

Guidelines for Members of the Houses of the Oireachtas and Representatives in the European Parliament

Steps to be taken concerning donations and prohibited donations



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Chapter 1 - Introduction and Summary

- 1.1 These guidelines have been published by the Standards in Public Office Commission under *section 4(6)(a)* of the Electoral Act 1997 (the Act¹). The purpose of these guidelines is to ensure that members of the Houses of the Oireachtas and representatives in the European Parliament (MEPs) are informed of the steps they are required to take in relation to disclosure and, where necessary, refusal or remittance of donations. The guidelines also deal with the opening of political donations accounts. These guidelines replace previous guidelines published by the Standards Commission on this subject.
- 1.2 The Standards Commission recommends that members and MEPs should read the guidelines in full. The Standards Commission may under *section 4(6)(b)* of the Act to provide advice on compliance to persons who are covered by the provisions of the Act.

Advice may be sought from the Standards Commission concerning any provision of the legislation or the application of such provision in any particular circumstance. If a person is in any doubt about any aspect of the legislation, he or she should contact the Standards Commission. Advice is given either in writing (including by e-mail) or by responding to telephone enquiries.

Advice is provided at the discretion of the Standard Commission. The circumstances where advice may not be provided include:

- where there is insufficient information to advise the requester;
- where the request for advice relates to a matter which is outside the expertise of the Standards Commission e.g. accountancy queries.
- where the request for advice relates to a matter which is under examination by the Standards Commission.

¹ A reference to the Act refers to the Electoral Act 1997 as amended by the Electoral (Amendment) Act 1998, Local Elections (Disclosure of Donations and Expenditure) Act 1999, Electoral (Amendment) Act 2001, Local Government Act 2001, Electoral (Amendment) Act 2002, Local Government (No. 2) Act 2003, Electoral (Amendment) Act 2004, Electoral (Amendment) Act 2005, Electoral (Amendment) Act 2007, Electoral (Amendment) Act 2009, Ministers and Secretaries (Amendment) Act 2011, Electoral (Amendment) Act 2011, Electoral (Amendment) (Political Funding) Act 2012, Gaeltacht Act 2012, Electoral, Local Government and Planning and Development Act 2013, Local Government Reform Act 2014, Court of Appeal Act 2014, Electoral (Amendment) Act 2015 and the Electoral Reform Act 2022.

The Standards Commission recommends that advice should be sought immediately if a matter arises about which there is uncertainty. By doing so, it is less likely that the issue will cause a difficulty later.

A person must act in accordance with guidelines or advice published or given by the Standards Commission unless, by so doing, they would be contravening another provision of the Act.

- 1.3 It should be noted that the Standards Commission is entitled to make such enquiries or on commencement of section 183 of the Electoral Reform Act 2022, to carry out such investigation as it considers appropriate and may require any person to furnish any information, document or thing in the possession or procurement of the person which the Standards Commission may require for the purpose of its duties under the legislation. For more information on investigations, please go to Chapter 10.

Where a person fails to comply with an inquiry request within a reasonable time, the Standards Commission may direct the person to comply with the inquiry within a particular period of time. Information provided as part of a direction by person is not admissible in proceedings brought against that person for an offence.

Failure to comply with a direction of the Commission is an offence.

Where a person is charged with the offence of failing to comply with a direction of the Commission, it is a defence to show that the information, document or thing which was the subject of the direction was not in that person's possession or control and it was not reasonably practicable for them to comply with the direction.

- 1.4 Where a person wishes to provide the Standards Commission with information regarding a potential contravention of the Act, they may do so by contacting the Secretariat of the Standards Commission at info@sipo.ie. Reports of information will be acknowledged and reviewed. Such reports may form part of the Standards Commission's consideration as to whether it will exercise its powers under the Act.

The Act does not provide for a complaints mechanism regarding a potential contravention of the Act. Reporters of information will not be provided with the outcome of the Standards Commission's considerations.

Where a contravention has been committed by a specified person with the meaning of section 4 of the Standards in Public Office Act 2001, a person may submit a

complaint to the Standards Commission under the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001 and will be dealt with in accordance with the Standards Commission's complaints process.

