



Number 7 of 1999

**LOCAL ELECTIONS (DISCLOSURE OF DONATIONS AND
EXPENDITURE) ACT, 1999**

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LOCAL ELECTIONS (DISCLOSURE OF DONATIONS AND EXPENDITURE) ACT, 1999

AN ACT TO PROVIDE FOR THE DISCLOSURE OF DONATIONS AND EXPENDITURE IN RESPECT OF LOCAL ELECTIONS AND OTHERWISE TO AMEND THE LOCAL ELECTIONS ACTS, 1974 TO 1998, TO PROVIDE FOR THE USE OF BALLOT PAPERS FOR RESEARCH INTO ELECTRONIC METHODS OF RECORDING AND COUNTING OF VOTES AT LOCAL ELECTIONS AND EUROPEAN PARLIAMENT ELECTIONS HELD IN THE YEAR 1999 AND TO PROVIDE FOR CONNECTED MATTERS. [18th May, 1999]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Preliminary and General

1.—(1) This Act may be cited as the Local Elections (Disclosure of Donations and Expenditure) Act, 1999. Short title and collective citations.

(2) The Electoral Acts, 1992 to 1998, and this Act may be cited together as the Electoral Acts, 1992 to 1999, and shall be construed together as one.

(3) The Local Elections Acts, 1974 to 1998, and this Act (other than *subsection (4)* and so much of *section 25* as relates to the European Parliament elections) may be cited together as the Local Elections Acts, 1974 to 1999, and shall be construed together as one.

(4) The European Parliament Elections Acts, 1992 to 1997, this subsection and so much of *sections 2* and *25* as relate to the European Parliament elections may be cited together as the European Parliament Elections Acts, 1992 to 1999, and shall be construed together as one.

2.—(1) In this Act, except where the context otherwise requires— Interpretation.

“the Act of 1992” means the Electoral Act, 1992;

“the Act of 1997” means the Electoral Act, 1997;

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“the Act of 1998” means the Electoral (Amendment) Act, 1998;

“the appropriate officer” has the meaning assigned to it in section 71 of the Act of 1997;

“candidate” means a candidate at a local election;

“clerk”, in relation to the corporation of a county or other borough, the council of an urban district or the commissioners of a town, means the town clerk;

“commercial price”, in relation to the supply of property, goods or services and the lending of property or goods, has the meaning assigned to it in section 2(1) of the Act of 1997;

“designated person” has the meaning assigned to it in *section 8*;

“donation” means any contribution given for political purposes by any person, whether or not a member of a political party, to a candidate at an election which is accepted in whole or in part by or duly on behalf of such person and includes—

- (a) any donation of money,
- (b) any donation of property or goods,
- (c) any conferring of the right to use, without payment or other consideration, indefinitely or for a specified period of time, any property or goods,
- (d) any supply of services without payment or other consideration therefor,
- (e) any difference between the commercial price and the 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 commercial price, and
- (f) in the case of any contribution made by a person in connection with an event organised for the purpose of raising funds for a candidate at an election, any proportion attributable to that contribution of the net profit, if any, deriving from the event,

but does not include any payment relating to—

- (i) any of the matters referred to in *subparagraphs (i) to (ix) of section 6(1)(b)*, or
- (ii) any election expenses incurred by or on behalf of a political party by a national agent or designated person, as the case may be, on behalf of a candidate authenticated by the political party at an election, other than a donation of money;

“election”, other than in *Part VI*, means a local election and in *Part VI* means a local election or the European Parliament election, as appropriate;

“electoral area” means the area by reference to which a local election is held in accordance with section 24(6) of the Local Government Act, 1994;

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“local authority” means the council of a county, the corporation of a county or other borough, the council of an urban district or the commissioners of a town; Pt.I S.2

“local authority concerned” means the local authority to which a candidate seeks or sought election to be a member;

“local electoral area” means the area by reference to which a local election is held in accordance with section 24(1) of the Local Government Act, 1994;

“the Minister” means the Minister for the Environment and Local Government;

“national level”, in relation to election expenses or expenditure, has the meaning assigned to it by *section 6(4)(a)*;

“national agent” has the meaning assigned to it by *section 7*;

“person” includes an individual, a body corporate and an unincorporated body of persons and a body corporate and any subsidiary thereof shall be deemed to be one person;

“political party” means a party registered in the Register of Political Parties in accordance with section 25 of the Act of 1992 as a party organised to contest a local election;

“polling day” means the day appointed by order of the Minister to be polling day at a local election;

“prescribed” has the meaning assigned by *section 3*;

“property” means real and personal property;

“returning officer” means a returning officer at a local election;

“secretary”, in relation to a county council, means the county secretary or the officer in whom the functions of the county secretary are vested;

“specified local authority” means the local authority specified by order of the Minister in *section 6*;

“subsidiary organisation” has the meaning assigned to it by section 22(1) of the Act of 1997.

(2) In this Act—

- (a) a reference to a Part or section is to a Part or section of this Act, unless it is indicated that reference to some other enactment is intended;
- (b) a reference to a subsection, paragraph or subparagraph is to a subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended;
- (c) a reference to any enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment including this Act.

