

**2007 - Donation Statements and Statutory Declarations furnished to the Standards in  
Public Office**

**Commission by members and former members of both Houses of the Oireachtas,  
representatives in the European Parliament and individual donors, pursuant to section  
24 of the Electoral Act 1997, as amended**

Report by the Standards in Public Office Commission  
to the Ceann Comhairle in accordance with section 4(1) of the Electoral Act 1997

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**22 April 2008**

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## **Foreword**

I am pleased to furnish this report to the Ceann Comhairle in accordance with the provisions of section 4(1) of the Electoral Act 1997, as amended ("the Act"). The Donation Statements/Statutory Declarations described in the report were furnished to the Standards in Public Office Commission pursuant to section 24 of the Act. The Certificates of Monetary Donations/Statutory Declarations and statements from financial institutions were furnished pursuant to section 23B of the Act.

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Justice Matthew P. Smith  
Chairman  
22 April 2008

## **Part 1 Introduction**

Section 4(1) of the Electoral Act 1997, as amended, requires the Standards Commission to consider every statement and notification furnished to it in relation to political donations and, where it considers it appropriate to do so, to furnish a report in writing to the Ceann Chomhairle on any matter arising.

This report relates to:

- i) Donation Statements/Statutory Declarations, in respect of 2007, furnished by TDs, Senators, MEPs and former TDs and Senators (former members), pursuant to section 24(1)(a) of the Act; and
- ii) Certificates of Monetary Donations/Statutory Declarations and statements from financial institutions furnished by TDs, Senators, MEPs and former members, pursuant to section 23B(3) of the Act.
- iii) Donation Statements and Statutory Declarations, in respect of 2007, furnished to the Standards Commission by individuals who, in 2007, made donations exceeding € 5,078.95 in aggregate value to two or more persons who were members of the same political party when the donations were made, or to a political party and to one or more of its members. These Donation Statements are furnished pursuant to section 24(1A) of the Act.

The report also contains details of the notification of receipt of prohibited donations.

## **Part 2 Guidelines and advice**

The Standards Commission has a statutory function under the Act to provide guidelines and advice to persons who are covered by the Act. In January 2008 the Standards Commission published revised guidelines on donations and prohibited donations for Members of the Houses of the Oireachtas and representatives in the European Parliament. The purpose of the guidelines is to ensure compliance with the Act. A person must act in accordance with guidelines or advice published or given by the Standards Commission unless, by so doing, he/she would be contravening another provision of the Act.

## **Part 3 Disclosure of Donations**

### **3A Definition of a donation**

In accordance with Section 22(2) of the Act, a donation means "*any contribution given for political purposes by any person, whether or not a member of a political party ...*" A "person" means an individual, a body corporate, or an unincorporated body of persons. An unincorporated body of persons includes a political party and any of its subsidiary organisations.

A donation can include:

- (i) a donation of money (including money given by a political party to a TD, Senator, MEP or a candidate at an election);
- (ii) a donation of property or goods;
- (iii) the free use of property or goods;
- (iv) a free supply of services;
- (v) the difference between the commercial price and the (lower) price charged for property, goods or services. (This may include a loan provided to a candidate by a financial institution at terms and conditions which are more favourable than that provided by the financial institution to other individuals. It may also include a loan provided by a person other than a financial institution where the interest charged is less than the lowest rate available from a financial institution);

A donation can also include the net value of a contribution to a fund-raising event organised for the benefit of a candidate. A large number of donations disclosed are contributions to fund-raising events. A TD, Senator, MEP or a candidate at an election is only required to disclose the net value of such contributions. The costs of holding a fund-raising event can be deducted from the proceeds of the event for the purposes of calculating the net value of each person's contribution to the event. TDs, Senators, MEPs or candidates at elections are not required to disclose the total value of the proceeds of a fund-raising event.

