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**AN BILLE TOGHCHÁIN (LEASÚ) (SÍNTIÚIS DO
PHÁIRTITHE AGUS D'IARRTHÓIRÍ), 2000
ELECTORAL (AMENDMENT) (DONATIONS TO PARTIES
AND CANDIDATES) BILL, 2000**

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

Section

1. Short title, collective citation and construction.
 2. Amendment of Part IV of Electoral Act, 1997.
 3. Accounts and audits.
 4. Removal of prohibition on application of moneys on election expenditure.
 5. Application of Act to parties registered in Northern Ireland.
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Acts Referred to

Electoral Act, 1992	1992, No. 23
Electoral Act, 1997	1997, No. 25
Electoral Acts, 1992 to 1997	
Ministerial and Parliamentary Offices Act, 1938	1938, No. 38
Oireachtas (Miscellaneous Provisions) and Ministerial and Parliamentary Offices (Amendment) Act, 1996	1996, No. 39



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BILL

entitled

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AN ACT TO RESTRICT THE MAKING OF DONATIONS FOR POLITICAL PURPOSES TO INDIVIDUALS ENTITLED TO BE REGISTERED AS ELECTORS, TO AMEND THE LAW RELATING TO THE DISCLOSURE OF SUCH DONATIONS AND TO LIMIT THE AMOUNT WHICH MAY BE SO DONATED, TO REMOVE THE PROHIBITION ON THE APPLICATION BY POLITICAL PARTIES OF CERTAIN PUBLIC MONEYS TO OR TO RECOUP ELECTION EXPENSES, TO PROVIDE FOR THE ANNUAL AUDIT OF CERTAIN PUBLIC MONEYS PAID TO POLITICAL PARTIES, FOR THESE PURPOSES TO AMEND THE OIREACHTAS (MISCELLANEOUS PROVISIONS) AND MINISTERIAL AND PARLIAMENTARY OFFICES (AMENDMENT) ACT, 1996, AND THE ELECTORAL ACT, 1997, AND TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

25 **1.**—(1) This Act may be cited as the Electoral (Amendment) (Donations to Parties and Candidates) Act, 2000. Short title, collective citation and construction.

(2) The Electoral Acts, 1992 to 1997, and this Act may be cited together as the Electoral Acts, 1992 to 2000, and shall be construed together as one Act.

30 **2.**—Part IV (Disclosure of Donations) of the Electoral Act, 1997, is hereby amended— Amendment of Part IV of Electoral Act, 1997.

(a) by the substitution of the following subsection for section 24 (4)—

35 “(4) The specified amount for the purposes of this section shall be, as respects a political party, £1,000 and, as respects any other person, £250.”;

and

(b) by the substitution of the following for section 26—

“Prohibition on acceptance of certain donations. 26.—(1) (a) Subject to subsection (2), a political party, a member of either House of the Oireachtas, a representative in the European Parliament or a candidate at a Dáil, Seanad, European or local election shall not, directly or through an intermediary, accept a donation from any person other than an individual registered in a register of electors maintained under Part II of the Electoral Act, 1992. 5 10

(b) A political party shall not, directly or through any intermediary, accept a donation exceeding in value (or, where the same donor makes more than one donation in the same year to the same political party, the aggregate value of which exceeds) £2,000. 15 20

(c) A person who is—

(i) a candidate at a Dáil, Seanad, European or local election, or

(ii) a member of either House of the Oireachtas, a member of a local authority or a representative in the European Parliament, 25

shall not, directly or through an intermediary, accept a donation exceeding in value (or, where the same donor makes more than one donation to that person in the same year, the aggregate value of which exceeds) £1,000. 30 35

(d) A person shall not—

(i) make a donation the acceptance of which is prohibited by paragraphs (a) to (c), or 40

(ii) in the same year make donations—

(I) to two or more persons who, when the donations were made, were members of the same political party, or 45

(II) to one or more persons and to the political party of which such person or persons were members when the donations were made to them, 50

the aggregate value of which exceeds £2,000.

(2) (a) Where the constitution of a political party provides for—

(i) an independent unincorporated organisation of individuals to be or become a member of that party, and

(ii) requires the payment of an annual amount by way of membership fee by that organisation to that party,

subsection (1) (a) shall not apply in respect of the payment of that membership fee to that party.

(b) For the purposes of paragraph (a), an organisation is independent of a political party if—

(i) it is established within the State for the furtherance of objects independent of the objects of that party, and

(ii) it is not under the effective management or control of that party or the officers thereof.

(3) In subsection (1), 'donation' does not include a donation made by a political party to a member of that party who is a member of either House of the Oireachtas or of a local authority, a representative in the European Parliament or a candidate at a Dáil, Seanad, European or local election.

(4) Where, notwithstanding subsection (1), a donation acceptance of which is prohibited by that subsection is made to a political party, a member of either House of the Oireachtas, a representative in the European Parliament or a candidate at a Dáil, Seanad, European or local election, the party, member, representative or candidate concerned shall, not later than 14 days after the receipt of such donation, notify the Public Offices Commission in writing of such receipt and remit the donation or the value thereof to the Commission.

