



AN BILLE TOGHCHÁIN (LEASÚ), 1985
ELECTORAL (AMENDMENT) BILL, 1985

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

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AN BILLE TOGHCHÁIN (LEASÚ), 1985
ELECTORAL (AMENDMENT) BILL, 1985

BILL

entitled

AN ACT TO CONFER ON CERTAIN PERSONS, PURSUANT 5
TO ARTICLE 16.1.2° OF THE CONSTITUTION, THE
RIGHT TO VOTE AT ELECTIONS FOR DÁIL ÉIREANN
AND FOR THAT PURPOSE TO AMEND THE ELECTO-
RAL ACTS, 1923 TO 1983, THE PRESIDENTIAL ELEC-
TIONS ACTS, 1937 TO 1973, AND THE REFERENDUM 10
ACTS, 1942 TO 1984.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—(1) In this Act—

“the Act of 1963” means the Electoral Act, 1963;

“the Act of 1966” means the Electoral (Amendment) Act, 1966; 15

“the Act of 1977” means the European Assembly Elections Act, 1977.

(2) In *sections 3 (2), 4, 5 and 7* of this Act, a reference to any enactment is to that enactment as amended or extended by any other enactment enacted after the commencement of this Act.

Amendment of
section 5 of Act
of 1963.

2.—Section 5 of the Act of 1963 is hereby amended by the insertion 20
after subsection (1) of the following subsections:

“(1A) (a) In addition to those entitled to be registered under subsection (1) of this section, a person shall be entitled to be registered as a Dáil elector in a constituency if he is a person who has reached the 25
age of eighteen years and who on the qualifying date—

(i) complied with the requirement of subsection (1) (b) of this section, and

(ii) was either— 30

(I) a British citizen, or

(II) a national of a Member State to which this subsection applied on that date.

(b) This subsection applies to a Member State which is for the time being the subject of a declaration under *subsection (1B)* of this section.

(1B) Where the Minister is of opinion that—

5 (a) the law of a Member State relating to the election of members of, or deputies or other representatives in or to, the National Parliament of that Member State enables citizens of Ireland, by reason of
10 their being such citizens and being resident in that Member State, to vote at such an election, and

(b) the provisions of that law enabling citizens of Ireland who are so resident so to vote are the same, or are substantially the same, as those enabling
15 nationals of that Member State so to vote,

the Minister may by order declare that Member State to be a Member State to which *subsection (1A)* of this section applies.

20 (1C) The Minister may by order specify criteria or other matters to which regard shall be had in order to determine whether or not a person is for the purpose of this section a national of a Member State and such order may provide that the provisions of the order shall relate to all Member States or to such one or more Member States as are specified in the order.
25

(1D) Where—

30 (a) an order under *subsection (1C)* of this section is for the time being in force, and

(b) a Member State to which the order applies is for the time being a Member State to which *subsection (1A)* of this section applies,

35 *clause (II) of subsection (1A) (a) (ii)* of this section shall be construed and have effect subject to the provisions of the order.

(1E) (a) The Minister may revoke or amend an order under this section (including an order under this subsection).

40 (b) Where an order under this section (including an order under this subsection) 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.
45

(1F) (a) Subject to *subsection (1D)*, in this section—

‘a British citizen’ means a person who under the Act of the British Parliament entitled the British Nationality Act 1981 is a British citizen;

50 ‘the European Communities’ means the European Economic Community, the European Coal and Steel Community and the European Atomic Energy Community;

'Member State' means a Member State of the European Communities other than the State or the United Kingdom;

'national of a Member State' has the meaning assigned to it by the treaties save that it shall not be construed as referring to the United Kingdom or as including a British citizen;

'the treaties' means the treaties, convention and decision mentioned in section 1 (1) of the European Communities Act, 1972, as supplemented or amended in the manner mentioned in that section.

(b) The reference in *paragraph (a)* of this subsection to the Act of the British Parliament mentioned in that paragraph is a reference to that Act as enacted by that Parliament on the 30th day of October, 1981."

Amendment of sections 44, 51, 64, 70 and 92 of Act of 1963.

3.—(1) Subsection (1) of section 92, as amended by section 21 (2) of the Act of 1977, of the Act of 1963 is hereby amended by the insertion of "presidential electors," after "Dáil electors," and the said subsection (1), as amended by this section, is set out in the Table to this section.

(2) The Act of 1963 shall be construed and have effect as if for each of the references to a register of Dáil electors in subsections (1) and (2) of section 44, subsections (1), (2) (as amended by section 2 of the Electoral (Amendment) Act, 1973) and (4) of section 51, subsections (1) and (2) of section 64 and subsections (1), (2) (as so amended) and (4) of section 70 there were substituted a reference to a register of presidential electors.

