



**AN BILLE TOGHCHÁIN (LEASÚ) (MAOINIÚ
POLAITÍOCHTA), 2011
ELECTORAL (AMENDMENT) (POLITICAL FUNDING)
BILL 2011**

EXPLANATORY AND FINANCIAL MEMORANDUM

General

The purpose of this Bill is to amend the Electoral Act 1997, the Local Elections (Disclosure of Donations and Expenditure) Act 1999 and the Electoral Act 1992 to provide for:

- a ban on the acceptance of donations over €200 for political purposes from a corporate donor unless the donor has registered with the Standards in Public Office Commission;
- the establishment of a register of corporate donors which shall be published;
- a reduction in the maximum amount that can be accepted as a donation by a political party, an accounting unit of a political party or a third party from €6,348.69 (£5,000) to €2,500;
- a reduction in the maximum amount that can be accepted as a donation by an individual (elected representative or election candidate) from €2,539.48 (£2,000) to €1,000;
- a reduction in the threshold at which donations must be declared by a political party to the Standards in Public Office Commission from €5,078.95 (£4,000) to €1,500 and by an individual from €634.87 (£500) to €600;
- a reduction from €5,078.95 (£4,000) to €200 in the threshold at which donations must be reported by companies, trade unions, societies and building societies in their annual reports or returns;
- a reduction in the threshold for donors other than companies, trade unions, societies and building societies, in reporting donations to the Standards in Public Office Commission, from a figure of €5,078.95 (£4,000) to €1,500 for aggregate donations given in the same year;
- an obligation on all registered political parties to prepare an annual statement of accounts and an auditor's report which is to be submitted to the Standards in Public Office Commission

for publication. State funding provided to a political party under Part 3 the Electoral Act 1997 shall not be paid in the event of non-compliance with this provision.

The Bill also provides that political parties will face a cut of half their State funding received under the Electoral Act 1997 if they do not have at least 30% women and 30% men candidates at the next general election. Seven years from the general election where this provision first applies, this will rise to 40% commencing at the general election held next after that. There will therefore be a minimum of 7 years between the 30% and the 40% provision applying.

PART 1

PRELIMINARY AND GENERAL

Section 1 contains standard provisions of a general nature dealing with the short title, collective citations, construction and commencement.

Section 2 is a standard technical provision containing definitions of other Acts that are referenced in the Bill.

PART 2

AMENDMENT OF ELECTORAL ACT 1997

The Electoral Act 1997 legislates for the disclosure of donations given for political purposes and the regulation of spending at Dáil, Seanad, European Parliament and Presidential elections by political parties, candidates and third parties.

Section 3 provides for the amendment of section 2, the interpretation section, of the Act of 1997 to insert definitions of “Act of 1999” and “register of corporate donors”.

Section 4 provides for the amendment of section 3(1) of the Act of 1997, which makes provision for certain monetary amounts that are referenced throughout that Act to be varied by an order made by the Minister, having regard to any change in the Consumer Price Index. Section 4 extends this provision to the new provisions inserted by this Bill.

Section 5 provides for the amendment of section 22(2) of the Act of 1997, which is the interpretation section for that part of the Act dealing with the disclosure of donations. Definitions for the terms ‘company’ and ‘corporate donor’ are inserted.

Section 6 provides for the amendment of section 23A of the Act of 1997 to reduce the maximum amount that can be accepted as a donation by a political party, an accounting unit of a political party or a third party from €6,348.69 (£5,000) to €2,500. Section 6 also provides for a reduction in the maximum amount that can be accepted as a political donation by an individual from €2,539.48 (£2,000) to €1,000. This €1,000 limit applies in respect of donations to a member of either House of the Oireachtas or a Member of the European Parliament, as well as a candidate at a Dáil, Seanad or European Parliament election.

Section 7 provides for the amendment of the Act of 1997 by inserting a new section 23AA after section 23A to give effect to a ban on the acceptance from a corporate donor of a donation in a particular year, the value of which exceeds €200 unless the corporate donor is registered with the Standards in Public Office Commission, and the donation is accompanied:

- in the case of a company, body corporate or unincorporated body, by a statement confirming that the making of the donation has been approved by a general meeting of the company or body concerned; or,
- in the case of a trust, by a statement made by a trustee that the donation is in accordance with the deed of the trust concerned.

An exemption is given from these new requirements to a provider of a programme of education and training or a students union where such a body makes a payment to a student society or club.

Section 8 provides for the amendment of the Act of 1997 by inserting a new section 23D after section 23C. This amendment makes provision for the registration with the Standards in Public Office Commission of a corporate donor intending to make a donation for political purposes of over €200 in a given year. Section 8 provides for the Standards in Public Office Commission to maintain a register of corporate donors. This section makes provision for information and documentation submitted by a registered corporate donor to be made available for public inspection at the Commission's offices with a summary version of the register to be published on the website of the Commission. Section 8 provides that registration is on an annual basis with those wishing to remain on the register being required to renew their registration annually.

