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ELECTORAL (AMENDMENT) ACT, 2001

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ELECTORAL (AMENDMENT) ACT, 2001

AN ACT TO AMEND AND EXTEND THE ELECTORAL ACTS, 1992 TO 1999, THE EUROPEAN PARLIAMENT ELECTIONS ACTS, 1992 TO 1999, THE PRESIDENTIAL ELECTIONS ACTS, 1992 TO 1997, THE LOCAL ELECTIONS ACTS, 1974 TO 1999, THE REFERENDUM ACTS, 1992 TO 1998, THE SEANAD ELECTORAL (UNIVERSITY MEMBERS) ACTS, 1937 TO 1973, THE SEANAD ELECTORAL (PANEL MEMBERS) ACTS, 1947 TO 1972, AND TO PROVIDE FOR RELATED MATTERS.

[24th October, 2001]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Electoral (Amendment) Act, 2001.

Short title, collective citation, construction and commencement.

(2) The Electoral Acts, 1992 to 1999, and this Act may be cited together as the Electoral Acts, 1992 to 2001, and shall be read together as one.

(3) The European Parliament Elections Acts, 1992 to 1999, and this Act in so far as it relates to European Parliament elections may be cited together as the European Parliament Elections Acts, 1992 to 2001, and shall be read together as one.

(4) The Presidential Elections Acts, 1992 to 1997, and this Act in so far as it relates to presidential elections may be cited together as the Presidential Elections Acts, 1992 to 2001, and shall be read together as one.

(5) The Local Elections Acts, 1974 to 1999, and this Act in so far as it relates to local elections may be cited together as the Local Elections Acts, 1974 to 2001, and shall be read together as one.

(6) The Referendum Acts, 1992 to 1998, and this Act in so far as it relates to referendums may be cited together as the Referendum Acts, 1992 to 2001, and shall be read together as one.

(7) The Seanad Electoral (University Members) Acts, 1937 to 1973, and this Act in so far as it relates to Seanad elections may be

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cited together as the Seanad Electoral (University Members) Acts, 1937 to 2001, and shall be read together as one.

(8) The Seanad Electoral (Panel Members) Acts, 1947 to 1972, and this Act in so far as it relates to Seanad elections may be cited together as the Seanad Electoral (Panel Members) Acts, 1947 to 2001, and shall be read together as one.

(9) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

(10) An order under *subsection (9)* shall be laid before each House of the Oireachtas as soon as may be after it is made.

Interpretation.

2.—(1) In this Act, except where the context otherwise requires—

“Act of 1997” means the Electoral Act, 1997;

“Principal Act” means the Electoral Act, 1992.

(2) In this Act—

(a) a reference to a Part or section is to a Part or section of this Act, unless it is indicated that reference to some other enactment is intended;

(b) a reference to a subsection, paragraph or subparagraph is to a subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended;

(c) a reference to any other enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment including this Act.

PART 2

AMENDMENT OF PRINCIPAL ACT

Amendment of section 6 of Principal Act.

3.—Section 6 of the Principal Act is amended—

(a) by the insertion after the definition of “Dáil constituency” of the following definition:

“‘edited register’ has the meaning assigned to it by section 13A;”,

(b) by the insertion after the definition of “medical practitioner” of the following definitions:

“‘national edited register’ has the meaning assigned to it by section 13B;

‘national register’ has the meaning assigned to it by section 13B;”,

and

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(c) by the insertion in the definition of “the register” after “special voters list” of “and the supplements to the postal voters list and to the special voters list”. Pr.2 S.3

4.—Section 13 of the Principal Act is amended by the insertion of the following sections after section 13— Amendment of section 13 of Principal Act.

“Edited register of electors.

13A.—(1) Notwithstanding the provisions of this Part and the Second Schedule, a registration authority shall prepare and publish a version of the register of electors which shall be known and is in this Act referred to as the ‘edited register’ in accordance with Part 1A of the Second Schedule.

(2) An edited register published by the registration authority under subsection (1) shall be deemed, for the purposes of section 20, to be part of the register of electors.

(3) A person who uses information in the register prepared under section 13, including a draft register, the supplement to the register prepared under section 15 or in an electors list published under section 16, being information which is excluded from the edited register or edited electors list, for a purpose, other than electoral or other statutory purpose, shall be guilty of an offence.

(4) A registration authority shall not be obliged to comply with subsection (1) until the day which is 3 years after the commencement of section 4 of the *Electoral (Amendment) Act, 2001*, but if it complies with that subsection before that day, subsection (3) and section 133 (as amended by section 32 of the said Act) shall apply accordingly.

National register of electors.

13B.—(1) The Minister may, by order, authorise, subject to the consent of the authority or body, a registration authority or other body established by or under an enactment to compile—

(a) a register comprising the information contained in each of the register of electors prepared by the various registration authorities, including supplements to those registers prepared under section 15 (which shall be known and is in this Act referred to as the ‘national register of electors’); or

(b) a register comprising such of the information contained in each of the said register of electors, including supplements to those registers as aforesaid, as is specified in the order (which shall be known and is in this Act referred to as the ‘national edited register of electors’).

(2) Registration authorities may furnish a copy of the relevant registers free of charge to the authority or body authorised pursuant to subsection (1) for the purposes of its functions thereunder.

(3) An order under this section may provide that the furnishing of registers by registration authorities to the authority or body authorised pursuant to subsection (1) shall be subject to conditions specified in the order, including a condition providing that the cost of preparing, maintaining and publishing the register referred to in subsection (1) shall be met by the registration authorities or otherwise. Subsection (3) of section 13A and section 133 (as amended) shall apply to the use of information in a national register of electors in the same manner as they apply to an individual register compiled by a registration authority.

(4) The Minister may, by order, amend or revoke an order under this section (including an order under this subsection).

(5) Every order made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Preparation and maintenance of register of electors.

13C.—(1) Notwithstanding the provisions of this Part, the Second Schedule, and Parts VII and VIII of the Electoral Act, 1997, the Minister may, by order, authorise a body, other than a registration authority, to prepare and maintain any of the following:

- (i) a register of electors including the postal voter lists and special voter lists, a supplement to the register including supplements to the postal voter lists and special voter lists, an edited register and an edited supplement for one or more registration areas;
- (ii) a register of the kind referred to in subsection (1)(a) of section 13B and a register of the kind referred to in subsection (1)(b) of that section.

(2) A body authorised pursuant to subsection (1) shall be deemed to be a registration authority for the purpose of this Part, the Second Schedule and Parts VII and VIII of the Electoral Act, 1997.

(3) An order under subsection (1) may provide that the cost of preparing and publishing the registers referred to in that subsection shall be

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met by the registration authorities to whose registration areas those registers relate. Pr.2 S.4

(4) The Minister may, by order, revoke or amend an order under this section (including an order under this subsection).

(5) Where an order under this section (including an order under subsection (4)) is proposed to be made, a draft thereof shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.”.

5.—Section 14A of the Principal Act (inserted by the Electoral (Amendment) Act, 1996) is amended by the insertion of the following subsections after subsection (2)— Amendment of section 14A of Principal Act.

“(3) Part III (other than Rule 19(c)) of the Second Schedule shall apply to an application for entry in the postal voters list pursuant to section 14(a) as if—

- (a) references in that Part to ‘special voters list’ were references to ‘postal voters list’,
- (b) references to ‘section 17’ and ‘section 17(2)’ were references to ‘section 14(a)’,
- (c) in Rule 19(d), ‘and, where appropriate, the certificate referred to in paragraph (c)’ were deleted, and
- (d) in Rule 23, paragraphs (1)(c) and (2)(c) were deleted.

(4) In case an application for entry in the postal voters list pursuant to section 14(a), (c) or (d) is refused, Rules 16 and 17 of Part II of the Second Schedule shall apply to such a refusal as if the reference in Rule 16 to the ‘supplement to the register’ were a reference to ‘postal voters list under section 14(a), (c) or (d)’.”.

6.—Section 15 of the Principal Act is amended by—

Amendment of section 15 of Principal Act.

- (a) the insertion in subsection (1) after “publish.” of “The registration authority is also empowered to prepare and publish a version of the supplement, which shall be known and is in this Act referred to as an ‘edited supplement’, by omitting from the supplement the names and addresses of registered electors or electors on whose behalf requests have been made that their details not be used for a purpose other than an electoral or other statutory purpose. Such a supplement shall be deemed to form part of the edited register prepared and published under section 13A.”;
- (b) in subsection (1A)(a) (inserted by section 76 of the Act of 1997)—
 - (i) the insertion of “or” after “electors,” in subparagraph (ii);

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- (ii) the insertion of the following subparagraph after subparagraph (ii):

“(iii) is registered as an elector in a constituency or in a local electoral area and takes up ordinary residence in another constituency or in another local electoral area on a date following the coming into force of the register of electors then in force provided the person authorises in writing, in a form directed by the Minister, the registration authority in whose register of electors he is registered as an elector to delete his name from that register of electors. The authorisation shall include such information as is necessary to enable the authority for the area of original registration to identify the relevant entry in that register.”;

- (iii) the substitution of the following paragraph for paragraph (c) of subsection (1A) (inserted by section 76 of the Act of 1997):

“(c) A person referred to in paragraph (a)(ii) shall be eligible for entry in the supplement to the register on or after the day on which that person reaches eighteen years of age, including such a day that falls within the period beginning on the last day on which applications for entry in the supplement can be received and ending on polling day in the case of a Dáil, Presidential, European, local or Údarás na Gaeltachta election, or a referendum.”;

- (iv) the insertion of the following paragraph after paragraph (c):

“(d) The registration authority on receipt of an authorisation referred to in subparagraph (iii) of paragraph (a) and being satisfied that the person is no longer ordinarily resident in respect of the address for which he is registered as an elector shall—

(i) in the case the new address is in another registration area, delete his name from the register of electors for the authority’s registration area and forward forthwith the relevant form to the registration authority for the address indicated on the form at which he is ordinarily resident,

(ii) in the case the new address is in another local electoral area within the registration area of the registration authority, delete the elector’s name from the register of electors and enter his details in the supplement of the register prepared under this section.”;

- (c) the insertion in subsection (2)(a) of “or (1A)” after “subsection (1)”; and

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- (d) the insertion in subsection (5) of “(including an election to Pr.2 S.6
Údarás na Gaeltachta)” after “election” where that word
secondly occurs.

7.—Section 15A of the Principal Act (inserted by section 76 of the Amendment of
Act of 1997) is amended by— section 15A of
Principal Act.

- (a) in subsection (1), the substitution of “any of paragraphs (a)
to (d)” for “paragraph (a) or (d)”;

- (b) the insertion of the following paragraphs after paragraph
(b) of subsection (2):

“(c) The provisions of section 12 shall apply to an appli-
cation for entry in the supplement to the postal
voters list under this section from an elector
referred to in section 14(c) as if the reference in
section 12 to qualifying date were a reference to
the latest date for receipt of an application under
subsection (4) and as if in subsection (3) of that
section ‘, not later than the date specified for that
purpose in the Second Schedule,’ were deleted.

- (d) The provisions of Part III (other than Rules 19(c), 21
and 23 (3)) of the Second Schedule shall apply to
an application for entry in the supplement to the
postal voters list under this section from an elector
referred to in section 14(a) or 14(b) as if—

(i) references in that Part to ‘special voters list’
were references to ‘supplement to the postal
voters list’;

(ii) the reference in that Part to ‘section 17’ were
a reference to this section and references in
that Part to ‘section 17(2)’ were references to
‘section 14(a) or 14(b)’;

(iii) in Rule 19(d), ‘and, where appropriate, the
certificate referred to in paragraph (c)’ were
deleted and ‘to the registration authority’
were substituted for ‘so as to be received by
the registration authority not later than the
date specified in Rule 1’;

(iv) in Rule 22, ‘at such times and places as are
specified in a notice published pursuant to
Rule 21,’ were deleted;

(v) in Rule 23, subparagraph (c) of paragraphs (1)
and (2) were deleted.”;

- (c) the substitution of the following subsection for subsection
(4):

“(4) An application by an elector to have his name
entered in the supplement to the postal voters list
received by the registration authority on or after the third
day after the dissolution of the Dáil at a general election
or on or after the third day after the date of the making
of the order appointing polling day at a Dáil bye-election,

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or a Presidential, European or local election, or an election to *Údarás na Gaeltachta* or a referendum shall not have effect in relation to that election or referendum.”;

and

(d) in subsection (5), the insertion of “or an election to *Údarás na Gaeltachta*” after “local election”.

Amendment of section 15B of Principal Act.

8.—Section 15B of the Principal Act (inserted by section 76 of the Act of 1997) is amended by—

(a) the substitution of the following subsection for subsection (4):

“(4) An application by an elector to have his name entered in the supplement to the special voters list received by the registration authority on or after the third day after the date of the dissolution of the *Dáil* at a general election or on or after the third day after the date of the order appointing polling day at a *Dáil* bye-election or a Presidential, European or local election or an election to *Údarás na Gaeltachta* or a referendum shall not have effect in relation to that election or referendum.”;

and

(b) in subsection (5), the insertion of “or an election to *Údarás na Gaeltachta*” after “local election”.

Sections 15A and 15B of Principal Act: supplemental provision.

9.—The Principal Act is amended by the insertion of the following section after section 15B (inserted by section 76 of the Act of 1997):

“Supplements to the postal and special voters lists where more than one poll is held on same day.

15C.—Notwithstanding the provisions of subsection (4) of section 15A or subsection (4) of section 15B, where an application by an elector to have his name entered in the supplement to the postal voters list or the supplement to the special voters list is received after the relevant date referred to in subsection (4) of section 15A or subsection (4) of section 15B in relation to an election or a referendum but before the relevant date referred to in either of the said subsections in relation to another election or referendum, the poll at which is to be held on the same day, the relevant date for the second or subsequent election or referendum shall apply to an application received under subsection (4) of section 15A or subsection (4) of section 15B in connection with the elections or referendums.”.

Amendment of section 16 of Principal Act.

10.—The Principal Act is amended by the substitution of the following section for section 16:

“Electors lists to replace draft register, register and supplement in the case of specified registration authorities.

16.—(1) The Minister may, by direction, specify a registration authority or registration authorities which shall publish electors lists in place of the draft register referred to in Rule 5(6) of Part 1, the register of electors referred to in Rule 13 of Part I and the supplement referred to in Rule 15 of Part II of the Second Schedule. In

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addition to the foregoing, the direction may specify that versions— Pr.2 S.10

(a) of such lists that are of a like kind to the edited register, and

(b) of such lists that are of a like kind to the edited supplement,

(which lists shall be known and are in this Act referred to as ‘edited electors lists’) shall be published in place of such an edited register and edited supplement by the registration authority concerned.

(2) The electors lists shall consist of—

(a) the register of electors in force at the time of publication of the electors lists (in this Act referred to as ‘List A’),

(b) a list (in this Act referred to as ‘List B’) of persons entitled on the qualifying date or otherwise to be registered as electors in respect of particular premises and whose names are not included in List A in respect of such premises, including persons entitled under section 15 to be entered on the supplement to the register, and

(c) a list (in this Act referred to as ‘List C’) of persons whose names appear on List A, and who, on the qualifying date or otherwise were not entitled to be registered as electors in respect of the premises stated in List A.

(3) Part II of the Second Schedule shall apply to applications to be entered in List B following the publication of the register.

(4) The Minister may give a direction under this section as often as he thinks fit.

(5) (a) The Minister may amend or revoke a direction under this section.

(b) Without prejudice to the generality of paragraph (a), a direction under this subsection may provide for the discontinuance of the publication of electors lists by a registration authority the subject of a direction under subsection (1), and for the publication by that registration authority of a draft register, register and supplement to the register.

(6) Where a direction under subsection (1) is in force in respect of a registration authority, a reference in this Act or in any other enactment to the draft register, register or supplement shall

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be construed as a reference to electors lists in so far as it applies to the said registration authority.

(7) A direction under subsection (4) may provide for the publication of—

- (i) Lists B and C on or before the specified date in each year referred to in Rule 5 of Part I of the Second Schedule.
- (ii) List A, incorporating entries in Lists B and C, on the specified date in each year referred to in Rule 13(2) of Part I of the Second Schedule, or as soon as may be after the fourteenth day (disregarding any excluded day) before polling day at an election or a referendum or at such other time that the registration authority thinks fit. Where a registration authority decides to publish a List A other than at the specified date referred to in Rule 13(2) of Part I of the Second Schedule or before an election or referendum, the authority shall publish a notice of its intention to publish a List A in such manner as may be specified in the direction.

(8) The provisions of the Second Schedule shall apply to Lists referred to in this section as if references to ‘draft register’, ‘register’ and ‘supplement’ were references to ‘Electors Lists’.

(9) A copy of a direction made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made.”.

Amendment of section 25 of Principal Act.

11.—Section 25 of the Principal Act is amended by the substitution of the following sections for section 25:

- “25.—(1) (a) There shall be an office the holder of which shall be known as the ‘Registrar of Political Parties’ and is in this Act referred to as the ‘Registrar’. The Registrar shall, subject to the provisions of this Part, prepare and maintain a Register of Political Parties (in this Part referred to as ‘the Register’).
- (b) The person who for the time being holds the office of Clerk of the Dáil shall be the Registrar. If and so long as the office of Clerk of the Dáil is vacant or the holder of that office is unable through illness, absence or other cause to fulfil the duties of the office, the Clerk-Assistant of the Dáil shall act as the Registrar for the purposes of this Part and references in this Part to the Registrar shall be construed accordingly.
- (c) If and so long as the office of Clerk of the Dáil and the office of Clerk-Assistant of the Dáil are vacant or the holders of those offices are unable

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through illness, absence or other cause to fulfil their duties, the Chairman of the Dáil may appoint a member of the Joint Staff of the Houses of the Oireachtas to act as the Registrar for the purposes of this Part and references in this Part to the Registrar shall be construed accordingly. Pr.2 S.11

(2) (a) A political party may apply to the Registrar to be registered in the Register as a party organised in the State or in a part thereof specified in the application to contest all or any of the following elections—

- (i) a Dáil election,
- (ii) a European election,
- (iii) a local election,
- (iv) an election to *Údarás na Gaeltachta*.

(b) An application for registration under this subsection shall be in writing in such form as shall be specified by the Registrar and shall contain such particulars as shall be specified in the form.

(3) A political party may apply for the registration in the Register of one emblem to be used by candidates of the party on ballot papers. An application under this subsection shall be in writing in such form as shall be specified by the Registrar and in accordance with directions specified on the form.

