

**Guidelines for the Dáil Bye-Election  
8 July 2021  
[National Agents, Third Parties, Other Persons  
and Publishers]**



**Coimisiún um Chaighdeán in Oifigí Poiblí**  
**Standards in Public Office Commission**

**Published by the Standards in Public Office Commission under section 4(6)(a)  
of the Electoral Act 1997, as amended**

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**June 2021**

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## Introduction

1. These guidelines for the Dáil bye-election have been published by the Standards in Public Office Commission (the Commission) under section 4 of the Electoral Act 1997, as amended (the Act).
2. The Guidelines are for national agents of political parties, third parties, other parties and publishers. Separate guidelines have been published for candidates and election agents.
3. These guidelines cover the main requirements of the above legislation relating to limits on election spending.
4. The Commission was established in December 2001 by the Standards in Public Office Act 2001. The members of the Commission are:
  - The Hon. Mr. Justice Garrett Sheehan, Chairperson of the Commission;
  - Mr Seamus McCarthy, Comptroller and Auditor General;
  - Mr Peter Tyndall, Ombudsman;
  - Mr Peter Finnegan, Clerk of Dáil Éireann;
  - Mr Martin Groves, Clerk of Seanad Éireann; and
  - Ms Geraldine Feeney, former member of Seanad Éireann.

The Commission has a permanent Secretariat, which is located at 6 Earlsfort Terrace, Dublin 2.

**Note:** For information regarding donations and prohibited donations please see the guidelines for candidates and election agents available on the Commissions website.

## Relevant dates

16 June 2021– 8 July 2021	Election Period
22 August 2021	Claims for payment of election expenses, from suppliers, must be received by the national agent by this date
2 September 2021	Date by which all Election Expenses Statements, must be furnished to the Commission

## Chapter 1: 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.

- 1.1 Appointment of a national agent
- 1.2 Assignment of a portion of a candidate's spending limit to his/her political party
- 1.3 Spending by the national agent
- 1.4 Persons incurring unauthorised expenditure
- 1.5 The election period
- 1.6 What are election expenses?
- 1.7 What are not election expenses?
- 1.8 Other expenses incurred in order to facilitate a candidacy
- 1.9 Payment of invoices to suppliers
- 1.10 Furnishing an election expenses statement
- 1.11 Offences and penalties applicable to national agents at the election

## 1.1 Appointment of a national agent

- 1.1.1 Each political party with a candidate contesting the bye-election shall appoint a national agent [Section 28(1)(a)]. The national agent must have an office or place in the State to which claims, notices, writs, summonses and other documents may be sent [Section 29(1)].
- 1.1.2 Not later than the last day for receiving nominations at the election, 12 noon, 24 June 2021, the political party must notify the Commission, in writing, of the name of the national agent and of the address of the office of the agent [Section 28(1)(a)]. If a political party has not notified the 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 [Section 28(3)(a)]. 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.
- 1.1.3 The Commission will publish in *Iris Oifigiúil* the names of the national agents appointed or deemed to have been appointed [Section 28(6)(a)].
- 1.1.4 A political party may, at any time, revoke the appointment of a national agent and appoint another national agent in his/her place [Section 28(4)(a)]. Where this occurs, details of the new national agent must be provided to the Commission.

## 1.2 Assignment of a portion of a candidate's spending limit to his/her political party

- 1.2.1 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 [Section 32(1)(b)(i)].
- 1.2.2 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 two candidates contesting the bye-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 [Section 32(2)]. The amount of the limit available to be spent by each candidate's election agent would, as a result, be reduced by €10,000.

- 1.2.3 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 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.

1.2.4 The Act requires that the assignment to the party must be agreed in writing [*Section 32(1)(b)(i)*]. 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.

1.2.5 The candidate will be required to give his/her election agent a copy of the written agreement for furnishing to the Commission with the election agent's election expenses statement [*Section 36(1)(c)*]. 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.

### 1.3 Spending by the national agent

1.3.1 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 [*Section 31(4)(a)*]. 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.

1.3.2 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 [*Section 31(5)*].

1.3.3 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 a five seat constituency) [*Section 32(1)(a)*].

1.3.4 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.

1.3.5 Spending by the national agent out of the amount assigned to the party by its candidates can be either on a candidate or at national level.

1.3.6 Spending on a candidate is spending which identifies and promotes a candidate(s) in a constituency. This includes the party's "team" in a constituency (i.e., candidate and running mate(s)). Where election materials (e.g. posters, billboards) feature a party's leader and its candidates, the expenditure will be deemed to have been incurred by the candidates concerned and not the party leader. (The party leader is the only person who may appear in a poster, billboard etc., and not have the expenses regarded as

having been incurred in respect of his candidacy.) Spending by the national agent on a particular candidate cannot exceed the amount assigned to the party by the candidate.