Useful information

Value of donation	Net Valuation of donation (from fundraising events, etc.) determines disclosability. Section 22(2)(vi) & Section 46(2)(a)(vi)
€100	An anonymous donation exceeding this amount cannot be accepted in any calendar year. Section 23(1) & Section 47(1)
€100	On receipt of a donation of this value, a political donations account must be opened by a TD, Senator, MEP, candidate at a Dáil, Seanad or European election, Presidential candidate/election agent, political party, sub-unit of a political party (e.g. branches, accounting units, cumann, a Comhairle Dáil Ceantair or any other sub-unit), or a third party (if one has not already been opened). Section 23B(1) & Section 48B(1)
€200	Maximum cash donation that may be accepted by a TD, Senator, MEP, candidate at a Dáil, Seanad or European election, Presidential candidate/election agent, political party, sub-unit of a political party, or a third party in any calendar year from a donor. Section 23A(1)(iii) & Section 48A(1)(iii)
€200	Maximum donation that may be accepted by a TD, Senator, MEP, candidate at a Dáil, Seanad or European election, Presidential candidate/election agent, political party, sub-unit of a political party, or third party in any calendar year from a corporate donor unless the corporate donor is registered in the Register of Corporate Donors maintained by the Commission and a statement, on behalf of the corporate donor confirming that the making of the donation was approved by the corporate donor, is furnished with the donation to the donee. Section 23AA(1)(i) & (ii) and Section 48AA(1)(i) & (ii)
€200	Maximum aggregate donation that a company, trade union, society or building society can give before reporting it in annual returns made under the Companies Act 1963, or to the Registrar of Friendly Societies or the report of a building society (under the Building Societies Act 1989). Section 26
€600	All donations received by a TD, Senator, MEP, candidate at a Dáil, Seanad or European election, or Presidential candidate/election agent exceeding this amount must be disclosed on the Donation Statement. Section 24(4) & Section 48(1)
€1,000	Maximum donation that may be accepted by a TD, Senator, MEP, candidate at a Dáil, Seanad or European election, or Presidential candidate/election agent from an individual or a registered corporate donor in any calendar year. Section 23A(1)(i) & Section 48A(1)(i)
€1,500	All donations received by a political party exceeding this amount must be disclosed on the Donation Statement. Section 24(4)
€1,500	Reporting threshold/maximum aggregate amount in any calendar year that a donor can give to multiple candidates of the same party or to one or more party members and to the party itself before the donor is required to submit a donation statement. Section 24(1A)(a)
€2,500	Maximum donation that may be accepted by a political party, sub-unit of a political party, or a third party from an individual or a registered corporate donor in any calendar year. Section 23A(1)(ii) & Section 48A(1)(ii)

Chapter 2 – Definitions

The following is a selection of definitions from the legislation which are necessary in order to understand the guidelines. A definition of what constitutes a donation is not included in this part of the guidelines. Chapter 3 of the guidelines sets out what are and are not donations to a member/MEP.

2.1 Person

A person is defined as including:

- an individual;
- a body corporate and any subsidiary thereof, e.g. a public or private company (a subsidiary of a body corporate is as defined under section 155 of the Companies Act); or
- an unincorporated body of persons, e.g. a political party, a sub-unit of a political party, a partnership, a residents association, a lobby group.

2.2 Corporate Donor

A corporate donor is defined as including:

- a body corporate;
- an unincorporated body of persons; or
- a trust,

which makes a donation. A body corporate and any subsidiary thereof are deemed to be one person.

2.3 Political Party

A "political party" means a party registered in the Register of Political Parties in accordance with *section 25* of the Electoral Act of 1992, as a party organised to contest a Dáil or European election or both such elections;

2.4 Subsidiary organisation

A subsidiary organisation of a political party means a body or association (including a body or association that has an office outside the State) which either:

- forms part of such political party, or
- is established by or under the constitution of the political party, or is effectively controlled by the political party or the officers thereof, or
- has functions conferred on it by or under the constitution of the party.

If any of the above conditions are satisfied the body will be considered a subsidiary of the political party.

This includes an accounting unit, a branch, a Cumann, a Comhairle Dáil Ceantair or any other sub-unit or part etc., of the party, even though they may have separate obligations under the Act.

In considering whether a body or association forms a part of a political party or is effectively controlled by a political party or its officers, the Commission will have regard to the (1) degree and extent of control exercised by a political party over the body/association and (2) whether that body/association operates a business/venture/activity on its own account.

In considering the degree and extent of control that a political party may exercise, the Standards Commission will have regard to the nature and circumstances of the arrangement. Factors which the Standards Commission may consider but are not limited to

- Whether and to what extent the actions of the body/association require approval from the political party;
- Whether and to what extent the senior directors or senior officers of body/association are involved with the political party;
- nature of any transactions between the body/association and the political party including loan arrangements.

The Standards Commission does not consider the provision of service to a political party under a contract on commercial terms to be indicative of a subsidiary relationship.

2.5 Political Purposes

Political purposes means:

- i. 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
- ii. 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
- iii. 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
- iv. 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, or
- v. 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, or
- vi. otherwise to seek to influence the outcome of an election, referendum or campaign.

2.6 Financial Institution

In relation to a political donations account a "Financial Institution" or "Institution" means:

- the holder of a licence under section 9 of the Central Bank Act 1971;
- a building society incorporated or deemed to be incorporated under the Building Societies Act 1989, or a body incorporated in a corresponding manner under the law of any other member State of the European Communities;
- a trustee savings bank;
- An Post;
- a credit institution authorised in accordance with the European Union (Capital Requirements) Regulations 2014 (S.I. No. 158 of 2014) to carry on business in the State, or
- a credit union registered as such under the Credit Union Act 1997.

2.7 Donation by an Intermediary

A donation by an Intermediary is a donation to political party, member of either House of the Oireachtas, representative in the European Parliament, or candidate a Dáil, Seanad or European election by a person through another person.

A donation by an Intermediary must be accompanied by:

- a 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.

2.8 Donation in the form of cryptocurrency

'cryptocurrency' means

any form of digital currency that is not regulated, and in relation to which encryption techniques are used to regulate the generation of units of currency and verify the transfer of monies;

2.9 Third Party

any person, other than a political party registered in the Register of Political Parties the Register of Political Parties, or a candidate at an election, who accepts, in a particular year, a donation the value of which exceeds €100.

