



## **AN BILLE UM THOGHCHÁIN DO THIONÓL NA HEORPA, 1984**

### **EUROPEAN ASSEMBLY ELECTIONS BILL, 1984**

#### **EXPLANATORY MEMORANDUM**

1. The main purpose of the Bill is to provide for a revised method of filling casual vacancies which arise in Ireland's representation in the European Assembly. The existing procedure for the filling of casual vacancies is prescribed in section 15 of the European Assembly Elections Act, 1977 which provides that a vacancy shall be filled by the appointment by Dáil Éireann of a person eligible for election under the Act. Where the relevant place in the Assembly was held by a person who was a candidate of a registered political party at the last preceding Assembly election, the person appointed to fill the vacancy may be nominated by that political party. In the case of a non-party member, both nomination and appointment are by the Dáil. The European Community instrument governing direct elections (Act of 20 September, 1976) provides that representatives in the Assembly shall be elected by direct universal suffrage. The Credentials Committee of the Assembly expressed certain reservations regarding Ireland's existing procedure for the filling of casual vacancies having regard to the requirements of the Community instrument.

2. The procedure proposed in the Bill is that casual vacancies in a constituency will be filled by drawing on lists of replacement candidates submitted by registered political parties and by non-party candidates to the returning officer at the preceding election in the constituency. The Notice of Poll published by the returning officer before an election will include the lists of replacement candidates.

To avoid unduly long ballot papers the lists of replacement candidates will not be printed on the ballot paper. Instead, the particulars in relation to each candidate on the ballot paper will include a reference to the appropriate list of replacement candidates. Thus in voting for a particular candidate the elector will also indicate approval of the appropriate list of replacements. The order of names on each list of replacements will be decided by the relevant registered political party or non-party candidate, as the case may be. A person nominated as a candidate may also be nominated as a replacement candidate. Apart from the reference to the lists of replacement candidates the ballot paper will be the same as at present.

The maximum number of replacement candidates to be nominated on any list will be two more than the number of candidates standing for the party in the constituency or a total of three in the case of a non-party candidate. It is proposed that in the event of a list becoming exhausted or of no list being presented by the registered political



party or non-party candidate concerned the Dáil will be enabled to select a replacement from among those named on the remaining replacement lists for the constituency.

3. The following additional amendments are being proposed to the European Assembly Elections Act, 1977:

(a) a person holding the office of Attorney-General will not be eligible for election to be a representative in the Assembly; and holding office as Chairman or Deputy Chairman of Dáil Éireann, Chairman or Deputy Chairman of Seanad Éireann, or Minister of State will be incompatible with membership of the Assembly;

(b) a minor technical amendment will be made in the provisions relating to the situation in which the death of a candidate occurs (Rule 20 of the First Schedule);

(c) ballot paper accounts at Assembly elections will be verified at county or county borough level rather than at European constituency level.

4. Section 1 defines certain terms used in the Bill.

5. Section 2 substitutes a new section for section 7 of the 1977 Act prescribing the qualifications of candidates. It is proposed that the Attorney-General shall not be eligible for election to be a representative in the Assembly. The section re-enacts the existing provision under which persons who are not eligible for election to Dáil Éireann are also not eligible for election to the Assembly. In addition, it prescribes that the office of Chairman or Deputy Chairman of Dáil Éireann, Chairman or Deputy Chairman of Seanad Éireann or Minister of State shall be incompatible with membership of the Assembly.

6. Section 3 provides that each registered political party and each non-party candidate in a constituency may nominate one or more replacement candidates for the purpose of filling vacancies. A single list of replacement candidates may be submitted by each political party or non-party candidate in the constituency. A person nominated as a candidate at the election may also be nominated as a replacement candidate.

The number of replacement candidates to be nominated on any list will be limited to two more than the number of candidates standing for the party in the constituency or a total of three in the case of a non-party candidate. A person may not be nominated as a replacement candidate unless he is eligible for election to the Assembly and he cannot be nominated in respect of more than one constituency.

7. Section 4 provides that the replacement candidates' list will be in a prescribed form. The order in which the names appear on the list will be determined by the party or candidate concerned. In the case of a registered political party the replacement candidates' list must be signed by the officer or officers of the party authorised to sign certificates of political affiliation. In the case of a non-party candidate, the nomination must be signed by the candidate. Each list will be headed by the name and the initials or abbreviation by which the party is known or, in the case of a non-party candidate by the name of the candidate. The returning officer will assign a distinguishing letter or letters to each list and in all official election documents the list will be identified by reference to such letter or letters. Such an



assignment will not form a ground on which an Assembly election may be questioned.

