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**AN BILLE TOGHCHÁIN (LEASÚ), 1997
ELECTORAL (AMENDMENT) BILL, 1997**

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

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- 4. Polling day in Presidential Election of 1997.
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Acts Referred to

Electoral Act, 1992	1992, No. 23
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AN BILLE TOGHCHÁIN (LEASÚ), 1997
ELECTORAL (AMENDMENT) BILL, 1997

BILL

entitled

5 AN ACT TO MAKE PROVISION FOR POLLING DAY IN THE
EXTRAORDINARY PRESIDENTIAL ELECTION
OCCASIONED BY THE RESIGNATION OF PRESIDENT
MARY ROBINSON, AND THE REFERENDUM ON THE
10 17TH AMENDMENT OF THE CONSTITUTION (NO. 2)
BILL, 1997; TO PROVIDE FOR POLLING DAY IN CER-
TAIN ELECTIONS AND FOR THE ROLE OF THE MINI-
STER FOR THE ENVIRONMENT AND LOCAL GOVERN-
MENT IN ELECTORAL CAMPAIGNS; AND TO PROVIDE
FOR RELATED MATTERS.

15 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) This Act may be cited as the Electoral (Amendment) Act, 1997. Short title,
collective citation
and construction.

(2) The collective citation “the Electoral Acts, 1992 to 1997” shall
include this Act, and the Electoral Acts, 1992 to 1997 shall be con-
20 strued together as one Act.

(3) The collective citation “the Presidential Elections Acts, 1992
to 1997” shall include this Act in so far as it relates to presidential
elections, and the Presidential Elections Acts, 1992 to 1997 shall be
construed together as one Act.

25 (4) The Referendum Acts, 1992 and 1994, and this Act in so far
as it relates to referenda, may be cited together as the Referendum
Acts, 1992 to 1997, and shall be construed together as one Act.

(5) The collective citation “the European Parliament Elections
Acts, 1992 to 1997” shall include this Act in so far as it relates to
30 European elections, and the European Parliament Elections Acts,
1992 to 1997 shall be construed together as one Act.

(6) The collective citation “the Local Elections Acts, 1974 to
1997” shall include this Act in so far as it relates to local elections,
and the Local Elections Acts, 1974 to 1997 shall be construed
35 together as one Act.

(7) The Údarás na Gaeltachta Acts, 1979 to 1993, and this Act in
so far as it relates to Údarás na Gaeltachta elections, may be cited
together as the Údarás na Gaeltachta Acts, 1979 to 1997, and shall
be construed together as one Act.

Interpretation.

2.—(1) In this Act—

“the Act of 1992” means the Electoral Act, 1992;

“the Act of 1993” means the Presidential Elections Act, 1993;

“the Order of 1997” means the Order made by the Minister on the 13th day of September, 1997 under section 6 of the Act of 1993; 5

“the Minister” means the Minister for the Environment and Local Government;

“the Presidential Election of 1997” means the extraordinary Presidential Election occasioned by the resignation of President Mary Robinson; 10

“the Referendum on the 17th Amendment” means the Referendum on the Seventeenth Amendment of the Constitution (No. 2) Bill, 1997.

(2) In this Act, a reference to a subsection is to a subsection of the provision in which the reference occurs, unless it is indicated that 15 reference to some other provision is intended.

Orders.

3.—An order under this Act shall be laid before both Houses of the Oireachtas as soon as may be after it is made.

Polling day in
Presidential
Election of 1997.

4.—(1) Paragraph 2 of the Order of 1997 is hereby amended as follows: 20

(a) “31st day of October” shall be substituted for “30th day of October”; and

(b) “8.00 a.m. and 10.00 p.m.” shall be substituted for “9.00 a.m. and 9.00 p.m.”.

(2) The validity of the Presidential Election of 1997 or of any step 25 taken in connection with the election prior to the passing of this Act shall not be questioned solely on account of the amendment effected by *subsection (1)*.

