

Guidelines for Political Parties

Steps to be taken concerning donations and prohibited donations.



Coimisiún um Chaighdeán in Oifigí Poiblí
Standards in Public Office Commission

January 2013

Contact Details:

Standards in Public Office Commission

Telephone: 01 6395666

Email: sipo@sipo.gov.ie

Website: www.sipo.gov.ie

Contents

1	Introduction	4
	Useful information	5
2	Definitions.....	6
	a) Person	6
	b) Corporate Donor	6
	c) Political Party	6
	d) Subsidiary organisation or sub-unit of a political party.....	6
	e) Political purposes	7
	f) Accounting unit.....	7
	g) Responsible person.....	7
	h) Appropriate officer	7
	i) Financial Institution.....	8
	j) Donation by an Intermediary.....	8
3	Donations.....	9
4	Loans to political parties.....	12
5	Prohibited donations	13
	a) Anonymous donations in excess of €100.....	13
	b) Cash donations in excess of €200	13
	c) Donations by non-registered corporate donor in excess of €200	13
	d) Donations in excess of the maximum prescribed limit of €2,500.....	14
	e) Foreign donations	14
	f) Donations from donors who themselves are required to furnish a Donation Statement to the Standards Commission and who do not intend to do so.....	15
6	Procedures for aggregating donations	16
7	Political Donations Accounts	18
8	Donation Statements.....	20
9	Inspection of documents furnished to the Standards Commission	22
10	Report to the Chairman of the Dáil	22
11	Notification to the Minister for Public Expenditure and Reform	22
12	Offences and penalties	23
	Appendix	24
	Fund-raising events - Determining the net value of a contribution to a fund-raising event.....	24

1 Introduction

These guidelines have been published by the Standards in Public Office Commission (the Standards Commission) under section 4(6)(a) of the Electoral Act 1997 as amended (referred to hereafter as "the Act"). The purpose of these guidelines is to ensure that both the appropriate officers of political parties and the responsible persons of accounting units of political parties are informed of the steps they are required to take in relation to disclosure and, where necessary, refusal or remittance of donations. The guidelines also deal with the opening of political donations accounts. These guidelines replace previous guidelines published by the Standards Commission on this subject in December 2006.

The Standards Commission is required under section 4(6)(b) of the Act to provide advice on compliance to persons who are covered by the provisions of the Act. Advice may be sought from the Standards Commission concerning any provision of the legislation or the application of such provision in any particular circumstance. If a person is in any doubt about any aspect of the legislation, he/she should contact the Standards Commission. Advice is given either in writing, including by e-mail, or by responding to telephone enquiries. The Standards Commission recommends that advice should be sought immediately if a matter arises about which there is uncertainty. By doing so, it is less likely that the issue will cause a difficulty later.

A person must act in accordance with guidelines or advice published or given by the Standards Commission unless, by so doing, they would be contravening another provision of the Act.

It should be noted that the Standards Commission is entitled to make such enquiries as it considers appropriate and may require any person to furnish any information, document or thing in the possession or procurement of the person which the Standards Commission may require for the purpose of its duties under the legislation.

The Act has been amended a number of times. The most significant amendments were contained in the 1998 and 2001 Electoral (Amendment) Acts, along with the Electoral (Amendment) (Political Funding) Act 2012. In these guidelines a reference to a section of the Act should be read as including any amendment(s) to that section.

The Standards Commission recommends that the appropriate officer of each political party and the responsible person of each accounting unit of a political party should read the guidelines in full and bring their contents to the attention of any other officer, member, employee or volunteer of the party who may have functions relating to donations and who should, therefore, be aware of the legal requirements.

