



STATUTORY INSTRUMENTS.

S.I. No. 214 of 2019



ELECTORAL ACT 1992 (SECTION 165) REGULATIONS 2019

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S. I. No. 214 of 2019

ELECTORAL ACT 1992 (SECTION 165) REGULATIONS 2019

I, JOHN PAUL PHELAN, Minister of State at the Department of Housing, Planning and Local Government in exercise of the powers conferred on him by sections 3 and 165 of the Electoral Act, 1992 (No. 23 of 1992) (as adapted by the Housing, Planning, Community and Local Government (Alteration of Name of Department and Title of Minister) Order (S.I. No. 358 of 2017) and the Housing, Planning and Local Government (Delegation of Ministerial Functions) Order 2017 (S.I. No. 473 of 2017)), for the purpose of giving effect to the said section 165 in relation to the polls to be taken on the twenty-fourth day of May 2019, hereby order as follows:

Citation.

1. These Regulations may be cited as the Electoral Act, 1992 (Section 165) Regulations, 2019.

Interpretation.

2. In these Regulations -

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

“the Act of 1994” means the Referendum Act, 1994 (No. 12 of 1994);

“the Act of 1997” means the European Parliament Elections Act, 1997 (No. 2 of 1997);

“the 1995 Regulations” means the Local Elections Regulations, 1995 (S.I. No. 297 of 1995);

“the 2019 Regulations” means the Direct Election of Mayor Plebiscite Regulations 2019 (S.I. No. 162 of 2019);

“European election” means an election of members of the European Parliament;

“the European Communities” has the same meaning as in the European Communities Acts 1972 to 2007;

“European local returning officer” means the person who, in accordance with section 17 of the Act of 1997 and section 18(2)(c) of the Act of 1994, is a local returning officer for a county or city or city and county;

“European Parliament” means the Parliament of the European Communities and references to “European Parliament constituency” and “European Parliament election” shall be construed accordingly;

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“local authority returning officer” means a returning officer appointed under article 4 of the Local Elections Regulations 1995 for the purpose of the election of members of a local authority;

“local election” means an election of members of a county council, city council or city and county council;

“local election ballot paper” means a ballot paper at a local election;

“local electoral area” means the area by reference to which a local election is held;

“the Minister” means the Minister for Housing, Planning and Local Government;

“plebiscite” means the plebiscite on the direct election of mayor to be held in the administrative areas of the council of the city of Cork; the council of the city and county of Limerick; and the council of the city and county of Waterford;

“plebiscite ballot paper” means a ballot paper at a plebiscite;

“postal voter” means a person whose name is included in the list prepared pursuant to section 14 of the Act of 1992 and section 63 of the Electoral Act 1997 and section 2 of the Electoral (Amendment) Act 2006;

“postal voters list” means the list prepared pursuant to section 14 of the Electoral Act 1992 and section 63 of the Electoral Act 1997;

“referendum” means the referendum to be held on the proposal contained in the Thirty-eighth Amendment of the Constitution (Dissolution of Marriage) Bill 2016;

“special voter” means a person whose name is included in the special voters list prepared under section 17 of the Act of 1992.

Effect of Regulations.

3 (1) These Regulations shall have effect in relation to the referendum, to the plebiscite and to every election the poll, if any, at which is to be taken on the 24th day of May 2019.

(2) These Regulations shall not have effect in relation to a fresh election held pursuant to Rule 23(2) or Rule 27 of the Second Schedule to the Act of 1997 or article 28 of the 1995 Regulations where the poll at such fresh election is to be taken on a day other than the 24th day of May 2019.

Returning officers.