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Regulations.

3.—(1) The Minister may make regulations prescribing any matter or thing which is referred to in this Act as prescribed.

(2) Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

Ministerial
expenses.

4.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Repeals.

5.—Sections 72 and 75 of the Electoral Act, 1997, are hereby repealed.

PART II

Election Expenses and Accountable Persons

Expenses and
payments at
election.

6.—(1) (a) Subject to *paragraph (b)*, “election expenses” means all expenditure for electoral purposes incurred on the provision of property, goods or services for use at an election during the period referred to in *subsection (3)* in order—

- (i) to promote or oppose, directly or indirectly, the interests of a political party, or to present the policies or a particular policy of a political party or the comments of a political party on the policy or policies of another political party or of one or more than one candidate at the election, or
- (ii) to promote or oppose, directly or indirectly, the election of a candidate at the 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 on the policy or policies of a political party or of any other candidate at the election, or
- (iii) otherwise to influence the outcome of the election,

and shall be deemed to include all expenditure incurred in the taking of an opinion poll or other similar survey relating to an election within the period of 60 days before polling day at the election by or on behalf of a political party or one or more than one candidate at the election.

- (b) The following shall be deemed not to be election Pt.II S.6 expenses—
- (i) the payment by or on behalf of a candidate of the deposit under article 15 of the Local Elections Regulations, 1995 (S.I. No. 297 of 1995);
 - (ii) expenditure on the purchase of copies of the register of electors or parts thereof;
 - (iii) the reasonable living expenses of a candidate or any person or persons working on behalf of the candidate on a voluntary basis;
 - (iv) any sum disbursed by any individual out of the individual's own resources for any minor expenses lawfully incurred in relation to the election if the said sum is not repaid to the person;
 - (v) any payment, service or facility provided to a person out of public funds or moneys provided by an institution of the European Community or other intergovernmental organisation to which the State is a party by virtue of being—
 - (I) a member of either House of the Oireachtas,
 - (II) a holder of a qualifying office within the meaning of the Ministerial and Parliamentary Offices Acts, 1938 to 1998,
 - (III) the holder of a position referred to in the Oireachtas (Allowances to Members) (Amendment) Act, 1994,
 - (IV) a representative in the European Parliament,
 - (V) a political party,
 - (VI) a political group or any group of members of Dáil Éireann,
 - (VII) the holder of an elective or other public office,
 - (VIII) 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, or
 - (IX) a member of a local authority;
 - (vi) benefits derived from—
 - (I) a service rendered by an individual, including the use of the individual's motor vehicle, on behalf of a political party or a candidate at an election where that service is gratuitous and—

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(A) is not part of that individual's work carried out under a contract of employment, or

(B) where the individual is self-employed, is not in the course of the individual's business or in the practice of the individual's profession,

or

(II) a service rendered at an election by an individual in the employment of a political party, (whether remunerated out of the party's own resources or out of public funds) including the use of the individual's motor vehicle on behalf of a candidate of that party at an election where the individual is not in receipt of any reward or benefit-in-kind other than his or her normal remuneration in consideration of that service;

(vii) the publication in a newspaper, magazine or other periodical publication or the broadcast on radio or television of news, reports, articles, features, editorial or other comments, including the publication of letters to the editor, where such publication or broadcast is effected in the same manner as that of other material relating to issues of public interest or concern, and the newspaper, magazine or other periodical publication is not published for the purpose of promoting the interests of a political party or of a candidate at an election;

(viii) the transmission on radio or television of a broadcast on behalf of a political party or candidate at an election;

(ix) expenses incurred in the provision of property, goods or services used at an election where such property, goods or services was or were provided in respect of a previous Presidential, Dáil, European or local election and the cost of providing such property, goods or services was included in the statement of election expenses furnished to the Public Offices Commission or to a local authority in relation to the said previous election by the national agent of the political party, election agent, designated person or by the candidate, as the case may be.

(2) Where property, goods or services are provided to a political party or a candidate at an election without payment or other consideration therefor or at a price which is less than the commercial price, the provision of the property, goods or services shall be deemed to be an election expense and the property, goods or services shall be deemed to have been provided at the commercial price and shall be accounted for accordingly in the statements to be furnished under *section 13* to the specified local authority or to the local authority concerned.

(3) The following shall be included in the statement to be furnished to the specified local authority or to the local authority concerned under *section 13*: Pt.II S.6

(a) all election expenses incurred by or on behalf of a political party or a candidate at any time during the period commencing on the date of the order, made under section 21 of the Local Government Act, 1994, appointing polling day and ending on polling day at the election;

(b) subject to *subsection (1)(b)(ix)*, all election expenses incurred by or on behalf of a political party or a candidate at any time before the commencement of the relevant period referred to in *paragraph (a)* for the provision of property, goods or services for use at the election during the period referred to in *paragraph (a)*;

(c) all payments made in respect of the election expenses referred to in *paragraphs (a) and (b)*.