Where a political party (including a branch of a political party) organises a fund-raising event on behalf of a TD, Senator, MEP or candidate at an election and the proceeds of the event are passed to him/her, the party is regarded as an intermediary accepting donations on the person's behalf. The contributions to the event are deemed to have been made to the TD, Senator, MEP or candidate concerned. He/She is not required to disclose the total proceeds of the fund-raising event but is required to disclose any individual contribution to the event which exceeds a value of €634.87. Similarly where a political party organises a fund-raising event for the party and uses the proceeds to pay expenses incurred on behalf of a TD, Senator, MEP or candidate at an election it is not regarded as a donation to the person concerned. If, however, a political party organises a fund-raising event for the party and gives a TD, Senator, MEP or candidate money from the proceeds of the event to meet his/her election expenses, this is regarded as a donation to the person concerned and must be disclosed if in excess of €634.87.

Section 22(2)(b) of the Act prescribes certain items which are not regarded as a donation, including:

- free post service provided by An Post to candidates at Dáil, Seanad and European elections;
- any payment, service or facility provided to a person out of public funds by virtue of the him/her being a TD, Senator, MEP or the holder of another elective or public office (e.g. member of a local authority). The judgment of the High Court and Supreme Court in the Desmond Kelly case concerning this particular provision applies only in relation to the accounting for the use of such facilities as election expenses. The judgment did not alter the provisions of the Act with regard to the use of such facilities not being regarded as a donation.
- a free service provided by an individual (where the service provided is not part of the person's business or profession). This includes use of the individual's vehicle;

- a service provided at an election by an individual in the employment of a political party;
- expenses incurred by a political party, on behalf of a TD, Senator, MEP or candidate at an election (as stated above a contribution of money, however, given by a political party is regarded as a donation from the party).

Section 22(2)(c)(ii) of the Act provides that where a donation made to a TD, Senator, MEP or candidate at an election is passed on to his/her political party and a written acknowledgement of the donation is received from the party, the donation will be deemed to have been made to the party and is not regarded as a donation to the TD, Senator, MEP or candidate.

### **3B Donation Statements received from TD, Senators, MEP and former TDs and Senators**

In early January 2008 the Standards Commission wrote to each person who was a TD, Senator or MEP during any part of 2007 enclosing a Donation Statement/Statutory Declaration form for completion and return to it by 31 January 2007. A copy of the Standards Commission's guidelines for TDs, Senators and MEPs on donations and prohibited donations was also enclosed.

A reminder letter issued on 14 February 2008 to nine people whose Donation Statement had not been received. A second reminder letter issued on 6 February to two former TDs and one former Senator whose Donation Statement was still outstanding. The reminder letter referred to the offence under section 25(1)(c) of the Act for failing to furnish a Donation Statement by the statutory deadline. A final reminder issued to former Deputy Jim Glennon on 19 March 2008. Mr Glennon was informed that if his Donation Statement was not received within 7 days, the Standards Commission would have to consider whether to refer the matter to the Gardaí for an investigation of the offence under section 25(1)(c) of the Act. A Donation Statement was subsequently received from Mr Glennon on 3 April 2008.

Former Senator Derek McDowell contacted the Standards Commission on 25 February to inform it that he is currently travelling and would not be returning to Ireland until April. In view of the fact that Mr. McDowell had already furnished a Donation Statement as an unsuccessful candidate at the Dáil general election and that he had not been active in politics since then, it was decided to await his return before issuing further reminders about his Donation Statement. A faxed Donation Statement was received from Mr. McDowell on 17 April 2008.

A total of 297 Donation Statements and Statutory Declarations in respect of 2007 were received as follows:

- 166 from members of Dáil Éireann
- 60 from members of Seanad Éireann
- 13 from representatives in the European Parliament
- 34 from former members of Dáil Éireann
- 24 from former members of Seanad Éireann

In the case of persons who were members of both Houses during 2007 and MEPs who were also Members, a single Donation Statement only was required. 80 TDs, 40 Senators, 12

MEPs and 47 former Members furnished a "nil" Donation Statement. Donations with a total value of €855,995.05 were disclosed, of which €13,80.52 was returned to the donors as donations in excess of the maximum prescribed limit (see Part 5(b) below). Of the figure for total donations disclosed a total of €74,651.98 had already been disclosed by Members/former Members and representatives in the European Parliament who had also been unsuccessful candidates at the Dáil or Seanad general elections.