Chapter 3 – Donations

3.1 A donation to a member/MEP means any contribution given **within or outside the State** for political purposes by any person (including a subsidiary organisation that has an office outside the State), whether or not the person is a member of a political party, and includes all or any of the following, namely:

- i. a donation of money (including a donation of money given to a member/MEP by his/her political party);
- ii. a donation of property or goods;
- iii. the free use of property or goods (i.e. conferring the right to use, without payment or other consideration, indefinitely or for a specified period of time, any property or goods);
- iv. a free supply of services (i.e. the supply of services without payment or other consideration therefor);
- v. the difference between the usual commercial price and the (lower) price charged for the purchase, acquisition or use of property or goods, or the supply of any service, where the price, fee or other consideration is less than the usual commercial price (this can include a loan provided to a member/MEP by a financial institution or by a third party at terms and conditions which are more favourable than that provided by the financial institution to other individuals. Details of the Standards Commission's position with regard to the issuing and repayment of loans are set out in chapter 4 of these guidelines);
- vi. a contribution made by a person to a fund-raising event organised for the purpose of raising funds for a member/MEP. The donation is that proportion of the contribution which is attributable to the net profit, if any, deriving from the event. Donations are deemed to have been received on the date of the actual fund-raiser (and not when the funds are actually received). The position with regard to fund-raising events is explained in greater detail in the Appendix to these guidelines.

- vii. a payment by a person on their own behalf, or on behalf of one or more than one other person, of a fee or subscription for membership or continued membership of a political party (membership fees include any membership fee/levy/subscription paid to any sub unit of a political party);
- viii. a notional donation/donation in kind. This means that where a person/organisation pays for work/expenses from its own resources (i.e. not party funds) then this is considered a donation of the notional value/cost of the work/expenses to the donee. Donations in kind or notional donations are to be valued at the usual commercial price charged for the purchase, use or acquisition of the property or goods or the supply of the services donated. See Part 3.1(v) above.

3.2 The Act provides that the following items shall not be regarded as a donation to a member/MEP:

- i. free postage facilities provided, under statute, for candidates at elections;
- ii. any payment, service or facility provided to a member/MEP out of public funds or moneys provided by an institution of the EU or other intergovernmental organisation to which the State is a party, pursuant to specified legislation, by virtue of the recipient being:
 - a member/MEP;
 - the holder of a qualifying office or position;
 - the holder of an elective or other public office; or
 - a member of, delegate to or representative in a body established by or under an agreement or arrangement to which the State is a party;
- iii. a free service provided by an individual, including the use of the individual's motor vehicle, on behalf of a member/MEP, where that service is not part of that individual's work or business and provided that the individual is not, directly or indirectly, paid by any other person for that service or to facilitate the provision of the service;

- iv. a service provided at an election by an employee of a political party (other than an individual in the employment of a subsidiary organisation of that party that has an office outside the State), including use of the employee's motor vehicle, whether the employee's remuneration is paid out of party resources or public funds, and the employee is not in receipt of any additional reward or benefit in kind for carrying out that service;
- v. normal media coverage and the transmission on radio or television of a broadcast on behalf of a member, MEP or candidate at an election. This does not cover any production or other costs associated with such a broadcast;
- vi. expenses incurred by a political party on behalf of a member or MEP of the political party other than a donation of money. **It is important to note that a donation of money given to a member/MEP by his/her political party (whether party headquarters or a local branch) is regarded as a donation and is subject to the disclosure and maximum acceptance limits;**
- vii. election expenses incurred by a political party on behalf of a candidate of the political party at a Seanad Election or funds provided to such candidate by the political party in relation to those expenses,
- viii. election expenses incurred by a political party on behalf of a candidate authenticated by the political party at a Dáil or European election or funds provided to such candidate by the political party in relation to those expenses, or
- ix. any payment, contribution or supply of goods or services (without payment or other consideration or at less than the commercial price) given outside the State by a person to a political party and accepted by that political party in accordance with the laws of the state in which it is accepted and, where it is a monetary payment or contribution, is kept or retained in a separate designated fund.

3.3 The Act provides that where a donation is made to a member/MEP of a political party and the donation is passed on to the party by the member/MEP and he/she receives a written acknowledgement of receipt of the donation from the party, the donation will be deemed to have been made to the party. In such circumstances,

the party is responsible for ensuring that the appropriate action is taken in relation to the donation.

- 3.4 Where a person makes more than one donation to the same member/MEP in the same calendar year, the values of the donations must be aggregated and the donations treated as a single donation for the purposes of observing the disclosure and maximum acceptance limits.
- 3.5 A donation, whether made directly or through any intermediary, will be deemed to have been made to a member/MEP if it is made to him/her or to any agent or other person acting for him/her.

