

*Guidelines for
Carlow Kilkenny Bye-election of 22 May 2015*

National Agents, Third Parties, Other Persons and Publishers



Coimisiún um Chaighdeán in Oifigí Poiblí
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Contact Details:

Standards in Public Office Commission

Telephone: 01 6395666
Email: sipo@sipo.gov.ie
Website: www.sipo.gov.ie
Twitter: @SIPOCIreland

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Introduction

These guidelines for the Carlow Kilkenny bye-election have been published by the Standards in Public Office Commission under section 4(6)(a) of the Electoral Act 1997 as amended (the Act).

The Guidelines are for national agents, third parties, other persons and publishers. Separate Guidelines have been published for candidates and for election agents of candidates.

These Guidelines cover the main requirements of the above legislation relating to limits on election spending.

Useful information

Value of donation	Net Valuation of donation, including from fundraising events, etc., determines whether a donation needs to be disclosed. Section 22(2)(vi)
€100	An anonymous donation exceeding this amount cannot be accepted in any calendar year. Section 23(1)
€100	On receipt of a donation of this value, a political donations account must be opened (if one has not already been opened) by a candidate at the Dáil bye election. Section 23B(1)
€200	Maximum cash donation that may be accepted by a candidate or his/her party at the Dáil bye election. Section 23A(1)(iii)
€200	Maximum donation that may be accepted by a candidate at the Dáil bye election 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)
€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 candidate at the Dáil bye election exceeding this amount must be disclosed on the Donation Statement. Section 24(4).
€1,000	Maximum donation that may be accepted by a candidate at the Dáil bye election in any calendar year from an individual or a registered corporate donor. Section 23A(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)

Relevant dates

29 April 2015 to 22 May 2015	Election Period
6 July 2015	Claims for payment of election expenses, from suppliers, must be received by the election agent by this date
17 July 2015	Date by which national agent's Election Expenses Statement must be furnished to the Standards Commission

National Agents

The key issues of which national agents of political parties and candidates contesting the election should be aware in order to ensure compliance with the requirements of the legislation are as follows.

1. Appointment of a national agent
2. Assignment by a candidate to a political party
3. Spending by the national agent
4. Persons incurring unauthorised expenditure
5. "The Election Period" - dates between which the spending limit applies
6. What are election expenses
7. What are not election expenses
8. Payment of invoices to suppliers
9. Furnishing an Election Expenses Statement
10. Consequences of overspending by the national agent
11. Offences and penalties

Third Parties, Other Parties and Publishers

The key issues of which Third Parties, Other Persons and Publishers should be aware in order to ensure compliance with the requirements of the legislation are as follows.

- 12 What is a "Third Party" and an "Other Person"?
- 13 Statutory requirements of a Third Party with regard to receipt of donations
- 14 What is a donation?
- 15 Prohibited donations
- 16 Requirement on Third Party to open and maintain a political donations account
- 17 Statutory requirements of a Third Party and Other Person with regard to incurring election expenses
- 18 Payment of invoices to suppliers
- 19 Election Expenses Statement
- 20 Statutory requirements for publishers under section 31(10) of the Act
- 21 Offences and penalties applicable to third parties with regard to the receipt of donations
- 22 Offences and penalties applicable to third parties and other persons with regard to incurring election expenses.

1. Appointment of a national agent

- 1.1 Each political party with a candidate contesting the Carlow Kilkenny bye-election shall appoint a national agent. The national agent must have an office or place in the State to which claims, notices, writs, summonses and other documents may be sent.
- 1.2 Not later than the last day for receiving nominations at the election, 12 noon, Friday 8 May 2015, the political party must notify the Standards Commission, in writing, of the name of the national agent and of the address of the office of the agent. If a political party has not notified the Standards Commission of the name of the national agent by this time, the "appropriate officer" (appointed under section 71 of the Act) will be deemed to be the national agent. If an appropriate officer has not been appointed, the party leader is deemed to be the party's appropriate officer and, as such, its national agent.
- 1.3 The Standards Commission will publish in *Iris Oifigiúil* the names of the national agents appointed or deemed to have been appointed.
- 1.4 A political party may, at any time, revoke the appointment of a national agent and appoint another national agent in his/her place. Where this occurs, details of the new national agent must be provided to the Standards Commission.

2. Assignment by a candidate to a political party

- 2.1 Where a candidate is contesting the election on behalf of a political party, he/she may assign a portion of his/her statutory spending limit to the party for spending at the election by its national agent.
- 2.2 There is no obligation under the Act on a candidate to assign any portion of his or her spending limit to the party. If the candidate does not assign any of his/her spending limit to the party, then the national agent cannot incur any election expenses on behalf of the candidate. The candidate's election agent can, however, authorise the national agent to incur expenses on the candidate's behalf. The election agent must account for such expenses on his/her Election Expenses Statement.

The only spending by a party which is allowed is the sum of the amounts which have been assigned to the party by its candidates from within the candidates' individual limit. Example: If a political party has 2 candidates contesting the election, each of whom assign €10,000 to the party from their individual spending limit, the national agent of the party would be entitled to spend a total of €20,000 at the election. The amount of the limit available to be spent by each candidate's election agent would, as a result, be reduced by €10,000.

- 2.3 The Act is not specific as to when the agreed assignments should be made to the party. Similarly, the Act does not preclude a re-negotiation of agreed assignments. The Standards Commission recommends that national agents ensure that assignments are agreed with each candidate before any expenses are incurred by either the national agent or the candidate's election agent.
- 2.4 The Act requires that the assignment to the party must be agreed in writing. The written agreement, therefore, should clearly state the amount assigned to the party. It should be signed by both the candidate and an appropriate party official. Where assignments are subsequently re-negotiated, a new written agreement must be drawn up.
- 2.5 The candidate will be required to give his/her election agent a copy of the written agreement for furnishing to the Standards Commission with the election agent's Election Expenses Statement. National agents will not be required to furnish copies of the written agreements with their Election Expenses Statements. National agents should, however, retain copies of the written agreements.