Useful information

Value of donation	Net Valuation of donation (from fundraising events, etc.) determines disclosability. Section 22(2)(vi) & Section 46(2)(a)(vi)
€100	An anonymous donation exceeding this amount cannot be accepted in any calendar year. Section 23(1) & Section 47(1)
€100	On receipt of a donation of this value, a political donations account must be opened by a TD, Senator, MEP, candidate at a Dáil, Seanad or European election, Presidential candidate/election agent, political party, sub-unit of a political party (e.g. branches, accounting units, cumann, a Comhairle Dáil Ceantair or any other sub-unit), or a third party (if one has not already been opened). Section 23B(1) & Section 48B(1)
€200	Maximum cash donation that may be accepted by a TD, Senator, MEP, candidate at a Dáil, Seanad or European election, Presidential candidate/election agent, political party, sub-unit of a political party, or a third party in any calendar year from a donor. Section 23A(1)(iii) & Section 48A(1)(iii)
€200	Maximum donation that may be accepted by a TD, Senator, MEP, candidate at a Dáil, Seanad or European election, Presidential candidate/election agent, political party, sub-unit of a political party, or third party in any calendar year from a corporate donor <u>unless</u> the corporate donor is registered in the Register of Corporate Donors maintained by the Commission <u>and</u> a statement, on behalf of the corporate donor confirming that the making of the donation was approved by the corporate donor, is furnished with the donation to the donee. Section 23AA(1)(i) & (ii) and Section 48AA(1)(i) & (ii)
€200	Maximum aggregate donation that a company, trade union, society or building society can give before reporting it in annual returns made under the Companies Act 1963, or to the Registrar of Friendly Societies or the report of a building society (under the Building Societies Act 1989). Section 26
€600	All donations received by a TD, Senator, MEP, candidate at a Dáil, Seanad or European election, or Presidential candidate/election agent exceeding this amount must be disclosed on the Donation Statement. Section 24(4) & Section 48(1)
€1,000	Maximum donation that may be accepted by a TD, Senator, MEP, candidate at a Dáil, Seanad or European election, or Presidential candidate/election agent from an individual or a registered corporate donor in any calendar year. Section 23A(1)(i) & Section 48A(1)(i)
€1,500	All donations received by a political party exceeding this amount must be disclosed on the Donation Statement. Section 24(4)
€1,500	Reporting threshold/maximum aggregate amount in any calendar year that a donor can give to multiple candidates of the same party or to the party itself before the donor is required to submit a donation statement. Section 24(1A)(a)
€2,500	Maximum donation that may be accepted by a political party, sub-unit of a political party, or a third party from an individual or a registered corporate donor in any calendar year. Section 23A(1)(ii) & Section 48A(1)(ii)

2 Definitions

The following is a selection of definitions from the legislation which are necessary for understanding the guidelines. A definition of what constitutes a donation is not included in this section of the guidelines. Part 3 of the guidelines sets out what are and are not donations to a political party.

a) Person

A person is defined as including:

- an individual;
- a body corporate and any subsidiary thereof, e.g. a public or private company (a subsidiary of a body corporate is as defined under section 155 of the Companies Act); or
- an unincorporated body of persons, e.g. a political party, a sub-unit of a political party, a partnership, a residents association, a lobby group, etc.

b) Corporate Donor

A corporate donor is defined as including:

- a body corporate;
- an unincorporated body of persons; or
- a trust

which makes a donation. A body corporate and any subsidiary thereof are deemed to be one person.

c) Political Party

For the purposes of these guidelines a political party means a party registered in the Register of Political Parties (in accordance with section 25 of the Electoral Act 1992) as a party organised to contest a Dáil or European election or both such elections. A "qualified" political party (as referred to in part 11 of these guidelines) is a political party which qualifies for Exchequer funding under the Act on the basis that its candidates received not less than 2% of the total first preference votes obtained by all candidates at the most recent Dáil general election.

d) Subsidiary organisation or sub-unit of a political party

A subsidiary organisation or sub-unit of a political party means a body or association which either:

- forms part of such political party, or
- is established by or under the constitution of the political party, or
- is effectively controlled by the political party or the officers thereof, or
- has functions conferred on it by or under the constitution of the party.

This includes an accounting unit, a branch, a Cumann, a Comhairle Dáil Ceantair or any other sub-unit or part etc., of the party, even though they may have separate functions under the Act.

e) Political purposes

Political purposes means:

1. to promote or oppose, directly or indirectly, the interests of a political party, a political group, a member of either House of the Oireachtas or a representative in the European Parliament, or
2. to present, directly or indirectly, the policies or a particular policy of a political party, a political group, a member of either House of the Oireachtas, a representative in the European Parliament or a third party, or
3. to present, directly or indirectly, the comments of a political party, a political group, a member of either House of the Oireachtas, a representative in the European Parliament or a third party with regard to the policy or policies of another political party, political group, member of either House of the Oireachtas, representative in the European Parliament, third party or candidate at an election or referendum or otherwise, or
4. to promote or oppose, directly or indirectly, the interests of a third party in connection with the conduct or management of any campaign conducted with a view to promoting or procuring a particular outcome in relation to a policy or policies or functions of the Government or any public authority, or
5. to promote or oppose, directly or indirectly, the election of a candidate at a Dáil, Seanad, Presidential or European election or to solicit votes for or against a candidate or to present the policies or a particular policy of a candidate or the views of a candidate on any matter connected with the election or the comments of a candidate with regard to the policy or policies of a political party or a political group or of another candidate at the election or otherwise, or
6. otherwise to seek to influence the outcome of an election, referendum or campaign.

