

The Electoral Act and Third Parties: What you need to know

Presentation to Facebook

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Standards in Public Office Commission
Coimisiún um Chaighdeán in Oifigí Poiblí

The Standards Commission supervises:

- Ethics in Public Office Acts 1995 and 2001
- Electoral Act 1997, as amended
- Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2014
- Regulation of Lobbying Act 2015



Electoral Act 1997, as amended

Main Functions:

- Disclosure of Donations
- Disclosure of Election Spending
- Exchequer Funding/Party Leaders Allowance
- ***Registration of Third Parties***
- Political Party Accounts
- Advice/Guidelines
- Powers of the Standards Commission
- Offences



What is a Third Party?

- A third party is any individual, body corporate or unincorporated body of persons who or which accepts a donation over €100 for political purposes
- Does not include registered political parties, elected members and election candidates
- Obligation to register based on acceptance of donations, not expenditure or involvement in campaigning



What is a donation?

- A “donation” is any contribution given for political purposes by any person (regardless of whether the person is a member of a political party).
- A donation is a:
 - Donation of money, property or goods
 - Free use of property or goods or free supply of services
 - The difference between the commercial price and the lower price charged for property, goods or services
 - Net profit from fund raising event
 - Loans where the interest charged is less than the lowest rate available
 - Membership fees/subscriptions
- Donations given for purposes **OTHER THAN** political purposes do not trigger the obligation to register as a third party



Donations for political purposes (1)

Political purposes means any of the following purposes, namely:

1. to promote or oppose, directly or indirectly, the interests of a political party, a political group, a member of either House of the Oireachtas or a representative in the European Parliament, or
2. to present, directly or indirectly, the policies or a particular policy of a political party, a political group, a member of either House of the Oireachtas, a representative in the European Parliament or a third party, or
3. to present, directly or indirectly, the comments of a political party, a political group, a member of either House of the Oireachtas, a representative in the European Parliament or a third party with regard to the policy or policies of another political party, political group, member of either House of the Oireachtas, representative in the European Parliament, third party or candidate at an election or referendum or otherwise, or



Donations for political purposes (2)

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



Donations by intermediaries

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.



Steps to register as a third party

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 must also

- Open and maintain account in financial institution in the State
- Lodge the donation and any subsequent political donations in that account
- Make annual returns to SIPO by 31 March every year – financial statement of political donations account showing all transactions for that account for previous year
- Adhere to donation rules



Prohibited Donations

- Anonymous donations exceeding the value of €100;
- Cash donations exceeding the value of €200;
- Donation exceeding the value of €200 in any calendar year from a corporate donor **unless** corporate donor registered with Commission and a statement authorising the donation is given to the donee;
- Donation, or donations from the same donor, in any calendar year exceeding an aggregate value of €2,500; and
- Certain foreign donations:
 - Donation, of whatever value, from an individual (other than an Irish citizen) who resides outside the island of Ireland;
 - 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.



Advice/Guidelines

- See Commission website for *Explanatory notes for third parties*
- Guidelines published by the Standards Commission for donations, election expenses and state funding are legally binding
- Advice issued by the Standards Commission is also legally binding



Offences under the Electoral Acts

- Failure to take appropriate action in relation to a prohibited donation
- Unauthorised incurring of election expenses
- Overspending by election agent or national agent
- Failure to furnish statutory returns
- Knowingly furnishing incorrect statutory documents



Powers of the Standards Commission under the Electoral Acts

Section 4(4) of the Act authorises the Standards Commission to seek whatever information it requires for the purpose of its duties

Standards Commission is empowered to refer breaches of the legislation to the DPP



Thank you for your attention!

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