3. Spending by the national agent

- 3.1 The national agent is the only person who can incur expenditure or make payments on behalf of the party out of the spending limit assigned to it by its candidates. Where expenses have been incurred by or on behalf of a political party before the appointment of a national agent, the party must furnish details of all such expenses, together with all relevant vouchers, to the national agent. It is an offence for a political party to fail to comply with this requirement.
- 3.2 The national agent can authorise other persons to incur expenditure or make payments within specific limits set by the national agent. The national agent must account for spending by all such authorised persons.
- 3.3 At a Dáil bye-election, all spending by the national agent out of the amount assigned to the party by the candidate is deemed to be spending incurred on the candidate's behalf.
- 3.4 The national agent can spend up to **100%** of a candidate's spending limit, if the candidate assigns this to the party. If the national agent is assigned a spending limit and incurs election expenses, great care must be taken to ensure that the total spend on the candidate by his/her election agent and by the national agent does not exceed the statutory limit for the constituency (i.e., €45,200 for Carlow Kilkenny).
- 3.5 The national agent cannot incur expenditure or make payments out of the amount of the spending limit retained by the candidate **unless** the national agent is authorised to do so by the candidate's election agent. In this situation, expenditure by the national agent would be as an authorised person of the election agent and any such expenditure would have to be recorded by the election agent.

4. Persons incurring unauthorised expenditure

4.1 The national agent is the only person who can incur expenditure or make payments on behalf of a political party at the bye-election. National agents should be aware that if a person or body is incurring expenses at the election to promote the party or its candidates, the Standards Commission may regard such expenses as expenditure incurred by the political party, if it considers the person or body to have been:

- established by, or on behalf of, a political party for the purposes of incurring election expenses,
- is a member of, or is a branch or subsidiary organisation of, a political party, or
- is associated with, connected to, or under the influence or control of, a political party.

4.2 In such circumstances the expenses incurred must be taken into account by the national agent from within his/her expenditure limit. If a spending limit has not been assigned to the party, the candidate's election agent will have to account for the expenditure as appropriate. If such expenditure brings spending by the party or the election agent over the relevant limit, an offence will have been committed. It is important, therefore, that national agents are aware of the activities of groups or individuals incurring expenditure, given that such expenditure may be deemed to be expenditure incurred on behalf of the party or its candidates. The Standards Commission should be notified immediately of the activities of any such person or body. Expenditure by the following groups or individuals is particularly relevant in this regard.

Local party organisation

4.3 A local party organisation (e.g., constituency or branch) cannot incur expenditure or make a payment in relation to the party's election campaign, e.g., pay bills, without the authority of the national agent. Such expenses must be accounted for by the national agent in his/her Election Expenses Statement.

4.4 A local party organisation cannot incur expenditure or make a payment in relation to the party's candidates at the election unless authorised to do so by the party's national agent or the particular candidate's election agent. Such expenses must be accounted for in the Election Expenses Statement of the agent who authorised the expenses.

Expenditure by persons/bodies deemed to be associated with, connected to, or under the influence or control of, a political party

- 4.5 Bodies, such as trade unions or interest groups, which are **affiliated** to a political party will be regarded as connected to or associated with that political party. By extension, these bodies will be regarded as being connected to or associated with a candidate of a political party for the purposes of election expenses incurred on behalf of that candidate at the election. If such expenditure is authorised by the candidate's election agent it must be taken into account by that agent. Otherwise it should be taken into account by the national agent.

Expenditure incurred by unconnected "third parties"/"other persons"

- 4.6 Expenditure by **"third parties"** and **"other persons"**, i.e., those not connected to a candidate or a political party, is permitted under the Act. National agents should notify the Standards Commission if they become aware of third parties or other persons incurring election expenditure either promoting or opposing a political party or a candidate.
- 4.7 Newspaper notices or advertisements promoting or opposing the interests of a party or candidate may only be placed if requested by a candidate, an election agent, a national agent or a person authorised by a candidate or either agent. "Third parties" or "other persons" may arrange newspaper advertising if they produce to the publisher a Certificate of Authorisation from the Standards Commission certifying that they have complied with the appropriate legal requirements. The Standards Commission will notify editors/publishers of the provisions of the legislation in this regard. [The provisions in question also apply to magazines and other periodical publications.]

5. "The Election Period" - dates between which the spending limit applies

- 5.1 The spending limits at the bye-election apply to all expenses incurred and payments made in providing property, goods or services which are used for electoral purposes during the period commencing on the date of the issue of the writ for the bye-election and ending on polling day itself, both dates included. The election period for the bye-election is from 29 April 2015 to 22 May 2015.
- 5.2 Regardless of when the expenses are incurred or the payments are made, they must be taken into account if they relate to property, goods or services which are used for electoral purposes during the election period. Accordingly, expenses which are incurred or payments which are made at any time before the date of the issue of the writ on property, goods or services which are used during the election period must be accounted for.
- 5.3 If expenses are incurred or payments are made on property, goods or services which were not used, or only a part was used, during the election period it will not be necessary to account for the unused part. Similarly, it will not be necessary to account for expenses incurred or payments made in respect of property, goods or services which were used before the commencement of the election period or which were used after the election period. Some examples of this might be:
- promotional material circulated by candidates/political parties before the election period commenced,
 - insurance or rent costs applying to a campaign premises in so far as the costs relate to a period before and/or after the election period, or
 - "Thank you" notices circulated after the election.
- 5.4 If an advertisement is published in a newspaper or other periodical publication which carries a publication date (i.e., the date printed on the paper) which is during the election period, the advertisement will be regarded as an election expense. If the publication date is before or after the election period, the advertisement is not regarded as an election expense.
- 5.5 The cost of an opinion poll or other similar survey which is taken within the period of 60 days before polling day **will** be regarded as an election expense.