Chapter 4 - Loans to members/MEPs

- 4.1 Where a loan is provided to a member/MEP by a financial institution or a third party and the normal commercial rules attaching to such loans apply, the loan is not regarded as a donation to the member/MEP. However, where a loan is provided to a member/MEP in circumstances where either the interest charged is less than the lowest rate available from a financial institution at the time the loan was given or the loan is not repaid in accordance with the terms and conditions under which the loan was issued or is only partially repaid, the benefit to the member/MEP may be regarded as a donation and may, therefore, be subject to the disclosure and maximum limits applying to the acceptance of donations.
- 4.2 Where an individual or body, who or which is not a financial institution, gives a loan to a member/MEP, it must be evident that the loan offered is a bona fide loan. In that regard the following would apply:
- i. As with a loan from a financial institution, the terms and conditions applying to the loan and its repayment must be stated clearly in writing.
 - ii. Interest is chargeable on the loan at a rate (whether fixed or variable) which reflects the interest charged by financial institutions on loans of a similar amount and duration. Where the interest charged is less than the lowest rate available from a financial institution at the time the loan was given, the benefit accruing from the difference in rates is regarded as a donation to the member/MEP.
 - iii. The Standards Commission may require sight of the terms and conditions, including the interest charge, applying to the loan and may require confirmation that the loan has been repaid in accordance with these terms and conditions.
 - iv. If the loan is not repaid in accordance with the terms and conditions, or is only partly repaid, the benefit of such non-repayment may be regarded as a donation to the member/MEP.

Chapter 5 - Prohibited Donations

5.1 Anonymous donations in excess of €100

- 5.1.1 A member/MEP may not accept an anonymous donation exceeding €100 in value. A donation is anonymous if the name and address of the donor is not known to the member/MEP concerned. Where a donation is made by an Intermediary, the name and address of the original donor is required. If such a donation is received, the member/MEP must notify the Standards Commission in writing within 14 days of receipt of the donation and remit the donation, or its value, to the Standards Commission.

The Standards Commission must lay a copy of each such notification received before both Houses of the Oireachtas.

Donations made through online fundraising services will not be considered to be anonymous where the name and address of the donor are known to the member/MEP.

5.2 Cash donations in excess of €200

- 5.2.1 A member/MEP may not accept a cash donation exceeding €200 in value. If such a donation is received, the member/MEP must, within 14 days of receipt of the donation, return the donation to the donor or, if it is a monetary donation, the part of it exceeding the limit and keep a written record of the return for the purpose of it being furnished to the Standards Commission, if required; or, the member/MEP must, within fourteen days of receipt, notify the Standards Commission of receipt of the donation and remit the donation or, if it is a monetary donation, the part of it exceeding the limit to the Standards Commission.
- 5.2.2 The Act does not prescribe how long a member/MEP should retain the records of the return. However, the Standards Commission advise that records should be retained for a minimum of 6 years.

5.3 Donations by non-registered corporate donor in excess of €200

- 5.3.1 A member/MEP may not accept a donation exceeding €200 in value from a corporate donor **unless** the corporate donor is registered in the Register of

Corporate Donors maintained by the Standards Commission **and** a statement is made on behalf of the corporate donor (and furnished with the donation to the donee) confirming that the making of the donation was approved by the corporate donor. The statement must be accompanied by a statutory declaration that to the best of the knowledge and belief of the person concerned, the statement is correct in every material respect and that the person has taken all reasonable action in order to satisfy him/herself as to the accuracy of the statement. In the case of a company, the statement and statutory declaration should be made by a director or other officer of the company. In the case of a body corporate other than a company or an unincorporated body of persons, the statement and declaration should be provided by an officer or any person who is performing the functions of an officer of the body. If the corporate donor is a trust, the statement and declaration should be provided by a trustee of the trust.

- 5.3.2 If a donation is received from a non-registered corporate donor, the member/MEP must, within 14 days of receipt of the donation, return the donation to the donor or, if it is a monetary donation, the part of it exceeding the limit and keep a written record of the return for the purpose of it being furnished to the Standards Commission, if required; or, the member/MEP must, within fourteen days of receipt, notify the Standards Commission of receipt of the donation and remit the donation or, if it is a monetary donation the part of it exceeding the limit to the Standards Commission.
- 5.3.3 The Act does not prescribe how long a member/MEP should retain the records of the return of the donation. However, the Standards Commission advise that records should be retained for a minimum of 6 years.
- 5.3.4 Approved by the Corporate Donor means that
- a) that a general meeting, one of the purposes of which is to consider making a donation, has been duly convened and conducted and approval for making the donation has been given in accordance with the rules (whether in writing or not) governing the administration and control of the corporate donor concerned and regulating its activities and such rules shall include:
 - (ii) in the case of a company, the memorandum and articles of the company,
 - (iii) in the case of a body corporate other than a company, the charter, statute, or other like instrument by which it is established,

(iv) in the case of an unincorporated body of persons, the rules of the body,

- b) that a donation is made by a trustee in accordance with the deed of trust establishing the trust concerned which deed of trust permits the making of such a donation

5.4 Donations in excess of the maximum prescribed limit of €1,000

5.4.1 The maximum value of donation(s) which a member/MEP may accept from the same donor in the same calendar year, either directly or through an intermediary, is €1,000. Where a donor makes more than one donation to a member/MEP in a particular year the values of the donations must be aggregated for the purpose of observing the maximum limit.

