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AN BILLE TOGHCHÁIN, 1994
ELECTORAL BILL, 1994

Mar a leasaíodh sa Roghchoiste um Airgeadais agus Gnóthaí Ginearálta
As amended in the Select Committee on Finance and General Affairs

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ACTS REFERRED TO

Building Societies Act, 1989	1989, No. 17
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Companies Act, 1963	1963, No. 33
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Electoral Act, 1992	1992, No. 23
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Ethics in Public Office Act, 1995	1995, No. 22
European Assembly (Irish Representatives) Act, 1979	1979, No. 19
European Parliament Elections Act, 1997	1997, No. 2
European Parliament Elections Acts, 1992 to 1997	
Friendly Societies Acts, 1896 to 1977	
Industrial and Provident Societies Acts, 1893 to 1978	
Local Elections Acts, 1974 to 1994	
Local Elections (Petitions and Disqualifications) Act, 1974	1974, No. 8
Local Government (Dublin) Act, 1993	1993, No. 21
Ministerial and Parliamentary Offices Acts, 1938 to 1996	
Oireachtas (Allowances to Members) (Amendment) Act, 1994	1994, No. 21
Oireachtas (Allowances to Members) Acts, 1938 to 1996	
Presidential Elections Act, 1993	1993, No. 28
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Presidential Establishment Acts, 1938 to 1991	
Referendum Act, 1994	1994, No. 12
Referendum Acts, 1992 and 1994	
Seanad Electoral (Panel Members) Acts, 1947 to 1972	
Seanad Electoral (University Members) Act, 1937	1937, No. 30
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Trade Union Acts, 1871 to 1990	
Údarás na Gaeltachta Act, 1979	1979, No. 5

AN BILLE TOGHCHÁIN, 1994
ELECTORAL BILL, 1994

BILL

entitled

AN ACT TO ESTABLISH A CONSTITUENCY COMMISSION, TO MAKE PROVISION FOR PAYMENTS TO POLITICAL PARTIES AND CANDIDATES, TO MAKE PROVISION FOR DISCLOSURE OF DONATIONS FOR POLITICAL PURPOSES, TO REGULATE EXPENDITURE AT ELECTIONS BY POLITICAL PARTIES AND CANDIDATES, TO PROVIDE VOTING ARRANGEMENTS FOR CERTAIN PERSONS UNABLE TO VOTE AT POLLING STATIONS AND TO PROVIDE FOR OTHER ELECTORAL MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Preliminary and General

Short title, collective citation, construction and commencement.

1.—(1) This Act may be cited as the Electoral Act, 1997.

(2) The Electoral Acts, 1992 to 1996, and this Act may be cited together as the Electoral Acts, 1992 to 1997 and shall be construed together as one Act.

(3) The Presidential Elections Acts, 1992 and 1993, *Part VI* and, insofar as they relate to presidential elections, *Parts VII* and *VIII* may be cited together as the Presidential Elections Acts, 1992 to 1997, and shall be construed together as one Act.

(4) The collective citation "the European Parliament Elections Acts, 1992 to 1997" shall include this Act insofar as it relates to European elections and the European Parliament Elections Acts, 1992 to 1997 shall be construed together as one Act.

(5) The Local Elections Acts, 1974 to 1994, and *Parts VII* and *VIII*, insofar as they relate to local elections, may be cited together as the Local Elections Acts, 1974 to 1997, and shall be construed together as one Act.

(6) This Act, other than this section, shall come into operation on such day or days as may be fixed therefor by order or orders of the Minister either generally or with reference to any particular purpose

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or provision and different days may be so fixed for different purposes and different provisions of this Act.

Interpretation.

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

"the Act of 1992" means the Electoral Act, 1992;

"the Act of 1993" means the Presidential Elections Act, 1993;

"the Act of 1997" means the European Parliament Elections Act, 1997;

"the appropriate officer" has the meaning assigned to it in *section 70*;

"commercial price", in relation to the supply of property, goods or services and the lending of property or goods, means—

(*a*) where the person by whom the property or goods are supplied or lent or the service is supplied carries on a business consisting wholly or partly of the supply or lending of property or goods or the supply of a service, the lowest price or consideration charged by the person for the supply or lending in the normal course of business of an equivalent amount of property or goods of the same kind or for the supply of a service of the same kind and to the same extent (allowance being made for any discount which is normally given by the person in respect of the supply or lending of property or goods of the same kind or the supply of a service of the same kind) at or about the time of the first-mentioned supply or lending of property or goods or the first-mentioned supply of a service, and

(*b*) where the person by whom the property or goods are supplied or lent or the service is supplied does not carry on a business consisting wholly or partly of the supply or lending of property or goods or the supply of a service of the same kind, the lowest price or consideration for which an equivalent amount of property or goods of the same kind may be purchased or taken on loan or a service of the same kind and to the same extent may be procured in the normal course of business (allowance being made for any discount which is normally given in respect of the supply or lending of property or goods of the same kind or the supply of a service of the same kind) at or about the time of the first-mentioned supply or lending of property or goods or the first-mentioned supply of a service from a person who carries on such a business;

"constituency" means, as the context may require, a Dáil constituency or a European Parliament constituency;

"the consumer price index number" means the All Items Consumer Price Index compiled by the Central Statistics Office and a reference to such a number at a particular time shall be construed as a reference to such a number expressed on the basis that the consumer price index number at mid-November, 1996, is 100;

"donation statement" has the meaning assigned to it by *section 23*;

"election", except in *Parts VII* and *VIII* means, as the context may require, a Dáil election or a European election or both a Dáil election and a European election;

"election agent" has the meaning assigned to it by *section 27*;

"local authority" means the council of a county, the corporation of a county or other borough, the council of an urban district or the commissioners of a town;

"national agent" has the meaning assigned to it by *section 27*;

"non-party candidate" means, in relation to a Dáil or European election, a candidate who is not the candidate of a political party and, in relation to a Seanad election, a candidate who is not a member of a political party and references to "non-party member" and "non-party representative" shall be construed accordingly;

"person", except in *Part VI*, shall include an individual, a body corporate and an unincorporated body of persons and a body corporate and any subsidiary thereof shall be deemed to be one person;

"personal representative" has the meaning assigned to it by section 3 of the Succession Act, 1965;

"political party", except in *Part VI* or *section 71*, means a political party registered in the Register of Political Parties in accordance with section 25 of the Act of 1992 as a party organised to contest a Dáil election or a European election or both such elections;

"polling day" means the day appointed by order of the Minister to be polling day at a presidential election or a Dáil election or a European election or a local election or a referendum, as the case may be;

"property" means real and personal property;

"the Public Offices Commission" means the Commission established by section 21 of the Ethics in Public Office Act, 1995;

"qualified party" has the meaning assigned to it by *section 15*;

"Seanad election" means the election of members to the Seanad from panels of candidates and the election of members by universities and includes both a Seanad general election and a Seanad bye-election.

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

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(3) Where a provision of this Act imposes a duty to be performed in respect of a preceding year or a year the reference in that provision to year shall in relation to the year in which the provision comes into operation be construed as a reference to the period between the day on which the provision concerned came into operation and the following 31st day of December.

(4) Nothing in *Part V* or *VI* shall apply to the incurring of expenditure before the coming into operation of those Parts.

Variation of monetary amounts by order of Minister.

3.—(1) The Minister may, by order, vary any monetary amount specified in *section 20, 22, 23 (4), 25 (1), 29, 30, 31, 46, 47 (1), 50* or *51*, or in regulations made under *section 20* or *71* or in an order made under *section 32 (1)* or *52*, 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.

Review by Public Offices Commission.

4.—(1) The Public Offices Commission shall consider every statement furnished to it pursuant to *sections 19, 23, 35, 47* and *55* and regulations made under *section 71* and every notification furnished to it under *section 22* and, where it considers it appropriate to do so, shall furnish a report in writing to the Chairman of the Dáil on any matter arising in relation to such statements.

(2) Where the Public Offices Commission, following consideration by it of a statement of election expenses furnished to it pursuant to *section 35* or *55* or regulations made under *section 71*, finds a minor error or omission in the statement, the Commission shall furnish to the national agent, election agent or presidential election agent, as the case may be, or a person referred to in *section 30 (7)* or *51 (6)* by whom the statement was furnished details of the error or omission, as the case may be, and the Commission shall inform the said agent or said 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 said agent or said person, as the case may be.

(3) Where the Public Offices Commission is of the opinion that there may have been a contravention of the provisions of *Part IV*, *V* or *VI* or regulations made under *section 71*, it shall furnish a written report on the matter (together with any relevant document or other thing in its possession) to the Director of Public Prosecutions.

(4) The Public Offices Commission may make such inquiries as it considers appropriate and may require any person to furnish any information, document or thing in the possession or procurement of the person which the Commission may require for the purposes of its duties under this Act.

(5) Every report furnished by the Public Offices Commission pursuant to *subsection (1)* shall be laid before each House of the Oireachtas as soon as may be after it is furnished.

(6) The Public Offices Commission—

(*a*) shall from time to time draw up and publish to persons to whom a provision of *Part III, IV, V* or *VI* or of regulations made under *section 71* applies guidelines concerning the steps to be taken by such persons to ensure compliance by them with this Act generally and, in particular, with the provisions of those Parts and regulations, and

(*b*) may, at the request of a person to whom a provision of *Part III, IV, V* or *VI* or of regulations made under *section 71* applies, give advice to the person in relation to any provision of this Act or of regulations made under *section 71* or as to the application, in any particular case, of any such provision.

(7) When a request is made under *subsection (6)(b)* in relation to a particular case, the provision concerned of *Part III, IV, V* or *VI* or of regulations made under *section 71* shall not, as respects the person who made the request, apply in relation to that case during the period from the making of the request to the time when advice is given by the Public Offices Commission in relation to the case or the Public Offices Commission declines to give such advice.

(8) The Public Offices Commission shall, within 21 days of the receipt by it of a request for advice under *subsection (6)(b)*, furnish the advice to the person concerned or notify the person of its decision to decline to do so.

(9) The provisions of subsection (11) of section 32 of the Ethics in Public Office Act, 1995 shall apply and have effect in relation to the performance by the Public Offices Commission of its functions under this Act.

PART II

Constituency Commission

Establishment of Constituency Commission.

5.—(1) Upon the publication by the Central Statistics Office, following a Census of Population, of the Census Report setting out the population of the State classified by area there shall be established by the Minister, by order, a commission (in this Act referred to as "a Constituency Commission") to perform the function assigned to it by this Part.

(2) A Constituency Commission and its members shall be independent in the performance of their functions under this Act.

(3) Every order made under *subsection (1)* shall be laid before each House of the Oireachtas as soon as may be after it is made.

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Function of Constituency Commission.

6.—(1) It shall be the function of a Constituency Commission to make a report in relation to the constituencies for—

(*a*) the election of members to the Dáil, and

(*b*) the election of representatives to the European Parliament.

(2) In preparing a report under *subsection (1)(a)* a Constituency Commission shall, in observing the relevant provisions of the Constitution in relation to Dáil constituencies, have regard to the following:

(*a*) the total number of members of the Dáil, subject to Article 16.2.2° of the Constitution, shall be not less than 164 and not more than 168;

(*b*) each constituency shall return three, four or five members;

(*c*) the breaching of county boundaries shall be avoided as far as practicable;

(*d*) each constituency shall be composed of contiguous areas;

(*e*) there shall be regard to geographic considerations including significant physical features and the extent of and the density of population in each constituency; and

(*f*) subject to the provisions of this section, the Commission shall endeavour to maintain continuity in relation to the arrangement of constituencies.

(3) In preparing a report under *subsection (1)(b)* a Commission shall have regard to the following:

(*a*) the total number of representatives to be elected in the State to the European Parliament shall be 15 or such other number as may be specified for the time being pursuant to the treaties governing the European Communities;

(*b*) there shall be reasonable equality of representation as between constituencies; and

(*c*) the matters specified in *paragraphs (b)* to *(f)* of *subsection (2)*.

(4) The reference in *subsection (2)(c)* to county boundaries shall be deemed not to include a reference to the boundary of a county borough or any boundary between any two of the administrative counties standing established by virtue of Part II of the Local Government (Dublin) Act, 1993.

Membership of Constituency Commission.

7.—A Constituency Commission shall consist of the following members:

(*a*) a judge of the Supreme Court or of the High Court nominated by the Chief Justice, who shall be the chairperson of the Commission,

(*b*) the Ombudsman,

(*c*) the Secretary of the Department of the Environment,

(*d*) the Clerk of the Dáil, and

(*e*) the Clerk of the Seanad.

Provisions in relation to members.

8.—(1) Where, before the reports of a Constituency Commission have been presented to the Chairman of the Dáil under *section 9*, the person appointed to be chairperson of the Commission—

(*a*) through ill-health or other reasonable cause becomes unable to act as such chairperson, the Chief Justice shall assign another judge of the Supreme Court or of the High Court to be a member and the chairperson of the Commission;

(*b*) ceases to hold office as a judge of the Supreme Court or of the High Court, the person shall continue as such chairperson until the reports of the Commission have been presented unless the Chief Justice assigns another judge of either court to be a member and the chairperson of the Commission.

(2) Where the holder of an office referred to in *paragraphs (b)* to *(e)* of *section 7*, through ill-health or other reasonable cause, is unable to act as a member of a Constituency Commission or any such office is vacant, the Minister may appoint, in the case of—

(*a*) the Ombudsman, the Director of the Office of the Ombudsman,

(*b*) the Secretary of the Department of the Environment, another officer of the Minister, who is an established civil servant for the purposes of the Civil Service Regulation Act, 1956,

(*c*) the Clerk of the Dáil, the Clerk Assistant of the Dáil, and

(*d*) the Clerk of the Seanad, the Clerk Assistant of the Seanad,

to be a member of the Commission and the person so appointed shall remain a member of the Commission until the reports of the Commission are presented to the Chairman of the Dáil under *section 9*.

(3) Where, before the reports of a Constituency Commission have been presented to the Chairman of the Dáil under *section 9*, a person who is a member of the Commission ceases to hold an office referred to in *paragraphs (b)* to *(e)* of *section 7*, the person shall continue as a member of the Commission until the reports of the Commission have been presented unless the Minister by order directs that the person's successor in office or the appropriate person referred to in *subsection (2)* shall be a member of the Commission.

(4) Subject to *subsections (1)*, *(2)* and *(3)*, a Constituency Commission may act notwithstanding vacancies in its membership.

Report of Constituency Commission.

9.—(1) As soon as may be after the establishment of a Constituency Commission, and, in any event, not later than six months after such establishment, the Commission shall present to the Chairman of the Dáil—

(*a*) a report containing the recommendations of the Commission in relation to the constituencies for the election

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of members to the Dáil and any alteration of those constituencies which the Commission considers appropriate, and

(*b*) a report containing the recommendations of the Commission in relation to the constituencies for the election of representatives to the European Parliament and any alteration of those constituencies which the Commission considers appropriate.

