

Explanatory Notes on Application to become an Approved Body for the purposes of Section 7 of the Referendum Act 1998

Thirty-seventh Amendment of the Constitution Bill 2018

(This note does not purport to be a legal interpretation)

Under the **Referendum Act 1998**, only bodies approved under **Section 7** of the Act are entitled to appoint agents to attend at the issue and opening of postal voters' ballot papers, at polling stations and at the counting of votes.

In order to become an approved body for the purposes of the Act, a body must apply to the Referendum Commission for a declaration that they are an approved body for the purposes of the referendum concerned. The application must be in writing and in the form specified (attached), including the address in the State of the body.

In making the application, the applicant must fulfil the following conditions:

1. It must have a *bona fide* interest in the proposal and have a name which does not closely resemble the name of a political party registered in the Register of Political Parties.
2. It must be a body corporate or unincorporated body which, or a branch of which, is established in the State.
3. It must be governed by a constitution, a memorandum of association or other such document or other written rules.
4. It must have a membership of not less than 300.
5. It must nominate a person to be its authorised officer for the purposes of the Act and include this person's name and address in the form of application.

A political party currently registered in the Register of Political Parties is deemed to be a body (i.e., it need not fulfil conditions 1-4 above but must still apply to be an approved body for the purposes of the referendum). It should be noted that members of either House of the Oireachtas continue to have the right to appoint such agents.

A person who knowingly furnishes false information to the Commission under this section shall be guilty of an offence and be liable on summary conviction to a fine not exceeding €634.87 or to imprisonment for a term not exceeding 3 months or to both. Where the Commission is satisfied that false information has been furnished to it under this section, the Commission shall revoke any declaration made by it in relation to the application concerned.

Under Section 9 of the Act, the Commission may request all such information or documents in the possession or procurement of the body which the Commission reasonably requires from it in order to determine the application. The Commission may require evidence from the applicant to demonstrate that it has a membership of 300. The Authorised Officer of the body concerned must comply with such requests within 7 days and failure to do so shall result in the application for a declaration being deemed to be withdrawn. Similar penalties to those outlined above apply under this section also where a body knowingly furnishes false information in response to a request under this section.

Having made a declaration, the Referendum Commission shall notify the referendum returning officer of the name and address of the body and the name and address of the authorised officer.