



STATUTORY INSTRUMENTS

S.I. No. 179 of 2009



ELECTORAL ACT 1992 (SECTION 165) REGULATIONS 2009

(Prn. A9/0657)

ELECTORAL ACT 1992 (SECTION 165) REGULATIONS 2009

The Minister for the Environment, Heritage 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) for the purpose of giving effect to the said section 165 in relation to the polls to be taken on the 5th day of June 2009, hereby makes the following Regulations:

Citation.

1. These Regulations may be cited as the Electoral Act 1992 (Section 165) Regulations 2009.

Interpretation.

2. In these Regulations—

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

“the Act of 1997” means the European Parliament Elections Act 1997;

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

“county ballot paper” means a ballot paper used for the purpose of a local election of members of a county council or a city council;

“county election” means a local election of the members of a county council or a city council;

“Dáil” means Dáil Eireann and references to “Dáil constituency” and “Dáil election” shall be construed accordingly;

“Dáil constituency” means a constituency specified in the Schedule to the Electoral (Amendment) Act 2005;

“Dáil election” means an election, at a bye-election, of a member to serve in the Dáil;

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

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

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 15th May, 2009.*

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

“local election” means an election of members of a local authority;

“local electoral area” or “electoral area” means the area or any of the areas (as may be appropriate) by reference to which a local election is held;

“local returning officer” means the person who, in accordance with section 17 of the Act of 1997, is a local returning officer for a county or city;

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

“special voter” means a person whose name is included in the list prepared pursuant to section 17 of the Act of 1992;

“town ballot box” and “town ballot paper” mean, respectively, a ballot box and a ballot paper used for the purpose of a town election;

“town election” means a local election of the members of a borough council or a town council.

Effect of Regulations.

3. (1) These Regulations shall have effect in relation to every election the poll, if any, at which is to be taken on the 5th day of June 2009.

(2) These Regulations shall not have effect in relation to a fresh election held pursuant to rule 23 or 27 of the Second Schedule to the Act of 1997, section 62 of the Act of 1992 or article 28 of the 1995 Regulations where the poll at such fresh election is to be taken on a day other than the 5th day of June 2009.

Returning officers.

4. (1) Subject to sub-article (2) and articles 5 and 6, the local returning officer for a county or city shall be the returning officer for the purposes of the provisions referred to in the Table to this article as respects a local election in a local electoral area or electoral area situate in the county or city concerned and the powers and duties of the relevant returning officer under the provisions referred to in the Table shall be exercised and performed by the said local returning officer and references in the said provisions to the returning officer shall be construed as references to the local returning officer.

(2) For the purposes of the polls to be taken on the 5th day of June 2009, references in the Act of 1997 and these Regulations to the local returning officer for a county shall be construed as including, in the cases of the counties of Carlow and Louth, the areas transferred to the said counties for electoral purposes under article 5 of the Local Government (Boundaries) (Town Elections) Regulations 1994 (S.I. No. 114 of 1994) and as excluding the said areas from the counties of Laois and Meath, respectively.

(3) The powers and duties of the returning officer in relation to a local election (other than those referred to in the Table to this article) shall be exercised and performed by the clerk of the borough council or town council or the person assigned to perform the duties concerned pursuant to article 7 of the Local Government Act 2001 (Supplementary Provisions) Regulations 2001 (S.I. No. 590 of 2001), who, in accordance with article 4 of the 1995 Regulations, is the returning officer for that election.

(4) Notwithstanding sub-articles (1), (2) and (3), the returning officer for a local election shall be entitled to be admitted to any polling station where a poll at an election 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.

TABLE

The following provisions of the 1995 Regulations, that is to say, articles 5 and 25(1)(a) (insofar as they relate to the taking of the poll otherwise than by postal voting); 26(3) and 26(6); 44 to 48; 52 to 54; 56 to 58; Part XI (subject to articles 13 and 14 of these Regulations); and article 76(1), (1A), (2), (3) and (4) — in the case of a county election only.

Deputy local returning officer.

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

Arrangements in Dáil constituencies.

