

**Report to the
Committee on Members' Interests of Seanad Éireann in
accordance with section 21(4) of the
Standards in Public Office Act, 2001**

Investigation by the
Standards in Public Office Commission
into contraventions of
section 21(1) of the
Standards in Public Office Act, 2001

June 2003

Report to the Committee on Members' Interests of Seanad Éireann in accordance with section 21(4) of the Standards in Public Office Act, 2001.

As provided for in section 21(4) of the Standards in Public Office Act, 2001 (2001 Act), the Standards in Public Office Commission (Standards Commission) has carried out an investigation into contraventions of section 21(1) of the 2001 Act, by 28 members of the 22nd Seanad, in relation to the furnishing of evidence of compliance with the obligations imposed by :

(a) the Tax Acts,

(b) the Capital Acquisitions Tax Act, 1976,
and the enactments amending or extending that Act,

(c) the Capital Gains Tax Acts, and

(d) the Value-Added Tax Act, 1972,
and the enactments amending or extending that Act.

The Standards Commission, in accordance with section 21(4)(a) of the 2001 Act, has prepared the following report of the result of that investigation for the Committee on Members' Interests of Seanad Éireann.

Mr. Justice Matthew P. Smith

Chairman

17 June 2003

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Introduction

As provided for by section 21(4) of the 2001 Act, the Standards Commission is obliged to investigate any contravention of section 21(1) of the 2001 Act relating to evidence of compliance with taxation legislation by persons who are elected to a House of the Oireachtas (see full text of section 21(1) at Appendix 1 to this report). The Standards Commission, having carried out such an investigation, is now reporting on the result.

The Standards Commission wishes to record its satisfaction at the overall level of substantive compliance which was achieved by Senators in relation to their tax clearance obligations. The contraventions which have occurred relate only to non-observance of the time limits which are set out in the 2001 Act regarding the making of a Statutory Declaration.

In view of the technical and similar, as opposed to substantive and diverse, nature of the contraventions which have occurred, the Standards Commission has decided to present one report covering all Senators who have contravened the 2001 Act.

Background

The provisions of section 21 of the 2001 Act, which require the furnishing of evidence of compliance with tax obligations, commenced on 10 December 2001 and applied, for the first time, to Senators who were elected at the Seanad general election of July 2002. The requirement on members to provide evidence of such compliance arises only once following election.

In early 2002 the Collector-General introduced procedures and documentation to deal with requests from Senators for a Tax Clearance Certificate / Application Statement for the purposes of section 21(1)(a) of the 2001 Act. A copy of the relevant application form is at Appendix 2.

The 2001 Act, at section 21(1)(a), requires that the Tax Clearance Certificate, or Application Statement, which should have issued to Senators, following application, by the Collector-General within the 9 month period either side of the date of election, would be furnished to the Standards Commission within 9 months following the date of election. Any Senator who did not comply with this provision would be deemed to have contravened the 2001 Act.

To accommodate the provisions of section 21(1)(b) of the 2001 Act, the Standards Commission devised a Statutory Declaration format which would be made and witnessed within a one month period either side of the date of election. As with the Tax Clearance Certificate / Application Statement, the Statutory Declaration should reach the Standards Commission within 9 months following the date of election. A sample copy of a Statutory Declaration is at Appendix 3.

The Tax Clearance Certificate, the Application Statement and the Statutory Declaration are regarded as documents of equal stature by section 21 of the 2001 Act. It is important to note that, in making a Statutory Declaration, a Senator is making a personal declaration that his or her tax affairs are in order. The matter of the issue, or non-issue, of a Tax Clearance Certificate or an Application Statement, is determined on the basis of the information available to the Collector-General.

An Application Statement would be issued where the Collector-General had not decided whether to issue, or to refuse to issue, a Tax Clearance Certificate, or where the Collector General had refused to issue a Tax Clearance Certificate and the refusal was the subject of an appeal, or further appeal, that had not yet been determined.