6. What are election expenses?

- 6.1 The legislation provides that election expenses are those and only those, set out in the definition of election expenses in Appendix 1, which are incurred in the provision of property, goods or services for use at the election during the election period (29 April 2015 to 22 May 2015) in order to:
- i. promote or oppose the interests of a political party or the election of a candidate, or
 - ii. present the policies of a political party or the comments of a political party on the policies of another political party or of a candidate at the election, or
 - iii. solicit votes for or against a candidate, or
 - iv. present the policies of a candidate or the views of a candidate on any matter connected with the election or the comments of a candidate on the policies of a political party or of another candidate at the election, or
 - v. otherwise to influence the outcome of the election.
- 6.2 Where property, goods or services, which have been provided free or below cost, are used during the election period, they are regarded as election expenses which must be taken into account as election spending by the relevant agent at their commercial price. [An example might be where a printing company agrees to provide, free of charge, election literature which would normally cost €1,500.] This supply of material must be authorised and taken into account at its commercial price less any normal discount which may be available.
- 6.3 It is not possible to give definitive examples in these guidelines of all types of election expenses. If you are unsure as to whether an expense item should be accounted for as an election expense you should contact the Standards Commission Secretariat for advice.

Election Expenses which are met out of public funds

- 6.4 Arising from the judgement in *Kelly v. Minister for the Environment and Ors.* (2002) 4 I.R. 191, where property, services or facilities are used for electoral purposes during the election period and the costs are met out of public funds, such costs must be accounted for as an election expense. The use of the material must be authorised by the candidate's election agent. It will be a matter for the relevant agent and the candidate, in consultation with the provider of the property, services or facilities, to determine the value of the usage for electoral purposes during the election period and to account for same in the Election Expenses Statement.
- 6.5 The Standards Commission is aware that some candidates at the election who are already public representatives may be required to communicate with their constituents during the election period. It is necessary, therefore, where costs are met from public funds, to differentiate between the use of property, services (including staff) and/or facilities in

carrying out reasonable constituency business and the use of such material for electoral purposes. The following is relevant in this regard:

- if, during the election period, such materials are used by the candidate for the purpose of any form of unsolicited communication to any of the electorate in the constituency, the materials will be regarded as having been used for electoral purposes and the costs will have to be accounted for as an election expense at their full commercial value. This also applies to unsolicited material issued by other elected representatives where the material either promotes or opposes a candidate or otherwise seeks to influence the outcome of the election;
- where a new enquiry is raised with a candidate while he/she is canvassing (i.e., an enquiry which had not been raised with the candidate prior to the election), and facilities, the cost of which are met out of public funds, are used for the purposes of responding to the enquiry, these facilities will be regarded as having been used for electoral purposes. This includes time spent by staff in responding to the enquiry (except where such staff are working voluntarily on the candidate's campaign).

7. What are not election expenses?

7.1 Items which are not election expenses include;

- i. the cost of purchasing copies of the register of electors;
- ii. the **reasonable living expenses** (including accommodation) of a candidate and volunteers working on his/her behalf. Under this heading, in addition to accommodation costs, spending of up to **€50per person per day** on refreshments, etc., is permitted and does not have to be accounted for. (This means that accommodation costs plus other costs up to **€50per person per day** are not regarded as election expenses.);
- iii. any paid campaign worker who incurs expenses from their own resources and does not seek a reimbursement from the election agent. **[NOTE: The only persons who may lawfully incur expenses or make payments at an election in relation to a candidate are the election agent of a candidate, the national agent of a political party, or a person authorised by either agent to incur election expenses. Accordingly, any other person who incurs expenses or makes payments at an election on behalf of a candidate is committing an offence. Election agents must maintain a record of all minor expenses which are not being accounted for as an election expense in his/her Election Expenses Statement. In order to deal with any questions which may arise as to why expenses in respect of particular items used during the election period are not shown as an election expense in the Election Expenses Statement, a record of all such "minor expenses" (not exceeding €100 in any one payment) may be required to be furnished to the Standards Commission. Invoices, receipts and vouchers in respect of minor expenses may also be required and should be retained by the Election Agent. Minor expenses are not included in the calculation of the total election expenses incurred.]**
- iv. election expenses incurred at a previous Dáil, European or local election which were disclosed in an Election Expenses Statement furnished to the Standards Commission or to a local authority. There is no need to record these expenses again. This does not apply to material used in relation to a referendum. **[NOTE: If a candidate intends to use, or re-use, election material which has previously been recorded in an Election Expenses Statement, his/her election agent must notify the Standards Commission Secretariat and provide details of the materials being re-used and the Election Expenses Statement on which they were previously recorded.]**
- v. free post service provided to candidates by (i.e., Litir Um Thoghcháin). It should be noted that only the postage costs are not regarded as an election expense. The

cost of producing the leaflet/election address/Litir um Thoghcháin is an election expense;

- vi. a free service provided by an individual, including use of the individual's motor vehicle, telephone, etc., where the service is not provided as part of the individual's work or business. [**NOTE:** This provision of the Act refers specifically to an individual and to the use of an individual's motor vehicle (singular). If more than one vehicle is provided by an individual, the use of the additional vehicles may be regarded as election expenses. If a vehicle which is in the ownership of a company, partnership, business etc., is provided to a candidate it is not regarded as a free service provided by an individual. In such circumstances the use of the vehicle during the election period is regarded as an election expense. The commercial cost of hiring a similar vehicle for a similar period must be ascertained for the purposes of calculating the election expense.];
- vii. fines imposed by organs of the State, e.g., parking and litter fines;
- viii. a service provided at an election by an employee of a political party, including use of the individual's motor vehicle, where the employee's remuneration is paid out of party resources or out of public funds and where the employee is not in receipt of any reward or benefit-in-kind other than his or her normal remuneration (including recoupment of expenses) for that service. Where overtime payments are normally paid to an employee of a political party for working additional hours, this is regarded as "normal remuneration" and is not regarded as an election expense;
- ix. normal media coverage and the **transmission** on radio or television of a broadcast on behalf of a candidate or a political party. This does not cover any production, or other, costs associated with a transmission on radio or television;
- x. the services of an accountant, or other person, (whether paid or not) employed for the **specific purpose** of ensuring compliance with the requirements of the Act;
- xi. the use of offices which are owned by a political party and are made available to a candidate for use at the election. It is not necessary to attribute a notional rental cost to the use of such offices. The costs of heat, light, telephones, etc., incurred for electoral purposes at such offices during the election period **are election expenses.**

Examples of some of the more common items which are not election expenses and which were recorded as election expenses at previous elections are set out in Appendix 3.