(4) Election expenses shall only be incurred at an election and any payment, advance or deposit shall only be made for such election expenses—

(a) on behalf of a political party in respect of an area other than a local electoral area or an electoral area (in this Act referred to as a “national level”), by the national agent of such party,

(b) on behalf of a political party in respect of a local electoral area or an electoral area, by the designated person, and

(c) on behalf of a candidate, by the candidate.

(5) In *subsection (4)*, “national agent”, “designated person” and “candidate” shall be construed as including a person or persons authorised for the purpose of *subsection (4)* by the said national agent, designated person, or candidate, as the case may be, and any expenditure incurred or payment made by such person or persons shall be disclosed by the national agent, designated person or candidate in the statement to be provided under *section 13*.

(6) Where any election expenses are incurred at an election by a body which—

(a) was established by or on behalf of a political party or a candidate for the purposes of incurring election expenses or making payments in respect of such expenses or for any of the purposes referred to in *subsection (1)(a)*, or

(b) is a member of or is a branch or subsidiary organisation of a political party, or

(c) is effectively controlled by a political party or by a candidate or is or appears to be so connected or associated with a political party or candidate that a reasonable person would believe that it is controlled or substantially influenced by that political party or candidate,

then such expenses shall be deemed to have been incurred on behalf of the party or the candidate concerned and shall be duly accounted for by the national agent, designated person or candidate.

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(7) Before incurring any expenses at an election a person (other than the national agent of a political party or designated person or the candidate or a person authorised by any such agent, person or candidate for the purpose of *subsection (4)*) who proposes to incur election expenses shall furnish in writing to the specified local authority in the case of expenditure at a national level or to the local authority concerned in any other case—

- (a) the name, address and description of the person proposing to incur the expenses,
- (b) a statement of the nature, purpose and estimated amount of such expenses, and
- (c) an indication of the person's connection, if any, with any party or candidate at the election.

(8) Where, notwithstanding *sections 7 and 8*, election expenses are incurred by or on behalf of a political party at an election before the appointment by the party of a national agent or a designated person, the political party shall furnish to the relevant agent or designated person details of such expenses, together with all relevant vouchers, and such election expenses shall be deemed to be expenses incurred by the national agent or designated person.

(9) The publisher of a newspaper, magazine or other periodical publication shall not publish any advertisement or notice in relation to an election purporting to promote or oppose, directly or indirectly, the interests of a political party or a candidate at that election at the request of any person other than the national agent of a political party, designated person or a person authorised in writing by such agent or designated person, or a candidate at the election or a person authorised in writing by such candidate, unless the person produces to the said publisher a certificate from the specified local authority or from the local authority concerned that that person has complied with the provisions of *subsection (7)* in relation to that election.

(10) This section shall not be construed so as to prevent or restrict the lawful publication of any matter in relation to an election in a newspaper or other publication or the broadcast of such matter by radio or television or the lawful expression of opinion on any matter of public interest by any person.

(11) The Minister may by order specify a local authority as a "specified local authority" for the purposes of this Act.

Appointment of national agent.

7.—(1) (a) Before incurring any election expenses at an election, each political party, except a party registered to contest an election in only a part of the State, which authenticates the candidature of a candidate at the election shall appoint for the purposes of this Act an agent (in this Act referred to as a "national agent").

(b) Not later than the last day for receiving nominations for an election, each political party which is required to appoint a national agent by virtue of *paragraph (a)* shall notify the specified local authority in writing of the name of its national agent and the address of his or her office.

- (c) Nothing in this section shall be construed as prohibiting Pt.II S.7
the appointment by a political party of a candidate
at an election as the national agent.

(2) Where a political party referred to in *subsection (1)* has not, before the latest time for withdrawal of candidature at an election, notified the name of the national agent and the address of the agent's office to the specified local authority, the appropriate officer appointed, or deemed to have been appointed, under section 71 of the Act of 1997, shall be deemed to be the national agent of the party, the party shall be deemed to have revoked the appointment of any other person as the national agent and the provisions of this Act shall apply to the said officer in the same manner as they apply to a national agent.

(3) A political party may, at any time, revoke the appointment of a national agent made by it under this section or deemed to be designated by it by virtue of *subsection (2)*.

(4) (a) If, before the relevant statement of election expenses has been furnished to a specified local authority in accordance with *section 13*, the appointment of a national agent is revoked, or a person appointed as such national agent dies, resigns or is otherwise unable to act, another national agent shall be appointed forthwith by the political party concerned.

(b) The provisions of this section shall have effect in relation to an appointment under this subsection and a national agent so appointed shall be subject to the provisions of this Act in the same manner as a national agent appointed otherwise under this section.

(5) As soon as may be after receipt of notification of the appointment of a national agent by a political party, pursuant to *subsection (1)* or *(4)* or where, in the absence of such notification, an appointment is deemed to have been made, the specified local authority shall publish in the *Iris Oifigiúil* the name of the national agent appointed or deemed to have been appointed, as the case may be, under this section, the political party by whom the national agent was appointed, or deemed to have been appointed, and the address of the office of the national agent.

