



Number 7 of 2019

European Parliament Elections (Amendment) Act 2019



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EUROPEAN PARLIAMENT ELECTIONS (AMENDMENT) ACT 2019

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[No. 7.]

*European Parliament Elections
(Amendment) Act 2019.*

[2019.]

ACTS REFERRED TO

Electoral Act 1992 (No. 23)

Electoral Acts 1992 to 2018

European Parliament Elections Act 1997 (No. 2)

European Parliament Elections Acts 1992 to 2014

Local Government Act 2019 (No. 1)



Number 7 of 2019

EUROPEAN PARLIAMENT ELECTIONS (AMENDMENT) ACT 2019

An Act to give effect to European Council Decision (EU) 2018/937 of 28 June 2018¹ establishing the composition of the European Parliament and Council Decision (EU, Euratom) 2018/994 of 13 July 2018² amending the Act concerning the election of the members of the European Parliament by direct universal suffrage, annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20 September 1976 and, for that purpose, to revise the European Parliament constituencies; to provide for the number of members to be elected for such constituencies; to amend the European Parliament Elections Act 1997; to amend the Electoral Act 1992; and to provide for related matters.

[12th March, 2019]

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act “Principal Act” means the European Parliament Elections Act 1997.

Amendment of section 6 of Principal Act

2. Section 6 of the Principal Act is amended by the deletion of “or the United Kingdom” in each place that it occurs.

Amendment of section 10 of Principal Act

3. Section 10 of the Principal Act is amended, in paragraph (a) of subsection (1), by the substitution of “sixty days” for “fifty days”.

Amendment of section 11 of Principal Act

4. Section 11 of the Principal Act is amended—
 - (a) in paragraph (d) of subsection (2), by the deletion of “or the United Kingdom”,
 - (b) in subsection (3), by the deletion of “or the United Kingdom”,
 - (c) by the substitution of the following subsection for subsection (4):

“(4) (a) A person who is elected under this Act to be a representative in the Parliament, and who when so elected, holds office as—

1 OJ No. L165, 2.7.2018, p.1

2 OJ No. L178, 16.7.2018, p.1

- (i) the Attorney General,
- (ii) the Chairman or Deputy Chairman of the Dáil or the Chairman or Deputy Chairman of the Seanad, or
- (iii) a Minister of State,

shall, on such election and no later than taking up his or her seat in the Parliament, on the date specified by the Parliament for the taking up of such seats, cease to hold that office.

- (b) A person who pursuant to section 19 of this Act is to be regarded as having been elected to be a representative in the Parliament or when he or she commences to be so regarded holds office as—

- (i) the Attorney General,
- (ii) the Chairman or Deputy Chairman of the Dáil or the Chairman or Deputy Chairman of the Seanad, or
- (iii) a Minister of State,

shall on being regarded as having being so elected, on the day on which he or she commences to be so regarded, and no later than taking up his or her seat in the Parliament, on the date specified by the Parliament for the taking up of such seats, cease to hold that office.”,

and

- (d) in subsection 4A—

- (i) by the substitution of the following paragraph for paragraph (a):

“(a) A person who is elected under this Act to be a representative in the Parliament, and who, when so elected, is a member of either House of the Oireachtas, shall on such election and no later than taking up his or her seat in the Parliament, on the date specified by the Parliament for the taking up of such seats, cease to be a member of the House of the Oireachtas concerned.”,

and

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

“(b) A person who pursuant to section 19 of this Act is to be regarded as having been elected to be a representative in the Parliament or when he or she commences to be so regarded, and no later than taking up his or her seat in the Parliament, on the date specified by the Parliament for the taking up of such seats, shall cease to be a member of the House of the Oireachtas concerned.”.

Amendment of section 15 of Principal Act**5.** Section 15 of the Principal Act is amended—

(a) by the substitution of the following subsection for subsection (3):

“(3) Subject to subsection (4), an area specified in the Third Schedule shall be taken to be that area as constituted on 1 September 2018.”,

and

(b) by the insertion of the following subsection after subsection (3):

“(4) Sections 28 and 29 of the Local Government Act 2019 shall apply for the purposes of the holding of European elections in the year 2019 as they apply for the purposes of the holding of local elections in that year, subject to the following modifications in section 28—

(a) by the substitution of ‘European’ for ‘local government’ in paragraph (b) of subsection (1),

(b) by the substitution of ‘European’ for ‘local government’ in subsection (2), and

(c) by the substitution of ‘this Act’ for ‘Part 4 of the Principal Act’ in subsection (3).”.

