



**AN BILLE TOGHCHÁIN (VÓTÁLAI THE SPEISIALTA), 1986  
ELECTORAL (SPECIAL VOTERS) BILL, 1986**

**EXPLANATORY AND FINANCIAL MEMORANDUM**

**1. Purpose of Bill**

The purpose of the Bill is—

- (a) to provide special arrangements for voting by electors who are unable to vote in person at their polling station because of physical illness or physical disability;
- (b) to permit disabled electors who are unable to gain access to their own polling station to cast their vote in another polling station in the same constituency or electoral area; and
- (c) to enable civil servants attached to diplomatic missions who are resident abroad because of the requirements of their duties (and their spouses) to be registered as electors and to vote by post.

The Bill has no staffing implications. The cost of implementation will not be significant and cannot be estimated at this stage. The cost of preparing the special voters list will be borne in equal proportions by the State and the registration authorities. The cost of special voting at local elections will be borne by the local authorities and at other elections and referenda by the Central Fund.

**2. Special Voters**

Under the Bill, an elector who is unable to go in person to vote at the polling station because of physical illness or physical disability may apply to the registration authority for entry on the special voters list. Each application must be supported by a medical certificate indicating the nature and extent of the illness or disability, that it is expected to continue for the duration of the register of electors then being prepared and that the applicant is of sound mind and capable of comprehending the act of voting.

At each election and referendum every qualified elector on the special voters list will have his ballot paper delivered to him by a special presiding officer accompanied by a member of the Garda Síochána. The elector will make a declaration of identity in the presence of the special presiding officer and having marked his ballot paper in secret will put it in a sealed envelope. This envelope will be conveyed to the returning officer by the special presiding officer. It will be placed in the postal voters ballot box and will be dealt with in the same way as voting papers received from postal voters.

**3. Voting at alternative Polling Station**

Some electors suffering from physical disability, while capable of

going to the polling station allotted to them, may be unable to gain access because of factors relating to the situation or design of the building concerned. In accordance with the provisions of the Bill, the returning officer may, on request, authorise such an elector to vote at another polling station in the same constituency or electoral area, to which access may be easier.

#### 4. *Voting by Civil Servants resident abroad*

In accordance with existing law a person must be ordinarily resident in the State in order to be eligible for registration as an elector. The Bill provides for the registration as electors of civil servants attached to diplomatic missions who are abroad because of the requirements of their duties. Provided they fulfil the normal requirements regarding citizenship and age, such civil servants (and their spouses resident with them abroad) will be registered at the address where they would be living if not posted abroad. Persons registered under this provision will be entered on the postal voters list and voting by them will be supervised by a person nominated for this purpose by the Secretary of the Department of Foreign Affairs.

#### 5. *Sections of the Bill*

*Section 1* is the interpretation section.

*Section 2* requires the registration authority (i.e., the county council or county borough corporation) to draw up a special voters list as part of the register of electors.

*Section 3* indicates the qualifications for inclusion in the special voters list and indicates how and when application should be made. An elector may apply for entry on the list if he is unable to vote at the polling station because of physical illness or disability. The illness or disability must be likely to last for the duration of the register of electors and the elector must be of sound mind and capable of comprehending the act of voting. The application form will be prescribed and so will the time for making application. It is intended that a special period will be fixed for applications in relation to the 1987-88 register; in future years applications will be made when the draft register is being prepared.

*Section 4* requires a medical certificate to be furnished in support of each application.

Under *section 5* an applicant may be asked to furnish information required by the registration authority and, if he fails to do so, the application will be deemed to have been withdrawn.

*Section 6* requires the registration authority to give appropriate public notice in relation to the preparation of the special voters list and *section 7* requires them to make application forms available.

*Section 8* requires the registration authority to rule on each application and to notify the applicant of their decision. Late applications must be disregarded.