Notification Procedures

The *Guidelines for the Seanad General Election 2002*, published by the Standards Commission, which issued independently to candidates, also contained, at paragraph 8 of the *Introduction* on page 2, a brief outline of the tax clearance requirements. A copy is at Appendix 4.

Having regard to the fact that the tax clearance obligations of the 2001 Act would apply to all Senators elected after 10 December 2001, candidates for the Seanad general election of July 2002 were notified individually, in writing, on 4 July 2002, by the Standards Commission, of the evidence of tax clearance compliance which would be required following election to Seanad Éireann. A copy of the letter of notification is at Appendix 5.

On 25 July 2002, a letter outlining the tax clearance requirements issued from the Standards Commission to each elected Senator. A copy is at Appendix 6.

Subsequently, on 6 March 2003, a letter issued from the Standards Commission to those Senators whose complete tax clearance documentation had not been received, to advise them of the impending expiry of the nine month time limit for the furnishing of the documentation. A copy is at Appendix 7.

Contravention of section 21

A Senator could contravene Section 21 of the 2001 Act in a number of ways. Examples could include the following :

- a Senator might not have provided a Tax Clearance Certificate or Application Statement to the Standards Commission within the permitted nine month period following the date of election;
- a Senator might not have provided a Statutory Declaration to the Standards Commission within the permitted nine month period following the date of the election;
- a Senator might have provided a Tax Clearance Certificate or an Application Statement to the Standards Commission within the permitted nine month period but it might have been issued by Collector-General more than nine months before the date of the election;
- a Senator might have provided a Statutory Declaration to the Standards Commission within the permitted nine month period but it might have been made outside the permitted one month period either side of the date of the election.

For the purpose of investigation by the Standards Commission, and the subsequent report to a Committee on Members' Interests, section 21 of the 2001 Act treats all contraventions equally. Additionally, the 2001 Act, for the purpose of investigation and report, does not distinguish between degrees of contravention. A contravention by a Senator who provides a Tax Clearance Certificate and a Statutory Declaration within the nine month period but whose Statutory Declaration is made one day late is, for the purpose of investigation and report, treated in the same way as a contravention by a Senator who does not submit any tax clearance documentation.

The 2001 Act provides that, in the case of any contravention by a Senator, an investigation will be carried out by the Standards Commission and a written report of the result of that investigation will be furnished to the Seanad Committee on Members' Interests which will, in turn, cause copies of the report to be laid before Seanad Éireann.

Expiry of Time Limits

Senators were elected to the 22nd Seanad following the general election and the nominations by the Taoiseach, all of which took place between 16 and 26 July 2002. The nine-month time limit following the election dates expired for all Senators between 16 and 26 April 2003.

The Standards Commission is satisfied with the overall level of compliance in that it has received the prescribed evidence of tax clearance from each of the 60 Senators of the 22nd Seanad. The details of the documentation received is contained in the following sections headed '**Tax Clearance Certificate / Application Statement**' and '**Statutory Declaration**'.

Tax Clearance Certificate / Application Statement

In all cases, Tax Clearance Certificates or Application Statements were issued to Senators, by the Collector-General, within the nine month period which followed their actual date of election.

All Tax Clearance Certificates and Application Statements were provided by Senators to the Standards Commission by the relevant due dates in April 2003.

Statutory Declaration

A Statutory Declaration was provided to the Standards Commission by all Senators by the relevant due date in April 2003.