(2) A report of a Constituency Commission under this section may indicate that, in the opinion of the Commission having regard to *subsection (2)* or *(3)* of *section 6*, no alteration is required to be made in the constituencies to which the report relates.

(3) Upon the presentation by a Constituency Commission of the reports to be presented under this section, the Commission shall stand dissolved.

(4) As soon as may be after the receipt of a report of a Constituency Commission, the Chairman of the Dáil shall cause such report to be laid before each House of the Oireachtas.

Constituency Commission to invite and consider submissions.

10.—(1) A Constituency Commission shall, as soon as may be after its establishment, give public notice of its intention to make a report relating to—

(*a*) the constituencies for the election of members to the Dáil, and

(*b*) the constituencies for the election of representatives to the European Parliament.

(2) The notice shall state that any person may make a submission to the Commission in such manner and within such period as shall be specified in the notice.

(3) The Commission shall consider every submission made to it in accordance with such notice.

Staff of and assistance to Constituency Commission.

11.—(1) The Minister shall make available to a Constituency Commission such services, including the services of staff, as may reasonably be required by the Commission.

(2) The Director General of the Central Statistics Office and the Director of Ordnance Survey shall, on a request being made in that behalf, provide free of charge to a Constituency Commission such assistance as the Commission may reasonably require for the purpose of the performance of its function.

Expenses of Constituency Commission.

12.—The reasonable expenses of a Constituency Commission, including the travelling and other expenses of the members of the Commission shall, subject to such conditions as the Minister with the consent of the Minister for Finance may determine be paid out of moneys provided by the Oireachtas.

Procedure of Constituency Commission.

13.—Subject to the provisions of this Act, a Constituency Commission shall regulate its own procedure.

14.—(1) No person shall, without the consent of a Constituency Commission, disclose to any person any information obtained while serving as (or during service as) a member of the Commission or as a person whose services are made available to the Commission under *section 11* relative to the business of the Commission or the performance of the function of the Commission. Prohibition on disclosure of information.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

PART III

Payments to Political Parties and Reimbursement of Election Expenses of Candidates

15.—In this Part "qualified party" means a political party in respect of which each of the following conditions is fulfilled— "Qualified party".

(*a*) the party is registered in the Register of Political Parties in accordance with section 25 of the Act of 1992 as a party organised (within the meaning of subsection (2)(*a*) of that section) in the State to contest a Dáil election;

(*b*) the party authenticated the candidature of a candidate at the last preceding general election of members to the Dáil; and

(*c*) the total first preference votes obtained by candidates whose candidatures were authenticated by the party at that election expressed as a percentage of total first preference votes obtained by all candidates at that election was not less than two per cent.

16.—(1) Subject to the provisions of this Part, payments shall be made out of the Central Fund or the growing produce thereof to each qualified party which applies therefor. Payments to qualified parties.

(2) (*a*) The aggregate of the payments which may be made to qualified parties in any twelve monthly period under this Part shall not, subject to *paragraph (b)*, exceed one million pounds.

(*b*) (i) Whenever, on or after the passing of this Act, there is a general increase of remuneration in the civil service with effect from a particular date, pursuant to agreements or arrangements having effect on a general basis in the civil service (whether or not they also apply in relation to persons employed other than in the civil service), the aggregate of the payments which may be made under this section shall be increased correspondingly with effect from that date.

(ii) In this paragraph "civil service" has the meaning assigned to it by the Civil Service Regulation Act, 1956.

(3) The amount payable to qualified political parties under *subsection (2)* shall be allocated to each qualified party in the same proportion as the total number of first preference votes obtained by

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every candidate of each such qualified party at the preceding general election bears to the total number of first preference votes obtained by candidates of all qualified parties at that election.

(4) As soon as may be after the declaration of the result of a general election is completed in each constituency, the Minister shall furnish to the Public Offices Commission and the Minister for Finance, in writing:

(*a*) particulars of the total percentage of first preference votes obtained at the election by candidates of each party referred to in *section 15* calculated in accordance with *paragraph (c)* of the said section,

(*b*) the name of each candidate elected, and

(*c*) the name of each candidate who was not elected to whom the greatest number of votes credited at any stage of the counting of votes at the election exceeds one quarter of the quota,

as ascertained from the copy of the notice furnished to the Minister under section 127 (2) of the Act of 1992.

(5) Every payment made under this Part to a qualified party shall be exempt from income tax and shall not be reckoned in computing the income for the purposes of the Income Tax Acts of such party.

Application by qualified parties of payments under this Part.

17.—(1) (*a*) A qualified party which receives payments under this Part shall, subject to guidelines issued by the Public Offices Commission pursuant to *section 4*, apply such payments to any or all of the following purposes, namely—

(i) the general administration of the party,

(ii) research, education and training,

(iii) policy formulation, and

(iv) the co-ordination of the activities of the branches and members of the party.

(*b*) Payments made to a qualified party under this Part shall be deemed to include provision in respect of expenditure by the party in relation to the promotion of participation by women and young persons in political activity.

(2) A payment made to a qualified party under *section 18* shall not be applied to, or to recoup, election expenses incurred at an election within the meaning of the *Electoral Acts, 1992 to 1997*, the Presidential Elections Acts, 1993 to 1997, the European Parliament Elections Acts, 1992 to 1997, the Seanad (Electoral) (University Members) Acts, 1937 to 1973, the Seanad Electoral (Panel Members) Acts, 1947 to 1972, the Local Elections Acts, 1974 to 1997 or the Údarás na Gaeltachta Act, 1979 or on furthering any particular outcome at a referendum within the meaning of the Referendum Acts, 1992 and 1994.

18.—(1) Subject to *subsections (2), (3)* and *(4)*, payments under this Part shall be made by the Minister for Finance in quarterly instalments in arrears. Making of payments.

(2) (*a*) The first payment under this Part shall not be made until not less than three months have elapsed after the declaration of the result of the general election held next after the coming into operation of this Part is completed in each constituency.

(*b*) Payments made under this Part, calculated in accordance with *section 16*, after the general election referred to in *paragraph (a)* and each subsequent general election shall apply from polling day at such election and such payments so calculated shall continue to be made in respect of the period up to and including the day before polling day at the general election held next after the first-mentioned polling day.

(3) Where, on a dissolution of the Dáil, the period between the end of the quarter in respect of which payments were last made or due to be made before such dissolution and the polling day at the general election occasioned by such dissolution is a period of less than a quarter, the payments due to qualified parties for such period, calculated accordingly, shall be made to such qualified parties for such period.

(4) No payment shall be made under this Part on or after the first day of April in any year (other than the year in which this Part comes into operation) unless and until the statement and the report of the auditor referred to in *section 19* and the donation statement and statutory declaration referred to in *section 23* as respects the party concerned for the preceding year have been received by the Minister for Finance and the Public Offices Commission, respectively and the Public Offices Commission has certified to the Minister for Finance that the said statement and report, and the said donation statement and statutory declaration were completed in accordance with guidelines issued by the Commission under *section 4*, and comply with the provisions of this Part and *Part IV*, respectively.

19.—(1) As soon as may be after the end of a year in which payments are made to a qualified party under this Part, the appropriate officer of the party shall furnish to the Minister for Finance a statement in writing, in the form directed by the Public Offices Commission, signed by the officer, stating that the payments were applied to some or all of the purposes referred to in *section 17 (1)* and indicating the matters to which the payments were applied, including the amounts applied to the promotion of participation, respectively, by women and young persons in political activity. Party to furnish statement regarding payments.

(2) The appropriate officer of the party shall cause the statement referred to in *subsection (1)* to be audited by a public auditor and, in furnishing the statement to the Minister for Finance, shall attach thereto the relevant report of the auditor.

(3) The Minister for Finance shall cause a copy of each statement and auditor's report furnished under this section to be laid before each House of the Oireachtas and shall furnish a copy thereof to the Public Offices Commission.

(4) In this section "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.

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Reimbursement of election expenses of candidates.

20.—(1) (*a*) Subject to *paragraphs (b)*, *(c)* and *(d)*, election expenses shall be reimbursed to a candidate at a Dáil general election or bye-election who—

(i) is elected at the election; or

(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 one quarter of the quota.

(*b*) (i) The amount of election expenses which may be reimbursed to a candidate under this section shall be the actual expenses incurred by the candidate or five thousand pounds, whichever is the less.

(ii) Election expenses deemed to have been incurred by a candidate of a political party under *section 31(1)(b)* shall be reckoned for the purposes of this section.

(*c*) Subject to *paragraph (d)*, payments in respect of the reimbursement of election expenses under this section shall be made by the Minister for Finance out of the Central Fund or the growing produce thereof to each candidate referred to in *paragraph (a)* who applies therefor to the Public Offices Commission.

(*d*) No payment in respect of the reimbursement of election expenses of a candidate shall be made under this section unless and until the Public Offices Commission has—

(i) certified to the Minister for Finance that the relevant statement of election expenses and statutory declaration have been furnished by the election agent of the candidate to the Commission under *section 35*,

(ii) certified to the said Minister that the said statement was completed in accordance with guidelines issued by the Commission under *section 4*, and complies with the provisions of *Part V*, and

(iii) furnished to the Minister for Finance details of the amount of the actual expenses incurred by the candidate.

(*e*) The Public Offices Commission shall furnish to the Minister for Finance, as soon as may be after consideration by it of an application for reimbursement of election expenses under *paragraph (c)* and the statement of election expenses furnished to it in respect of the candidate under *section 35*, the details referred to in *paragraph (d)* in respect of each candidate who is eligible for reimbursement of election expenses at an election.

(*f*) (i) Where a candidate referred to in *paragraph (a)* dies after the close of the poll at an election

and has not made an application for the reimbursement of election expenses under this section, an application for the reimbursement of the said candidate's election expenses may be made by, and where appropriate, the payment may be made to, the personal representative of the candidate.

(ii) Where a candidate referred to in *paragraph (a)* dies after making an application for the reimbursement of election expenses under this section and before payment is made to the candidate, payment in respect of the reimbursement of the said candidate's expenses may be made to the personal representative of the candidate.

(*g*) Every payment made to a candidate, or the personal representative of a candidate, as the case may be, under this section shall not be liable to income tax.

(2) (*a*) The Minister may make regulations providing for the reimbursement of election expenses of candidates at a presidential election or a European election and may make provisions corresponding to the provisions of this section subject however to any modification in those provisions appearing to the Minister to be appropriate.

(*b*) Without prejudice to the generality of *paragraph (a)*, regulations under this subsection may make provision for all or any of the following matters:

(i) the criteria for the reimbursement of election expenses to candidates;

(ii) the amount of expenses which may be reimbursed;

(iii) the method of payment in respect of the reimbursement of such expenses; and

(iv) the procedure in relation to the reimbursement of election expenses where a candidate dies.

(3) Where regulations under this section are proposed to be made, a draft thereof shall be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving of the draft has been passed by each House.

(4) In this section the expression "election expenses", in so far as it relates to Dáil or European elections, has the meaning assigned to it in *section 30* and, in so far as it relates to presidential elections, has the meaning assigned to it in *section 51*.

PART IV

Disclosure of Donations

Interpretation (*Part IV*).

21.—(1) In this Part "subsidiary organisation" means, in relation to any political party, a body or association which—

(*a*) forms part of such political party, or

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(*b*) is established by or under the constitution of the political party, or

(*c*) is effectively controlled by the political party or the officers thereof, or

(*d*) has functions conferred on it by or under the constitution of the party.

(2) For the purposes of this Part—

(*a*) "donation" means any contribution given for political purposes by any person, whether or not a member of a political party, to a political party, a member of either House of the Oireachtas, a representative in the European Parliament or a candidate at a Dáil, Seanad or European election and includes all or any of the following, namely—

(i) a donation of money,

(ii) a donation of property or goods,

(iii) conferring the right to use, without payment or other consideration, indefinitely or for a specified period of time, any property or goods,

(iv) the supply of services without payment or other consideration therefor,

(v) the difference between the commercial price and the price charged for the purchase, acquisition or use of property or goods or the supply of any service where the price, fee or other consideration is less than the commercial price, or

(vi) in the case of a contribution made by a person in connection with an event organised for the purpose of raising funds for a political party, a member of either House of the Oireachtas, a representative in the European Parliament or a candidate at a Dáil, Seanad or European election, the proportion attributable to that contribution of the net profit, if any, deriving from the event;

(*b*) each of the following shall be deemed not to be a donation—

(i) free postage provided for a candidate under rule 22 of the Second Schedule to the Act of 1997 or section 57 of the Act of 1992 or the said section 57 as applied to Seanad elections by section 25 of the Seanad Electoral (University Members) Act, 1937,

(ii) any payment, service or facility provided to a person out of public funds or moneys provided by an institution of the European Communities or other intergovernmental organisation to which the State is a party (whether pursuant to this Act, the Oireachtas (Allowances to Members) Acts, 1938 to 1996, the Ministerial and Parliamentary Offices Acts, 1938 to 1996, the European Assembly (Irish Representatives) Act, 1979, or otherwise) by virtue

of being a member of either House of the Oireachtas, a holder of a qualifying office (within the meaning of the Ministerial and Parliamentary Offices Acts, 1938 to 1996), the holder of a position referred to in the Oireachtas (Allowances to Members) (Amendment) Act, 1994, a representative in the European Parliament, a political party, a political group or any group of members in the Dáil, the holder of an elective or other public office or a member of, delegate to or representative in a body established by or under an agreement or arrangement to which the State is a party,

(iii) benefits derived from services rendered by an individual, including the use of the individual's motor vehicle, on behalf of a political party, a member of either House of the Oireachtas, a representative in the European Parliament or a candidate at a Dáil, Seanad, European or local election where the said service is gratuitous and is not part of that individual's work carried out under a contract of employment or, where the person is self employed, in the course of the person's business or the practice of the person's profession,

(iv) the publication in a newspaper, magazine or other periodical publication or the broadcast on radio or television of news, reports, articles, features, editorial or other comments, including the publication of letters to the editor, where such publication or broadcast is effected in the same manner as that of other material relating to issues of public interest or concern, and the newspaper, magazine or other periodical publication is not published for the purpose of promoting the interests of a political party or a member of either House of the Oireachtas or a representative in the European Parliament or a candidate at a Dáil, Seanad or European election,

(v) the transmission on radio or television of a broadcast on behalf of a political party or a candidate at a Dáil or European election;

(*c*) a donation, whether made directly or through any intermediary, shall be deemed to be made—

(i) to a political party if it is made to the party, to any branch or subsidiary organisation thereof, to any candidate of the party at a Dáil, Seanad, European or local election, to any member of the party who is a member of either House of the Oireachtas or a local authority or a representative in the European Parliament or to any officer, member or agent of the party or of any branch or subsidiary organisation thereof,

(ii) to a member of either House of the Oireachtas, a representative in the European Parliament or a candidate at a Dáil, Seanad or European election if it is made to the member, representative or candidate concerned or to any agent or other person acting for the said member, representative or candidate,

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and any reference to a donation or the acceptance thereof shall be construed accordingly;

(*d*) where a person makes more than one donation—

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

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

all such donations shall, for the purposes of *section 23*, be aggregated and treated as a single donation.