- 1.3.7 No part of a candidate's spending limit can be transferred from one candidate to another in a constituency.
- 1.3.8 National Spending is spending which, by its content and geographic extent, is clearly aimed at attracting votes in the country as a whole. It is not directly related to the promotion of a candidate, or a number of candidates, in a constituency. Reference should be to the party, its leadership, its policies or election issues in a national context. It should be reasonably and evenly spread throughout the country having regard to the extent to which advertising media is available. Such spending is usually on items like the party manifesto, party political broadcasts, tours by the party leader etc. Where party political broadcasts feature members of the party leadership or party spokespersons, the expenses incurred will be regarded as national spending and will not be regarded as having been incurred on the individual candidates. In a situation where a candidate who is not a party spokesperson and who is not part of the party leadership, appears in a party political broadcast, the spending incurred will not be regarded as national spending and an appropriate portion of the cost of the broadcast will be regarded as expenditure incurred on the candidate's behalf.
- 1.3.9 Where the national agent of a political party proposes to incur election expenses that include an endorsement which solicits votes for another political party, the endorsement is regarded as expenditure incurred on behalf of the second party. A proportion of the cost of the materials, which should be calculated on the basis of the extent to which the second party is featured, must be met from the second party's expenditure limit and must be authorised and taken into account by the national agent of the second party.
- 1.3.10 Where expenditure is incurred by the national agent of a political party on materials which include an endorsement which solicits votes for a candidate or candidates of another political party, the endorsement is regarded as expenditure incurred on the candidate's behalf. A proportion of the cost of the materials, which should be calculated on the basis of the extent to which the candidate is featured must be met from the expenditure limit of the candidate or the expenditure limit of his/her political party. The expenditure must be authorised by the candidate's election agent or the national agent of his/her political party.
- 1.3.11 Where either of the above type of cross-canvassing is likely to take place, it is recommended that relevant agreements and authorisations are put in place beforehand to cover the likely costs of the expenditure.

## 1.4 Persons incurring unauthorised expenditure

- 1.4.1 The national agent is the only person who can incur expenditure or make payments on behalf of a political party at the Dáil bye-election [*Section 31(4)(a)*].



National agents should be aware that if a person or body is incurring expenses at the bye-election to promote the party or its candidates, the 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 or candidate [*Section 31(6)*].

1.4.2 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 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**

1.4.3 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 [*Section 31(5)*]. Such expenses must be accounted for by the national agent in his/her election expenses statement.

1.4.4 A local party organisation (e.g., constituency or branch) cannot incur expenditure or make a payment in relation to the party's candidates at the election unless

- authorised by the party's national agent or
- authorised by the particular candidate's election agent [*Section 31(5)*].

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**

1.4.5 Bodies, such as trade unions or interest groups, that 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"**

1.4.6 Expenditure by "third parties" and "other persons", i.e., those not connected to a candidate or a political party, is permitted under the Act provided the third party/other person has notified the Commission. Details of what they must do are included in Chapter 2 of these guidelines.

National agents should notify the Commission if they become aware of third parties or other persons incurring election expenditure either promoting or opposing a political party or a candidate.

1.4.7 Notices or advertisements in newspapers, magazine or other periodical publications, 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, in writing, 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 Commission certifying that they have complied with the appropriate legal requirements. The Commission will notify editors/publishers of the provisions of the legislation in this regard. [*Section 31(10)*].

1.4.8 "Third parties"/"other persons" who incur election expenses will also have to account for their election expenses in an election expenses statement.

## **1.5 The election period**

1.5.1 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 and ending on polling day itself, both dates included. The election period for the bye-election is from 16 June 2021 to 8 July 2021 [*Section 31(3)(a)(i)*].

1.5.2 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 [*Section 31(3)(b)*].

1.5.3 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.

1.5.4 For example, 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) that 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.

1.5.5 The cost of an opinion poll or other similar survey taken within the period of 60 days before polling day will be regarded as an election expense [*Section 31(1)(b) and Schedule to Act 1(g)*].

## 1.6 What are election expenses?

1.6.1 The legislation provides that election expenses are those and only those set out in the definition of election expenses in Appendix 1, incurred in the provision of property, goods or services for use at the election during the election period (16 June 2021 to 8 July 2021) in order to:

- promote or oppose the interests of a political party or the election of a candidate, or
- 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
- solicit votes for or against a candidate, or
- 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
- otherwise to influence the outcome of the election [*Section 31(1)(a) and Schedule to Act*].

1.6.2 Where property, goods or services, provided free or below cost, are used during the election period, they are regarded as election expenses that must be taken into account as election spending by the relevant agent at their commercial price [*Section 31(2)*]. [An example might be where a printing company agrees to provide, free of charge, election literature that 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.

1.6.3 It should be noted that where free or below cost services are provided by a business/company, they cannot exceed the value of €200 unless the business/company is registered as a corporate donor with the Commission.