f) Accounting unit

An accounting unit, in relation to a political party, means a branch or other subsidiary organisation or sub-unit of the party, which in any particular year receives a donation the value of which exceeds €100. Party headquarters is also regarded as an accounting unit.

g) Responsible person

A responsible person, in relation to an accounting unit, means the treasurer or any other person responsible for dealing with donations to the unit.

h) Appropriate officer

A political party is required to appoint an appropriate officer for the purpose of furnishing the party's annual Donation Statement to the Standards Commission and for other matters arising under the Act. Each party must notify the Standards Commission, and the Minister for Finance, of the name and address of the person appointed as its appropriate officer and must give similar notice if there is any change in the appointment. If, at any time, no appointment of an appropriate officer is made, the leader of the party will be deemed to have been appointed as the appropriate officer.

i) Financial Institution

In relation to a political donations account a "Financial Institution" means:

- the holder of a licence under section 9 of the Central Bank Act 1971;
- a building society;
- a trustee savings bank;
- ACC Bank plc;
- An Post;
- a person authorised in accordance with the European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992 (S.I. No. 395 of 1992) to carry on a business in the State.

NOTE: A credit union is not an institution for the purposes of the legislation.

j) Donation by an Intermediary

A donation by an Intermediary must be accompanied by:

- a notification that the donation is made on behalf of a person other than the person making the donation, and
- the name, description and postal address of the person on whose behalf the donation is made.

3 Donations

A donation to a political party means any contribution given for political purposes by any person, whether or not the person is a member of a political party, and includes all or any of the following, namely:

1. a donation of money;
2. a donation of property or goods;
3. the free use of property or goods (i.e. conferring the right to use, without payment or other consideration, indefinitely or for a specified period of time, any property or goods);
4. a free supply of services (i.e. the supply of services without payment or other consideration therefor);
5. the difference between the usual commercial price and the (lower) price charged for the purchase, acquisition or use of property or goods, or the supply of any service, where the price, fee or other consideration is less than the usual commercial price (this can include a loan provided to a political party by a financial institution or by a third party at terms and conditions which are more favourable than that provided by the financial institution to other individuals. Details of the Standards Commission's position with regard to the issuing and repayment of loans are set out in part 4 of these guidelines);
6. a contribution made by a person to a fund-raising event organised for the purpose of raising funds for a political party. The donation is that proportion of the contribution which is attributable to the net profit, if any, deriving from the event. Donations are deemed to have been received on the date of the actual fund-raiser (and not when the funds are actually received). The position with regard to fund-raising events is explained in greater detail in the Appendix to these guidelines.
7. a payment by a person on their own behalf, or on behalf of one or more than one other person, of a fee or subscription for membership or continued membership of a political party (membership fees include any membership fee/levy/subscription paid to any sub unit of a political party);
8. a notional donation/donation in kind. This means that where a person/organisation pays for work/ expenses from its own resources (i.e. not party funds) then this is considered a donation of the notional value/cost of the work/expenses to the donee.

Donations in kind or notional donations are to be valued at the usual commercial price charged for the purchase, use or acquisition of the property or goods or the supply of the services donated. See Part 3.5 above.

Donations exceeding €1,500 in value received from the same person in the same calendar year must be disclosed in the party's annual Donation Statement (see Part 8 for further details). A political party may not accept a donation from the same person in the same calendar year which exceeds €2,500 in value (see Part 5 for further details).

When considering what constitutes a donation to a political party the following matters are also relevant:

- a) donation made to a political party, whether made directly or through an intermediary, is deemed to be a donation to the party if it is made to party headquarters or to any branch or subsidiary of the party or if it is made to any officer, member or agent of the party or of any branch or subsidiary thereof.
- b) Where a person makes more than one donation to the same political party in the same calendar year, the values of the donations must be aggregated and the donations treated as a single donation. Part 6 sets out the steps which the appropriate officer of a political party must take in order to comply with the requirement to aggregate donations.
- c) The Act provides that a donation made to a TD, Senator or MEP of a political party or to a candidate of a political party at a Dáil, Seanad or European election is deemed to be a donation made to the party, if the donation is passed on to the party by the recipient and he/she receives a written acknowledgement of the donation from the party.
- d) The Act also provides that where a donation is made to a candidate of the party at a local election or to a member of the party who is a member of a local authority the donation is deemed to be a donation to the party. This provision was introduced by the 1998 Electoral (Amendment) Act. It has not been amended, however, to take account of the fact that candidates at local elections and members of local authorities have their own disclosure requirements under the Local Elections (Disclosure of Donations and Expenditure) Act 1999, as amended. The Standards Commission will only regard a donation made to a candidate at a local election or a member of a local authority as having been made to a political party if the candidate or member concerned has passed the donation to the party and has received a written acknowledgement from the party that it has accepted the donation. Political parties will not, therefore, be required to account for donations which have been received by candidates at local elections or members of local authorities and which have not been passed on to the party.

