

Guidelines for the Register of Corporate Donors



Coimisiún um Chaighdeán in Oifigí Poiblí
Standards in Public Office Commission

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Table of Contents

Introduction.....	4
USEFUL INFORMATION.....	5
Chapter 1 - The Register of Corporate Donors.....	7
1.1 Registration of corporate donors.....	7
1.2 Entry to the register.....	7
1.3 Application Process & definition of “applicant”.....	7
1.4 Definition of 'company'.....	7
1.5 Definition of “corporate donor”.....	7
1.6 Application.....	8
1.7 Address of Corporate Donor.....	8
1.8 Approved by the Corporate Donor.....	8
1.9 Role of Decision Maker.....	9
1.10 Reasons for Refusing Application.....	9
1.11 The Appeal Process.....	10
1.12 Amendment of Register.....	10
1.13 Period for which registration is valid.....	10
1.14 Renewal of Registration.....	10
1.15 Availability for Public Inspection.....	11
Chapter 2 – Acceptance of donations from corporate donors.....	12
2.1 Limits and Thresholds.....	12
2.2 Who can make a corporate donation statement?.....	12
2.3 Exceptions for donations in excess of €200.....	12
2.4 Aggregation of Donations.....	13
2.5 Return of Prohibited Donations.....	13
2.6 Disposal of such donations by the Commission.....	14

2.7	<i>Donations by intermediaries – notification requirement</i>	14
2.8	<i>Donations by intermediaries – Donation Statement requirement</i>	14
Chapter 3 – Donations generally		15
3.1	<i>Limits and Thresholds</i>	15
3.2	<i>What is a donation?</i>	15
3.3	<i>What are political purposes?</i>	16
3.4	<i>Other Prohibited Donations</i>	17
(a)	Cash donations in excess of €200.....	17
(b)	Anonymous Donations	18
(c)	Foreign Donations	18
(d)	Donations in excess of the prescribed limit.....	18
3.5	<i>Donations to more than two persons</i>	18
3.6	<i>Donation Statements</i>	19
Chapter 4 - Offences and Penalties.....		20
4.1	<i>Offences</i>	20
4.2	<i>Penalties</i>	20

Introduction

1. These guidelines for the Register of Corporate Donors have been published by the Standards in Public Office Commission under section 4(6)(a) of the Electoral Act 1997, as amended and the Electoral (Amendment) (Political Funding) Act 2012.

2. The Guidelines cover the main requirements of the above legislation relating to:
 - the Register of Corporate Donors;
 - donations;
 - offences and penalties.

3. The Standards Commission was established in December 2001 by the Standards in Public Office Act 2001. The members of the Standards Commission are:
 - The Hon. Mr. Justice Daniel O’Keeffe, former Judge of the High Court, Chairman of the Standards Commission;
 - Mr Seamus McCarthy, Comptroller and Auditor General;
 - Mr Peter Tyndall, Ombudsman;
 - Mr Peter Finnegan, Clerk Assistant of Dáil Éireann;
 - Ms Deirdre Lane, Clerk of Seanad Éireann; and
 - Mr Jim O’Keeffe, former member of Dáil Éireann.

The Standards Commission has a permanent Secretariat which is located at 18 Lower Leeson Street, Dublin 2. The staff of the Standards Commission Secretariat can be contacted if advice is required on any aspect of the electoral legislation relating to these Guidelines.

4. The Guidelines are legally binding.

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, accounting unit of a political party (e.g. branches, 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, accounting 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, accounting unit of a political party, or third party in any calendar year from a corporate donor unless the corporate donor is registered in the Register of Corporate Donors maintained by the Commission and 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 one or more party members and 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, accounting 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)

Relevant dates

14 Days	Time within which donee must either return prohibited donation to Corporate Donor or notify and remit to the Standards Commission. Section 23AA(6)
14 Days	Time within which applicant can correct error on application to be entered on Register starting on date of notification to the applicant. Section 23D(7)(b)
14 Days	Time within which applicant can appeal decision to refuse application for entry on Register starting on date of notification issued to applicant. Section 23D(7)(d)
8 Weeks	Period up to 31 December during which Corporate Donor can apply for re-registration on an annual basis. Section 23D(11)
31 December	Period for which entry in the register following application is valid, up to and including 31 December next following entry. Section 23D(10)