In the case of 28 of the 60 Statutory Declarations received, they were made on a date which was outside the statutory period allowed, i.e. not more than one month before and not more than one month after the date of election. The dates on which the 28 Statutory Declarations in question were made ranged from 19 August 2002 to 16 April 2003. Details of the Senators concerned and the dates on which the Statutory Declarations were made are:

Senator James Bannon (10 October 2002)	Senator Fergal Browne (17 September 2002)	Senator Ulick Burke (12 December 2002)
Senator Paul Coghlan (9 October 2002)	Senator Noel J. Coonan (27 March 2003)	Senator Brendan Daly * (12 December 2002)
Senator John Dardis (26 March 2003)	Senator Frank Feighan (21 November 2002)	Senator Camillus Glynn (23 January 2003)
Senator John Hanafin (27 January 2003)	Senator Brian Hayes (6 September 2002)	Senator Maurice Hayes (20 September 2002)
Senator Mary Henry (5 September 2002)	Senator Jim Higgins (19 August 2002)	Senator Tony Kett (12 December 2002)
Senator Terry Leyden # (2 April 2003)	Senator Don Lydon (30 January 2003)	Senator Michael McCarthy (16 April 2003)
Senator Paschal Mooney (21 August 2002)	Senator Tom Morrissey (4 February 2003)	Senator Pat Moylan (15 October 2002)
Senator Labhrás Ó Murchú (10 October 2002)	Senator Joe O'Toole (26 September 2002)	Senator John Paul Phelan (11 March 2003)
Senator Fergal Quinn (1 October 2002)	Senator Joanna Tuffey (23 August 2002)	Senator Kate Walsh (12 March 2003)
Senator Mary White (5 March 2003)		

** Senator Brendan Daly provided a Statutory Declaration, dated 12 December 2002, on 10 April 2003. In a letter dated 9 April 2003, Senator Daly stated that he had previously furnished the Standards Commission with a Statutory Declaration which had been dated within the one month statutory period. The Standards Commission wrote to Senator Daly to say that it had no record of receipt of a Statutory Declaration from him prior to 10 April 2003. On 14 May 2003 Senator Daly provided a Statutory Declaration, dated 31 July 2002, to the Standards Commission.*

On 14 May 2003 Senator Terry Leyden provided a Solemn Declaration from a Peace Commissioner stating that he had witnessed Senator Leyden's signature on an earlier Statutory Declaration on 26 July 2002. Senator Leyden advised that he had posted the earlier Statutory Declaration to the Standards Commission not later than Monday, 29 July 2002. However, the Standards Commission has no record of having received a Statutory Declaration from Senator Leyden prior to 4 April 2003.

Notification of Contravention to Senators

On 1 May 2003, notifications issued to each of the Senators whose tax clearance documentation was found not to be fully in compliance with the 2001 Act. Each Senator was advised of the contravention which had occurred and was invited to provide an explanation to the Standards Commission.

The Senators concerned were asked to reply to the Standards Commission before 16 May 2003. Each Senator has provided a written explanation. In most cases, Senators have explained that the Statutory Declarations were not made at the appropriate time because the need for a Statutory Declaration, made within one month either side of the date of election, in addition to a Tax Clearance Certificate, issued within nine months either side of the date of election, was not fully appreciated.

Findings

The Standards Commission has no discretion in relation to how it deals with contraventions of section 21 of the 2001 Act. Where there is any contravention, it must investigate and provide a report to the relevant Committee on Members' Interests.

The Standards Commission is aware that, notwithstanding the notifications which were provided, the requirements relating to the provision of evidence of tax compliance were being applied for the first time, they were quite complex and they were required to be dealt with in addition to other statutory obligations relating to registration of interests under the Ethics Acts, 1995 and 2001 and disclosure of political donations and election expenses under the Electoral Acts, 1997 to 2002. The Standards Commission is also aware that some confusion may have arisen because a separate Statutory Declaration, unconnected to tax clearance obligations, was required to be furnished with the returns under the Electoral Acts.

The findings of the Standards Commission are as set out below.

- 1.** None of the contraventions are continuing. The Standards Commission has, in its possession, a complete set of the prescribed tax clearance documentation for each Senator who was elected following the Seanad general election of July 2002.
- 2.** In each of the 28 cases where the Statutory Declarations were made after expiry of the one month time period provided for in section 21(1)(a) of the 2001 Act, the Standards Commission is satisfied that the contraventions concerned are not a serious matter. Having considered the explanations offered, the Standards Commission is satisfied that the contraventions were not committed intentionally although, having regard to the notification provided, it could not be said that they were entirely inadvertent.