Anonymous donations.

22.—(1) A political party, a member of either House of the Oireachtas, a representative in the European Parliament or a candidate at a Dáil, Seanad or European election shall not, directly or through any intermediary, accept a donation exceeding £100 in value unless the name and address of the person by or on whose behalf the donation is made are known to the party, member, representative or candidate, as the case may be.

(2) Where, notwithstanding *subsection (1)*, a donation, acceptance of which is prohibited by that subsection, is made to a political party, a member of either House of the Oireachtas, a representative in the European Parliament or a candidate at a Dáil, Seanad or European election, the party, member, representative or candidate concerned shall, not later than 7 days after the receipt of such donation, notify the Public Offices Commission in writing of such receipt and remit the donation or the value thereof to the said Commission.

(3) The Public Offices Commission shall cause a copy of each notification received under *subsection (2)* to be laid before each House of the Oireachtas and shall dispose of all moneys, property or goods received under the said subsection in such manner as may be directed by the Minister for Finance.

Donation statement.

23.—(1) (*a*) Not later than the 31st day of January in every year, each person who, in the preceding year, was a member of either House of the Oireachtas or a representative in the European Parliament shall furnish to the Public Offices Commission a written statement, in the form directed by the said Commission, in respect of the preceding year indicating whether during that year the member or representative, as the case may be, received a donation exceeding in value the relevant amount specified in *subsection (4)* 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.

(*b*) Not later than the 28th day of February in every year, each political party shall furnish to the Public Offices Commission a written statement, in the form directed by the said Commission, in respect

of the preceding year indicating whether during that year the party received a donation exceeding in value the relevant amount specified in *subsection (4)* 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*) Not later than the fifty sixth day after the polling day at a Dáil or European election in a constituency, each candidate at the election who was not elected at such election shall furnish to the Public Offices Commission a written statement, in the form directed by the said Commission, indicating whether in relation to the election the candidate received a donation exceeding in value the relevant amount specified in *subsection (4)* and furnishing in respect of each such donation the information referred to at *subparagraphs (i)* and *(ii)* of *paragraphs (a)* and *(b)* of *subsection (1)*.

(*b*) Not later than the fifty sixth day after the relevant day on which the poll is closed at a Seanad election, each candidate at the election who was not elected at such election shall furnish to the Public Offices Commission a written statement, in the form directed by the said Commission, indicating whether in relation to the election the candidate received a donation exceeding in value the relevant amount specified in *subsection (4)* and furnishing in respect of each such donation the information referred to at *subparagraphs (i)* and *(ii)* of *paragraphs (a)* and *(b)* of *subsection (1)*.

(3) A statement furnished pursuant to *subsection (1)* or *(2)* (to 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.

(4) The specified amount for the purposes of this section shall be, as respects a political party, £4,000, and as respects any other person, £500.

(5) In the case of a political party, the donation statement shall be furnished and the statutory declaration shall be made by the appropriate officer of the party.

(6) 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.

(7) (*a*) The Public Offices Commission shall cause a copy of each donation statement and declaration furnished in pursuance of this section to be laid before each House of the Oireachtas.

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(*b*) On or before the first day of April in each year, the Public Offices Commission shall inform the Minister for Finance, in writing, whether a donation statement in respect of the preceding year has been received from a qualified party.

Offences and penalties (*Part IV*).

24.—(1) The appropriate officer of a political party or the person deemed to have been appointed as the appropriate officer under *section 70*, a member of either House of the Oireachtas, a representative in the European Parliament or a candidate at a Dáil, Seanad or European election who was not elected at the election shall be guilty of an offence if he or she—

(*a*) fails to notify the Public Offices Commission in accordance with *section 22* of the receipt of a donation acceptance of which is prohibited by that section,

(*b*) fails to remit to the Public Offices Commission in accordance with the said *section 22* such a donation or the value thereof,

(*c*) fails to furnish the donation statement and make the statutory declaration required by *section 23* on or before the relevant specified date, or

(*d*) knowingly furnishes a donation statement or makes a statutory declaration which is false or misleading in any material respect.

(2) Where a person is guilty of an offence under this section—

(*a*) the person shall be liable on summary conviction to a fine not exceeding £1,000,

(*b*) the person shall be liable, where the offence is an offence referred to in *subsection (1)(d)*, on conviction on indictment to a fine not exceeding £20,000 or, at the discretion of the court, to imprisonment for a period not exceeding 3 years or to both such fine and such imprisonment, and

(*c*) where the conviction relates to failure to furnish a donation statement under *section 23*, 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.

(3) Proceedings for an offence under this Part shall not be instituted except by or with the consent of the Director of Public Prosecutions.

Disclosure of donations by companies, trade unions, etc.

25.—(1) There shall be included in—

(*a*) the report by the directors of a company under section 158 of the Companies Act, 1963, and the annual return under section 125 or 126, as may be appropriate, of that Act,

(*b*) the annual return to be made to the Registrar of Friendly Societies by a trade union (within the meaning of the

Trade Union Acts, 1871 to 1990) or a society registered under the Industrial and Provident Societies Acts, 1893 to 1978, or the Friendly Societies Acts, 1896 to 1977, and

(*c*) the report of a building society (within the meaning of the Building Societies Act, 1989) under section 78 of that Act,

particulars of all donations (within the meaning of *section 21* or *45* or regulations made under *section 71*) exceeding £4,000 in value made by the company, trade union, society or building society, as the case may be, in the year to which the report or return relates, including particulars sufficient to identify—

(*a*) the value of each such donation, and

(*b*) the person to whom the donation was made.

(2) For the purposes of this section—

(*a*) "company" has the same meaning as in the Companies Acts, 1963 to 1990;

(*b*) all donations made by the company, trade union, society or building society, as the case may be, to the same person in the year to which the report or return relates shall be aggregated and treated as a single donation;

(*c*) in the case of a contribution of the kind referred to in *subsection (2)(a)(vi)* of *section 21* or *subsection (2)(a)(vi)* of *section 45* regard shall be had to the gross value thereof.

PART V

Expenditure by Political Parties and Candidates at Dáil Elections and European Elections

Interpretation (*Part V*).

26.—In this Part—

"candidate" means, as the context may require, a candidate at a Dáil election or a European election;

"notice of the poll", as the context may require, has the meaning assigned to it in rule 49 of the Second Schedule to the Act of 1997 or section 87 of the Act of 1992;

"returning officer" means, as the context may require, a returning officer at a Dáil election or a European election.

Appointment of national agent and election agent.

27.—(1) (*a*) Before incurring any election expenses at an election, each political party which authenticates the candidature of a candidate at the election shall appoint for the purposes of this Part an agent, in this Act referred to as a "national agent", and shall, not later than the last day for receiving nominations at the election, notify in writing the name of the said national agent and the address of the office of the agent to the Public Offices Commission.

(*b*) Nothing in this section shall be construed as prohibiting the appointment by a political party of a candidate at an election as the national agent.

(2) (*a*) Before incurring any election expenses at an election, each candidate shall appoint an agent (in this Act referred to

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(2) (*a*) Before incurring any election expenses at an election, each candidate shall appoint an agent (in this Act referred to as an "election agent") for the purposes of this Part and shall, not later than the last day for receiving nominations at the election, notify in writing the name of the election agent and the address of the office of the agent to the returning officer for the constituency.

(*b*) A candidate may appoint himself or herself as election agent, and shall, on so doing, so far as circumstances permit, be subject to the provisions of this Part both as a candidate and as an election agent and, except where the context otherwise requires, any reference in this Part to an election agent shall be construed as including a reference to the candidate acting as election agent.

(3) (*a*) Where a political party referred to in *subsection (1)* has not, before the latest time for withdrawal of candidature at an election, notified the name of the national agent and the address of the agent's office to the Public Offices Commission, the appropriate officer appointed, or deemed to have been appointed, under *section 70*, shall be deemed to be the national agent of the party, the party shall be deemed to have revoked the appointment of any other person as the national agent and the provisions of this Part shall apply to the said officer in the same manner as they apply to a national agent.

(*b*) Where a candidate has not, before the latest time for the withdrawal of candidature, notified the returning officer for the constituency of the name of the election agent appointed by the candidate and the address of the office of the agent, the candidate shall be deemed to have appointed himself or herself as election agent and to have revoked the appointment of any other person as such agent and the candidate shall be subject to the provisions of this Part as a candidate and as an election agent.

(4) (*a*) A political party may, at any time, revoke the appointment of a national agent made by it under this section.

(*b*) A candidate may at any time, revoke the appointment of an election agent appointed by the candidate under this section.

(5) (*a*) If, before the relevant statement of election expenses has been furnished to the Public Offices Commission in accordance with *section 35*, the appointment of a national agent or an election agent is revoked, or a person appointed as such national agent or election agent dies, resigns or is otherwise unable to act, another national agent or election agent, as the case may be, shall be appointed forthwith by the political party or candidate concerned.

(*b*) (i) Where a candidate who has appointed himself or herself as election agent dies before a statement of election expenses has been furnished by him or her in accordance with *section 35*, the personal representative of the candidate may appoint another election agent in respect of the candidate.

(ii) The personal representative of a candidate referred to in *subparagraph (i)* may appoint himself or herself as election agent in respect of that candidate.

(*c*) The provisions of this section shall have effect in relation to an appointment under this subsection and a national agent or election agent so appointed shall be subject to the provisions of this Part in the same manner as an agent appointed otherwise under this section.

(6) (*a*) As soon as may be after receipt of notification of the appointment of a national agent by a political party, pursuant to *subsection (1)* or *(5)* or where, in the absence of such notification an appointment is deemed to have been made, the Public Offices Commission shall publish in the *Iris Oifigiúil* the name of the national agent appointed or deemed to have been appointed, as the case may be, under this section, the party by whom the agent was appointed, or deemed to have been appointed, and the address of the office of the agent.

(*b*) As soon as may be after receipt of notification of the appointment of an election agent pursuant to *subsection (2)* or *(5)*, or where in the absence of such notification an appointment is deemed to have been made, the returning officer for a constituency shall publish notice of the name of the election agent appointed, or deemed to have been appointed, by a candidate, the name of the candidate by whom the agent is appointed, or deemed to have been appointed, as the case may be, and the address of the office of the agent.

(7) Subparagraph (*a*) of paragraph (1) of Rule 24 of the Second Schedule to the Act of 1997 is hereby repealed and every reference in the said Act to an election agent shall be construed as a reference to the election agent appointed under this section by the candidate concerned.

(8) Rule 24 of the Second Schedule to the Act of 1997 is hereby amended by the substitution of the following paragraph for paragraph (5)—

"(5) The name and address of every agent appointed under this Rule (whether originally or substitutionally) shall immediately after the appointment be communicated by the person by whom the appointment was made to the local returning officer.".

(9) Subsection (1) of section 59 of the Act of 1992 is hereby repealed and every reference in the said Act to an election agent shall be construed as a reference to the election agent appointed under this section by the candidate concerned.

(10) In subsection (3) of section 59 of the Act of 1992, the words "an election agent may be revoked by the candidate and the appointment of" are hereby deleted.

Office of agent.

28.—(1) The national agent of a political party shall have in the State an office or place to which claims, notices, writs, summonses and other documents may be sent.

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(2) The election agent of a candidate shall have an office or place in or convenient to the constituency to which claims, notices, writs, summonses and other documents may be sent.

(3) Any claim, notice, writ, summons or document delivered at the office or place of the national agent of a political party or the election agent of a candidate and addressed to such agent shall be deemed to have been served on the agent and every such national agent or election agent, as the case may be, may in respect of any matter connected with the election be sued in any court having competent jurisdiction at the place where the office of the agent is situate.

Making of contracts through agent.

29.—(1) A contract (including a contract of employment and whether in writing or otherwise) by which any election expenses at an election exceeding £500 in value are incurred by or on behalf of—

(*a*) a political party pursuant to *section 31(1)(b)* or *32(1)(b)*, shall be made by the national agent of the party and shall not be enforceable against the said party or the said agent unless so made; and

(*b*) a candidate at the election (other than election expenses deemed under *section 31(1)(b)(ii)* or *32(1)(b)(ii)* to be election expenses incurred by that candidate), shall be made by the election agent of the candidate and shall not be enforceable against the said candidate or agent unless so made.

(2) Nothing in this section shall prejudice the right of any person who is a party to a contract to recover from any other such person any moneys, property, goods or services due to the first-mentioned person on foot of such contract.

Expenses and payments at election.

30.—(1) (*a*) In this Part, subject to *paragraph (b)*, "election expenses" means all expenditure incurred in connection with an election in order—

(i) to promote or oppose, directly or indirectly, the interests of a political party or a political group formed in accordance with the rules of procedure of the European Parliament, or to present the policies or a particular policy of a political party or a political group or the comments of a political party or a political group on the policy or policies of another political party or political group or of a candidate at the election; or

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

(iii) otherwise to influence the outcome of the election.

(*b*) The following shall be deemed not to be election expenses for the purposes of this Part—

(i) 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;

(ii) expenditure on the purchase of copies of the register of electors or parts thereof;

(iii) the reasonable living expenses of a candidate or any person or persons working on behalf of the candidate on a voluntary basis;

(iv) any sum disbursed by any individual out of the individual's own resources for any minor expenses lawfully incurred in relation to the election if the said sum is not repaid to the person;

(v) any of the matters referred to in *paragraph (b)* of *subsection (2)* of *section 21*.

(2) Where property, goods or services are provided to a political party or a candidate at an election without payment or other consideration therefor or at a price which is less than the commercial price, the provision of the property, goods or services shall be deemed to be an election expense and the property, goods or services shall be deemed to have been provided at the commercial price and shall be accounted for accordingly by the national agent or election agent, as the case may be, in the statement to be furnished under *section 35* to the Public Offices Commission.

(3) All election expenses incurred and all payments made by or on behalf of a political party or by or on behalf of a candidate, including election expenses so incurred or payments so made, in the case of a Dáil election, at any time before the issue of the writ or writs in relation to the election, and, in the case of a European election, at any time before the date of the order appointing the polling day at the election, for the provision of property, goods or services for use at the election, shall be reckoned for the purpose of this Part and shall be included in the statement to be furnished to the Public Offices Commission under *section 35*.