1.6.4 Election expenses include payments to paid campaign workers where receipted.

1.6.5 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 Commission Secretariat for advice.

### **Election Expenses which are met out of public funds**

- 1.6.6 Where publicly funded property, services or facilities are used for electoral purposes, the cost of such use must be reimbursed to the relevant provider. Such costs must then be accounted for as an election expense. The use of any such 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. [Examples of this type of expenditure include the use of publicly funded facilities such as prepaid envelopes, telephones, staff time etc.]
- 1.6.7 Candidates at the election who are holders of elected/public office may be required to communicate with the electorate during the election period. Where costs are met from public funds, it is necessary to differentiate between the use of public resources in carrying out their representative business and the use of public resources for electoral purposes. Any use of their publicly funded facilities for their own electoral purposes must be accounted for as an election expense.
- 1.6.8 If, during the election period, publicly funded materials are used by the candidate for the purpose of any form of unsolicited communication to any of the electorate, 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.
- 1.6.9 Where a new enquiry is raised with a candidate in his/her capacity as a candidate (including an enquiry which had not been raised with the candidate prior to the election) while he/she is canvassing and publicly funded facilities 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).
- 1.6.10 Members of the Oireachtas are reminded that publicly funded facilities are provided to them solely for their own use as public representatives. These facilities should not be provided to other candidates for electoral purposes. To do so may have serious consequences under the Ethics in Public Office Acts 1995 and 2001, in addition to amounting to an election expense which must be accounted for.

## **1.7 What are not election expenses?**

1.7.1 Items that are not election expenses include;

- **free post service** provided to candidates by An Post (i.e., Litir Um Thoghcháin) [*Schedule paragraph 2(a); Section 22(2)(b)(i)*]. 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;

- 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 [*Schedule paragraph 2(a); Section 22(2)(b)(iii)(I)*]. **[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.];
- 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 [*Schedule paragraph 2(a); Section 22(2)(b)(iii)(II)*]. 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;
- **normal media coverage** and the transmission on radio or television of a broadcast on behalf of a candidate or a political party [*Schedule paragraph 2(a); Section 22(2)(b)(iv) & (v)*]. This does not cover any production, or other, costs associated with a transmission on radio or television;
- **advertising outside of election period** - 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.
- election **expenses incurred at a previous Dáil, European or local election** which were disclosed in an Election Expenses Statement furnished to the Commission or to a local authority [*Schedule paragraph 2(b)*]. 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 Commission Secretariat and provide details of the materials being re-used and the Election Expenses Statement on which they were previously recorded.]

- The **payment of fees incurred to secure the nomination**, for example the deposit in respect of the candidate or the travelling or other expenses incurred by a candidate in obtaining assenters to secure the nomination of the candidate [*Schedule paragraph 2(d) & (dd)*];

- the cost of purchasing **copies of the register of electors** [*Schedule paragraph 2(e)*];
- the **reasonable living expenses** (including accommodation) of a candidate and volunteers working on his/her behalf [*Schedule paragraph 2(f)*]. Under this heading, in addition to accommodation costs, spending of up to €50 per 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 €50 per person per day are not regarded as election expenses.);
- **expenses for refreshments** for the candidate and volunteer campaign workers where the amount incurred per day on any one person did not exceed the amount determined by the Commission as constituting reasonable living expenses;
- any **paid campaign worker who incurs minor expenses** (not exceeding €126.97 in any one payment) lawfully incurred in relation to the election if the said sum is not repaid to the person. (In simple terms this means that an individual may pay for small items costing less than €126.97 and these are not election expenses if the individual does not seek a reimbursement from the election agent) [*Schedule paragraph 2(g)*].

**[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. 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" may be required to be furnished to the 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.]

- **volunteers who take annual leave**, e.g. where an outgoing MEP's staff or Oireachtas Member's staff (e.g. personal assistant, research assistant, etc.) takes annual leave and works on a candidate's election campaign on a voluntary basis during the election period, the work carried out by the member of staff will be deemed to have been carried out as a free service and the cost of his/her salary while working voluntarily will not be regarded as election expenses for the purpose of the Act;
- **finances imposed** by organs of the State, e.g., parking and litter fines;

- 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;
- 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. However, the costs of heat, light, telephones, etc., incurred for electoral purposes at such offices during the election period are election expenses.
- **removal of election posters** (if removed after polling day);
- **other election material outside election period**, such as Thank You cards, leaflets, newsletters, etc. which were distributed outside of the election period
- **use of private telephones**, including mobile phones, where the expense incurred was not reimbursed to the person;
- **transport and travel**, including diesel/petrol costs which were not reimbursed to the person;
- **“close of poll” party**.

This list is not exhaustive. If you have any queries relating to expense items which you may incur during the election period, the Commission Secretariat is available to assist.

## 1.8 Other expenses incurred in order to facilitate a candidacy

1.8.1 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 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).