Conclusion

While contraventions of section 21(1)(a) of the 2001 Act have been established in the 28 cases described, the Standards Commission is satisfied to report to the Committee on Members' Interests of Seanad Éireann that the contraventions found were not serious. Their occurrence could be regarded as entirely consistent with the learning process attached to the introduction of a new measure of this nature and scale.

Appendix 1

Section 21 (1) of the Standards in Public Office Act, 2001 (2001 Act)

Evidence of Compliance with Acts by members

21.—(1) A person who is elected as a member after the commencement of this section in relation to the House concerned shall, not more than 9 months after the date on which he or she was so elected ("the election date") furnish to the Commission—

(a) (i) a tax clearance certificate that was issued to the person not more than 9 months before, and not more than 9 months after, the election date, or

(ii) an application statement that was issued to the person and was made not more than 9 months before, and not more than 9 months after, the election date,

(b) a statutory declaration made by the person not more than one month before, and not more than one month after, the election date to the effect that, at the time of the making of the declaration, the person is, to the best of his or her knowledge and belief, in compliance with the obligations specified in subsection (1) of section 25 and that nothing in subsection (2) of that section prevented the issue to him or her of a tax clearance certificate.

*Section 25 (1) - Subject to the provisions of this section, if a person who is in compliance with the obligations imposed on the person by the Acts in relation to—

(a) the payment or remittance of any taxes, interest or penalties required to be paid or remitted under the Acts to the Revenue Commissioners, and

(b) the delivery of any returns required to be made under the Acts,

applies to the Collector-General in such form as may be determined by the Revenue Commissioners in that behalf for the purposes of section 21, 22, 23 or 24, the Collector-General shall issue to the person a certificate (in this Act referred to as "a tax clearance certificate") stating that, at the time of the issue of the certificate, the person is in compliance with those obligations.

**Section 25 (2) A tax clearance certificate shall not be issued to a person unless—

(a) the person, and

(b) if the person is or was a member of a partnership, in respect of the period of the person's membership, the partnership,

is in compliance with the obligations imposed on the person and the partnership by the Acts in relation to the matters specified in paragraphs (a) and (b) of subsection 25(1)(above).

Appendix 2

Application to the Collector-General for a Tax Clearance Certificate in accordance with the Standards in Public Office Act, 2001.

This form is available in PDF format at www.revenue.ie/pdf/webtcsपो.pdf

Appendix 3

Ethics in Public Office Acts, 1995 and 2001

Statutory Declaration
[section 21(1)(b) of Standards in Public Office Act, 2001]

I, (name), do solemnly and sincerely declare that, to the best of my knowledge and belief, I am in compliance with the obligations specified in section 25(1) of the Standards in Public Office Act, 2001 (as per * below) and that nothing in section 25(2) of the Standards in Public Office Act, 2001 (as per ** below) prevents the issue to me of a tax clearance certificate. I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act, 1938 as amended by the Standards in Public Office Act, 2001.

Signed

Declared before me by (name of person above), who is personally known to me (or who is identified to me by, who is personally known to me), at
this day of

Signed

Category

** Section 25(1) - Subject to the provisions of this section, if a person who is in compliance with the obligations imposed on the person by the Acts (meaning the Tax Acts; the Capital Acquisitions Tax Act, 1976, and the enactments amending or extending that Act; the Capital Gains Tax Acts, and the Value-Added Tax Act, 1972, and the enactments amending or extending that Act) in relation to -*

(a) the payment or remittance of any taxes, interest or penalties required to be paid or remitted under the Acts to the Revenue Commissioners, and

(b) the delivery of any returns required to be made under the Acts,

applies to the Collector-General in such form as may be determined by the Revenue Commissioners in that behalf for the purposes of section 21 ..., the Collector General shall issue to the person a certificate (in this Act referred to as "a tax clearance certificate") stating that, at the time of the issue of the certificate, the person is in compliance with those obligations.