TABLE

(1) The Minister may, in any case in which it appears to him that there is an emergency or special difficulty, by order make such adaptation or modification of any statute, order or regulation relating to the registration of Dáil electors, presidential electors, Assembly electors or electors at local elections, or the conduct of Dáil elections, presidential elections, Assembly elections, local elections or referenda, as may in his opinion be necessary to enable it to have effect subject to the provisions of this Act.

Presidential elector, etc.

4.—(1) For the purposes of—

(a) the *Presidential Elections Acts, 1937 to 1985*,

(b) the *Referendum Acts, 1942 to 1985*, and

(c) section 92 (1), as amended by section 21 (2) of the Act of 1977 and *section 3 (1)* of this Act, of the Act of 1963,

"presidential elector" means a person entitled to vote at an election of a person to the office of President of Ireland.

(2) For the purposes of the *Presidential Elections Acts, 1937 to 1985*, "elector", when used alone, means a person described in *subsection (1)* of this section.

Franchise and registration at presidential elections.

5.—(1) A person shall be entitled to be registered as a presidential elector in a constituency if he has reached the age of eighteen years and if he was, on the qualifying date—

(a) a citizen of Ireland, and

(b) ordinarily resident in that constituency.

(2) Part II of the Act of 1963 (apart from subsection (1), subsections (1A), (1B), (1C), (1D), (1E) and (1F) (inserted by section 2 of this Act) and subsection (2) of section 5), as amended by section 1 of the Act of 1966 and section 4 of the Juries Act, 1976, shall apply as regards the registration of presidential electors pursuant to this section and the register referred to in section 6 (1) of the Act of 1963 shall, in so far as it relates to persons entitled to vote at presidential elections, be the register of presidential electors.

10 (3) For the purpose of giving effect to subsection (2) of this section each of the references in subsections (4), (5), (5A) (inserted by section 1 of the Act of 1966) and (6) of section 5 of the Act of 1963 to the purposes of that section shall be construed as including a reference to the purposes of this section.

15 (4) In this section "the qualifying date" means the date specified by the Minister for the Environment under section 5 (6) of the Act of 1963.

6.—The Presidential Elections Act, 1937, is hereby amended by—

Amendment of sections 3 and 29 of Presidential Elections Act, 1937.

20 (a) the substitution in the definition of "register of electors" in section 3 of "presidential" for "Dáil"; and

(b) the substitution, in both places where it occurs, of "presidential elector" for "person" in subsections (2) and (3) (both inserted by section 50 of the Act of 1963) of section 29,

25 and the said definition and the said subsections (2) and (3), as amended by this section, are set out in paragraphs 1 and 2, respectively, of the Table to this section.

TABLE

1. the expression "register of electors" means a register of the persons entitled to vote at a presidential election;

30 2. (2) Every local returning officer shall, as soon as practicable after he receives from the presidential returning officer notice of the adjournment of a presidential election for the purpose of taking a poll, send to every presidential elector whose name is on the postal voters list for his constituency a ballot paper and a form of receipt (which shall be in the prescribed form) for such ballot paper.

35 (3) If such ballot paper duly marked by the said presidential elector and accompanied by the said receipt duly signed by him is received by the returning officer before the close of the poll, it shall be counted by him and treated for all purposes in the same manner as a ballot paper placed in the ballot box in the ordinary way.

40 7.—(1) Each of the references in the Referendum Acts, 1942 to 1984, to the register of electors shall be construed as a reference to a register of the persons entitled to vote at a presidential election.

Construction (Referendum Acts, 1942 to 1984).

(2) In this section "presidential election" has the meaning assigned to it by section 3 of the Presidential Elections Act, 1937.

45 8.—The Referendum Act, 1942, is hereby amended by—

(a) the substitution of "presidential electors registered in the register of presidential" for "Dáil electors registered in the register of" in subsection (2) of section 7;

Amendment of sections 7, 20 and 34 of and First Schedule to Referendum Act, 1942.

50 (b) the substitution of "presidential" for "Dáil" in subsection (3) of section 7;

- (c) the substitution of "presidential elector" for "person" in each place where it occurs in subsection (1), subsection (2) (inserted by section 69 of the Act of 1963), and subsection (3) (so inserted) of section 20;
 - (d) the substitution of "presidential electors on the register of presidential" for "Dáil electors on the register of" in paragraph (b) of section 34 (2); and
 - (e) the substitution of "presidential" for "Dáil" in both places where it occurs in subparagraph (b) of Rule 32 (1) of the First Schedule,
- and the said subsections (2) and (3) of the said section 7, the said section 20, paragraph (b) and subparagraph (b), as so amended, are set out in paragraphs 1, 2, 3 and 4, respectively, of the Table to this section.