5.4.2 If a member/MEP receives a donation exceeding €1,000 in value, the donation must, within fourteen days of receipt, be returned by the member/MEP to the donor or, if it is a monetary donation, the part of it exceeding the limit must be returned to the donor. A written record of the return must be kept for the purpose of it being furnished to the Standards Commission, if required; or the member/MEP must, within fourteen days of receipt, notify the Standards Commission of receipt of the donation and remit the donation or the value thereof to the Standards Commission. In the case of a monetary donation, the part of it exceeding the limit must be remitted. The Act does not prescribe how long a member/MEP should retain the records of the return of the donation. However, the Standards Commission advise that records should be retained for a minimum of 6 years.

5.4.3 The maximum limit does not apply to a constituency office provided to a member/MEP by a person or, if more than one such office is provided, to whichever of the offices is nominated in writing by the member/MEP. It is important to note that, although the maximum limit may not apply to a donation of a constituency office, such a donation must be disclosed if the value exceeds €600.

5.4.4 As stated in paragraph 3.1, a donation of money given to a member/MEP by his/her political party is regarded as a donation. The maximum limit applies, therefore, to monetary donations received by a candidate from his/her political party. Donations of money from any branch of the party (including party headquarters) must be aggregated for the purpose of observing the maximum limit and treated as a single donation from the party.

5.5 Foreign donations

- 5.5.1 A member/MEP may not accept a donation, of any value, from an individual (other than an Irish citizen) who resides outside the island of Ireland. Similarly no donation, of any value, may be accepted from a body corporate or an unincorporated body of persons which does not keep an office in the island of Ireland from which at least one of its principal activities is directed.
- 5.5.2 The onus is on a member/MEP to make whatever enquiries are necessary and to obtain any corroborating evidence that may be required in order to be satisfied that he/she is not precluded from accepting a donation from the person concerned. The Standards Commission may require evidence that a member/MEP is permitted to accept a donation from a particular donor.
- 5.5.3 Notwithstanding this, where a prohibited foreign donation is received, the member/MEP should, within 14 days, return the donation to the donor and keep a written record of the return for the purpose of its being furnished to the Standards Commission, if required. In the alternative, the member/MEP should, within 14 days, notify the Standards Commission and remit the donation, or the value thereof, to the Standards Commission. The Act does not prescribe how long a member/MEP should retain the records of return. However, the Standards Commission advise that records should be retained for a minimum of 6 years.

5.6 Donations from donors who themselves are required to furnish a Donation Statement to the Standards Commission and who do not intend to do so

- 5.6.1 By 31 January in every year, under *section 24(1A)* of the Act, a donor is required to furnish a Donation Statement to the Standards Commission if, in the preceding year, the donor makes donations, exceeding in aggregate value €1,500, to two or more persons who were members of the same political party at the time the donations were made, or one or more persons and to the political party of which such person or persons were members at the time the donations were made.
- 5.6.2 If a member/MEP, who is a member of a political party, is offered a donation by a donor who is covered by this provision of the legislation and knows, or has reason to believe, that the donor does not intend to furnish a Donation Statement to the Standards Commission, the member/MEP is prohibited from accepting a donation from that donor.

5.6.3 If, notwithstanding this prohibition, such a donation is received, the member/MEP must, within 14 days of receipt, notify the Standards Commission in writing of the receipt of the donation and the name and address of the donor, and remit the donation or its value to the Standards Commission. The Standards Commission must lay a copy of each such notification before both Houses of the Oireachtas. The Act does not prescribe how long a member/MEP should retain the records of return. However, the Standards Commission advise that records should be retained for a minimum of 6 years.

5.7 Donations in the form of cryptocurrency

5.7.1 A member/MEP may not accept a donation, of any value, in the form of cryptocurrency.

5.7.2 If, such a donation is received, the member/MEP must, within 14 days of receipt, notify the Standards Commission in writing of the receipt of the donation and remit the donation or its value to the Standards Commission. In the alternative, or the member/MEP should, within 14 days remit the donation, or the value thereof, to the donor and maintain appropriate records of the return.

5.7.3 The Act does not prescribe how long a member/MEP should retain the records of return. However, the Standards Commission advise that records should be retained for a minimum of 6 years.

Chapter 6 - Political Donations Accounts

6.1 A member/MEP who receives, in a particular year, a monetary donation of more than €100 must open and maintain an account in a financial institution in the State and must lodge that donation and any further monetary donations received, of whatever value, to that account (the “political donations account”).

6.2 A definition of what constitutes "a financial institution" is provided in paragraph 2.6. It includes An Post and most banks, building societies, credit unions and credit institutions.

6.3 It should be noted that once a member/MEP has opened a political donations account, the requirement to maintain that account is ongoing. If, for example, a member/MEP were to close his/her political donations account (i.e. after an election) and he/she subsequently received a monetary donation of any value, the member/MEP would be required to re-activate the political donations account. Having regard to the possibility of such an occurrence, members/MEPs should

maintain a political donations account even in circumstances where there is little or no activity on the account.

- 6.4 Not later than 31 January each year, a member/MEP who was required to open a political donations account must furnish, with the Donation Statement referred to in chapter 7, a statement provided by the financial institution where the political donations account was opened. The statement must specify the transactions that have taken place in relation to the account during the preceding year.

The member/MEP must also furnish a Certificate of Monetary Donations on which he/she certifies that all monetary donations received during the preceding year were lodged to the account and that all amounts debited from the account were used for political purposes. The Standards Commission will issue a Certificate of Monetary Donations form to each member/MEP at the beginning of January each year.