*** Section 25(2) - A tax clearance certificate shall not be issued to a person unless-*

(a) the person, and

(b) if the person is or was a member of a partnership, in respect of the period of the person's membership, the partnership,

is in compliance with the obligations imposed on the person and the partnership by the Acts in relation to the matters specified in paragraphs (a) and (b) of section 25(1)(above).

Notary Public; Commissioner for Oaths; Peace Commissioner; Practising Solicitor

[The penalty, on conviction, for making a false statutory declaration can be a fine of up to €2,539.48 and/or up to 6 months imprisonment.]

Appendix 4

8 **Tax clearance requirements under the Standards in Public Office Act, 2001**

Pursuant to section 21 of the Standards in Public Office Act, 2001, candidates for election to the Seanad are hereby advised that if elected, or nominated, they must provide the following to the Commission within 9 months of election or nomination:

- a tax clearance certificate (or application statement) issued not more than 9 months either side of the election or nomination date, and
- a statutory declaration, made not more than one month either side of the election or nomination date, to the effect that their tax affairs are in order and that nothing prevents the issue of a tax clearance certificate.

A tax clearance certificate/application statement issues from the Collector-General, Office of the Revenue Commissioners. More detailed instructions will be provided to successful candidates in due course.

9 These Guidelines reflect the legal position as it applies at the time of going to print, i.e. May 2002.

10 Tá leagan Gaeilge de na treoirínte seo ar fáil.

Appendix 5

Re: Tax Clearance Certification Requirements of Standards in Public Office Act, 2001

To all Candidates at the forthcoming General Election to Seanad Éireann

The Standards in Public Office Act, 2001 ("Standards Act") contains, inter alia, a number of provisions relating to evidence of compliance with taxation legislation for members of the Houses of the Oireachtas who are elected or nominated after the commencement of the relevant section (section 21), i.e. 10 December 2001. The forthcoming general election to Seanad Éireann will, therefore, present circumstances where all persons who are elected, or nominated, as the case may be, as Senators will be bound by the tax clearance provisions of the Standards Act.

This means that any person who is elected, or nominated, as a member of Seanad Éireann at any time after 10 December 2001 must provide the following, within 9 months following the election or nomination date, to the Standards in Public Office Commission (the Standards Commission):

- (1) *a Tax Clearance Certificate* which was issued to him or her, by the Collector-General of the Revenue Commissioners (Collector-General), not more than 9 months either side of the election or nomination date, **or**
- (1a) *an Application Statement* which was issued to him or her, by the Collector-General, not more than 9 months either side of the election or nomination date, **and**
- (2) *a Statutory Declaration*, made by the person within one month either side of the election or nomination date, to the effect that, at the time of making the declaration, he or she was, to the best of his or her knowledge and belief, in compliance with his or her taxation obligations and that there was no impediment which would prevent the issue, by the Collector-General, of a tax clearance certificate.

Tax Clearance Certificate.

The Collector-General will, on application and where appropriate, issue a Tax Clearance Certificate for purposes of the Standards Act.

(The application form for a Tax Clearance Certificate can be obtained from the Office of the Collector-General, Sarsfield House, Francis Street, Limerick. (local: 1890 20 30 70; fax: 061 410866; email: cg@revenue.ie). Copies are also available from the Standards Commission (tel: 01 6395666; fax: 01 6395684; email: sipo@ombudsman.gov.ie). A copy is enclosed herewith for your convenience.)

Application Statement

The Collector-General would, on application, issue an Application Statement to a person in circumstances where it had not yet been decided whether to issue or refuse a Tax Clearance Certificate, or where a Tax Clearance Certificate had been refused and that refusal was the subject of an appeal which had not yet been determined.