## 1.9 Payment of invoices to suppliers

1.9.1 Claims for payment of election expenses, from suppliers, must be received by the national agent within 45 days after polling day (i.e., 22 August 2021). Claims received after this date cannot be paid by the national agent [Section 34]. 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 Commission.

## 1.10 Furnishing an election expenses statement

1.10.1 The Commission will send national agents an election expenses statement/statutory declaration [Section 36(2)]. On this statement, the national agent must disclose to the Commission details of all expenses incurred and payments made by, or on behalf of, the agent in relation to the election.

Staff of the Commission Secretariat may be contacted at [info@sipo.ie](mailto:info@sipo.ie) if assistance is required.

The completed statement must be received by the Commission within 56 days after polling day (i.e., 2 September 2021).

**The national agent will be required to complete an election expenses statement even if no expenses were incurred by the party.**

1.10.2 The following must be included on the election expenses statement:

- 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 [Section 36(1)(a)],
- details of authorised persons including the amount each authorised person was permitted to spend and the amount actually spent,
- confirmation of the portion of each candidate's spending limit which was assigned by the candidate to the national agent's political party [Section 36(1)(c)],
- details of any disputed claims for payment, information concerning late claims for payment (i.e., claims received more than 45 days after polling day) [Section 36(1)(d)],
- details of expenses incurred on goods, property or services used during the election period where the costs were met from public funds (See paragraph 1.6.6).



- 1.10.3 A record of minor expenses (not exceeding €126.97 in any one payment) may also be required to be furnished to the 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.
- 1.10.4 Invoices, receipts or vouchers for every payment of election expenses exceeding €126.97 must be included with the election expenses statement [*Section 31(9)*]. The 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.
- 1.10.5 Minor omissions or errors found by the 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 [*Section 4(2)*].
- 1.10.6 The Commission may 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 Commission and may have to be accompanied by a statutory declaration [*Section 36(2A)*].
- 1.10.7 After returns are submitted and verified, the election expenses statements and statutory declarations will be laid by the Commission before both Houses of the Oireachtas [*Section 37(1)*] and made available to the public for inspection and copying [*Section 73*]. Summary details of the expenditure incurred are also included in a report to the Chairman of Dáil Éireann [*Section 4(1)*], laid before each House of the Oireachtas [*Section 4(5)*] and published on the website of the Commission.

## 1.11 Offences and penalties applicable to national agents at the election

- 1.11.1 If found guilty of an offence under the Act, the National Agent may be liable on summary conviction to a fine, or, on conviction by indictment, to a fine or imprisonment.

The following are offences under the Act:

- Overspending by a national agent at the election:
  - it is an offence punishable by a fine [*Section 43(2)(a) and Section 43(5)(a) & Section 6 of Fines Act 2010*];
  - a person can petition the High Court to set aside the result of the election [*Section 45*];
  - the amount of the overspend is deducted from the annual payment received by the party from the Exchequer under the Electoral Acts [*Section 40(a)*].
- For a political party to fail to furnish to the national agent relevant details of expenses incurred before the appointment of the national agent [*Section 31(8A)*].

- Payment of claims received more than 45 days after polling day (i.e., after 22 August 2021). This may result in a fine [Section 43(2)(b) & 43(5)(a) & Section 6 of Fines Act 2010].
- 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. This may result in a fine [Section 36(4) & 43(2)(e) & 43(5)(a) & Section 6 of Fines Act 2010]
- Failure to furnish an election expenses statement and statutory declaration to the Commission by the statutory deadline (i.e., 2 September 2021) may result in a fine and an on-going fine per day for each day, after a conviction, on which the statement and declaration are still outstanding [Section 43(2)(c) & 43(5)(a) & (c) & Sections 6 and 8 of Fines Act 2010].
- Failure to provide supplementary information relating to an election expenses statement as requested by the Commission. This may result in a fine [Section 36(2A) & 43(2)(e) & 43(5)(a) & Section 6 of Fines Act 2010].
- Knowingly furnishing a false or misleading election expenses statement to the Commission. This may result in a fine and/or up to 3 years' imprisonment [Section 43(2)(d) & 43(5)(b)].
- Failure to furnish to the Commission, within 7 days after the date of the order, a copy of a court order for the payment of a disputed claim. This may result in a fine [Section 36(3) & 43(2)(e) & 43(5)(a) & Section 6 of Fines Act 2010]

<p><b>If the Commission is of the view that an offence under the Electoral Acts may have been committed, it will refer the matter to An Garda Síochána.</b></p>
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## Chapter 2: 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.

- 2.1 What is a “third party” and an “other person”?
- 2.2 Statutory requirements of a third party and other person
- 2.3 Payment of invoices to suppliers
- 2.4 Furnishing an election expenses statement
- 2.5 Requirements for publishers
- 2.6 Offences and penalties applicable to third parties: donations
- 2.7 Offences and penalties applicable to third parties and other persons: expenses.