Section 24(1)(a) of the Act provides that each person, who, in the preceding year, was a TD, Senator or MEP, must furnish to the Standards Commission, not later than 31 January in the following year, a Donation Statement, indicating whether during the preceding year he/she received a donation, or donations from the same person, which exceeded an aggregate value of €634.87. Because the Act applies to every person who, at any time, in the preceding year was a member of either House of the Oireachtas or a representative in the European Parliament, it also covers, any person who is not a member of the current Dáil or Seanad but who was a member of either of those Houses prior to the general elections in 2007. In the case of former members who were unsuccessful at the Dáil or Seanad general elections a Donation Statement was required notwithstanding the fact that he/she may already have furnished a Donation Statement as an unsuccessful candidate at the elections. Most of the former members who were unsuccessful at the Dáil or Seanad general elections disclosed the same donations on their Donation Statements as former members as they did on their Donation Statements as unsuccessful candidates. However, some Members of the Seanad who had already furnished a Donation Statement as an unsuccessful candidates at the Dáil general election did not disclose donations on their annual return for 2007 which had already been disclosed on their Dáil general election Donation Statement. The Standards Commission did not, however, ask the Senators concerned to amend their annual Donation Statements as the donations concerned had already been disclosed. The total amount of the donations disclosed by the Senators concerned as unsuccessful candidates is included in the relevant appendices to this report.

For each donation exceeding a value of €634.87, the person must indicate the value and nature of the donation as well as the name, a description and postal address of the donor. Section 22(2)(d) of the Act provides that donations from the same person in the same year must be aggregated for the purposes of observing the disclosure threshold and the maximum acceptance limit. Section 24(3) of the Act provides that the Donation Statement must be accompanied by a Statutory Declaration made by the person furnishing the Donation Statement, stating to the effect that, to the best of the his/her knowledge and belief, the Donation Statement is correct in every material respect and he/she has taken all reasonable action in order to be satisfied as to the accuracy of the Donation Statement.

The Standards Commission produced a Donation Statement/Statutory Declaration form (07/DS) for use in respect of the 2007 calendar year.

#### **Part 4. Donation Statements received from Individual Donors**

Section 24(1A) of the Act provides that any individual, who in a particular year, makes donations exceeding €5,078.95 in aggregate value to two or more persons who were members of the same political party when the donations were made, or to a political party, and to one or more of its members, is required to furnish a Donation Statement/Statutory Declaration to

the Standards Commission. The Donation Statement/Statutory Declaration, must give details of the donations and the persons to whom they were made and must be furnished by 31 January of the following year.

If a donor does not intend to comply with this requirement and a TD, Senator, MEP or candidate at an election is aware of this, he/she is prohibited from accepting a donation from that individual. If such a donation is received, the Standards Commission must be notified within 14 days and the donation or its value remitted to the Standards Commission.

From Donation Statements furnished to it by unsuccessful candidates at the Dáil and Seanad general elections, the Standards Commission identified two individuals, Ms. Ruth Coppinger and Mr. Mick Murphy, who in each case, had made donations exceeding €5,078.95 to two or more members of the Socialist Party. The Standards Commission wrote to Ms. Coppinger and Mr. Murphy on 30 January 2008 enclosing a Section 24(1A) Donation Statement form for completion. Donation Statements were subsequently received from Ms. Coppinger and Mr. Murphy.

## **Part 5. Prohibited Donations**

### *a) Anonymous donations*

Section 23(1) of the Act provides that a TD, Senator, MEP or candidate at an election must not accept, either directly or indirectly, an anonymous donation valued in excess of €126.97. If such a donation is received, the donation (or its equivalent value) is required to be notified and remitted to the Standards Commission not later than 14 days after its receipt.