Statutory Declaration

A Statutory Declaration is an instrument prescribed by the Statutory Declarations Act, 1938 which has been amended by the Standards Act to the extent that the penalty for false declarations has been increased to a maximum fine of €2,539.48 and/or imprisonment for up to 6 months. Attached, you will find a format for the Statutory Declaration required.

I will be happy to provide any further information you may need in connection with this matter. I can be contacted at the above number or at 087 - 7786446.

Marie O'Brien
Standards Commission Secretariat
4 July 2002

Appendix 6

25 July 2002

Name

Address

Standards in Public Office Act, 2001 Tax Clearance Certification

Dear Senator,

I am directed by the Standards in Public Office Commission ("Standards Commission") to refer to the above provision of the Standards in Public Office Act, 2001 ("Standards Act").

As a person who has been elected to Seanad Éireann following the Seanad General Election of July 2002, section 21 of the Standards Act requires that, within 9 months of the date of your election, you will provide the following documents to the Standards Commission :

- a **Tax Clearance Certificate** issued to you, by the Collector-General of the Revenue Commissioners (Collector-General), not more than 9 months before, and not more than 9 months after, the date of your election.

[The application form for a Tax Clearance Certificate under the Standards Act is available from the Office of the Collector-General, Sarsfield House, Francis Street, Limerick. (locall: 1890 20 30 70; fax: 061 410866; email: cg@revenue.ie) or from the Standards Commission (tel: 01 6395666; fax: 01 6395684; email: sipo@ombudsman.gov.ie). It should be noted that the Standards Act requires a specific tax clearance certificate - a tax clearance certificate issued under other tax clearance provisions is not valid for the purposes of the Standards Act.]

or

- in circumstances where the Collector-General has not yet decided whether to issue or refuse a Tax Clearance Certificate to you, or where a Tax Clearance Certificate has been refused and that refusal is the subject of an appeal which has not yet been determined, an **Application Statement** issued to you, on application, by the Collector-General, not more than 9 months before, and not more than 9 months after, the date of your election.

Regardless of whether you are providing a Tax Clearance Certificate or an Application Statement, it must be accompanied by a **Statutory Declaration** that your tax affairs are in order, made by you not more than one month before, and not more than one month after, the date of your election (see format for the declaration enclosed with this letter).

Please note that the Statutory Declaration must be made not more than one month before, and not more than one month after, the date of your election even though the time limit for its provision to the Standards Commission is 9 months after the date of your election.

You will also note that:

- Where a Senator does not provide the documents described above within the time limits specified, the Standards Commission will investigate the matter and will draw up a report of the result of the investigation. That investigation report will be provided to the Committee on Members' Interests of Seanad Éireann (the Committee) who will cause copies to be laid before Seanad Éireann.
- Where the Collector-General has issued an Application Statement to you but subsequently decides to refuse your application for a Tax Clearance Certificate, the Collector-General will notify the Standards Commission of such refusal, once any appeal in relation to the refusal has been heard or the time period for such appeal has expired. The Standards Commission will then draw up a report on the matter and furnish it, together with the notification from the Collector-General, to the Committee who shall cause a copy of the report and the notification to be laid before Seanad Éireann.
- The requirement to provide the documents does not cease with a contravention (i.e. the non-provision, within the prescribed time limits, of the Tax Clearance Certificate or Application Statement and Statutory Declaration). A Senator continues to be obliged to provide the documents as soon as possible and, in such circumstances, the Tax Clearance Certificate must be provided within one month of having been received from the Collector-General and the Statutory Declaration must be provided within one month of its making. Additionally, where a contravention by a Senator has occurred and the tax clearance documentation continues to be outstanding, the Standards Commission will specify the non-compliance in its next annual report and, if the person is a Senator at the time, will also notify the Committee.
- Equally, where a Senator, subsequent to a contravention, complies fully with the requirement, the Standards Commission will notify the Committee who will cause copies of the notification to be laid before Seanad Éireann.