## 2.1 What is a “third party” and an “other person”?

2.1.1 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 [*Section 22(2)(aa)*].

2.1.2 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".

2.1.3 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.

Please see the Commission website for further details on the obligations of a Third Party [www.sipo.ie](http://www.sipo.ie)

## 2.2 Statutory Requirements of a third party and other person

2.2.1 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 Commission, in writing [*Section 31(7)*]:

- the name, address and description of the person proposing to incur the expenses,
- a statement of the nature, purpose and estimated amount of such expenses, and
- an indication of the person's connection, if any, with any political party or candidate at the election.

2.2.2 An "other person" must also provide the above information to the Commission before incurring any election expenses at a bye-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 a bye-election, there is no limit to the amount of expenses which the third party or other person may incur.

2.2.3 At the end of the election period, the third party/other person must disclose their election expenses to the Commission. This is explained in further detail at paragraph 2.4.

## 2.3 Payment of invoices to suppliers

2.3.1 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. 22 August 2021). 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 Commission.

## 2.4 Furnishing an election expenses statement

- 2.4.1 Shortly after the bye-election, the Commission will send to the third party/other person the necessary forms for completion, namely an election expenses statement/statutory declaration. On this statement, the third party/other person must disclose to the 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 Commission Secretariat will be available to assist third parties/other persons in completing the form. The completed statement must be received by the Commission within 56 days after polling day (i.e., 2 September 2021) [*Section 36(1)(a)*].
- 2.4.2 The following must be included on the election expenses statement completed by the third party/other person:
- details of all expenses incurred and payments made by the third party/other person [*Section 36(1)(a)*];
  - details of any disputed claims [*Section 36(1)(d)*];
  - details of any late claims for payment (i.e. claims received more than 45 days after polling day which must not be paid) [*Section 36(1)(d)*].
- 2.4.3 Invoices, receipts or vouchers for every payment of election expenses exceeding €126.97 must be included with the election expenses statement. The Commission also reserves the right to request any invoice, receipt or voucher for an item of expenditure valued at less than €126.97 appearing in an election expenses statement or a record of minor expenses [*Section 31(9)*].
- 2.4.4 Minor omissions or errors found by the 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 [*Section 4(2)*].
- 2.4.5 The 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 Commission and may have to be accompanied by a statutory declaration [*Section 36(2A)*].
- 2.4.6 The election expenses statement and statutory declaration will be laid by the Commission before both Houses of the Oireachtas [*Section 37(1)*] and will be made available to the public for inspection and copying [*Section 73*]. Summary details of the expenditure incurred will also be included in a report to the Chairman of Dáil Éireann [*Section 4(1)*] and will be published on the website of the Commission.

## 2.5 Requirements for publishers

2.5.1 A publisher of a newspaper, magazine or other periodical publication must not publish any advertisement or notice in relation to the bye-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 [*Section 31(10)*]:

- the national agent of a political party, or a person authorised in writing by such agent, or
- a candidate at the election, their election agent or person authorised in writing by such candidate or agent, or
- a person who produces to the publisher a Certificate of Authorisation from the Commission certifying that they have complied with the provisions of section 31(7) of the Act in relation to the election.

2.5.2 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.

2.5.3 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.

## 2.6 Offences and penalties applicable to third parties: donations

2.6.1 The responsible person of a third party shall be guilty of an offence if:

- The third party fails to register with the Commission on receipt of a donation the value of which exceeds €100. Conviction may result in a fine [*Section 25(e)*].
- The responsible person of a third party fails to notify the Commission of, or remit, as appropriate, to the Commission, or return, as appropriate, to the donor, a prohibited donation. Conviction may result in a fine [*Section 25(1)(a)*].
- The responsible person of a third party fails to furnish to the Commission, by 31 March each year, the bank statement or certificate of monetary donations. Conviction may result in a fine. Ongoing fines may be levied each day for any day after a conviction where the bank statement or certificate is still outstanding [*Section 25(1)(c)*].
- A responsible person of a third party knowingly furnishes to the Commission a bank statement or certificate of monetary donations which is false or misleading in any material respect. Conviction may result in to a fine and/or up to 3 years' imprisonment [*Section 25(1)(d)(ii)*].