(5) The Public Offices Commission shall cause a copy of each notification received under subsection (4) to be laid before each House of the Oireachtas and shall dispose of all moneys, property or goods received under the said subsection in such manner as may be directed by the Minister for Finance.

(6) A person who is knowingly a party to, or in any other way knowingly concerned in, a

contravention of this section shall be guilty of an offence and shall be liable—

- (a) on summary conviction, to imprisonment for a period not exceeding 12 months or to a fine not exceeding £1,500, or to both, and 5
- (b) on conviction on indictment, to imprisonment for a term not exceeding three years or to a fine, or to both.”. 10

Accounts and audits.

3.—(1) In respect of—

- (a) payments made to a qualified party under section 17 of the Electoral Act, 1997, and
- (b) an annual allowance paid to the parliamentary leader of a qualifying party under section 10(5) of the Ministerial and Parliamentary Offices Act, 1938, as substituted by section 5 (c) of the Oireachtas (Miscellaneous Provisions) and Ministerial and Parliamentary Offices (Amendment) Act, 1996, 15

the appropriate officer of that party (within the meaning of section 71 of the Electoral Act, 1997) shall keep in such form and in respect of such accounting periods as may be approved by the Public Offices Commission (“the Commission”) all proper and usual accounts, including an income and expenditure account and a balance sheet. 20

(2) Accounts kept in pursuance of this section shall be submitted not later than three months after the end of the accounting period to which they relate by the appropriate officer to the Comptroller and Auditor General for audit and, immediately after the audit, a copy of the income and expenditure account, the balance sheet and of such other (if any) accounts kept pursuant to this section as the Commission may direct and a copy of the Comptroller and Auditor General’s report on the accounts shall be presented to the Commission which shall cause copies thereof to be laid before each House of the Oireachtas. 25 30

(3) Section 4 of the Electoral Act, 1997 (Review by Public Offices Commission), shall, with such modifications as may be necessary, apply to accounts and reports furnished to the Commission under subsection (2). 35

Removal of prohibition on application of moneys on election expenditure.

4.—Section 10(5) of the Ministerial and Parliamentary Offices Act, 1938, as substituted by section 5 (c) of the Oireachtas (Miscellaneous Provisions) and Ministerial and Parliamentary Offices (Amendment) Act, 1996, and section 18 (2) of the Electoral Act, 1997, are hereby repealed. 40

Application of Act to parties registered in Northern Ireland.

5.—(1) The Minister may, following consultation with a Secretary of State in the Government of the United Kingdom, make provision by regulations under this subsection for the application of this Act to political parties registered in the State and in Northern Ireland, or registered in Northern Ireland alone, and to their members, representatives and candidates, with a view to ensuring that they can receive both in the State and in Northern Ireland donations for political purposes in substantial compliance with the provisions and 45 50

spirit of this Act and of any law in force in Northern Ireland corresponding to this Act.

5 (2) Regulations under *subsection (1)* can include provision for such modification of this Act and for such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of that subsection.

10 (3) Where the Minister proposes to make regulations under *subsection (1)*, he or she shall cause a draft of the regulations to be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving of the draft has been passed by each such House.



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ELECTORAL (AMENDMENT) (DONATIONS TO PARTIES
AND CANDIDATES) BILL, 2000**

EXPLANATORY MEMORANDUM

Purpose of Bill

The purposes of this Bill are to restrict the making of political donations to individuals who are entitled to be registered as electors; to change the figures above which disclosure of donations is required; to limit the amount which may be so donated; to remove the prohibition on the application by political parties of public money towards election expenses; and to provide for an annual audit of public moneys paid to political parties.

Provisions of Bill

Section 1 is a standard provision relating to the short title, collective citation and construction of the Bill.

Section 2 makes two amendments to Part IV of the Electoral Act, 1997 (Disclosure of Donations). First, it amends section 24(4) of that Act, which specifies the amounts above which donations must be disclosed. At present the figures stand at £4,000, as respects a donation to a political party, and £500, as respects a donation to an individual. It is proposed to lower these limits to £1,000 and £250, respectively.

(It should be noted that the Electoral Act, 1998, makes clear that a donation may be regarded as having been received either by a party or by an individual public representative or candidate of that party. If it is received by such an individual, it will be deemed to have been made to him or her personally unless the donation is passed on to the party of which he or she is a member and a written acknowledgment is received by the individual from the party in respect of the donation. In that case, it is deemed to be a donation to the party.)

Second, a new section headed "Prohibition on acceptance of certain donations", is substituted for section 26 of the Electoral Act, 1997. Subsection (1) sets out a series of prohibitions and restrictions.