(4) Subject to subsection (5), the Registrar shall register a political party which applies for registration provided the application complies with the requirements of this Part and that—

(a) the party is organised in the State or in a part thereof specified in the application as a party organised to contest all or any of the elections referred to in subsection (2)(a), and

(b) (i) (I) the party has not less than 300 recorded members or, in the case of a party applying for registration as a party organised to contest elections in part of the State or local elections or *Údarás na Gaeltachta* elections only, 100 recorded members, each of whom (in any of the foregoing cases) has reached the age of 18 years, and

(II) at least fifty per cent of the recorded members are registered in the register of electors,

or

(ii) the party has at least one member who, at the time the application for registration is made, is a member of the Dáil or is a representative in the European Parliament (whether by reason of his having been elected as such a representative in the State or having been nominated as a replacement candidate under the European Parliament Elections Act, 1997) and who certifies in writing to the Registrar that he is a member of the party, or

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(iii) in the case of a party which applies for registration as a party organised to contest a local election only, it has at least 3 members who are, at the time the application for registration is made, members of a local authority and each of whom certifies in writing to the Registrar that he is a member of the party, or

(iv) in the case of a party which applies for registration as a party organised to contest an election to *Údarás na Gaeltachta* only, it has at least one member who is, at the time the application for registration is made, a member of the *Údarás na Gaeltachta* and who certifies in writing to the Registrar that he is a member of the party,

and

(c) the organisation and direction of the party are governed by a constitution, a memorandum of association or other such document or other written rules which have been adopted by the party and which provide for—

(i) an annual or other periodic meeting or conference of the party; and

(ii) the conduct of the business of the party by an executive committee or similar body elected by the party.

(5) A political party shall not be registered in the Register if its name—

(a) is identical with the name or an abbreviation or acronym of the name of any party for the time being registered in the Register or, so nearly resembles such name, abbreviation or acronym as to be likely to mislead, confuse or deceive, or

(b) comprises more than 6 words, or

(c) in the case of a party operating in relation to a particular part of the State, does not include such reference to that part as to distinguish the party as so operating.

(6) The Registrar shall not grant a request for registration in relation to an emblem if the emblem—

(a) would be likely to be confused by voters with an emblem which is already registered for another party,

(b) is obscene or offensive,

(c) is of such a character that its publication would be likely to amount to the commission of an offence, or

(d) includes a word or expression which, if it were, or were part of, the party concerned's name, would, by virtue of subsection (5), prevent the party from being registered in the Register.

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(7) The following particulars shall be entered in the Register Pr.2 S.11 in respect of a political party registered therein—

- (a) the name of the party, including any abbreviation or acronym,
- (b) the emblem, if an application for its registration under subsection (3) has been granted,
- (c) the address of the party's headquarters,
- (d) the name or names of the officer or officers of the party authorised to sign certificates authenticating the candidatures of candidates of the party at elections,
- (e) the type or types of election for which the party is registered as being organised to contest,
- (f) where the party is registered as organised to contest elections in a specified part of the State, a reference to that fact and to the part of the State concerned, and
- (g) the name of any political group in accordance with subsection (8).

(8) Where a party which is registered in the Register as a party organised to contest a European election, or which applies for such registration in the Register, informs the Registrar that a member of the party, being a representative in the European Parliament (whether by reason of his having been elected as such a representative in the State or having been nominated as a replacement candidate under the European Parliament Elections Act, 1997), is a member of a political group formed in accordance with the rules of procedure of the European Parliament, the Registrar shall, if that member certifies in writing to the Registrar that he is a member of that party and that group, note on the Register, in relation to the party, the name of that group.

(9) As soon as the Registrar has considered an application for registration under subsection (2) or (3), he shall notify the applicant of the decision on the application (stating reasons in the case of refusal and the provisions of this Act enabling an appeal against the decision) and shall cause notice thereof to be published in *Iris Oifigiúil*.

Amendments to Register.

25A.—(1) If there is any change in the particulars entered in the Register with respect to the name or names of the officer or officers of a political party referred to in paragraph (d) of section 25(7) or in the address of the party's headquarters, the party shall, as soon as may be after the change occurs, inform the Registrar of the change and, where appropriate, the Registrar shall amend the particulars entered in the Register in relation to the party accordingly.

(2) A political party registered in the Register may apply in writing to the Registrar in such form as shall be specified by the

Registrar to have any of the particulars, including party emblem (other than those referred to in subsection (1)) entered in the Register in relation to the party amended and the Registrar shall consider each such application and may, subject to the provisions of section 25 and this section, amend the Register accordingly.

(3) As soon as the Registrar has considered an application for amendment of the Register under subsection (2), he shall notify the applicant of the decision on the application (stating reasons in the case of refusal and the provisions of this Act enabling an appeal against the decision) and shall cause notice thereof to be published in *Iris Oifigiúil*.

(4) The Registrar shall, with respect to each party registered in the Register, inquire in writing at least once in each year from an officer referred to in section 25(7) whether the party desires to remain registered and, unless the Registrar receives an affirmative reply to such an inquiry within 21 days from the date of the making of such inquiry, subsection (5) shall apply in relation to the party.

(5) Where a political party registered in the Register fails to comply with subsection (1), or information provided by it, in purported compliance with that subsection, is not such as to enable the Registrar to comply with section 25(7) or otherwise fails to comply with the requirements of this Part, the Registrar shall, following such inquiry as he thinks fit, publish in *Iris Oifigiúil* notice of his intention to cancel the registration of the party. The Registrar shall notify the party concerned of his intention and such a notification shall include a reference to the provisions of this Act enabling an appeal against the decision.

(6) Any doubt, dispute or question arising in connection with the particulars required to be entered in the Register pursuant to section 25(7) shall be decided by the appeal board and shall be deemed to be an appeal under section 25B. The Registrar or the political party concerned may submit the doubt, dispute or question to the appeal board in accordance with section 25B(3).

Appeal against
decision of
Registrar.

25B.—(1) A decision by the Registrar in relation to—

- (a) an application for registration under subsection (2) or (3) of section 25, or

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- (b) an application under subsection (2) of section 25A for amendment of the particulars entered in relation to a party in the Register, or
- (c) the cancellation of the registration of a party under subsection (5) of section 25A,

may be questioned by an appeal to the appeal board under this section and, pending the determination by the appeal board of such an appeal, the decision of the Registrar shall not have effect.

(2) Where the Registrar has decided to refuse an application for registration including the registration of an emblem or an application for an amendment of the Register and has stated the reasons for so doing in accordance with subsection (9) of section 25 or subsection (3) of section 25A, such statement shall be regarded as a sufficient statement of the reasons for the decision.

(3) (a) Not later than 12 noon on the twenty-first day after the publication in *Iris Oifigiúil* of a decision by the Registrar on an application for registration under subsection (2) or (3) of section 25 or for the amendment of the particulars in relation to a party entered in the Register under section 25A(2) or in regard to the cancellation of the registration of a party under section 25A(5), an appeal may be made to the appeal board against the decision—

- (i) in the case of a decision to refuse either an application for registration including the registration of an emblem or an application for an amendment of the Register, by the party by which the application was made,
- (ii) in the case of a decision to allow either an application for registration or an application for amendment of the Register, by any political party registered in the Register at the time of the giving by the Registrar of such notice,
- (iii) in the case of a decision to cancel a registration, by the

party whose registration it is proposed to cancel.

- (b) Where no appeal is made under this subsection within the period specified in paragraph (a), the decision shall at the expiration of the said period become final and the Registrar shall notify the applicant or, as the case may be, the party whose registration he has decided to cancel.
- (c) An appeal under this subsection shall be in writing, shall state the grounds on which the appeal is made, shall be addressed to the Clerk of the Seanad and shall be delivered or sent by post so as to reach the Clerk not later than the time specified in paragraph (a), together with the deposit referred to in paragraph (d), and any such appeal which is received by the Clerk of the Seanad after that time shall not be entertained or considered by the appeal board.
- (d) An appeal under this section shall not be considered by the appeal board unless at the time the appeal is made a deposit of £500 is lodged with the Clerk of the Seanad by, or on behalf of, the appellant, which sum shall on the determination of the appeal be returned to the person by whom it was made unless the appeal board considers the appeal to be frivolous or vexatious and directs that the deposit be forfeited.
- (e) A deposit forfeited under this section shall be disposed of by the Clerk of the Seanad in such manner as may be directed by the Minister for Finance.
- (f) The Clerk of the Seanad, immediately on receipt of an appeal under this subsection, shall—
 - (i) notify the Registrar of such receipt;
 - (ii) furnish the Registrar with a copy of the appeal;
 - (iii) publish a notice in *Iris Oifigiúil* that an appeal has been lodged; and

- (iv) make the documentation in relation to the appeal available for inspection at all convenient times. Pr.2 S.11
- (g) Any services, including the services of staff, that may reasonably be required by the appeal board for the purposes of its functions under this section shall be made available to it by the Chairman of the Dáil from the Joint Staff of the Houses of the Oireachtas.
- (4) (a) For the purposes of considering appeals under subsection (3) there shall be an appeal board which shall consist of a Judge of the High Court (to be nominated by the President of the High Court), who shall be chairman, the Chairman of the Dáil (or where the Chairman of the Dáil is unable, through illness, absence or other cause to fulfil the duties of the office or the office of Chairman is vacant, the Deputy Chairman of the Dáil) and the Chairman of the Seanad (or where the Chairman of the Seanad is unable, through illness, absence or other cause to fulfil the duties of the office or the office of Chairman is vacant, the Deputy Chairman of the Seanad).
- (b) The appeal board, in determining an appeal under this section, shall consider—
- (i) the grounds for the appeal stated pursuant to subsection (3)(c), and
- (ii) such information (if any) as was made available to the Registrar in connection with the application for registration (including registration of a political party emblem), the application for amendment of the Register or the proposed cancellation of the registration, as the case may be.
- (c) The Registrar shall give to the appeal board such information in relation to every appeal considered pursuant to this section as the appeal board may reasonably require of him.

(d) If information additional to that referred to in paragraph (b)(ii) is furnished to the appeal board, the appeal application, if the board considers it appropriate and directs accordingly, shall be returned to the Registrar for his consideration and treated, if appropriate, as a new application for registration or an amendment of the Register by the Registrar.

(e) The decision of the appeal board shall be final and shall be complied with.

General provisions relating to Registration.

25C.—(1) A decision by the Registrar on an application for registration, including the registration of an emblem, or for amendment of the particulars entered in the Register in respect of a party or in relation to the cancellation of the registration of a party under section 25A(5) or a decision by the appeal board on an appeal under section 25B shall not have effect in relation to the relevant election where the decision of the Registrar or the board is made or the period for making an appeal under section 25B(3) against the decision of the Registrar expires—

(a) in the case of a Dáil election relative to a party registered or seeking registration (including registration of a political party emblem) as a party organised to contest a Dáil election, after the date of the issue of the writ or writs,

(b) in the case of a European election relative to a party registered or seeking registration (including registration of a political party emblem) as a party organised to contest a European election, after the date of the making of the order of the Minister under section 10 of the European Parliament Elections Act, 1997,

(c) in the case of a local election relative to a party registered or seeking registration (including registration of a political party emblem) as a party organised to contest a local election, after the date of the making of the order of the Minister under section 21 of the Local Government Act, 1994,

(d) in the case of an election to *Údarás* Pr.2 S.11
na Gaeltachta relative to a party
registered or seeking registration
(including registration of a politi-
cal party emblem) as a party
organised to contest an election
to *Údarás* na Gaeltachta, after
the date of the making of the
order of the Minister for Arts,
Heritage, Gaeltacht and the
Islands under article 6 of the
Údarás na Gaeltachta Elections
Regulations, 1979 (S.I. No. 355 of
1979).

(2) The Registrar shall maintain the Register at his office, permit any person to inspect the Register at such time and under such conditions as may be specified by the Registrar and shall furnish, on request, to any person a copy of the Register.

(3) Where an order of a court or a request by any person is made for the production by the Registrar of the Register or a copy thereof, the production of a copy of the Register accompanied by a certificate of the Registrar that such copy is a copy of the Register shall in any civil or criminal proceedings be *prima facie* evidence of the fact so certified and it shall not be necessary, unless the court on receipt of the certificate and copy of the Register so orders, for the Registrar to attend in person to attest to any matter relating to the Register or the certificate.

(4) The Registrar may require any person to give any information in the possession of such person which the Registrar may require for the purpose of his duties under this Part.

(5) (a) Without prejudice to subsection (4), the Registrar may require from any political party which applies for registration (including registration of an emblem) in, or for amendment of, the Register all such information as the Registrar reasonably requires for the determination of the application, and the Registrar may refuse the application of any party which fails or refuses to give any information so required of it under this section.

(b) For the avoidance of doubt, notwithstanding the authority of the Registrar to request information, it shall be the duty of every political party which applies for registration (including the registration

of an emblem) in, or for amendment of, the Register to provide to the Registrar such information as may be necessary to enable the Registrar to consider the application.

(c) The Registrar may require that—

(i) information furnished for the purposes of this Part shall be accompanied by a statutory declaration made by the person by whom the information is furnished (or by such other person as the Registrar considers appropriate in the circumstances) that, to the best of the person's knowledge and belief, the information is correct in every material respect and that the person has taken all reasonable steps in order to be satisfied as to the accuracy of the information;

(ii) any statement in relation to the number of recorded members of a party shall be certified by a public auditor.

(d) In paragraph (c) 'public auditor' means a public auditor, for the purposes of the Industrial and Provident Societies Acts, 1893 to 1978, and the Friendly Societies Acts, 1896 to 1977.

(6) (a) Where a party is registered in the Register as a party organised to contest a particular type or types of election, the registration shall have effect only in relation to elections of the type or types concerned.

(b) Where a party is registered in the Register as a party organised to contest an election or elections in a specified part of the State, the registration shall have effect only in relation to that part of the State.

(7) Not later than the third day (disregarding any excluded day) after the day of the issuing under section 39 of the writ or writs at a Dáil election, the Registrar shall send to the returning officer or each returning officer, as the case may be, a copy of the Register then in force, including a

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copy of the emblems of political parties registered in it. Pr.2 S.11

(8) The Minister for Finance shall, out of moneys provided by the Oireachtas, pay to the Registrar the amount of his reasonable charges, not exceeding such amount as may be sanctioned by that Minister, in respect of the performance by the Registrar of his duties under this Part.

(9) The Register of Political Parties in force at the commencement of *section 11* of the *Electoral (Amendment) Act, 2001*, shall be deemed to be the Register prepared and maintained under this Part, including for the purpose of applications in writing made to the Registrar for registration in respect of Údarás na Gaeltachta elections.”.

12.—Section 28 of the Principal Act is amended by—

Amendment of section 28 of Principal Act.

(a) the substitution of the following subsection for subsection (2):

“(2) (a) A scheme under this section made by the local authority shall come into operation on the day specified in the scheme.

(b) A copy of a scheme made pursuant to this section shall, as soon as may be after it is made, be furnished to the Minister by the local authority.”,

and

(b) the deletion of subsection (3).

13.—Section 29 of the Principal Act is amended by—

Amendment of section 29 of Principal Act.

(a) the deletion in subsection (2) of “be subject to confirmation by the Minister (who may confirm the arrangement with or without modification) and shall”,

and

(b) the insertion of the following subsection after subsection (2):

“(2A) An arrangement made pursuant to subsection (1) shall be notified to the Minister by the appropriate officer.”.

14.—Section 32 of the Principal Act is amended by the substitution of the following subsection for subsection (4):

Amendment of section 32 of Principal Act.

“(4) On the request of a returning officer for an advance on account of his charges the Minister for Finance may, after consultation with the Minister (irrespective of whether the scale of charges referred to in subsection (1) has been prepared or not), if he thinks fit and on such terms as he thinks fit, make such an advance.”.

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Amendment of
section 41 of
Principal Act.

15.—Section 41 of the Principal Act is amended by the substitution of the following paragraph for paragraph (b):

“(b) will not reach the age of 21 years on polling day or, if there is no polling day in relation to the constituency concerned by reason of the operation of section 58(b), the day which is polling day generally throughout the State in relation to the election concerned, or”.

Amendment of
section 46 of
Principal Act.

16.—Section 46 of the Principal Act is amended by—

(a) in subsection (4)—

(i) the substitution of “section 25(7)(d)” for “section 25(4)(c)”,

(ii) the substitution of the following sentence for the second sentence in that subsection:

“Where such a certificate is produced, the returning officer, provided he is satisfied that it is appropriate to do so in relation to the candidate, shall cause—

(a) a statement of the name of the relevant political party and a copy of the political party’s emblem as registered in the Register of Political Parties to be specified in relation to the candidates on all the ballot papers, and

(b) a statement of the name of the relevant political party to be specified in relation to the candidate on notices.”,

and

(b) in subsection (7), the substitution of “section 25C(7)” for “section 25(14)”.

Amendment of
section 48 of
Principal Act.

17.—Section 48 of the Principal Act is amended by the substitution of the following paragraph for paragraph (e) of subsection (1):

“(e) is not elected but the greatest number of votes credited to him at any stage of the counting of votes at the election exceeds, in the case of a general election, one quarter of the quota, or, in the case of a bye-election, one quarter of what would have been the quota in that constituency were the full number of members of the Dáil for the existing constituency to be elected.”.

Amendment of
section 49 of
Principal Act.

18.—Section 49 of the Principal Act is amended by the substitution of “seventh” for “ninth”.

Amendment of
section 62 of
Principal Act.

19.—Section 62 of the Principal Act is amended by—

(a) the substitution of “seventh” for “ninth” in subsection (2)(d), and

(b) the substitution of “subsection (7) of section 25C” for “subsection (14) of section 25” in subsection (2)(g).

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20.—Section 63 of the Principal Act is amended by—

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Amendment of section 63 of Principal Act.

(a) the substitution of “seven” for “nine” in subsection (1)(b)(v)(I), and

(b) the substitution of “subsection (7) of section 25C” for “subsection (14) of section 25” in subsection (1)(b)(vi).

21.—Section 88 of the Principal Act is amended by—

Amendment of section 88 of Principal Act.

(a) the insertion of “subject to any modifications which may be provided for in regulations under paragraph (cc) of subsection (2)” after “Fourth Schedule” in subsection (1),

(b) the insertion of the following paragraph after paragraph (c) of subsection (2):

“(cc) a ballot paper may include a photograph of each candidate and the emblem of the candidate’s political party registered in the Register of Political Parties in accordance with the requirements prescribed in regulations which may be made by the Minister (and such regulations may provide for the modification of the form of the ballot paper for that purpose),”

(c) the insertion of “and the modifications which may be provided for in regulations under paragraph (cc)” after “Fourth Schedule” in paragraph (f) of subsection (2),

and

(d) the insertion of the following subsection after subsection (2):

“(3) A notice containing a copy of the ballot paper in large print shall be displayed by the presiding officer in the polling station.”

22.—Section 92 of the Principal Act is amended by the insertion of “and, where appropriate, other information concerning the poll, including the address of the polling station” after “section 111” in subsection (1).

Amendment of section 92 of Principal Act.

23.—Section 96(1) of the Principal Act is amended by the substitution of—

Amendment of section 96 of Principal Act.

(a) “eighteenth” for “seventeenth” in paragraph (a), and

(b) “7 a.m.” for “8 a.m.” in paragraph (b).

24.—Section 98 of the Principal Act is amended by the insertion in paragraph (f) of “or who are unable to read or write to such an extent” after “physically incapacitated”.

Amendment of section 98 of Principal Act.