(3) For the purposes of the Presidential Election of 1997, the Presidential Elections Acts, 1992 to 1997 shall have effect subject to 30 the following modifications:

(a) reference to polling day shall be to polling day as determined by the Order of 1997 as amended by this Act;

(b) reference to the Presidential Election Order shall, except in relation to reference to the date on which such order was made, be to the Presidential Election Order as amended by this Act; 35

(c) reference to the time fixed or fixed by the Minister for the commencement of poll, or to the close of poll, shall be to the relevant time as determined by the Order of 1997 as amended by this Act;

5 (d) if, before the passing of this Act, the presidential returning officer has published a notice of poll, he or she shall as soon as possible after such passing, publish a further notice amending the notice of poll in accordance with this Act, and section 36(2) of the Act of 1993 shall apply to
10 such amending notice as if it were a notice of poll;

(e) no polling information card prepared under section 92 of the Act of 1992 as applied by section 39 of the Act of 1993 in relation to the election, bearing the date specified in this Act for the poll in the election, need be issued after
15 the passing of the Act unless the Minister, being satisfied that it is practicable to do so, directs such issue by order under this section;

(f) if, before the passing of this Act, a local returning officer has given a notice under section 73(2) of the Act of 1992 as applied by section 40(3) of the Act of 1993, he or she shall as soon as possible after such passing, give a further notice amending the first-mentioned notice if it is necessary to do so to conform with this Act;

(g) for the purposes of determining whether an application to be included in the supplement to the register of electors ought to be considered, and of preparing and publishing such supplement, section 15(5) of, and rule 18(1) of the Second Schedule to, the Act of 1992, as amended by section 76(b) of the Electoral Act, 1997, shall have effect
25 as if *subsection (1)* had not been enacted.
30

(4) This section shall be without prejudice to the power to make further orders under sections 8, 28, 29(2), 31(2)(d) or 31(5)(c) of the Act of 1993.

35 **5.—(1)** The poll in the Referendum on the 17th Amendment shall be taken on the same day, and at the same time, as the poll in the Presidential Election of 1997.

Polling day in Referendum on the 17th Amendment.

(2) If, prior to the passing of this Act, the Minister has made an order appointing another day or time for the poll in the said referendum, such order shall on such passing stand amended in accordance with *subsection (1)*.
40

(3) The validity of the Referendum on the 17th Amendment or of any step taken in connection with the Referendum prior to the passing of this Act shall not be questioned solely on account of the amendment (if any) effected by *subsection (1)*.

45 (4) For the purposes of the Referendum on the 17th Amendment, the Referendum Acts, 1992 to 1997 shall have effect subject to the following modifications:

(a) reference to polling day shall be to polling day as determined by the order with the amendment (if any) made by this Act;
50

- (b) reference, however expressed, to the referendum order shall, except in relation to reference to the date on which such order was made, be to the order with the amendment (if any) made by this Act;
- (c) reference to the time fixed or fixed by the Minister for the commencement of poll, or to the close of poll, shall be to the relevant time as determined by the order with the amendment (if any) made by this Act; 5
- (d) if, before the passing of this Act, the referendum returning officer has given a notice under section 20 of the Act of 1994, he or she shall as soon as possible after such passing, give a further notice amending the first-mentioned notice in accordance with this Act, and section 21 of the Act of 1994 shall apply to such amending notice; 10
- (e) no polling information card prepared under section 92 of the Act of 1992 as applied by section 39 of the Act of 1993 in relation to the Referendum, bearing the date specified in this Act for the poll in the Referendum, need be issued after the passing of the Act unless the Minister being satisfied that it is practicable to do so, directs such issue 15
by order under this section; 20
- (f) if, before the passing of this Act, a local returning officer has given a notice under section 73(2) of the Act of 1992 as applied by section 28(3) of the Act of 1994, he or she shall as soon as possible after such passing, give a further notice amending the first-mentioned notice if it is necessary to do so to conform with this Act; 25
- (g) for the purposes of determining whether an application to be included in the supplement to the register of electors ought to be considered, and of preparing and publishing such supplement, section 15(5) of, and rule 18(1) of the Second Schedule to, the Act of 1992, as amended by section 76(b) of the Electoral Act, 1997, shall have effect as if *subsection (1)* had not been enacted. 30

