

## Open Government 3<sup>rd</sup> National Action Plan

Proposed action:

**Reform of the Electoral Act, 1997 (as amended)**

Proposed action Start and End Date (e.g., 1 January 2022 - 31 December 2023)

Who do you think would be the lead implementing Government Department(s) / agency (if known and any relevant contact details)

Department of Housing, Local Government and Heritage

### Proposed Action Description

What is the public problem that the proposed action will address?

Any functioning democratic system requires that the rights of civil society to engage with policy makers on decisions that affect the public interest be upheld. Civil society organisations (CSOs) depend on a variety of funding sources to support their work in this area, including, for instance, substantial one-off contributions or multi-year grants, as well as financing from foundations abroad. It is right that these funding sources be subject to appropriate scrutiny and regulation.

However, amendments made in 2001 to the Electoral Act 1997 impose the same donation and spending limits on civil society organisations advocating for reform as on political parties and other 'third parties' campaigning for a particular outcome to an election or referendum. These democratic processes must be protected from disproportionate influence by wealthy individuals and interest groups, including those outside the State; but the current wording of the Act can also capture the day-to-day activities of a range of civil society groups engaged in attempts to influence policy-making, unfairly limiting such organisations' attempts to fund their legitimate activities and contributions to a healthy civic space.

It is important also to note that the impact of the Electoral Act's limits on funding apply only to organisations in receipt of donations. This means that other organisations that are not reliant on donations can carry out advocacy, campaigning and lobbying activities related to policy-making without the constraints faced by not-for-profit CSOs. It should be noted too that a cornerstone of Irish Aid, Ireland's official development assistance programme, is the provision