25.—Section 99 of the Principal Act is amended by—

Amendment of section 99 of Principal Act.

(a) the insertion of “(1)” before “Where”,

and

(b) the insertion of the following subsection after subsection (1):

“(2) (a) Where a Dáil elector is employed by a returning officer for any purpose in connection with a Dáil election and is registered to vote in a constituency, other than one in which the employment occurs, the elector shall, on application being made by him in that behalf, be entitled to have his name entered in a supplement to the postal voters list which the registration authority is empowered to prepare and publish in accordance with section 15A. An application under this section shall be made on a form directed by the Minister, and the returning officer who is employing the person shall certify on the form that the person will be employed by him on polling day in connection with the election and will be unable to vote in person in the constituency at the polling station at which the Dáil elector would otherwise be entitled to vote.

(b) Where an application under paragraph (a) is granted, the registration authority shall note the register of electors by placing a mark on the register against the number and name of the elector to denote that the elector’s name is on the postal voters list.

(c) Section 15A(2)(d) shall apply to an application for entry in a supplement to the postal voters list under paragraph (a) as if references in that provision to paragraph (a) or (b) of section 14 were references to subsection (2).

(d) Subsection (4) of section 15A shall not apply to an application under this subsection.”.

Amendment of section 103 of Principal Act.

26.—Section 103 of the Principal Act is amended by the insertion in subsection (3) of “or that he is unable to read or write to such an extent” after “physically incapacitated”.

Amendment of section 111 of Principal Act.

27.—Section 111(2) of the Principal Act is amended by—

(a) the substitution of the following subparagraph for subparagraph (iii) (including the words in brackets) of paragraph (c):

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

and

(b) the substitution of “have reached the age of eighteen years” for “had attained the age of eighteen years on (*date of coming into force of the register*)” in paragraph (d).

Amendment of section 114 of Principal Act.

28.—Section 114 of the Principal Act is amended by the insertion of the following subsection after subsection (1):

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“(1A) For the purposes of subsection (1), the manner in which a ballot box, being a box containing not more than 50 ballot papers, shall be opened shall be such that, although the box is opened in the presence of the agents of the candidates, the preferences on the individual ballot papers cannot be read by those agents or other persons present at the count.”.

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29.—Section 121 of the Principal Act is amended by—

Amendment of section 121 of Principal Act.

- (a) the substitution of the following subsection for subsection (8):

“(8) The returning officer shall not transfer the surplus of a candidate deemed to be elected whenever that surplus, together with any other surplus not transferred, is less than both the difference between the quota and the number of votes credited to the highest continuing candidate and the difference between the numbers of the votes credited to the two lowest continuing candidates and either—

- (a) the number of votes credited to the lowest candidate is greater than one quarter of the quota or, in the case of a bye-election where there is more than one vacancy to be filled in a constituency, one quarter of what would have been the quota were the full number of members of the Dáil for the existing constituency to be elected, or
- (b) the sum of the number of votes credited to the lowest candidate together with that surplus and any other surplus not transferred is not greater than one quarter of the quota or, in the case of a bye-election where there is more than one vacancy to be filled in a constituency, one quarter of what would have been the quota were the full number of members of the Dáil for the existing constituency to be elected.”,

and

- (b) the substitution of the following subsection for subsection (11):

“(11) Subject to subsections (8) and (9), where two or more candidates have each an equal surplus arising from different counts, a surplus which arises at the end of any count shall be transferred before a surplus which arises at a subsequent count.”.

30.—Section 122(2) of the Principal Act is amended by—

Amendment of section 122 of Principal Act.

- (a) the insertion after “one quarter of the quota” in paragraph (a) of “or, in the case of a bye-election, one quarter of what would have been the quota in that constituency were the full number of members of the Dáil for the existing constituency to be elected”,

and

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(b) the substitution of the following paragraph for paragraph (b):

“(b) where the number of votes credited to any one of such two or more lowest candidates does not exceed one quarter of the quota, or, in the case of a bye-election, one quarter of what would have been the quota in that constituency were the full number of members of the Dáil for the existing constituency to be elected, it is clear that the exclusion of the candidates separately in accordance with subsection (1) and the transfer of any untransferred surplus could not result in a number of votes exceeding one quarter of the quota, or, in the case of a bye-election, one quarter of what would have been the quota in that constituency were the full number of members of the Dáil for the existing constituency to be elected, being credited to any such candidate.”.

Amendment of section 124 of Principal Act.

31.—Section 124 of the Principal Act is amended by—

(a) the insertion after subsection (1) of the following subsection:

“(1A) When the number of continuing candidates exceeds by one the number of vacancies remaining unfilled and the total of the votes credited to the lowest continuing candidate together with the surplus or surpluses not transferred is less than the number of votes credited to the next highest continuing candidate, the continuing candidates, with the exception of the lowest such candidate, shall thereupon be deemed to be elected.”,

and

(b) the insertion in subsection (3) of “or in the case of a bye-election where there is more than one vacancy to be filled in a constituency, one quarter of what would have been the quota were the full number of members of the Dáil for the existing constituency to be elected” after “quota”.

Amendment of section 133 of Principal Act.

32.—Section 133(2) of the Principal Act is amended by—

(a) the insertion of “or” in paragraph (c) after “special voters list,”,

(b) the insertion of the following paragraph after paragraph (c):

“(d) uses or causes to be used information in a copy of the register of electors, including a supplement to the register, or a copy of the draft register or electors lists for reasons other than electoral or other statutory purposes where an elector has indicated that he does not wish the information to be so used,”,

and

(c) the insertion of the following subsection after subsection (2):

“(2A) Where an offence under subsection (2)(d) is committed by a body corporate and is proved to have

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been so committed with the consent, connivance or approval of or to be attributable to any neglect on the part of a person being a director, manager, secretary or other officer of the body corporate, or any other person who was acting or purporting to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and be liable to be proceeded against and punished as if he were guilty of the first-mentioned offence.”.

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33.—Section 147 of the Principal Act is amended by the substitution of “50 metres” for “100 metres” in subsection (2).

Amendment of section 147 of Principal Act.

34.—The Second Schedule to the Principal Act is amended by—

Amendment of Second Schedule to Principal Act.

(a) the substitution of “section 14” for “section 14(d)” in paragraphs 2 and 4 of the Table to paragraph (4) of Rule 1,

(b) the insertion in Rule 5 after paragraph (2) of the following paragraph:

“(2A) The registration authority or local authority referred to in paragraph (2) shall include in any registration form delivered to each house or building for the purposes of this Rule, or in their other enquiries, a question which will enable an elector who completes the form on his own behalf or on behalf of other electors resident in the house or building or responds to the question by a representative of the registration or other authority to state that the elector or other person included on the form to whom the enquiry relates does not wish his name and address to be used for a purpose other than an electoral or other statutory purpose.”,

(c) the substitution in Rule 6(1)(a) of “to the Minister, if requested, and to” for “to the Minister,”,

(d) the substitution in Rule 13(4)(a) of “to the Minister, if requested, and to” for “to the Minister,”,

(e) in Rule 14—

(i) the substitution of the following paragraphs for paragraphs (2) and (3):

“(2) The fee for a copy of the register, edited register or draft register or any part thereof shall be fifty pence plus the sum of ten pence for each one hundred by which the number of persons in the register, edited register or draft register or part thereof exceeds one hundred.

(3) The registration authority shall, on payment of the said fee, supply to any person a copy of the register, edited register or draft register or the appropriate part thereof in printed form or in electronic format.”,

and

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(ii) in paragraph (4)(bb) (inserted by the Electoral Act, 1997) the insertion of “or a body declared to be an approved body under section 7 of the Referendum Act, 1998” after “Seanad” where that word secondly occurs,

(f) the insertion of the following Rules after Rule 14:

“PART IA

Edited version of the Register of Electors

14A. (1) Following publication of the register of electors in accordance with Rule 13 of Part 1 of this Schedule, the registration authority shall prepare and publish a version of the register by omitting therefrom the names and addresses of registered electors or electors on whose behalf requests have been made that their details should not be used for a purpose other than an electoral or other statutory purpose.

(2) Where an elector whose details are included in an edited register or edited supplement or edited electors list requests the registration authority to delete the elector’s details from the edited register, edited supplement or edited electors list, the registration authority shall note the request and notify any person who received a copy of the edited register, edited supplement or edited electors list of the request.

14B. The registration authority may supply on request to any person a copy of the edited register or edited supplement or of an edited electors list or part of such a register or list in printed form or in electronic format on payment of a fee which fee shall be calculated in accordance with paragraph (2) of Rule 14.”,

and

(g) the deletion in Rule 18(1) of “on or” after “were received”.

PART 3

DIRECT VOTE RECORDING AND ELECTRONIC VOTE COUNTING

35.—In this Part—

Interpretation
(Part 3).

“cartridge or disc” means a device that is used in a voting machine to record each vote;

“electronic” includes electrical, digital, magnetic, optical, electromagnetic, biometric, photonic and any other form of related technology;

“electronic voting system” means a voting system in which the votes are automatically counted and the results automatically tabulated by use of electronically operated apparatus;

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“voting machine” means an apparatus on which voters cast their votes, that records each vote, and that furnishes a total of the number of votes cast on the machine at a poll at the election or, as the case may be, cast at a referendum; Pr.3 S.35

“voting system” means a method of casting and counting votes that is designed to function wholly or partly by use of mechanical, electro-mechanical or electronic apparatus and includes the procedures for casting and counting votes and the programmes, operating manuals, printouts and other software necessary for the system’s operation;

“voting system equipment” means any kind of mechanical, electro-mechanical or electronic apparatus for use in a voting system.

36.—(1) Notwithstanding the provisions contained in Parts XVII, XVIII and XIX of the Principal Act, voting and vote counting at a Dáil election may be undertaken on voting system equipment approved for such purposes by the Minister. Direct vote recording and electronic vote counting.

(2) The Minister may by order designate a constituency or constituencies in which voting machines and electronic voting systems or other equipment approved under *subsection (1)* shall be used at Dáil elections.

(3) Every order made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made.

(4) The Minister may, subject to section 31 of the Principal Act, whenever he or she thinks proper so to do, issue to all returning officers or any returning officer such instructions in relation to voting and vote counting under this Part as he or she shall consider necessary or expedient in order to ensure smooth and efficient voting and vote counting and to secure uniformity of procedures under this Part.

(5) No returning officer shall be required or authorised by an instruction given by the Minister under *subsection (4)* to do any act (whether of commission or omission) which is contrary to this Part or the Principal Act.

(6) Sections 96, 98, 99, 100 and 106 of the Principal Act shall apply to voting under this Part.

37.—(1) The expenses incurred by returning officers in acquiring voting systems for the purposes of this Part shall be paid by the Minister for Finance out of the Central Fund or the growing produce thereof. Expenses.

(2) On request of a returning officer for an advance on account of his or her expenses under *subsection (1)*, the Minister for Finance may, if he or she thinks fit on such terms as he or she thinks fit, make such an advance.

(3) An advance under *subsection (2)* may be made to a returning officer irrespective of whether an order under section 96(1)(a) of the Principal Act has been made or not or a scale of maximum charges under section 32 of the Principal Act has been made or not.

(4) An account of expenses under this section shall be included in the account to be submitted by the returning officer concerned to the Minister for Finance under *subsection (2)* of section 32 of the Principal Act.

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(5) The expenses incurred by the Minister in taking steps to advertise or otherwise give publicity to any voting system to be, or which has been, introduced in one or more constituencies or to provide an educational scheme in respect of such a system (which steps the Minister is hereby empowered to take) shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of the Central Fund or the growing produce thereof.

Modification of
certain provisions of
Principal Act.

38.—For the purpose of the application by virtue of this Act to voting and the counting of votes under this Part of certain provisions of the Principal Act, the said provisions as so applied shall have effect as if—

- (a) a reference in any such provision to a ballot paper or ballot papers, other than in the case of postal voting and voting by special voters, were a reference, where appropriate, to a ballot paper displayed on a voting machine;
- (b) a reference in any such provision to mark or marking in relation to a ballot paper, other than in the case of postal voting and voting by special voters, were a reference to pressing the designated space adjacent to a candidate's details on a ballot paper displayed on a voting machine;
- (c) a reference in any such provision to a ballot box or ballot boxes, other than in the case of postal voting and voting by special voters, were a reference to a voting machine or voting machines;
- (d) in section 30(3) of that Act, for “open the ballot boxes and count the votes”, in each place where those words occur, there were substituted “open the postal voter ballot boxes and count the votes in accordance with *Part 3* of the *Electoral (Amendment) Act, 2001*,”;
- (e) in section 31 of that Act, there were inserted “and the *Electoral (Amendment) Act, 2001*” after “with this Act”;
- (f) in section 37(1) of that Act, there were inserted “and the *Electoral (Amendment) Act, 2001*” after “this Act”;
- (g) in section 40 of that Act, there were inserted “or any votes cast on ballot papers on voting machines” after “any ballot papers used”;
- (h) in section 58(a) of that Act, there were inserted “and the *Electoral (Amendment) Act, 2001*” after “Act”;
- (i) in section 60 of that Act—
 - (i) there were inserted “and at the entry of votes on postal voters ballot papers on a voting machine” after “boxes” in paragraph (c) of subsection (1);
 - (ii) for “ballot boxes have been sealed by the presiding officer pursuant to section 110(2)” in subsection (6), there were substituted “voting machines are closed down by the presiding officer pursuant to *section 42* of the *Electoral (Amendment) Act, 2001*”;
 - (iii) there were inserted “and the entry of votes on postal voters ballot papers on a voting machine” after

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“postal ballot boxes” where those words first occur in subsection (7) and there were inserted “and the votes on the postal voters ballot papers are entered on a voting machine” after “to be opened” in that subsection; and

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- (iv) there were inserted “or the *Electoral (Amendment) Act, 2001*,” after “this Act” in subsection (11);
- (j) in section 62(3) of that Act, there were inserted “and any votes cast on ballot papers on voting machines” after “ballot papers” in paragraph (a);
- (k) in section 63(1) of that Act, there were inserted “and any votes cast on ballot papers on voting machines” after “ballot papers” in subparagraph (i) of paragraph (c);
- (l) in section 64 of that Act for “ballot paper placed in a ballot box” there were substituted “vote cast on a ballot paper on a voting machine”;
- (m) in section 66(1) of that Act there were deleted “, and indistinguishable from,” and for “delivered to” there were substituted “installed on a voting machine used by”;
- (n) in section 67 of that Act, there were inserted “and the counting of postal voters and special voters votes in accordance with section 43 of the *Electoral (Amendment) Act, 2001*” after “therein”;
- (o) in section 72 of that Act, the substitution of “After the final delivery of post to the returning officer on polling day but before” for “At the hour fixed for”;
- (p) in section 73 of that Act—
 - (i) there were deleted “time fixed for the” in subsection (1);
 - (ii) there were inserted “and enter the votes on the ballot papers in the postal voters ballot box on a voting machine” after “therein” in subsection (2); and
 - (iii) there were inserted in subsection (4) after “section 75.” “He shall count and note the number of ballot papers not contained in ballot paper envelopes placed in the ballot box.”;
- (q) in section 75 of that Act for “as a ballot box for the purposes of section 114” there were substituted “in accordance with section 43 of the *Electoral (Amendment) Act, 2001*. The returning officer shall count and note the number of ballot papers placed in the ballot box and include such details and the details referred to in section 73(4) in the statement referred to in section 76(5)”;
- (r) in section 76 of that Act, there were inserted “, the unused ballot papers” after “postal voters list”, where these words first occur in subsection (1);
- (s) in section 85 of that Act—

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- (i) for “ballot boxes”, in such places where those words occur in subsections (1)(b) and (2)(c), there were substituted “cartridges or discs from voting machines”;
 - (ii) for “at or before the hour of 9 a.m. on the day next after polling day” in subsection (1)(b) there were substituted “forthwith”; and
 - (iii) for “reach the place for the counting of the votes at or before the hour of 9 a.m. on the day next after the polling day appointed by the Minister” in subsection (2)(c) there were substituted “be sent to the place for the counting of the votes forthwith”;
- (t) in section 86 of that Act, for paragraph (b) there were substituted:
- “(b) where, after the poll has continued for not less than four hours, the presiding officer is of opinion that if the poll were further continued the cartridges or discs from voting machines could not be sent to the place for the counting of the votes forthwith, he may then close the poll.”;
- (u) in section 88 of that Act—
- (i) there were inserted “for postal and special voters” after “ballot papers” in each place where those words occur in paragraph (d) of subsection (2); and
 - (ii) there were inserted “, if any,” after “counterfoil” in that paragraph (d);
- (v) in section 89(1) of that Act, there were inserted “for a postal or special voter” after “ballot paper”;
- (w) in section 91 of that Act, there were inserted “voting machines,” after “ballot boxes,” in each place where those words occur;
- (x) in section 94 of that Act—
- (i) in subsection (5)—
 - (I) for “compartments” in paragraph (a) there were substituted “voting machines”;
 - (II) there were deleted paragraphs (c), (d) and (e); and
 - (III) in paragraph (i) (inserted by the Electoral (Amendment) Act, 1996) there were deleted “and placing in the ballot box”;and
 - (ii) in subsection (6), for “numbers on the ballot papers” there were substituted “serial numbers of the voting machines”;
- (y) in section 103 of that Act—

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- (i) in subsection (1), for “for a ballot paper” there were substituted “to vote”;
- (ii) in subsection (2), for “delivery of the ballot paper” there were substituted “permitting the elector to vote”;
- (iii) in subsection (3), for “into one of the compartments in the polling station and there shall mark the ballot paper for the elector and shall fold it and show the back of the folded paper to the presiding officer so as to disclose the official mark and forthwith place the paper in the ballot box” there were substituted “to a voting machine in the polling station and then vote on the ballot paper displayed on the voting machine for the elector”;
- (iv) in subsection (4), for “delivery of the ballot paper” there were substituted “permitting that person to vote for the elector”; and
- (v) in subsection (5), for “fold it and place it in the ballot box” there were substituted “vote on the voting machine”;
- (z) in section 104 of that Act—
- (i) in subsection (1)—
- (I) for “a ballot paper”, where those words first occur, there were substituted “a permission to vote”;
- (II) for “for a ballot paper” there were substituted “to vote”; and
- (III) for “to receive a ballot paper and mark and place it in the ballot box” there were substituted “to vote”;
- and
- (ii) in subsection (2)—
- (I) for “ballot papers issued pursuant to this section” there were substituted “cases arising under subsection (1)”; and
- (II) for “such papers” there were substituted “such permissions” referred to in that subsection;
- (aa) in section 105 of that Act—
- (i) in subsection (1), for “for or has applied for a ballot paper” there were substituted “to vote or has voted”; and
- (ii) in subsection (2), for “for a ballot paper”, in each place where those words occur, there were substituted “to vote”;
- (bb) in section 107(3) of that Act, for “open any of the ballot boxes” there were substituted “open the postal voters

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ballot box or cause to be read any votes on a cartridge or disc from any voting machine”;

(cc) in section 108 of that Act—

- (i) there were inserted “and the *Electoral (Amendment) Act, 2001*,” after “this Act” in paragraph (c); and
- (ii) for “open any of the ballot boxes” in paragraph (d) there were substituted “open the postal voters ballot box or cause to be read any votes on a cartridge or disc from any voting machine”;

(dd) in section 109 of that Act—

- (i) there were inserted “or voting machines” after “ballot boxes or ballot papers” where those words first occur;
- (ii) there were inserted “postal or special voter” after “(in the case of”;
- (iii) for “ballot boxes or ballot papers” in paragraph (a) there were substituted “voting machines”;
- (iv) in paragraph (e) there were inserted “and the *Electoral (Amendment) Act, 2001*,” after “this Act”; and
- (v) in paragraph (f) for “open any of the ballot boxes” there were substituted “open the postal voters ballot box or cause to be read any votes on a cartridge or disc from any voting machine”;

(ee) in section 111 of that Act, for “for a ballot paper” in paragraphs (b), (c) and (d) of subsection (2) there were substituted “to vote”;

(ff) in section 112 of that Act, there were inserted “and cartridges or discs from voting machines” after “ballot papers”;

(gg) in section 113(3) of that Act, for “the ballot papers have been correctly sorted” there were substituted “all the cartridges or discs from voting machines have been correctly accounted for”;

(hh) in section 117 of that Act, for “ballot papers” there were substituted “cartridges or discs from voting machines”;

(ii) in section 129 of that Act—

- (i) in subsection (1) there were deleted all the words from “sealed packets” down to and including “polling stations,” and there were substituted “sealed packets the cartridges or discs from voting machines and the statements referred to in sections 40(1), 42(2) and 43(5) and (6) of the *Electoral (Amendment) Act, 2001*,”; and
- (ii) for “section 114” in paragraph (b) of subsection (2) there were substituted “section 44 of the *Electoral (Amendment) Act, 2001*”;

(jj) in section 130 of that Act—

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- (i) the substitution for paragraph (d) of subsection (2) of the following:

“(d) the cartridge or discs referred to in subsection (1) of section 129 (as that subsection applies by virtue of *Part 3* of the *Electoral (Amendment) Act, 2001*) and the documents referred to in *paragraphs (a) and (b)* of *section 43(9)* of that Act.”.

