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Explanatory Memorandum](#)

AN BILLE UM THOGHCHÁIN ÁITIÚLA 2008
LOCAL ELECTIONS BILL 2008

Mar a tionscnaíodh
As initiated

ARRANGEMENT OF SECTIONS

Section

1. Short title and collective citation.
 2. Repeal.
 3. Donations and election expenses at local elections.
 4. Revivor of section 75 of Electoral act 1997.
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ACTS REFERRED TO

Electoral Act 1997	1997, No. 25
Electoral Acts 1992 to 2006	
Local Elections Acts 1974 to 2006	
Local Elections (Disclosure of Donations and Expenditure) Act 1999	1999, No. 7
Local Government Act 2001	2001, No. 37
Prevention of Corruption (Amendment) Act 2001	2001, No. 27



AN BILLE UM THOGHCHÁIN ÁITIÚLA 2008
LOCAL ELECTIONS BILL 2008

BILL

entitled

5 AN ACT TO REPEAL THE LOCAL ELECTIONS
(DISCLOSURE OF DONATIONS AND EXPENDITURE)
ACT 1999, TO AMEND THE ELECTORAL ACT 1997 AND
TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

10 1.—(1) This Act may be cited as the Local Elections Act 2008.

Short title and
collective citation.

(2) The Electoral Acts 1992 to 2006 and this Act may be cited
together as the Electoral Acts 1992 to 2008 and shall be construed
together as one.

15 (3) The Local Elections Acts 1974 to 2006 and this Act may be
cited together as the Local Elections Acts 1974 to 2008 and shall be
construed together as one.

2.—(1) The Local Elections (Disclosure of Donations and
Expenditure) Act 1999, other than sections 1(4), 2 and 25, is
repealed.

Repeal.

20 (2) References in—

(a) the Local Government Act 2001, and

(b) the Prevention of Corruption (Amendment) Act 2001,

25 to enactments repealed by *subsection (1)* shall be construed as refer-
ences to the provisions, if any, of regulations made under section 72
of the Electoral Act 1997 (as inserted by *section 3*) that relate to the
same subject matter.

3.—The Electoral Act 1997 is amended by the substitution of the
following section for section 72 (Donations and election expenses at
local elections):—

Donations and
election expenses at
local elections.

30 “72.—(1) The Minister shall, not later than the 31st day of
June 2008, make regulations providing for the disclosure by
members of a local authority and candidates at a local election

of donations made to the members or candidates, as the case may be, and the limitation of the election expenses which may be incurred by or on behalf of candidates and political parties at local elections and shall make provisions corresponding to the provisions of Parts IV and V, subject however to any modifications in those provisions appearing to the Minister to be appropriate. 5

(2) In this section election expenses are incurred at a local election if they are incurred during the period commencing on the day that is 51 months after the polling day at the previous such election and ending on polling day at the election concerned. 10

(3) Without prejudice to the generality of subsection (1), regulations under this section shall make provision for the following matters— 15

- (a) furnishing of statements in relation to donations, including anonymous donations,
- (b) appointment of agents by political parties and candidates,
- (c) making of contracts, incurring of election expenses and making of payments, 20
- (d) limitation of election expenses,
- (e) period for making claims relating to election expenses and for payment of such claims,
- (f) disputed claims relating to election expenses, 25
- (g) furnishing of statements in relation to election expenses,
- (h) consideration by the Standards in Public Office Commission of statements in relation to donations and election expenses, 30
- (i) excess expenditure,
- (j) election expenses at a fresh election,
- (k) inspection of documents, and
- (l) provisions corresponding to sections 25 and 43 with such modifications as appear to the Minister to be appropriate. 35

(4) Regulations under this section shall apply to local authorities generally but may contain different provisions in relation to different classes of local authorities.