4. (1) Subject to regulations 5 and 6, the European local returning officer for a county, city or city and county shall be the returning officer as respects a local election in a local electoral area or part of a local electoral area situate in the county, city or city and county concerned for the purposes of the following provisions of the 1995 Regulations-

- (a) articles 5 and 25(1)(a) insofar as they relate to the taking of the poll otherwise than by postal voting,
- (b) articles 26(3) and 26(6),
- (c) articles 44 to 48,
- (d) articles 52 to 54,
- (e) articles 56 to 58,
- (f) Part XI (subject to regulations 12 and 13 of these Regulations), and
- (g) article 76(1), (1A), (3) and (4),

and the powers and duties of the relevant local authority returning officer under these provisions shall be exercised and performed by the said European local returning officer and references in the said provisions to the returning officer shall be construed as references to the European local returning officer.

(2) Subject to regulations 5 and 6, the European local returning officer for the city of Cork, the city and county of Limerick and the city and county of Waterford shall be the returning officer as respects a plebiscite in those areas for the purposes of the following provisions of the 2019 Regulations-

- (a) regulation 8(3) insofar as it relates to the taking of the poll otherwise than by postal voting,
- (b) regulation 14,
- (c) articles 44 to 48 of the 1995 Regulations (as applied to a plebiscite by regulation 17(2) of the 2019 Regulations),
- (d) articles 53, 54, 56 to 64, 65(1), (2), (3), (4), (5), (6), (8), (9), 66, 67(1), (3), (4) and (5) and 68 to 73 of the 1995 Regulations (as applied to a plebiscite by regulation 18 of the 2019 Regulations), and
- (e) regulation 21(1), (2) and (3),

and the powers and duties of the relevant plebiscite returning officer under these provisions shall be exercised and performed by the said European local returning officer and references in the said provisions to the returning officer shall be construed as references to the European local returning officer.

(3) (a) The powers and duties of the returning officer in relation to a local election (other than those referred to in paragraph (1)) shall be exercised and performed by the local authority returning officer.

- (b) The powers and duties of the returning officer in relation to a plebiscite (other than those referred to in paragraph (2)) shall be exercised and performed by the plebiscite returning officer.

(4) Notwithstanding paragraphs (1), (2) and (3) a local authority returning officer and a plebiscite returning officer shall be entitled to be admitted to any polling station where a poll at an election or a plebiscite for which he or she is the returning officer is being taken and to any place appointed for the counting of the votes at the election or plebiscite.

Deputy European local returning officer.

5. It shall be lawful for a European local returning officer to appoint a deputy European local returning officer for the discharge of all, or any particular part of, the duties of such European local returning officer.

Mutual assistance.

6. It shall be the duty of every person upon whom any function is conferred by or under the law for the time being in force in relation to the referendum, to an election and to a plebiscite to which these Regulations apply and of every person appointed or employed (otherwise than by a candidate) for any purpose related to such referendum, election or plebiscite, to furnish such information and render such other assistance to any other such person as that other person requires for the purposes of the referendum, election or plebiscite.

Agents.

7. (1) In the case of a referendum, section 26 of the Act of 1994 and sections 11 and 15 of the Referendum Act 1998 shall apply.

(2) In the case of a European election, rules 24, 25 and 26 of the Second Schedule to the Act of 1997 shall apply.

(3) In the case of a local election, articles 26 and 27 of the 1995 Regulations shall apply, subject to regulations 4 and 20 of these Regulations.

Notices of poll and situation of polling stations.

8. (1) (a) Where, under articles 25 or 28 of the 1995 Regulations, the local election for a local electoral area is adjourned for the purpose of taking a poll or the candidates standing nominated are declared elected or the election is not proceeded with, the relevant local authority returning officer shall so inform the relevant European local returning officer in which the local electoral area is situate.

- (b) Where an election is adjourned under sub-paragraph (a) of paragraph (1), the relevant local authority returning officer shall furnish to the European local returning officer a copy of the notice of poll given under article 50 of the 1995 Regulations.

(2) The European local returning officer shall furnish a copy of the public notice in relation to the situation of polling stations given by him or her under rule 56(4) of the Second Schedule to the Act of 1997 or section 94(3) of the Act of 1992, (as applied to a referendum by section 32(1) of the Act of 1994) to the relevant local authority returning officer and plebiscite returning officer.