The Act provides that the following items shall not be regarded as a donation to a political party:

- any payment, service or facility provided to a political party out of public funds or moneys provided by an institution of the European Communities or other intergovernmental organisation to which the State is a party, by virtue of it being a political party, a political group or any group of members in the Dáil, or a member of, delegate to or representative in a body established by or under an agreement or arrangement to which the State is a party;
- benefits derived from a service rendered by an individual, including the use of the individual's motor vehicle, on behalf of a political party, where that service is gratuitous and is not part of that individual's work carried out under a contract of employment, or where the individual is self-employed, in the course of the individual's business or in the practice of the individual's profession;
- the publication in a newspaper, magazine or other publication or the broadcast on radio or television of news, reports, articles, features, editorial or other comments, including the publication of letters to the editor, where such publication or broadcast is effected in the same manner as that of other material relating to issues of public interest or concern, and the publication is not for the purpose of promoting the interests of a political party;
- the transmission on radio or television of a broadcast on behalf of a political party. (This exclusion does not cover any production, or other, costs associated with a transmission on radio or television.)

In considering what does not constitute a donation to a political party the following matters also apply:

- A. Donations made to political parties in Northern Ireland or to entities of political parties in the US or elsewhere, which are given and applied for the purpose of funding the party's political/electoral activities outside this State, are not donations for the purposes of the Act. Such donations are not required to be disclosed and are not subject to the prohibitions attaching to certain types of donations under the Act (see Part 5 of these guidelines).
- B. As stated in Part 4, a donation made to a member of a local authority or a candidate at a local election which is not passed to the party and acknowledged as such, will not be regarded as a donation to the party.

4 Loans to political parties

Where a loan is provided to a political party by a financial institution and the normal rules attaching to such loans apply, the loan is not regarded as a donation to the party. However, where a loan is provided to a political party by a financial institution in circumstances where either the interest charged is less than the lowest rate available from the financial institution or the loan is not repaid in accordance with the terms and conditions under which the loan was issued or is only partially repaid, the benefit to the party may be regarded as a donation and may, therefore, be subject to the disclosure and maximum limits applying to the acceptance of donations.

Where an individual or body, who or which is not a financial institution, gives a loan to a political party, it must be evident that the loan offered is a *bona fide* loan. In that regard the following would apply:

- As with a loan from a financial institution, the terms and conditions applying to the loan and its repayment must be stated clearly in writing.
- Interest is chargeable on the loan at a rate (whether fixed or variable) which reflects the interest charged by financial institutions on loans of a similar amount and duration. Where the interest charged is less than the lowest rate available from a financial institution, the benefit accruing from the difference in rates is regarded as a donation to the party.
- The Standards Commission may require sight of the terms and conditions, including the interest charge, applying to the loan and may require confirmation that the loan has been repaid in accordance with these terms and conditions.
- If the loan is not repaid in accordance with the terms and conditions, or is only partly repaid, the benefit of such non-repayment may be regarded as a donation to the party.

5 Prohibited donations

a) Anonymous donations in excess of €100

A political party may not accept an anonymous donation exceeding €100 in value. A donation is anonymous if the name and address of the donor is not known to the political party concerned. If such a donation is received, the political party must notify the Standards Commission in writing within 14 days of receipt of the donation and remit the donation, or its value, to the Standards Commission. The Standards Commission must lay a copy of each such notification received before both Houses of the Oireachtas.

b) Cash donations in excess of €200

A political party may not accept a cash donation exceeding €200 in value. If such a donation is received, the political party must, within 14 days of receipt of the donation, return the donation to the donor or if it is a monetary donation, the part of it exceeding the limit and keep a written record of the return for the purpose of it being furnished to the Standards Commission, if required; or; the political party must, within fourteen days of receipt, notify the Standards Commission of receipt of the donation and remit the donation or, if it is a monetary donation, the part of it exceeding the limit to the Standards Commission.

c) Donations by non-registered corporate donor in excess of €200

A political party may not accept a donation exceeding €200 in value from a corporate donor unless the corporate donor is registered in the Register of Corporate Donors maintained by the Commission and a statement is made on behalf of the corporate donor (and furnished with the donation to the donee) confirming that the making of the donation was approved by the corporate donor. The statement must be accompanied by a statutory declaration that to the best of the knowledge and belief of the person concerned, the statement is correct in every material respect and that the person has taken all reasonable action in order to satisfy him/herself as to the accuracy of the statement.