- (ii) there were inserted “or the *Electoral (Amendment) Act, 2001*,” after “this Act” in subsection (3);

(kk) in section 131 of that Act there were inserted “and the *Electoral (Amendment) Act, 2001*,” after “Act”;

(ll) in section 134 of that Act—

- (i) for “for a ballot paper” in paragraphs (a) and (b) of subsection (1) there were substituted “to vote”;
- (ii) for “obtained a ballot paper” in subsection (1)(b) there were substituted “voted”;
- (iii) there were deleted “(otherwise than under section 102)” in paragraph 1(b); and
- (iv) in subsection (2) for “obtained a ballot paper” there were substituted “been permitted to vote”;

(mm) in section 137 of that Act—

- (i) in subsection (1), there were inserted “or at the entering of votes from postal and special voters ballot papers on a voting machine” after “postal ballot boxes”;
- (ii) in subsection (1)(b), for “the said issue or the said voting or the said opening” there were substituted “the said issue, voting, opening or entering”;
- (iii) in subsection (2), for “for a ballot paper” there were substituted “to vote” and “or as to the official mark” were deleted;
- (iv) in subsection (4)(a), for “marking his ballot paper” there were substituted “voting”;
- (v) in subsection (4)(b), there were deleted “, or as to the number on the back of the ballot paper issued to a voter at that station”; and
- (vi) in subsection (4)(c), for “display his ballot paper after the said voter has marked it so as to make known” there were substituted “disclose”;

(nn) in section 138(a) of that Act, there were inserted “or voting machine or cartridge or disc from a voting machine or software or other voting system equipment used for voting or vote counting” after “or any unused ballot paper”;

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- (oo) in section 150 of that Act, the reference to section 103 were a reference to section 103 as applied to this Part by *section 46*;
- (pp) in section 153 of that Act, there were inserted “or a cartridge or disc from a voting machine” after “ballot paper”;
- (qq) in section 161 of that Act, there were inserted “and the entering of votes on postal and special voter ballot papers on a voting machine” after “postal ballot boxes” in paragraph (c);
- (rr) in section 163 of that Act, there were inserted “or the *Electoral (Amendment) Act, 2001*,” after “this Act”; and
- (ss) in section 165(2) of that Act—
 - (i) there were inserted “postal voters and special voters” before “ballot papers” in paragraph (b);
 - (ii) there were inserted “or voting machines” after “ballot boxes” in paragraph (d); and
 - (iii) paragraph (e) were deleted.

Preparation of voting machines.

39.—(1) The returning officer shall, after the content of a ballot paper is finalised, arrange to have—

- (a) the ballot paper prepared for use on voting machines and installed on the voting machines for his or her constituency; and
- (b) the details of the ballot paper referred to in paragraph (a) inserted in the relevant cartridge or disc for recording votes to be cast on each such voting machine and such cartridge or disc installed in such voting machine.

(2) The returning officer shall ensure that, after installing a ballot paper and a cartridge or disc as aforesaid in the machine, each voting machine is operating satisfactorily.

(3) The returning officer shall cause the compartment of the machine which contains a cartridge or disc to be locked in such a manner as to prevent the compartment being interfered with without breaking the lock except in accordance with *section 42*.

Opening of the poll.

40.—(1) Immediately before the commencement of the poll the presiding officer at each polling station, after ensuring that the lock on the machine referred to in *section 39* has not been interfered with, shall operate the voting machine in his or her charge to demonstrate to such persons as are present in the polling station that no votes are cast or recorded on the machine. The presiding officer shall cause a printed statement to be produced by the machine showing the names of candidates on the ballot paper and that no votes are cast or recorded on the machine. The statement shall be signed by the presiding officer and witnessed by an agent or other person in the polling station. The presiding officer shall then place the voting machine in his or her view during the poll.

(2) An election shall not be questioned on the grounds that the requirement in *subsection (1)* with respect to the production by a

voting machine of the printed statement referred to in that subsection has not been complied with. Pr.3 S.40

41.—(1) Subject to the provisions of sections 38 and 79 of the Principal Act and sections 64, 99, 100, 103, 104, 105 and 111 of the Principal Act, as applied to this Part by sections 36, 38 and 46, the presiding officer shall permit a Dáil elector, who applies to vote and declares his name and address, to vote on a voting machine. Procedure for voting.

(2) Immediately before permitting a Dáil elector to vote—

- (a) the number (including polling district letter) and name of the elector as stated in the register shall be called out,
- (b) a mark shall be placed in the register against the number of the elector to denote that the elector has been permitted to vote, and
- (c) the presiding officer or person authorised by him or her shall open the voting machine or enable the elector to open the machine.

(3) A Dáil elector on receiving permission to vote shall (subject to the provisions of section 103 of the Principal Act as applied to this Part) go alone to one of the voting machines in the polling station and there shall secretly record his or her preferences on the ballot paper displayed on the voting machine and shall then cast his or her vote by pressing the vote button on that machine. He or she shall vote without undue delay and shall leave the polling station as soon as he or she has voted.

(4) Where an elector fails to cast his or her vote by pressing the vote button on the machine, the presiding officer shall de-activate the voting machine without approaching the voting machine.

(5) In a case to which *subsection (4)* applies, an elector shall not be entitled to re-apply to vote at the poll.

(6) The presiding officer shall keep a separate record and make out a separate statement in a form directed by the Minister of the number of electors permitted to vote on each voting machine in the polling station and the number of instances arising under *subsection (4)* with respect to the machine.

42.—(1) At the time fixed for the close of the poll the presiding officer shall take steps to ensure that no further Dáil electors are admitted to the polling station, but any elector on the premises at that time shall, subject to the provisions of the Principal Act and this Act, be entitled to vote. Duties of presiding officer at close of poll.

(2) As soon as practicable after the close of the poll, the presiding officer after ensuring that the lock referred to in *section 39* on each voting machine in the polling station has not been interfered with shall cause a statement showing the total number of votes recorded on the machine and a list of the candidates on the ballot paper at the polling station to be produced by the machine. The statement shall be signed by the presiding officer and witnessed by another person in the polling station. The presiding officer shall then open the lock and remove the cartridge or disc from each such voting machine so that no further votes can be entered therein.

(3) The presiding officer shall immediately send the said cartridge or disc together with the statements produced at the opening and close of the poll referred to in *section 40(1)* and *subsection (2)* to the returning officer together with a polling station reconciliation account, in such form as may be directed by the Minister, made out by him or her and shall seal up in separate packets—

- (a) the marked copies of the register of Dáil electors;
- (b) a statement prepared in accordance with section 104(2) of the Principal Act as applied by this Part;
- (c) any authorisations given by the returning officer under section 99 or 100 of the Principal Act authorising persons to vote at the polling station, and any undertakings by a personation agent to prove that a person has committed personation; and
- (d) unused stationery and other documents and materials relating to the Dáil election,

and shall deliver all such packets to the returning officer.

(4) The returning officer shall make adequate arrangements for the safe custody of the packages delivered in pursuance of this section and of all documents connected with the poll.

(5) An election shall not be questioned on the grounds that the requirement in *subsection (2)* with respect to the production by a voting machine of the printed statement referred to in that subsection has not been complied with.

Counting of postal and special voter ballot papers under this Part.

43.—(1) The sealed ballot box containing postal and special voters ballot papers shall be opened, in the presence of agents of the candidates and not less than 2 members of the returning officer's staff, before the conclusion of voting on polling day.

(2) The ballot papers extracted by the returning officer from the said ballot box shall be counted and their total number compared with the number shown in the appropriate ballot paper account prepared under section 76 of the Principal Act as applied to this Part by *section 46*.

(3) The returning officer, while counting and recording the number of ballot papers, shall cause the said papers to be kept face upwards and shall take due precautions to prevent any person from seeing the numbers printed on the backs of the said papers.

(4) Subsections (2) to (4) of section 118 of the Principal Act shall apply to ballot papers dealt with under this section.

(5) The returning officer shall reject any of the ballot papers that are invalid and before commencing the entry of ballot paper preferences, the returning officer shall operate the voting machine, which shall have a cartridge or disc installed in it in accordance with *section 39*, in his or her charge to demonstrate to such persons as are present that no votes are cast or recorded on the voting machine. The returning officer shall cause a printed statement to be produced by the voting machine showing the names of the candidates on the ballot paper and that no votes are cast or recorded on the machine. The returning officer shall then in the presence of agents and not less than 2 members of his or her staff enter the preferences shown on

the postal and special voters ballot papers on the ballot paper displayed on the voting machine. After the vote preferences have been entered on the said ballot paper from each postal or special voter ballot paper, the returning officer shall then press the vote button on the voting machine. Pr.3 S.43

(6) On completion of the entry of the votes in the voting machine, the returning officer shall cause a printed statement to be produced by the machine showing the number of votes recorded and a list of candidates on the ballot paper.

(7) The statements produced under *subsections (5) and (6)* shall be signed by the returning officer or a person authorised by him or her and witnessed by an agent or if no agent is present by another person present.

(8) The returning officer shall extract the cartridge or disc from the voting machine and retain it, together with statements produced by the voting machine, in a sealed envelope until the counting of votes commences in accordance with *section 44*.

(9) On completion of the activity referred to in *subsection (8)*, the returning officer shall place in separate sealed packets—

- (a) the postal and special voters ballot papers, and
- (b) the ballot papers rejected under *subsection (5)*,

and shall mark on each packet particulars of its contents, the date of the polling day at the election and the constituency to which it relates and such packets shall be sent to the Clerk of the Dáil together with the documents specified in *section 129* of the Principal Act.

(10) An election shall not be questioned on the grounds that the requirement in *subsection (5) or (6)* with respect to the production by a voting machine of the printed statement referred to in *subsection (5) or (6)* has not been complied with.

44.—(1) Following the closing of the poll, the returning officer, at the place appointed under *section 112* of the Principal Act, shall, unless circumstances arise that render it impracticable at that time to do so, proceed with the counting of the votes, in the presence of agents of the candidates, as the cartridges or discs referred to in *sections 42(3) and 43(8)* are received at the count centre. If circumstances as aforesaid arise, the returning officer shall, upon those circumstances ceasing to exist, proceed with the counting of the votes in the manner aforesaid. Preliminary proceedings and time for counting of votes.

(2) Immediately on receipt of the cartridges or discs from the various polling stations, including the cartridge or disc containing the votes of postal and special voters, the returning officer in the presence of the agents of the candidates shall insert each cartridge or disc in an apparatus provided in the constituency concerned for the purpose of counting the votes entered in the voting machines in the various polling stations in that constituency (in this Act referred to as a “constituency vote counting machine”).

(3) The returning officer shall compare the number of votes shown on the constituency vote counting machine in respect of each cartridge or disc from a voting machine with the number of votes recorded on the statements prepared pursuant to *sections 42(2) and*

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43(6) in respect of each machine and shall prepare a statement showing the result of this comparison in respect of all the voting machines. The returning officer shall, on request, allow the agent of any candidate to be present at that procedure and shall on request provide a copy of the second-mentioned statement to the agent of any candidate.

(4) When the cartridges or discs are received from all the voting machines for the constituency and are dealt with in accordance with *subsection (2)*, the returning officer shall cause the constituency vote counting machine to mix the votes recorded in all the cartridges or discs inserted on the said machine, to create a table of the mixed votes which shall be numbered in consecutive order, the number “1” being assigned to the vote placed highest in the table, the number “2” being assigned to the vote placed next highest in the table and so on, and to proceed to cause the said machine to count the votes in accordance with Part XIX of the Principal Act, as applied to this Part by *section 45*.

Application of Part XIX of Principal Act.

45.—(1) Part XIX of the Principal Act, other than section 125, and subsections (2), (3) and (4) of section 118 shall apply to the counting of votes under this Part. Any reference in that Part XIX to a ballot paper or paper shall be construed as a reference to a vote cast on a voting machine or, in the case of a reference to postal or special voters ballot papers, a vote entered in a voting machine.

(2) Any reference to the functions referred to in sections 119 to 124 of the Principal Act, as applied to this Part, being performed by the returning officer shall, subject to *subsection (6)*, be construed as a reference to the performance of those functions by electronic methods and, in particular, any reference in those sections to a parcel or sub-parcel of votes shall be construed as a reference to an analogous grouping together of votes by those methods and any reference in those sections to the physical treatment of, or a transfer being effected in respect of, such a parcel shall be construed as a reference to an analogous treatment of, or an analogous transfer being effected in respect of, such a parcel by those methods.

(3) Section 119(1) of the Principal Act, as so applied, shall have effect as if the reference in that section to section 114 were a reference to *section 44* of this Act and the words “, rejecting any that are invalid,” were deleted.

(4) Section 127(2) of the Principal Act, as so applied, shall have effect as if the reference in that section to section 114(2) were a reference to *section 44(3)* of this Act.

(5) Section 128 of the Principal Act, as so applied, shall have effect as if the reference in that section to the decision of the returning officer in respect of any matter referred to therein were a reference to the results provided by the constituency vote counting machine in respect of that matter.

(6) Where it is necessary to decide a matter by determining it by lot, the returning officer shall cause the result of that determination by lot to be entered on the constituency vote counting machine.

Application of certain provisions of Principal Act.

46.—The provisions of sections 30, 31, 37, 40, 58, 60, 62 to 64, 66, 67, 72, 73, 75, 76, 85, 86, 88, 89, 91, 94, 103 to 105, 107 to 109, 111 to 113, 117, 129 to 131, 134, 137, 138, 150, 153, 161, 163 and 165 of the Principal Act shall, subject to the modifications specified in *section*

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38, apply and have effect in relation to voting and vote counting Pr.3 S.46 under this Part.

47.—Part XXI of, and the Third Schedule to, the Principal Act Election petitions. shall apply to voting and vote counting under this Part as if—

- (a) in section 132(8) there were inserted “and the *Electoral (Amendment) Act, 2001*,” after “this Act”;
- (b) in Rule 4(3) of the said Schedule there were inserted “or the *Electoral (Amendment) Act, 2001*,” after “this Act”, in each place where those words occur; and
- (c) for Rule 7 of the said Schedule, there were substituted the following Rule:

“Counting of votes afresh.

7. (1) The court may, for the purposes of the trial of a petition questioning a Dáil election, if it thinks fit, order that all the votes cast on voting machines at the election in the constituency to which the petition relates shall be counted afresh. For the purpose of enabling such an order to be carried out, the software used for counting votes cast on voting machines shall include a capability of providing a table of the preferences recorded for each vote cast at the poll at the election, including the vote number referred to in section 44(4) and a separate record of each vote cast at the election, showing the preferences recorded on it, the vote number referred to in section 44(4) and, where applicable, the number of each count at which the vote was either transferred to the next available preference recorded on it or became a non-transferable vote not effective.

(2) Where the court makes an order under paragraph (1), the provisions of the following paragraphs shall have effect.

(3) Votes to which an order under this Rule relates shall be counted afresh under the direction of the court and, subject to paragraphs (4), (5) and (6) and to such modifications (if any) as the court considers necessary, the provisions of Part XIX, as applied by the *Electoral (Amendment) Act, 2001*, relating to the counting of votes at an election shall apply to such counting.

(4) In counting the votes afresh pursuant to an order under this Rule, the count shall begin at the first count, without disturbing the mix carried out by the constituency vote counting machine prior to the original first count.

(5) Where votes are counted afresh pursuant to an order under this Rule, the court shall cause the preferences recorded for any person who, with respect to the relevant

Dáil election, is found by the court not to have been eligible for election to the Dáil to be disregarded or where the court decides that votes shall be added to, or removed from, the vote table referred to in section 44(4) the software shall be capable of so adding or removing votes so that there shall be a minimum disturbance to the mix carried out by the constituency vote counting machine prior to the original first count.

(6) The court shall have power to reverse any decision of the returning officer at the original count.

(7) The costs of giving effect to an order under this Rule shall be paid by the Minister for Finance out of the Central Fund or the growing produce thereof and section 32 shall, with respect to the services and expenses properly rendered or incurred by the returning officer for the purposes of, or in connection with, giving effect to the order, apply in the same manner as it applied in respect of the services and expenses rendered or incurred by the returning officer for, or in connection with, the relevant Dáil election.”.

Adaptation or modification of Acts relating to other elections and referendums.

48.—(1) Subject to *subsection (3)*, the Minister may by order make such adaptations of, or modifications to, the Presidential Elections Act, 1993, the European Parliament Elections Act, 1997, the Local Elections Regulations, 1995, the Referendum Act, 1994, the Seanad Electoral (University Members) Act, 1937, and the Seanad Electoral (Panel Members) Acts, 1947 to 1972, as will enable voting and counting of votes at the relevant election or referendum under the said enactment or enactments to take place using equipment approved for use under this Part.