Expenses incurred in order to facilitate a person's candidacy at the election

7.2 Certain expenses may have to be incurred on behalf of the candidate in order to facilitate his/her participation in the election process or an understanding of the relevant legislation. The Standards Commission does **not** regard such expenses as being part of a candidate's or a political party's election spending. Examples might include:

- additional child care costs;
- cost of work replacements;
- leave of absence with pay;
- loan interest and bank charges;
- costs associated with meetings convened to familiarise election participants with the requirements of the electoral legislation (e.g., room hire, documents, refreshments, travel).

8. Payment of invoices to suppliers

- 8.1 Claims for payment of election expenses, from suppliers, must be received by the national agent within 45 days after polling day (i.e., 6 July 2015). **Claims received after this date cannot be paid by the national agent.** It is an offence to make a payment if the claim is received after the 45 days have elapsed. To avoid disputes, it is very important that agents advise their suppliers of this requirement when placing orders for property, goods or services. Even though such claims cannot be paid, they are still regarded as election expenses and must be accounted for in the Election Expenses Statement furnished to the Standards Commission.

9. Furnishing an Election Expenses Statement

- 9.1 Shortly after the election, the Standards Commission will send national agents an Election Expenses Statement/Statutory Declaration. On this statement, the national agent must disclose to the Standards Commission details of all expenses incurred and payments made by, or on behalf of, the agent in relation to the election. Staff of the Standards Commission Secretariat will be available to assist national agents in completing the form. The completed statement must be received by the Standards Commission within 56 days after polling day (i.e., 17 July 2015). The national agent will be required to complete an Election Expenses Statement even if no expenses were incurred by the party.
- 9.2 The following must be included on the Election Expenses Statement:
- i. details of all expenses incurred and payments made by the national agent and his/her authorised persons, including supplies of property, goods or services free or below cost which were used during the election period,
 - ii. details of authorised persons including the amount each authorised person was permitted to spend and the amount actually spent,
 - iii. confirmation of the portion of each candidate's spending limit which was assigned by the candidate to the national agent's political party,
 - iv. details of any disputed claims for payment, information concerning late claims for payment (i.e., claims received more than 45 days after polling day),
 - v. details of expenses incurred on goods, property or services used during the election period where the costs were met from public funds (See paragraphs 6.4 and 6.5).

A record of minor expenses (not exceeding **€100** in any one payment) may also be required to be furnished to the Standards Commission in order to deal with any questions which may arise as to why expenses in respect of particular items used during the election period are not shown as an election expense on the Election Expenses Statement. Minor expenses will not be included in the calculation of the total election expenses incurred.

- 9.3 Invoices, receipts or vouchers for every payment of election expenses exceeding **€100** must be included with the Election Expenses Statement. The Standards Commission also reserves the right to request any invoice, receipt or voucher for an item of expenditure valued at less than **€100** appearing in an Election Expenses Statement or a record of minor expenses.
- 9.4 Minor omissions or errors found by the Standards Commission in a national agent's Election Expenses Statement will be notified to the national agent. If requested to amend his/her Election Expenses Statement the national agent must do so within 14 days.

- 9.5 The Standards Commission can request additional information from a national agent in relation to his/her Election Expenses Statement. Where such additional information is requested, it must be provided in a form determined by the Standards Commission and may have to be accompanied by a Statutory Declaration.
- 9.6 The Election Expenses Statement and Statutory Declaration will be laid by the Standards Commission before both Houses of the Oireachtas and will be made available to the public for inspection and copying. Summary details of the expenditure incurred will also be included in a report to the Chairman of Dáil Éireann and will be published on the website of the Standards Commission.

10. Consequences of overspending by the national agent

10.1 The consequences of an overspend by a national agent at the election are:

- it is an offence punishable by a fine of up to **€1,269.74**
- a person can petition the High Court to set aside the result of the election;
- the amount of the overspend is deducted from the annual payment received by the party from the Exchequer under the Electoral Acts.

11. Offences and penalties

- 11.1 It is an offence for a political party to fail to furnish to the national agent relevant details of expenses incurred before the appointment of the national agent
- 11.2 If an unauthorised person incurs expenditure or makes a payment in relation to the election, he/she can be fined up to **€1,269.74** on conviction.
- 11.3 Payment of claims received more than 45 days after polling day (i.e., 6 July 2015) can result in a fine of up to **€1,269.74**
- 11.4 Failure to make such enquiries and maintain such records as are necessary for the purpose of furnishing an Election Expenses Statement and making a Statutory Declaration may result in a fine of up to **€1,269.74**
- 11.5 Failure to furnish an Election Expenses Statement and Statutory Declaration to the Standards Commission by the statutory deadline (i.e., 17 July 2015) can result in a fine of up to **€1,269.74** and an on-going fine of up to **€126.97** per day for each day, after a conviction, on which the Statement and Declaration are still outstanding.
- 11.6 Failure to provide supplementary information relating to an Election Expenses Statement as requested by the Standards Commission can result in a fine of up to **€1,269.74**
- 11.7 A fine of up to **€1,269.74** is the penalty when a national agent is found guilty of the offence of breaching the expenditure limit.
- 11.8 Knowingly furnishing a false or misleading Election Expenses Statement to the Standards Commission can result in a fine of up to **€25,394.76** and/or up to 3 years imprisonment.
- 11.9 Failure to furnish to the Standards Commission, within 7 days after the date of the order, a copy of a court order for the payment of a disputed claim may result in a fine of up to **€1,269.74**

12. What is a “Third Party” and an “Other Party”?

- 12.1 A "third party" is defined in the Act as meaning any person, other than a registered political party or a candidate at an election, who accepts, in a particular year, a donation given for political purposes, the value of which exceeds **€100**
- 12.2 An "other person" is a person or group who intends to incur expenses at the election to promote or oppose a candidate or a political party. Candidates, their election agents or national agents of political parties are not regarded as "other persons".
- 12.3 A third party must also register as an "other person" if it intends incurring expenses at the election. An "other person", however, is not required to register also as a "third party" if it has not accepted a donation which exceeds **€100**

13. Statutory Requirements of a Third Party with regard to receipt of donations

13.1 Registration.

As soon as possible after the receipt by it of a donation the value of which exceeds **€100** and before incurring any expenses for political purposes or, as the case may be, before incurring any further such expenses, a third party must furnish to the Standards Commission in writing:

- i. the name and address of the third party and the name and address of the "responsible person", or each "responsible person", in relation to the third party (a "responsible person" is the person(s) responsible for the organisation, management or financial affairs of the third party),
- ii. a statement of the nature, purpose and estimated amount of the donations to, and proposed expenses of, the third party in any year, and
- iii. an indication of the third party's connection, if any with any political party or candidate at a Dáil, Seanad or European election or referendum or otherwise.