(4) No election expenses shall be incurred at an election and no payment, advance or deposit shall be made in respect of such election expenses—

(*a*) on behalf of a political party, other than by the national agent of that party, and

(*b*) on behalf of a candidate (other than election expenses deemed under *section 31(1)(b)(ii)* or *32(1)(b)(ii)* to be election expenses incurred by that candidate), other than by the election agent of that candidate.

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(5) In *subsection (4)*, "national agent" and "election agent" shall be construed as including a person or persons authorised for the purpose of *subsection (4)* by the said national agent or election agent, as the case may be, and any expenditure incurred or payment made by such person or persons shall be subject to limits which shall be specified in such authorisation.

(6) Where any election expenses (within the meaning of this Part) are incurred at an election by a body which—

(*a*) was established by or on behalf of a political party or a candidate for the purposes of incurring election expenses or making payments in respect of such expenses or for any of the purposes referred to in *subsection (1)(a)*, or

(*b*) is a member of or is a branch or subsidiary organisation (within the meaning of *section 21 (1)*) of a political party, or

(*c*) is effectively controlled by a political party or by a candidate or is or appears to be so connected with or associated with a political party or candidate that a reasonable person would believe that it is controlled or substantially influenced by that political party or candidate,

such expenses shall be deemed to have been incurred on behalf of the party or candidate concerned and shall be accounted for accordingly by the relevant agent and the provisions of this Part shall apply in relation thereto.

(7) Before incurring any expenses at an election a person (other than the national agent of a political party or the election agent of a candidate or a person authorised by any such agent for the purpose of *subsection (4)*) who proposes to incur election expenses (within the meaning of this Part), shall furnish to the Public Offices Commission in writing—

(*a*) the name, address and description of the person proposing to incur the expenses,

(*b*) a statement of the nature, purpose and estimated amount of such expenses, and

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

(8) Where, notwithstanding the provisions of *section 27 (1)* and *(2)*, election expenses are incurred by or on behalf of a political party or a candidate at an election before the appointment by the party or the candidate of a national agent or an election agent, as the case may be, the political party or candidate shall furnish to the relevant agent details of such expenses, together with all relevant vouchers, and such election expenses shall be deemed to be expenses incurred by the national agent or election agent, as the case may be.

(9) Every payment of election expenses made pursuant to this Part shall, where the said payment exceeds £100, be supported by a voucher stating the particulars of the transaction to which it relates.

(10) This section shall not be construed to prevent or restrict the lawful publication of any matter in relation to an election in a newspaper or other publication or the broadcast of such matter by radio

or television or the lawful expression of opinion on any matter of public interest by any person.

Limitation of election expenses at Dáil election.

31.—(1) (*a*) The aggregate of election expenses which may be incurred by or on behalf of a candidate in connection with his or her candidature at a Dáil election shall not exceed—

(i) in the case of a constituency returning three members, £14,000;

(ii) in the case of a constituency returning four members, £17,000; and

(iii) in the case of a constituency returning five members, £20,000.

(*b*) (i) Where a political party authenticates the candidature of a candidate at a Dáil election, the party may incur such proportion not exceeding fifty per cent. of the amount of the election expenses which that candidate is entitled to incur at that election under *paragraph (a)*, as may be agreed between the party and the candidate concerned.

(ii) The election expenses which a political party may incur under *subparagraph (i)* may relate to expenditure in the constituency concerned or otherwise, and the said election expenses shall be deemed for the purposes of *paragraph (a)* to be expenses incurred by that candidate.

(2) Subject to *subsection (1)(b)*(i), the aggregate of election expenses which may be incurred by the national agent of a political party on behalf of that party at a Dáil election shall be the difference between the sum of the aggregate of election expenses which the candidates whose candidatures were authenticated by the party at the election are entitled to incur under *subsection (1)(a)* and the sum of the actual expenses incurred by the said candidates.

Limitation of election expenses at European election.

32.—(1) (*a*) The aggregate of election expenses which may be incurred by or on behalf of a candidate in connection with his or her candidature at a European election shall not exceed the relevant amount specified for the constituency by the Minister by order under this section.

(*b*) (i) Where a political party authenticates the candidature of a candidate at a European election, the party may incur such proportion not exceeding fifty per cent. of the amount of the election expenses which that candidate is entitled to incur at that election under an order under this subsection, as may be agreed between the party and the candidate concerned.

(ii) The election expenses which a political party may incur under *subparagraph (i)* may relate to expenditure in the constituency concerned or otherwise, and the said election expenses shall

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be deemed for the purposes of *paragraph (a)* to be expenses incurred by that candidate.

(2) Subject to *subsection (1)(b)(i)*, the aggregate of election expenses which may be incurred by the national agent of a political party on behalf of that party at a European election shall be the difference between the sum of the aggregate of election expenses which the candidates, whose candidatures were authenticated by the party at the election are entitled to incur under an order made under *subsection (1)* and the sum of the actual expenses incurred by the said candidates.

(3) Where an order under this section 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 House.

Period for making claims relating to election expenses.

33.—Notwithstanding anything contained in any other enactment, every claim in respect of election expenses against the national agent of a political party, the election agent of a candidate or a person referred to in *section 30 (7)* which is not delivered to the agent or person concerned on or before the forty fifth day after the polling day at the election, shall not be paid and shall not be enforceable against the said agent or person.

Disputed claims relating to election expenses.

34.—If the national agent of a political party, the election agent of a candidate or a person referred to in *section 30 (7)* disputes any claim delivered to the agent or person concerned within the period allowed for delivery of such claims under *section 33*, the person by whom the claim is made may apply to a court of competent jurisdiction for an order for payment of the claim and the court may, on being satisfied that the claim should be paid, make an order for payment and specify the amount which is payable.

Statement in relation to election expenses.

35.—(1) (*a*) The national agent of a political party, the election agent of a candidate and every person who incurs election expenses under *section 30 (7)* shall, within the fifty six days next following the polling day at an election, furnish to the Public Offices Commission a statement in writing of all election expenses (whether paid or not) incurred by such agent or person in relation to the election and the several matters to which such expenses relate, together with all relevant vouchers.

(*b*) The national agent of a political party shall include in the statement of election expenses furnished by him or her under *paragraph (a)*:

(i) details of the election expenses incurred by the said agent pursuant to *section 31(1)(b)* or *32(1)(b)*, as may be appropriate;

(ii) the name of each candidate whose candidature was authenticated by the party at that election and in respect of whom election expenses are deemed to have been incurred by the said agent under *section 31(1)(b)(ii)* or *32(1)(b)(ii)*, as may be appropriate, and the constituency in which

each such candidate was a candidate at the election; and

(iii) the amount of election expenses (if any) incurred by the said agent pursuant to *section 31(1)(b)(ii)* or *32(1)(b)(ii)*, as may be appropriate, in respect of each such candidate.

(*c*) The election agent of a candidate whose candidature was authenticated by a political party at the election shall include in the statement of election expenses furnished by him or her under *paragraph (a)* the amount of election expenses incurred by the national agent of the party which are deemed under *section 31(1)(b)(ii)* or *32(1)(b)(ii)*, as may be appropriate, to have been incurred by the candidate.

(*d*) Each statement furnished under this subsection shall include particulars of all disputed claims, if any, and all claims, if any, received after the day referred to in *section 33*.

(2) Each statement of election expenses furnished under *subsection (1)* shall be in the form directed by the Public Offices Commission and shall be accompanied by a statutory declaration made by the agent or person by whom the statement is furnished that, to the best of the knowledge and belief of the agent or person concerned, the statement 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 statement.

(3) Where, after the statement of election expenses is furnished under *subsection (1)*, an order for payment of a claim is made by a court under *section 34* the national agent, election agent or person referred to in *section 30 (7)*, as the case may be, shall, not later than 7 days after the date of the order of the court, furnish to the Public Offices Commission a copy of the said order together with a statement of the sum payable under the order.

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

(5) Where a candidate standing nominated at an election dies—

(*a*) in any of the circumstances referred to in subsection (1), (2) or (3) of section 62 of the Act of 1992, or in paragraph (1), (2) or (3) of Rule 27 of the Second Schedule to the Act of 1997, as the case may be, or

(*b*) after the close of poll at the election and before a statement of election expenses has been furnished to the Public Offices Commission in respect of that candidate,

the election agent of the said candidate shall, notwithstanding the death of the candidate, furnish a statement of the election expenses of the candidate in accordance with this section.

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Laying of copy of statement of election expenses before each House of Oireachtas.

36.—(1) Subject to *subsection (2)*, as soon as may be after the receipt of a statement of election expenses and a statutory declaration furnished pursuant to *section 35*, the Public Offices Commission shall cause a copy of the said statement and declaration together with a copy of any relevant court orders to be laid before each House of the Oireachtas.

(2) Where an error or omission in a statement of election expenses is corrected or made good, as the case may be, in accordance with *section 4 (2)*, the Public Offices Commission shall cause a copy of the said statement as so corrected to be laid before each House of the Oireachtas.

Relief for non-compliance with *Part V*.

37.—(1) In any legal proceedings arising from the provisions of this Part, where in the case of—

(*a*) a political party, the national agent of the said party fails to furnish to the Public Offices Commission a statement of election expenses or any part of such statement or a statutory declaration in accordance with *section 35* or there is an error, omission or false or misleading statement therein,

(*b*) a candidate at an election, the election agent of such candidate fails to furnish to the Public Offices Commission a statement of election expenses or any part of such statement or a statutory declaration in accordance with *section 35* or there is an error, omission or false or misleading statement therein,

(*c*) the national agent of a political party or the election agent of a candidate, such agent fails to furnish to the Public Offices Commission a statement of election expenses or any part of such statement or a statutory declaration which he or she was required to furnish under *section 35* or there is an error, omission or false or misleading statement therein, or

(*d*) a person referred to in *section 30 (7)*, the person fails to furnish to the Public Offices Commission a statement of election expenses or any part of such statement or a statutory declaration which the person was required to furnish under *section 35* or there is an error, omission or false or misleading statement therein,

the following provisions shall apply.

(2) Where it is shown to the court that the failure, error, omission or false or misleading statement arose—

(*a*) due to the illness of a party to the proceedings,

(*b*) where a party to the proceedings is a political party, due to the death, illness, absence or misconduct of the national agent of such political party or of any employee of such agent,

(*c*) where a party to the proceedings is a candidate, due to the death, illness, absence or misconduct of his or her election agent or of any employee of such agent,

(*d*) where a party to the proceedings is the national agent of a political party or the election agent of a candidate, due to the death, illness, absence or misconduct of any person who had previously been such agent, or of any employee of the party to the proceedings,

(*e*) where a party to the proceedings is a person referred to in *section 30 (7)*, due to the death, illness, absence or misconduct of any employee of such person, or

(*f*) due to inadvertence or other reasonable cause not involving negligence on the part of such party to the proceedings, or the contravention, knowingly, by such party of the provisions of this Part,

and was not due to any lack of *bona fides* on the part of such party to the proceedings and where the proceedings are based wholly or partly on the grounds of misconduct on the part of any person, such misconduct was without the approval or knowledge of such party to the proceedings and such party took all reasonable action to prevent such misconduct, the court may, on application to it by such party, on being satisfied that it is appropriate so to do, make such order granting relief for the failure, error, omission or false or misleading statement the subject of the proceedings as it considers reasonable.

(3) Without prejudice to the generality of *subsection (2)*—

(*a*) where it is proved to the court by a political party that—

(i) any act or omission of the national agent of the party in relation to the statement of election expenses furnished by him or her was without the approval or knowledge of the political party, and

(ii) the political party took all reasonable action to prevent the act or omission,

the court shall relieve the political party from the consequences of the act or omission of the national agent,

(*b*) where it is proved to the court by a candidate that—

(i) any act or omission of the election agent of such candidate in relation to the statement of election expenses furnished by the agent was without the approval or knowledge of the candidate, and

(ii) the candidate took all reasonable action to prevent the act or omission,

the court shall relieve the candidate from the consequences of the act or omission of his or her agent.

(4) An order under *subsection (2)*—

(*a*) shall relieve the political party, candidate, agent or person, as the case may be, the subject of the proceedings from any liability or consequences under this Act or the provisions of the *Electoral Acts, 1992 to 1997*,

(*b*) may make the granting of the relief conditional on the furnishing of a statement of election expenses in a modified form or within an extended period of time and subject to

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compliance with such other conditions as seem proper to the court in order to give effect to the provisions of this Part.

Power of court to require information from agent.

38.—(1) Where, in dealing with legal proceedings referred to in *section 37*, it appears to the court that any person who is, or has been, the national agent of a political party or the election agent of a candidate at an election has refused or failed to furnish a statement of election expenses, or to furnish the particulars necessary to enable the provisions of this Part in relation to the furnishing of the statement of election expenses to be complied with, the court may, before making an order under the said *section 37*, order that person to attend before it.

(2) Unless a person referred to in *subsection (1)* shows cause to the contrary, the court may order that person:

(*a*) to furnish the statement of election expenses to the Public Offices Commission, or

(*b*) to furnish such particulars in the possession or procurement of that person as may be required for the purpose of furnishing such statement, as the court thinks fit, within such period, to such person and in such manner as it directs, and may require that person to provide such explanation of such particulars as the court directs.

Excess expenditure.

39.—Without prejudice to the operation of *section 42*,—

(*a*) where the aggregate of election expenses incurred or deemed to have been incurred by the national agent of a political party exceed the relevant amount calculated in accordance with *section 31, 40* or *41*, as the case may be, or an order made under *section 32 (1)* the Minister for Finance shall, on the recommendation of the Public Offices Commission, deduct an amount equal to such excess from any amount which may be payable or become payable to the party under *Part III*;

(*b*) where the total of the election expenses incurred or deemed to have been incurred by the election agent of a candidate at an election (other than election expenses deemed under *section 31 (1) (b) (ii)* or *32 (1) (b) (ii)* to be election expenses incurred by that candidate) exceeds the relevant amount calculated in accordance with *section 31, 40* or *41*, as the case may be, or an order made under *section 32 (1)* the Minister for Finance shall, on the recommendation of the Public Offices Commission, deduct an amount equal to such excess from any sum which may be payable or become payable as a reimbursement of election expenses to the said member under *section 20* or regulations made under *subsection (2)* of that section.

Provisions relating to fresh election.

40.—(1) Where a fresh election is held in a constituency under Rule 27 of the Second Schedule to the Act of 1997 or section 62 or 63 of the Act of 1992, the original election and the fresh election shall, subject to *subsection (2)*, be deemed to be a single election for the purposes of this Part.