Chapter 1 - The Register of Corporate Donors

1.1 Registration of corporate donors

The Standards Commission has established and will continue to maintain the register of corporate donors (the register). **[Section 23D(1)]**

1.2 Entry to the register

A corporate donor which intends to make a donation, the value of which exceeds €200 to a member of either House of the Oireachtas, a member of the European Parliament, a candidate at a Dáil, Seanad, or European election, or a candidate, a presidential election agent or a third party at a presidential election, political party, a sub-unit of a political party or a third party must apply to the Standards Commission to be entered in the register. **[Section 23D(2)]**

1.3 Application Process & definition of “applicant”

For the purposes of the application, an applicant is defined as:

- a) in the case of a company, a director or other officer of the company;
- b) in the case of a body corporate other than a company or an unincorporated body of persons, any other officer of the body or any person for the time being performing the functions of an officer of the body;
- c) in the case of a trust, a trustee of the trust. **[Section 23D(5)]**

1.4 Definition of 'company'

In accordance with the legislation, 'company' means a company established under the Companies Acts. **[Section 22(2)(aa)]**

1.5 Definition of “corporate donor”

A corporate donor is defined as including:

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

which makes a donation. A body corporate and any subsidiary thereof are deemed to be one person. **[Section 22(2)(aa)]**

1.6 Application

The applicant must complete a written application stating the name and address of the corporate donor, the name and address of the person responsible for the organisation, management, or financial affairs of the corporate donor. The application must also contain a statement of the purposes for which the corporate donor was formed, contain a list of each member, shareholder or trustee of the corporate donor as of 31 December preceding the application. In the case of a corporate donor which was formed on or before 1 January of the year preceding the application, the application must include (i) a copy of its statement of accounts for that year and (ii), if applicable, a copy of the annual report for that year. **[Section 23D(3)]**

The application must be accompanied by a statutory declaration that to the best of the knowledge and belief of the person concerned, the information provided on the application form 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 information. **[Section 23D(4)]**

1.7 Address of Corporate Donor

The address of the Corporate Donor is defined as:

- a) in the case of a company, the address of its registered office,
- b) in the case of a body corporate other than a company or an unincorporated body of persons, the address of its principal office or place of business, or
- c) in the case of a trust, the address of the principal office or place of business or residential address of the trustee. **[Section 23D(13)]**

1.8 Approved by the Corporate Donor

Approved by the Corporate Donor means:

- a) that a general meeting, one of the purposes of which is to consider making a donation, has been duly convened and conducted and approval for making the donation has been given in accordance with the rules (whether in writing or not) governing the administration and control of the corporate donor concerned and regulating its activities and such rules shall include:
- i. in the case of a company, the memorandum and articles of the company,
 - ii. in the case of a body corporate other than a company, the charter, statute, or other like instrument by which it is established,
 - iii. in the case of an unincorporated body of persons, the rules of the body,
- b) that a donation is made by a trustee in accordance with the deed of trust establishing the trust concerned which deed of trust permits the making of such a donation. **[Section 23AA(8) & Section 48AA(7)]**

1.9 Role of Decision Maker

Following receipt of the application for entry on the Register of Corporate Donors, the Standards Commission Decision Maker will consider the application. If there is a minor error or omission in the application, the applicant will be notified of that error or omission. The applicant will have 14 days to correct the error or make good the omission. The applicant will also have an opportunity to submit more information which will be taken into consideration by the Decision Maker prior to making a decision on the application. Following further consideration, if the Decision Maker decides to register the Corporate Donor on the Register of Corporate Donors, the applicant will be notified in writing of the decision. The Decision Maker will register the Corporate Donor and enter the information on the register. **[Section 23D(7)(a) to (c)]**

1.10 Reasons for Refusing Application

The Decision Maker, following consideration of an amended application, along with any other information provided, can decide to refuse the application for the following reasons:

- a) the application, including the statutory declaration is incorrect in some respect and that the person has not taken all reasonable action in order to satisfy him/herself as to the accuracy of the information, or
- b) the corporate donor is a body corporate or unincorporated body of persons which does not keep an office in the island of Ireland, being an office from which the carrying on of one or more of its principal activities is directed. **[Section 23D(7)(i) & (ii)]**