TABLE

- 1. (2) Whenever after the passing of this Act a register of electors comes into force, every registration officer shall forthwith send to the referendum returning officer a statement in the prescribed form of the number of presidential electors registered in the register of presidential electors in each constituency or part of a constituency in the registration area of such registration officer.
- (3) Whenever the number of presidential electors which is the subject of a statement sent by a registration officer to the referendum returning officer in pursuance of this section becomes altered by the decision of appeals, correction of errors, or any other cause, such registration officer shall forthwith communicate to the referendum returning officer the fact of such alteration and the particulars thereof.
- 2. 20.—(1) Every presidential elector whose name is, at the time of the poll at a referendum, on the postal voters' list for a constituency shall be entitled to vote in that constituency at the poll at such referendum by sending his ballot paper by post to the local returning officer for the said constituency and shall not be entitled to vote at such referendum in any other manner.
- (2) Every local returning officer shall, as soon as practicable after the date of the order of the Minister appointing the polling day at a referendum, send to every presidential elector who is on the postal voters list for his constituency a ballot paper and a form of receipt (which shall be in the prescribed form) for such ballot paper.
- (3) If such ballot paper duly marked by the said presidential elector and accompanied by the said receipt duly signed by him is received by the returning officer before the close of the poll, it shall be counted by him and treated for all purposes in the same manner as a ballot paper placed in the ballot box in the ordinary way.
- 3. (b) in respect of the particulars stated in such certificate of the aggregate voting at the referendum as a whole or of the result of the referendum as so stated, on the ground of error on the part of the referendum returning officer or, in the case of an ordinary referendum, on the ground of error in relation to the number of presidential electors on the register of presidential electors for the time being in force.
- 4. (b) in the case of an ordinary referendum, the number of votes recorded in favour of the proposal which is the subject of the referendum, the number of votes recorded against such proposal, and, if the number of votes recorded against such proposal exceeds the number of votes recorded in favour of such proposal, the total number of presidential electors on the register of electors for the time being in force, and whether the number of votes recorded against such proposal is or is not less than thirty-three and one-third per cent. of the said total number of presidential electors, and in any case whether such proposal was or was not vetoed at such referendum;

Short title,
collective citation
and construction.

9.—(1) This Act may be cited as the Electoral (Amendment) Act, 1985.

(2) The Electoral Acts, 1923 to 1983, and sections 1, 2 and 3 (1), and section 4 in so far as it relates to the Act of 1963, of this Act may be cited together as the Electoral Acts, 1923 to 1985.

(3) The Presidential Elections Acts, 1937 to 1973, and sections 3

and 4, in so far as they relate to presidential elections, and *sections 1, 5 and 6* of this Act may be cited together as the Presidential Elections Acts, 1937 to 1985.

(4) The Referendum Acts, 1942 to 1984 and *sections 3 and 4*, in so far as they relate to a referendum, and *sections 1, 7 and 8* of this Act may be cited together as the Referendum Acts, 1942 to 1985.

(5) The Electoral Acts, 1923 to 1985, shall be construed as one Act.

(6) The Referendum Acts, 1942 to 1985, shall be construed as one Act.

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht chun an ceart vótála a thabhairt do dhaoine áirithe, de bhun Airteagal 16.1.2^o den Bhunreacht, i dtoghcháin do Dháil Éireann agus chun na críche sin do leasú na nAchtanna Toghcháin, 1923 go 1983, Achtanna Toghchán an Uachtaráin, 1937 go 1973, agus Achtanna an Reifrinn, 1942 go 1984.

*An tAire Comhshaoil a thíolaic,
30 Aibreán, 1985*

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Dhíolta Foilseachán Rialtais, Teach Sun Alliance, Sráid Theach Laighean, Baile Átha Cliath 2, nó trí aon díoltóir leabhar.

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BILL

(as initiated)

entitled

An Act to confer on certain persons, pursuant to Article 16.1.2^o of the Constitution, the right to vote at elections for Dáil Éireann and for that purpose to amend the Electoral Acts, 1923 to 1983, the Presidential Elections Acts, 1937 to 1973, and the Referendum Acts, 1942 to 1984.

*Presented by the Minister for the Environment,
30th April, 1985*

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