Polling districts, polling places and register of electors.

9. The European local returning officer may make such modifications to a polling district or a polling place, notwithstanding a polling scheme confirmed under section 28 of the Act of 1992, or to a register of electors published in accordance with section 13 of the Act of 1992, as is considered necessary having regard to the convenience of electors in facilitating voting at the polls to be taken on 24 May 2019.

Polling information cards.

10. (1) The European local returning officer shall send under section 92 of the Act of 1992 (as applied to a referendum by section 32(1) of the Act of 1994) a polling information card to each person registered as a local government elector.

(2) Where a polling information card is sent to an elector under paragraph (1), a polling information card shall not be sent to that elector under rule 54 of the Second Schedule to the Act of 1997 or under article 55 of the 1995 Regulations or under article 55 of the 1995 Regulations (as applied to a plebiscite by regulation 18 of the 2019 Regulations).

Polling on islands.

11. (1) Sections 85 and 86 of the Act of 1992 (as applied to a referendum by section 30 of the Act of 1994) and article 49 of the 1995 Regulations shall not have effect in relation to the referendum or an election to which these Regulations apply.

(2) Rule 48 of the Second Schedule to the Act of 1997 shall apply in relation to the referendum and to every local election the poll at which is to be taken on 24 May 2019 in the same manner as the said rule applies to the poll at the European elections to be taken on the same day.

Voting by persons in the employment of local returning officer.

12. (1) Section 31(1) of the Act of 1994, article 61 of the 1995 Regulations and article 61 of the 1995 Regulations (as applied to a plebiscite by regulation 18 of the 2019 Regulations) shall not have effect in relation to the referendum, a local election or a plebiscite to which these Regulations apply.

(2) Rule 60 of the Second Schedule to the Act of 1997 shall apply in relation to the referendum and every local election and plebiscite the poll at which is to be taken on 24 May 2019 in the same manner as the said Rule applies to the poll at the European elections to be taken on the same day,

except that, in the case of a referendum, local election or plebiscite, the alternative polling station shall be in same local electoral area.

Authorisation of physically ill or physically disabled elector to vote at another polling station.

13. (1) Section 31(2) of the Act of 1994, article 62 of the 1995 Regulations and article 62 of the 1995 Regulations (as applied to a plebiscite by regulation 18 of the 2019 Regulations) shall not have effect in relation the referendum, local election or plebiscite to which these Regulations apply.

(2) Rule 61 of the Second Schedule to the Act of 1997 shall apply in relation to the referendum and every local election and plebiscite the poll at which is to be taken on 24 May 2019 in the same manner as the said rule applies to the poll at the European elections to be taken on the same day, except that, in the case of a referendum, local election or plebiscite, the alternative polling station shall be in the same local electoral area.

Special voting.

14. (1) Where ballot papers and related documents are to be delivered to a special voter at more than one poll to which these Regulations apply, the same person shall be appointed as special presiding officer for each of the polls and the functions of the special presiding officer under the Act of 1992 (as applied to a referendum by section 29 of the Act of 1994), the Act of 1997, the 1995 Regulations and the 2019 Regulations shall be performed by the officer at the same time in respect of each poll.

(2) Each local authority returning officer and plebiscite returning officer shall supply to the European local returning officer such numbers of ballot papers and related documents as that officer shall require for the purposes of special voting at the local elections and plebiscites.

(3) Where ballot papers and related documents are to be delivered to a special voter at one or more than one poll to which these Regulations apply:

- (a) the European local returning officer shall, on the copy of the special voters list issued to the special presiding officer, cause –
 - (i) the letters “EP” to be placed against the name of each person on the list entitled to vote at the European election, at the local election and at the plebiscite only,
 - (ii) the letter “L” to be placed against the name of each person on the list entitled to vote at the local election and at the plebiscite only,
- (b) a single declaration of identity shall be completed by the special voter,
- (c) the special presiding officer shall, as soon as he or she has given a ballot paper(s) for each of the polls concerned to the special voter, strike a line through the person’s name on the copy of the special voters list. Where ballot papers for all polls are not

issued the special presiding officer shall, in addition mark against the person's name on the special voters list -