1.11 The Appeal Process

The Decision Maker will notify the applicant, in writing, of the decision and the reason why the application was refused and will inform the applicant that he/she can appeal the decision to the Appeals Officer not later than 14 days from the date on which the notification issued to the applicant. **[Section 23D(7)d]**

The applicant can appeal the decision in writing not later than 14 days from the date on which the notification issued to the applicant. The Appeals Officer will consider all information furnished with the original application and any additional information furnished with the appeal. **[Section 23D(8)(a)]** Following consideration of the appeal, the Appeals Officer will decide to either:

- a) revoke the decision made and direct the Decision Maker to register the Corporate Donor and enter the information, set out in paragraph 1.6, on the register, **[Section 23D(8)(b)(i)]**
- b) affirm the decision of the Decision Maker **[Section 23D(8)(b)(ii)]**

The Appeals Officer will notify the applicant in writing of the decision and the reason for the decision as soon as possible. **[Section 23D(8)(c)]**

1.12 Amendment of Register

If the applicant becomes aware that a particular entered in the register relating to the Corporate Donor is incorrect or ceases to be correct, the applicant must, as soon as possible, inform the Standards Commission and the Commission will make the alteration to the register. The onus is on the applicant to ensure that the register is correct and up-to-date. **[Section 23D(9)]**

1.13 Period for which registration is valid

A Corporate Donor can submit an application at any time in a particular year. Entry in the register is valid for the period up to and including 31 December next following the entry. **[Section 23D(10)]**

1.14 Renewal of Registration

A Corporate Donor entered on the register may apply, not more than 8 weeks before the expiration of the period of validity of the entry on the register, to the Standards Commission, to be entered on the register for a further year immediately following that expiration. The onus is on the applicant to apply for renewal of registration. **[Section 23D(11)]**

1.15 Availability for Public Inspection

The Standards Commission will make a copy of the entry on the register, including a copy of the documents listed in Paragraph 1.6 available for public inspection during normal working hours, free of charge. All the information relating to an appeal will also be published on the website of the Standards Commission. [**Section 23D(12)**]

Chapter 2 – Acceptance of donations from corporate donors

2.1 *Limits and Thresholds*

In the case of a Corporate Donor, a donation in excess of the value of €200 cannot be accepted by a 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 political party; an accounting unit of a political party or a third party, either directly or through an intermediary **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 (a corporate donation statement) and furnished with the donation to the donee confirming that the making of the donation was approved by the Corporate Donor. **[Section 23AA(1) & Section 48AA(1)]**

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. **[Section 23AA(2) & Section 48AA(2)]**

2.2 *Who can make a corporate donation statement?*

A corporate donation statement and statutory declaration can be made by one of the following persons only:

- a) in the case of a company, by a company director or other officer of the company;
- b) in the case of a body corporate (other than a company) or an unincorporated body of person, by an officer of the body or any person for the time being performing the functions of an officer of the body;
- c) in the case of a trust, by a trustee of the trust. **[Section 23AA(3) & Section 48AA(3)]**

2.3 *Exceptions for donations in excess of €200*

A donation in excess of €200 is not prohibited where the corporate donor is -

- a) a provider of a programme of education and training, **[Defined in Section 23AA(8)]** or

- b) the students' union or other representative body recognised by a provider of a programme of education and training,

and it makes a payment to a club, society or other body, operating with the permission and on the premises of the provider of a programme of education and training, and every member of which is a student who is enrolled or registered with the provider of a programme of education and training. **[Section 23AA(4)]**

2.4 Aggregation of Donations

Where a Corporate Donor makes more than one donation in the same year to the same member of either House of the Oireachtas, member of the European Parliament, political party, accounting unit of a political party, or a third party, or, in relation to the same Dáil, Seanad, European or presidential election to the same candidate or presidential election agent, or in relation to the same referendum or campaign, all such donations must be aggregated and treated as a single donation received by the person concerned. **[Section 23AA(5) & Section 48AA(4)]**

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 is deemed to be a donation and must be aggregated with other donations to ensure compliance with the legislation. **[Section 22(2)(a)(viii)]**