	<p>of financial support to CSOs overseas, yet the Electoral Act in its current form may cut off analogous overseas support to CSOs here in Ireland.</p> <p>Organisations such as the Standards in Public Office Commission have highlighted the potentially disproportionate impact of current legal provisions on civil society in Ireland, and the European Union Agency for Fundamental Rights, for example, has expressed similar concerns.</p>												
<p>What is the proposed action?</p>	<p>Section 22 of the Electoral Act should be amended to limit the scope of its definition of ‘political purposes’ by removing the sweeping inclusion of activities carried out ‘in relation to a policy or policies or functions of the Government or any public authority’ and limiting the definition specifically to activities carried out in campaigning for a particular outcome in an election or referendum.</p>												
<p>How will the proposed action to solving the public problem?</p>	<p>Amending Section 22 of the Electoral Act as proposed will remove the threat to and chilling effect on civil society by allowing CSOs to carry out their ongoing policy-related advocacy while in receipt of funding outside the parameters prescribed in the Act. It would retain appropriate limitations on funding of campaigns (by political parties, candidates and third parties) in connection with specific elections and referenda, safeguarding these from undue interference as intended by the legislation.</p>												
<p>Describe what successful implementation of the proposed action would look like?</p>	<p>Civil society organisations will be able to fund their activities from a variety of sources (subject to other existing controls, regulations and reporting requirements), without fear of running afoul of funding restrictions incompatible with a flourishing civic sphere and fundamental rights of participation in the democratic process.</p>												
<p>Which Open Government value(s) does your proposed action relates too?</p>	<p><i>Mark ‘Yes’ or ‘No’ in response</i></p> <table border="1" data-bbox="651 1756 1382 2011"> <thead> <tr> <th data-bbox="651 1756 1161 1794"></th> <th data-bbox="1161 1756 1275 1794">Yes</th> <th data-bbox="1275 1756 1382 1794">No</th> </tr> </thead> <tbody> <tr> <td data-bbox="651 1794 1161 1899"><i>Transparency (i.e. access to information)</i></td> <td data-bbox="1161 1794 1275 1899"></td> <td data-bbox="1275 1794 1382 1899"></td> </tr> <tr> <td data-bbox="651 1899 1161 1955"><i>Civic participation</i></td> <td data-bbox="1161 1899 1275 1955">x</td> <td data-bbox="1275 1899 1382 1955"></td> </tr> <tr> <td data-bbox="651 1955 1161 2011"><i>Public accountability</i></td> <td data-bbox="1161 1955 1275 2011"></td> <td data-bbox="1275 1955 1382 2011"></td> </tr> </tbody> </table>		Yes	No	<i>Transparency (i.e. access to information)</i>			<i>Civic participation</i>	x		<i>Public accountability</i>		
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<i>Civic participation</i>	x												
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Describe how this proposed action is relevant to the Open Government value(s) identified?	CSOs are a primary vehicle for civic participation. At all levels, they bring members of the public together to make valuable contributions to public policy, and act as participant and watchdog in the democratic process. The proposed amendment to the current legislation has a direct, concrete impact on the promotion and facilitation of civic participation.		
What Sustainable Development Goal does this proposed action relate too (if known)?	SDG 16: Peace, Justice and Strong Institutions		
Additional information <i>(if known)</i>	<p>See also submissions made by the ICCL and TI Ireland:  <a href="https://www.iccl.ie/wp-content/uploads/2021/06/ICCL-Submission-on-The-General-Scheme-of-the-Electoral-Reform-Bill-2020-1-1.pdf">https://www.iccl.ie/wp-content/uploads/2021/06/ICCL-Submission-on-The-General-Scheme-of-the-Electoral-Reform-Bill-2020-1-1.pdf</a> ;  <a href="https://www.transparency.ie/resources/submissions/electoral-acts-third-party-provisions">https://www.transparency.ie/resources/submissions/electoral-acts-third-party-provisions</a>.</p> <p>Senator Lynn Ruane tabled a Private Member’s Bill aimed at reforming the Third Party provisions in the Electoral Act. The Bill is currently at second stage in the Seanad:  <a href="https://www.oireachtas.ie/en/bills/bill/2019/35/">https://www.oireachtas.ie/en/bills/bill/2019/35/</a> .</p>		
Suggested next steps and milestones to guide implementation <i>(Don’t forget to capture and detail any public facing element desired; e.g. stakeholder engagement)</i>	Who / What organisation <i>(if known)</i>	When <i>(if known)</i>	Additional info.
Electoral Reform Bill 2020 enacted	Department of Housing, Local Government and Heritage, and Oireachtas	2022	

Contact information					
Lead contact name (required)		John Devitt			
Organisation (if applicable)		Transparency International Ireland			
Role title (if applicable)		Chief Executive			
Email and Phone (required)					
Special interest and/or policy area of expertise (optional)		Corruption/Anti-Corruption; Transparency; Whistleblowing; Public Sector Ethics			
For GDPR purposes (required)		We would like your permission, by marking yes or no, to retain your contact details in order to provide you with updates in relation Open Government in Ireland; e.g. launch of the National Action Plan; invitation to participate activities in your areas of interest; future relevant consultations; etc.	<table border="1"> <tr> <td><u>Yes</u></td> <td>No</td> </tr> </table>	<u>Yes</u>	No
<u>Yes</u>	No				
Other Actors Involved	Government Ministries, Department/Agency	N/A			
	CSOs, private sector, multilaterals, working groups	TI Ireland is a member of The Coalition for Civil Society Freedom which has sought reform of the Electoral Act. More information is available at <a href="https://www.iccl.ie/human-rights/coalition-civil-society-freedom/">https://www.iccl.ie/human-rights/coalition-civil-society-freedom/</a> .			
Transparency: Publication and Freedom of Information Act		<p><i>The Open Government Round Table will publish a list of who/what organisations made submissions.</i></p> <p><i>All submissions received are subject to the provisions of the Freedom of Information Act. In the interests of transparency, the Open Government Round Table may decide to publish the submissions in full. Please indicate (using insert comment</i></p>			

	<p><i>function) if you believe that any part of this submission should be redacted with the legislative reference.</i></p>
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