- (i) the letters "REF" if a referendum ballot paper has been issued to him or her,
 - (ii) the letters "EP" if a ballot paper in respect of the European election has been issued to him or her,
 - (iii) the letter "L" if a local election ballot paper has been issued to him or her,
 - (iv) the letter "P" if a plebiscite ballot paper has been issued to him or her,
- (d) the completed ballot papers for the European election and the referendum shall be put in a buff ballot paper envelope by the voter, and the completed ballot papers for the local election and the plebiscite shall be put in a white ballot paper envelope by the voter,
 - (e) the special presiding officer shall place the ballot paper envelope or envelopes and the completed declaration of identity in a single covering envelope which he or she shall seal and to which he or she shall affix a label in the form directed by the Minister for Housing, Planning and Local Government, signed by himself or herself and by the member of the Garda Síochána,
 - (f) the special presiding officer shall complete a ballot paper account for each poll to which these Regulations apply.

(4) The European local returning officer shall immediately on receipt of covering envelopes from a special presiding officer, place them unopened in a sealed ballot box marked "special voters ballot box" (by which name such ballot box is in this regulation subsequently referred) and shall make provision for the safe custody of the ballot box.

(5) The European local returning officer shall open the special voters ballot box as soon as may be after all covering envelopes have been received from all the special presiding officers appointed by the officer for the polls to which these Regulations apply.

(6) The provisions of rules 36 and 37 of the Second Schedule to the Act of 1997 shall apply to the opening of the special voters ballot box by the European local returning officer as if –

- (a) rule 36(1) were deleted,
- (b) "opening of the special voters ballot box" and "special voters ballot box" were substituted for "polling day" and "postal voters ballot boxes" in rule 36(2),
- (c) "special voters ballot box" were substituted for "postal voters ballot box",
- (d) "declaration of identity" were substituted for "receipt",
- (e) "regulation 14(8) of the Electoral Act 1992 (Section 165) Regulations 2019" were substituted for "rule 38" in rule 36(4),

- (f) “declaration of identity has been duly signed and witnessed” were substituted for “receipt has been duly signed” in rule 36(5), and
- (g) “or agents appointed for the purpose of the referendum” were inserted after “agent of a candidate” in rule 37.

(7) (a) In the event that the covering envelope does not have the label referred to in rule 45(7) of the Second Schedule to the Act of 1997 or if such label is not duly signed by the special presiding officer and the member of the Garda Síochána, the European local returning officer shall reject the covering envelope and deal with it as if it were a declaration of identity which had not been duly signed and witnessed,

- (b) the European local returning officer shall provide a separate receptacle for each poll and for declarations of identity which have been duly signed and witnessed and shall label them accordingly,
- (c) each ballot paper envelope (or ballot paper which is not contained in a ballot paper envelope) accompanied in a covering envelope by a declaration of identity which has been duly signed and witnessed shall be placed in the receptacle for the poll to which it relates.

(8) When the covering envelopes in the special voters ballot box have been opened and their contents dealt with in accordance with paragraphs (6) and (7), the European local returning officer shall, in the presence of agents, place the contents of the receptacle(s) for the European election and the referendum into the appropriate postal voters ballot box.

(9) The ballot paper envelope (or a ballot paper which is not contained in a ballot paper envelope) in each receptacle for a local election and plebiscite shall be sealed in a separate packet and delivered as soon as may be to the appropriate local authority returning officer who shall open the packet and place the contents in the postal voters ballot box for the local election and plebiscite concerned. The packet should be accompanied by a receipt form in duplicate and a signed copy should be returned to the European local returning officer. The European local returning officer shall also send to the said local authority returning officer the items concerning the local election referred to in article 47(2)(a), (b) and (d) of the 1995 Regulations and the items concerning the plebiscite referred to in article 47(2)(a), (b) and (d) of the 1995 Regulations (as applied to a plebiscite by regulation 17(2) of the 2019 Regulations).