Third parties are not required under the Act to disclose details of donations received by them.

14. What is a Donation?

14.1 A donation is defined in the Act as meaning any contribution given for political purposes to any member of either House of the Oireachtas; a member of the European Parliament; a candidate at a Dáil, Seanad, European or Presidential election; a presidential election agent; a third party; a political party or a sub-unit of a political party (e.g. all branches, accounting units, cumainn, a Comhairle Dáil Ceantair or any other sub-unit of a party, etc.), and includes all or any of the following, namely:

- i. a donation of money;
- ii. a donation of property or goods;
- iii. 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);
- iv. a free supply of services (i.e. the supply of services without payment or other consideration);
- v. 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 by a third party or by a financial institution at terms and conditions which are more favourable than that provided by a financial institution to other individuals in the normal course of business);
- vi. a contribution made by a person to a fund-raising event organised for the purpose of raising funds for a political purpose. 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 actually received). The position with regard to fund-raising events is explained in greater detail in Appendix 2 of these guidelines;
 - vii. a payment by the 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 fees/levies/subscriptions paid to any sub-unit of a political party);
 - viii. 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 any service donated.

14.2 A “person” can be:

- i an individual;
- ii a body corporate (e.g., a public or private company) and any subsidiary thereof. In this regard section 155 of the Companies Act should be applied when determining whether a company is a subsidiary of another company. Where donations are received from associated companies the candidate should enquire from the donors whether, under section 155 of the Companies Act, one or other of the companies is a subsidiary of the other;
- iii an unincorporated body of persons, e.g., a political party, a partnership, a residents association, a lobby group.

14.3 What are “political purposes”?

The contribution must be given for political purposes. The definition of political purposes is at [Appendix I](#).

14.4 Limits and Thresholds

The Electoral (Amendment) (Political Funding) Act 2012 reduced the maximum donation that can be accepted by individuals and political parties and it also reduced the disclosure thresholds. See "[Useful Information](#)" at page 6.

14.5 **Loans to third parties**

Where a loan is provided to a third party by a financial institution and the normal rules attaching to such loans apply, the loan is not regarded as a donation to the third party. However, where a loan is provided to a third 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 third party may be regarded as a donation and may, therefore, be subject to the 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 third party, it must be evident that the loan offered is a bona fide loan. In that regard the following would apply:

- i 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.
- ii 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 third party.
- iii 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 third party.

15. Prohibited Donations

- 15.1 **Anonymous donations.** Acceptance of an anonymous donation exceeding a value of **€100** is prohibited. A donation is anonymous if a third party does not know the name **and** address of the donor. The onus is on the recipient to ensure that the name and address of the donor is known.

If a prohibited anonymous donation is received by a third party, the Standards Commission must be notified by the third party within fourteen days of its receipt. The donation or its value must also be remitted by the candidate to the Standards Commission.

- 15.2 **Cash donation in excess of €200** Acceptance of a cash donation exceeding **€200** in value is prohibited.

If such a donation is received, the recipient of the donation must, within 14 days of receipt of the donation, return the donation to the donor or 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 recipient must, within fourteen days of receipt, notify the Standards Commission of receipt of the donation and remit the donation or the part of it exceeding the limit to the Standards Commission.

- 15.3 **Donations by non-registered corporate donor in excess of €200.** It is prohibited to 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 Standards 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 a donation is received from a non-registered corporate donor, the recipient of the donation 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 recipient 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.

- 15.4 **Foreign donations.** A third party must not accept a "foreign donation". A foreign donation is a donation of whatever value, given by an individual (other than an Irish citizen) who resides outside the island of Ireland or by a body corporate or unincorporated body of persons which does not keep an office in the island of Ireland

from which the carrying out of one or more of its principal activities is directed. The onus is on the recipient of the donation to satisfy him/herself that the donor is an Irish citizen.

A foreign donation must be notified and remitted to the Standards Commission by the third party within 14 days of its receipt. As an alternative, the third party may return the donation to the donor. If the donation is returned, the third party must keep a written record of that return for the purpose of its being furnished to the Standards Commission, if required.

- 15.5 **Donation in excess of prescribed limit.** The maximum value of donation(s) which may be accepted by a third party from a particular person in a particular calendar year, either directly or through an intermediary, is **€2,500**. Where a person makes more than one donation to a third party in a particular year the values of the donations must be aggregated for the purpose of observing the maximum limit.

If such a donation is received, the recipient of the donation must, within 14 days of receipt of the donation, return the donation to the donor or 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 recipient must, within fourteen days of receipt, notify the Standards Commission of receipt of the donation and remit the donation or the part of it exceeding the limit to the Standards Commission.