(2) (*a*) In relation to a political party which presented a candidate at both the original election and the fresh election in the constituency, the relevant amounts calculated in accordance with *subsection (1)* and, where appropriate, *subsection (3)* of *section 31*, shall as respects that constituency be increased by one half.

(*b*) In relation to a candidate who contested both the original election and the fresh election in the constituency the relevant amount calculated in accordance with *subsection (2)* and, where appropriate, *subsection (3)* of *section 31*, shall be increased by one half.

Provisions where polls at Dáil election and European election are taken on same day.

41.—(1) Where the polls at a Dáil election and a European election are taken on the same day, the following subsections shall have effect.

(2) In case a candidate at the European election in a European Parliament constituency is also a candidate at the Dáil election in a Dáil constituency situate within the said European Parliament constituency—

(*a*) the candidate shall appoint the same person as election agent under *section 27* in respect of the European Parliament constituency and the Dáil constituency concerned;

(*b*) the aggregate of election expenses which may be incurred on behalf of the candidate at the elections shall not exceed the amount specified in an order made by the Minister under *subsection (1)* of *section 32* in respect of election expenses of a candidate at a European election, together with three quarters of the amount specified in *subsection (1)(a)* of *section 31* appropriate to the Dáil constituency (having regard in each case to *section 3*);

(*c*) a single statement of the election expenses incurred by the election agent of the said candidate in relation to the European election and the Dáil election shall be furnished to the Public Offices Commission under *section 35*.

(3) In case a political party authenticates the candidature of a candidate at the European election in a European Parliament constituency and also authenticates the candidature of that person as a candidate at the Dáil election in a Dáil constituency situate within the said European Parliament constituency—

(*a*) the party shall appoint the same person to be the national agent of the party under *section 27* for both elections;

(*b*) the provisions of *subsection (1)(b)* of *section 31* and *subsection (1)(b)* of *section 32* shall apply in relation to expenditure at the said elections by the said political party in respect of the said constituencies;

(*c*) a single statement of the election expenses incurred by the national agent of the party in relation to both the Dáil election and the European election shall be furnished to the Public Offices Commission under *section 35*.

(4) For the purposes of this section, a Dáil constituency which is not wholly situate in a European Parliament constituency shall, in relation to a candidate referred to in *subsection (2)* or *(3)*, be deemed

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to be situate within the European Parliament constituency contested by the candidate if any part of the Dáil constituency concerned is situate within the said European Parliament constituency.

Offences and penalties (*Part V*).

42.—(1) A person shall be guilty of an offence if, at an election, he or she incurs election expenses, or makes any payment, advance or deposit in respect of such expenses—

(*a*) on behalf of a political party unless the person is the national agent of the political party concerned or a person authorised by such national agent acting within the limit of such authorisation, or

(*b*) on behalf of a candidate (other than election expenses deemed under *section 31(1)(b)(ii)* or *32(1)(b)(ii)* to be election expenses incurred by that candidate) unless the person is the election agent of the candidate or a person authorised by such agent acting within the limit of such authorisation.

(2) The national agent of a political party or the election agent of a candidate shall be guilty of an offence if at an election the said agent—

(*a*) directly or through any other person incurs election expenses in excess of the relevant amount calculated in accordance with *section 31*, *40* or *41* or an order made under *section 32(1)(b)*, as may be appropriate, or

(*b*) in contravention of *section 33* pays any claim in respect of election expenses, or

(*c*) fails to furnish to the Public Offices Commission, within the period specified for this purpose, a statement of election expenses or a statutory declaration pursuant to *section 35*, or

(*d*) furnishes to the Public Offices Commission a statement of election expenses which, to the agent's knowledge, is false or misleading in a material respect, or

(*e*) fails otherwise to comply with the provisions of *section 35*.

(3) A person to whom *section 30 (7)* applies shall be guilty of an offence if at an election he or she—

(*a*) fails to notify the Public Offices Commission in accordance with that subsection of his or her intention to incur election expenses, or

(*b*) fails to furnish to the Public Offices Commission, within the period specified for this purpose, a statement of election expenses or a statutory declaration pursuant to *section 35*, or

(*c*) furnishes to the Public Offices Commission a statement of election expenses which, to the person's knowledge, is false or misleading in a material respect, or

(*d*) fails otherwise to comply with *section 35*.

(4) Where a person is guilty of an offence under this section—

(*a*) the person shall be liable on summary conviction to a fine not exceeding £1,000,

(*b*) the person shall be liable, where the offence is an offence referred to in *subsection (2) (d)* or *(3) (c)*, on conviction on indictment to a fine not exceeding £20,000 or, at the discretion of the court, to imprisonment for a period not exceeding 3 years or to both such fine and such imprisonment, and

(*c*) where the conviction relates to failure to furnish a statement of election expenses under *section 35*, 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.

(5) It shall be a defence to a prosecution under *subsection (2) (a)* to show that a person did not know and could not reasonably have known that he or she incurred election expenses above the specified limit.

(6) Proceedings for an offence under this Part shall not be instituted except by or with the consent of the Director of Public Prosecutions.

Dáil election petition.

43.—The Act of 1992 is hereby amended—

(*a*) by the insertion of the following subsection after subsection (5) of section 132:

"(5A) A Dáil election shall not be declared invalid because of a non-compliance with any provision of *Part V* of the *Electoral Act, 1997* or mistake in the use of forms provided for in that Act, or in any regulation or order made under that Act, where it appears to the court that a candidate or party, as the case may be, complied with the principles laid down in that Part of that Act taken as a whole and that such non-compliance or mistake did not materially affect the result of the election.";

(*b*) by the substitution of the following paragraphs for paragraphs (1) and (2) of Rule 3 of the Third Schedule:

"(1) Subject to paragraph (3), a petition shall not be presented to the High Court unless that court, on application made to it in that behalf by or on behalf of the person proposing to present it not later than fourteen days after the result of the Dáil election is declared by the returning officer, by order grants leave to the person to do so.

(2) The High Court shall not grant leave under paragraph (1) to present a petition unless it is satisfied—

(*a*) that there is *prima facie* evidence of a matter referred to in section 132 in relation to which the petition questions the election result concerned, and

(*b*) that the said matter is such as to affect materially the result of the election.

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(2A) A petition shall be presented by being lodged in the Central Office of the High Court not later than three days after the grant of leave by the High Court under paragraph (1).";

(*c*) by the substitution for "the petition may be presented within the twenty-eight" of "leave of the High Court to present a petition under paragraph (1) may be applied for not later than fourteen" in paragraph (3) of Rule 3 of the Third Schedule; and

(*d*) by the insertion of the following paragraph after paragraph (3) of Rule 3 of the Third Schedule:

"(3A) Where a petition alleges an irregularity or non-compliance with any provision of *Part V* of the *Electoral Act, 1997* whether before or after the result of the Dáil election was declared by the returning officer, notwithstanding the fact that another petition relating to the same election may have been previously presented or tried, leave of the High Court to present a petition under paragraph (1) may be applied for not later than fourteen days next after the laying of a copy of a statement of election expenses before each House of the Oireachtas in accordance with *section 36* of the *Electoral Act, 1997*.".

European election petition.

44.—Section 21 of the Act of 1997 is hereby amended:

(*a*) by the substitution in paragraph (*a*) of subsection (2) for "7" of "fourteen";

(*b*) by the substitution in paragraph (*b*) of subsection (2) for "seven" of "fourteen";

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

"(*bb*) Where a petition alleges an irregularity or non-compliance with any provision of *Part V* of the *Electoral Act, 1997* whether before or after the result of the European election was declared by the returning officer, notwithstanding the fact that another petition relating to the same election may have been previously presented or tried, leave of the High Court to present a petition under paragraph (*a*) may be applied for not later than fourteen days next after the laying of a copy of a statement of election expenses before each House of the Oireachtas in accordance with *section 36* of the *Electoral Act, 1997*."; and

(*d*) by the insertion of the following paragraph after paragraph (*b*) of subsection (8):

"(*bb*) A European election shall not be declared invalid because of a non-compliance with any provision of *Part V* of the *Electoral Act, 1997* or mistake in the use of forms provided for in that Act, or in any regulation or order made under that Act, where it appears to the court that a candidate or party, as the case may be, complied with the principles laid down in that Part of that Act taken as a whole

and that such non-compliance or mistake did not materially affect the result of the election.".

PART VI

Donations and Election Expenses at Presidential Election

45.—(1) In this Part— Interpretation (*Part VI*).

"person" shall include an individual, a body corporate and an unincorporated body of persons (including a political party) and a body corporate and any subsidiary thereof shall be deemed to be one person;

"political party" means a political party registered in the Register of Political Parties in accordance with section 25 of the Act of 1992 as a party organised to contest a Dáil election or a European election or a local election or all or any combination of such elections.

(2) For the purposes of this Part—

(*a*) "donation" means any contribution given by any person to a candidate at a presidential election for the purpose of promoting the election of the candidate at the presidential election, and includes all or any of the following, namely—

(i) a donation of money,

(ii) a donation of property or goods,

(iii) conferring the right to use, without payment or other consideration, indefinitely or for a specified period of time, any property or goods,

(iv) the supply of services without payment or other consideration therefor,

(v) the difference between the commercial price and the price charged for the purchase, acquisition or use of property or goods, or the supply of any service where the price, fee or other consideration is less than the commercial price, or

(vi) in the case of a contribution made by a person in connection with an event organised for the purpose of raising funds for a candidate at a presidential election, the proportion attributable to that contribution of the net profit, if any, deriving from the event;

(*b*) each of the following shall be deemed not to be a donation—

(i) free postage provided for a candidate under section 32 of the Act of 1993,

(ii) any payment, service or facility provided to a candidate out of public funds or moneys provided by an institution of the European Communities or other intergovernmental organisation to which the State is a party (whether pursuant to this Act, the Presidential Establishment Acts, 1938 to 1991, the Oireachtas

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(Allowances to Members) Acts, 1938 to 1996, the Ministerial and Parliamentary Offices Acts, 1938 to 1996, the European Assembly (Irish Representatives) Act, 1979, or otherwise) by virtue of being a former or the retiring President, a member of either House of the Oireachtas, the holder of a qualifying office (within the meaning of the Ministerial and Parliamentary Offices Acts, 1938 to 1996), the holder of a position referred to in the Oireachtas (Allowances to Members) (Amendment) Act, 1994, a representative in the European Parliament, the holder of an elective or other public office or a member of, delegate to or representative in a body established by or under an agreement or arrangement to which the State is a party,

(iii) benefits derived from services rendered by an individual on behalf of a candidate at a presidential election, including the use of the individual's motor vehicle, where the said service is gratuitous and is not part of that individual's work carried out under a contract of employment or, where the person is self employed, in the course of the person's business or the practice of the person's profession,

(iv) the publication in a newspaper, magazine or other periodical publication or the broadcast on radio or television of news, reports, articles, features, editorial or other comments, including the publication of letters to the editor, where such publication or broadcast is effected in the same manner as that of other material relating to issues of public interest or concern, and the newspaper, magazine or other periodical publication is not published for the purpose of promoting the interests of a candidate at a presidential election,

(v) the transmission on radio or television free of charge of a broadcast on behalf of a candidate;

(*c*) a donation, whether made directly or through any intermediary, shall be deemed to be made to a candidate at a presidential election if it is made to the candidate concerned or to any agent or other person acting for the said candidate and any reference to a donation or the acceptance thereof shall be construed accordingly;

(*d*) where a person makes more than one donation to the same candidate in relation to the same presidential election, all such donations shall, for the purposes of *section 47*, be aggregated and treated as a single donation.

Anonymous donations to presidential candidate.

46.—(1) A candidate at a presidential election shall not, directly or through any intermediary, accept a donation exceeding £100 in value unless the name and address of the person by or on whose behalf the donation is made are known to the candidate.

(2) Where, notwithstanding *subsection (1)*, a donation, acceptance of which is prohibited by that subsection, is made to a candidate at a presidential election, the election agent of the candidate concerned shall, in the statement to be furnished under *section 47*, include particulars of such donation and shall, at the same time as the statement

under *section 47* is furnished, remit the donation or the value thereof to the Public Offices Commission.

(3) The Public Offices Commission shall dispose of all moneys, property or goods received under *subsection (2)* in such manner as may be directed by the Minister for Finance.

Presidential election donation statement.

47.—(1) Not later than the fifty sixth day after the polling day at a presidential election, the presidential election agent of each candidate at the election shall furnish to the Public Offices Commission a written statement, in the form directed by the said Commission, to be known, and is referred to in this Part, as a "presidential election donation statement", indicating whether, in relation to the election, the candidate received a donation exceeding £500 in value and stating in respect of each such donation (if any)—

(*a*) the value of the donation, and

(*b*) 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)* shall be accompanied by a statutory declaration made by the presidential election agent concerned that, to the best of the agent's knowledge and belief, the statement 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 statement.

(3) It shall be the duty of the presidential election agent to make such enquiries and maintain such records as are necessary for the purpose of furnishing the said statement and making the declaration.

Orders (*Part VI*).

48.—(1) The Minister may make orders for the purposes of this Part and may, by order, amend or revoke an order made under this Part including an order under this subsection.

(2) Where an order under this Part (including an order under *subsection (1)*) 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.

Appointment of presidential election agent.

49.—(1) (*a*) Before incurring any election expenses at a presidential election each candidate at the presidential election shall appoint an agent (in this Part referred to as a "presidential election agent") for the purposes of this Part and shall, not later than the last day for receiving nominations at the election, notify in writing the name of the said agent and the address of the office of the agent to the presidential returning officer.

(*b*) A candidate may appoint himself or herself as presidential election agent and, on so doing or on being deemed under this section to have so done, shall, so far as circumstances permit, be subject to the provisions of this Part both as a candidate and as an agent and, except where the context otherwise requires, any reference in this Part to a presidential

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election agent shall be construed as including a reference to the candidate acting as presidential election agent.

(2) Where a candidate has not, at the time referred to in *subsection (1) (a)*, notified the presidential returning officer of the name of the presidential election agent appointed by the candidate and the address of the agent's office, the candidate shall be deemed to have appointed himself or herself as presidential election agent and to have revoked the appointment of any other person as such agent.

(3) A candidate may at any time revoke the appointment of a presidential election agent appointed or deemed to have been appointed by the candidate under this section.

(4) (*a*) If, before the presidential election donation statement and the statement of election expenses have been furnished to the Public Offices Commission in accordance with *sections 47* and *55*, respectively, the appointment of a presidential election agent is revoked or the person appointed as such agent dies, resigns or is otherwise unable to act, the candidate shall forthwith appoint another presidential election agent and shall notify in writing the name of the person so appointed and the address of the person's office to the presidential returning officer.