6. As respects the area comprised in a Dáil constituency in which there is a Dáil election the poll at which is to be taken on the 5th day of June 2009—

- (a) the returning officer for the said Dáil constituency shall be the local returning officer for the purposes of the Act of 1997 and these Regulations as respects a European election in the said area and shall be the returning officer for the purposes of the provisions referred to in the Table to article 4 as respects a local election in the said area; and
- (b) the powers and duties of the local returning officer under the Act of 1997 and these Regulations, and of the relevant returning officer under the provisions referred to in the said Table, shall be exercised and performed by the returning officer for the said Dáil constituency and references in the said Act and Regulations to the local returning officer, and references in the provisions referred to in the said Table to the returning officer, shall be construed as references to the returning officer for the said Dáil constituency.

Mutual assistance.

7. 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 an election to which these Regulations apply, and of every person appointed or employed (otherwise than by a candidate) for any purpose related to such an election, to

furnish such information and render such other assistance to any other such person as that other person requires for the purposes of any of the elections.

Agents.

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

(2) In the case of a Dáil election, sections 59, 60 and 61 of the Act of 1992 shall apply.

(3) In the case of a local election, articles 26 and 27 of the 1995 Regulations shall apply, subject to articles 4, 22 and 25 of these Regulations.

Notices of poll and situation of polling stations.

9. (1) (a) Where, under article 25 or 28 of the 1995 Regulations, the local election for a local electoral area or electoral area is adjourned for the purpose of the taking of a poll or the candidates standing nominated are declared elected or the election is not proceeded with, the relevant returning officer shall so inform the local returning officer for the county or city (or, where article 6 applies, the returning officer for the Dáil constituency) in which the local electoral area or electoral area is situate.

(b) Where an election is adjourned in accordance with paragraph (a), the relevant returning officer shall furnish to the local returning officer (or, where article 6 applies, the returning officer for the Dáil constituency) a copy of the notice of poll given under article 50 of the 1995 Regulations.

(2) The local returning officer for a county or city (or, where article 6 applies, the returning officer for the Dáil constituency) 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 may be appropriate) to the relevant returning officer for any local election in the county or city, or Dáil constituency, concerned.

Polling districts, polling places and register of electors.

10. The local returning officer (or, where article 6 applies, the returning officer for the Dáil constituency) may make such modifications to a polling district or a polling place, notwithstanding a polling scheme made 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 by him or her having regard to the convenience of electors in facilitating voting at the polls to be taken on the 5th day of June 2009.

Polling information cards.

11. (1) Where a polling information card is sent to an elector under section 92 of the Act of 1992, a polling information card shall not be sent to that elector under rule 54 of the Second Schedule to the Act of 1997.

(2) Where a polling information card is sent to an elector under section 92 of the Act of 1992 or rule 54 of the Second Schedule to the Act of 1997, a polling information card shall not be sent to that elector under article 55 of the 1995 Regulations.

Polling on islands.

12. (1) Sections 85 and 86 of the Act of 1992 and article 49 of the 1995 Regulations shall not have effect in relation to an election to which these Regulations apply.

(2) Rule 48 of the Second Schedule to the Act of 1997 shall apply in relation to every Dáil election and local election the poll at which is to be taken on the 5th day of June 2009 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 a returning officer.

13. (1) Section 99 of the Act of 1992 and article 61 of the 1995 Regulations shall not have effect in relation to an election to which these Regulations apply.

(2) Rule 60 of the Second Schedule to the Act of 1997 shall apply in relation to every Dáil election and local election the poll at which is to be taken on the 5th day of June 2009 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 Dáil election or a local election, the alternative polling station shall be in the same Dáil constituency or local electoral area or electoral area, as appropriate.

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

14. (1) Section 100 of the Act of 1992 and article 62 of the 1995 Regulations shall not have effect in relation to an election to which these Regulations apply.

(2) Rule 61 of the Second Schedule to the Act of 1997 shall apply in relation to every Dáil election and local election the poll at which is to be taken on the 5th day of June 2009 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 Dáil election or a local election, the alternative polling station shall be in the same Dáil constituency or local electoral area or electoral area, as appropriate.

