



Northern
Ireland
Office

Consultation Paper

POLITICAL DONATIONS IN NORTHERN IRELAND

Proposals on the future of donations
to political parties in Northern Ireland

Comments on these proposals are invited and
should be made to the address below by
30 September 2005

Elections Unit
Rights and International Relations Division
Northern Ireland Office
11 Millbank
London
SW1P 4PA

August 2005

POLITICAL DONATIONS IN NORTHERN IRELAND

CONSULTATION PAPER

Introduction

1. Northern Ireland is currently exempted from the controls on donations to registered political parties which apply in the rest of the United Kingdom. This is because of the special circumstances that have existed there, both as regards the possibility of donor intimidation and the desirability of allowing Irish citizens to make donations to Northern Ireland parties, consistent with the principles of the Belfast Agreement.
2. The Political Parties, Elections and Referendums Act 2000 (Disapplication of Part IV for Northern Ireland Parties, etc) Order 2001 (which, for Northern Ireland parties disapplies the rules on the identity of donors and foreign funding) was extended in January this year for a further two years, i.e. until February 2007¹. During its passage through Parliament the Government made a commitment to introduce a scheme which brought the rules applying in Northern Ireland closer to those of Great Britain. The aim would be to inject more transparency into the donations process, and to limit donations from overseas, while recognising the special position of Ireland in relation to Northern Ireland's political culture.
3. This consultation paper sets out the proposals the Government is hoping to put in place. In the light of this consultation exercise, the Government's current intention is that any necessary primary legislation would be included in a Bill that will also reform and modernise the electoral registration system. The Bill was announced in the Queen's speech.

¹ The extended Order is known as the Political Parties, Elections and Referendums Act 2000 (Disapplication of Part IV for Northern Ireland Parties, etc) Order 2005.

The current legislation: The Political Parties, Elections and Referendums Act 2000

4. Part IV of the Political Parties, Elections and Referendums Act 2000 imposes restrictions on the sources of donations so as to prohibit foreign and anonymous donations to political parties. Since the Act came into force there has been a requirement on registered political parties to report donations of £5,000 or more at national level and a ban on most donations from outside the United Kingdom, blind trusts and unknown sources, unless these are under £200. While parties do not have to record donations of under £200, individual donors have to report them to the Electoral Commission if they add up to more than £5,000 from one source.

5. Parties must return donations that are not permitted within 30 days. If they do not, the courts can order them to forfeit the money. Published quarterly reports detailing donations over £5,000 have to be made within 30 days of the relevant quarter. This requirement applies weekly during a general election period. Party treasurers have to prepare quarterly reports of donations of more than £5,000 which the party has accepted, or donations from the same source which added together make more than £5,000.

6. As well as donations which were actually accepted, the quarterly reports also have to set out any donations from foreign or anonymous or unidentifiable sources which were dealt with in the reporting period. If the party has not received any donations in that quarter which need to be reported, that also has to be stated.

7. The Electoral Commission supervises the restrictions placed on spending by and donations to the political parties and receives accounts, reports of disclosable donations and returns as to election expenses from parties. The Commission is under a statutory duty to monitor compliance. It does not, however, have the power to mount criminal prosecutions.

The position in Northern Ireland: Political Parties, Elections and Referendums Act 2000 (Disapplication of Part IV for Northern Ireland Parties, etc) Orders 2001 and 2005

8. In February 2001 an Order was made under section 70 of the Political Parties, Elections and Referendums Act 2000 (PPERA) which exempted the Northern Ireland political parties from the requirement to comply with Part IV of that Act for four years. The Northern Ireland parties were therefore not required to identify the sources of their donations or to refuse donations from overseas.

9. The provisions of PERA are based on the recommendations contained in the fifth report on Standards in Public Life, chaired by Lord Neill and published in 1998. The Committee of Standards in Public Life concluded that it would be unsafe to disclose the names of those who made donations to the Northern Ireland parties as intimidation of donors could result. The Committee also recommended that because of the special role of Ireland in relation to Northern Ireland's political culture, as reflected in the Belfast Agreement, it would not be right to ban contributions from there. The Government accepted the Committee's recommendations including those in respect of Northern Ireland.