(*b*) (i) Where a candidate at a presidential election who has appointed himself or herself as election agent dies before a statement of election expenses has been furnished by him or her in accordance with *section 55*, the personal representative of the candidate may appoint another election agent in respect of the candidate.

(ii) The personal representative of a candidate at a presidential election referred to in *subparagraph (i)* may appoint himself or herself as election agent in respect of that candidate.

(*c*) The provisions of this section shall apply to a presidential election agent appointed under this subsection.

(5) The presidential returning officer shall as soon as may be notify the Public Offices Commission in writing and give public notice of the name and the address of the office of every presidential election agent appointed or deemed to have been appointed under this section.

(6) A presidential election agent appointed or deemed to have been appointed under this section shall have an office or place in the State to which claims, notices, writs, summonses and other documents relating to the presidential election may be sent.

(7) Any claim, notice, writ, summons or other document delivered to the office or place of a presidential election agent and addressed to the agent shall be deemed to have been served on the agent and the presidential election agent may, in respect of any matter connected with the presidential election, be sued in any court having competent jurisdiction at the place where the said office is situated.

(8) (*a*) Subsections (1) (*a*) and (2) (*a*) of section 33 of the Act of 1993 are hereby repealed and every reference to an election agent in the said Act shall be construed as a reference to a presidential election agent appointed under this section.

(*b*) The following subsection is hereby substituted for subsection (4) of section 33 of the Act of 1993—

"(4) The person by whom an agent is appointed under this section shall immediately after the appointment give written notice of the appointment and the name and address of the agent to the local returning officer for the constituency concerned.".

Making of contracts through presidential election agent.

50.—(1) A contract (including a contract of employment and whether in writing or otherwise) by which any election expenses exceeding £500 in value are incurred by or on behalf of a candidate at a presidential election shall be made by the presidential election agent of the candidate and shall not be enforceable against the said candidate or presidential election agent unless so made.

(2) Nothing in this section shall prejudice the right of any person who is a party to a contract to recover from any other such person any moneys, property, goods or services due to the first-mentioned person on foot of such contract.

Expenses and payments at presidential election.

51.—(1) (*a*) In this Part, subject to *paragraph (b)*, "election expenses" means all expenditure incurred in connection with a presidential election in order to promote or oppose, directly or indirectly, the election of a candidate 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 on any matter connected with the election or the comments of a candidate on the policy or policies of another candidate at the presidential election, or otherwise to influence the outcome of the election.

(*b*) The following shall be deemed not to be election expenses for the purposes of this Part—

(i) expenditure on the purchase of copies of the register of electors or parts thereof;

(ii) the reasonable living expenses of the candidate;

(iii) any sum disbursed by any individual out of the individual's own resources for any minor expenses lawfully incurred in relation to the presidential election if the said sum is not repaid to the person;

(iv) any of the matters referred to in *paragraph (b)* of *subsection (2)* of *section 45*.

(2) Where property, goods or services are provided to a candidate at a presidential election without payment or other consideration

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therefor or at a price which is less than the commercial price, the provision of the property, goods or services shall be deemed to be an election expense and the property, goods or services shall be deemed to have been provided at the commercial price and shall be accounted for accordingly by the presidential election agent in the statement to be furnished under *section 55* to the Public Offices Commission.

(3) All election expenses incurred and all payments made by or on behalf of a candidate at a presidential election, including election expenses so incurred or payments so made at any time before the date of the presidential election order, for the provision of property, goods or services for use at the election, shall be reckoned for the purpose of this Part and shall be included in the statement to be furnished to the Public Offices Commission under *section 55*.

(4) No election expenses shall be incurred at a presidential election and no payment, advance or deposit shall be made in respect of such election expenses on behalf of a candidate at the presidential election other than by the presidential election agent of the candidate or such person or persons authorised for this purpose by the said presidential election agent and subject to limits regarding expenditure and payment which shall be specified in such authorisation.

(5) Where any election expenses (within the meaning of this Part) are incurred at a presidential election by a body which—

(*a*) is a political party which supports the candidature of a candidate, or

(*b*) was established by or on behalf of a candidate, or by or on behalf of a political party which supports the candidature of the candidate, for the purpose of incurring election expenses or making payments in respect of such expenses or for any of the purposes referred to in *subsection (1) (a)*, or

(*c*) is a member of or is a branch or subsidiary organisation (within the meaning of *section 21 (1)*) of a political party which supports the candidature of the candidate, or

(*d*) is effectively controlled by the candidate or a political party which supports the candidature of the candidate or is or appears to be so connected with or associated with the candidate or a political party which supports the candidature of the candidate that a reasonable person would believe that it is controlled or substantially influenced by the candidate or political party,

such expenses shall be deemed to have been incurred on behalf of the candidate concerned and shall be accounted for accordingly by the presidential election agent of the candidate and the provisions of this Part shall apply in relation thereto.

(6) Before incurring any expenses at a presidential election a person (other than the presidential election agent of a candidate or a person authorised by such agent for the purposes of *subsection (4)*) who proposes to incur election expenses (within the meaning of this Part), shall furnish to the Public Offices Commission in writing—

(*a*) the name, address and description of the person proposing to incur the expenses,

(*b*) a statement of the nature, purpose and estimated amount of such expenses, and

(*c*) an indication of the person's connection, if any, with any candidate or with any political party which supports the candidature of a candidate at the election.

(7) Where, notwithstanding the provisions of *section 49 (1) (a)*, election expenses are incurred by or on behalf of a candidate at a presidential election before the appointment by the candidate of an election agent, the candidate shall furnish to the relevant agent details of such expenses, together with all relevant vouchers, and such election expenses shall be deemed to be expenses incurred by the election agent.

(8) Every payment of election expenses made pursuant to this Part shall, where the said payment exceeds £100, be supported by a voucher stating the particulars of the transaction to which it relates.

(9) This section shall not be construed to prevent or restrict the lawful publication of any matter in relation to a presidential election in a newspaper or other publication or the broadcast of such matter by radio or television or the lawful expression of opinion on any matter of public interest by any person.

Limitation of presidential election expenses.

52.—(1) The aggregate of election expenses which may be incurred by or on behalf of a candidate at a presidential election in connection with his or her candidature shall not exceed the amount specified for this purpose by the Minister by order under this section.

(2) In specifying the aggregate of election expenses which may be incurred by or on behalf of a candidate at a presidential election the Minister shall have regard to the limits on the aggregate of election expenses applying under *section 31 (1) (a)* and to any change in the consumer price index since the coming into force of such limits applying at the date of the said order.

(3) 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 limits on election expenses applying at Dáil elections at the date of the said order, expressed as a percentage of the last-mentioned number.

Period for making claims in relation to presidential election expenses.

53.—Notwithstanding anything contained in any other enactment, every claim in respect of election expenses against the presidential election agent of a candidate at a presidential election or a person referred to in *section 51 (6)* which is not delivered to the agent or person concerned on or before the forty fifth day after the polling day at the election shall not be paid and shall not be enforceable against the said election agent or person.

Disputed claims in relation to presidential election expenses.

54.—If the presidential election agent of a candidate at a presidential election or a person referred to in *section 51 (6)* disputes any claim delivered to the agent or person concerned within the period allowed for the delivery of such claims under *section 53*, the person by whom the claim is made may apply to a court of competent jurisdiction for an order for payment of the claim and the court may, on

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being satisfied that the claim should be paid, make an order for payment and specify the amount which is payable.

Statement in relation to presidential election expenses.

55.—(1) The presidential election agent of a candidate at a presidential election and every person who incurs election expenses under *section 51 (6)* shall, within the fifty six days next following the polling day at the presidential election furnish to the Public Offices Commission a statement in writing of all election expenses (whether paid or not) incurred by the agent or person at the election and the several matters to which such expenses relate, together with all relevant vouchers.

(2) Each statement of election expenses furnished under *subsection (1)* shall be in the form directed by the Public Offices Commission and shall be accompanied by a statutory declaration made by the presidential election agent or person by whom the statement is furnished that, to the best of the knowledge and belief of the agent or person concerned, the statement 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 statement.

(3) Where, after the statement of election expenses is furnished under this section, an order for payment of a claim is made by a court under *section 54* the presidential election agent or person referred to in *section 51 (6)* shall, not later than 7 days after the date of the order of the court, furnish to the Public Offices Commission a copy of the said order together with a statement of the sum payable under the order.

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

Laying of copy of documents before each House of Oireachtas.

56.—(1) Subject to *subsection (2)*, as soon as may be after the receipt of a statement—

(*a*) in relation to donations under *section 47*, or

(*b*) of election expenses under *section 55*,

the Public Offices Commission shall cause a copy of the said statement to be laid before each House of the Oireachtas, together with, in the case of a statement referred to in *paragraph (a)*, a copy of the statutory declaration referred to in *section 47 (2)*, and, in the case of a statement referred to in *paragraph (b)*, a copy of the statutory declaration referred to in *section 55* and any relevant court orders.

(2) Where an error or omission in a statement of election expenses is corrected or made good, as the case may be, in accordance with *section 4 (2)*, the Public Offices Commission shall cause a copy of the said statement as so corrected to be laid before each House of the Oireachtas.

57.—(1) In any legal proceedings arising from the provisions of this Part, where in the case of— Relief for non-compliance with *Part VI.*

(*a*) a candidate at a presidential election, the election agent of the candidate fails to furnish to the Public Offices Commission a statement of election expenses or any part of such statement or a statutory declaration which he or she was required to furnish under *section 55* or there is an error, omission or false or misleading statement therein,

(*b*) the election agent of a candidate at a presidential election, such agent fails to furnish to the Public Offices Commission a statement of election expenses or any part of such statement or a statutory declaration which he or she was required to furnish under *section 55* or there is an error, omission or false or misleading statement therein, or

(*c*) a person referred to in *section 51 (6)*, the person fails to furnish to the Public Offices Commission a statement of election expenses or any part of such statement or a statutory declaration which the person was required to furnish under *section 55*, or there is an error, omission or false or misleading statement therein,

the following provisions shall apply.

(2) Where it is shown to the court that the failure, error, omission or false or misleading statement arose:

(*a*) due to the illness of a party to the proceedings,

(*b*) where a party to the proceedings is a candidate at the presidential election, due to the death, illness, absence or misconduct of his or her election agent or of any employee of such agent,

(*c*) where a party to the proceedings is the election agent of a candidate at the presidential election, due to the death, illness, absence or misconduct of any person who had previously been such agent, or of any employee of the agent,

(*d*) where a party to the proceedings is a person referred to in *section 51 (6)*, due to the death, illness, absence or misconduct of any employee of the person, or

(*e*) due to inadvertence or other reasonable cause not involving negligence on the part of such party to the proceedings, or the contravention, knowingly, by such party of the provisions of this Part,

and was not due to any lack of *bona fides* on the part of such party to the proceedings and where the proceedings are based wholly or partly on the grounds of misconduct on the part of any person, such misconduct was without the approval or knowledge of such party to

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the proceedings and such party took all reasonable action to prevent such misconduct, the court may on application to it by such party, on being satisfied that it is appropriate so to do, make such order granting relief for the failure, error, omission or false or misleading statement the subject of the proceedings, as it considers reasonable.

(3) Without prejudice to the generality of *subsection (2)*, where it is proved to the court by a candidate that:

(*a*) any act or omission of the election agent of such candidate in relation to the statement of election expenses furnished by him or her was without the approval or knowledge of the candidate, and

(*b*) the candidate took all reasonable action to prevent the act or omission,

the court shall relieve the candidate from the consequences of the act or omission of his or her agent.

(4) An order under *subsection (2)*—

(*a*) shall relieve the candidate, agent or person, as the case may be, the subject of the proceedings from any liability or consequences under this Act, the Act of 1993 or the provisions of the *Electoral Acts, 1992 to 1997*, as applied to presidential elections,

(*b*) may make the granting of the relief conditional on the furnishing of a statement of election expenses in a modified form or within an extended period of time and subject to compliance with such other conditions as seem proper to the court in order to give effect to the provisions of this Part.

Power of court to require information from agent.

58.—(1) Where, in dealing with legal proceedings referred to in *section 50*, it appears to the court that any person who is, or has been, the election agent of a candidate at a presidential election has refused or failed to furnish a statement of election expenses, or to furnish the particulars necessary to enable the provisions of this Part in relation to the furnishing of the statement of election expenses to be complied with, the court may, before making an order under the said *section 50*, order that person to attend before it.

(2) Unless a person referred to in *subsection (1)* shows cause to the contrary, the court may order that person—

(*a*) to furnish the statement of election expenses to the Public Offices Commission, or

(*b*) to furnish such particulars in the possession or procurement of that person as may be required for the purpose of furnishing such statement, as the court thinks fit, within such period, to such person and in such manner as it directs, and may require that person to provide such explanation of such particulars as the court directs.

Provisions relating to fresh presidential election.

59.—(1) Where a fresh presidential election is held under section 31 of the Act of 1993, the original election and the fresh election shall, subject to *subsection (2)*, be deemed to be a single election for the purposes of this Part.

(2) In relation to a candidate who contests both the original election and the fresh election the relevant amount of election expenses specified by the order for the time being in force under *section 52* shall be increased by one half.

Offences and penalties (*Part VI*).

60.—(1) A person shall be guilty of an offence if, at a presidential election, the person—

(*a*) incurs election expenses, or

(*b*) makes any payment, advance or deposit in respect of such expenses,

on behalf of a candidate at that election, unless the person is the presidential election agent of the candidate at the election or a person authorised by such agent, acting within the limit of such authorisation.

(2) The presidential election agent of a candidate shall be guilty of an offence if at a presidential election the said agent—

(*a*) directly or through any other person, incurs election expenses in excess of the amount specified in an order for the time being in force under *section 52*, or

(*b*) in contravention of *section 53*, pays any claim in respect of election expenses, or

(*c*) fails to furnish to the Public Offices Commission, within the period specified for this purpose, a statement of election expenses or a statutory declaration under *section 55*, or

(*d*) furnishes to the Public Offices Commission a statement of election expenses which, to the agent's knowledge, is false or misleading in a material respect, or

(*e*) fails otherwise to comply with the provisions of *section 55*, or

(*f*) fails to furnish the presidential election donation statement or make the statutory declaration required by *section 47* within the period specified in that section, or

(*g*) knowingly furnishes a presidential election donation statement or makes a statutory declaration under the said *section 47* which is false or misleading in any material respect.

(3) A person to whom *section 51 (6)* applies shall be guilty of an offence if at a presidential election he or she—

(*a*) fails to notify the Public Offices Commission in accordance with that subsection of his or her intention to incur election expenses, or

(*b*) fails to furnish to the Public Offices Commission, within the period specified for this purpose, a statement of election

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expenses or a statutory declaration pursuant to *section 55*, or

(*c*) furnishes to the Public Offices Commission a statement of election expenses which, to the person's knowledge, is false or misleading in a material respect, or

(*d*) fails otherwise to comply with *section 55*.