2.5 Return of Prohibited Donations

Where the acceptance of a donation is prohibited, the donee must, not later than 14 days after the receipt of the donation either:

- a) return the donation, or in the case of a donation which is a monetary donation, the part of it exceeding the limit concerned to the Corporate Donor and keep a written record of that return for the purposes of its being furnished to the Standards Commission, if required by it, or
- b) notify the Standards Commission of such receipt and remit the donation, or, in the case of a donation which is a monetary donation, the part of it exceeding the limit concerned or the value thereof, to the Commission. **[Section 23AA(6) & Section 48AA(5)]**

2.6 Disposal of such donations by the Commission

The Standards Commission will dispose of all moneys, property or goods received in this manner as may be directed by the Minister for Finance. [Section 23AA(7) & Section 48AA(6)]

2.7 Donations by intermediaries – notification requirement

A person who makes a donation on behalf of another person must notify, in writing, the member of either House of the Oireachtas; the member of the European Parliament; the candidate at a Dáil, Seanad, European or presidential election; the presidential election agent; the political party; the accounting unit of a political party; or the third party to whom the donation is made 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. [Section 23AB & Section 48AB]

2.8 Donations by intermediaries – Donation Statement requirement

Where a donation has been accepted by the donee through an intermediary, the annual Donation Statement furnished by the individuals mentioned in the paragraph above must contain additional information, namely, the value of the donation; the name, description and postal address of the person by or on whose behalf the donation was made. The Donation Statement must also give the date the donation was received, along with whether the donation was requested from the donor, and if so, the name and postal address of the person who requested the donation and whether a receipt issued to the donor in respect of the donation, and if so, the date on which the receipt issued and the name of the person who issued the receipt. [Section 24(1)]

Chapter 3 – Donations generally

3.1 *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 5.

3.2 *What is a donation?*

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 an accounting unit of a political party (e.g., all branches, cumann, a Comhairle Dáil Ceantair or any other sub-unit of a party, etc. [**Section 22(2)(aa)**]), and includes all or any of the following, [**Section 22(2)(a)**] 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 1 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. See paragraph 3.2(v).

A donation made to a 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 an accounting unit of a political party (e.g., all branches, cumann, a Comhairle Dáil Ceantair or any other sub-unit of a party, etc.), through an intermediary, agent or other person acting for the donee shall be deemed to be a donation made to the donee directly. **[Section 22(2)(c)]**

If the same person makes more than one donation in the same year to a Member of either House of the Oireachtas or MEP, or political party, or in relation to the same Dáil, Seanad or European election to the same candidate, the values of the donations must be aggregated and treated as a single donation for the purpose of observing both the disclosure and the maximum acceptance limits applying to donations. **[Section 22(2)(d)]**

If more than one member of the same family, or other group, make donations to the same Member, candidate or presidential election agent, sub-unit or political party, including where donations of money are made from a joint account in a financial institution, it must be clear that these are separate donations from each of the individuals/party concerned. Otherwise, the values of the donations must be aggregated and treated as a single donation for disclosure purposes and for the purpose of observing the maximum limit applying to the acceptance of donations. Similarly, if a company and any of its directors make a donation to the same Member, candidate or presidential election agent, sub-unit or political party it must be clear that these are separate donations. In such circumstances the Standards Commission may look for evidence that the donations are from separate legal entities. In each case, the election agent and/or candidate/presidential election agent, sub-unit or political party must make whatever enquiries are necessary in order to be satisfied as to the position with regard to the donation. **[Section 22(2)(d)]**

3.3 What are political purposes?

Political purposes means any of the following purposes, namely, **[Section 22(2)(aa)]**:

- 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, 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
- 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;
- v. to promote or oppose, directly or indirectly, the election of a candidate at a Dáil, Seanad, European or presidential 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;
- vi. otherwise to influence the outcome of an election or a referendum or a campaign referred to at (iv) above.

3.4 Other Prohibited Donations

(a) Cash donations in excess of €200

In addition to the prohibition on acceptance of corporate donations, TDs, Senators, Members of the European Parliament, political parties, sub-units of political parties and third parties, candidates at a presidential election, a presidential election agent or a third party at a presidential election, cannot, directly or through any intermediary, accept from any donor in a calendar year a donation that exceeds €200 cash. [Section 23A(1)]. For the purposes of the legislation, a donation received in the form of a cheque is not deemed to be a cash donation.