- 8.—(1) (a) Before incurring any election expenses at an election in a local electoral area or in an electoral area on behalf of a candidate, a political party shall appoint for the purposes of this Act, a person (in this Act referred to as the “designated person”) who shall be responsible for submitting a statement of election expenses under *section 13*. Appointment of designated person.
- (b) Not later than the last day for receiving nominations for an election, a political party which is required to appoint a designated person by virtue of *paragraph (a)* shall notify the local authority concerned in writing of the name of the said person and the address of his or her office.
- (c) Nothing in this section shall be construed as prohibiting the appointment by a political party of a candidate at an election as the designated person.

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(2) Where a political party referred to in *subsection (1)* has not, before the latest time for withdrawal of candidature at an election, notified the name of the designated person and the address of the person's office to the local authority concerned, the appropriate officer appointed, or deemed to have been appointed, under section 71 of the Act of 1997, shall be deemed to be the designated person of the party, the party shall be deemed to have revoked the appointment of any other person as the designated person and the provisions of this Act shall apply to the said officer in the same manner as they apply to a designated person.

(3) A political party may, at any time, revoke the appointment of a designated person made by it under this section or deemed to be designated by it by virtue of *subsection (2)*.

(4) (a) If, before the statement of election expenses has been furnished to the relevant local authority in accordance with *section 13*, the appointment of the designated person is revoked, or a person appointed as such dies, resigns or is otherwise unable to act, another designated person shall be appointed forthwith by the political party concerned.

(b) The provisions of this section shall have effect in relation to an appointment under this subsection and a designated person so appointed shall be subject to the provisions of this Act in the same manner as a designated person appointed otherwise under this section.

(5) As soon as may be after receipt of notification of the appointment of a designated person by a political party, pursuant to *subsection (1)* or *(4)*, the local authority concerned shall publish in a newspaper circulating in the functional area of the local authority the name of the designated person appointed under this section, the political party by whom the designated person was appointed and the address of the office of the designated person.

Office of agent and designated person.

9.—(1) The national agent of a political party and a designated person appointed under *sections 7* and *8*, respectively, shall each have in the State an office or place to which claims, notices, writs, summonses and other documents may be sent.

(2) Any claim, notice, writ, summons or document delivered at the office or place of the national agent of a political party or of the designated person and addressed to such agent or person shall be deemed to have been served on the agent or person and every such national agent or person may in respect of any matter connected with the election be sued in any court having competent jurisdiction at the place where the office of the agent or person is situate.

PART III

Contracts and Claims

Making of contracts.

10.—A contract (including a contract of employment and whether in writing or otherwise) by which any election expenses at an election exceeding £500 in value are incurred by or on behalf of a political party or by or on behalf of a candidate shall be made by the national agent of the political party or by the designated person concerned or by the candidate and shall not be enforceable against any of them unless so made.

11.—Notwithstanding anything contained in any other enactment, every claim in respect of election expenses against a national agent of a political party, a designated person or a candidate or a person referred to in *section 6(7)* which is not delivered to such national agent, designated person, candidate or person on or before the forty-fifth day after the polling day at the election, shall not be paid and shall not be enforceable against the said agent, designated person, candidate or person.

Pt. III
Period for making claims relating to election expenses.

12.—If a national agent of a political party, designated person, candidate or person to whom *section 6(7)* applies disputes any claim delivered to such agent, designated person, candidate or person within the period allowed for delivery of such claims under *section 11*, the person by whom the claim is made may apply to a court of competent jurisdiction for an order for payment of the claim and the court may, on being satisfied that the claim should be paid, make an order for payment and specify the amount which is payable.

Disputed claims relating to election expenses.

PART IV

Statements and Information

13.—(1) (a) (i) The national agent of a political party or a person who incurs election expenses under *section 6(7)* at a national level shall, within 90 days next following the polling day at an election, furnish in person to the specified local authority a statement in writing of all election expenses (whether paid or not) incurred by such agent or person in relation to the election and the several matters to which such expenses relate.

Statement of donations and election expenses.

(ii) A designated person or a person who incurs election expenses under *section 6(7)* in respect of a local electoral area or electoral area in relation to a political party or otherwise at an election shall, within 90 days next following the polling day at an election, furnish in person to the local authority concerned, a statement in writing of all election expenses (whether paid or not) incurred by such designated person or person in relation to the election and the several matters to which such expenses relate.

(iii) A candidate shall, within 90 days following the polling day at an election, furnish in person to the local authority concerned a statement in writing of all election expenses (whether paid or not) incurred by such candidate in relation to the election, the several matters to which such expenses relate and details of donations referred to in *paragraph (c)*.

(b) The national agent of a political party, a designated person or a person to whom *section 6(7)* applies shall include in the statement of election expenses furnished by him or her under *subparagraph (i)* or *(ii)* of *paragraph (a)* details of the election expenses incurred by him or her. The statement shall be in the prescribed form and shall be accompanied by a statutory declaration made by the national agent,

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designated person or person to whom *section 6(7)* applies by whom the statement is furnished, to the effect that to the best of his or her knowledge and belief the statement is correct in every material respect and that he or she has taken all reasonable action in order to be satisfied as to the accuracy of the statement.