If such a donation is received, the political party must, within 14 days of receipt of the donation, return the or if it is a monetary donation, the part of it exceeding the limit to the donor and keep a written record of the return for the purpose of it being furnished to the Standards Commission, if required; or; the political party must, within fourteen days of receipt, notify the Standards Commission of receipt of the donation and remit the donation or, if it is a monetary donation, the part of it exceeding the limit to the Standards Commission.

d) Donations in excess of the maximum prescribed limit of €2,500

The maximum value of donation(s) which a political party may accept from the same donor in the same calendar year, either directly or through an intermediary, is €2,500. Where a donor makes more than one donation to a political party in a particular year, the values of the donations must be aggregated for the purpose of observing the maximum limit. Part 6 sets out the steps which the appropriate officer of a political party must take in order to comply with the requirement to aggregate donations.

It should be noted that the onus is on a person accepting a donation to check with the donor and/or with the party's appropriate officer that acceptance of the donation will not bring the total amount of donations received by the party from the donor above the maximum prescribed limit. If the donation being offered is likely to bring the aggregate value of donations received by the party from the same donor over the limit of €2,500, the donation, or that part of a monetary donation which would cause the limit to be exceeded, must be refused.

If a political party receives a donation exceeding €2,500 in value, the donation must, within fourteen days of receipt, be returned by the political party to the donor or, if it is a monetary donation, the part of it exceeding the limit must be returned to the donor. A written record of the return must be kept for the purpose of it being furnished to the Standards Commission, if required; or the political party must, within fourteen days of receipt, notify the Standards Commission of receipt of the donation and remit the donation or the value thereof to the Standards Commission. In the case of a monetary donation, the part of it exceeding the limit must be remitted.

e) Foreign donations

A political party or any of its sub-units may not accept a donation, of any value, from an individual (other than an Irish citizen) who resides outside the island of Ireland. Similarly no donation, of any value, may be accepted from a body corporate or an unincorporated body of persons which does not keep an office in the island of Ireland from which at least one of its principal activities is directed.

The onus is on the person accepting the donation to make whatever enquiries are necessary and to obtain any corroborating evidence that may be required in order to be satisfied that he/she is not precluded from accepting a donation from the person concerned. The Standards Commission may require evidence that a political party is permitted to accept a donation from a particular donor.

Notwithstanding this, where such a prohibited foreign donation is received, the recipient should, within 14 days, return the donation to the donor and keep a written record of the return for the purpose of its being furnished to the Standards Commission, if required, or the recipient should, within 14 days, notify the Standards Commission and remit the donation, or the value thereof, to the Standards Commission.

f) Donations from donors who themselves are required to furnish a Donation Statement to the Standards Commission and who do not intend to do so

By 31 January in every year, under section 24(1A) of the Act, a donor is required to furnish a Donation Statement to the Standards Commission if, in the preceding year, the donor makes donations, exceeding in aggregate value €1,500, to

- two or more persons who were members of the same political party at the time the donations were made, or,
- one or more persons and to the political party of which such person or persons were members at the time the donations were made.

If a person, including any officer, member or agent of a political party or of any sub-unit or of any part of a political party, is offered a donation by a donor who is covered by this provision of the legislation and knows, or has reason to believe, that the donor does not intend to furnish a Donation Statement to the Standards Commission, the person is prohibited from accepting a donation from that donor.

If, notwithstanding this prohibition, such a donation is received, the recipient must, within 14 days of receipt, notify the Standards Commission in writing of the receipt of the donation and the name and address of the donor, and remit the donation or its value to the Standards Commission. The Standards Commission must lay a copy of each such notification before both Houses of the Oireachtas.

6 Procedures for aggregating donations

As stated in Part 5(d), section 23A(3) of the Act requires a political party to aggregate donations received from the same person in the same calendar year for the purposes of ensuring that it does not accept a donation which is in excess of the maximum prescribed limit of €2,500. In order to comply with this requirement, the appropriate officer of each political party must ensure that there are procedures in place to identify and deal with donations to the party which might exceed the maximum prescribed limit.

As stated in Part 3, the Standards Commission will regard a donation as having been made to a political party if it is made:

- to party headquarters;
- to any sub-unit, branch or subsidiary organisation of the party;
- to any officer, member or agent of the party or of any sub-unit, branch or subsidiary organisation thereof;
- to a TD, Senator, MEP or member of a local authority of the party who passes on the donation to the party and receives a written acknowledgement of the donation from the party; or
- to a candidate of the party at a Dáil, Seanad, European or local election who passes on the donation to the party and receives a written acknowledgement of the donation from the party.