Special voting.

15. (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 1997, the Act of 1992 (where relevant) and the 1995 Regulations shall be performed by the officer at the same time in respect of each poll.

(2) The returning officer for each local election shall supply to the local returning officer such numbers of ballot papers and other documents as that officer shall require for the purposes of special voting at the local elections.

- (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 local returning officer shall, on the copy of the special voters list issued to the special presiding officer, cause—
 - (i) in cases where the poll is being taken at a Dáil election, the letter “E” to be placed against the name of each person on the list entitled to vote at the European election and at the local election only, and the letter “L” to be placed against the name of each person on the list entitled to vote at the local election only,
 - (ii) in other cases, the letter “L” to be placed against the name of each person on the list entitled to vote at the local election 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 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 if ballot papers have been issued to that person for all polls to be taken. In any other case, the special presiding officer shall mark against the person’s name on the special voters list—
 - (i) the letters “EP” if a ballot paper in respect of the European election has been issued to him or her,
 - (ii) the letters “DD” if a ballot paper in respect of a Dáil election has been issued to him or her,
 - (iii) the letters “CC” if a county ballot paper has been issued to him or her,
 - (iv) the letter “U” if a town ballot paper has been issued to him or her;
 - (d) the completed ballot paper for each poll shall be put in a separate 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 the Environment, Heritage 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 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 article subsequently referred) and shall make adequate arrangements for the safety and safe custody of the ballot box.

(5) The 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 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”, respectively, 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) “article 15 of the Electoral Act 1992 (Section 165) Regulations 2009” 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).
- (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 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 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 sub-articles (6) and (7), the local returning officer shall, in the presence of agents, place the contents of the receptacle(s) for the European election, and Dáil election where relevant, into the appropriate postal voters ballot box.

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

(10) In this article, references to “local returning officer” include, where article 6 applies, reference to the returning officer for the Dáil constituency concerned.

Postal voting at European election and Dáil election.

16. Where ballot papers and related documents are to be sent to a postal voter under rule 32 of the Second Schedule to the Act of 1997 and under section 68 of the Act of 1992—

- (a) the ballot papers and documents shall be enclosed in a single envelope addressed to the postal voter;
- (b) a single covering envelope addressed to the local returning officer shall be provided for the return of the documents by the postal voter;
- (c) a single form of receipt (or declaration of identity, as the case may require) shall be sent to each postal voter; and
- (d) separate ballot paper envelopes shall be sent to each postal voter.

Postal voter documents.

17. 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.

18. (1) The procedure in sub-article (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, as the case may be,—

- (a) rule 36 of the Second Schedule to the Act of 1997;
- (b) section 73 of the Act of 1992;
- (c) article 38 of the 1995 Regulations.

(2) The local returning officer (or, where article 6 applies, the returning officer for the Dáil constituency) or the returning officer for a local election, 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) rule 38 of the Second Schedule to the Act of 1997,
 - (ii) section 75 of the Act of 1992,
 - (iii) article 40 of the 1995 Regulations.

Opening of postal and special voter ballot paper envelopes.

19. Where, at the time of opening the postal voter and special voter ballot paper envelopes, the local returning officer (or, where article 6 applies, the returning officer for the Dáil constituency) or the returning officer for a local election, as the case may be, finds a ballot paper relating to an 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 return it to the other returning officer.

Provisions relating to taking of poll in polling station.

20. The following provisions shall have effect in relation to the taking of the polls in a polling station at the elections to which these Regulations apply—

- (a) each poll shall be taken by a local returning officer or, where article 6 applies, the returning officer for the Dáil constituency;
- (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 and such copy of the register shall be marked in the manner set out in article 15(3)(c) to indicate the poll or polls in respect of which a ballot paper is delivered to each elector;
- (d) where one of the polls is the poll at a town election, a separate ballot box shall be provided for such poll and, as soon as may be after the

close of the poll, the ballot box shall be delivered to the returning officer for the town election in accordance with article 21;

- (e) the returning officer for each local election shall supply to the returning officer taking the poll at the election such numbers of ballot papers and other documents as that officer shall require for the purposes of taking the poll at the election in each polling station;
- (f) 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 and article 73(2) of the 1995 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 city/county of

(ii) Have you already voted at these elections?