- (c) (i) A candidate at an election shall include in the statement of donations and election expenses furnished by him or her under *paragraph (a)(iii)* details of the election expenses he or she incurred pursuant to *section 6* and the source of the income, including details of each donation over £500, to meet such expenses.
- (ii) Where a person makes more than one donation to a candidate in relation to the same election, all such donations shall, for the purposes of *subparagraph (i)*, be aggregated and treated as a single donation.
- (iii) The statement shall be accompanied by a statutory declaration, made by the candidate by whom the statement is furnished, to the effect that to the best of his or her knowledge and belief the statement is correct in every material respect and that he or she has taken all reasonable action in order to be satisfied as to the accuracy of the statement.
- (d) Each statement furnished under this subsection shall include particulars of all disputed claims, if any, and all claims, if any, received after the day referred to in *section 11*.

(2) Where, after a statement is furnished under *subsection (1)*, an order for payment of a claim is made by a court under *section 12*, the national agent, designated person, candidate or person referred to in *section 6(7)*, as the case may be, shall, not later than 7 days after the date of the order of the court, furnish to the specified local authority or to the local authority concerned a copy of the said order together with a statement of the sum payable under the order.

(3) It shall be the duty of every national agent, designated person, candidate or other person who is required by this section to furnish a statement and make a statutory declaration to make such enquiries and maintain such records as are necessary for the purpose of furnishing the statement and making the declaration.

(4) Where a candidate standing nominated at an election dies—

- (a) in any of the circumstances referred to in subarticle (1), (2) or (3) of article 28 of the Local Elections Regulations, 1995, or
- (b) after the close of poll at the election and before a statement required under *subsection (1)(a)(iii)* has been furnished to the local authority concerned in respect of that candidate,

such statement shall not be required to be made to the local authority concerned.

(5) If a person to whom *section 6(7)* applies, dies before the expiration of the period for furnishing a statement under *subsection (1)*, such statement shall not be required to be made to the local authority concerned. Pt.IV S.13

14.—(1) Subject to *subsection (2)*, as soon as may be after the receipt of a statement and a statutory declaration furnished pursuant to *subparagraph (ii) or (iii) of section 13(1)(a)* the clerk or secretary of the local authority concerned shall furnish a copy of the statement and declaration together with a copy of any relevant court orders to members of that local authority. Details of statements, etc. to be furnished to members of local authority.

(2) Where an error or omission in a statement furnished pursuant to *subparagraph (ii) or (iii) of section 13(1)(a)* is corrected or made good, as the case may be, in accordance with *section 18(2)*, the clerk or secretary of the local authority concerned shall furnish a copy of the statement as so corrected to members of that local authority.

15.—(1) In any legal proceedings, where—

Relief for non-compliance.

- (a) the national agent of a political party fails to furnish to the specified local authority a statement of election expenses or any part of such statement or a statutory declaration which he or she was required to furnish under *section 13(1)(a)(i)* or there is an error, omission or false or misleading statement therein, or
- (b) the designated person fails to furnish to the local authority concerned a statement of election expenses or any part of such statement or a statutory declaration which he or she was required to furnish under *section 13(1)(a)(ii)* or there is an error, omission or false or misleading statement therein, or
- (c) a candidate at an election fails to furnish to the local authority concerned a statement of donations and election expenses or any part of such statement or a statutory declaration which he or she was required to furnish under *section 13(1)(a)(iii)* or there is an error, omission or false or misleading statement therein, or
- (d) a person referred to in *section 6(7)* fails to furnish to the specified local authority or the local authority concerned a statement of election expenses or any part of such statement or a statutory declaration which the person was required to furnish under *subparagraph (i) or (ii) of section 13(1)(a)* or there is an error, omission or false or misleading statement therein,

the following provisions of this section shall apply.

(2) Where it is shown to the Circuit Court that the failure, error, omission or false or misleading statement arose—

- (a) due to the illness of a party to the proceedings,
- (b) where a party to the proceedings is a national agent, due to the death, illness, absence or misconduct of any employee or former employee of such agent,

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- (c) where a party to the proceedings is a designated person, due to the death, illness, absence or misconduct of any employee, or former employee of such person,
- (d) where a party to the proceedings is a candidate, due to the death, illness, absence or misconduct of any employee, or former employee of such candidate,
- (e) where a party to the proceedings is a person referred to in *section 6(7)*, due to the death, illness, absence or misconduct of any employee or former employee of such person, or
- (f) due to inadvertence or other reasonable cause not involving negligence on the part of such party to the proceedings, or the contravention, knowingly, by such party of the provisions of this Act,

and was not due to any lack of *bona fides* on the part of such party to the proceedings and where the proceedings are based wholly or partly on the grounds of misconduct on the part of any person, such misconduct was without the approval or knowledge of such party to the proceedings and such party took all reasonable action to prevent such misconduct, then the Circuit Court may, on application to it by such party, on being satisfied that it is appropriate so to do, make such order granting relief for the failure, error, omission or false or misleading statement the subject of the proceedings as it considers reasonable.