The Standard Commission recommends that all donations exceeding €50 in value which are received by a branch or subsidiary organisation of the party should be recorded and notified to the party's appropriate officer for the purposes of observing the maximum prescribed limit. This includes donations received by an elected representative, candidate at an election or other officer / member of the party which are passed to party headquarters or to branches or subsidiary organisations of the party. These procedures, if not already in place, should be put in place immediately.

Where the aggregate value of donations received by the party from the same person in the same calendar year exceeds €2,500 the steps outlined in Part 5(d) must be taken. The onus is on the intended recipient of a donation to enquire from the donor and/or the appropriate officer of the party whether this donor has made other donations to the party during the calendar year which will bring the donation being offered above the maximum acceptance limit.

As stated in Part 7, the appropriate officer of a political party must notify the Standards Commission of details of the party's accounting units, i.e., branches or subsidiary organisations which have

received a donation exceeding €100 in value. The recommended procedures concerning notification to appropriate officers of all donations exceeding €50 in value will ensure that appropriate officers are notified of all accounting units. This should ensure that the requirement to notify the Standards Commission of all accounting units is complied with.

As outlined in Part 8, the appropriate officer of each political party is required to furnish an annual Donation Statement to the Standards Commission. Details of donations received during the preceding year which exceeded €1,500 in value must be disclosed. Donations from the same person in the same calendar year must be aggregated and disclosed if their aggregate value exceeds €1,500. This disclosure should be made irrespective of whether the donor has a requirement to furnish a Donation Statement under section 24(1A) of the Act (see Part 5(f)).

The appropriate officer of each political party has a duty to make such enquiries and maintain such records as are necessary for the purpose of furnishing the party's Donation Statement. The Standards Commission considers that its advice concerning the notification to appropriate officers of all donations exceeding a value of €50 will assist appropriate officers in meeting this requirement and will mean that appropriate officers will be in a better position to inform a donor if he/she has a requirement to furnish a Donation Statement to the Standards Commission under section 24(1A) of the Act.

7 Political Donations Accounts

An accounting unit of a political party which receives, in a particular year, a monetary donation of more than €100 must open and maintain an account in a financial institution in the State and must lodge that donation and any further monetary donations received, of whatever value, to that account.

A definition of what constitutes "a financial institution" is provided in section 22(2)(aa) of the Act. It includes An Post and most banks, building societies and credit institutions. **It does not include a credit union.** A credit union account, therefore, may not be used as a Political Donations Account.

The appropriate officer of each political party must notify the Standards Commission of the name and address of every accounting unit of the party together with the name of the responsible person or persons of the accounting unit. The Standards Commission writes to the appropriate officers of all political parties each year seeking details of its accounting units. As stated in part 6 the appropriate officer must now put procedures in place to ensure that he/she is notified of all donations exceeding €50 in value. Where, as part of these procedures, a donation exceeding €50 is notified by a branch or subsidiary organisation, the appropriate officer should check if he/she has already notified the Standards Commission that the particular branch/subsidiary organisation is an accounting unit. If not, the appropriate officer should provide the relevant details (as outlined above) to the Standards Commission.

Not later than 31 March each year, the responsible person of each accounting unit must furnish to the Standards Commission:

- a statement from the financial institution where the political donations account was opened specifying the transactions that have taken place in relation to the account during the preceding year, and
- a certificate, signed by him/her, stating that all monetary donations received during the preceding year were lodged to the account and that all amounts debited from the account were used for political purposes, and
- a statutory declaration, signed by him/her, that, to the best of the responsible person's knowledge and belief, the certificate is correct in every material respect and that all reasonable action has been taken in order to satisfy him/herself as to the accuracy of the certificate. The Statutory Declaration must be witnessed by a person who is either a practising solicitor, a Commissioner for Oaths, a Peace Commissioner or a Notary Public. (The Certificate and Statutory Declaration is referred to hereafter as a Certificate of Monetary Donations.)

The statement from a financial institution and the Certificate of Monetary Donations in respect of the headquarters of a political party should be furnished to the Standards Commission by the appropriate officer of the party with the party's annual Donation Statement (see Part 8).

The Standards Commission will retain the statements from financial institutions and Certificates of Monetary Donations and will not disclose the contents thereof, unless ordered by a court to do so or where disclosure is required in connection with an investigation held by the Standards Commission.

8 Donation Statements

A Donation Statement must be furnished to the Standards Commission by the appropriate officer of each political party not later than 31 March every year.