(2) Subject to *subsection (3)*, the Minister for Arts, Heritage, Gaeltacht and the Islands may by order make such adaptations of, or modifications to, the Údarás na Gaeltachta Acts, 1979 to 1999, and the regulations made under such Acts as will enable voting and counting of votes at Údarás elections to take place using equipment approved for use under this Part.

(3) Any adaptations or modifications provided for by an order under *subsection (1)* or *(2)* shall—

(a) in every case be such as will result in the enactment concerned having effect subject to the same principles as the provisions of this Part are subject to, and

(b) in so far as is practicable, having regard to the differences between the subject matter of the *Electoral Acts, 1992 to 2001*, and the enactment concerned, be such as will, in the opinion of the Minister of the Government referred to in *subsection (1)* or *(2)*, result in that enactment containing provisions corresponding in their terms to those of this Part in so far as they relate to the matters referred to in *subsection (1)* or *(2)*.

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(4) Every order made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either House within the next 21 days on which the House has sat after the order has been laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder. Pr.3 S.48

(5) The Minister may by order amend or revoke an order made under this section (including an order under this subsection).

PART 4

PRINCIPAL AMENDMENTS OF ACT OF 1997 IN RELATION TO POLITICAL DONATIONS

49.—The Act of 1997 is amended—

Amendment of Act of 1997.

(a) in section 3 by the substitution in subsection (1) for all the words from “section 21” down to and including “51 or 52” of “section 21, 22, 23, 23A, 23B, 24(1A), 24(4), 26(1), 30, 31, 32, 46, 47, 48(1), 48A, 48B, 51 or 52”,

(b) in section 22 by—

(i) the insertion of “or a third party” after “European Parliament” in each place where those words occur in paragraph (a) of subsection (2);

(ii) the insertion of the following paragraph after paragraph (a) of subsection (2)—

“(aa) ‘account’ means an account in an institution in the State for the purpose of crediting and debiting money received in respect of donations;

‘accounting unit’, in relation to a political party, means a branch, including the headquarters of a political party if it is a separate accounting unit or other subsidiary organisation of the party, which in any particular year, receives a donation the value of which exceeds £100;

‘candidate’ means a person who on or before the date of movement of a writ in relation to a Dáil general election or bye-election or the date of the making of the order appointing polling day in relation to a Seanad election or an election to the European Parliament is declared by himself or herself or by others to be a candidate at the election concerned;

‘institution’ means—

(a) the holder of a licence under section 9 of the Central Bank Act, 1971,

(b) a building society incorporated or deemed to be incorporated under the Building Societies Act, 1989, or a body incorporated in a corresponding manner under the law of any other Member State of the European Communities,

- (c) a trustee savings bank within the meaning of the Trustees Savings Banks Act, 1989,
- (d) ACC Bank plc,
- (e) An Post, or
- (f) a person authorised in accordance with the European Communities (Licensing and Supervision of Credit Institutions) Regulations, 1992 (S.I. No. 395 of 1992), to carry on business in the State;

‘political group’ means a group formed in accordance with the rules of procedure of the European Parliament;

‘political purposes’ means any of the following purposes, namely—

- (i) (I) to promote or oppose directly or indirectly, the interests of a political party, a political group, a member of either House of the Oireachtas or a representative in the European Parliament, or
 - (II) to present, directly or indirectly, the policies or a particular policy of a political party, a political group, a member of either House of the Oireachtas, a representative in the European Parliament or a third party, or
 - (III) to present, directly or indirectly, the comments of a political party, a political group, a member of either House of the Oireachtas, a representative in the European Parliament or a third party with regard to the policy or policies of another political party, political group, a member of either House of the Oireachtas, representative in the European Parliament, third party or candidate at an election or referendum or otherwise, or
 - (IV) to promote or oppose, directly or indirectly, the interests of a third party in connection with the conduct or management of any campaign conducted with a view to promoting or procuring a particular outcome in relation to a policy or policies or functions of the Government or any public authority;
- (ii) to promote or oppose, directly or indirectly, the election of a candidate at a Dáil, Seanad or European election or to solicit votes for or against a candidate or to present the policies or a particular policy of a candidate or the views of a candidate

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on any matter connected with the election or the comments of a candidate with regard to the policy or policies of a political party or a political group or of another candidate at the election or otherwise;

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- (iii) otherwise to influence the outcome of the election or a referendum or campaign referred to in paragraph (i)(IV) of this definition;

‘responsible person’, in relation to an accounting unit, means the treasurer or any other person responsible for dealing with donations to the unit, or, in relation to a third party, the person or persons responsible for the organisation, management or financial affairs of the third party;

‘third party’ means any person, other than a political party registered in the Register of Political Parties under Part III of the Electoral Act, 1992, or a candidate at an election, who accepts, in a particular year, a donation the value of which exceeds £100.’,

(c) in section 23—

- (i) in subsection (1), by the insertion of “or third party” after “European election” and the insertion of “third party” after “party, member, representative”, and
- (ii) in subsection (2) by the insertion of “or third party” after “European election” and the insertion of “third party” after “party, member, representative”,

(d) the insertion of the following sections after section 23:

“Limits on donation amounts.

23A.—(1) Without prejudice to subsection (2), none of the following persons, namely—

- (a) a member of either House of the Oireachtas,
- (b) a representative in the European Parliament,
- (c) a candidate at a Dáil, Seanad or European Election,
- (d) a political party,
- (e) a third party, or
- (f) an accounting unit,

shall, directly or through any intermediary, accept from a particular person in a particular year a donation the value of which exceeds—

(i) in case the first-mentioned person falls within paragraph (a), (b), or (c), £2,000, and

(ii) in case the first-mentioned person falls within paragraph (d), (e), or (f), £5,000.

(2) None of the persons referred to in any of paragraphs (a) to (f) of subsection (1) shall, directly or through any intermediary, accept a donation of whatever value given by—

(a) an individual (other than an Irish citizen) who resides outside the island of Ireland, or

(b) a body corporate or unincorporated body of persons which does not keep an office in the island of Ireland, being an office from which the carrying on of one or more of its principal activities is directed.

(3) Where a person makes more than one donation—

(i) in the same year to the same member of either House of the Oireachtas, representative in the European Parliament, political party, third party or accounting unit, or

(ii) in relation to the same Dáil, Seanad or European election to the same candidate, or in relation to the same referendum or campaign,

all such donations shall, for the purposes of this section, be aggregated and treated as a single donation received by the person concerned and references in subsequent provisions of this section to a donation the acceptance of which is prohibited by subsection (1) shall be construed accordingly.

(4) The limits referred to in subsection (1) shall not apply to the provision by any person of a constituency office to an individual, or if more than one such office is provided to the individual, whichever one of those offices is nominated in writing by the individual for the purposes of this subsection.

(5) Where, notwithstanding subsection (1) or (2), a donation, the acceptance of which is prohibited by either subsection, is made to a person referred to therein, the

donee shall, not later than 14 days after the receipt of the donation, either— Pr.4 S.49

- (a) return the donation, or, in the case of a donation referred to in subsection (1) which is a monetary donation, the part of it exceeding the limit concerned to the donor and keep a written record of that return for the purposes of its being furnished to the Public Offices Commission, if required by it, or
- (b) notify the Public Offices Commission of such receipt and remit the donation, or, in the case of a donation referred to in subsection (1) which is a monetary donation, the part of it exceeding the limit concerned or the value thereof, to the Commission.

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23B.—(1) A member of either House of the Oireachtas, a representative in the European Parliament, a candidate at a Dáil, Seanad or European election, a political party, a third party or an accounting unit who or which receives, in any particular year, a monetary donation the value of which exceeds £100 shall open and maintain an account in an institution in the State and shall lodge that donation and any further monetary donations received by him or her or it to that account.

(2) As soon as may be after the commencement of *section 49* of the *Electoral (Amendment) Act, 2001*, and from time to time thereafter as circumstances require, the appropriate officer of a political party referred to in *section 71* shall, if the party is one to which subsection (1) applies, notify the Public Offices Commission of the name and address of each accounting unit of the political party and the name of the responsible person or persons of the accounting unit.

(3) A member of either House of the Oireachtas, a representative in the European Parliament or a political party shall ensure that a donation statement furnished by him or her or it under *section 24* to the Public Offices Commission is accompanied by—

- (a) a statement provided by the institution referred to in subsection (1) with which he or she or it has opened the account referred to

therein specifying the transactions that have taken place in relation to the account during the year preceding the year in which the said donation statement is furnished, and

- (b) a certificate in a form directed by the Public Offices Commission signed by the member, representative or an officer of the political party, as the case may be, stating that all monetary donations received by the member, representative or political party during the preceding year were lodged to the said account and all amounts debited from that account were used for political purposes.

(4) An unsuccessful candidate at a Dáil, Seanad or European election shall ensure that a donation statement furnished by him or her under section 24 to the Public Offices Commission is accompanied by—

- (a) a statement provided by the institution referred to in subsection (1) with which he or she has opened the account referred to therein specifying the transactions that have taken place in relation to the account during the period beginning on the date of opening of the account and ending on polling day at the election, and

- (b) a certificate, in a form directed by the Public Offices Commission, signed by him or her stating that all monetary donations received by him or her during the said period were lodged to the said account and all amounts debited from that account were used for political purposes.

(5) Not later than 31 March in every year, the responsible person of a third party or of an accounting unit shall furnish to the Public Offices Commission a statement provided by the institution referred to in subsection (1) with which the third party or accounting unit has opened the account referred to therein specifying the transactions that have taken place in relation to the account during the preceding year together with a certificate, in the form directed by the Commission, signed by him or her stating that all monetary donations received by the third party or accounting

unit during the preceding year were lodged Pr.4 S.49
to the said account and all amounts debited
from that account were used for political
purposes.

(6) The certificate furnished pursuant to subsection (3), (4) or (5) shall be accompanied by a statutory declaration made by the person by whom the certificate is furnished that, to the best of the person's knowledge and belief, the certificate is correct in every material respect and that the person has taken all reasonable action in order to be satisfied as to the accuracy of the certificate.

(7) If a person to whom subsection (3) or (4), other than a political party, applies, dies before the expiration of the period for furnishing the donation statement referred to in those subsections to the Public Offices Commission the requirements of those subsections with respect to that statement being accompanied by the statement and certificate referred to therein shall not apply.

(8) The Public Offices Commission shall retain the statements, certificates and statutory declarations furnished to it pursuant to subsections (3), (4) and (5) and shall not disclose the contents of those statements, certificates or declarations unless ordered by a Court to do so or save when such disclosure is required in connection with an investigation held by the Commission.

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23C.—As soon as may be after the receipt by it of a donation the value of which exceeds £100 and before incurring any expenses for political purposes or, as the case may be, incurring, subsequent to that receipt, any further such expenses, a third party shall furnish to the Public Offices Commission in writing—

- (a) the name and address of the third party and the name and address of the responsible person or each responsible person in relation to the third party,
- (b) a statement of the nature, purpose and estimated amount of the donations to, and proposed expenses of, the third party in any year, and
- (c) an indication of the third party's connection, if any, with any political party or candidate at a Dáil, Seanad or European election or referendum or otherwise.”,

(e) in section 25 by—

- (i) the insertion in subsection (1) of “or the responsible person of a third party or of an accounting unit” after “at the election”;
- (ii) the insertion in subsections (1)(a) and (1)(b) of “or 23A” after “section 23”;
- (iii) the insertion in subsection (1)(b) after “thereof” of “or fails to return the donation or part of the donation exceeding the limit to the donor under section 23A”;
- (iv) the insertion in subsection (1)(c) of “furnish the statement of an institution, certificate or statutory declaration required under section 23B or” after “fails to”;
- (v) the substitution of the following paragraph for paragraph (d) of subsection (1):

“(d) knowingly—

- (i) furnishes a donation statement under this Part or makes a statutory declaration referred to in section 24, or
- (ii) furnishes a statement of an institution or a certificate or makes a statutory declaration referred to in section 23B,

which is false or misleading in any material respect, or”;

- (vi) the insertion of the following paragraph after paragraph (d) of subsection (1)—

“(e) fails to comply with section 23C.”;

- (vii) the substitution of the following paragraph for paragraph (c) of subsection (2)—

“(c) where the conviction relates to—

- (i) a failure to furnish a statement of an institution or certificate or make a statutory declaration referred to in section 23B, or
- (ii) a failure to furnish a donation statement under section 24,

the person shall be guilty of a further offence on every day on which the failure continues after such conviction and for each such offence the person shall be liable, on summary conviction, to a fine not exceeding £100.”,

(f) in section 46 by—

- (i) the deletion in paragraph (a) of subsection (2) of all the words from “‘donation’” down to and including “namely —” and substituting “‘donation’ means any contribution given by any person to a candidate at a

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presidential election for the purpose of promoting Pr.4 S.49
the election of the candidate at that election or
otherwise affecting the outcome of that election or
to a third party for the purpose of promoting the
election of a candidate at the presidential election or
otherwise affecting the outcome of that election, and
includes all or any of the following, namely—”;

- (ii) the insertion of the following paragraph after para-
graph (a) of subsection (2)—

“(aa) ‘account’ means an account in an institution
in the State for the purpose of crediting and
debiting money received in respect of
donations;

‘candidate’ means a person who, on or
before the date of the making of the order
appointing polling day at a presidential
election is declared by himself or herself or
by others to be a candidate at that election;

‘institution’ means—

(a) the holder of a licence under
section 9 of the Central Bank
Act, 1971,

(b) a building society incorporated or
deemed to be incorporated
under the Building Societies
Act, 1989, or a body incorpor-
ated in a corresponding manner
under the law of any other
Member State of the European
Communities,

(c) a trustee savings bank within the
meaning of the Trustees Savings
Banks Act, 1989,

(d) ACC Bank plc,

(e) An Post, or

(f) a person authorised in accordance
with the European Communities
(Licensing and Supervision of
Credit Institutions) Regulations,
1992 (S.I. No. 395 of 1992), to
carry on business in the State;

references to promoting the election of a
candidate at a presidential election or other-
wise affecting the outcome of that election
shall be construed as references to—

- (i) promoting or opposing, directly or
indirectly, the election of a candi-
date or soliciting votes for or
against a candidate,

- (ii) presenting the policies or a particular policy of a candidate or the views of a candidate on any matter connected with the election or the comments of a candidate with regard to the policy or policies of a candidate at the election or otherwise,
- (iii) otherwise influencing the outcome of the election;

‘responsible person’, in relation to a third party, means the person or persons responsible for the organisation, management or financial affairs of the third party;

‘third party’, in relation to a presidential election, means any person, other than a political party registered in the Register of Political Parties under Part III of the Electoral Act, 1992, or a candidate at a presidential election, who, in any particular year, accepts a donation the value of which exceeds £100.’,

(g) in section 47 by—

- (i) the insertion in subsection (1) of “or third party” after “presidential election”,
- (ii) the insertion in subsection (2) of
 - (I) “or third party” after “presidential election” and after “candidate concerned”, and
 - (II) “or the certificate to be furnished under section 48B” after “section 48” where it first occurs,

(h) the insertion of the following sections after section 48:

“Limits on donation amounts.

48A.—(1) Without prejudice to subsection (2), none of the following persons, namely—

- (a) a candidate,
- (b) a presidential election agent, or
- (c) a third party at a presidential election,

shall, directly or through any intermediary, accept from a particular person in a particular year a donation the value of which exceeds—

- (i) in case the first-mentioned person falls within paragraph (a) or (b), £2,000, or

- (ii) in case the first-mentioned person falls within paragraph (c), £5,000. Pt.4 S.49

(2) None of the persons referred to in paragraph (a), (b) or (c) of subsection (1) shall, directly or through any intermediary, accept a donation of whatever value given by—

- (a) an individual (other than an Irish citizen) who resides outside the island of Ireland, or
- (b) a body corporate or an unincorporated body of persons which does not keep an office in the island of Ireland, being an office from which the carrying on of one or more of its principal activities is directed.

(3) Where a person makes more than one donation in relation to the same presidential election to the same candidate, presidential election agent or third party all such donations shall, for the purposes of this section, be aggregated and treated as a single donation received by the person concerned, and references in subsequent provisions of this section to a donation the acceptance of which is prohibited by subsection (1) shall be construed accordingly.

(4) Where, notwithstanding subsection (1) or (2), a donation, the acceptance of which is prohibited by either subsection, is made to a person, agent or third party referred to therein, the person, agent or third party, as the case may be, or, in the case of a donation to the first-mentioned person which is made after the appointment by him or her of a presidential election agent, the presidential election agent, shall, not later than 14 days after the receipt of the donation, either—

- (a) return the donation, or, in the case of a donation, referred to in subsection (1) which is a monetary donation, the part of it exceeding the limit concerned, to the donor and keep a written record of that return for the purposes of its being furnished to the Public Offices Commission, if required by it, or
- (b) notify the Public Offices Commission of such receipt and remit the donation, or, in the case of a donation referred to in subsection (1) which is a monetary donation, the part of it exceeding the limit concerned or the value thereof, to the Commission.

(5) If a donation is accepted by or on behalf of a candidate at a presidential election before the appointment by the candidate of a presidential election agent, the candidate shall furnish to the

relevant agent details of such donations, together with the relevant documentation, and thereafter the presidential election agent shall be responsible for furnishing the relevant statement to the Public Offices Commission.

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48B.—(1) Where a candidate at a presidential election, a presidential election agent or a third party receives a monetary donation the value of which exceeds £100, there shall be opened and maintained—

- (a) in the case of such a receipt by the candidate before the appointment by him or her of a presidential election agent, by the candidate,
- (b) in the case of such a receipt by the candidate after such an appointment is made, by that agent, and
- (c) in any other case, by the presidential election agent or third party, as the case may be,

an account at an institution in the State and there shall be lodged to that account by the person who has opened it that donation and any further monetary donations received by him or her or it.

(2) A presidential election agent shall ensure that a donation statement furnished by him or her under section 48 to the Public Offices Commission is accompanied by—

- (a) a statement provided by the institution referred to in subsection (1) with which he or she or the candidate for whom he or she is a presidential election agent has opened the account referred to therein specifying the transactions that have taken place in relation to the account during the period beginning on the date of opening of the account and ending on polling day at the presidential election, and
- (b) a certificate, in a form directed by the Public Offices Commission, signed by the presidential election agent, stating that all monetary donations received during the said period by him or her or the candidate for whom he or she is such an agent were lodged to the said account and all amounts debited from that

account were used for promoting the election of the said candidate or otherwise affecting the outcome of the said election. Pr.4 S.49

(3) A third party shall, not later than 56 days after polling day at a presidential election, furnish to the Public Offices Commission a statement provided by the institution referred to in subsection (1) with which the third party has opened the account referred to therein specifying the transactions that have taken place in relation to the account during the period beginning on the date of opening of the account and ending on polling day at the presidential election, together with a certificate, in a form directed by the Commission, signed by the third party, stating that all monetary donations received during the said period by the third party were lodged to the said account and all amounts debited from that account were used for promoting the election of a candidate at the said election or otherwise affecting the outcome of the said election.