- 6.5 The certificate must be accompanied by a statutory declaration that, to the best of the member's/MEP's knowledge and belief, the certificate is correct in every material respect and that all reasonable action has been taken in order to be satisfied as to the accuracy of the certificate.
- 6.6 If it is the case that there were no transactions on the member's/MEP's political donations account during the preceding year, the member/MEP will be required only to state this on the Certificate of Monetary Donations form. He/she will not be required to complete the Statutory Declaration on the Certificate of Monetary Donations form or to provide a statement from the financial institution in which the political donations account is held.
- 6.7 The Standards Commission retains the statements from financial institutions and Certificates of Monetary Donations and does not disclose the contents thereof, unless ordered by a court to do so or where disclosure is required in connection with an investigation held by the Standards Commission.

Chapter 7 - Donation Statements

- 7.1 Not later than 31 January each year, a Donation Statement must be furnished to the Standards Commission by each person, who in the preceding year, was a member/MEP. The Standards Commission will issue a Donation Statement form to each member/MEP at the beginning of January each year.
- 7.2 The Donation Statement must show whether or not, in the preceding calendar year, the member/MEP received, from the same person, a donation exceeding in value €600. Donations from the same person in the same calendar year must be aggregated and the donations treated as a single donation.
- 7.3 For each donation exceeding €600 received, the value and nature of the donation must be stated together with the name, address and a description of the person by, or on whose behalf, the donation was made, along with the date the donation was received; whether the donation was requested from the donor, and if so, the name and address of the person who requested the donation, and whether a receipt issued to the donor in respect of the donation, and if so, the date on which the receipt issued and the name of the person who issued the receipt.

With regard to the address of the donor, **the full postal address** must be given.

Where a donation (or the excess amount) is returned to the donor or remitted to the Standards Commission, and the amount of the donation is in excess of €600, it must be disclosed on the donation statement. A note should be attached indicating that it (or the excess amount) was returned or remitted to the Standards Commission.

The Donation Statement must be accompanied by a Statutory Declaration that, to the best of the member's/MEP's knowledge and belief, the Donation Statement is correct in every material respect and that he/she has taken all reasonable action in order to be satisfied as to its accuracy. The Statutory Declaration must be witnessed by a person who is either a practising solicitor, a Commissioner for Oaths, a Peace Commissioner or a Notary Public.

Each member/MEP has a statutory duty to make such enquiries and maintain such records as are necessary for the purpose of furnishing his/her Donation Statement and making the Statutory Declaration.

- 7.4 The TD, Senator or MEP is also responsible for ensuring that donations accepted by him/her are not prohibited under the Act (see Chapter 5). This is particularly important where donations are received online. Where a TD, Senator or MEP is accepting donations through a website, he/she must ensure that he/she can properly identify the source of the donation and that he/she is not prohibited from accepting a donation from the donor. It is also important for disclosure purposes and for the purposes of adhering to the maximum acceptance limit that the TD, Senator or MEP has a system in place which will aggregate all donations from the same donor (by credit card, debit card etc.) and/or received by other means.
- 7.5 The Commission advises that, if TD, Senator or MEP is using a crowd funding service, it should make it clear to donors that the acceptance of prohibited donations is not permitted. The TD, Senator or MEP may seek to work with the service to put in place measures to support this.
- 7.6 The Standards Commission must consider every Donation Statement furnished to it by a member/MEP. Where the Standards Commission finds a minor error or omission in a Donation Statement, it will furnish details of the error or omission to the member/MEP and will notify the member/MEP that he/she has 14 days from the date of the notice in which to correct the error or make good the omission.

Where additional or supplemental information in relation to a member's/MEP's Donation Statement is required by the Standards Commission, it must be provided by the member/MEP in the form specified by the Standards Commission and may be accompanied by a statutory declaration, if the Standards Commission so requires.

- 7.7 Where, following consideration by it of a Donation Statement, the Standards Commission is of the opinion that a contravention of the legislation may have occurred, it is required to notify the member/MEP of the possible contravention and afford him/her 14 days to furnish any comments he/she may have. The Standards Commission will consider the comments provided by the member/MEP and, if it is still of the opinion that a contravention of the legislation has occurred, the current position is that the Standards Commission will furnish a report on the matter, together with any relevant documentation, to the Director of Public Prosecutions. On commencement of section 182 of the Electoral Reform Act 2022, the Standards Commission will consider whether in its opinion there is sufficient evidence to justify

criminal proceedings under the Act, or where there is no sufficient evidence whether to direct the carrying out of any investigation (see Chapter 10.)

- 7.8 As stated in paragraph 6.4, a member/MEP who was required to open a political donations account should ensure that the Donation Statement and statutory declaration furnished to the Standards Commission is accompanied by a statement from the financial institution in which the political donations account is held together with a Certificate of Monetary Donations relating to that account.