By paragraph (a), a political party, a member of either House of the Oireachtas, a representative in the European Parliament or a candidate at a Dáil, Seanad, or European election shall not, directly or through an intermediary, accept a donation from any person other than an individual registered in a register of electors maintained under Part II of the Electoral Act, 1992.

Paragraph (b) provides that a political party shall not, directly or

through any intermediary, accept a donation exceeding in value (or, where the same donor makes more than one donation in the same year to the same political party, the aggregate value of which exceeds) £2,000.

Paragraph (c) deals with individual public representatives and with candidates at Dáil, Seanad, European and local elections. Such persons shall not, directly or through an intermediary, accept a donation exceeding in value (or, where the same donor makes more than one donation to that person in the same year, the aggregate value of which exceeds) £1,000.

Paragraph (d) imposes duties on donors. Such a person shall not make a donation the acceptance of which is prohibited by paragraphs (a) to (c). Nor may a donor in the same year make donations the aggregate value of which exceeds £2,000 to two or more members of the same political party, or to one or more such members and the political party of which they were members when the donations were made.

Subsection (2) deals with independent organisations which are affiliated to political parties. An organisation is deemed to be independent of a political party if it was established within the State for the furtherance of objects independent of the objects of that party, and it is not under the effective management or control of that party or the officers thereof.

The subsection provides that, where the constitution of a political party provides for an independent unincorporated organisation of individuals to be or become a member of that party, and requires the payment of an annual amount by way of membership fee by that organisation to that party, subsection (1)(a) shall not apply in respect of the payment of that membership fee.

In other words, the membership fee may be paid notwithstanding that it does not come from an individual registered elector. However, it is classified as a donation and is not exempt from the other provisions of the subsection. Accordingly, it is therefore capped at £2,000, regardless of the number of members of the affiliated organisation.

Subsection (3) makes it clear that the “donation” does not include a donation made by a political party to a member of that party who is a member of either House of the Oireachtas or of a local authority, a representative in the European Parliament or a candidate at a Dáil, Seanad, European or local election. The capping of expenditure by a party on behalf of its candidates is governed by other provisions of the Electoral Act, 1997.

Subsections (4) and (5) deal with the steps to be taken if a prohibited donation is made. Where, notwithstanding subsection (1), a donation acceptance of which is prohibited by that subsection is made to a political party, a member of either House of the Oireachtas, a representative in the European Parliament or a candidate at a Dáil, Seanad, European or local election, the party, member, representative or candidate concerned shall, not later than 14 days after the receipt of the donation, notify the Public Offices Commission in writing of such receipt and remit the donation or the value thereof to the Commission.

The Public Offices Commission shall cause a copy of each notification received under subsection (4) to be laid before each House of the Oireachtas and shall dispose of all moneys, property or goods

received under the said subsection in such manner as may be directed by the Minister for Finance.

Subsection (6) provides that a person who is knowingly a party to, or in any other way knowingly concerned in, a contravention of this section shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a period not exceeding 12 months or to a fine not exceeding £1,500, or to both; the penalty provided for conviction on indictment is imprisonment for a term not exceeding three years or to a fine, or to both.

Section 3 deals with payments of public moneys—

- to a “qualified” political party under section 17 of the Electoral Act, 1997, and
- to the parliamentary leader of a “qualifying” party under section 10(5) of the Ministerial and Parliamentary Offices Act, 1938, as substituted by section 5(c) of the Oireachtas (Miscellaneous Provisions) and Ministerial and Parliamentary Offices (Amendment) Act, 1996.

The section provides that the appropriate officer of that party (within the meaning of section 71 of the Electoral Act, 1997) shall keep in such form and in respect of such accounting periods as may be approved by the Public Offices Commission all proper and usual accounts, including an income and expenditure account and a balance sheet.

Such accounts must be submitted not later than three months after the end of the accounting period to which they relate by the appropriate officer to the Comptroller and Auditor General for audit. Immediately after the audit, a copy of the income and expenditure account, the balance sheet and of such other accounts as the Commission may direct, and a copy of the Comptroller and Auditor General’s report on the accounts, shall be presented to the Commission, which shall cause copies thereof to be laid before each House of the Oireachtas.

Section 4 repeals certain provisions which prohibit the application by political parties of public moneys to, or to recoup, election expenses. The provisions in question are section 10 (5) of the Ministerial and Parliamentary Offices Act, 1938, as substituted by section 5(c) of the Oireachtas (Miscellaneous Provisions) and Ministerial and Parliamentary Offices (Amendment) Act, 1996, and section 18 (2) of the Electoral Act, 1997.

Section 5 provides for the modification by regulation of the Act, following consultation with the British Government, in respect of its application to political parties registered in the State and in Northern Ireland, or in Northern Ireland alone. Such regulations would be with a view to ensuring that those parties can receive both in the State and in Northern Ireland donations for political purposes in substantial compliance with the provisions and spirit of this Act and of any law in force in Northern Ireland corresponding to this Act.

*An Teachta Éamon Mac Giolla Móir,
Bealtaine, 2000.*