When submitting his Donation Statement for 2007 Deputy Richard Bruton informed the Standards Commission that during his Dáil election campaign he had received a cheque for €2,500. No covering letter had accompanied the cheque. While the person's name was on the cheque, Deputy Bruton had been unable to establish the donor's address. Deputy Bruton informed the Standards Commission that the cheque had not been cashed and had been allowed to pass its expiry date. It had been given to the treasurer of the local Fine Gael branch for safe-keeping. The Standards Commission advised Deputy Bruton that as the donor's address could not be established, the donation constituted a prohibited anonymous donation and as such would have to be remitted to the Standards Commission in accordance with section 23(2) of the Act.

Section 23(2) of the Act provides that a prohibited anonymous donation should be remitted to the Standards Commission within 14 days of its receipt. It is an offence under section 25(1)(b) of the Act to fail to comply with this requirement. However, as Deputy Bruton had not cashed the cheque and had otherwise complied with the Act by remitting the cheque, the Standards Commission took no further action in relation to this matter.

Section 23(3) of the Act provides that the Standards Commission shall dispose of a remitted anonymous donation in the manner directed by the Minister for Finance. The Standards Commission notified the Minister for Finance on 20 February of receipt of the anonymous donation from Deputy Bruton and forwarded the cheque to the Dept. of Finance for disposal. The cheque was, however, returned to the Standards Commission on 27 February and

directions subsequently received from the Dept. of Finance to dispose of the cheque as follows:

- To return the cheque to the donor with a covering letter explaining the legal reasons for its return.
- As the donor's address is unknown, to send the cheque and explanatory letter c/o the branch of the bank on which the cheque is drawn (these details were on the cheque) in a sealed envelope together with a request to the bank that it pass the letter on, unopened, to the account holder.
- To protect confidentiality, provide only the name and account details to the bank. The payee details or the cheque amount were not provided to the bank.

The Standards Commission disposed of the anonymous donation on 14 March 2008 as directed by the Dept. of Finance. In accordance with section 23(3) of the Act, notification of the receipt of the anonymous donation is being laid before before the Houses of the Oireachtas today.

*b) Donations in excess of the maximum prescribed limit*

Section 23A(1) of the Act provides that the maximum value of donations which a TD, Senator, MEP or candidate may accept from the same person in the same calendar year is € 2,539.48. Where a donation is received which is prohibited because its value is over the limit, a TD, Senator, MEP or candidate must notify the Standards Commission within 14 days and remit the donation, or that part of a monetary donation which is over the limit, to the Standards Commission. As an alternative, a TD, Senator, MEP or candidate may, within 14 days, return the donation, or that part of a monetary donation which is over the limit, to the donor and keep a written record of that return for the purpose of it being furnished to the Standards Commission, if required.

The Act provides that the maximum prescribed limit of €2,539.48 does not apply to the donation of a constituency office to a TD, Senator or MEP. Where more than one such office is donated to a TD, Senator or MEP, he/she may nominate in writing which one of the offices will not be subject to the maximum limit of €2,539.48. The maximum acceptance limit does, however, apply to donations of money given to a TD, Senator, MEP or candidate by his/her political party.

The following TDs, Senators, MEPs or former Members disclosed donations or otherwise informed the Standards Commission of the receipt of donations which were in excess of the maximum prescribed limit:

Senator Paudie Coffey (FG)  
John Deasy TD (FG)  
Darragh O'Brien TD (FF)  
Noel O'Flynn TD (FF)  
Ned O'Keefe TD (FF)  
Jim O'Keefe TD (FG)  
John O'Mahony TD (FG)  
Tom Sheahan TD (FG)

In most cases it was evident that the excess donation had not been returned within the required 14 days. By failing to do so, the persons concerned had contravened section 23A(1) of the Act and may have committed an offence under section 25(1)(b) of the Act. However, where a person otherwise complies with the legislation, i.e. by returning the excess donation, it is the practice of the Standards Commission not to take any further action in terms of referring the matter to the Director of Public Prosecutions (DPP). In each of the above cases the person confirmed to the Standards Commission that the excess donation had been returned and provided evidence of its return. The Standards Commission did not, therefore, refer any of the above contraventions to the DPP.