16. Requirement on Third party to open and maintain a Political Donations Account

- 16.1 If a third party receives, in any particular calendar year, a monetary donation for political purposes which exceeds **€100** it is required to open and maintain an account in a financial institution (a political donations account) and lodge that donation and any further such monetary donations, of whatever value, received by the third party to that account. [It should be noted that a credit union is not regarded as a financial institution for the purposes of the Act].
- 16.2 If a third party campaigning at the election is already the holder of a political donations account, it is not necessary to open a new account specifically for donations received in relation to the election campaign. In such circumstances monetary donations, of whatever value, received in relation to the election campaign must be lodged to the existing political donations account.
- 16.3 **Furnishing of Statutory Documentation in relation to a political donations account.**
- Where a third party has been required to open a political donations account, the responsible person of the third party will be required to furnish to the Standards Commission a Certificate of Monetary Donations and a statement from the financial institution where the account is held (bank statement). This documentation must be furnished by 31 March each year following the opening of the political donations account. The Certificate of Monetary Donations must be signed by the responsible person stating that all monetary donations received after the account was opened were lodged to the account and that all amounts debited from the account were used for political purposes. The Certificate must be accompanied by a Statutory Declaration.
- 16.4 The bank statement must specify the transactions that have taken place in relation to the account during the period beginning on the date of opening of the account up to the end of the calendar year, or the date of closing of the account if the third party ceases to exist.
- 16.5 The Standards Commission Secretariat will be in contact with registered third parties at the beginning of the relevant calendar year and will provide a Certificate of Monetary Donations form for completion.
- 16.6 Certificates of Monetary Donations and their accompanying bank statements are retained by the Standards Commission and are not put on public display or otherwise disclosed, unless required by court order or an enquiry by the Standards Commission.

17. Statutory Requirements of a Third party and Other Person with regard to incurring election expenses

- 17.1 In addition to the requirement to register as a third party, (having received a donation in excess of **€100**), a third party which proposes to incur expenses at the election must, before incurring any such expenses, separately furnish to the Standards Commission, in writing:
- i) the name, address and description of the person proposing to incur the expenses,
 - ii) a statement of the nature, purpose and estimated amount of such expenses, and
 - iii) an indication of the person's connection, if any, with any political party or candidate at the election.
- 17.2 An "other person" must also provide the above information to the Standards Commission before incurring any election expenses at an election. Once a third party or other person has complied with the above requirements and is deemed not to be connected to a political party or a candidate at an election, there is no limit to the amount of expenses which the third party or other person may incur.

18. Payment of invoices to suppliers

- 18.1 Claims for payment of election expenses, from suppliers, must be received by the third party/other person within 45 days after polling day (i.e. 6 July 2015). **Claims received after this date cannot be paid by the third parties.** It is an offence to make a payment if the claim is received after the 45 days have elapsed. To avoid disputes, it is very important that agents advise their suppliers of this requirement when placing orders for property, goods or services. Even though such claims cannot be paid, they are still regarded as election expenses and must be accounted for in the Election Expenses Statement furnished to the Standards Commission.

19. Election Expenses Statements

- 19.1 Shortly after the election, the Standards Commission will send to a third party/other person which notified the Standards Commission of its intention to incur election expenses, an Election Expenses Statement/Statutory Declaration. On this statement, the third party/other person must disclose to the Standards Commission details of all expenses incurred and payments made by, or on behalf of, the third party/other person in relation to the election. Staff of the Standards Commission Secretariat will be available to assist a third party/other person in completing the form. The completed statement must be received by the Standards Commission within 56 days after polling day (i.e., 17 July 2015).
- 19.2 The following must be included on the Election Expenses Statement completed by the third party/other person:
- i. details of all expenses incurred and payments made by the third party/other person,
 - ii. details of any disputed claims
 - iii. details of any late claims for payment (i.e. claims received more than 45 days after polling day which must not be paid),
- 19.3 Invoices, receipts or vouchers for every payment of election expenses exceeding **€100** must be included with the Election Expenses Statement. The Standards Commission also reserves the right to request any invoice, receipt or voucher for an item of expenditure valued at less than **€100** appearing in an Election Expenses Statement or a record of minor expenses.
- 19.4 Minor omissions or errors found by the Standards Commission in an Election Expenses Statement will be notified to the person who furnished the statement. If requested to amend his/her Election Expenses Statement the person must do so within 14 days.
- 19.5 The Standards Commission can request additional information in relation to an Election Expenses Statement. Where such additional information is requested, it must be provided in a form determined by the Standards Commission and may have to be accompanied by a Statutory Declaration.
- 19.6 The Election Expenses Statement and Statutory Declaration will be laid by the Standards Commission before both Houses of the Oireachtas and will be made available to the public for inspection and copying. Summary details of the expenditure incurred will also be included in a report to the Chairman of Dáil Éireann and will be published on the website of the Standards Commission.

20. Requirements for publishers under section 31(10) of the Electoral Act 1997, as amended

- 20.1 A publisher of a newspaper, magazine or other periodical publication must not publish any advertisement or notice in relation to the election purporting to promote or oppose, directly or indirectly, the interests of a political party or a candidate at the election, unless requested to do so by one of the following people:
- i. the national agent of a political party, or a person authorised in writing by such agent, or
 - ii. a candidate at the election, their election agent or person authorised in writing by such candidate or agent, or
 - iii. a person who produces to the publisher a Certificate of Authorisation from the Standards Commission certifying that they have complied with the provisions of section 31(7) of the Act in relation to the election.
- 20.2 These provisions of the Act are not intended to prevent or restrict the lawful publication of any matter in relation to the election in a newspaper or other publication, or the broadcast of such matter by radio or television or the lawful expression of opinion on any matter of public interest by any person.
- 20.3 Failure by the publisher of a newspaper, magazine or other periodical publication to comply with the above requirements can constitute an offence which may result in a fine of up to **€1,269.74**

21. Offences and penalties applicable to third parties with regard to the receipt of donations

- 21.1 Failure by a third party to register with the Standards Commission on receipt of a donation the value of which exceeds **€100** may result in a fine of up to **€1,269.74**
- 21.2 Failure by the responsible person of a third party to notify the Standards Commission of, or remit, as appropriate, to the Standards Commission, or return, as appropriate, to the donor, a prohibited donation may result in a fine of up to **€1,269.74**
- 21.3 Failure by the responsible person of a third party to furnish to the Standards Commission, by 31 March each year, the bank statement or Certificate of Monetary Donations, may result in a fine of up to **€1,269.74** and an on-going fine of up to **€126.97** per day for any day after a conviction on which the bank statement or Certificate is still outstanding.
- 21.4 A responsible person of a third party who knowingly furnishes to the Standards Commission a bank statement or Certificate of Monetary Donations which is false or misleading in any material respect may be liable to a fine of up to **€25,394.76** and/or up to 3 years imprisonment.