(4) The certificate furnished pursuant to subsection (2) or (3) shall be accompanied by a statutory declaration made by the person by whom the certificate is furnished that, to the best of the person's knowledge and belief, the certificate is correct in every material respect and that the person has taken all reasonable action in order to be satisfied as to the accuracy of the certificate.

(5) The Public Offices Commission shall retain the statements, certificates and statutory declarations furnished to it pursuant to subsections (2), (3) and (4) and shall not disclose the contents of those statements, certificates or declarations unless ordered by a Court to do so or save when such disclosure is required in connection with an investigation held by the Commission.

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48C.—As soon as may be after the receipt by it of a donation the value of which exceeds £100 and before incurring any expenses for the purposes of promoting the election of a candidate at a presidential election or otherwise affecting the outcome of such an election or, as the case may be, incurring, subsequent to that receipt, any further such expenses a third party shall furnish to the Public Offices Commission in writing—

- (a) the name and address of the third party and the name and address of the responsible person or

each responsible person in relation to the third party,

(b) a statement of the nature, purpose and estimated amount of the donations to, and proposed expenses of, the third party in any year, and

(c) an indication of the third party's connection, if any, with any political party or candidate at the election.”,

(i) in section 61(2) by—

(i) the insertion of “or a candidate or a third party” after “candidate” and after “said agent”;

(ii) the insertion of “or the statement of an institution, certificate or statutory declaration required by section 48B” after “section 48” in paragraphs (f) and (g);

(iii) the substitution of “respect, or” for “respect.” in paragraph (g);

(iv) the insertion of the following paragraphs after paragraph (g)—

“(h) fails to notify the Public Offices Commission in accordance with section 47 or 48A of the receipt of a donation acceptance of which is prohibited by that section, or

(i) fails to remit to the Public Offices Commission in accordance with section 47 or 48A such a donation or the value thereof, or fails to return the donation or part of it exceeding the limit to the donor under section 48A, or

(j) fails to comply with section 48C.”;

(j) in section 61(5) by the insertion of “or a statement of an institution, certificate or statutory declaration under section 48B” after “section 48” in paragraph (c).

PART 5

MISCELLANEOUS

50.—The Act of 1997 is amended—

(a) in section 4 by—

(i) the substitution of the following subsection for subsection (2):

“(2) Where the Public Offices Commission, following consideration by it of a statement furnished to it pursuant to section 20, 24, 36, 48 or 56, finds a

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minor error or omission in the statement, the Commission shall furnish to the agent or person by whom the statement was furnished details of the error or omission, as the case may be, and the Commission shall inform the agent or the person, as the case may be, that he or she may correct the error or make good the omission within the period of 14 days from the date on which the notification issued to the agent or person as the case may be.”, Pr.5 S.50

- (ii) the insertion of the following subsections after subsection (9):

“(10) Such functions of the Public Offices Commission under this Act, as may be specified by it, may be performed under the supervision and subject to the general direction of the Commission, by members of the staff of the Commission duly authorised in that behalf by the Commission.

(11) A person shall act in accordance with guidelines or advice published or given to the person under this section unless, by so doing, the act concerned would constitute a contravention of another provision of this Act.”,

- (b) by the insertion of the following section after section 4:

“Limitation of time for prosecution of offence.

4A.—Notwithstanding the provisions of section 10(4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings in relation to an offence under this Act may be commenced—

- (a) at any time within 12 months from the date on which the offence was committed, or
- (b) at any time within 6 months from the date on which evidence that, in the opinion of the Commission, is sufficient to justify the bringing of the proceedings, comes to the Commission’s knowledge,

whichever is the later, but no such proceedings shall be commenced later than 5 years from the date on which the offence concerned was committed.”,

- (c) in section 17 by—

- (i) the substitution of the following subsection for subsection (1):

“(1) Subject to the provisions of this Part, the following payments shall be made out of the Central Fund or the growing produce thereof in each period of 12 months to each qualified party which applies therefor, namely—

- (a) an amount of £100,000, and

(b) an amount which bears the same proportion to the amount referred to in paragraph (a) of subsection (2) or, as appropriate, paragraph (b)(i) of that subsection, as the proportion which the total number of first preference votes obtained by every candidate of the political party concerned at the preceding general election bears to the total number of first preference votes obtained by candidates of all qualified parties at that election.”,

(ii) in subsection (2)—

(I) the substitution of the following paragraph for paragraph (a):

“(a) The aggregate of the payments which may be made to qualified parties under subsection (1)(b) shall not, subject to paragraph (b), exceed three million pounds.”,

and

(II) the substitution in paragraph (b)(i) of “which may be made under subsection (1)(b)” for “which may be made under this section”,

(iii) the deletion of subsection (3), and

(iv) the insertion of the following subsection after subsection (4):

“(4A) Where, before the date for the making of a payment under this Part—

(a) one or more political parties (which or each of which is referred to in this subsection as a ‘former party’) is or are amalgamated with another political party (in this subsection referred to as the ‘enlarged party’), or

(b) two or more political parties (each of which is also referred to in this subsection as a ‘former party’) are merged into a political party established for the purpose of the merger (in this subsection referred to as the ‘new party’),

then, if the enlarged party or new party falls within paragraph (a) of the definition of ‘qualified party’ in section 16, the total number of first preference votes obtained by every candidate of each former party shall, for the purposes of paragraph (b) of that definition and subsection (1)(b) of section 17, be attributed to the enlarged party or the new party, as the case may be.”,

(d) in section 18 by the insertion in subsection (1)(a) after “such payments to” of “the general conduct and management of the party’s affairs and the lawful pursuit by it of any of its objectives and, without prejudice to the generality of the foregoing.”,

(e) in section 21 by—

- (i) the substitution of the following subparagraph for subparagraph (ii) of subsection (1)(a) (inserted by section 4 of the Electoral (Amendment) Act, 1998):

“(ii) is not so elected but the greatest number of votes credited to him or her at any stage of the counting of votes at the election exceeds, in the case of a general election, one quarter of the quota, or, in the case of a bye-election, one quarter of what would have been the quota in that constituency were the full number of members of the Dáil for the existing constituency to be elected.”,

- (ii) the insertion in subsection (1)(c) of “in a form directed by the Commission” after “Commission”;

(iii) in subsection (1)(d)—

(I) the substitution for “Part V, and” of “Part V,” in subparagraph (ii),

(II) the substitution for “the candidate.” of “the candidate, and” in subparagraph (iii), and

(III) the insertion of the following subparagraph after subparagraph (iii):

“(iv) certified to the said Minister that a donation statement required to be submitted under section 24(2)(a) has been furnished to the Commission and such statement was completed in accordance with guidelines issued by the Commission under section 4.”,

(f) in section 22(2)(b) by—

- (i) the insertion of “(including recoupment of expenses)” after “normal remuneration” in clause (II) of subparagraph (iii) (inserted by the Electoral (Amendment) Act, 1998);

(ii) the substitution for “donation of money;” of “donation of money,” in subparagraph (vi) (inserted by the Electoral (Amendment) Act, 1998); and

(iii) the insertion of the following subparagraph after subparagraph (vi):

“(vii) election expenses incurred by a political party on behalf of a candidate of the political party at a Seanad election, other than a donation of money;”,

(g) in section 24 by—

- (i) in subsection (1A)(b) (inserted by the Electoral (Amendment) Act, 1998)—

(I) the deletion of “and” in subparagraph (i),

(II) the substitution for “section 26.” of “section 26, and” in subparagraph (ii), and

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(III) the insertion of the following subparagraph after subparagraph (ii):

“(iii) to donations (other than money) made by a political party to its members whether to individuals or any part of the party.”;

(ii) the insertion of the following subsection after subsection (6):

“(6A) Where the Public Offices Commission requests additional or supplemental information in relation to a donation statement, such information shall be provided by the person who furnished the statement under subsection (1) or (2) and shall be in a form, directed by the Commission, accompanied, if the Commission so requests, by a statutory declaration made by the person that, to the best of the person’s knowledge and belief, the information is correct in every material respect and that the person has taken all reasonable action in order to be satisfied as to the accuracy of the information.”;

and

(iii) the insertion of the following subsection after subsection (7)—

“(8) If a person to whom subsection (1)(a) or (2) applies dies before the expiration of the period for furnishing a statement under subsection (1)(a) or (2), a donation statement in respect of that person shall not be required to be made to the Public Offices Commission.”;

(h) in section 25 by—

(i) the insertion of “or section 26” after “section” where it first occurs in subsection (2), and

(ii) the insertion of “or (1A)(b)” after “subsection (1)(d)” in subsection (2)(b),

(i) in section 26 by the insertion of the following subsection after subsection (2):

“(3) A company, trade union, society or building society which fails to comply with the provisions of this section shall be guilty of an offence and section 74 shall apply to such an offence.”;

(j) in section 28(2)(a) by the insertion after “Part” of “and to assist the candidate generally in relation to the election.”;

(k) in section 31 by:

(i) in subsection (1)(a)—

(I) The deletion of all the words from “In this Part” down to and including “in order—” and the substitution of the following—

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“In this Part ‘election expenses’ means all expenses falling within paragraph (b) incurred in the provision of property, goods or services for use at an election during the period referred to in subsection (3) in order—”,

and

(II) in subparagraph (iii)—

(A) the substitution of “the outcome of the election.” for “the outcome of the election;”,

and

(B) the deletion of all the words from “and shall” down to and including “at the election.”,

(ii) the substitution of the following paragraph for paragraph (b) of subsection (1):

“(b) The expenses mentioned in the foregoing definition of ‘election expenses’ shall be those, and only those, set out, in the Schedule to this Act.”,

(iii) in subsection (3)(b) the substitution of “paragraph 2(b), of the Schedule to this Act” for “subsection (1)(b)(vi)”,

and

(iv) the insertion of the following subsection after subsection (8):

“(8A) It shall be the duty of the political party or candidate concerned to furnish the relevant material referred to in subsection (8) to the relevant national agent or election agent in sufficient time to enable the agent to carry out his or her duties under section 36. A political party or a candidate which or who fails to comply with this section shall be guilty of an offence.”;

(l) in section 32 by the substitution of “£20,000” for the sum mentioned in subparagraph (i), “£25,000” for the sum mentioned in subparagraph (ii) and “£30,000” for the sum mentioned in subparagraph (iii) of subsection (1)(a),

(m) in section 36 by the insertion of the following subsection after subsection (2):

“(2A) Where the Public Offices Commission requests additional or supplemental information in relation to a statement of election expenses under this section, such information shall be provided by the agent or person who furnished the statement and shall be in a form, directed by the Commission, accompanied, if the Commission so requests, by a statutory declaration made by the agent or person that, to the best of the knowledge and belief of the agent or person, the information is correct in every material respect and that the agent or person has taken

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all reasonable action in order to be satisfied as to the accuracy of the information.”,

- (n) in section 43 by the insertion of “and, for the purposes of proceedings for an offence under this paragraph, the excess of such expenditure shall be deemed to have occurred on polling day” after “appropriate,” in paragraph (a) of subsection (2),
- (o) in section 46(2)(b) by the insertion of “(including recoupment of expenses)” after “normal remuneration” in clause (II) of subparagraph (iii) (inserted by the Electoral (Amendment) Act, 1998),
- (p) in section 48 by the insertion of the following subsection after subsection (2):

“(2A) Where the Public Offices Commission requests additional or supplemental information in relation to a presidential election donation statement, such information shall be provided by the presidential election agent concerned and shall be in a form, directed by the Commission, accompanied, if the Commission so requests, by a statutory declaration made by the agent that, to the best of the agent’s knowledge and belief, the information is correct in every material respect and that the agent has taken all reasonable action in order to be satisfied as to the accuracy of the information.”,

- (q) in section 50(1)(a) by the insertion of “and to assist the candidate generally in relation to the election” after “of this Part”,
- (r) in section 52 by—

“(i) in subsection (1)(a)—

- (I) The deletion of all the words from “In this Part” down to and including “in order—” and the substitution of the following—

“In this Part ‘election expenses’ means all expenses falling within paragraph (b) incurred in the provision of property, goods or services for use at a presidential election during the period commencing on the date of the order appointing polling day at that election and ending on polling day at that election in order—”,

and

- (II) in subparagraph (iii)—

- (A) the substitution of “the outcome of the election.” for “the outcome of the election,” and

- (B) the deletion of all the words from “and shall” down to and including “at the election.”,

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- (ii) the substitution of the following paragraph for paragraph (b) of subsection (1):

“(b) The expenses mentioned in the foregoing definition of ‘election expenses’ shall be those, and only those, set out, in the Schedule to this Act.”,

and

- (iii) the insertion of the following subsection after subsection (7):

“(7A) It shall be the duty of the candidate concerned to furnish the relevant material referred to in subsection (7) to the relevant presidential election agent in sufficient time to enable the agent to carry out his or her duties under section 56. A candidate who fails to comply with this subsection shall be guilty of an offence.”,

- (s) in section 56 by the insertion of the following subsection after subsection (2):

“(2A) Where the Public Offices Commission requests additional or supplemental information in relation to a statement of election expenses under this section, such information shall be provided by the presidential election agent or person who furnished the statement in a form, directed by the Commission, accompanied, if the Commission so requests by a statutory declaration made by the agent or person that, to the best of the knowledge and belief of the agent or person, the information is correct in every material respect and that the agent or person has taken all reasonable action in order to be satisfied as to the accuracy of the information.”,

- (t) in section 61 by the insertion of “and, for the purposes of proceedings for an offence under this paragraph, the excess of such expenditure shall be deemed to have occurred on polling day,” after “section 53” in paragraph (a) of subsection (2),

- (u) in section 63 by the insertion of the following subsection after subsection (2):

“(3) Rules 16 and 17 of Part II of the Second Schedule to the Electoral Act, 1992, shall apply to an appeal against a ruling of a registration authority to an application under this section as if the reference in the said Rule 16 to an application for entry in the supplement to the register were a reference to an application for entry in the postal voters list under this section.”; and

- (v) by the insertion after section 82 of the following Schedule:

“SCHEDULE

1. The following are the expenses referred to in section 31(1)(b) and 52(1)(b):

(a) Advertising (whatever the medium used).

Expenses in respect of such advertising include agency fees, design costs and other costs incurred in connection with preparing, producing, distributing or otherwise disseminating such advertising.

(b) Publicity.

Expenses in respect of that matter include expenses incurred in respect of party political broadcasts, the provision of any services or facilities in connection with press conferences or other dealings with the media, media advice and training and photography.

(c) Election posters.

Expenses in respect of such material include the costs of the design, production, printing, erection and removal of election posters.

(d) Other election material.

Expenses in respect of such material include the design, production, printing and disseminating of such material (other than posters) including canvass cards, election leaflets, election manifestos, newsletters and any other promotional election material.

(e) Office and stationery.

Expenses in respect of those matters include costs incurred in the rental or use of an office premises or meeting rooms for election purposes (other than for the purposes of annual or other party conferences) and the costs of heating, electricity, insurance, purchase or rental of office equipment, telephones, stationery and postage.

(f) Transport and travel.

Expenses in respect of those matters include expenses incurred on transport and travel (by any means), petrol and diesel, rental or use of campaign vehicles, rental or use of vehicles for transport of voters on polling day, accommodation costs, taxi and hackney services and courier services.

(g) Market Research.

Expenses in respect of that matter include expenses incurred in the taking of an opinion poll or other similar survey relating to an election within the period of 60 days before polling day at the election by or on behalf of a political party, a political group or a candidate at the election.

(h) Campaign workers.

Expenses in respect of that matter include payments to campaign workers, insurance and other costs.

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2. For the avoidance of doubt, nothing in paragraph 1 Pr.5 S.50 of this Schedule extends to—

- (a) any of the matters referred to in subparagraphs (i) to (v) of section 22(2)(b) or, in the case of a presidential election, subparagraphs (i) to (v) of section 46(2)(b),
- (b) expenses incurred in the provision of property, goods or services used at an election where such property, goods or services was or were provided in respect of a previous Presidential, Dáil, European or local election and the cost of providing such property, goods or services was included in the statement of election expenses furnished to the Public Offices Commission or to a local authority in relation to the said previous election by the national agent of the party or designated person of the party or election agent of the candidate, or candidate as the case may be,
- (c) any expenses in respect of any property, services or facilities so far as those expenses fall to be met out of public funds,
- (d) the payment by or on behalf of a candidate of the deposit under section 13 of the Act of 1997 or section 47 of the Act of 1992, as may be appropriate,
- (e) expenditure on the purchase of copies of the register of electors or parts thereof,
- (f) the reasonable living expenses (including accommodation) of a candidate or any person or persons working on behalf of the candidate on a voluntary basis, or
- (g) any sum disbursed by any individual out of the individual's own resources for any minor expenses (not exceeding £100 in any one payment) lawfully incurred in relation to the election if the said sum is not repaid to the person.”.

51.—The European Parliament Elections Act, 1997, is amended—

Amendment of
European
Parliament
Elections Act, 1997.

- (a) in section 2(1) by the insertion after the definition of “the Act of 1992” of the following definition:

“‘chief returning officer’ has the meaning assigned to it by section 15A;”;

- (b) by the substitution in paragraph (b) of section 10 of “7 a.m.” for “8 a.m.”;
- (c) in section 11 by the insertion of “on polling day or, if there is no polling day in relation to the constituency concerned by reason of the operation of Rule 23(1)(b), the day which is polling day generally throughout the State in relation to the election concerned” after “21 years”;

(d) by the insertion of the following section after section 15:

“Chief
returning
officer.

15A.—(1) Not later than the day on which an order appointing the polling day at a European election is made, the Minister shall appoint a person to be the chief returning officer for the purposes of this Act.

(2) It shall be the duty of the chief returning officer to receive the returns furnished to him or her in pursuance of this Act by the returning officer for each constituency, to make in the prescribed form to the Parliament a return of the persons elected pursuant to this Act and to do such other things in respect of a European election as he or she is required by law to do.

