



**AN BILLE TOGHCHÁIN (LEASÚ) (BINSE MORIARTY), 2015
ELECTORAL (AMENDMENT) (MORIARTY TRIBUNAL) BILL
2015**

**MEABHRÁN MÍNITHEACH
EXPLANATORY MEMORANDUM**

Introduction

The purpose of this Bill is to provide for greater levels of transparency and probity in relation to financial donations to politicians and political parties, in line with recommendations made in the final report of the Moriarty Tribunal which was published in March 2011. The provisions of this Bill will place increased reporting obligations on individuals and political parties, and limit the aggregate donations to all individuals and political parties which may be made by a member of the public in a single year.

While many of the recommendations of the final report of the Moriarty Tribunal have been acted upon and implemented, a number of recommendations remain outstanding. This Bill will ensure that all recommendations of the final report are reflected in Irish law.

This Bill will enhance the degree of accountability and openness in public life and consign to history the culture of secrecy and corruption which has characterised much of Ireland's political history.

Provisions of the Bill

The Bill contains nine sections and is divided into four Parts.

Section 1 sets out the short title of the Bill and also provides that, once enacted, the provisions of the Bill may be brought into force by the Minister for the Environment, Community and Local Government.

Section 2 defines terms which are used in the Bill.

Part 2 of the Bill contains a series of amendments of the Electoral Act 1997. *Section 3* amends the Act of 1997 by inserting a new section 23AC. This section seeks to implement the recommendation at paragraph 1.41 of Chapter 18 of the final report of the Mahon Tribunal. The purpose of the new section 23AC is to impose an overall limit on the total amount which any individual or company may give to politicians, aspiring candidates and political parties over any 12 month period. The limit is set at €10,000. There is also an obligation to report to the Standards in Public Office Commission the receipt of any donation which is in excess of the €10,000 limit.

Section 4 amends the 1997 Act by substituting section 24(1)(a) and by amending section 24(1)(b). The effect of this is to increase the frequency of the disclosure of political donations, such that disclosure must take place at

three-monthly intervals. This section seeks to implement recommendation (viii) of paragraph 62.12 of the final report of the Moriarty Tribunal.

Section 4 also imposes an obligation on persons to disclose additional details relating to a donor – such as whether there are any financial, commercial or other interests of the donor which may be material to the context of the donation made. The recipient of the donation is also required to disclose whether any public contracts were awarded to that person in the twelve months prior to the donation being made. There is also a requirement to disclose whether there was any ongoing public procurement process in which that person was involved at the time at which the donation was made. This aspect of *section 4* seeks to implement recommendation (vii) of paragraph 62.12 of the final report of the Moriarty Tribunal.

Section 5 amends the 1997 Act by inserting a new subsection (1F) into section 25. This new subsection makes it an offence to contravene the new section 23AC(1) (inserted by *section 3* of this Bill). It also makes it an offence to provide false or misleading information in purported fulfilment of the reporting requirement which arises under section 23AC(2) (also inserted by *section 3* of this Bill).

Section 6 of the Bill amends section 48 of the 1997 Act. It applies to candidates at a presidential election and imposes an obligation on persons to disclose additional details relating to a donor – such as whether there are any financial, commercial or other interests of the donor which may be material to the context of the donation made. The recipient of the donation is also required to disclose whether any public contracts were awarded to that person in the twelve months prior to the donation being made. There is also a requirement to disclose whether there was any ongoing public procurement process in which that person was involved at the time at which the donation was made. This aspect of *section 6* seeks to implement recommendation (vii) of paragraph 62.12 of the final report of the Moriarty Tribunal.

Section 7 inserts a new section 85A into the 1997 Act. The purpose of the new section 85A is to apply the transparency of donations requirements beyond traditional political parties so that those same requirements also apply to independent or non-party candidates. The proposed new section 85A seeks to extend the application of sections 84 (Duty to keep proper books of accounts), 85 (Annual statement of accounts) and 91 (real-time publication of donations (inserted by this section)) of the 1997 Act to independent or non-party candidates. This aspect of *section 7* seeks to implement recommendation (x) of paragraph 62.12 of the final report of the Moriarty Tribunal.

Section 7 also inserts a new section 91 into the 1997 Act. The purpose of the new section 91 is to introduce the real-time, online publication of donations received by political parties and also by independent members. This section introduces a requirement for the details of donations to be updated on a monthly basis. This record of donations will be fully accessible by members of the public. This aspect of *section 7* seeks to implement recommendation (viii) of paragraph 62.12 of the final report of the Moriarty Tribunal.

Part 3 amends the Local Elections (Disclosure of Donations and Expenditure) Act 1999. *Section 8* of the Bill amends section 19E of the 1999 Act so as to increase the frequency the disclosure of political donations to local authority representatives, such that disclosure must take place at three-monthly intervals.

Section 8 also imposes an obligation on persons to disclose additional details relating to a donor – such as whether there are any financial, commercial or other interests of the donor which may be material to the context of the donation made. The recipient of the donation is also required to disclose whether any public contracts were awarded to that person in the twelve months prior to the donation being made. There is also a requirement to disclose whether there was any ongoing public procurement process in which that person was involved at the time at which the donation was made. This aspect of *section 8* seeks to implement recommendation (vii) of paragraph 62.12 of the final report of the Moriarty Tribunal.

Part 4 amends the Ethics in Public Office Act 1995. *Section 9* of the Bill inserts a new section 14A into the Act of 1995. Section 14A states that an office holder may voluntarily permit the Standards in Public Office Commission to audit his or her personal financial affairs at any point during their tenure in office and for up to eighteen months after he or she leaves office. This aspect of *section 9* seeks to implement the recommendation of paragraph 62.15 of the final report of the Moriarty Tribunal.

*Deputy Lucinda Creighton,
Deireadh Fómhair, 2015.*