

Explanatory Note for Third Parties

Electoral Act 1997, as amended



Coimisiún um Chaighdeán in Oifigí Poiblí
Standards in Public Office Commission

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Contact Details

Standards in Public Office Commission

Telephone: 01 6395666

Twitter : @SIPOCIreland

Email: sipo@sipo.gov.ie

Website: www.sipo.gov.ie

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Registration

A third party must, on receipt of a donation exceeding the value of €100, and before incurring any expenses for political purposes, or any further such expenses, furnish to the Standards Commission:

- the name and address of the third party and the name and address of the person responsible for its organisation, management or financial affairs ("responsible person"),
- a statement of the nature, purpose and estimated amount of donations to, and proposed expenses of, the third party during the year, and
- an indication of any connection the third party may have with any political party or candidate at an election or referendum or otherwise.

A "third party" is not required to disclose details of actual donations received nor of actual expenses incurred.

Under Section 4(4) of the Electoral Act 1997, as amended the Standards Commission may make such inquiries as it considers appropriate and may require any person to furnish any information, document or thing in the possession or procurement of the person which the Commission may require for the purposes of its duties under the Act.

Political Donations Account

Where a monetary donation in excess of €100 is received by a third party it must:

- open and maintain an account in a financial institution in the State;
- lodge the donation and any subsequent monetary donations to the account.

Not later than 31 March each year, the responsible person of a third party is required to furnish to the Standards Commission a statement from the financial institution in which the account has been opened. The statement must specify the transactions that have taken place in relation to the account during the preceding year.

The responsible person must also furnish a certificate to the Standards Commission stating that all monetary donations received by the third party during the preceding year were lodged to the account and that all amounts debited from the account were used for political purposes. When furnishing the certificate the responsible person will also be required to complete a Statutory Declaration that, to the best of the person's knowledge and belief, the certificate 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 certificate.

The Standards Commission will issue a Certificate of Monetary Donations/Statutory Declaration to the responsible person for this purpose.

Under Section 4(4) of the Electoral Act 1997, as amended the Standards Commission may make such inquiries as it considers appropriate and may require any person to furnish any information, document or thing in the possession or procurement of the person which the Commission may require for the purposes of its duties under the Act.

Limits on Donations

A recipient of a donation may not accept:

- a donation exceeding the value of €100, if the name and address of the donor are not known;
- a cash donation exceeding the value of €200;
- a donation exceeding the value of €200 in any calendar year from a corporate donor **unless** the corporate donor is registered in the register of Corporate Donors maintained by the Standards 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;
- a donation, of whatever value, from an individual (other than an Irish citizen) who resides outside the island of Ireland;
- a donation from a body corporate or unincorporated body of persons which does not keep an office in the island of Ireland from which one or more of its principal activities is directed;
- a donation, or donations from the same donor, in any calendar year exceeding, in the case of a TD, Senator, MEP, candidate at a Dáil, Seanad or European election or Presidential candidate/election agent, an aggregate value of €1,000 or, in the case of a political party, sub-unit of a political party or a third party, an aggregate value of €2,500.

Under Section 4(4) of the Electoral Act 1997, as amended the Standards Commission may make such inquiries as it considers appropriate and may require any person to furnish any information, document or thing in the possession or procurement of the person which the Commission may require for the purposes of its duties under the Act.

Offences

The responsible person of a third party shall be guilty of an offence if he or she –

- (a) fails to notify the Standards Commission in accordance with section 23, 23A or 23AA of the receipt of a donation acceptance of which is prohibited by that section.
- (b) fails to remit in accordance with section 23, 23A, or 23AA such a donation, or part thereof, or fails to return the donation or part exceeding the limit to the donor.
- (c) fails to return the statutory documents to the Standards Commission required under section 23B on or before the specified date of 31 March annually
- (d) knowingly furnishes documents required under section 23B which is false or misleading in any material respect
- (e) fails to notify the Standards Commission as soon as may be after receipt by it of a donation the value of which exceeds €100 and before incurring any expenses for political purposes required under section 23C.

Under Section 4(4) of the Electoral Act 1997, as amended the Standards Commission may make such inquiries as it considers appropriate and may require any person to furnish any information, document or thing in the possession or procurement of the person which the Commission may require for the purposes of its duties under the Act.