## 2.7 Offences and penalties applicable to third parties and other persons: expenses

### 2.7.1 The responsible person of a third party shall be guilty of an offence if:

- A person who is not authorised to do so incurs expenditure or makes a payment in relation to the election. If convicted, a fine may result. [*Section 43(1)(b) & 43(5)(a) & Section 6 of Fines Act 2010*].
- The third party fails to notify the Commission of intent to incur election expenses. Conviction may result in a fine [*Section 43(3)(a) & 43(5)(a) & Section 6 of Fines Act 2010*].
- Payment is made for claims received more than 45 days after polling day. Conviction may result in a fine [*Section 43(3)(d) & 43(5)(a) & Section 6 of Fines Act 2010*].
- The third party fails 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. Conviction may result in a fine [*Section 43(3)(d) & 43(5)(a) & Section 6 of Fines Act 2010*].
- The third party fails to furnish an election expenses statement by the statutory deadline (2 September 2021). Conviction may result in a fine and an on-going fine per day for any day, after a conviction, on which the election expenses statement is still outstanding [*Section 43(3)(b) & 43(5)(a) & (c) & Section 6 of Fines Act 2010*].
- The third party fails to provide supplementary information relating to an election expenses statement as requested by the Commission. Conviction may result in a fine [*Section 43(3)(d) & 43(5)(a) & Section 6 of Fines Act 2010*].
- The third party knowingly furnishes a false or misleading election expenses statement to the Commission. Conviction may result in a fine and/or imprisonment [*Section 43(3)(b) & 43(5)(b)*].
- The third party fails to furnish to the Commission, within 7 days after the date of the order, a copy of a court order for the payment of a disputed claim. Conviction may result in a fine [*Section 36(3) & Section 43(3)(d) & 43(5)(a) & Section 6 of Fines Act 2010*].

**If the Commission is of the view that an offence under the Electoral Acts may have been committed, it will refer the matter to An Garda Síochána.**

## Chapter 3: Advice on Particular Matters

- 3.1 Fundraisers
- 3.2 Advertising on vehicles
- 3.3 Free use of vehicles
- 3.4 Use of staff whose salaries are met out of public funds
- 3.5 Accounting for the use of offices during the election period
- 3.6 Vandalised or damaged posters



## 3.1 Fundraisers

### 3.1.1 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 (donation) of each person's contribution to the fund-raising event.

Donations cannot exceed the maximum allowable limit per person, i.e. €1,000.

For example, if 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 donation 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 donation of €800 for the purposes of determining the aggregate net value of his/her donation 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.

### 3.1.2 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 value of 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 [*Sections 22(2)(a)(vii)*].

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 of contributions to fund-raising events. The limit of €200 on acceptance of donations from non-registered corporate donors also applies. Where the net value of any individual monetary donation to the fund-raising event exceeds €100, the accounting unit of the party, (i.e., branch of 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.

### 3.1.3 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 the donation and must ensure that he/she complies with the legislative requirements (set out at 3.1.4 below).

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 (set out at 3.1.2 above) are complied with.

### 3.1.4 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 [*Sections 22(2)(a)(vi)*].

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, 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.

### 3.1.5 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 (set out at 3.1.4 above) 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 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.

## 3.2 Advertising on vehicles

3.2.1 The adaptation ("wrapping") of cars, jeeps, vans, etc., with a candidate's or a political party's livery is an election expense as it promotes a person's candidacy and/or a political party's interests at the election. If such vehicles are used during the election period the full costs of producing the advertising on the vehicles is an election expense.

3.2.2 The Commission is aware, however, that some public representatives use mobile constituency clinics which are already "wrapped" in the public representative's or political party's livery. The Commission is of the view that where such vehicles have been used on an ongoing basis and are "wrapped" with livery which is of a general nature and is not explicitly seeking to promote a person's candidacy and/or a political party's interests at the election, the costs of adapting these vehicles will not be regarded as an election expense even if the vehicles are used during the election period.

3.2.3 If, however, a mobile office is being used purely for the election or has been "wrapped" with livery which explicitly promotes a person's candidacy, a party's interests or which solicits votes for a candidate and/or a political party at the election, then the cost of adapting the vehicle is regarded as an election expense and, if the vehicle is used during the election period, the full cost of adapting the vehicle must be accounted for.

3.2.4 Where it is intended not to account for advertising / livery on a campaign vehicle on the basis that the advertising/livery is not for electoral purposes, the relevant agent should contact the Commission for confirmation that the advertising / livery is not an election expense.

### 3.3 Free use of vehicles

- 3.3.1 Part 1(f) of the Schedule to the Act provides that election expenses on transport and travel 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, taxi and hackney services and courier services.*"
- 3.3.2 Part 2(a) of the Schedule to the Act provides that any of the matters referred to in Section 22(2)(b)(i) and 22(2)(b)(iii - v) of the Act will not be regarded as an election expense. The Act also provides that the matters at section 22(2)(b) (i - vii) shall not be regarded as donations.
- 3.3.3 Section 22(b)(iii)(I) of the Act provides that a service rendered by an individual, including the use of the individual's motor vehicle, is not regarded as a donation or as an election expense where the service is not provided as part of the individual's work or business. Section 22(b)(iii)(I) specifically refers to an individual and an individual's motor vehicle. Therefore, where an individual provides a candidate with the free use of a single vehicle at the election it is not regarded as either a donation to the candidate or as an election expense. If, however, the individual normally charges for use of the vehicle in question it would be regarded as a donation and an election expense. If more than one vehicle is provided by the individual, the additional vehicles may be regarded as donations and as election expenses.
- 3.3.4 As stated above, the reference in section 22(b)(iii)(I) is specifically to an individual. 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, therefore, use of the vehicle is regarded as a donation and as an election expense. The commercial cost of hiring a similar vehicle for a similar period must be ascertained for the purposes of disclosing its value as a donation and for the purposes of disclosing its use during the election period, as an election expense.