8. *Section 5* sets out the procedure for the delivery to returning officers of lists of replacement candidates. The returning officer will provide forms and, on completion these must be delivered to the returning officer within the period allowed for nomination. Delivery must be made by the appropriate officer of the party or by a candidate of the party in the constituency or, in the case of a non-party list, the candidate concerned or his proposer. When the list is received by the returning officer, he will display a copy of it outside the place at which he is receiving nominations, acknowledge receipt to the party or the non-party candidate concerned and notify each replacement candidate of his nomination and his placing on the list. The returning officer will be required to rule invalid any replacement list which is not properly made out or signed and is not amended to his satisfaction. If the number of replacement candidates exceeds the maximum permitted he will delete the excess names commencing with the name at the bottom of the list and working up. Notice will be given to replacement candidates whose names are deleted. A list may be withdrawn up to the latest time for receiving nominations. A list will be deemed to have been withdrawn if, at the latest time for withdrawal of candidature, no candidate of the party concerned stands nominated in the constituency or the non-party candidate concerned withdraws or is deemed to have withdrawn. Public notice will be given by the returning officer of the withdrawal of a list and the individual replacement candidates concerned will also be notified.

9. *Section 6* proposes to substitute a new section for section 15 of the 1977 Act which provides for the filling of casual vacancies. It is proposed that a vacancy will be filled by the replacement candidate whose name stands highest on the list of the registered political party or the non-party candidate concerned. In the event of the relevant list being exhausted or of no list having been presented, Dáil Éireann may select a replacement from another replacement candidates' list for the constituency. For the purpose of filling a casual vacancy, a replacement candidate will be disregarded if he is already a member of the Assembly, is not eligible to be elected, is not willing to serve as a member or, in the case of a party list, is no longer a member of the party concerned. The procedure envisaged is that the Clerk of the Dáil will communicate with the registered political party concerned (or the returning officer for the constituency concerned in the case of a non-party list) with a view to ascertaining the name of the person standing highest on the relevant replacement candidates' list. The name of the replacement candidate will be laid before each House of the Oireachtas and published in *Iris Oifigiúil* and seven days after such publication the person named in the notification will be regarded as having been elected and his name will be notified to the Assembly.

10. *Section 7* proposes to make the following amendments to the First Schedule to the 1977 Act which prescribes the Rules for the conduct of Assembly elections:

- (a) the intention of the existing Rule 20 is that, if a candidate at an election dies at a time when it is too late to select an alternative candidate, the proceedings for the election are commenced afresh. The wording of the Rule as it stands could be defective in certain circumstances (viz. where a Sunday and public holiday intervene between the latest time for nominations and the latest time for withdrawal). In order to ensure that the intention of the Rule is not frustrated in such circumstances, it is proposed that Rule 20 be amended appropriately;



- (b) it is proposed to amend Rule 21 to provide for the publication of the replacement candidates' lists in the Notice of Poll;
- (c) the amendment to Rule 22 provides that the entry in relation to a candidate on the ballot paper will include a reference to the appropriate replacement candidates' list;
- (d) a new Rule 51A provides for the verification of ballot paper accounts separately in each county and county borough. Administratively, this is regarded as more convenient than the arrangement provided for in the 1977 Act whereby the verification has to be carried out at European constituency level. At the 1979 elections regulations made by the Minister under section 91 of the Electoral Act, 1963 enabled verification to be carried out at county and county borough level. This was necessary because local government elections were held on the same day;
- (e) minor consequential amendments are proposed in Rules 68 and 69 which relate to the disposal of election documents;
- (f) an amendment is proposed to Rule 79 to provide that it will be an offence to nominate a person as a replacement candidate without his consent and a new Rule 81A provides that a false declaration on a replacement candidates' list will be an offence.

11. *Section 8* provides for the repeal of certain provisions in the 1977 Act consequential on the changes proposed in the Bill.

12. *Section 9* contains the usual provisions in relation to short title, collective citation and construction.

*An Roinn Comhshaoil,  
Feabhra, 1984.*