- (5) (a) Provisions in regulations under this section relating to the specification of limits on election expenses shall correspond so far as is appropriate to the provisions relating to limits on election expenses for the time being applying to Dáil elections and, in making such regulations, the Minister shall have regard to any change in the consumer price index since the coming 40 45

into force of the limits applying to Dáil elections at the date of the making of such regulations.

5 (b) For the purposes of this subsection, ‘change in the
consumer price index’ means the difference between
the consumer price index number last published
before the date of the making of the regulations
under this section and the said number last published
before the date of the coming into force of the limits
on election expenses at Dáil elections applying at the
10 date of the making of the said regulations, expressed
as a percentage of the last-mentioned number.

15 (6) Where a provision of regulations under this section corresponds to a provision of section 25 or 43 it may provide for penalties not exceeding those provided for in the said section 25 or 43.

(7) Where regulations under this section are proposed to be made, a draft thereof shall 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 House.

20 (8) In this section ‘political party’ means a political party registered in the Register of Political Parties in accordance with section 25 of the Act of 1992 as a party organised to contest a local election (whether or not it is also organised to contest other elections).”.

25 **4.**—Section 75 of the Electoral Act 1997 (Local election petition), which was repealed by section 5 of the Local Elections (Disclosure of Donations and Expenditure) Act 1999, stands revived.

Revivor of section
75 of Electoral act
1997.



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EXPLANATORY MEMORANDUM

Purpose of Bill

Section 72 of the Electoral Act 1997 provided that the Minister for the Environment may make regulations providing for—

- disclosure by members of a local authority and candidates at a local election of donations made to the members or candidates,
- the limitation of the election expenses which may be incurred by or on behalf of candidates and political parties at local elections, and
- measures corresponding to the provisions of Parts IV and V of that Act, subject however to any appropriate modifications.

The section was entirely enabling and was not in fact availed of. Instead, the Local Elections (Disclosure of Donations and Expenditure) Act 1999 was passed. That Act repealed section 72 of the Act of 1997 and also section 75, which related to local election petitions where non-compliance with the regulations under section 72 was claimed.

The regime introduced under the Act of 1999 differed from the 1997 provisions in at least two important respects. First, no limitations were placed on local election expenditure. Second, the Public Offices Commission (now the Standards in Public Office Commission) was to given no supervisory or investigative role.

The purpose of this Bill is to restore the provisions of the Electoral Act 1997, but in a mandatory rather than enabling form, and to repeal the Act of 1999.

Provisions of Bill

Section 1 contains standard provisions relating to the short title and collective citation of the Bill.

Section 2 repeals the Local Elections (Disclosure of Donations and Expenditure) Act 1999 other than section 25 and related provisions, which deal with research into electronic methods of recording and counting votes.

Section 3 inserts a new section 72 into the Act of 1997, in substitution for the original section repealed by the Act of 1999. The section as amended provides that the Minister shall (rather than may) make regulations providing for the same matters as were specified

in the original section. Further, those regulations are to be made no later than the 31st June, 2008.

The specified matters include—

- the furnishing of statements in relation to donations, including anonymous donations;
- the appointment of agents by political parties and candidates;
- the making of contracts, incurring of election expenses and making of payments;
- the limitation of election expenses;
- the period for making claims relating to election expenses and for payment of such claims;
- disputed claims relating to election expenses;
- the furnishing of statements in relation to election expenses;
- consideration by the Standards in Public Office Commission of statements in relation to donations and election expenses;
- excess expenditure;
- election expenses at a fresh election;
- the inspection of documents; and
- provisions corresponding to sections 25 and 43 of the 1997 Act, with such modifications as appear to the Minister to be appropriate.

The period covered by the election expenses regime starts on the day that is 51 months (4 years and 3 months) after the last polling day and ending on polling day in the election concerned.

No other changes of significance are made to the section as enacted in 1997.

Section 4 revives section 75 of the Act of 1997, which was repealed by the 1999 Act and which makes provision for local election petitions where non-compliance with the regulations under section 72 is claimed.

An Teachta Ciarán Lynch
Feabhra 2008