### 3.4 Use of staff whose salaries are met out of public funds

- 3.4.1 The Electoral Act 1997 as amended (the Act) provides that goods, property or services where the costs are met from public funds and which are used for *electoral purposes* during the election period shall be reimbursed and regarded as election expenses.
- 3.4.2 If a member of staff (i.e., special advisor, constituency secretary, driver, personal assistant, research assistant, etc.) of a holder of elected/public office is engaged in his/her normal duties during the election period and is not providing a service which is for electoral purposes, then the cost of carrying out such activities is not regarded as an election expense. Where such staff are engaged in activities which are for electoral purposes, their costs will be regarded as an election expense. It will be a matter for the holder of public office, in conjunction with his/her election agent and the provider of the services, to determine the extent to which such staff have been engaged for electoral purposes during the election period and to account for it on the election agent's Election Expenses Statement.

- 3.4.3 Certain holders of public office are provided with State cars and Garda drivers for security reasons. Accordingly, the use of State cars in these cases, including drivers, during the election period is not an election expense as the cars and drivers are provided as a security measure and these office holders are required to use them at all times.
- 3.4.4 However, some holders of elected/public office provide their own cars and appoint civilian drivers who are paid out of public funds. The use of cars and drivers by such persons for electoral purposes during the election period is an election expense. While they can claim travel expenses when the car is used for official business, its use for electoral purposes would not qualify as official business for the purposes of such claims.
- 3.4.5 Where a member of staff of a holder of elected/public office takes annual leave to work on an election campaign on a voluntary basis during the election period, the work carried out by them will be deemed to have been carried out as a free service and, notwithstanding the fact that this work may be similar to their normal work, the cost of their salaries while working voluntarily will not be regarded as election expenses for the purposes of the Act.
- 3.4.6 The Commission recommends, however, that, in case there is a challenge to the election expenses statement submitted by a holder of elected/public office, such candidates should ensure that proper records of holidays accrued and taken by staff are maintained. The Commission may require written confirmation that the staff concerned have taken leave during the election period.

## 3.5 Accounting for the use of offices during the election period

### a) General

In relation to office and stationery, the Act provides that election expenses 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"*.

Accordingly, expenses incurred in the rental of an office are regarded as election expenses. Rental paid in respect of the election period must be accounted for on the Election Expenses Statement.

Where use of an office is provided free or below cost, the full commercial value of the use of the office for election purposes during the election period is regarded as an election expense and must be accounted for. In determining the commercial value, account may be taken of the condition of the office. Allowances may also be made for any discount which is normally given or generally available.

The provision without charge of an office in a person's private dwelling, where the room provided is not available for renting in the normal course, is not an election expense. Any expense incurred, however, in carrying out alterations to facilitate its use for election purposes during the election period is an election expense.

## **b) Use of public representative offices**

The use by a holder of elected/public office of his/her publicly funded office location for electoral purposes is regarded as an election expense. The extent to which the office has been used for electoral purposes during the election period should be taken into account. Ancillary costs such as salaries, heat, light, phones, fax, copying, printing, stationery, postage, envelopes, etc. which such costs have been incurred for electoral purposes must be taken into account.

The use of publicly funded offices for election purposes during the election period is also an election expense. This includes the costs of salaries and expenses of civil servants or special advisers, where they are engaged in activities for election purposes during the election period, as well as other ancillary costs such as heat, light, phones, fax, copying, printing, stationery, postage, envelopes, etc. where such costs have been incurred for electoral purposes.

## **c) Accounting for offices which are owned by a candidate or political party**

Notional rental costs for the use of an office which is owned by a candidate are not required to be accounted for as election expenses. Similarly, where a political party owns an office in a constituency which is used by its candidate(s) during an election campaign, neither the party nor the candidate are required to apply notional rental costs for the use of these offices. Any expenses, however, incurred in carrying out alterations to facilitate its use for election purposes during the election period are required to be accounted for.

## **d) Notional costs of site rental for posters or other election material**

Notional costs of site rental where posters or other material are erected/displayed in or around private properties or commercial premises which are not recognised sites for such purpose are not required to be accounted for as election expenses.