Useful information	
Value of donation	Net Valuation of donation (from fundraising events, etc.) determines disclosability. Section 22(2)(vi) & Section 46(2)(a)(vi)
€100	An anonymous donation exceeding this amount cannot be accepted in any calendar year. Section 23(1) & Section 47(1)
€100	On receipt of a donation of this value, a political donations account must be opened by a TD, Senator, MEP, candidate at a Dáil, Seanad or European election, Presidential candidate/election agent, political party, sub-unit of a political party (e.g. branches, accounting units, cumann, a Comhairle Dáilcheantair or any other sub-unit), or a third party (if one has not already been opened). Section 23B(1) & Section 48B(1)
€200	Maximum cash donation that may be accepted by a TD, Senator, MEP, candidate at a Dáil, Seanad or European election, Presidential candidate/election agent, political party, sub-unit of a political party, or a third party in any calendar year from a donor. Section 23A(1)(iii) & Section 48A(1)(iii)
€200	Maximum donation that may be accepted by a TD, Senator, MEP, candidate at a Dáil, Seanad or European election, Presidential candidate/election agent, political party, sub-unit of a political party, or third party in any calendar year from a corporate donor 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, sub-unit of a political party, or a third party from an individual or a registered corporate donor in any calendar year. Section 23A(1)(ii) & Section 48A(1)(ii)

Relevant dates	
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Date	Relevant Period
1 January – 31 December of previous year	Relevant period to (a) consider if the organisation is a Third Party and (b) the period for which relevant information should be forwarded to the Standards Commission.
31 March annually	Date by which Certificate of Monetary Donations (CMD) and Bank Statements for 2014 must be furnished to the Standards Commission.

Definitions

A **third party** means any individual or group, other than a registered political party or election candidate, who or which accepts, in a particular calendar year, a donation for political purposes exceeding the value of €100.

A **person** includes an individual, a body corporate and an unincorporated body of persons. A body corporate and any subsidiary thereof is deemed to be one person.

A **corporate donor** is defined as including:

- a body corporate;

- an unincorporated body of persons; or,

- a trust,

which makes a donation. A body corporate and any subsidiary thereof are deemed to be one person. For further information please refer to the Guidelines for the Register of Corporate Donors at www.sipo.gov.ie

A **donation** means any contribution given for political purposes and includes all or any of the following, namely:

- a donation of money;
- a donation of property or goods;
- 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);
- a free supply of services (i.e., the supply of services without payment or other consideration therefor);
- 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 financial institution or by a third party at terms and conditions which are more favourable than that provided by the financial institution to others);
- a contribution made by a person to a fund-raising event organised for the purpose of raising funds for the benefit of a TD, Senator, MEP, candidate at a Dáil, Seanad or European election, Presidential candidate/election agent, political party, sub-unit of a political party, or third party. The donation is that proportion of the contribution which is attributable to the net profit, if any, deriving from the event. Donations are deemed to have been received on the date of the actual fund-raiser (and not when the funds are actually received);
- a payment by a person on their own behalf, or on behalf of one or more than one other person, of a fee or subscription for membership or continued membership of a political party (membership fees include any membership fee/levy/subscription paid to any sub unit of a political party);

- a notional donation/donation in kind. This means that where a person/organisation pays for work/expenses from its own resources (i.e., not party funds) then this is considered a donation of the notional value/cost of the work/expenses to the donee. Donations in kind or notional donations are to be valued at the usual commercial price charged for the purchase, use or acquisition of the property or goods or the supply of the services donated.

Political purposes means any of the following purposes, namely:

- 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
- 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
- to present, directly or indirectly, the comments of a political party, a political group, a member of either House of the Oireachtas, a representative in the European Parliament or a third party with regard to the policy or policies of another political party, political group, member of either House of the Oireachtas, representative in the European Parliament, third party or candidate at an election or referendum or otherwise, or
- 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;
- to promote or oppose, directly or indirectly, the election of a candidate at a Dáil, Seanad, Presidential or European election or to solicit votes for or against a candidate or to present the policies or a particular policy of a candidate or the views of a candidate on any matter connected with the election or the comments of a candidate with regard to the policy or policies of a political party or a political group or of another candidate at the election or otherwise;
- otherwise to seek to influence the outcome of the election or a referendum or a campaign.

A **donation by an intermediary** must be accompanied by:

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