(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?”;

- (g) the following oath (or affirmation) shall be substituted for the oath (or affirmation) set out in rule 72(1)(d) of the Second Schedule to the Act of 1997, section 111(2)(d) of the Act of 1992 and article 73(3) of the 1995 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 for the city/county of.....and that I have not already voted at these elections 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 Parliament 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*)”.

Delivery of town ballot boxes and packets to returning officers.

21. As soon as may be after the close of poll, the local returning officer (or, where article 6 applies, the returning officer for the Dáil constituency) shall deliver to the returning officer for each town election the ballot boxes containing

the ballot papers relating to that election, together with the packets 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 boxes, ballot papers and other documents in the course of such delivery.

Verification of postal ballot paper accounts at a county election.

22. (1) On the day next following the polling day, at the time fixed by the returning officer for a county election (which time shall be not earlier than 9 a.m. on that day) and at the place appointed under article 74(2) of the 1995 Regulations, the returning officer shall, in the presence of the agents of the candidates, open the ballot box which was sealed under article 40 of the 1995 Regulations and extract the ballot papers therefrom.

(2) The ballot papers extracted by the returning officer from the ballot box under sub-article (1) shall be counted and the total number so ascertained shall be compared with the number shown in the appropriate ballot paper account. The 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 returning officer shall place the counted ballot papers in a ballot box which shall be sealed. When the returning officer receives the ballot papers for the county election from the local returning officer under article 23(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 provisions of article 75 of the 1995 Regulations in relation to attendance at the counting of the votes shall apply to attendance at the proceedings under this article.

Opening of ballot boxes relating to European election, Dáil election and county election.

23. (1) The 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 where relevant and article 76 of the 1995 Regulations (in the case of a county election only).

(2) At the time and on the day referred to in sub-article (1), and at the place appointed under rule 73(2) of the Second Schedule to the Act of 1997, the local returning officer shall open the ballot box relating to each polling station, commencing with polling stations at which a town election was held, and shall—

- (a) in accordance with rule 75(1A) of the Second Schedule to the Act of 1997, section 114(1A) of the Act of 1992 and article 76(1A) of the 1995 Regulations, open any ballot box containing not more than 50 ballot papers in respect of any one of the polls taken on the 5th day of June 2009 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 in respect of the poll where there are not more than 50 ballot papers cannot be read by those agents or other persons present at the count;

- (b) examine the ballot papers relating to each polling station so as to ascertain if the box contains any ballot papers relating to a town election;
 - (c) remove any such ballot papers found in the box;
 - (d) place such ballot papers in a packet, together with two copies of a statement showing the number of papers enclosed in the packet and giving particulars of the polling stations to which they relate; and
 - (e) seal the packet and transmit it by hand to the returning officer for the town election who shall acknowledge receipt of the packet on one copy of the statement referred to in paragraph (d) and return the receipted statement to the local returning officer.
- (3) The local returning officer shall—
- (a) count the number of county ballot papers found in each box and compare the total number of papers so ascertained with the number shown in the appropriate county ballot paper account;
 - (b) prepare a statement showing the result of this comparison in respect of all the ballot boxes for each local electoral area and including particulars of the county ballot papers, if any, transmitted to him or her pursuant to article 25(2)(d); and
 - (c) deliver the ballot papers to the returning officer for the county election, together with the appropriate statements referred to in paragraph (b) and the packets 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 local returning officer shall then deal with the ballot papers (including any ballot papers for the election concerned transmitted to him or her pursuant to article 25(2)(d))—
- (a) relating to the European election, in accordance with Part IX of the Second Schedule to the Act of 1997, or
 - (b) (where article 6 applies) relating to a Dáil election, in accordance with Part XVIII of the Act of 1992.
- (5) The returning officer for the county election, on receipt of the ballot papers delivered to him or her in accordance with sub-article (3)(c), shall forthwith

deal with them in accordance with the relevant Parts of the 1995 Regulations and articles 22(3) and 24 of these Regulations.