## **3.6 Vandalised or damaged posters**

- 3.6.1 If a poster is erected during the election period (16 June 2021 to 8 July 2021), it is regarded as having been used during the election period and must be accounted for as an election expense even if the poster falls down, is vandalised, etc. before polling day. The cost of replacing vandalised or damaged posters is also an election expense if the replacement posters are used during the election period.

## Appendix 1: Definitions

'**account**' means an account in an institution in the State for the purpose of crediting and debiting money received in respect of donations [*Section 22(2)(aa)*];

'**candidate**' means a person who on or before the date of movement of a writ in relation to a Dáil general election or bye-election or the date of the making of the order appointing polling day in relation to a Seanad election or an election to the European Parliament is declared by himself or herself or by others to be a candidate at the election concerned [*Section 22(2)(aa)*];

'**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 [*Section 22(2)(aa)*].

'**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 -

- a donation of money [*Section 22(2)(a)(i)*];
- a donation of property or goods [*Section 22(2)(a)(ii)*];
- conferring the right to use, without payment or other consideration, indefinitely or for a specified period of time, any property or goods [*Section 22(2)(a)(iii)*];
- the supply of services without payment or other consideration therefor [*Section 22(2)(a)(iv)*];
- the difference between the commercial price and the 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 [*Section 22(2)(a)(v)*];
- In the case of a contribution made by a person in connection with an event organised for the purpose of raising funds for a member of either House of the Oireachtas, a representative in the European Parliament or a third party or a candidate at a Dáil, Seanad or European election, the proportion attributable to that contribution of the net profit, if any, deriving from the event [*Section 22(2)(a)(vi)*];
- in the case of a contribution made by a person in connection with an event organised for the purpose of raising funds for a political party, the proportion attributable to that contribution of the net profit, if any, that is derived from the



event and that, although not specifically raised for the purpose of supporting one or more of the political party's candidates at a Dáil, Seanad or European election, is used for the latter purpose [*Section 22(2)(a)(vii)*], or

- 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 [*Section 22(2)(a)(viii)*];

**'election expenses'** election expenses shall be those, and only those, listed hereunder:

**(a) Advertising (whatever the medium used).**

Includes agency fees, design costs and other costs incurred in connection with the preparing, producing, distributing or otherwise disseminating such advertising [*Schedule 1(a)*]

**(b) Publicity.**

Includes 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 [*Schedule 1(b)*].

**(c) Election posters.**

Includes the costs of the design, production, printing, erection and removal of election posters (if removal takes place during the election period) [*Schedule 1(c)*]

**(d) Other election material.**

Includes the design, production, printing and disseminating of such material (other than posters), including canvas cards, election leaflets, election manifestos, newsletters and other promotional election material [*Schedule 1(d)*]

**(e) Office and Stationery.**

Includes 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 [*Schedule 1(e)*]

**(f) Transport and travel.**

Includes 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, taxi and hackney services and courier services [*Schedule 1(f)*]

**(g) Market research.**

Includes 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 [*Schedule 1(g)*]

**(h) Campaign workers.**

Includes payments to campaign workers, insurance and other costs [*Schedule 1(h)*]

'**institution**' means [*Section 22(2)(aa)*]:

- 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.)

"**person**" can be [*Section 2(1)*]:

- an individual;
- a body corporate (e.g., a public or private company) and any subsidiary thereof.  
Where donations are received from associated companies the candidate should ask the donors to clarify any relationship between the companies;
- an unincorporated body of persons, e.g., a political party, a partnership, a residents association, a lobby group.

'**political group**' means a group formed in accordance with the rules of procedure of the European Parliament [*Section 22(2)(aa)*];

'**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 [*Section 2(1)*];

'**political purposes**' means any of the following purposes namely [*Section 22(2)(aa)*];

(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.

**'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 [*Section 22(2)(aa)*] ;

**'third party'** means any person, other than a political party registered in the Register of Political Parties under Part III of the Electoral Act, 1992, or a candidate at an election, who accepts, in a particular year, a donation the value of which exceeds €100 [*Section 22(2)(aa)*].

## Appendix 2: Checklist

### **Before and during the election period:**

- Has your political party notified the Commission of the details of the national agent?
  
- Have you a spending assignment agreement in writing with the candidates (if applicable)?
  
- Are you keeping a record of your election expenditure including invoices, vouchers or receipts in excess of €126.97?
  
- Have you notified the Commission of any unauthorised expenditure to promote the party or its candidates (if applicable)?
  
- Are you a Third Party or “other person” incurring expenditure at the bye-election? If yes, have you registered with the Commission?

### **After the election period:**

- Have you taken note that 2 September 2021 is the last day for completed forms and supporting documentation to reach the Commission?
  
- Have you received all invoices from suppliers within 45 days of the end of the election period (i.e. 22 August 2021)?
  
- When completing the forms have you and your qualified witness signed in the proper places (where highlighted)?

If you have any queries, please refer to the guidelines and/or contact the Commission. We will be pleased to assist you.