(4) Where a person is guilty of an offence under this section—

(*a*) the person shall be liable on summary conviction to a fine not exceeding £1,000,

(*b*) the person shall be liable, where the offence is an offence referred to in *subsection 2 (d)* or *(g)* or *subsection 3 (c)*, on conviction on indictment to a fine not exceeding £20,000 or, at the discretion of the court, to imprisonment for a period not exceeding 3 years or to both such fine and such imprisonment, and

(*c*) where the conviction relates to failure to furnish a presidential election donation statement under *section 47* or a statement of election expenses under *section 55*, 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.

(5) It shall be a defence to a prosecution under *subsection (2) (a)* to show that a person did not know and could not reasonably have known that he or she incurred election expenses above the specified limit.

(6) Proceedings for an offence under this Part shall not be instituted except by or with the consent of the Director of Public Prosecutions.

Presidential election petition.

61.—The Act of 1993 is hereby amended:

(*a*) by the insertion of the following subsection after subsection (4) of section 57:

"(4A) Where a petition alleges an irregularity or non-compliance with any provision of *Part VI* of the *Electoral Act, 1997* whether before or after the result of the Presidential election was declared by the presidential returning officer, notwithstanding the fact that another petition relating to the same election may have been previously presented or tried, leave of the High Court to present a petition under subsection (2) may be applied for not later than seven days next after the laying of a copy of a statement of election expenses before each House of the Oireachtas in accordance with *section 56* of the *Electoral Act, 1997*."; and

(*b*) by the insertion of the following subsection after subsection (7) of section 57:

"(7A) A presidential election shall not be declared invalid because of a non-compliance with any provision of *Part VI* of the *Electoral Act, 1997* or mistake in the use

of forms provided for in that Act, or in any regulation or order made under that Act, where it appears to the court that a candidate complied with the principles laid down in that Part of that Act taken as a whole and that such non-compliance or mistake did not materially affect the result of the election.".

PART VII

Persons Unable to Vote at Polling Station

Entry of names in postal voters list.

62.—(1) The registration authority shall enter in the postal voters list the name of every elector who, not later than the last date for making claims for correction in the draft register, applies to be so entered and satisfies the registration authority that the circumstances of the elector's occupation, service or employment are such as to render it likely that he or she will be unable to go in person on polling day to vote at the polling place for the polling district.

(2) For the purposes of this section "employment" and "service" shall be deemed to include participation by a person on a full time basis on an educational course of study in an educational institution in the State.

Application to be entered in postal voters list.

63.—(1) The following provisions shall apply in relation to an application to be entered in the postal voters list pursuant to *section 62*—

(*a*) the application shall be in the form directed by the Minister;

(*b*) the application shall be signed by the applicant and completed in accordance with the instructions provided thereon and shall be accompanied by a certificate or a statutory declaration, as the case may require;

(*c*) the application form, duly completed, and the certificate or declaration shall be delivered or sent by post so as to be received by the registration authority not later than the last date for making claims for corrections in the draft register.

(2) An applicant to be entered in the postal voters list shall furnish to the registration authority in support of the application—

(*a*) in case the applicant is an employed person, a certificate from the applicant's employer, or, where the applicant is a person referred to in *section 62 (2)*, a certificate from the registrar, or secretary, as may be appropriate, of the relevant educational institution, in the form directed by the Minister, and

(*b*) in every other case, a statutory declaration in the form directed by the Minister.

Applicant to provide information or documents.

64.—(1) An applicant to be entered in the postal voters list pursuant to *section 62* shall furnish to the registration authority any information or documents in the applicant's possession or procurement which the authority may require so as to be satisfied that the applicant is a person to whom that section applies.

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(2) Whenever a registration authority requires information or documents from an applicant pursuant to *subsection (1)* the applicant shall furnish the authority with the information or documents within the time (being not less than 7 days from the day on which the request is made) specified in the requirement and, if the applicant does not furnish the required information or, as the case may be, documents within the time so specified, the application shall be deemed to have been withdrawn.

Notices and application forms.

65.—(1) The registration authority shall, within the period of fourteen days ending on the qualifying date for registration as an elector, arrange for the giving of public notice of—

(*a*) the category of electors entitled to apply to be entered in the postal voters list pursuant to *section 62*,

(*b*) the manner in which, and the time before which, applications must be submitted, and

(*c*) the times and places at which application forms may be obtained.

(2) The registration authority shall arrange for the provision of application forms at such times and places as are specified in a notice pursuant to *subsection (1)* and an application form shall be supplied free of charge to any person applying therefor.

Consideration of applications.

66.—(1) Where the registration authority is satisfied that an applicant—

(*a*) is an elector to whom *section 62* applies,

(*b*) has duly completed the application form, and

(*c*) has furnished the certificate or, as the case may be, statutory declaration required under *section 63*,

the registration authority shall—

(i) rule that the application is granted and mark the application form accordingly, and

(ii) notify the applicant of the decision.

(2) Where the registration authority is not satisfied that an applicant—

(*a*) is an elector to whom *section 62* applies, or

(*b*) has duly completed the application form, or

(*c*) has furnished the certificate or, as the case may be, statutory declaration required under *section 63*,

the registration authority shall—

(i) rule that the application is refused and mark the application form accordingly, and

(ii) notify the applicant of the decision and of the reason therefor.

(3) (*a*) Subject to *paragraph (b)*, whenever an application is received by a registration authority after the date specified in *section 62*, the application shall be disregarded and the applicant shall be notified accordingly.

(*b*) As respects the year in which this Part comes into operation the Minister may, by order, appoint a date to be the latest date for receiving applications in lieu of the date specified for this purpose in *sections 62* and *63* and a period for giving public notice in lieu of the period specified in *section 65* and *paragraph (a)* shall be construed accordingly as respects that year.

Voting by electors referred to in *section 62*.

67.—(1) The provisions of Part XIII of the Act of 1992 shall apply to the issue of ballot papers to, and the return of such ballot papers by, electors at a Dáil election whose names are entered in the postal voters list pursuant to *section 62* subject to the following modifications—

(*a*) an elector whose name is so entered in the postal voters list, in order to vote, shall in a Garda Síochána station in the presence of a member of the Garda Síochána do the following things in the following order—

(i) produce to the member of the Garda Síochána the envelope addressed to the elector pursuant to section 68 of that Act, the ballot paper (in relation to which the member of the Garda Síochána shall establish that it is unmarked) and a form of declaration of identity in the form directed by the Minister;

(ii) complete and sign the said declaration of identity;

(iii) hand the declaration of identity to the member of the Garda Síochána who shall, on being satisfied as to the identity of the person who has signed the declaration, witness the signature and stamp the declaration of identity with the stamp of the Garda Síochána station and destroy the envelope addressed to the elector;

(iv) mark, in secret, the ballot paper;

(v) place the marked ballot paper in the ballot paper envelope, and effectually seal such envelope;

(vi) place the ballot paper envelope and the completed declaration of identity in the covering envelope and effectually seal that envelope;

and shall send the last-mentioned envelope by post to the returning officer;

(*b*) a reference to "receipt", in relation to documents appropriate to such electors, shall be construed as a reference to "declaration of identity"; and

(*c*) a reference to "receipt duly signed", in relation to such documents, shall be construed as a reference to "declaration of identity duly signed and witnessed and stamped with the stamp of the Garda Síochána station".

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(2) In this section "ballot paper envelope" and "covering envelope" have the meanings specified in section 68(3) of the Act of 1992.

(3) The modifications of Part XIII of the Act of 1992 provided for in this section shall have effect in relation to the provisions of the said Part XIII as applied to presidential elections by section 40 of the Act of 1993 and to referenda by section 28 of the Referendum Act, 1994.

Amendment of Act of 1997.

68.—The Act of 1997 is hereby amended by the insertion of the following Rule after Rule 29 of the Second Schedule:

"Voting by electors referred to in *section 62* of the *Electoral Act, 1997*.

29A.—(1) The provisions of this Part shall apply to the issue of ballot papers to, and the return of such ballot papers by, electors whose names are entered in the postal voters list pursuant to *section 62* of the *Electoral Act, 1997*, subject to the following modifications:

(*a*) an elector whose name is so entered in the postal voters list, in order to vote, shall in a Garda Síochána station in the presence of a member of the Garda Síochána do the following things in the following order—

(i) produce to the member of the Garda Síochána the envelope addressed to the elector pursuant to Rule 32 (3), the ballot paper (in relation to which the member of the Garda Síochána shall establish that it is unmarked) and a form of declaration of identity in the form directed by the Minister;

(ii) complete and sign the said declaration of identity;

(iii) hand the declaration of identity to the member of the Garda Síochána who shall, on being satisfied as to the identity of the person who has signed the declaration, witness the signature and stamp the declaration of identity with the stamp of the Garda Síochána station and destroy the envelope addressed to the elector;

(iv) mark, in secret, the ballot paper;

(v) place the marked ballot paper in the ballot paper envelope, and effectually seal such envelope;

(vi) place the ballot paper envelope and the completed declaration of identity in the covering envelope and effectually seal that envelope;

and shall send the last-mentioned envelope by post to the local returning officer;

(*b*) a reference to 'receipt', in relation to documents appropriate to such electors, shall be construed as a reference to 'declaration of identity'; and

(*c*) a reference to 'receipt duly signed', in relation to such documents, shall be construed as a reference to 'declaration of identity duly signed and witnessed and stamped with the stamp of the Garda Síochána station'.

(2) In this Rule 'ballot paper envelope' and 'covering envelope' shall have the meanings specified in Rule 32 (3).".

Amendment of Local Elections Regulations, 1995.

69.—The Local Elections Regulations, 1995 (S.I. No. 297 of 1995), are hereby amended by the insertion of the following article after article 30:

"Voting by electors referred to in *section 62* of the *Electoral Act, 1997*.

30A.—(1) The provisions of this Part shall apply to the issue of ballot papers to, and the return of such ballot papers by, electors whose names are entered in the postal voters list pursuant to *section 62* of the *Electoral Act, 1997* subject to the following modifications:

(*a*) an elector whose name is so entered in the postal voters list, in order to vote, shall in a Garda Síochána station in the presence of a member of the Garda Síochána do the following things in the following order—

(i) produce to the member of the Garda Síochána the envelope addressed to the elector pursuant to article 33 (3), the ballot paper (in relation to which the member of the Garda Síochána shall establish that it is unmarked) and a form of declaration of identity;

(ii) complete and sign the said declaration of identity;

(iii) hand the declaration of identity to the member of the Garda Síochána who shall, on being satisfied as to the identity of the person who has signed the declaration, witness the signature and stamp the declaration of identity with the stamp of the Garda Síochána station and destroy the envelope addressed to the elector;

(iv) mark, in secret, the ballot paper;

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(v) place the marked ballot paper in the ballot paper envelope, and effectually seal such envelope;

(vi) place the ballot paper envelope and the completed declaration of identity in the covering envelope and effectually seal that envelope;

and shall send the last-mentioned envelope by post to the returning officer;

(*b*) a reference to 'receipt', in relation to documents appropriate to such electors, shall be construed as a reference to 'declaration of identity'; and

(*c*) a reference to 'receipt duly signed', in relation to such documents, shall be construed as a reference to 'declaration of identity duly signed and witnessed and stamped with the stamp of the Garda Síochána station'.

(2) In this article 'ballot paper envelope' and 'covering envelope' shall have the meanings specified in article 33 (3).".

PART VIII

MISCELLANEOUS

Appointment of appropriate officer by political party.

70.—(1) As soon as may be after the coming into operation of this section and from time to time thereafter as circumstances may require, each political party shall appoint an officer, in this Act referred to as "the appropriate officer", for the purposes of this Part and *Parts III, IV* and *V*.

(2) (*a*) Each political party shall notify the Public Offices Commission of the name and address of the officer appointed under this section.

(*b*) Each qualified party (within the meaning of *Part III*) shall, in addition to complying with *paragraph (a)*, notify the Minister for Finance of the name and address of the officer appointed under this section.

(3) Where at any time no appointment stands made by a political party under this section, the leader of the party shall be deemed to have been appointed as the appropriate officer of that party.

Donations and election expenses at local elections.

71.—(1) The Minister may make regulations providing for the disclosure by members of a local authority and candidates at a local election of donations made to the members or candidates, as the case may be, and the limitation of the election expenses which may be incurred by or on behalf of candidates and political parties at local elections and may make provisions corresponding to the provisions of *Parts IV* and *V* subject however to any modifications in those provisions appearing to the Minister to be appropriate.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may make provision for all or any of the following matters—

(*a*) furnishing of statements in relation to donations, including anonymous donations;

(*b*) appointment of agents by political parties and candidates;

(*c*) making of contracts, incurring of election expenses and making of payments;

(*d*) limitation of election expenses;

(*e*) period for making claims relating to election expenses and for payment of such claims;

(*f*) disputed claims relating to election expenses;

(*g*) furnishing of statements in relation to election expenses;

(*h*) consideration by the Public Offices Commission of statements in relation to donations and election expenses;

(*i*) excess expenditure;

(*j*) election expenses at a fresh election;

(*k*) inspection of documents; and

(*l*) provisions corresponding to *sections 24* and *42* with such modifications as appear to the Minister to be appropriate.

(3) Regulations under this section may—

(*a*) apply to local authorities generally or to a specified class or classes of local authorities; and

(*b*) contain different provisions in relation to different classes of local authorities.

(4) (*a*) Provisions in regulations under this section relating to the specification of limits on election expenses shall correspond so far as is appropriate to the provisions relating to limits on election expenses for the time being applying to Dáil elections and, in making such regulations, the Minister shall have regard to any change in the consumer price index since the coming into force of the limits applying to Dáil elections at the date of the making of such regulations.

(*b*) For the purposes of this subsection, "change in the consumer price index" means the difference between the consumer price index number last published before the date of the making of the regulations under this section and the said number last published before the date of the coming into force of the limits on election expenses at Dáil elections applying at the date of the making of the said regulations, expressed as a percentage of the last-mentioned number.

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(5) Where a provision of regulations under this section corresponds to a provision of *section 24* or *42* it may provide for penalties not exceeding those provided for in the said *section 24* or *42*.

(6) Where regulations under this section are proposed to be made, a draft thereof shall be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving of the draft has been passed by each House.

(7) In this section "political party" means a political party registered in the Register of Political Parties in accordance with section 25 of the Act of 1992 as a party organised to contest a local election (whether or not it is also organised to contest other elections).

Inspection of documents furnished to Public Offices Commission.