(3) There shall be charged on and paid out of the Central Fund or the growing produce thereof to the chief returning officer such sums as the Minister for Finance shall sanction for that officer’s services and expenses in respect of a European election.”;

(e) by the substitution of “chief returning officer” for “Clerk of the Dáil” or “Clerk” where those words or that word occur in the following sections and Second Schedule, namely—

(i) section 16(2),

(ii) subsections (5) and (7) of section 20,

(iii) section 21(6)(c),

(iv) in the said Schedule—

(I) Rule 23(1)(b),

(II) Rule 27(2)(a),

(III) paragraphs (5) and (6) of Rule 39,

(IV) Rule 70(b),

(V) Rule 92(1),

(VI) paragraphs (1), (2), (3) and (4) of Rule 93,

(VII) Rule 94,

(VIII) Rule 121,

(IX) Rule 139(2);

(f) in section 18 by the substitution of the following subsection for subsection (6)—

“(6) On the request of a returning officer or local returning officer for an advance on account of the

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officer's charges, the Minister for Finance may, after con- Pr.5 S.51
sultation with the Minister, (irrespective of whether the
scale of charges referred to in subsection (1) has been
prepared or not), if the Minister for Finance thinks fit,
and on such terms as the said Minister of the Govern-
ment thinks fit, make such an advance.”;

(g) in Rule 5(3) of the Second Schedule by—

(i) the substitution of “section 25(7)(d)” for “section 25(4)(c)”;

(ii) the insertion of “and a copy of the political party’s emblem as registered in the Register of Political Parties under Part III of the Electoral Act, 1992,” after “relevant political party”;

(iii) the insertion of “the name of the political party” after “ballot papers and” where those words first occur;

(h) in Rule 13 of the Second Schedule by the substitution of “paragraphs (3) to (5) of Rule 5” for “paragraph (3) or (4) of Rule 5” in paragraph (4);

(i) in Rule 18(3)(a) of the Second Schedule by the substitution of “section 25(7)(d)” for “section 25(4)(c)”;

(j) in Rule 50 of the Second Schedule by—

(i) the insertion of “subject to any modifications which may be provided for in regulations under paragraph 2(b)” after “Fourth Schedule” in paragraph (1);

(ii) the substitution of the following subparagraph for subparagraph (b) of paragraph (2):

“(b) a ballot paper may include a photograph of each candidate and the emblem registered in the Register of Political Parties under Part III of the Electoral Act, 1992, of the candidate’s political party in accordance with the requirements prescribed in regulations which may be made by the Minister (and such regulations may provide for the modification of the form of the ballot paper for that purpose).”;

(iii) the insertion of “and the modifications which may be provided for in regulations under paragraph (b)” after “Fourth Schedule” in subparagraph (i) of paragraph (2);

(iv) the insertion of the following paragraph after paragraph (2):

“(2A) A notice containing a copy of the ballot paper in large print shall be displayed by the presiding officer in the polling station.”;

(k) in Rule 54 of the Second Schedule by the insertion of “and where appropriate, other information concerning the poll” after “Rule 72” in paragraph (1);

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(l) in Rule 59 of the Second Schedule by the insertion of “or who are unable to read or write to such an extent” after “physically incapacitated” in paragraph (f);

(m) in Rule 60 of the Second Schedule by—

(a) the insertion of “(1)” before “Where”, and

(b) the insertion of the following paragraph after paragraph (1):

“(2) (a) Where a European elector is employed by a returning officer or a local returning officer for any purpose in connection with a European election and is registered to vote in a constituency, other than one in which the employment occurs, the elector shall, on application being made by him or her in that behalf, be entitled to have his or her name entered in a supplement to the postal voters list which the registration authority is empowered to prepare and publish in accordance with section 15A of the Electoral Act, 1992. An application under this paragraph shall be made on a form directed by the Minister, and the local returning officer who is employing the person shall certify on the form that the person will be employed by him or her on polling day in connection with the election and will be unable to vote in person in the constituency at the polling station at which the European elector would otherwise be entitled to vote.

(b) Section 15A(2)(d) of the Electoral Act, 1992, shall apply to an application for entry in a supplement to the postal voters list under paragraph (a) as if references in that provision to paragraph (a) or (b) of section 14 were references to this paragraph.

(c) Subsection (4) of section 15A of the Electoral Act, 1992, shall not apply to an application under this paragraph.”;

(n) in Rule 64 of the Second Schedule by the insertion in paragraph (3) of “or he or she is unable to read or write to such an extent” after “physically incapacitated.”;

(o) in Rule 72 of the Second Schedule—

(a) by the substitution of the following subparagraph for subparagraph (iii) (including the text in brackets) of paragraph (1)(c):

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

and

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(b) by the substitution of “have attained the age of eighteen years” for “had attained the age of eighteen years on (date of coming into force of the register)” in paragraph (1)(d);

(p) in Rule 75 of the Second Schedule by the insertion of the following paragraph after paragraph (1)—

“(1A) For the purposes of paragraph (1)(a), the manner in which a ballot box, being a ballot box containing not more than 50 ballot papers, shall be opened shall be such that, although the box is opened, in the presence of the agents of the candidates, the preferences on the individual ballot papers cannot be read by those agents or other persons present at the count.”;

(q) in Rule 85 of the Second Schedule by—

(i) the substitution of “shall not” for “need not necessarily” in paragraph (8); and

(ii) the substitution of the following paragraph for paragraph (11):

“(11) Subject to paragraphs (8) and (9), where two or more candidates have each an equal surplus arising from different counts, a surplus which arises at the end of any count shall be transferred before a surplus which arises at a subsequent count.”;

(r) in Rule 88 of the Second Schedule by the insertion of the following paragraph after paragraph (1)—

“(1A) When the number of continuing candidates exceeds by one the number of vacancies remaining unfilled and the total of the votes credited to the lowest continuing candidate together with the surplus or surpluses not transferred is less than the number of votes credited to the next highest continuing candidate, the continuing candidates, with the exception of the lowest such candidate, shall thereupon be deemed to be elected.”;

(s) in Rule 92(3) of the Second Schedule by the insertion of “the chief returning officer,” after “Minister,” where that word first occurs;

(t) by the deletion of Rule 95 of the Second Schedule;

(u) in Rule 118 of the Second Schedule by the substitution of “50 metres” for “100 metres” in paragraph (2);

and

(v) in Rule 139(1) of the Second Schedule by the insertion of “the chief returning officer,” after “concerned”.

52.—The Presidential Elections Act, 1993, is amended—

(a) in paragraph (b) of section 7 by the substitution of “7 a.m.” for “8 a.m.”;

Amendment of
Presidential
Elections Act, 1993.

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- (b) in section 9 by the substitution of the following subsection for subsection (6)—

“(6) On the request of the presidential returning officer for an advance on account of his services and expenses, the Minister for Finance may, (irrespective of whether an order has been made under section 7 or not) if he thinks fit, and on such terms as he thinks fit, make such an advance.”;

- (c) in section 11 by the substitution of the following subsection for subsection (3)—

“(3) On the request of a local returning officer for an advance on account of the officer’s charges, the Minister for Finance may, after consultation with the Minister, (irrespective of whether the scale of charges referred to in subsection (1) has been prepared or not), if he thinks fit and on such terms as he thinks fit, make such an advance.”;

- (d) in section 37 by—

- (i) the insertion of the following paragraph after paragraph (a) of subsection (2):

“(aa) a ballot paper may include a photograph of each candidate in accordance with the requirements prescribed in regulations which may be made by the Minister (and such regulations may provide for the modification of the form of the ballot paper for that purpose);”;

and

- (ii) in subsection (2) the insertion of “and the modifications which may be provided for in regulations under paragraph (aa)” after “directions” in paragraph (f);

and

- (iii) the insertion of the following subsection after subsection (2):

“(2A) A notice containing a copy of the ballot paper in large print shall be displayed by the presiding officer in the polling station.”;

and

- (e) in section 43 by the insertion of the following subsection after subsection (1)—

“(1A) (a) Where a presidential elector is employed by a local returning officer for any purpose in connection with a presidential election and is registered to vote in a constituency, other than one in which the employment occurs, the elector shall, on application being made by him in that

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behalf, be entitled to have his name entered in a supplement to the postal voters list which the registration authority is empowered to prepare and publish in accordance with section 15A of the Electoral Act, 1992. An application under this section shall be made on a form directed by the Minister, and the local returning officer who is employing the person shall certify on the form that the person will be employed by him on polling day in connection with the election and will be unable to vote in person in the constituency at the polling station at which the presidential elector would otherwise be entitled to vote.

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- (b) Where an application under paragraph (a) is granted, the registration authority shall note the register of electors by placing a mark on the register against the number and name of the elector to denote that the elector's name is on the postal voters list.
- (c) Section 15A(2)(d) of the Electoral Act, 1992, shall apply to an application for entry in a supplement to the postal voters list under paragraph (a) as if references in that provision to paragraph (a) or (b) of section 14 were a reference to this subsection.
- (d) Subsection (4) of section 15A of the Electoral Act, 1992, shall not apply to an application under this subsection."

53.—The Local Government Act, 1994, is amended—

Amendment of
Local Government
Act, 1994.

- (a) by the insertion in section 5 of “on or before polling day at the relevant local election (within the meaning of Part III) or if there is no poll in the local electoral area on or before the day which is polling day generally throughout the State in relation to the election concerned, or, as the case may be, on or before the day of co-option to a local authority” after “18 years”;
- (b) by the substitution in subsection (1) of section 21 of “7 a.m.” for “8 a.m.”.

54.—The Local Elections Regulations, 1995 (S.I. No. 297 of 1995), are amended—

Amendment of
Local Elections
Regulations, 1995.

- (a) in Article 14(5) by—
 - (i) the substitution of “section 25(7)(d)” for “section 25(4)(c)”,
 - (ii) the insertion of “and a copy of the political party's emblem as registered in the Register of Political Parties” after “relevant political party”,

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- (iii) the insertion of “the name of the political party only” after “ballot papers and”;

(b) in Article 51 by—

- (i) the insertion of “subject to any modifications thereof provided under paragraph (aa) of sub-article (2)” after “Schedule” in sub-article (1);
- (ii) the insertion of the following paragraph after paragraph (a) of sub-article (2):

“(aa) a ballot paper may include a photograph of each candidate and the registered emblem of the candidate’s political party and the form of the ballot paper as specified in the Fourth Schedule may be adjusted accordingly in accordance with directions by the Minister,”;

- (iii) the insertion of “and the modifications thereof which may be provided for under paragraph (aa)” after “Schedule” in paragraph (e) of sub-article (2); and
- (iv) the insertion of the following sub-article after sub-article (2):

“(3) A notice containing a copy of the ballot paper in large print shall be displayed by the presiding officer in the polling station.”;

(c) in Article 55 by the insertion of “and, where appropriate, other information concerning the poll” after “article 73” in sub-article (1);

(d) in Article 60 by the insertion of “or who are unable to read or write to such an extent” after “physically incapacitated” in paragraph (f);

(e) in Article 61 by—

- (i) the insertion of “(1)” before “Where, an elector”,

and

- (ii) the insertion of the following sub-article after sub-article (1):

“(2) (a) Where a local government elector is employed by a returning officer for any purpose in connection with a local election and is registered to vote in a local electoral area, other than one in which the employment occurs, the elector shall, on application being made by him or her in that behalf, be entitled to have his or her name entered in a supplement to the postal voters list which the registration authority is empowered to prepare and publish in accordance with section 15A of the Electoral Act, 1992. An application under this sub-article shall be made on a form directed by the Minister, and the returning officer

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who is employing the person shall certify on the form that the person will be employed by him or her on polling day in connection with the election and will be unable to vote in person in the local electoral area at the polling station at which the local government elector would otherwise be entitled to vote. Pr.5 S.54

(b) Section 15A(2)(d) of the Electoral Act, 1992, shall apply to an application for entry in a supplement to the postal voters list under paragraph (a) as if references in that provision to paragraph (a) or (b) of section 14 were references to this sub-article.

(c) Subsection (4) of section 15A of the Electoral Act, 1992, shall not apply to an application under this sub-article.”;

(f) in Article 65 by the insertion of “or he or she is unable to read or write to such an extent” after “physically incapacitated” in sub-article (3);

(g) in Article 73 by—

(i) the substitution of the following paragraph for paragraph (c) (including the words in brackets) of sub-article (2):

“(c) Have you reached the age of eighteen years?”;

and

(ii) the substitution of “have attained the age of eighteen years” for “had attained the age of eighteen years on or before (*date of coming into force of the register*)” in sub-article (3);

(h) in Article 76 by the insertion of the following sub-article after sub-article (1):

“(1A) For the purposes of sub-article (1), the manner in which a ballot box, being a box containing not more than 50 ballot papers, shall be opened shall be such that, although the box is opened in the presence of the agents of the candidates, the preferences on the individual ballot papers cannot be read by those agents or other persons present at the count.”;

(i) in Article 83 by—

(i) the substitution of “shall not” for “need not necessarily” in sub-article (8); and

(ii) the substitution of the following sub-article for sub-article (11)—

“(11) Subject to sub-articles (8) and (9), where two or more candidates have each an equal surplus arising from different counts, a surplus which arises at the end of any count shall be transferred before a surplus which arises at a subsequent count.”;

(j) in Article 86 by the insertion of the following sub-article after sub-article (1)—

“(1A) When the number of continuing candidates exceeds by one the number of vacancies remaining unfilled and the total of the votes credited to the lowest continuing candidate together with the surplus or surpluses not transferred is less than the number of votes credited to the next highest continuing candidate, the continuing candidates, with the exception of the lowest such candidate, shall thereupon be deemed to be elected.”;

(k) by the substitution of the following Article for Article 88—

“88 (1) The order in which candidates credited with a number of votes equal to or greater than the quota shall be deemed to be elected shall be the order of the count at which they were deemed to be elected.

(2) Where more than one candidate is deemed to be elected at the same count, such candidates shall be deemed to be elected in the order of magnitude of their surpluses. Where such a candidate is credited with a number of votes equal to the quota he shall, for the purposes of this article, be regarded as having had the smallest surplus at that count.

(3) Where two or more candidates are deemed to be elected at the same count with either equal surpluses or with no surpluses, the candidates shall be deemed to be elected in the order of magnitude of their original votes, beginning with the largest. Where the numbers of such original votes are equal, regard shall be had to the total number of votes credited to such candidates at the first count at which they had an unequal number of votes and the surplus of the candidate credited with the greatest number of votes at that count shall be deemed to be the largest. Where the numbers of votes credited to such candidates were equal at all counts, the candidates shall, in cases where lots were drawn to determine the order in which equal surpluses were to be dealt with, be deemed to have been elected in the order so determined. In all other cases the returning officer shall determine by lot the order in which such candidates shall be deemed to have been elected.

(4) Where a single candidate is deemed to be elected under article 86 such candidate shall be deemed to have been elected last of all the candidates deemed to have been elected at that counting of votes.

(5) Where more than one candidate is deemed to be elected under article 86 they shall be deemed to be elected in the order of magnitude of the numbers of votes credited to them, beginning with the largest, and where any such numbers are equal, the question shall be determined as between such candidates as if those numbers were surpluses.”;

and

[2001.] *Electoral (Amendment) Act, 2001.* [No. 38.]

(l) in article 108 by the substitution of “50 metres” for “100 metres” in sub-article (2). Pr.5 S.54

55.—The Referendum Act, 1994, is amended—

Amendment of
Referendum Act,
1994.

(a) in paragraph (b) of section 13 by the substitution of “7 a.m.” for “8 a.m.”;

(b) in section 14 by the substitution of the following subsection for subsection (6)—

“(6) The Minister for Finance (irrespective of whether an order has been made under section 13 or not) may make an advance to the referendum returning officer for the officer’s services and expenses on such terms as that Minister thinks fit.”;

(c) in section 16 by the substitution of the following subsection for subsection (3):

“(3) On the request of a local returning officer for an advance on account of the officer’s charges the Minister for Finance may, after consultation with the Minister, (irrespective of whether the scale of charges referred to in subsection (1) has been prepared or not), on such terms as the Minister for Finance thinks fit, make such an advance.”;

(d) in section 23 by the insertion of the following paragraph after paragraph (d):

“(e) a statement for the information of voters prescribed at a referendum may issue to electors on a document other than a polling information card if the statement cannot be accommodated on the polling card because of its length.”;

(e) in section 31 by the insertion of the following subsection after subsection (1):

“(1A) (a) Where a presidential elector is employed by a local returning officer for any purpose in connection with a referendum and is registered to vote in a constituency, other than one in which the employment occurs, the elector shall, on application being made by him in that behalf, be entitled to have his name entered in a supplement to the postal voters list which the registration authority is empowered to prepare and publish in accordance with section 15A of the Electoral Act, 1992. An application under this section shall be made on a form directed by the Minister, and the local returning officer who is employing the person shall certify on the form that the person will be employed by him on polling day in connection with the referendum and will be unable to vote in person in the constituency at the polling station at which the

presidential elector would otherwise be entitled to vote.

- (b) Where an application under paragraph (a) is granted, the registration authority shall note the register of electors by placing a mark on the register against the number and name of the elector to denote that the elector's name is on the postal voters list.
- (c) Section 15A(2)(d) of the Electoral Act, 1992, shall apply to an application for entry in a supplement to the postal voters list under paragraph (a) as if references in that provision to paragraph (a) or (b) of section 14 were a reference to this subsection.
- (d) Subsection (4) of section 15A of the Electoral Act, 1992, shall not apply to an application under this subsection.”.

Amendment of Seanad Electoral (University Members) Act, 1937.

56.—The Seanad Electoral (University Members) Act, 1937, is amended—

- (a) in section 7(2) by the deletion of “, if a woman”;
- (b) in section 8 by the insertion of the following subsection after subsection (1):
 - “(1A) (a) Notwithstanding the provisions of this section and the First Schedule to this Act, the governing body of every university which is a university constituency shall cause to be prepared and published a version of the register of electors which shall be known and is in this Act referred to as the ‘edited register’ in accordance with Rule 15A of the said Schedule.
 - (b) A person who uses information in the register prepared under subsection (1) of this section, being information which is excluded from the edited register, for a purpose, other than an electoral or other statutory purpose, shall be guilty of an offence.
 - (c) A governing body shall not be obliged to comply with paragraph (a) of this subsection until the day which is 3 years after the commencement of *section 56* of the *Electoral (Amendment) Act, 2001*, but if it complies with that paragraph before that day, paragraph (b) of this subsection and section 25 (inserted by section 166 of the Principal Act) of this Act shall apply accordingly.”;
- (c) in section 15 by the insertion of the following subsection after subsection (2):

[2001.] *Electoral (Amendment) Act, 2001.* [No. 38.]

“(3) On the request of a returning officer for an advance on account of his charges the Minister for Finance may, after consultation with the Minister, (irrespective of whether the scale of charges referred to in subsection (2) of this section has been prepared or not), if he thinks fit and on such terms as he thinks fit, make such an advance.”;

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(d) in section 20(2) by the insertion of “and may include a photograph of each candidate in accordance with such requirements as may be prescribed in that behalf” after “perforated”;

(e) in section 25 (inserted by section 166 of the Principal Act) by the insertion of “133,” after “57,” in subsection (1);

(f) in the First Schedule—

(i) in Rule 4—

(I) by the substitution of “sent, and” for “sent.” in paragraph (c);

(II) by the insertion after paragraph (c) of the following paragraph:

“(d) that he does not wish his name and address to be used for a purpose other than an electoral or other statutory purpose.”;

(ii) in Rule 14—

(I) by the substitution of “dead, and” for “dead.” in paragraph (c);

(II) by the insertion of the following paragraph after paragraph (c):

“(d) removing from such register the name of any person, after reasonable enquiry by the registration officer, whose address or the address to which a ballot paper is to be sent is unknown.”;

(iii) in Rule 15 by the insertion of “in printed form or in electronic format” after “copy” in paragraph (d); and

(iv) by the insertion of the following Rule after Rule 15:

“15A. (1) Following publication of the revised register (within the meaning of Rule 15 of this Schedule) the registration officer shall prepare and publish a version of the register by omitting therefrom the names and addresses of registered electors who have requested that such details should not be used for a purpose other than an electoral or other statutory purpose.