(6) The local returning officer, his or her assistants and clerks, the returning officer for the county election, members of the Garda Síochána on duty, and agents of the candidates, and no other person, except with the permission to the local returning officer, may be present at the proceedings under this article.

(7) In this article, references to “local returning officer” include, where article 6 applies, reference to the returning officer for the Dáil constituency concerned.

Time for counting of votes at a county election.

24. The counting of the votes at a county election shall commence as soon as practicable on the day next following polling day after the receipt of the ballot papers by the returning officer under article 23(3)(c).

Opening of town ballot boxes.

25. (1) The returning officer for a town election shall fix 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 article 76 of the 1995 Regulations.

(2) At the time and on the day referred to in sub-article (1), and at the place appointed under article 74(2) of the 1995 Regulations, the returning officer for a town election shall—

- (a) open each ballot box containing the ballot papers relating to the town election (in accordance with article 76(1A) of the 1995 Regulations where required) and examine the ballot papers therein so as to ascertain if the box contains any ballot papers relating to a European election, Dáil election or county election;
- (b) remove any such ballot papers found in the box;
- (c) place such ballot papers in separate packets in respect of each election, together with two copies of a statement showing the number of papers enclosed in each packet and giving particulars of the polling stations to which they relate; and
- (d) seal each such packet and transmit it by hand to the local returning officer (or, where article 6 applies, the returning officer for the Dáil constituency) who shall acknowledge receipt of the packet on one copy of the statement referred to in paragraph (c) and return the receipted statement to the returning officer for the town election.

(3) Having dealt with each town ballot box in accordance with sub-article (2), and having regard to any town ballot papers received from the local returning officer under article 23(2)(e), the returning officer for the town election shall proceed to count the votes in accordance with Parts XII and XIII of the 1995 Regulations.

(4) The provisions of article 75 of the 1995 Regulations in relation to attendance at the counting of the votes shall apply to attendance at the proceedings under this article.

Marked register of electors.

26. (1) Notwithstanding rule 93(3)(d) of the Second Schedule to the Act of 1997, section 129(2)(a) of the Act of 1992 (in cases where article 6 applies) and article 92(2)(a) of the 1995 Regulations, the local returning officer or the returning officer for the Dáil constituency, as the case may be, shall place the marked copies of the register of electors referred to in article 20(c) in separate sealed packets and shall mark on each packet particulars of its contents, the date of the polling day at the polls and the county or city to which they relate and shall as soon as practicable forward the packet or packets to the returning officer for the relevant county election.

(2) The returning officer for the county election shall, in relation to the marked copies of the register of electors received by him or her pursuant to sub-article (1), comply with the provisions of articles 92(3) and 94 of the 1995 Regulations in respect of such copies of the register.

Modification of Act of 1997.

27. The Act of 1997 shall have effect as if in section 17(2)(b) “and the Electoral Act 1992 (Section 165) Regulations 2009” were inserted after “by this Act”.

Modification of Act of 1992.

28. The Act of 1992 shall have effect as if in section 31 “and the Electoral Act 1992 (Section 165) Regulations 2009” were inserted after “with this Act”.

Modification of 1995 Regulations.

29. The 1995 Regulations shall have effect as if—

- (a) in article 5, “and the Electoral Act 1992 (Section 165) Regulations 2009” 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 2009” were inserted after “these Regulations”;
- (c) in article 69(3), “local returning officer who shall forthwith inform the” were inserted after “such adjournment to the”;
- (d) in article 76(3), “and including particulars of the town ballot papers, if any, transmitted to him or her pursuant to article 23(2)(e) of the Electoral Act 1992 (Section 165) Regulations 2009” were substituted for “and shall include particulars of the ballot papers, if any, transmitted to the said officer pursuant to sub-article (2)”;
- (e) article 92(2)(d) were deleted.



GIVEN under my Official Seal,
13 May 2009

JOHN GORMLEY.
Minister for the Environment, Heritage 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 (5th June 2009) of the polls at the European Parliament elections, Dáil bye-elections and local elections. 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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