(3) An order made by virtue of *subsection (2)*—

- (a) shall relieve the national agent, designated person, candidate, or person, as the case may be, the subject of the proceedings from any liability or consequences under this Act, and
- (b) may make the granting of the relief conditional on the furnishing of a statement required under *section 13* in a modified form or within an extended period of time and subject to compliance with such other conditions as seem proper to the court in order to give effect to this Act.

(4) For the purposes of this section, the relevant Circuit Court is that which sits in respect of the county where the principal office of the local authority to which an election was held is situated.

Power of court to require information.

16.—(1) Where, in dealing with legal proceedings referred to in *section 15*, it appears to the Circuit Court that any person who is, or has been, the national agent of a political party, designated person or a candidate at an election or a person to whom *section 6(7)* applies has refused or failed to furnish a statement pursuant to *section 13*, or to furnish the particulars necessary to enable the provisions of this Act in relation to the furnishing of such a statement to be complied with, the Circuit Court may, before making an order under *section 15*, order that person to attend before it.

(2) Unless a person referred to in *subsection (1)* shows cause to the contrary, the Circuit Court may order that person—

- (a) to furnish the statement required under *section 13* to the specified local authority or to the local authority concerned, or

(b) to furnish such particulars in the possession or procurement of that person as may be required for the purpose of furnishing such statement, as the Circuit Court thinks fit, within such period, to such person and in such manner as it directs, and may require that person to provide such explanation of such particulars as the Circuit Court directs. Pt.IV S.16

(3) For the purposes of this section, the relevant Circuit Court is that which sits in respect of the county where the principal office of the local authority to which an election was held is situated.

17.—Where a fresh election is held in a local electoral area or electoral area under article 28, 70 or 71 of the Local Elections Regulations, 1995, the original election and the fresh election shall be deemed to be an election for the purposes of this Act and the provisions of this Act, including *section 13*, shall be complied with accordingly by the national agent, designated person, candidate or person referred to in *section 6(7)* as may be appropriate. Statements and fresh election.

18.—(1) The clerk or secretary of a local authority shall register every statement furnished to a local authority pursuant to *section 13* and shall give, by post or otherwise, notice in writing of the receipt of such statement to the person who furnished the statement. Review by local authority.

(2) Where the local authority finds a minor error or omission in the statement, the local authority shall furnish to the unsuccessful candidate, elected member, designated person, national agent or other person concerned, as the case may be, by whom the statement was furnished details of the error or omission, as the case may be, and the local authority shall inform such person, that he or she may correct the error or make good the omission within the period of 14 days from the date on which the notification issued to such person.

(3) (a) Where the local authority receives a complaint or report in writing, in relation to a statement furnished to it pursuant to *section 13*, and is of the opinion that there may have been a contravention of this Act, the clerk or secretary of the local authority shall furnish to the person who provided the statement details of the possible contravention and the clerk or secretary of the local authority shall inform that person that he or she may furnish comments on the matter to the local authority within 14 days from the date on which the notification issued to that person and that any such comments will be considered by the local authority before considering the matter further.

(b) Where the person to whom a notification issues under *paragraph (a)* furnishes to the local authority his or her comments on the matter referred to in the notification within the period referred to in *paragraph (a)*, the local authority shall have regard to those comments.

(c) Where, following consideration of any comments which the person to whom a notification issues under *paragraph (a)*, or where such person fails to make any such comments, the local authority continues to be of the opinion that there may have been a contravention of the provisions of this Act, the local authority may either initiate summary proceedings against the person concerned or furnish a

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written report on the matter (together with any relevant document or other thing in its possession) to the Director of Public Prosecutions.

(4) Notwithstanding the provisions of section 10(4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Act may be commenced—

- (a) at any time within 12 months from the date on which the offence was committed,
- (b) at any time within 6 months from the date on which evidence sufficient, in the opinion of the local authority by whom the proceedings are initiated, to justify the proceedings, comes to such authority's knowledge,

whichever is the later, but no such proceedings shall be initiated later than 5 years from the date on which the offence concerned was committed.

(5) A local authority may make such inquiries 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 local authority may require for the purposes of its duties under this Act.

(6) A local authority—

- (a) shall from time to time draw up and publish to persons to whom a provision of this Act applies guidelines concerning the steps to be taken by such persons to ensure compliance by them with this Act generally, and
- (b) may, at the request of a person to whom a provision of this Act applies, give advice to the person in relation to any provision of this Act or as to the application, in any particular case, of any such provision.

(7) Where a request is made under *subsection (6)(b)* in relation to a particular case, the provisions of *section 13* shall not, as respects the person who made the request, apply in relation to that case during the period from the making of the request to the time when advice is given by the local authority in relation to the case or the local authority declines to give such advice.