Section 9 provides for the amendment of section 24 of the Act of 1997 to lower the thresholds at which donations must be declared to the Standards in Public Office Commission:

- by a political party from €5,078.95 (£4,000) to €1,500;
- by an individual (a member of the Oireachtas or the European Parliament, or a candidate at a Dáil, Seanad or European Parliament election) from €634.87 (£500) to €600;

Section 10 provides for the amendment of section 25 of the Act of 1997, which makes provision for offences and penalties in connection with Part IV (Disclosure of Donations) of that Act. The amendment makes it an offence to accept a donation from a corporate donor unless that body has both registered with the Standards in Public Office Commission and declared that the donation has been properly authorised. It will also be an offence for a corporate donor to knowingly furnish information that is false or misleading.

Section 11 provides for the amendment of section 26 of the Act of 1997 to reduce from €5,078.95 (£4,000) to €200 the amount above which donations made by companies, trade unions, societies and building societies must be reported in their annual reports and returns.

Section 12 provides for the amendment of section 46 of the Act of 1997, which is the interpretation section of Part VI (Donations and Election Expenses at Presidential Election). Section 12 inserts definitions for the terms “company” and “corporate donor”.

Section 13 provides for the amendment of section 48 of the Act of 1997 and makes provision for a Presidential election donation statement to include information on all donations above €600, which is a reduction from €634.87 (£500). This reduction is identical to that applying at Dáil, Seanad and European Parliament elections, as provided for at section 9 of the Bill.

Section 14 provides for the amendment of section 48A of the Act of 1997 to reduce the maximum value of a donation that can be accepted by a candidate, agent or third party at a Presidential election. The maximum amount that can be accepted by a candidate or agent is reduced from €2,539.48 (£2,000) to €1,000. The maximum that can be accepted by a third party is reduced from €6,348.69 (£5,000) to €2,500. These reductions are identical to those applying under section 6 of the Bill in respect of other elections.

Section 15 provides for the amendment of the Act of 1997 by inserting a new section 48AA after section 48A. This section applies the same provisions in respect of the acceptance of corporate donations at a Presidential election as are applied under section 7 to Dáil, Seanad and European Parliament elections and to political parties.

Section 16 provides for the amendment of section 61 of the Act of 1997 which makes provision for “*offences and penalties*” in connection with donations and election expenses at a Presidential election. This amendment makes it an offence to accept a donation from a corporate donor unless that body has both registered with the Standards in Public Office Commission and declared that the donation has been properly authorised. Section 16 also makes it an offence to knowingly furnish information that is false or misleading in connection with these provisions.

Section 17 provides for the extension of existing provisions under section 71 of the Act of 1997, whereby a political party appoints an “appropriate officer” for the purposes of compliance with certain requirements under the Act. Provision is made for the “appropriate officer” to have additional responsibilities in connection with the preparation and submission of a political party’s annual statement of accounts as provided for in the new Part IX of the Act of 1997 inserted by section 26 of this Bill.

PART 3

AMENDMENT OF THE LOCAL ELECTIONS (DISCLOSURE OF DONATIONS AND EXPENDITURE) ACT 1999

While the Electoral Act 1997 legislates for the disclosure of donations given for political purposes and the regulation of spending at Dáil, Seanad, European Parliament and Presidential elections by political parties, candidates and third parties, the equivalent provisions in respect of local elections are set out in the Local Elections (Disclosure of Donations and Expenditure) Act 1999. In order for the new requirements in respect of political donations to apply to all elections and elected representatives it is necessary to make amendments to the Local Elections (Disclosure of Donations and Expenditure) Act 1999 in Part 3 of this Bill.

Section 18 provides for the amendment of section 13 of the Act of 1999 to reduce the threshold for the declaration of donations by an unsuccessful candidate at a local election from €634.87 (£500) to €600. This provision applies the same declaration threshold as

applies to individuals (a member of the Oireachtas or the European Parliament, or a candidate at a Dáil, Seanad, European Parliament or Presidential election) under sections 9 and 13 of the Bill.

Section 19 provides for the amendment of section 19A of the Act of 1999, which is the interpretation section of Part IVA (Disclosure of Donations). Definitions for the terms “company” and “corporate donor” are inserted.

Section 20 provides for the amendment of section 19B of the Act of 1999 to provide for a reduction in the maximum value of a donation that can be accepted by a member of a local authority or candidate at a local election from €2,539.48 (£2,000) to €1,000, and by a political party or third party from €6,348.69 (£5,000) to €2,500. These reductions are the same as those provided for in sections 6 and 14 of the Bill.

Section 21 provides for the amendment of the Act of 1999 by inserting a new section 19BB after section 19B. This section applies the same provisions in respect of the acceptance of corporate donations at local government level as apply to political parties, holders of elected office, and candidates at Dáil, Seanad, European Parliament and Presidential elections under sections 7 and 15 of the Bill.

