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**Changes to legislation:** There are currently no known outstanding effects for the Scottish Independence Referendum Act 2013, Cross Heading: Retention of documents delivered under paragraph 4. (See end of Document for details)

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## SCHEDULE 5

### CAMPAIGN RULES: INVESTIGATORY POWERS OF THE ELECTORAL COMMISSION

#### *Retention of documents delivered under paragraph 4*

- 6 (1) The Electoral Commission may retain any documents delivered to them in compliance with an order under paragraph 4 for a period of 3 months (or for longer if any of sub-paragraphs (3) to (8) applies).
- (2) In this paragraph, “the documents” and “the 3 month period” mean the documents and the period mentioned in sub-paragraph (1).
- (3) If within the 3 month period proceedings to which the documents are relevant are commenced against any person for any criminal offence, the documents may be retained until the conclusion of the proceedings.
- (4) If within the 3 month period the Commission serve a notice under paragraph 2(1) of schedule 6 of a proposal to impose a fixed monetary penalty on any person and the documents are relevant to the decision to serve the notice, the documents may be retained—
- (a) until liability for the penalty is discharged as mentioned in paragraph 2(2) of that schedule (if it is),
  - (b) until the Commission decide not to impose a fixed monetary penalty (if that is what they decide),
  - (c) until the end of the period given by sub-paragraph (6) (if they do impose a fixed monetary penalty).
- (5) If within the 3 month period the Commission serve a notice under paragraph 7(1) of schedule 6 of a proposal to impose a discretionary requirement on any person and the documents are relevant to the decision to serve the notice, the documents may be retained—
- (a) until the Commission decide not to impose a discretionary requirement (if that is what they decide),
  - (b) until the end of the period given by sub-paragraph (6) (if they do impose a discretionary requirement).
- (6) If within the 3 month period—
- (a) a notice is served imposing a fixed monetary penalty on any person under paragraph 2(4) of schedule 6 and the documents are relevant to the decision to impose the penalty, or
  - (b) a notice is served imposing a discretionary requirement on any person under paragraph 7(5) of that schedule and the documents are relevant to the decision to impose the requirement,
- the documents may be retained until the end of the period allowed for bringing an appeal against that decision or (if an appeal is brought) until the conclusion of proceedings on the appeal.
- (7) If within the 3 month period—
- (a) a stop notice is served on any person under paragraph 13 of schedule 6, and
  - (b) the documents are relevant to the decision to serve the notice,
- the documents may be retained until the end of the period allowed for bringing an appeal against that decision or (if an appeal is brought) until the conclusion of proceedings on the appeal.

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- (8) If within the 3 month period or the period given by sub-paragraph (7) (or, if applicable, by sub-paragraph (5) or (6)(b))—
- (a) the Commission, having served a stop notice on any person under paragraph 13 of schedule 6, decide not to issue a completion certificate under paragraph 15 of that schedule in relation to the stop notice, and
  - (b) the documents are relevant to the decision not to issue the certificate,
- the documents may be retained until the end of the period allowed for bringing an appeal against that decision or (if an appeal is brought) until the conclusion of proceedings on the appeal.

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