If you have already furnished the required documents as outlined above, please regard this letter as being for information purposes only.

I can be contacted in connection with this matter at (01) 6395678 or (087) 7786446.

Yours sincerely,

Marie O'Brien
Commission Secretariat

Appendix 7

6 March 2003

Name,
Address
Address

Re: Tax Clearance Certification Requirements
Standards in Public Office Act, 2001 ('Standards Act')

Dear Senator.....,

I refer to previous correspondence in connection with the tax clearance certification requirements for members of Seanad Éireann.

Given the proximity of the expiry of the nine month period following your election to Seanad Éireann, I have been asked by the Standards in Public Office Commission ('Standards Commission') to advise you that tax clearance documentation, as provided for in the Standards Act, has not, to date, been received from you. As outlined in previous correspondence, as a member of Seanad Éireann, the Standards Act requires you to provide the following documents **to the Standards Commission** within 9 months of the date of your election. (It is understood that, in your case, this date falls on 16 April 2003.)

1) A **Tax Clearance Certificate**, issued to you, by the Collector-General of the Revenue Commissioners (Collector-General), not more than 9 months before, and not more than 9 months after, the date of your election.

[The application form for a Tax Clearance Certificate under the Standards Act is available from the Office of the Collector-General, Sarsfield House, Francis Street, Limerick. (locall: 1890 20 30 70; fax: 061 410866; email: cg@revenue.ie) or from the Standards Commission (tel: 01 6395666; fax: 01 6395684; email: sipo@ombudsman.gov.ie). Because of the specific provisions of the Standards Act, a Tax Clearance Certificate issued under other tax clearance provisions is not valid for the purposes of the Standards Act.]

or

in circumstances where the Collector-General has not yet decided whether to issue or refuse a Tax Clearance Certificate, or where a Tax Clearance Certificate has been refused and that refusal is the subject of an appeal which has not yet been determined, an **Application Statement** issued to you, on application, by the Collector-General, not more than 9 months before, and not more than 9 months after, the date of your election.

and

2) a **Statutory Declaration** stating that you are in compliance with the tax clearance certification provisions of the Standards Act. The Statutory Declaration must be made and witnessed not more than one month before, and not more than one month after, the date of your election.

The non-provision of either document within the nine month time limit (i.e. 16 April 2003 in your case) causes a contravention of the Standards Act. Where a contravention occurs, the Standards Act provides that the Standards Commission will investigate the matter and will draw up a report in writing of the result of the investigation. Such a report will, in the case of a member of Seanad Éireann, be furnished to the Committee on Members' Interests of Seanad Éireann which will cause copies to be laid before the House and will cause a motion for a resolution to be moved in the House. The actions which may be specified in the resolution are:

- a) the taking note of the report provided by the Standards Commission;
- b) the censuring of the member concerned;
- c) the suspension of the member from the service of Seanad Éireann for a period not exceeding 30 days or, if the report includes a determination that the contravention is continuing, until compliance is established.

There is also provision for the withholding, as specified in the resolution, of an amount of the salary payable under the Oireachtas (Allowances to Members) Act, 1938.

Please direct any enquiries on this matter to me at 01 639 5713 or to Raymond Butler at 01 639 5708.

Yours sincerely,

Marie O'Brien
Commission Secretariat

6 March 2003

Senator,
Seanad Éireann,
Leinster House,
Dublin 2.

Re: Tax Clearance Certification Requirements
Standards in Public Office Act, 2001 ('Standards Act')

Dear Senator,

I refer to previous correspondence in connection with the tax clearance certification requirements for members of Dáil and Seanad Éireann.

Given the proximity of the expiry of the nine month period after your election to Seanad Éireann in the General Election of July 2002, I have been asked by the Standards in Public Office Commission ('Standards Commission') to advise you that a Statutory Declaration has not, to date, been received from you.