### *c) Foreign Donations*

Section 23A(2) of the Act provides that a TD, Senator or MEP must not accept a donation of any value from:

- an individual (other than an Irish citizen) who resides outside the island of Ireland, or
- a body corporate or unincorporated body of persons which does not keep an office in the island of Ireland from which one or more of its principal activities is directed.

Where a donation is received which is prohibited because it is a foreign donation, a TD, Senator or MEP must notify the Standards Commission within 14 days and must remit the donation (or the value thereof) to the Standards Commission. As an alternative, a TD, Senator or MEP may, within 14 days, return the donation to the donor and keep a written record of that return for the purpose of it being furnished to the Standards Commission, if required.

A number of the Donations received disclosed donations from persons who were not resident in the island of Ireland. In each case it was confirmed to the Standards Commission that the donor in question was an Irish citizen.

## **Part 6. Political Donations Accounts/Certificates of Monetary Donations**

Section 23B(1) of the Act requires TDs, Senators, MEPs and candidates at elections who receive a monetary donation exceeding €126.97 to **open and maintain** a political donations account. This requirement commenced with effect from 1 January 2002. If a TD, Senator, MEP or former member received a monetary donation **exceeding €126.97** after that date (including as a candidate at a Dáil, Seanad or European Parliament election) he/she was required to open and maintain a political donations account and to lodge the initial donation and all subsequent monetary donations of **whatever value** to the account. It was apparent from returns furnished to the Standards Commission that a number of political donations accounts which had been opened for the 2002 Dáil and Seanad general elections had not been maintained and were required to be re-opened for the 2007 general elections. The Standards Commission strongly recommends that, once opened, a political donations account should be maintained until the person is no longer required to comply with the Electoral Acts. This advice is contained in the revised guidelines for Members and MEPs on donations and prohibited donations which were issued by the Standards Commission in January 2008.

It was also evident that some Members/former Members had not lodged monetary donations received by them to their political donations account as required under section 23B of the Act. While it is an offence to fail to furnish, when required, a Certificate of Monetary Donations and Statutory Declaration or a statement from a financial institution, or to knowingly furnish any one of these documents which is false or misleading in a material respect, there are no offences or penalties for failing to open a political donations account or for failing to lodge a donation to a political donations account. In the absence of any sanction and in view of the fact that the donations in each case were ultimately used for political purposes, the Standards Commission did not take any further action in relation to the above candidates.

Section 23B(3) of the Act provides that a TD, Senator, MEP or former member who was required to open a political donations account, must furnish with his/her annual Donation Statement (referred to in Part 2 above) a statement from the financial institution where the political donations account is held specifying the transactions that have taken place in relation to the account during the preceding year. He or she must also certify 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 certificate must be in a form determined by the Standards Commission and, in accordance with section 23B(6) of the Act, must be accompanied by a statutory declaration that, to the best of the person'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 its accuracy. The Standards Commission produced a Certificate of Monetary Donations/Statutory Declaration form (07/CMD) for use in respect of the 2007 calendar year. The form was enclosed with the Donation Statement form issued to TDs, Senators, MEPs and former members in early January 2008. It was also required to be completed and returned to the Standards Commission by 31 January 2007.

A TD, Senator, MEP or former member whose political donations account was not active during 2007 was required only to state this on the Certificate of Monetary Donations form and was not required to complete the Statutory Declaration or to forward a copy of the bank statement for 2007.

## **Part 7. Publication of Donation Statements furnished to the Standards Commission**

The Donation Statements / Statutory Declarations are being laid today by the Standards Commission before each House of the Oireachtas, pursuant to section 24(7)(a) of the Act.

The Donation Statements/Statutory Declarations received are now available for public inspection and copying at the offices of the Standards Commission. A copy of this report and accompanying Press Release, together with summaries of the Donation Statements received by the Standards Commission, are also available on the website of the Standards Commission, [www.sipo.gov.ie](http://www.sipo.gov.ie).

Certificates of Monetary Donations and accompanying bank statements are not required to be

laid before the Houses and are not available for public inspection.

The Standards Commission would like to acknowledge the co-operation it received from members/former members of the Houses of the Oireachtas and MEPs in discharging its statutory functions under the legislation.