(8) The local authority shall, within 21 days of the receipt by it of a request for advice under *subsection (6)(b)*, furnish the advice to the person concerned or notify the person of its decision to decline to do so.

Inspection of documents.

19.—(1) A local authority shall retain for a period ending at least 3 years from the latest date for furnishing statements referred to in *section 13*—

- (a) every statement and declaration furnished to it pursuant to *section 13*,
- (b) a copy of any court order made pursuant to *section 15* or *16* which relates to the local authority, and
- (c) a copy of any notice published pursuant to *subsection (2)*.

(2) A local authority shall, within 14 days after the latest date for receipt of the statements referred to in *section 13*, publish a notice in a newspaper circulating in its functional area of— Pt.IV S.19

- (a) the time and place at which the statements can be inspected, and
- (b) the names of unsuccessful candidates, elected members, designated persons, national agents and persons who are referred to in *section 6(7)* who have not furnished statements in accordance with *section 13*.

(3) A local authority shall permit any person to inspect any documents to which this section relates, free of charge, and to take a copy thereof or an extract therefrom on payment of a fee not exceeding the reasonable cost of copying, at such times and subject to such conditions as the authority considers appropriate.

PART V

Disqualifications, Prosecutions and Miscellaneous Amendments

20.—(1) Where an unsuccessful candidate at an election fails to furnish to the local authority concerned, within the period specified for this purpose, a statement of donations and election expenses or a statutory declaration pursuant to *section 13(1)(a)(iii)*, the person shall, on the expiry of such specified period, be disqualified for membership of any local authority for the remainder of the term of office of the members of the local authority concerned. Disqualifications.

(2) Where a member of a local authority elected at the election fails to furnish to the local authority concerned, within the period specified for this purpose, a statement of donations and election expenses or a statutory declaration pursuant to *section 13(1)(a)(iii)* the member shall be suspended from membership of the authority for the period of 7 days commencing on the expiry of the time specified for this purpose, or a lesser period ending on the compliance by the member with the requirements of *section 13*, and if at the end of that period the member has not complied with the requirements of *section 13*, the member shall be disqualified for membership of any local authority.

(3) A disqualification arising pursuant to *subsection (2)* shall come into effect on the eighth day following the last day for compliance with the requirements of *section 13* and the disqualification shall apply and have effect for the remainder of the term in office of the members of the local authority concerned.

(4) Where an unsuccessful candidate or an elected member of a local authority furnishes to the local authority concerned a statement of donations and election expenses which to the person's knowledge is false or misleading in a material respect, the local authority concerned may bring summary proceedings against the unsuccessful candidate or elected member for making a false or misleading statutory declaration under the Statutory Declarations Act, 1938.

(5) If a person is convicted by a court of an offence following proceedings initiated under *subsection (4)*, in addition to any penalty imposed by the court, the person shall be disqualified for membership of any local authority and the disqualification shall apply and

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have effect for the remainder of the term in office of the members of the local authority concerned.

(6) Where a member of a local authority becomes disqualified for membership of a local authority pursuant to *subsection (2) or (5)*, that person shall, immediately on such occurrence cease to be such member and a vacancy shall exist accordingly in the membership of the local authority.

(7) A person who ceases to be a member of a local authority pursuant to this section shall on such cesser also cease to be a member of any body to which that person was elected, nominated or appointed by a local authority, or of which the person is a member by virtue of being a member of a local authority; but nothing in this subsection shall be construed so as to affect the validity of anything previously done by the person while he or she was a member of that body.

Offences and penalties.

21.—(1) The national agent of a political party shall be guilty of an offence if at an election he or she—

- (a) fails to furnish to the specified local authority, within the period specified for this purpose, a statement of election expenses or a statutory declaration pursuant to *section 13(1)(a)(i)*, or
- (b) furnishes to the specified local authority a statement of election expenses which, to the agent's knowledge, is false or misleading in a material respect, or
- (c) fails otherwise to comply with the provisions of *section 13*.

(2) A designated person shall be guilty of an offence if at an election he or she—

- (a) fails to furnish to the local authority concerned, within the period specified for this purpose, a statement of election expenses or a statutory declaration pursuant to *section 13(1)(a)(ii)*, or
- (b) furnishes to the local authority concerned a statement of election expenses which, to the person's knowledge, is false or misleading in a material respect, or
- (c) fails otherwise to comply with the provisions of *section 13*.

(3) A person to whom *section 6(7)* applies shall be guilty of an offence if at an election he or she—

- (a) fails to notify the specified local authority or the local authority concerned in accordance with that subsection of his or her intention to incur election expenses, or
- (b) fails to furnish to the relevant local authority within the period specified for this purpose, a statement of election expenses or a statutory declaration pursuant to *subparagraph (i) or (ii) of section 13(1)(a)*, or
- (c) furnishes to the relevant local authority a statement of election expenses which, to the person's knowledge, is false or misleading in a material respect, or

(d) fails otherwise to comply with the provisions of *section 13*. Pt.V S.21

(4) A person shall be guilty of an offence if he or she publishes in a newspaper, magazine or other periodical publication of which he or she is publisher an advertisement or notice in relation to an election purporting to promote or oppose the interests of a political party or a candidate at that election at the request of any person other than the national agent or designated person of a political party, or a person authorised in writing by such agent or person or a candidate at the election or a person authorised in writing by such candidate unless that person produces to the said publisher a certificate from a local authority referred to in *section 6(9)*.