Amendment of Second Schedule to Principal Act**6.** The Second Schedule to the Principal Act is amended—

(a) in rule 2, by the substitution of “the forty-fifth day” for “the thirty-fifth day”,

(b) in rule 5—

(i) by the substitution of the following subparagraph for subparagraph (c) of paragraph (1):

“(c) a form of statement indicating whether the candidate is—

(i) a citizen of Ireland, or

(ii) a national of a Member State, other than the State,

and”,

(ii) by the substitution of the following paragraph for paragraph (3):

“(3) (a) A candidate may include in the nomination paper the name of the registered political party of which he or she is a candidate or the name of such political party together with the name of any political group or European political party noted on the Register of Political Parties in relation to that political party, provided that, at the time the nomination paper is delivered to the returning officer, a certificate in the form directed by the Minister (in this Schedule referred to as a ‘certificate of

political affiliation’) authenticating the candidature is produced to the returning officer, being a certificate signed by the officer or officers of such party whose name or names appear in the said Register pursuant to section 25(7)(d) of the Act of 1992. Where such a certificate is produced, the returning officer, provided he or she is satisfied that it is appropriate to do so in relation to the candidate, shall cause—

- (i) a statement of the name of the relevant political party and a copy of the political party’s emblem as registered in the said Register to be specified in relation to the candidate on all the ballot papers, and
 - (ii) a statement of the name of the relevant political party to be specified in relation to the candidate on notices.
- (b) Where a candidate includes in the nomination paper a statement of the name of a political group or a European political party in addition to the name of a political party, the returning officer, provided he or she is satisfied that it is appropriate to do so in relation to the candidate, shall cause a statement of the name of such political group or such European political party in addition to the name of such party to be specified on all such ballot papers and notices.”,

and

- (iii) by the substitution of the following paragraph for paragraph (5):

“(5) A person to whom paragraph (4) applies may include in the nomination paper the name of any—

- (a) political group formed in accordance with the rules of procedure of the European Parliament, or
- (b) European political party established in accordance with Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council of 22 October 2014³ on the statute and funding of European political parties and European political foundations,

of which he or she is a member, provided that, at the time the nomination paper is delivered to the returning officer, a certificate (in this Schedule referred to as a ‘certificate of European political affiliation’) is also produced to the returning officer, being a certificate signed by a member of the Secretariat of the relevant political group or European political party that the person in question is a member of the political group or European political party named in the certificate. Where such a certificate is produced, the returning officer, provided he or she is satisfied that

3 OJ No. L 317, 4.11.2014, p.1

it is appropriate to do so in relation to the candidate, shall cause a statement of the name of such political group or such European political party, in addition, where appropriate, to the expression ‘Non-Party’, to be specified in relation to the candidate on all the ballot papers and on notices.”,

- (c) in rule 6, by the deletion in paragraph (1), of “or the United Kingdom”,
- (d) in rule 10—
 - (i) in paragraph (2), by the deletion of “or the United Kingdom”, and
 - (ii) in paragraph (3), by the deletion of “or a British citizen”,
- (e) in rule 18, by the substitution of the following subparagraph for subparagraph (b) of paragraph (1):
 - “(b) a form of statement indicating whether a person nominated by entry thereon as a replacement candidate is—
 - (i) a citizen of Ireland, or
 - (ii) a national of a Member State other than the State,and”,
- (f) in rule 19, by the deletion in paragraph (2), of “or the United Kingdom”,
- (g) in rule 50, by the substitution of the following subparagraph for subparagraph (d) of paragraph (2):
 - “(d) the name of each candidate’s political party, if any, or, if appropriate, the expression ‘Non-Party’ shall be printed in large capitals, and the name of each candidate’s political group or European political party, if any, shall be printed in ordinary characters.”,
- (h) in rule 88—
 - (i) in paragraph (1), by the substitution of “Subject to paragraph (4), when” for “When”,
 - (ii) in paragraph (1A), by the substitution of “Subject to paragraph (4), when” for “When”, and
 - (iii) by the insertion of the following paragraphs after paragraph (3):
 - “(4) For the purpose of the European elections held in the year 2019—
 - (a) paragraph (1A) shall not apply in the constituencies of Dublin and South as specified in the Third Schedule, and
 - (b) subject to paragraph (5), when all vacancies have been filled in the constituencies of Dublin and South as specified in the Third Schedule, the order in which candidates are deemed to be elected in each such constituency shall be—