(2) Where an elector whose details are included in an edited register requests the registration officer to delete the elector’s details from the edited register, the registration officer shall note the request and

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notify any person who received a copy of the edited register of the request.

(3) The registration officer may supply on request to any person a copy of the edited register or part thereof in printed form or in electronic format on payment of a prescribed fee.”.

Amendment of Seanad Electoral (Panel Members) Act, 1947.

57.—The Seanad Electoral (Panel Members) Act, 1947, is amended—

(a) in section 4 by the insertion of the following subsection after subsection (3):

“(3A) On the request of the Seanad returning officer for an advance on account of his charges the Minister for Finance may, after consultation with the Minister (irrespective of whether an order under section 24 or 56 of this Act has been made or not) if he thinks fit, and on such terms as he thinks fit, make such an advance.”;

(b) in section 47 by the insertion of the following paragraph after paragraph (b) of subsection (1)—

“(bb) a ballot paper may include a photograph of each candidate in accordance with such requirements as may be prescribed;”;

and

(c) in the First Schedule by the deletion of Rule 23.

Amendment of Local Elections (Disclosure of Donations and Expenditure) Act, 1999.

58.—The Local Elections (Disclosure of Donations and Expenditure) Act, 1999, is amended—

(a) in section 2(1)—

(i) by the insertion in the definition of “donation” after “candidate at an election”, where those words first occur, of “or a member of a local authority, political party or third party in connection with an election, plebiscite or campaign”;

(ii) by the substitution of the following definition for the definition of “local authority concerned”:

“ ‘local authority concerned’ means the local authority to which a candidate seeks or sought election or in whose functional area a local political matter arises;”;

(b) in section 6(1)(a) by the substitution of “paragraph (aa) and (b)” for “paragraph (b)”;

(c) in section 6(1)(a)(iii)—

(i) the substitution of “the outcome of the election.” for “the outcome of the election,”,

and

[2001.] *Electoral (Amendment) Act, 2001.* [No. 38.]

(ii) the deletion of all the words from “and shall” down to and including “at the election.”, Pr.5 S.58

(d) by the insertion of the following paragraph after paragraph (a) of section 6(1)—

“(aa) The expenses mentioned in the foregoing definition of ‘election expenses’ shall be those, and only those, set out in the Schedule to this Act.”;

(e) in section 6(1)(b)(iii) by the insertion of “(including accommodation)” after “living expenses”;

(f) in section 6(1)(b)(iv) by the insertion of “(not exceeding £100 in any one payment)” after “minor”;

(g) in section 6(1)(b)(vi)(II) by the insertion of “(including recoupment of expenses)” after “normal remuneration”;

(h) in section 6 by the insertion of the following subsection after subsection (8):

“(8A) It shall be the duty of the political party concerned to furnish the relevant material referred to in subsection (8) to the relevant national agent or designated person in sufficient time to enable the agent or person to carry out his or her duties under section 13. A political party which fails to comply with this subsection shall be guilty of an offence.”;

(i) in section 13 by—

(i) in subsection (1) by—

(I) the insertion of “or an elected member” after “a designated person” where those words occur in paragraphs (a)(ii) and (b),

(II) the substitution for “A candidate” where those words occur in paragraphs (a)(iii) and (c)(i) of “An unsuccessful candidate”,

(III) the insertion of “shall be in the prescribed form and” after “The statement” in paragraph (c)(iii),

(ii) the insertion in subsection (2) of “elected member, unsuccessful” after “designated person”,

(iii) the insertion in subsection (3) of “elected member, unsuccessful” after “designated person.”;

(j) in section 14 by the insertion in subsections (1) and (2) of “or a donation statement and a statutory declaration furnished pursuant to section 19E” after “section 13(1)(a)”;

(k) in section 18 by—

(i) the substitution of “section 13, 19D or 19E” for “section 13” in subsection (1),

(ii) the substitution of “section 13 or 19E” for “section 13” in subsection (3)(a) and subsection (7),

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(iii) the insertion of the following subsection after subsection (5):

“(5A) Where the local authority requests additional or supplemental information in relation to a statement furnished under section 13 such information shall be provided by the person who furnished the statement and shall be in a form, directed by the local authority, accompanied, if the local authority so requests, by a statutory declaration made by the person to the effect that to the best of his or her knowledge and belief the information is correct in every material respect and that he or she has taken all reasonable action in order to be satisfied as to the accuracy of the information.”,

(iv) the insertion of the following subsection after subsection (8):

“(9) A person shall act in accordance with guidelines or advice published or given to the person under this section unless, by so doing, the act concerned would constitute a contravention of another provision of this Act.”;

(l) in section 19 by the substitution of “section 13 or 19E” for “section 13” in subsections (1) and (2);

(m) by the insertion of the following Part after Part IV—

“PART IVA

DISCLOSURE OF DONATIONS

Interpretation. 19A.—For the purposes of this Part—

‘account’ means an account in an institution in the State for the purpose of crediting and debiting money received in respect of donations;

‘candidate’ means a person who on or before the date of the making of the order appointing polling day in relation to an election is declared by himself or herself or by others to be a candidate at the election concerned;

‘institution’ means—

- (a) the holder of a licence under section 9 of the Central Bank Act, 1971,
- (b) a building society incorporated or deemed to be incorporated under the Building Societies Act, 1989, or a body incorporated in a corresponding manner under the law of any other Member State of the European Communities,
- (c) a trustee savings bank within the meaning of the Trustees Savings Banks Act, 1989,

(d) ACC Bank plc, Pr.5 S.58

(e) An Post, or

(f) a person authorised in accordance with the European Communities (Licensing and Supervision of Credit Institutions) Regulations, 1992 (S.I. No. 395 of 1992), to carry on business in the State;

‘local political matter’ means a matter relating to the policy or policies or functions of a local authority or other statutory body in which are vested functions in relation to local government;

‘political purposes’ means any of the following purposes, namely—

(i) (I) to promote or oppose, directly or indirectly, the interests of a political party or a member of a local authority, or

(II) to present, directly or indirectly, the policies or a particular policy of a political party, a member of a local authority or a third party, or

(III) to present, directly or indirectly, the comments of a political party, a member of a local authority or a third party with regard to the policy or policies of another political party, member of a local authority, third party or candidate at the election, or at a plebiscite or campaign or otherwise, or

(IV) to promote or oppose, directly or indirectly, the interests of a third party in connection with the conduct or management of any campaign conducted with a view to promoting or procuring a particular outcome in relation to a plebiscite or local political matter,

(ii) to promote or oppose, directly or indirectly, the election of a candidate at the

election or to solicit votes for or against a candidate or to present the policies or a particular policy of a candidate or the views of a candidate with regard to any matter connected with the election or the comments of a candidate with regard to the policy or policies of a political party or third party or of another candidate at the election or otherwise,

- (iii) otherwise to influence the outcome of the election, or a plebiscite or campaign;

‘plebiscite’ means a poll to ascertain the views or consent of qualified electors, within the meaning of section 67(2) of the Local Government Act, 1994, in relation to a local political matter;

‘responsible person’, in relation to a third party, means a person who is responsible for the organisation, management or financial affairs of the third party;

‘third party’, in relation to a local election, plebiscite or campaign, means any person, other than a political party registered in the Register of Political Parties under Part III of the Act of 1992 or a candidate at an election, who accepts, in any particular year, a donation the value of which exceeds £100.

Limits on donation amounts.

19B.—(1) (a) Without prejudice to subsection (2), a candidate at an election shall not, directly or through any intermediary, accept in connection with the election from a particular person a donation the value of which exceeds £2,000.

(b) Without prejudice to subsection (2), none of the following persons, namely—

- (i) a member of a local authority,
- (ii) a political party, or
- (iii) a third party,

shall, directly or through any intermediary, accept from a particular person in a particular year a donation the value of

which exceeds—

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(I) in case the first-mentioned person falls within subparagraph (i), £2,000,

(II) in case the first-mentioned person falls within subparagraph (ii) or (iii), £5,000.

(2) None of the persons referred to in subsection (1) shall, directly or through any intermediary, accept a donation of whatever value given by—

(a) an individual (other than an Irish citizen) who resides outside the island of Ireland, or

(b) a body corporate or an unincorporated body of persons which does not keep an office in the island of Ireland, being an office from which the carrying on of one or more of its principal activities is directed.

(3) For the avoidance of doubt, if the provisions of section 23A or 48A of the Electoral Act, 1997, fall to be applied to anything referred to in subsection (1) or (2), the provisions of the said section 23A or 48A (as the case may be) and subsection (1) or (2) shall be construed as permitting only one donation of the value of £2,000 or £5,000, as the case may be (or two or more donations of a total value of the said amount) to be received from a particular person in relation to the same matter.

(4) Where a person makes more than one donation in the same year to the same member of a local authority or, in relation to the same election, plebiscite or campaign, to the same candidate or political party or, in connection with the same election, plebiscite or campaign, to the same third party, all such donations shall, for the purposes of this section, be aggregated and treated as a single donation received by the person concerned and references in subsequent provisions of this section to a donation the acceptance of which is prohibited by subsection (1) shall be construed accordingly.

(5) The limits referred to in subsection (1) shall not apply to the provision by any person of a constituency office to an individual or, if more than one such office is provided to the individual, whichever one of those

offices is nominated in writing by the individual for the purposes of this subsection.

(6) Where, notwithstanding subsection (1) or (2), a donation the acceptance of which is prohibited by either subsection, is made to a person referred to therein the donee shall, not later than 14 days after the receipt of the donation, either—

(a) return the donation, or, in the case of a donation referred to in subsection (1) which is a monetary donation, the part of it exceeding the limit concerned, to the donor and keep a written record of that return for the purposes of its being furnished to the local authority concerned, if required by it, or

(b) notify the local authority concerned of such receipt and remit the donation, or, in the case of a donation referred to in subsection (1) which is a monetary donation, the part of it exceeding the limit concerned or the value thereof to the authority.

(7) A local authority shall dispose of all moneys, property or goods received by it under subsection (6) in such manner as it determines.

Variation of monetary amounts by order of Minister.

19C.—(1) The Minister may, by order, vary any monetary amount specified in section 19A, 19B, 19D, 19E or 19F having regard to any change in the consumer price index since the coming into operation of the provision for the time being in force specifying the amount in question, including an order under this section, and may, by order, amend or revoke any such order.

(2) For the purposes of this section, ‘change in the consumer price index’ means the difference between the consumer price index number last published before the date of the order under this section and the said number last published before the date of the coming into force of the provision specifying the amount applying immediately before the making of the said order, including an order under this section, expressed as a percentage of the last-mentioned number.

(3) Every order made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after

the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything done thereunder. Pr.5 S.58

Political
donations
accounts.

19D.—(1) A member of a local authority, a candidate at an election or a third party who receives, in any particular year, a monetary donation the value of which exceeds £100 shall open and maintain an account in an institution in the State and shall lodge that donation and any further monetary donations received by him or her to that account.

(2) A member of a local authority or an unsuccessful candidate at an election shall ensure that, in the case of a member, the donation statement furnished by him or her under section 19E to a local authority and, in the case of an unsuccessful candidate, the statement furnished by him or her under section 13, is accompanied by—

(a) a statement provided by the institution referred to in subsection (1) with which he or she has opened the account referred to therein specifying the transactions that have taken place in relation to the account, in the case of a member of a local authority, during the year preceding the year in which the said donation statement is furnished or, in the case of an unsuccessful candidate, during the period beginning on the date of opening of the account and ending on polling day at the election, and

(b) a certificate, in the form directed by the Minister, signed by the member or unsuccessful candidate, stating that all donations referred to in subsection (1) that were received by him or her during the said preceding year or said period, as the case may be, were lodged to the said account and all amounts debited from that account were used for political purposes.

(3) Not later than 31 March in every year, the responsible person of a third party shall furnish to the local authority concerned a statement provided by the institution referred to in subsection (1) with which the third party has opened the account referred to therein specifying the transactions that have taken place in relation to the account during the preceding year together with a

certificate, in the form directed by the Minister, signed by him or her stating that all donations referred to in subsection (1) that were received by the third party during the preceding year were lodged to the said account and all amounts debited from that account were used for political purposes.

(4) The certificate to be furnished under subsection (2) or (3) shall be accompanied by a statutory declaration made by the person by whom the certificate is furnished that, to the best of the person's knowledge and belief, the statement is correct in every material respect and that the person has taken all reasonable action in order to be satisfied as to the accuracy of the certificate.

(5) If a person to whom subsection (2) applies dies before the expiration of the period for the furnishing of the donation statement or, as the case may be, the statement under section 13 referred to in that subsection to the local authority concerned the requirements of that subsection with respect to that statement being accompanied by the statement and certificate referred to therein shall not apply.

(6) A local authority shall retain the statements, certificates and statutory declarations furnished to it pursuant to subsection (2) or (3) and shall not disclose the contents of those statements, certificates or declarations unless ordered by a court to do so or save when such disclosure is required in connection with an investigation held by the local authority.

(7) A member of a local authority, a candidate at an election, a third party or the responsible person of a third party, as the case may be, who fails to comply with subsection (1), (2), (3) or (4) shall be guilty of an offence.

Donation
statement.

19E.—(1) Not later than the 31st day of January in every year, each person who, in the preceding year, was a member of a local authority shall furnish to the local authority concerned a written statement, in the form directed by the Minister, in respect of the preceding year indicating whether during that year the member received a donation the value of which exceeded £500 and stating in respect of each such donation (if any)—

(i) the value of the donation, and

(ii) the name, description and postal address of the person by or on whose behalf the donation was made.

(2) A statement furnished pursuant to subsection (1) (which shall be known, and is referred to in this Act, as a ‘donation statement’) shall be accompanied by a statutory declaration made by the person by whom the statement is furnished that, to the best of the person’s knowledge and belief, the statement is correct in every material respect and that the person has taken all reasonable action in order to be satisfied as to the accuracy of the statement.

(3) It shall be the duty of every person who is required by this section to furnish a donation statement and make a declaration to make such enquiries and maintain such records as are necessary for the purpose of furnishing the said statement and making the declaration.

(4) If the person to whom subsection (1) applies dies before the expiration of the period for furnishing a statement under that subsection, such statement shall not be required to be made to the local authority concerned.

Anonymous donations.

19F.—(1) A member of a local authority, a candidate at a local election or a third party at a local election or a plebiscite or in connection with a campaign or otherwise shall not, directly or through any intermediary, accept a donation the value of which exceeds £100 unless the name and address of the person by or on whose behalf the donation is made are known to the member, candidate or third party, as the case may be.

(2) Where, notwithstanding subsection (1), a donation, acceptance of which is prohibited by that subsection, is made to a member of a local authority, a candidate at a local election or a third party at a local election or a plebiscite or in connection with a campaign or otherwise, the member, candidate or party concerned shall, not later than 14 days after the receipt of such donation, notify the local authority concerned in writing of such receipt and remit the donation or the value thereof to the local authority.

(3) The said local authority shall cause a copy of each notification received under subsection (2) by it to be laid before the members of the local authority and shall dispose of all moneys, property or goods received under the said subsection in such manner as it determines.

Registration of third parties.

19G.—As soon as may be after the receipt by it of a donation the value of which exceeds £100 and before incurring any expenses for political purposes or, as the case

may be, incurring, subsequent to that receipt, any further such expenses, a third party shall furnish to the local authority concerned in writing—

- (a) the name and address of the third party and the name and address of the responsible person or each responsible person in relation to the third party,
- (b) a statement of the nature, purpose and estimated amount of the donations to, and proposed expenses of, the third party in any year, and
- (c) an indication of the third party's connection, if any, with any political party or candidate at the election or with plebiscite or campaign.”;

(n) in section 20 by—

- (i) the deletion of “donations and” after “statement of” and the substitution of “section 13(1)(a)(ii)” for “subsection 13(1)(a)(iii)” in subsection (2),
- (ii) the substitution of “pursuant to section 13” for “of donations and election expenses” in subsection (4);

(o) in section 21 by—

- (i) the insertion of the following subsections after subsection (4)—

“(4A) A person to whom section 19D applies shall be guilty of an offence if he or she—

- (a) fails to furnish the statement of an institution, certificate or statutory declaration required by subsection (2) or (3) of section 19D on or before the relevant specified date, or
- (b) knowingly furnishes such a statement, certificate or declaration which is false or misleading in any material respect.

(4B) A person shall be guilty of an offence if he or she—

- (a) fails to notify the local authority concerned in accordance with section 19B or 19F of the receipt of a donation acceptance of which is prohibited by that section,
- (b) fails to remit to the local authority concerned or donor in accordance with section 19B or 19F such a donation or part of a donation or value thereof,

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- (c) fails to furnish the statement and make the statutory declaration required by section 19E on or before the relevant specified date, Pr.5 S.58
- (d) knowingly furnishes a donation statement or makes a statutory declaration required by section 19E which is false or misleading in any material respect, or
- (e) fails to comply with section 19G.”;
- (ii) by the insertion of “or section 19B, 19D, 19E, 19F or 19G” after “this section” in subsection (5)(a);
- (iii) the substitution of “(3)(c), (4A)(b) or (4B)(d)” for “or (3)(c)” in subparagraph (ii) of subsection (5)(a);
- (iv) the insertion of “or a statement or certificate or statutory declaration under section 19D or 19E” after “section 13” in paragraph (b) of subsection (5); and
- (p) by the insertion of the following Schedule after section 25:

“SCHEDULE

1. The following are the expenses referred to in section 6(1)(aa):

- (a) Advertising (whatever the medium used).
Expenses in respect of such advertising include agency fees, design costs and other costs incurred in connection with preparing, producing, distributing or otherwise disseminating such advertising.
- (b) Publicity.
Expenses in respect of that matter include expenses incurred in respect of party political broadcasts, the provision of any services or facilities in connection with press conferences or other dealings with the media, media advice and training and photography.
- (c) Election posters.
Expenses in respect of such material include the costs of the design, production, printing, erection and removal of election posters.
- (d) Other election material.
Expenses in respect of such material include the design, production, printing and disseminating of such material (other than posters) including canvass cards, election leaflets, election manifestos, newsletters and any other promotional election material.
- (e) Office and stationery.
Expenses in respect of those matters include costs incurred in the rental or use of an office

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premises or meeting rooms for election purposes (other than for the purposes of annual or other party conferences) and the costs of heating, electricity, insurance, purchase or rental of office equipment, telephones, stationery and postage.

(f) Transport and travel.

Expenses in respect of those matters include expenses incurred on transport and travel (by any means), petrol and diesel, rental or use of campaign vehicles, rental or use of vehicles for transport of voters on polling day, accommodation costs, taxi and hackney services and courier services.

(g) Market Research.

Expenses in respect of that matter include expenses incurred in the taking of an opinion poll or other similar survey relating to an election within the period of 60 days before polling day at the election by or on behalf of a political party or a candidate at the election.

(h) Campaign workers.

Expenses in respect of that matter include payments to campaign workers, insurance and other costs.

2. For the avoidance of doubt, nothing in paragraph 1 of this Schedule extends to any of the matters referred to in section 6(1)(b).”.

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