The Donation Statement must show whether or not, in the preceding calendar year, the party received, from the same person, a donation exceeding in value €1,500. Donations from the same person in the same calendar year must be aggregated and the donations treated as a single donation. Part 3 outlines the circumstances in which a donation is deemed to be made to a political party. Part 6 outlines the procedures which must be put in place for the purposes of aggregating donations to the party. As stated in Part 6 all donations from the same person which the appropriate officer has been notified of which have an aggregate value in excess of €1,500, should now be disclosed on the party's annual Donation Statement. This might include donations which an individual donor is required to disclose under section 24(1A) of the Act (see Part 5(f)).

For each donation which is required to be disclosed, the value and nature of the donation(s) must be stated together with the name, address and a description of the person by, or on whose behalf, the donation(s) was made. The Donation Statement must be accompanied by a statutory declaration that, to the best of the appropriate officer's knowledge and belief, the Donation Statement is correct in every material respect and that he/she has taken all reasonable action in order to satisfy him/herself as to its accuracy. The Statutory Declaration must be witnessed by a person who is either a practising solicitor, a Commissioner for Oaths, a Peace Commissioner or a Notary Public.

The appropriate officer should ensure that the Donation Statement and statutory declaration furnished to the Standards Commission are accompanied by a statement from the financial institution in which the political donations account of party headquarters is held together with a Certificate of Monetary Donations relating to that account.

The appropriate officer of each political party has a statutory duty to make such enquiries and maintain such records as are necessary for the purpose of furnishing the party's Donation Statement and making the statutory declaration. As stated in Part 6, procedures should now be put in place to ensure that appropriate officers are notified by branches and subsidiary organisations of all donations exceeding a value of €50. This is to ensure that the party does not accept donations in excess of the maximum prescribed limit. These procedures, however, will also assist an appropriate officer in meeting his/her requirements in relation to the party's annual Donation Statement.

Where additional or supplemental information in relation to the party's Donation Statement is required by the Standards Commission, it must be provided by the appropriate officer in the form specified by the Standards Commission and be accompanied by a statutory declaration, if the Standards Commission so requires.

The Standards Commission must consider every Donation Statement furnished to it by the appropriate officer of a political party. Where the Standards Commission finds a minor error or omission in a Donation Statement, it will furnish details of the error or omission to the appropriate officer and will notify the appropriate officer that he/she has 14 days from the date of the notice in which to correct the error or make good the omission.

Where, following consideration by it of a Donation Statement, the Standards Commission is of the opinion that a contravention of the legislation may have occurred, it is required to notify the appropriate officer of the possible contravention and afford him / her 14 days to furnish any comments he/she may have. The Standards Commission will consider the comments provided by the appropriate officer and, if it is still of the opinion that a contravention of the legislation has occurred, will furnish a report on the matter, together with any relevant documentation, to the Director of Public Prosecutions.

9 Inspection of documents furnished to the Standards Commission

The Standards Commission is required to lay a copy of each Donation Statement and statutory declaration before both Houses of the Oireachtas. The material will be retained at the Office of the Standards Commission for a period of three years and will be available for public inspection and copying. Details of donations disclosed by political parties are published on the website of the Standards Commission.

As stated in part 7, the Standards Commission will retain the statements from financial institutions and Certificates of Monetary Donations and will not disclose the contents thereof, unless ordered by a court to do so or where disclosure is required in connection with an investigation held by the Standards Commission.

10 Report to the Chairman of the Dáil

The Standards Commission furnishes a report each year to the Chairman of the Dáil (Ceann Comhairle) in relation to the annual Donation Statements furnished by political parties. This report is also published on the website of the Standards Commission.

11 Notification to the Minister for Public Expenditure and Reform

On or before 1 May each year, the Standards Commission must inform the Minister for Public Expenditure and Reform whether a Donation Statement in respect of the previous year has been received from a qualified political party.

Payment of Exchequer funding to a qualified political party under the Act will be suspended after 30 April in any year unless and until the party's Donation Statement for the previous year and the Statement of Expenditure of Exchequer funding (required under section 20 of the Act) have been received by the Standards Commission and forwarded to the Minister for Public Expenditure and Reform. (Full details of the statutory requirements in relation to payment of Exchequer funds to qualified political parties under the Act are contained in separate guidelines which have been published by the Standards Commission.)