(10) The marked copy of the special voters list shall be sent to the relevant local authority returning officer and dealt with in accordance with the provisions of regulation 48(1) of the 1995 Regulations.

Postal Voting at European election and referendum and at local election and plebiscite.

15. (1) Where ballot papers and related documents are to be sent to a postal voter both under section 68 of the Act of 1992 (as applied to a

referendum by section 28 of the Act of 1994) and under rule 32 of the Second Schedule to the Act of 1997:

- (a) the ballot papers and documents shall be enclosed in a single covering envelope addressed to the postal voter,
- (b) a single covering envelope addressed to the European local returning officer shall be provided for the return of the documents by the postal voter,
- (c) a single form of receipt shall be sent to each postal voter, and
- (d) a single ballot paper envelope shall be sent to each postal voter.

(2) Where ballot papers and related documents are to be sent to a postal voter both under article 33 of the 1995 Regulations and under article 33 of the 1995 Regulations (as applied to a plebiscite by regulation 16 of the 2019 Regulations):

- (a) the ballot papers and documents shall be enclosed in a single covering envelope addressed to the postal voter,
- (b) a single covering envelope addressed to the local authority returning officer shall be provided for the return of the documents by the postal voter,
- (c) a single form of receipt shall be sent to each postal voter, and
- (d) a single ballot paper envelope shall be sent to each postal voter.

Postal voter documents.

16. A ballot paper returned by a postal voter shall not be rejected solely on the grounds that it is not included in the correct envelope or is accompanied by a receipt (or declaration of identity, as the case may require) other than that issued by the relevant returning officer.

Special voter documents at opening of postal voter ballot boxes.

17. (1) The procedure in paragraph (2) shall apply to special voter ballot paper envelopes or special voter ballot papers not in a ballot paper envelope when the postal voter ballot boxes are opened under -

- (a) section 73 of the Act of 1992 (as applied to a referendum by section 28(3)) of the Act of 1994,
- (b) rule 36 of the Second Schedule to the Act of 1997,
- (c) article 38 of the 1995 Regulations,
- (d) article 38 of the 1995 regulations (as applied to a plebiscite by regulation 16(3) of the 2019 Regulations).

(2) The European local returning officer, or the local authority returning officer, as the case may be, shall first extract the special voter ballot paper envelopes and any special voter ballot papers not contained in ballot paper envelopes. The officer shall place -

- (a) each such ballot paper envelope in the receptacle for ballot paper envelopes and subsequently treat it in the same manner as a ballot paper envelope extracted from a postal voter covering envelope following the opening of the postal voter ballot boxes and placed in the same receptacle,
- (b) each such ballot paper, without unfolding it, in a ballot box in accordance with, as the case may be –
 - (i) section 75 of the Act of 1992, (as applied to a referendum by section 28(3) of the Act of 1994),
 - (ii) rule 38 of the Second Schedule to the Act of 1997,
 - (iii) article 40 of the 1995 Regulations,
 - (iv) article 40 of the 1995 Regulations (as applied to a plebiscite by regulation 16(3) of the 2019 Regulations).

Opening of postal and special voter ballot paper envelopes.

18. At the time of opening the postal voter and special voter ballot paper envelopes, the European local returning officer or the local authority returning officer, as the case may be, finds a ballot paper relating the referendum, plebiscite or other election for which the officer is not the relevant returning officer, he or she shall -

- (a) place such ballot papers in a packet together with two copies of a statement showing the number of papers enclosed in the packet, and
- (b) seal each such packet and transmit it by hand to the relevant returning officer, who shall acknowledge receipt of the packet on one copy of the statement and transmit it to the other returning officer.

Provisions relating to taking of polls in polling station.