22. Offences and penalties applicable to third parties and other persons with regard to incurring election expenses

- 22.1 If a person who is not authorised to do so incurs expenditure or makes a payment in relation to the election, he or she, on conviction, can be fined up to **€1,269.74**
- 22.2 Failure to notify the Standards Commission of intent to incur election expenses can result in a fine of up to **€1,269.74**
- 22.3 Payment of claims received more than 45 days after polling day (i.e. after 6 July 2015) can result in a fine of up to **€1,269.74**
- 22.4 Failure to make such enquiries and maintain such records as are necessary for the purpose of furnishing an Election Expenses Statement and making a Statutory Declaration may result in a fine of up to **€1,269.74**
- 22.5 Failure to furnish an Election Expenses Statement by the statutory deadline (17 July 2015) can result in a fine of up to **€1,269.74** and an on-going fine of up to **€126.97** per day for any day, after a conviction, on which the Election Expenses Statement is still outstanding.
- 22.6 Failure to provide supplementary information relating to an Election Expenses Statement as requested by the Standards Commission can result in a fine of up to **€1,269.74**
- 22.7 Knowingly furnishing a false or misleading Election Expenses Statement to the Standards Commission can result in a fine of up to **€25,394.76** and/or up to 3 years imprisonment.
- 22.8 Failure to furnish to the Standards Commission, within 7 days after the date of the order, a copy of a court order for the payment of a disputed claim may result in a fine of up to **€1,269.74**

Appendix 1- Definitions

Section 22 of the Electoral Act 1997, as amended, provides the following definitions.

'account' means an account in an institution in the State for the purpose of crediting and debiting money received in respect of donations;

'corporate donor' is defined as including:

- (i) a body corporate;
- (ii) an unincorporated body of persons; or
- (iii) a trust

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

'donation' means any contribution given for political purposes by any person, whether or not a member of a political party, to a political party, a member of either House of the Oireachtas, a representative in the European Parliament or a third party or a candidate at a Dáil election and includes all or any of the following, namely -

- (i) a donation of money;
- (ii) a donation of property or goods;
- (iii) 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);
- (iv) a free supply of services (i.e. the supply of services without payment or other consideration);
- (v) 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 by a third party or by a financial institution at terms and conditions which are more favourable than that provided by a financial institution to other individuals in the normal course of business);
- (vi) a contribution made by a person to a fund-raising event organised for the purpose of raising funds for a political purpose. 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 actually received). The position with regard to fund-raising events is explained in greater detail in Appendix 2 of these guidelines;

- (vi) a payment by the 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 fees/levies/subscriptions paid to any sub-unit of a political party);
- (viii) 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 any service donated.

'election expenses' - section 31 of the Act provides that election expenses shall be those, and only those, listed hereunder:

(a) Advertising (whatever the medium used).

Expenses in respect of such advertising include agency fees, design costs and other costs incurred in connection with the preparing, producing, distributing or otherwise disseminating such advertising.

(b) Publicity.

Expenses in respect of that matter include expenses incurred in respect of party political broadcasts, the provision of any services or facilities in connection with press conferences or other dealings with the media, media advice and training and photography.

(c) Election posters.

Expenses in respect of such material include the costs of the design, production, printing, erection and removal of election posters - (must be during the election period)

(d) Other election material.

Expenses in respect of such material include the design, production, printing and dissemination of such material (other than posters), including canvas cards, election leaflets, election manifestos, newsletters and other promotional election material.

(e) Office and Stationery.

Expenses in respect of those matters include costs incurred in the rental or use of an office premises or meeting rooms for election purposes (other than for the purposes of annual or other party conferences) and the costs of heating, electricity, insurance, purchase or rental of office equipment, telephones, stationery and postage.

(f) Transport and travel.

Expenses in respect of those matters include expenses incurred on transport and travel (by any means), petrol and diesel, rental or use of campaign vehicles, rental or use of vehicles for transport of

voters on polling day, accommodation costs (for paid campaign workers), taxi and hackney services and courier services.

(g) Market research.

Expenses in respect of that matter include expenses incurred in the taking of an opinion poll or other similar survey relating to an election within the period of 60 days before polling day at the election by or on behalf of a political party, a political group or a candidate at the election.

(h) Campaign workers.

Expenses in respect of that matter include payments to paid campaign workers, insurance and other costs.

'institution' means:

- (a) *the holder of a licence under section 9 of the Central Bank Act 1971,*
- (b) *a building society incorporated or deemed to be incorporated under the Building Societies Act 1989, or a body incorporated in a corresponding manner under the law of any other member State of the European Communities.*
- (c) *a trustee savings bank within the meaning of the Trustees Savings Bank Act 1989,*
- (d) *ACC Bank plc,*
- (e) *An Post, or*
- (f) *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 business in the State;*

(Note: this definition does not include a credit union.)

'responsible person' in relation to an accounting unit, means the treasurer or any other person responsible for dealing with donations to the unit, or, in relation to a third party, the person or persons responsible for the organisation, management or financial affairs of the third party;

'third party' means any person, other than a registered political party or a candidate at an election, who accepts, in a particular year, a donation for political purposes, the value of which exceeds €100.

“person” can be:

- i) an individual;
- ii) a body corporate (e.g., a public or private company) and any subsidiary thereof.
In this regard section 155 of the Companies Act should be applied when determining whether a company is a subsidiary of another company. Where donations are received from associated companies the candidate should enquire from the donors whether, under section 155 of the Companies Act, one or other of the companies is a subsidiary of the other;
- iii) an unincorporated body of persons, e.g., a political party, a partnership, a residents association, a lobby group.

'political purposes' means any of the following purposes namely;

- (i) (I) 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

(II) 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

(III) 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, a member of either House of the Oireachtas, representative in the European Parliament, third party or candidate at an election or referendum or otherwise, or
(IV) 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;
- (ii) to promote or oppose, directly or indirectly, the election of a candidate at a Dáil, Seanad 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;
- (iii) otherwise to influence the outcome of the election or a referendum or campaign referred to in paragraph (i)(IV) of this definition.