A Tax Clearance Certificate, dated *****, was received from you on *****. Each member of the Seanad is required to provide both a Tax Clearance Certificate **or** an Application Statement **and** a Statutory Declaration **to the Standards Commission** within 9 months following the date of their election. (It is understood that in your case this date falls on ** April 2003.) The Statutory Declaration provided must have been made not more than one month before, and not more than one month after, the date of your election.

The non-provision of either document within the nine month time limit causes a contravention of the Standards Act. Where a contravention occurs, the Standards Act provides that the Standards Commission would investigate the matter and would draw up a report in writing of the result of the investigation. Such a report would, in the case of a member of Seanad Éireann, be furnished to the Committee on Members' Interests of Seanad Éireann which would cause copies to be laid before the House and would cause a motion for a resolution to be moved in the House. The actions which may be specified in the resolution are:

- a) the taking note of the report provided by the Standards Commission;
- b) the censuring of the member concerned

c) the suspension of the member from the service of Seanad Éireann for a period not exceeding 30 days
or, if the report includes a determination that the contravention is continuing, until compliance is established.

There is also provision for the withholding, as specified in the resolution, of an amount of the salary payable under the Oireachtas (Allowances to Members) Act, 1938.

Please direct any enquiries on this matter to me at 01 639 5713 or to Raymond Butler at 01 639 5708.

Yours sincerely,

Marie O'Brien
Commission Secretariat

6 March 2003

Senator,
Seanad Éireann,
Leinster House,
Dublin 2.

**Re: Tax Clearance Certification Requirements
Standards in Public Office Act, 2001 ('Standards Act')**

Dear Senator,

I refer to previous correspondence in connection with the tax clearance certification requirements for members of Seanad Éireann.

Given the proximity of the expiry of the nine month period after your election to Seanad Éireann, I have been asked by the Standards in Public Office Commission ('Standards Commission') to advise you that a Tax Clearance Certificate has not, to date, been received from you. A Statutory Declaration, dated ****, was received from you on *****.

Each member of the Seanad is required to provide both a Tax Clearance Certificate **or** an Application Statement **and** a Statutory Declaration **to the Standards Commission** within 9 months following the date of their election. (It is understood that, in your case, this date falls on ** April 2003). The Tax Clearance Certificate provided must have been issued by the Collector-General not more than 9 months before, and not more than 9 months after, the date of your election. The Statutory Declaration must have been made not more than one month before, and not more than one month after, the date of your election.

[The application form for a Tax Clearance Certificate under the Standards Act is available from the Office of the Collector-General, Sarsfield House, Francis Street, Limerick. (locall: 1890 20 30 70; fax: 061 410866; email: cg@revenue.ie) or from the Standards Commission (tel: 01 6395666; fax: 01 6395684; email: sipo@ombudsman.gov.ie). It should be noted that, because of the specific provisions of the Standards Act, a Tax Clearance Certificate issued under other tax clearance provisions is not valid for the purposes of the Standards Act.]

The non-provision of either document within the nine month time limit causes a contravention of the Standards Act. Where a contravention occurs, the Standards Act provides that the Standards Commission would investigate the matter and would draw up a report in writing of the result of the investigation. Such a report would, in the case of a member of Seanad Éireann, be furnished to the Committee on Members' Interests of Seanad Éireann which would cause copies to be laid before the House and would cause a motion for a resolution to be moved in the House. The actions which may be specified in the resolution are:

- a) the taking note of the report provided by the Standards Commission;
- b) the censuring of the member concerned;
- c) the suspension of the member from the service of Seanad Éireann for a period not exceeding 30 days or, if the report includes a determination that the contravention is continuing, until compliance is established.

There is also provision for the withholding, as specified in the resolution, of an amount of the salary payable under the Oireachtas (Allowances to Members) Act, 1938.

Please direct any enquiries on this matter to me at 01 639 5713 or to Raymond Butler at 01 639 5708.

Yours sincerely,

Marie O'Brien
Commission Secretariat