(b) Anonymous Donations

Acceptance of an anonymous donation exceeding a value of €100 is prohibited. A donation is anonymous if the recipient 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 such a prohibited donation is received, the Standards Commission must be notified by the recipient within fourteen days of its receipt. The donation or its value must be remitted by the recipient to the Standards Commission. [Section 23].

(c) Foreign Donations

An individual 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 to satisfy him/herself that the donor is an Irish citizen. [Section 23A(2)]

(d) Donations in excess of the prescribed limit

Where a donation is received and is prohibited because its value is over the limit, the donee must notify the Standards Commission within 14 days of its receipt and remit the donation, or that part of a monetary donation which is over the limit to the Standards Commission. As an alternative, the donee may return the donation, or that part of a monetary donation which is over the limit, to the donor and keep a written record of that return for the purpose of its being furnished to the Standards Commission, if required. [Section 23A(1)]

The maximum value of donation(s) which may be accepted by an individual from a registered Corporate Donor in a particular calendar year, either directly or through an intermediary is €1,000 for an individual member etc. and €2,500 for political parties. Where a Corporate Donor makes more than one donation to an individual in a particular year, the values of the donations must be aggregated for the purpose of observing the maximum limit.

3.5 Donations to more than two persons

Individuals, including Corporate Donors, who make donations for political purposes exceeding an aggregate value of €1,500, during a calendar year to two or more persons who, when the donations were made, were members of the same political party or, to a political party and to one or more persons who were members of that political party when the donations were made to them, must, not later than 31 January of each year, furnish a Donation

Statement to the Standards in Public Office Commission providing details of all such donations. [**Section 24(1A)**]

Individuals, TDs, Senators, Members of the European Parliament, political parties, sub-units of political parties and third parties, candidates at a presidential election, a presidential election agent or a third party at a presidential election, must not accept a donation from anyone who has donated to two or more persons who, when the donations were made, were members of the same political party or, to a political party and to one or more persons who were members of that political party when the donations were made to them, if he/she knows or has reason to believe that the person proffering the donation will be required to furnish a Donation Statement and does not intend to comply with that requirement. In circumstances where such a donation is received, the recipient is prohibited from accepting it and must notify the Standards in Public Office Commission of contact details of the donee and remit the donation or its value to the Commission. [**Section 24A(2) & (3)**]

3.6 Donation Statements

All members of the Houses and representatives in the European Parliament are obliged to submit a Donation Statement annually by 31 January of each year. [**Section 24**] Donors described at Paragraph 3.5 are also obliged to submit Donations Statements by 31 January annually. In relation to annual donation statements by all members of the Houses and representatives in the European Parliament, the provisions of the amended Act require additional information as follows:

- a) the date the donation was received;
- b) who requested the donation;
- c) postal address of the person who requested the donation and
- d) whether a receipt issued to the donor in respect of the donation, and, if so, the date on which the receipt issued and the name of the person who issued the receipt.

Corporate Donors should be aware that they will be expected to retain receipts for examination by the Standards Commission.

Chapter 4 - Offences and Penalties

4.1 Offences

- 4.1.1 A person shall be guilty of an offence if he/she knowingly furnishes a statement (i.e., the statement 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), which is false or misleading in any respect. [**Section 23 AA(1)(ii) & Section 25(1C)**]
- 4.1.2 A person shall be guilty of an offence if he/she knowingly furnishes information to the Standards Commission in relation to the Register of Corporate Donors which is false or misleading in any material respect. [**Section 23D & Section 25(1D)**]
- 4.1.3 A person shall be guilty of an offence if he/she knowingly furnishes information to the Standards Commission which is false or misleading in any material respect in relation to the making of donations by intermediaries. [**Section 23AB & Section 25(1E)(b)**]

4.2 Penalties

- 4.2.1 Where a person is found guilty of the offences above, on conviction on indictment, shall be liable to a fine not exceeding €25,394.76 or, at the discretion of the court, to imprisonment for a period not exceeding 3 years or to both such fine and imprisonment. [**Section 25(2)(b)**]