72.—The Public Offices Commission shall retain at the office of the Commission—

(*a*) every copy of a statement and auditor's report furnished to it under *section 19*,

(*b*) every notification furnished under *section 22* and every statement and declaration furnished under *section 23* or *47*, and

(*c*) every statement of election expenses and declaration furnished pursuant to *section 35* or *55* together with the relevant invoices and receipts and copies of any relevant court orders for a period of 3 years,

and shall permit any person to inspect such documents, free of charge, and to take a copy thereof or an extract therefrom on payment of a fee not exceeding the reasonable cost of copying, at such times and subject to such conditions as the Commission considers appropriate.

Offences by bodies corporate.

73.—Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent of, or to be attributable to, any neglect on the part of any person being a director, manager, secretary or other similar officer of the body corporate, or a person purporting to act in any such capacity, that person as well as the body corporate shall be deemed to be guilty of that offence.

Local election petition.

74.—The Local Elections (Petitions and Disqualifications) Act, 1974 is hereby amended:

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

"(3A) Where a petition alleges an irregularity or non-compliance with any provision of regulations made under *section 71* of the *Electoral Act, 1997* whether before or after the result of the local election was declared by the returning officer, notwithstanding the fact that another petition relating to the same election may have been previously presented or tried, the petition may be presented within the twenty eight days next after the laying of a copy of a statement of election expenses before each House of the Oireachtas as provided for in such regulations."; and

(*b*) by the insertion of the following subsection after subsection (1) of section 5:

"(1A) A local election shall not be declared invalid because of a non-compliance with any provision of regulations made under *section 71* of the *Electoral Act, 1997* or mistake in the use of forms provided for in such regulations, where it appears to the court that a candidate or party, as the case may be, complied with the principles laid down in such regulations taken as a whole and that such non-compliance or mistake did not materially affect the result of the election.".

Registration of electors.

75.—The Act of 1992 is hereby amended by—

(*a*) the insertion of the following subsection after subsection (1) of section 15:

"(1A) (*a*) Notwithstanding subsection (1), sections 7 (1) (*b*), 8 (1) (*b*), 9 and 10, and Rule 1 (3) of the Second Schedule and subject to section 11 (1) (*a*) and paragraph (*c*), a person who:

(i) was not ordinarily resident in a constituency or local electoral area, as the case may be, on the qualifying date for a register of electors and takes up ordinary residence in such constituency or local electoral area, as the case may be, after such qualifying date and is otherwise entitled to be registered as an elector under section 7, 8, 9 or 10, or

(ii) reaches the age of eighteen years after the date of the coming into force of a register of electors,

may apply to the registration authority to have his name entered in the supplement to the register.

(*b*) An applicant for entry in the supplement referred to in paragraph (*a*) (i) shall satisfy the registration authority that he has taken up ordinary residence in the constituency or local electoral area, as the case may be, in respect of which the application applies and, in considering an application from such person, the registration authority may require the applicant to furnish a statutory declaration that he has taken up ordinary residence in the constituency or local electoral area concerned.

(*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.";

(*b*) (i) the substitution for "twelfth" of "fourteenth" in subsection (5) of section 15; and

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(ii) the substitution for "twelfth" of "fourteenth" in Rule 18 (1) of the Second Schedule in both places where it occurs;

(*c*) the insertion of the following sections after section 15:

"Supplement to postal voters list.

15A.—(1) An elector referred to in paragraph (*a*) or (*d*) of section 14 or in *section 62* of the *Electoral Act, 1997* who is not entered in the postal voters list or the special voters list may apply to the registration authority to have his name entered in a supplement to the postal voters list which the registration authority is hereby empowered to prepare and publish.

(2) (*a*) The provisions of Part III (other than Rules 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 (*d*) as if—

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

(ii) the reference to 'section 17' was a reference to this section and references to 'section 17 (2)' were references to 'section 14(*d*)';

(iii) in Rule 19 (*d*) 'to the registration authority' was substituted for 'so as to be received by the registration authority not later than the date specified in Rule 1'; and

(iv) in Rule 22 'at such times and places as are specified in a notice published pursuant to Rule 21,' was deleted.

(*b*) The provisions of *sections 63, 64, 65* (other than *subsection (1)*) and *66* (other than *subsection (3)*) of the *Electoral Act, 1997* 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 62* of the said Act as if:

(i) references to 'postal voters list' were references to 'supplement to the postal voters list';

(ii) references to '*section 62*', other than those which occur in *section 66*, were references to this section;

(iii) in *section 63 (1) (c)*, 'to the registration authority' was substituted for 'so as to be received by the registration authority not later than the last date for making claims for corrections in the draft register'; and

(iv) in *section 65 (2)*, 'at such times and places as are specified in a notice pursuant to *subsection (1)*' was deleted.

(3) A supplement to the postal voters list published by the registration authority under subsection (1) shall be deemed to form part of the postal voters list.

(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 fiftieth day before polling day at an election or referendum shall not have effect in relation to that election or referendum.

(5) As soon as may be after the date of the dissolution of the Dáil at a general election or the date on which the order appointing polling day at a Dáil bye-election, or at a presidential, European or local election or a referendum is made, the registration authority shall publish a list of the names of electors (if any) whose applications to be entered in the supplement to the postal voters list were received before the said fiftieth day before polling day and allowed by the registration authority.

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(6) The list prepared under subsection (5) shall form the supplement to the postal voters list.

(7) The supplement to the postal voters list shall be in such form as may be directed by the Minister.

Supplement to special voters list.

15B.—(1) An elector referred to in section 17(2) who is not entered in the special voters list or the postal voters list may apply to the registration authority to have his name entered in a supplement to the special voters list which the registration authority is hereby empowered to prepare and publish.

(2) The provisions of Part III (other than Rules 21 and 23 (3)) of the Second Schedule shall apply to an application for entry in the supplement to the special voters list under this section as if:

(*a*) references in that Part to 'special voters list' were references to 'supplement to the special voters list';

(*b*) the reference to 'section 17' was a reference to this section;

(*c*) in Rule 19 (*d*) 'to the registration authority' was substituted for 'so as to be received by the registration authority not later than the date specified in Rule 1'; and

(*d*) in Rule 22 'at such times and places as are specified in a notice published pursuant to Rule 21,' was deleted.

(3) A supplement to the special voters list published by the registration authority under subsection (1) shall be deemed to form part of the special voters list.

(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 fiftieth day before polling day at an election or referendum shall not have effect in relation to that election or referendum.

(5) As soon as may be after the date of the dissolution of the Dáil at a general election, or the date on which the order

appointing polling day at a Dáil bye-election, or at a presidential, European or local election or a referendum is made, the registration authority shall publish a list of the names of persons (if any) whose applications to be entered in the supplement to the special voters list were received before the fiftieth day before polling day and allowed by the registration authority.

(6) The list prepared under subsection (5) shall form the supplement to the special voters list.

(7) The supplement to the special voters list shall be in such form as may be directed by the Minister."; and

(*d*) the insertion of the following subparagraph after subparagraph (*b*) of paragraph (4) of Rule 14 of the Second Schedule:

"(*bb*) one copy of the register for each Dáil constituency to each member of the Dáil for the constituency and each member of the Seanad resident in the constituency for use by a personation agent appointed by such member of the Dáil or the Seanad at a referendum.".

Expenses of returning officers.

76.—(*a*) The Act of 1992 is hereby amended by the insertion in section 32, after subsection (1), of the following subsection:

"(1A) The Minister for Finance shall, in respect of services and expenses which are not covered by the foregoing subsection, recoup to (or, where appropriate, pay on behalf of) every returning officer out of the Central Fund or the growing produce thereof the officer's reasonable charges in relation to every Dáil election in respect of which he is the returning officer. For the avoidance of doubt, the expenses which may be recouped under this subsection shall include expenses incurred by a returning officer in being represented at and meeting any damages and costs in legal proceedings (except where the court is satisfied that such officer has been grossly negligent in the discharge of the duties of the office). For the purposes of this subsection 'legal proceedings' shall not include the trial of petitions presented in accordance with the provisions of section 132.".

(*b*) The Act of 1993 is hereby amended by the insertion in section 11, after subsection (1), of the following subsection:

"(1A) The Minister for Finance shall, in respect of services and expenses which are not covered by the foregoing subsection, recoup to (or, where appropriate, pay on behalf of) every local returning officer out of the Central Fund or the growing

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produce thereof the officer's reasonable charges in relation to every presidential election in respect of which he is the local returning officer. For the avoidance of doubt, the expenses which may be recouped under this subsection shall include expenses incurred by a local returning officer in being represented at and meeting any damages and costs in legal proceedings (except where the court is satisfied that such officer has been grossly negligent in the discharge of the duties of the office). For the purposes of this subsection 'legal proceedings' shall not include the trial of petitions presented in accordance with the provisions of section 57.".

(*c*) The Act of 1994 is hereby amended by the insertion in section 16 after subsection (1), of the following subsection:

"(1A) The Minister for Finance shall, in respect of services and expenses which are not covered by the foregoing subsection, recoup to (or, where appropriate, pay on behalf of) every local returning officer out of the Central Fund or the growing produce thereof the officer's reasonable charges in relation to every referendum in respect of which he or she is the local returning officer. For the avoidance of doubt, the expenses which may be recouped under this subsection shall include expenses incurred by a local returning officer in being represented at and meeting any damages and costs in legal proceedings (except where the court is satisfied that such officer has been grossly negligent in the discharge of the duties of the office). For the purposes of this subsection 'legal proceedings' shall not include the trial of petitions presented in accordance with the provisions of section 42.".

Free postage for candidates at elections.

77.—(*a*) The Act of 1992 is hereby amended by the substitution in section 57 (1) of "household in the constituency" for "person on the register of Dáil electors for the constituency or to any combination of such persons,".

(*b*) The Act of 1993 is hereby amended by the substitution in section 32 (1) of "household in a constituency" for "person on the register of presidential electors or to any combination of such persons,".

(*c*) The Act of 1997 is hereby amended by the substitution in rule 22 (1) of the Second Schedule of "household in the constituency" for "person on the register of European electors for the constituency or to any combination of such persons,".

Arrangements for counting of votes.

78.—(1) The Act of 1992 is hereby amended by—

(*a*) the substitution in section 85 (1) (*b*) of "time appointed by the Minister for the commencement of the count under section 114" for "hour of 9 a.m. on the day next after the polling day";

(*b*) the substitution in both sections 85 (2) (*c*) and 86 (*b*) of "time appointed by the Minister for the commencement of the count under section 114" for "hour of 9 a.m. on the day next after the polling day appointed by the Minister";

(*c*) the substitution of the following subsection for subsection (1) of section 114—

"(1) (*a*) The counting of the votes shall commence at such time or times as shall be appointed therefor by the Minister by order under this subsection and, where a poll is taken in two or more constituencies on the same day, different times may be so appointed for different constituencies, provided that the time or times so appointed shall not be later than 9 a.m. on the day next following the polling day.

(*b*) An order under this subsection shall be published in the *Iris Oifigiúil* as soon as may be after it is made.

(*c*) At the relevant time appointed under this subsection and at the place appointed under section 112, the returning officer for the constituency shall, in the presence of the agents of the candidates, open the ballot boxes and extract the ballot papers therefrom.";

(*d*) the deletion of the words "then" and "forthwith" in subsection (3) of the said section 114; and

(*e*) the substitution of "necessary rest and refreshment" for "refreshment, and excluding (except so far as he and the candidates otherwise agree) the hours between 11 p.m. and 9 a.m." in section 115.

(2) The Act of 1993 is hereby amended by—

(*a*) the deletion of paragraph (*p*) of subsection (3) of section 3, and

(*b*) the substitution in subsection (3) of section 46 of "necessary rest and refreshment" for "refreshment and (except so far as he and the candidates otherwise agree) the period between 11 p.m. and 9 a.m.".

(3) The amendments of the Act of 1992 provided for in this section shall have effect in relation to the provisions of the said Act as applied to presidential elections by sections 42 and 47 of the Act of 1993 and to referenda by sections 30 and 33 of the Referendum Act, 1994.

(4) The Referendum Act, 1994, is hereby amended by the deletion of paragraph (*x*) of subsection (3) of section 2.

79.—(1) Section 130 of the Act of 1992 is hereby amended by the deletion of subsection (5) and the substitution of the following subsections:

Production of documents by Clerk of Dáil.

"(5) Where an order of a court (including an order under subsection (1)) is made for the production by the Clerk of the

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Dáil of any document in that officer's possession relating to a Dáil election, the production of that document accompanied by the certificate of the Clerk that the document relates to the specified election shall be *prima facie* evidence of the fact so certified and it shall not be necessary to prove the signature of the Clerk or the official position of the person signing the certificate. Unless the court so orders, it shall not be necessary for the Clerk to attend in person to attest to any matter relating to the document or certificate.

(6) Any endorsement appearing on any packet produced pursuant to subsection (5) shall be, until the contrary is shown, sufficient evidence that the contents of the packet are as stated in the endorsement.".

(2) Section 20 of the Act of 1997 is hereby amended by the substitution in subsection (5) for "pursuant to this section" of "of a court (including an order under subsection (1))".

Amendment of Local Elections Regulations, 1995.

80.—The Local Elections Regulations, 1995 are hereby amended by the insertion of the following sub-article after sub-article (3) of Article 57:

"(3A) The returning officer shall, where practicable, give public notice of all polling stations which are inaccessible to wheelchair users not later than the eighth day before polling day.".

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AN BILLE TOGHCHÁIN, 1994

BILLE

(mar a leasaíodh sa Roghchoiste um Airgeadais agus Gnóthaí Ginearálta)

dá ngairtear

Acht do bhunú Coimisiúin Dáilcheantar, do dhéanamh socrú le haghaidh íocaíochtaí le páirtithe polaitíochta agus le iarrthóirí, do dhéanamh socrú chun síntiúis a nochtadh a dhéantar chun críoch polaitíochta, do rialáil caiteachais tráth toghcháin ag páirtithe polaitíochta agus ag iarrthóirí, do chur socruithe vótála ar fáil do dhaoine áirithe nach bhfuil in ann vótáil ag stáisiúin vótaíochta agus do dhéanamh socrú i dtaobh nithe eile maidir le toghcháin.

An tAire Comhshaoil a thug isteach

Ordaíodh ag an Rochchoiste a chlóbhualadh,
1 *Bealtaine,* 1997

ELECTORAL BILL, 1994

BILL

(as amended in the Select Committee on Finance and General Affairs)

entitled

An Act to establish a Constituency Commission, to make provision for payments to political parties and candidates, to make provision for disclosure of donations for political purposes, to regulate expenditure at elections by political parties and candidates, to provide voting arrangements for certain persons unable to vote at polling stations and to provide for other electoral matters.

Introduced by the Minister for the Environment

Ordered by the Select Committee to be printed,
1*st May,* 1997

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