12 Offences and penalties

A person will be guilty of an offence if he or she:

- fails to take the appropriate action (as set out in Part 5) in relation to receipt of an anonymous donation, a foreign donation or a donation in excess of the prescribed limit (**applies to an appropriate officer and/or the responsible person of an accounting unit**),
- fails to furnish a Donation Statement and the required statutory declaration to the Standards Commission on or before 31 March each year (**appropriate officer only**),
- where required, fails to furnish to the Standards Commission, on or before 31 March each year, a statement from a financial institution and/or a Certificate of Monetary Donations (**appropriate officer and/or a responsible person**), or
- knowingly furnishes a Donation Statement and/or a statement from a financial institution and/or a Certificate of Monetary Donations, which is false or misleading in any material respect (**appropriate officer and/or a responsible person**).

A person will be guilty of an offence if he or she fails to take the appropriate action in relation to a donation from a donor whom the person is aware is required to furnish a Donation Statement (under section 24(1A) of the Act) and does not intend to do so (see Part 5(f)) (**applies to any person who is a member, agent or any other officer of a political party**).

Proceedings for an offence will not be instituted except by, or with the consent of, the Director of Public Prosecutions. It would be a defence to a prosecution of an appropriate officer or a responsible person of an accounting unit that the individual did not and could not reasonably have known of the receipt of a donation acceptance of which is prohibited or a donation the value of which exceeded €2,500.

A person found guilty of an offence will be liable, on summary conviction, to a fine not exceeding €1,269.74. Where the conviction is for failing to furnish a Donation Statement, a statement of an institution or a Certificate of Monetary Donations or making the required statutory declaration to the Standards Commission, a person will be guilty of a further offence on every day on which the failure continues after such conviction and, for each such offence, the person will be liable, on summary conviction, to a fine not exceeding €126.97.

Where the offence relates to knowingly furnishing a Donation Statement, a statement of an institution or a Certificate of Monetary Donations to the Standards Commission which is false or misleading in any material respect, a person will be liable, on conviction on indictment, to a fine of up to €25,394.76 and/or to imprisonment for a period not exceeding three years.

Appendix

Fund-raising events - Determining the net value of a contribution to a fund-raising event

In accordance with the provisions of sections 22(2)(a)(vi) & (vii) of the Act, a donation to a political party includes the **net** value of a contribution to a fund-raising event. The net value of a contribution to an event is arrived at by first calculating the net profit from the event (i.e., by deducting the cost of running the event from the total amount raised by the event). The net profit is then attributed to the number of people contributing to the event in proportion to the contribution made by each person. This gives the net value of each person's contribution to the fund-raising event. If, for example, in relation to a fund-raising event, a person pays €1000 in respect of the entry fee for 10 people, his/her gross contribution to the event is €1,000. If the cost of running the event is calculated at €20 per person attending, a sum of €200 is deducted from his/her gross contribution, leaving a net contribution of €800. If the person makes other contributions to the event (e.g., buying horses at a race night, sponsoring a hole at a golf classic) it is necessary to add the value of such contributions to the net contribution of €800 for the purposes of determining the aggregate net value of his/her contribution to the fund-raising event.

The net contribution made by a person to a fund-raising event organised by a political party is regarded as a donation to the party, even if the funds are subsequently used for the purposes of supporting one or more of the party's Members of the Houses of the Oireachtas or candidates at an election. The party is not required to disclose the total value of the proceeds of the fund-raising event in its Donation Statement. It is required, however, to disclose any donation(s) from a person which exceeds a net value of €1,500. The maximum limit of €2,500 for acceptance by political parties of donations from the same person in the same year also applies to the net value of contributions to fund-raising events. Where the net value of a monetary donation to the fund-raising event exceeds €100, the accounting unit of the party (i.e., branch or head office) which organised the event will, if it does not already have one, be required to open a political donations account. If the accounting unit already has a political donations account, all monetary donations, of whatever value, received in relation to the event must be lodged to the political donations account.

It should be noted that where a fund-raising event is organised by a sub-committee of a political party (which might include a sub-committee of party headquarters or of a branch or subsidiary organisation) and the sub-committee passes the net proceeds to the party (whether party headquarters, branch or subsidiary organisation), the sub-committee is regarded as an intermediary accepting donations on the party's behalf. The party (whether party headquarters, branch or subsidiary organisation) and not the committee is responsible for complying with the requirements of the Act.

If, however, the sub-committee is not set up as a subsidiary organisation of the party and retains control of the proceeds of a fund-raising event as opposed to passing the proceeds to the party (whether party headquarters or a branch or subsidiary organisation of the party), the sub-committee could be regarded as a "third party" as defined in the Act. The sub-committee would be subject to the provisions of the Act applying to "third parties". These provisions are set out in a separate explanatory note which is available on the website of the Standards Commission.

End