- (i) where a candidate is deemed to be elected at the end of a count, that candidate shall be deemed to be elected before a candidate deemed to be elected at a subsequent count,
 - (ii) where two or more candidates are deemed to be elected at the end of a count, the candidate with the greater number of votes credited at the end of that count shall be deemed to be elected before a candidate with a lower number of votes credited at the end of that count.
- (5) If, at the end of a count, two or more candidates in the constituencies of Dublin and South as specified in the Third Schedule have each the same number of votes—
- (a) regard shall be had to the number of original votes credited to each candidate, and the candidate with a greater number of original votes shall be deemed to be elected before a candidate with a lower number of original votes credited,
 - (b) where the numbers of the original votes are equal, regard shall be had to the total numbers of votes credited to each candidate at the first count at which they had an unequal number of votes and the candidate with a greater number of votes credited at that count shall be deemed to be elected before a candidate with a lower number of votes credited at that count, or
 - (c) where the numbers of votes credited to each candidate is equal at all counts, the returning officer shall determine by lot the order in which the candidates are deemed to be elected.
- (6) In this rule and without prejudice to rule 82, “determine by lot” means determine in accordance with the following directions, namely, the names of each candidate concerned having been written on similar slips of paper, and the slips having been folded so as to prevent identification and mixed and drawn at random, each candidate shall be deemed to be elected in the order in which his or her name is drawn.”
- (i) in rule 92, by the insertion of the following paragraph after paragraph (3):
- “(4) Notwithstanding paragraph (3), for the purpose of the European elections held in the year 2019, the returning officer for the constituency of Dublin and the returning officer for the constituency of South shall give public notice of the last candidate deemed to be elected, in accordance with rule 88, in each said constituency. The returning officer for the constituency of Dublin and the returning officer for the constituency of South shall send a copy of the said notice to the Minister, the chief returning officer, Clerk of the Dáil (or, where he or she is unable through illness, absence or other cause to fulfil his or her duties or where there is a vacancy in the office of

Clerk of Dáil Éireann, the Clerk-Assistant of Dáil Éireann) and to each person elected.”,

(j) the substitution of the following rule for rule 94:

“94. (1) The chief returning officer shall, as soon as may be after receipt of the return referred to in rule 92 from each returning officer, make a return, in the form directed by the Minister, to the Parliament of the persons elected in the State to be representatives in the Parliament.

(2) For the purpose of the European elections held in the year 2019, the return made by the chief returning officer under paragraph (1) shall declare that the last candidate deemed to be elected, as set out in the public notice given in accordance with rule 92, in each of the constituencies of Dublin and South as specified in the Third Schedule, shall not take up their seats in the European Parliament until such time as a date has been specified by the Parliament for the taking up of such seats.”,

and

(k) in rule 96, by the deletion in subparagraph (bb) of paragraph (1), of “or the United Kingdom”.

Substitution of Third Schedule to Principal Act

7. The Principal Act is amended as respects European elections held after 1 January 2019 by the substitution of the following Schedule for the Third Schedule:

“Third Schedule

Section 15

CONSTITUENCIES

Constituency	Area	Number of Members
Dublin	The counties of: Dún Laoghaire-Rathdown, Fingal and South Dublin; and the city of Dublin.	4
Midlands-North-West	The counties of: Cavan, Donegal, Galway, Kildare, Leitrim, Longford, Louth, Mayo, Meath, Monaghan, Roscommon, Sligo and Westmeath; and the city of Galway.	4
South	The counties of: Carlow, Clare, Cork, Kerry, Kilkenny, Laois, Offaly, Tipperary, Wexford and Wicklow; the cities and counties of Limerick and Waterford; and the city of Cork.	5

”.

Amendment of section 25 of Electoral Act 1992

8. Section 25 of the Electoral Act 1992 is amended—

- (a) in subsection (7), by the substitution of the following paragraph for paragraph (g):

“(g) the name of any political group or European political party in accordance with subsection (8), and”,

and

- (b) by the substitution of the following subsection for 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) a political group formed in accordance with the rules of procedure of the European Parliament, or

(b) a European political party established in accordance with Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations,

the Registrar shall, if that member certifies in writing to the Registrar that he is a member of that party and that political group or that European political party, note on the Register, in relation to the party, the name of that political group or that European political party.”.

Short title, collective citations, construction and commencement

9. (1) This Act may be cited as the European Parliament Elections (Amendment) Act 2019.
- (2) The European Parliament Elections Acts 1992 to 2014 and this Act (other than *section 8*) may be cited together as the European Parliament Elections Acts 1992 to 2019 and shall be construed together as one.
- (3) The Electoral Acts 1992 to 2018 and *section 8* may be cited together as the Electoral Acts 1992 to 2019 and shall be construed together as one.
- (4) This Act shall come into operation on such day or days as the Minister for Housing, Planning and Local Government 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.