electors used for House of Assembly elections, or (ii) who is resident in Gibraltar, aged 16 or over and is a Commonwealth citizen or citizen of the EU (other than a Commonwealth citizen)
Company	The Companies Ordinance; and incorporated with Gibraltar, the UK or another EU member state; and carry on business* in Gibraltar
Registered party	A Gibraltar party which has made a statement that it intends to contest one or more election to the European Parliament in the combined region
Trade union	The Trade Union and Trade Disputes Ordinance
Building society	The meaning of the Banking (Extension to Building Societies) Ordinance 1997
Limited liability partnership	The Limited Liabilities Ordinance and carry on business* in Gibraltar
Unincorporated association	Must be an association of two or more people which carries on business* in Gibraltar and whose main office is there

Note: * More information on the meaning of carrying on business can be found in paragraph 6.19.

Appendix D – Company registration prefixes

Prefix	Type of company	Donor status
No letters	Company registered in England and Wales under Part I of the Companies Act 1985	Permissible if carrying on business in the UK
AC	Assurance company	Impermissible
FC	Overseas company	Permissible if incorporated in an EU state and carrying on business in the UK
GE	European Economic Interest Grouping	Impermissible
GN	European Economic Interest Grouping (Northern Ireland)	Impermissible
GS	European Economic Interest Grouping (Scotland)	Impermissible
IC In	Investment Companies with Variable Capital	Impermissible
IP	Industrial and Provident Societies	Potentially permissible under Section 54(2)(g)
LP	Limited partnership	Impermissible
NA	Assurance company (Northern Ireland)	Impermissible
NF	Overseas company (Northern Ireland)	Permissible if incorporated in an EU state and carrying on business in the UK
NI	Company registered in Northern Ireland under Part I of the Companies Act 1985	Permissible if carrying on business in the UK
NL	Limited partnership (Northern Ireland)	Impermissible
NO	Other company (Northern Ireland)	Impermissible
NP	Industrial and Provident Societies (Northern Ireland)	Potentially permissible under Section 54(2)(g)
NR	Incorporated by Royal Charter or letters patent (Northern Ireland)	Impermissible
NZ	Companies incorporated under other than Companies Acts (Northern Ireland)	Impermissible
OC	Other company	Impermissible (unless OC3)
OC3	Limited Liability Partnership	Potentially permissible under Section 54(2)(f) if carrying on business in the UK
RC	Incorporated by Royal Charter or letters patent	Impermissible
SA	Assurance company (Scotland)	Impermissible
SC	Company registered in Scotland under Part I of the Companies Act 1985	Permissible if carrying on business in the UK
SF	Overseas company (Scotland)	Permissible if incorporated in an EU state and carrying on business in the UK
SI In	Investment Companies with Variable Capital (Scotland)	Impermissible
SL L	Limited partnership (Scotland)	Impermissible

Prefix	Type of company	Donor status
SO	Other company (Scotland)	Impermissible (unless SO3)
SO3	Limited Liability Partnership (Scotland)	Potentially permissible under Section 54(2)(f) if carrying on business in the UK
SP	Industrial and Provident Societies (Scotland)	Potentially permissible under Section 54(2)(g)
SR	Incorporated by Royal Charter or letters patent (Scotland)	Impermissible
SZ	Companies incorporated under other than Companies Acts (Scotland)	Impermissible
ZC	Companies incorporated under other than Companies Acts	Impermissible

Source: Companies House, *The DVD-ROM Directory* (2006).

Appendix E – List of EU member countries

The following countries were EU member states as at 31 December 2009:

Austria
Belgium
Bulgaria
Cyprus
Czech Republic
Denmark
Estonia
Finland
France
Germany
Greece
Hungary
Ireland
Italy
Latvia
Lithuania
Luxembourg
Malta
Netherlands
Poland
Portugal
Romania
Slovakia
Slovenia
Spain
Sweden
UK