Chapter 8 - Publication of documents furnished to the Standards Commission

- 8.1 The Standards Commission is required to lay a copy of each Donation Statement furnished to it before both Houses of the Oireachtas. Donation Statements are laid before the Houses once the Standards Commission has completed its considerations outlined above. Where there is a subsequent amendment to a donation statement, the amended statement will be laid before the Houses once the Commission has completed its considerations. The Donation Statements are retained at the offices of the Standards Commission for a period of three years and are available for public inspection and copying once the Commission has completed its considerations and such statement is laid before the Houses
- 8.2 The Standards Commission furnishes a report to the Ceann Comhairle on the annual disclosure of donations by members/MEPs. This report is subsequently laid before both Houses of the Oireachtas. The report, which contains details of donations disclosed by members/MEPs is also published on the website of the Standards Commission
- 8.3 While the Standards Commission retains the statements from financial institutions and Certificates of Monetary Donations it does not disclose the contents of these documents.

Chapter 9 - Offences and penalties

9.1 A member/MEP will be guilty of an offence if he/she:

- i. fails to take the appropriate action, as set out in chapter 5, in relation to the receipt of an anonymous donation, . For example, an offence may be committed where
 - a. An anonymous donation is not remitted to the Standards Commission within 14 days of receipt; or
 - b. The donations is not notified to the Standards Commission within 14 days of receipt

the penalty for this offence is a fine not exceeding €2,500;

- ii. Knowingly accepting or failing to take the appropriate action, as set out in paragraph 5.6, in relation to a donation from a donor whom the member/MEP is aware is required to furnish a Donation Statement to the Standards Commission (under *section 24(1A) of the Act*) and does not intend to do so. For example, an offence may be committed where
 - a. The donation is not remitted to the Standards Commission within 14 days of receipt; or
 - b. The name and address of the donor is not notified to the Standards Commission within 14 days of receipt.

The penalty for this offence is a fine not exceeding €2,500;

- iii. fails to take the appropriate action, as set out in paragraphs 5.2, 5.3, 5.4, 5.5 and 5.7 in relation to a cash donation in excess of €200, a donation from non-registered corporate donor, donations in excess of the prescribed limits, foreign donations and donations in cryptocurrency. For example, an offence may be committed where
 - a. The donation or part thereof is not remitted to the donor or to the Standards Commission within 14 days of receipt; or
 - b. Where applicable the appropriate records of the return of the donation to the donor are not kept.

The penalty for this offence is a fine not exceeding €2,500;

- iv. fails to furnish a Donation Statement/Statutory Declaration to the Standards Commission on or before 31 January each year. The penalty for this offence is a fine not exceeding €2,500 and a further fine of up to €500 per day for every day after the conviction on which the failure to provide the Donation Statement/Statutory Declaration continues;
- v. where required, fails to furnish to the Standards Commission, on or before 31 January each year, a statement from a financial institution in which his/her political donations account is held and/or a Certificate of Monetary Donations. The penalty for this offence is a fine not exceeding €2,500 and a further fine of up to €500 per day for every day after the conviction on which the failure to provide the Donation Statement/Statutory Declaration continues;
- vi. knowingly furnishes a Donation Statement and/or a statement from a financial institution and/or a Certificate of Monetary Donations, which is false or misleading in any material respect. A member/MEP found guilty of such an offence will be liable, on conviction on indictment, to a fine of up to €25,394.76 and/or up to three years in prison.

On commencement of section 193 of the Electoral Reform Act 2022, the Standards Commission may serve “fixed penalty notice” with a fixed payment of €200 on persons who have committed the offences outlined at (iv) and (v) .

Where a fixed penalty notice is served on a person, no prosecution in respect of the offence shall be initiated if payment is made on or before the date specified in the fixed penalty notice.

On commencement of section 187 of the Electoral Reform Act 2022, the following will also be a separate offence under the Act.

- a) failure to notify the Standards Commission of the receipt of a prohibited donation where applicable;
- b) failure to remit a prohibited donation or part thereof to the donor or to the Standards Commission as applicable;
- c) failure to return the required documents to the Standards Commission required in relation the Political Donations Account to the Standards Commission;

- d) failure to provide a Donation Statement and or Statutory Declaration to the Standards Commission;
- e) Failure to notify (name and address) and/or remit a donation the Standards Commission of the receipt of a donation from a donor whom the member/MEP is aware is required to furnish a Donation Statement to the Standards Commission (under section 24(1A) of the Act) and does not intend to do so.

At this time, proceedings for any of these offences may only be instituted by, or with the consent of, the Director of Public Prosecutions. On commencement of section 187 of the Electoral Reform Act 2022 summary proceedings may be brought and prosecuted by the Standards Commission.

Currently, a person who is guilty of an offence shall be liable on summary conviction to a fine. A person who is guilty of an offence of knowingly providing false or misleading information to the Standards Commission that person shall be liable on conviction on indictment to a fine and/or imprisonment of up to three years.