Under *section 9* the returning officer at an election or referendum will appoint special presiding officers to supervise voting by special voters. These officers will have all the powers vested in a presiding officer appointed for a polling station, except authority to enable an elector to be assisted in voting by a companion. The returning officer may himself act as special presiding officer.

As soon as practicable after ballot papers become available at an election or referendum, the returning officer must, under *section 10*, arrange to have delivered to the special voter the documents and envelopes required for voting.

*Section 11* describes the manner in which electors on the special voters list will vote. Accompanied by a member of the Garda Síochána, the special presiding officer will deliver to the elector a ballot paper, a form of declaration of identity and appropriate envelope. The elector will make a declaration of identity, which will be witnessed by the special presiding officer; he will vote in secret and put his ballot paper into a ballot paper envelope and this envelope together with the declaration of identity will be placed in an outer envelope addressed to the returning officer. A label will be affixed to this latter envelope containing a certificate, signed by the special presiding officer and the member of the Garda, indicating that the law was complied with in relation to voting by the elector concerned.

*Section 12* requires the special presiding officer to deliver to the returning officer before the close of the poll all the envelopes containing the ballot papers of special voters and to account for the ballot papers entrusted to him.

Under *section 13* the envelopes containing the voting papers of special voters will be placed in the postal voters ballot box and will subsequently be treated in the same way as the papers returned by postal voters.

Under *section 14* a disabled elector who is unable to gain access to his own polling station may be authorised to vote at another polling station in the same constituency or local electoral area. Application must be made to the returning officer not less than 7 days before the polling day and, where the returning officer is satisfied that it is appropriate to do so, he will issue a written authorisation to the elector specifying the station at which he may vote.

*Section 15* relates to the registration as electors of civil servants attached to diplomatic missions (and their spouses) who are abroad because of the requirements of their duties. Under existing law a person must be ordinarily resident in a constituency in order to be eligible for registration as an elector (a temporary absence of up to 18 months is not regarded as breaking the continuity of residence). Civil servants posted abroad for extensive periods do not satisfy this residence requirement.

Under this section such a civil servant and his spouse, otherwise qualified in relation to age and citizenship, will be deemed to satisfy the residence requirement and may be registered in respect of the address at which they would be resident if not posted abroad. A statement by the civil servant, supported by a certificate from the Secretary of the Department of Foreign Affairs, must be submitted to the registration authority concerned who will enter the names on the postal voters list.

Under *section 16* ballot papers will be issued by post to persons so registered and they will vote under the supervision of a person authorised for this purpose by the Secretary of the Department of Foreign Affairs. The authorised person would normally be the Ambassador or head of Mission to the country concerned.

The opportunity is taken in *section 17* and the *Schedule* to rewrite, with minor amendment, the rules relating to postal voting. These were originally contained in the Electoral Act, 1923, and have been extensively amended by subsequent statutes. These rules apply to Dáil and Presidential elections and referenda. The postal voting rules in relation to European Assembly elections and local elections are contained respectively in the European Assembly Elections Act, 1977 and the Local Elections Regulations, 1965 and do not require restatement.

Sections 18 and 20 relate to offences and penalties in relation to registration of electors, inclusion in the postal voters and special voters lists and voting by postal and special voters.

Section 19 contains a technical amendment to the European Assembly Elections Act, 1977.

Under section 21 the Minister may make regulations in relation to the matters dealt with in the Bill. The regulations will be subject to annulment by resolution of either House of the Oireachtas.

Under the provisions of section 22, the cost of preparing the special voters list will be treated in the same way as the cost of preparing the register (viz. it will be borne in equal proportions by the State and the registration authorities) and the cost of the special voting arrangement will be an election cost to be borne by the local authorities in the case of local elections and by the Central Fund in the case of other elections and referenda.

Section 23 revokes the special scheme of postal voting at local elections—the provisions of this Bill will apply instead.

Section 24 relates to title, construction and citation.

**Roinn Comhshaoil,  
Samhain, 1986.**