'political group' means a group formed in accordance with the rules of procedure of the European Parliament;

'political party' means a political 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 election or a European election or both such elections;

Appendix 2 - Fund-raising events

1 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 includes the net value of a contribution to a fund-raising event. A contribution to a fund-raising event is deemed to have been made on the date the fund-raising event is held (and not the date on which the contribution is actually received).

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 had paid €1,000 in respect of the entry fee for 10 people, his/her gross contribution to the event would be €1,000. If the cost of running the event was €20 per person attending, a sum of €200 would be deducted from his/her gross contribution, leaving a net contribution of €800. If the person made other contributions to the event (e.g., buying horses at a race night, sponsoring a hole at a golf classic) it would be 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 following paragraphs set out the legislative requirements in relation to different types of fund-raising events which may be organised in the context of an election.

2 Fund-raisers organised by a political party for the purposes of raising funds for the party

Where a fund-raising event is organised by a political party for the purposes of raising funds for the party, the net contribution made by a person to the fund-raising event is regarded as a donation to the party. This applies even if the funds are subsequently used by the party for the purposes of supporting one or more of its candidates at an election.

If some or all of the proceedings of the event are given in the form of money to the party's candidate(s) it is regarded as a donation by the party to the candidate(s). If the proceeds are used by the party to pay election expenses incurred on the candidate's behalf, it is not regarded as a donation by the party to the candidate(s).

The party will not be required to disclose in a Donation Statement the total value of the proceeds of the fund-raising event.

The party will be required 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 applies to the net value contributions to fund-raising events.

Where the net value of any individual monetary donation to the fund-raising event exceeds €100, the accounting unit of the party, (ie., 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 net value of any individual monetary donation to the event does not exceed €100, the accounting unit of the party will not 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.

3 Fund-raisers organised by a political party for the purposes of raising funds for its candidate(s) at the election

Where a fund raising event is organised by a political party for the purposes of raising funds for its candidate(s) at the election and proceeds of the event are passed to the candidate(s), the party is regarded as an intermediary accepting donations on behalf of the candidate(s). The net contribution made by a person to the fund-raising event is regarded as a donation to the candidate(s). The candidate(s) (i.e., not the party) is responsible for ensuring that the legislative requirements are in compliance with the legislation.

If it is the case, however, that the party retains control of the proceeds, the donations may be regarded as having been made to the party and the party will be responsible for ensuring that the legislative requirements are complied with.

4 Fund-raisers organised by a candidate

Where a fund-raising event is organised by a candidate for the purposes of raising funds for his/her election campaign, contributions to the event are deemed to be donations to the candidate.

The candidate will not be required to disclose in a Donation Statement the total value of the proceeds of the fund-raising event.

The candidate will be required to disclose any donations from a person contributing to the event which exceed a net value of €600.

The maximum limit of €1,000, for acceptance by candidates of donations from any one person in the same year, applies to the net value of contributions to fund-raising events.

If the net value of any monetary donation to a fund-raising event organised by a candidate exceeds €100, the candidate, if he/she does not already have one, will be required to open a political donations account and lodge the donation and all subsequent monetary donations to the account.

If the net value of an individual monetary donation to the event does not exceed €100, the candidate will not be required to open a political donations account.

If the candidate already has a political donations account, all monetary donations, of whatever value, received in relation to the event must be lodged to the account.

5 Fund-raisers organised on behalf of a candidate by a person or group other than the candidate or his/her political party

Where a fund-raising event is organised on behalf of a candidate by a person or group other than the candidate or his/her political party (e.g., "Friends of ... groups") and the proceeds of the event are handed over to the candidate, the fund-raising person/group is regarded as an intermediary accepting donations on the candidate's behalf. The donations are deemed to have been received by the candidate and he/she is responsible for ensuring that the legislative requirements are complied with.

If the proceeds of the event are not handed over to the candidate and are retained by the fund-raising group, the following applies:

- if the net value of any donation to the fund-raising event exceeds €100, the person/group will be required to register as a "third party" with the Standards Commission. The person/group will be required to comply with the provisions of the Act applying to third parties with regard to the opening of a political donations account and the acceptance of certain donations,
- all money subsequently given to the candidate and all election expenses incurred or payments made by the fund-raising group on behalf of the candidate are regarded as donations to the candidate;
- if the aggregate value of donations from the fund-raising group to the candidate exceeds €600, the candidate will be required to disclose details of same in his/her Donation Statement;
- the maximum value of donations which the candidate can accept in any year from a fund-raising person/group which is regarded as a third party (and not as an intermediary accepting donations on the candidate's behalf) is €1,000.

Appendix 3 - Items which are not election expenses and which were included in Election Expenses Statements at previous elections

The following are examples of the more common items which are not regarded as election expenses and which were accounted for, incorrectly, as election expenses at previous elections. The list is not exhaustive. If you have any queries relating to expense items which you may incur during the election period, the Standards Commission Secretariat is available to assist when completing the Election Expenses Statement.

A - Advertising

Advertisements which appeared in a newspaper which had a publication date which was outside the election period e.g., "Thank you" advertisements in newspapers after polling day.

B - Publicity

Free post service provided to candidates in respect of "Litir um Thoghcháin". (It should be noted that only the postage costs are not regarded as an election expense. The cost of producing the leaflet/election address/Litir um Thoghcháin is an election expense.)

C - Election Posters

Removal of Election Posters (if removed after polling day).

D - Other Election Material

"Thank you" Cards, Leaflets, Newsletters, etc., which were distributed outside of the election period.

E - Office and Stationery

Rental costs associated with the use of an office which is owned by a political party.
Use of private telephones (including mobile phones) where the expense incurred was not reimbursed to the person.

F - Transport and Travel

Diesel/Petrol costs which were not reimbursed to the person, the cost of servicing a vehicle, repairs and additional costs in respect of a vehicle

G - Market Research

Purchase of Register of Electors.

H - Campaign Workers

"Close of poll" party.
Expenses incurred on refreshments for the candidate and volunteer campaign workers

I - Fines

Litter and parking fines etc.