10. The Order had an intended life of four years. During its passage through Parliament, the Government gave an undertaking that it would review the need for the Order after two years.

11. The review began in March 2003. Following that review Ministers announced through a Written Ministerial Statement on 6 May 2004 that a further period of consultation would take place. A further Written Ministerial Statement of 18 November 2004 concluded that it would not be appropriate to move away from the current disapplication arrangements and that the Order would be renewed for a further period of two years. The Government's reasons for proposing the extension of the Order at that time were as follows:

- continuing concerns about intimidation;
- fears expressed that sectarianism could lead to adverse consequences, e.g. threats of boycotts of businesses, if donors' names were made public;
- the need for parties to have a reasonable period in which to adjust to any new arrangements; and
- a need to find a suitable solution to the question of how Irish donations could be facilitated within the Northern Ireland legal framework.

12. Parliament agreed in January 2005 to renew the order for a further period of two years, until 15 February 2007. In taking the Order through Parliament the Government made clear that it was inclined, once the Order had expired, to introduce a scheme which brought the rules applying in Northern Ireland closer to the framework applied by the Political Parties, Elections and Referendums Act in Great Britain, in particular through injecting a greater degree of transparency. However, the Government also made clear that any such changes would need to take account of the role of Ireland in relation to Northern Ireland's political culture.

Proposals

13. The Government has been seeking to develop a more transparent set of arrangements which also take account of the need to allow Irish citizens to donate to Northern Ireland parties. Against this background, it is the Government's strong view that, ultimately, political parties in Northern Ireland should be subject to the same levels of transparency in respect of donations as parties in the rest of the United Kingdom. However, the Government is also aware that moving to full transparency immediately would not deal with the issue of potential intimidation of donors.

14. In the light of these considerations, and discussions with the Irish Government, the Government has identified two broad options for the system which might operate in Northern Ireland once the existing exemptions from the UK transparency arrangements and restrictions on donations from abroad expire in February 2007. These are:

i) Full application of the PPERA scheme in relation to transparency from February 2007, with a derogation to permit donations from Irish citizens as well as corporate donations from Irish companies based in Ireland.

ii) Implementation of the PPERA scheme, but with the information provided by parties held by the Commission on a confidential basis. As under PPERA, the Commission would check the legality of UK donations; but the returns would not be published. All other aspects of the declaration regime would operate as under PPERA. As with option (i), the Government would legislate to permit donations from Irish citizens as well as corporate donations from Irish companies based in Ireland. The Government believes that, if adopted, this should be a transitional system with Northern Ireland moving to the full PPERA system at a future date specified in the legislation.

15. The Government is in discussions with the Irish Government about the degree to which residency in Ireland or other qualifications (such as appearing on the electoral register) should be required of Irish citizens wishing to donate; and about enforcement.

16. The Government would welcome views on:

- any aspect of the two proposed approaches at paragraph 14 above;
- the question of how donations from Ireland can be effectively facilitated; and

- any other issues related to the system for regulating political donations.

Equality Screening

17. The Department has carried out an equality screening in line with the Northern Ireland Office Equality Scheme to assess whether an Equality Impact Assessment is required for these proposals. The Screening has indicated that an EQIA is not required.

Comments

18. **The Government would welcome comments on these proposals. Please send any comments by 30 September 2005 to:**

**Peter Hawthorne or Matthew Ellesmere
Elections Unit
Rights and International Relations Division
Northern Ireland Office
11 Millbank
London
SW1P 4PN**

**E mail peter.hawthorne@nio.x.gsi.gov.uk or
matthew.ellesmere@nio.x.gsi.gov.uk
Telephone 0207 210 6569 or 0207 210 0263**