19. The following provisions shall have effect in relation to the taking of the polls in a polling station at the elections, referendum and plebiscites to which these Regulations apply:

- (a) each poll shall be taken by a European local returning officer,
- (b) the same person shall be appointed to be the presiding officer at each poll,
- (c) the same copy of the register of electors, as defined in section 6 of the Act of 1992, shall be used for the poll at each election, referendum and plebiscite and such copy of the register shall be marked in the manner set out in regulation 14(3)(c) to indicate the poll or polls in respect of which a ballot paper is delivered to each elector,
- (d) each local authority returning officer and plebiscite returning officer shall furnish to the European local returning officer such

numbers of ballot papers and other documents as that officer shall require for the purpose of taking the poll at the relevant local election and plebiscite in each relevant polling station,

- (e) the following questions shall be substituted for those set out in rule 72(1)(c) of the Second Schedule to the Act of 1997, section 111(2)(c) of the Act of 1992 as applied to a referendum by section 32(1) of the Act of 1994, article 73(2) of the 1995 Regulations, and article 73(2) of the 1995 Regulations (as applied to a plebiscite by regulation 18 of the 2019 Regulations):

“(i) Are you the same person as the person whose name appears as AB on the register of electors now in force for the county, city or city and county of ?

(ii) Have you already voted at this election, referendum or plebiscite (as the case may be)?

(iii) Have you reached the age of eighteen years?

and (*in the case only of a person who applies for a ballot paper relating to the European election*)

(iv) Are you either or both of the following -

(a) a citizen of Ireland,

(b) a national of a Member State of the European Communities other than Ireland?”

- (f) the following oath (or affirmation) shall be substituted for the oath (or affirmation) set out in section 111(2)(d) of the Act of 1992, as applied to a referendum by section 32 of the Act of 1994, rule 72(1)(d) of the Second Schedule to the Act of 1997, article 73(3) of the 1995 Regulations, and article 73(3) of the 1995 Regulations (as applied to a plebiscite by regulation 18 of the 2019 Regulations):

“I swear by Almighty God (or - do solemnly, sincerely and truly declare and affirm - as the case may be) that I am the same person as the person whose name appears as AB on the register of electors now in force and that I have not already voted at the referendum or at these elections or at the plebiscite (as the case may be) and that I have reached the age of eighteen years and (in the case only of a person who applies for a ballot paper relating to the European election) that I am a citizen of Ireland (or - a national of a Member State of the European Communities other than Ireland - or - both a citizen of Ireland and a national of a Member State of the European Communities other than Ireland - as the case may be)”.

Verification of postal ballot paper accounts at local election and plebiscite.

20. (1) On the next day following the polling day, at the time fixed by the local authority returning officer for a local election and a plebiscite (which time shall not be earlier than 9 a.m. on that day) and at the place appointed under article 74(2) of the 1995 Regulations and regulation 19 of the 2019 Regulations, the local authority returning officer shall, in the presence of the agents of the candidates, open the postal ballot box, which was sealed under article 40 of the 1995 Regulations and under article 40 of the 1995 Regulations (as applied to a plebiscite by regulation 16(3) of the 2019 Regulations), and extract the postal ballot papers therefrom.

(2) The ballot papers in respect of a local election extracted by the local authority returning officer from the postal voters ballot box under paragraph (1) shall be counted and their total number so ascertained shall be compared with the number shown in the appropriate ballot paper account. The local authority returning officer shall prepare a statement showing the result of this comparison and shall, on request, allow the agent of any candidate to copy the statement.

(3) The local authority returning officer shall place the counted ballot papers in respect of a local election in a ballot box which shall be sealed. When the local authority returning officer receives the ballot papers for the local election from the European local returning officer under regulation 22(3)(c), he or she shall mix together the whole of the ballot papers in respect of each local electoral area and shall proceed to count the votes in respect of each such area in accordance with Parts XII and XIII of the 1995 Regulations.

(4) The ballot papers in respect of a plebiscite extracted by the local authority returning officer from the postal voters ballot box under paragraph (1) shall be counted and their total number so ascertained shall be compared with the number shown in the appropriate ballot paper account. The local authority returning officer shall prepare a statement showing the result of this comparison.