(5) (a) Where a person is guilty of an offence under this section—

(i) he or she shall be liable on summary conviction to a fine not exceeding £1,500,

(ii) where the offence is an offence to which *subsection (1)(b), (2)(b) or (3)(c)* relates, he or she shall be liable, on conviction on indictment to a fine not exceeding £20,000 or, at the discretion of the court, to imprisonment for a period not exceeding 3 years or to both such fine and such imprisonment.

(b) Where a conviction relates to failure to furnish a statement of election expenses under *section 13* the person concerned shall be guilty of a further offence on every day on which the failure continues after such conviction and for each such offence the person concerned shall be liable, on summary conviction, to a fine not exceeding £100.

(6) Proceedings for an offence under this section shall not be instituted except by or with the consent of the Director of Public Prosecutions.

22.—Where a person is convicted of an offence in proceedings brought by a local authority under this Act, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the local authority, the costs and expenses, measured by the court, incurred by the local authority in relation to the investigation, detection and prosecution of the offence and in respect of the remuneration and other expenses of employees, consultants and advisers, as the case may be. Cost of prosecutions.

23.—The Local Elections (Petitions and Disqualifications) Act, 1974, is hereby amended: Local election petition.

(a) by the insertion of the following subsection after subsection (3) of section 4:

“(3A) Where a petition alleges an irregularity or non-compliance with any provision of the *Local Elections (Disclosure of Donations and Expenditure) Act, 1999*, whether before or after the result of the local election was declared by the returning officer, notwithstanding the fact that another petition relating to the same election may have been previously presented or tried, the petition may be presented within the twenty eight days next after

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the publication of a notice by a local authority under *section 19(2)*.”

(b) by the insertion of the following subsection after subsection (1) of section 5:

“(1A) A local election shall not be declared invalid because of a non-compliance with any provision of the *Local Elections (Disclosure of Donations and Expenditure) Act, 1999*, or mistake in the use of forms provided for in regulations made under that Act, where it appears to the court that a candidate, national agent, designated person (within the meaning of that Act) or person to whom *section 6(7)* of that Act applies, as the case may be, complied with the principles laid down in that Act taken as a whole and that such non-compliance or mistake did not materially affect the result of the election.”.

Amendment of section 6 of Local Government Act, 1994.

24.—Section 6 of the Local Government Act, 1994, is hereby amended by the deletion of subsections (1)(g) and (3).

PART VI

Local Elections and European Parliament Elections Research

Research into electronic methods of recording and counting of votes.

25.—(1) (a) For the purpose of research relating to the introduction of electronic methods of recording votes on ballot papers by electors and the counting of such votes and notwithstanding anything to the contrary contained in—

(i) section 20(1) of, and Part XII of the Second Schedule to, the European Parliament Elections Act, 1997, or

(ii) Part XIV of the Local Elections Regulations, 1995 (S.I. No. 297 of 1995),

the Minister may, in respect of any election held in the year 1999 for the purpose of electing persons as members of the European Parliament or of a local authority, by order provide for the inspection of counted ballot papers and, accordingly, references in the said Part XII or the said Part XIV relating to—

(I) the retention in the manner provided of ballot papers shall not apply to the extent provided for by the Minister by order under this subsection, and

(II) the destruction of ballot papers at the expiration period stated in those provisions shall apply subject to such longer period as may be provided for by the Minister by order under this subsection.

(b) Subject to *subsection (2)*, the Minister may authorise—

(i) the carrying out of research for the purposes of this section by, or

(ii) the disclosure of information or a specified part thereof to, Pt.VI S.25

such class or classes of persons as are specified in the order under this subsection.

(c) An order under this subsection may include such other matters as the Minister considers consequential to, or necessary for, the purposes of this subsection.

(d) An order under this subsection may be amended or revoked by the Minister by order.

(2) Research carried out by virtue of *subsection (1)* shall be conducted so as to ensure that the manner in which any voter voted shall not be disclosed as a consequence of conducting such research.

(3) No research shall be carried out by virtue of *subsection (1)* in connection with any constituency, electoral area or local electoral area until the expiry of the period specified for presenting a petition questioning the European Parliament election or local election or, if an election petition is lodged in court in connection with any such constituency, electoral area or local electoral area, until the court concerned has made an order determining the matter at issue in the petition or in the event of an appeal on a question of law against the decision of the court, until the matter has been finally determined.

(4) A person who is engaged in any capacity on the research referred to in *subsection (1)* and who communicates any information obtained at such research to any person without lawful authorisation shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500.

(5) In this section “lawful authorisation” means in accordance with an order made under *subsection (1)* and not in contravention of *subsection (2)*.