Chapter 10 - Powers of Investigation

- 10.1 At the time of writing the Standards Commission's powers of investigation as set out in part 4B of the Act and as set out below, have not been commenced. On commencement, the following will apply.
- 10.2 Where the Standards Commission reasonably believes that a person may have contravened certain parts of the Act including Part IV of the Act (Donations), the Standards Commission may direct the carrying out of an investigation by an authorised officer.
- 10.3 Investigations are carried out by an authorised officer who is appointed by the Standards Commission. On request, an authorised officer will provide any person affected by an investigation, with a copy of their authorisation.
- 10.4 In order to carry out an investigation:
- (i) The authorised officer may require any person to provide any information or explanation which they may reasonably require for the investigation.
 - (ii) The authorised officer may require any person to produce any document or other thing of which the person has control, or to which the person has access, and which the authorised officer may reasonably require for the purposes of the investigation. The authorised officer may inspect and take copies of, or extracts from, any document or other thing produced as part of this requirement.
 - (iii) The authorised officer may require any person to attend before them to answer questions, and to make a declaration of the truth of the answers to the questions for the investigation.
 - (iv) With the consent of the occupier or pursuant to a warrant under section 4B(6) of the Act, the authorised officer may enter and search any premises at, on or in which they reasonably believe there may be any document or other thing which they may reasonably require for the investigation. The authorised officer may inspect and take copies of, or extracts from, any document or other thing found on a search. The authorised officer may be accompanied by a member of An Garda Síochána where necessary.
 - (v) The authorised officer may require a person to make available in a legible form any documents so produced or found otherwise than in a legible form.

- (vi) The authorised officer may require a person to give to them such assistance as they may reasonably require for the investigation and make available to the authorised officer such reasonable facilities as are necessary to exercise his or her powers.
- 10.5 The Standards Commission may authorise the authorised officer to make interim reports to the Standards Commission.
- 10.6 The Commissioner will consider the report and where it is satisfied that a contravention of the Act has taken place, it may bring summary proceedings for an offence under the Act (please see Chapter 9 above).

Appendix - Fund-raising events

Determining the net value of a contribution to a fund-raising event

In accordance with the provisions of *sections 22(2)(a)(vi) & (vii)* of the Act, a donation includes the net value of a contribution to a fund-raising event. A contribution to a fund-raising event is deemed to have been made on the date the fund-raising event is held (and not the date on which the contribution is actually received).

The net value of a contribution to an event is arrived at by first calculating the net profit from the event (i.e., by deducting the cost of running the event from the total amount raised by the event). The net profit is then attributed to the number of people contributing to the event in proportion to the contribution made by each person. This gives the net value of each person's contribution to the fund-raising event.

If, for example, in relation to a fund-raising event, a person had paid €1,000 in respect of the entry fee for 10 people, his/her gross contribution to the event would be €1,000. If the cost of running the event was €20 per person attending, a sum of €200 would be deducted from his/her gross contribution, leaving a net contribution of €800. If the person made other contributions to the event (e.g., buying horses at a race night, sponsoring a hole at a golf classic) it would be necessary to add the value of such contributions to the net contribution of €800 for the purposes of determining the aggregate net value of his/her contribution to the fund-raising event.

All donations must be aggregated to ensure that the maximum amount of €1,000 received in one calendar year is not breached by the recipient. In this regard the Member/MEP must keep proper records to ensure compliance with the legislation.

Fund-raisers organised by a political party

The net contribution made by a person to a fund-raising event organised by a political party is regarded as a donation to the political party, even if the funds are subsequently used for the purposes of supporting one or more of a party's elected representatives or candidates at an election.

Fund-raisers organised by a member/MEP

- The member/MEP will not be required to disclose in a Donation Statement the total value of the proceeds of the fund-raising event.
- The member/MEP will be required to disclose any donations from a person contributing to the event which exceed a net value of €600.
- The maximum limit of €1,000 for acceptance by members/MEPs of donations from any one person in the same year, also applies to the net value of contributions to fund-raising events.
- If the net value of any monetary donation to a fund-raising event organised by a member/MEP exceeds €100, the member/MEP, if he/she does not already have one, will be required to open a political donations account and lodge the donation and all subsequent monetary donations to the account.
- If the net value of an individual monetary donation to the event does not exceed €100, the member/MEP will not be required to open a political donations account.
- If the member/MEP already has opened a political donations account, all monetary donations, of whatever value, received in relation to the event must be lodged to the account.

Fund-raisers organised on behalf of a member/MEP by a person or group other than the member/MEP or his/her political party

Funds raised at an event organised on behalf of a member/MEP by a person or group other than the member/MEP or his/her political party (e.g., "Friends of ..." groups) will be treated as follows:

If the funds are handed over to the member/MEP the fund-raising person/group is regarded as an intermediary accepting donations on the member's/MEP's behalf and the donations are deemed to have been received by the member/MEP. The rules as set out under "Fund-raisers organised by a member/MEP" above apply.

If the funds are not handed over to the member/MEP the fund-raising person/group is not regarded as an intermediary accepting donations on the member's/MEP's behalf. In such circumstances the following rules will apply;

- if the net value of any donation to the fund-raising event exceeds €100 the person/group will be required to register as a "third party" with the Standards Commission and comply with the requirements of the legislation applying to third parties with regard to the opening of a political donations account and the acceptance of certain donations. These requirements are set out in a separate explanatory note which is available on the website of the Standards Commission.
- any election expenses incurred, or payments made, by the fund-raising group on behalf of the member/MEP are regarded as donations to the member/MEP;
- if the aggregate value of donations from the fund-raising group to the member/MEP exceeds €600, the member/MEP will be required to disclose details of same in his/her Donation Statement;
- The maximum value of donations which the member/MEP can accept in any year from a fund-raising person/group which is not regarded as an intermediary is €1,000.