(5) The local authority returning officer shall place the counted ballot papers in respect of a plebiscite in a ballot box which shall be sealed. When the local authority returning officer receives the ballot papers for the plebiscite from the European local returning officer under regulation 22(3)(c), he or she shall mix together the whole of the ballot papers in respect of each city, or city and county area and shall proceed to count the votes in respect of each such area in accordance 19 to 26 of the 2019 Regulations.

(6) The provisions of article 75 of the 1995 Regulations and regulation 20 of the 2019 Regulations in relation to attendance at the counting of the votes shall apply to attendance at the proceedings under this regulation.

Opening of ballot boxes relating to European election, referendum, local election and plebiscite.

21. (1) The European local returning officer shall appoint the hour of 9 a.m. on the day next following the polling day as the day and time at which he or she will open the ballot boxes pursuant to rule 73 of the Second Schedule to

the Act of 1997, section 114 of the Act of 1992 (as applied to a referendum by section 2(3)(w) of the Act of 1994), article 76 of the 1995 Regulations and regulation 21 of the 2019 Regulations.

(2) At the time and on the day referred to in paragraph (1), and at the place appointed under the rule 73(2) of the Second Schedule to the Act of 1997, the European local returning officer shall open the ballot box relating to each polling station, and shall in accordance with section 114(1A) of the Act of 1992 applied to a referendum by section 33 of Act of 1994, rule 75(1A) of the Second Schedule to the Act of 1997, article 76(1A) of the 1995 Regulations and regulation 21(2) of the 2019 Regulations, open any ballot box containing not more than 50 ballot papers in respect of any one of the polls taken on 24 May 2019 in such manner that, although the box is opened in the presence of the agents of the candidates, the preferences on the individual ballot papers for the poll where there is not more than 50 ballot papers cannot be read by those agents or other persons present at the count.

(3) The European local returning officer shall-

- (a) count the number of local election ballot papers found in each box and compare the total number of papers so ascertained with the number shown in the appropriate local election ballot paper account,
- (b) prepare a statement showing the result of this comparison in respect of all the ballot boxes, and
- (c) deliver the local election ballot papers to the local authority returning officer, together with the appropriate statements referred to in sub-paragraph (b) and the packets and statements relating to such ballot papers received by him or her from the several presiding officers under article 72(2)(a), (c) and (d) of the 1995 Regulations, making adequate arrangements for the safety and safe custody of the ballot papers and other documents in the course of such delivery.

(4) The European local returning officer shall-

- (a) count the number of plebiscite ballot papers found in each box and compare the total number of papers so ascertained with the number shown in the appropriate plebiscite ballot paper account,
- (b) prepare a statement showing the result of this comparison in respect of all the ballot boxes, and
- (c) deliver the plebiscite ballot papers to the plebiscite returning officer, together with the appropriate statements referred to in sub-paragraph (b) and the packets and statements relating to such ballot papers received by him or her from the several presiding officers under article 72(2)(a), (c) and (d) of the 1995 Regulations (as applied to a plebiscite by regulation 18 of the 2019 Regulations), making adequate arrangements for the safety and safe custody of the ballot papers and other documents in the course of such delivery.

(5) The European local returning officer shall then deal with the ballot papers relating to the European election in accordance with Part IX of the Second Schedule to the Act of 1997 and the ballot papers relating to the referendum in accordance with Part III of the Act of 1994.

(6) The local authority returning officer on receipt of the local election ballot papers delivered to him or her in accordance with sub-paragraph (c) of paragraph (3), shall forthwith deal with them in accordance with the relevant Parts of the 1995 Regulations and regulations 21(3) and 23 of these Regulations.

(7) The plebiscite returning officer on receipt of the plebiscite ballot papers delivered to him or her in accordance with sub-paragraph (c) of paragraph (4), shall forthwith deal with them in accordance with the relevant Parts of the 2019 Regulations and regulations 21(5) and 23 of these Regulations.