Section 22 provides for the amendment of section 19C of the Act of 1999 by inserting a cross-reference to the new section 19BB (inserted by section 21). In a manner similar to the provision at section 4 of the Bill, this section provides for a monetary amount to be varied by an order made by the Minister, having regard to any change in the Consumer Price Index.

Section 23 provides for the amendment of section 19E of the Act of 1999 to lower the threshold at which donations to members of local authorities must be declared by members in their annual donations statement, from €634.87 (£500) to €600. There are equivalent provisions contained in sections 9, 13 and 18.

Section 24 provides for the amendment of section 21 of the Act of 1999 which makes provision for “offences and penalties” in connection with donations and election expenses at local government level. This provision makes it an offence to accept a donation from a corporate donor unless that body has both registered with the Standards in Public Office Commission and declared that the donation has been properly authorised. Section 24 makes it an offence to knowingly furnish information that is false or misleading in connection with these provisions.

PART 4

POLITICAL PARTIES — DISCLOSURE OF ACCOUNTS

Part 4 makes provision for all registered political parties to prepare an annual statement of accounts and an auditor’s report to be submitted each year to the Standards in Public Office Commission for publication. The format of the accounts is to be based on guidelines prepared by the Commission, in consultation with political parties and approved by the Minister. In the event of non-compliance with these provisions, funding made available to political parties by the State under Part 3 of the Electoral Act 1997 is to be withheld.

Section 25 provides for the amendment of section 19 of the Act of 1997, by providing that payments to a qualified political party shall not be made unless the political party concerned furnishes to the Standards in Public Office Commission an annual statement of accounts and an auditor's report that comply with the guidelines published by the Commission.

Section 26 provides for the amendment of the Electoral Act 1997 by inserting a new Part IX, entitled "Political Parties — Disclosure of Accounts", after Part VIII. The new Part IX of the 1997 Act comprises 8 sections, numbered 83 to 90:

Section 83 provides for the interpretation of expressions used in the new Part IX. The terms "annual statement of accounts", "Commission", "financial year" and "guidelines" are defined.

Section 84 provides for the appropriate officer of a political party to keep, or cause to be kept, books of accounts to enable the annual statement of accounts to be prepared. Provision is made for the books of accounts to be preserved by the appropriate officer for a period of 6 years.

Section 85 provides that the appropriate officer of a political party shall prepare an annual statement of accounts for each financial year.

Section 86 provides that the accounts of a political party shall be audited by a public auditor within 6 months of the end of the financial year. The first accounts required to be audited will be in respect of the financial year which commences after the guidelines under the new section 89 of the 1997 Act are published.

Section 87 provides that the annual statement of accounts and a copy of the auditor's report shall be furnished to the Standards in Public Office Commission within six months of the end of the financial year to which they relate. The Commission may at the written request of the appropriate officer extend this period by 14 days.

Section 88 makes provision for the Standards in Public Office Commission to furnish a report to the Chairman of the Dáil, having considered the statements of accounts and auditor's reports. Provision is made for procedures to be followed where the Commission is of the opinion that the annual statement of accounts does not comply with the guidelines.

Section 89 provides for the Standards in Public Office Commission to prepare and publish guidelines for the keeping of proper books of accounts. The section also provides for the Commission to consult with political parties on draft guidelines. The draft guidelines are then submitted for the consent of the Minister before being published and coming into force.

Section 90 provides for the Standards in Public Office Commission to make the annual statement of accounts and an auditor's report for each party available for public inspection and for publication on the Commission's website.

PART 5

STATE FUNDING OF POLITICAL PARTIES AND GENDER BALANCE

Section 27 amends section 17 of the Electoral Act 1997 to provide that unless at least 30% of the candidates of each political party at the previous general election were women and at least 30% were men, then payments from the State to the political party concerned under Part 3 of the Electoral Act 1997 would be reduced by 50%. Seven years from the general election where this provision first applies, this will rise to 40% commencing at the general election held next after that. There will therefore be a minimum of 7 years between the 30% and the 40% provision applying.

Section 28 amends section 46 of the Electoral Act 1992 to enable the gender of a candidate to appear on a nomination paper. The Returning Officer will in turn provide this information to the Minister for the Environment, Community and Local Government under section 127 of the Electoral Act 1992.

Section 29 amends section 127 of the Electoral Act 1992 to facilitate the provision of information to the Minister on the number of candidates of each gender that have contested a general election. This is to enable a determination to be made on the amount of funding to be paid to each “qualified party” that is to receive State funding under Part 3 of the Act of 1997.

Financial Implications of the Bill

The Bill has no significant direct financial implications for the Exchequer. The provisions that are contained within the Bill will be administered and overseen by the Standards in Public Office Commission. Implementation is to proceed on the basis of minimising related administrative costs.

*An Roinn Comhshaol, Pobail agus Rialtais Áitiúil,
Nollaig 2011.*