(8) The European local returning officer, his or her assistants and clerks, the local authority returning officer, the plebiscite returning officer members of the Garda Síochána on duty, agents of the candidates and agents for the purpose of the referendum duly appointed for this purpose and no other person, except with the permission to the European local returning officer, may be present at the proceedings under this article.

Time for counting of votes at local election and plebiscite.

22. The counting of the votes at a local election shall commence as soon as practicable on the day next following polling day after the receipt of the ballot papers by the local authority returning officer under regulation 22(3)(c) and by the plebiscite returning officer under regulation 22(4)(c).

Marked register of electors.

23. (1) Notwithstanding section 38(2)(a) of the Act of 1994 and rule 93(3)(d) of the Second Schedule to the Act of 1997 and article 92(2)(a) of the 1995 Regulations and regulation 27(2)(a) of the 2019 Regulations, the European local returning officer shall place the marked copies of the register of electors referred to in regulation 19(c) of these Regulations in separate sealed packets and shall mark on each packet particulars of its contents, date of polling day at the polls and the county, city or city and county to which they relate and shall as soon as practicable forward the packet or packages to the relevant local authority returning officer.

(2) The local authority returning officer shall, in relation to the marked copies of the register of electors received by him or her pursuant to paragraph (1), comply with the provisions of regulations 92(3) and 94 of the 1995 Regulations.

(3) Sections 38 and 39 of the Act of 1994, section 20 and rule 93 of the Second Schedule of the Act of 1997 and regulation 27 of the 2019 Regulations shall apply to the marked register retained by the local authority returning officer under this regulation.

Modification of Act of 1994.

24. The Act of 1994 shall have effect as if:

- (a) in section 15(3) “and the Electoral Act 1992 (Section 165) Regulations 2019” were inserted after “with this Act”,
- (b) in section 18 by the insertion of the following after subsection (3):

“(4) Sections 28 and 29 of the Local Government Act 2019 shall apply for the purposes of the holding of a referendum on 24 May 2019 as they apply for the purposes of the holding of local elections on the same date, subject to the following modifications in section 28-

- (i) by the substitution of ‘Presidential’ for ‘local government’ in paragraph (b) of subsection (1),
- (ii) by the substitution of ‘Presidential’ for ‘local government’ in subsection (2), and
- (iii) by the substitution of ‘this Act’ for ‘Part 4 of the Principal Act’ in subsection (3).”.

Modification of Act of 1997.

25. The Act of 1997 shall have effect as if in section 17(2)(b) “and the Electoral Act 1992 (Section 165) Regulations 2019” were inserted after “by this Act”.

Modification of 1995 Regulations.

26. The 1995 Regulations shall have effect as if:

- (a) in article 5, “and the Electoral Act, 1992 (Section 165) Regulations 2019” were inserted after “and these Regulations”,
- (b) in article 25(1)(a), “for the purpose of the taking of” were substituted for “and shall take” and “and the Electoral Act 1992 (Section 165) Regulations 2019” were inserted after “these Regulations”,
- (c) in article 69(3), “European local returning officer who shall forthwith inform the local authority” were inserted after “such adjournment to the”, and
- (f) article 92(2)(d) were deleted.

Modification of 2019 Regulations.

27. The 2019 Regulations shall have effect as if:

- (a) in regulation 8(3), “and the Electoral Act, 1992 (Section 165) Regulations 2019” were inserted after “and these Regulations”, and
- (b) regulation 27(2)(c) were deleted.

GIVEN under my hand,
15 May 2019

JOHN PAUL PHELAN

Minister of State at the Department of Housing, Planning and Local
Government.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations make certain provisions in relation to the taking on the same day (24th May 2019) of the polls at the Referendum, the European Parliament elections, the local elections and the plebiscites. They cover matters such as returning officers, public notices, polling information cards, voting at polling stations, postal voting, special voting and the counting of the votes.

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