(5) This section shall be without prejudice to the power to make further orders under sections 11 or 48 of the Act of 1994, or under any provision of the Act of 1992 which applies to referenda. 35

(6) In this section “the order” means the order made by the Minister under section 10 of the Referendum Act, 1994 in connection with the Referendum on the 17th Amendment. 40

6.—Unless special circumstances apply, which circumstances shall be expressly recited in the order concerned, any order made after the passing of this Act appointing a day for the taking of a poll for a presidential, Dail, European or local election, or a referendum, or an Údarás na Gaeltachta election shall appoint a Friday, and shall specify the hours of poll as at least inclusive of the hours of 8.00 a.m. to 10.00 p.m. 45

7.—Without prejudice to the power to make a special difficulty order under section 164 of the Act of 1992, or any provision of the Údarás na Gaeltachta Act, 1979, the following provisions are hereby repealed or revoked as the case may be: 50

Friday polling to apply in future elections and referenda.

Friday polling also to apply to islands.

- (a) Part XV (sections 85 and 86) of the Act of 1992;
- (b) section 42 of the Act of 1993;
- (c) section 30 of the Referendum Act, 1994;
- (d) rule 48 of the Second Schedule to the European Parliament Elections Act, 1997;
- (e) Part IX (article 49) of the Local Elections Regulations, 1995;
- (f) any provision of regulations under section 33 of the *Údarás na Gaeltachta Act, 1979* which provides for advance polling on islands.

10 **8.**—(1) Except where he or she is a candidate at an election, and then only except in relation to such candidacy, the Minister, or a Minister of State at the Department of the Environment and Local Government, shall not act as an agent for a candidate at any election, or be director of elections or the servant or agent of the director of elections, for any candidate or political party at any election.

(2) Section 144 of the Act of 1992 is hereby amended by the addition after “at the election” of “or a person who contravenes section 8 of the *Electoral (Amendment) Act, 1997*”.

20 **9.**—Notwithstanding the provisions of section 15A(4) or 15B(4) of the Electoral Act, 1992, inserted by section 76(c) of the Electoral Act, 1997, an application by an elector to have his or her name entered in the supplement to the postal voters list or to the special voters list received after the date of the order appointing polling day at an election or referendum, but before the date of an order appointing polling day at another election or referendum to be held on the same day, shall have effect in relation to the first-mentioned election or referendum.

Role of Minister for Environment and Local Government.

Supplement to register where more than one election or referendum held on the one day.



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**AN BILLE TOGHCHÁIN (LEASÚ), 1997
ELECTORAL (AMENDMENT) BILL, 1997**

EXPLANATORY MEMORANDUM

The purpose of the Bill is:

- to provide that polling day in the presidential election and referendum on the 17th Amendment shall be Friday, 31st October 1997, and shall take place between 8.00 a.m. and 10.00 p.m.;
- to provide for Friday polling and extended hours in future elections and referenda;
- to extend Friday polling to islands, and terminate the practice of advance polling on islands, in the absence of special difficulty;
- to provide that the Minister for the Environment and Local Government, or Ministers of State in that Department, shall not be agents or directors of election;
- to cure a technical defect which has arisen in connection with the supplement to the postal and special voters register in the presidential election.

Sections 1 to 3 are standard provisions.

Section 4 provides that polling day in the presidential election shall be Friday, 31st October 1997 and shall take place between 8.00 a.m. and 10.00 p.m. It contains necessary modifications of the Presidential Elections Acts to that end. In particular, in *subsection (3), paragraph (d)* provides for the issue of an amended notice of poll; *paragraph (e)* provides that no amended polling cards need be issued unless the Minister is satisfied that it is practicable to do so; and *paragraph (g)* provides that applications to be placed on the supplement will be determined according to the timetable based on the original polling date.

Section 5 provides that polling day in the referendum on the 17th Amendment shall be Friday, 31st October 1997 and shall take place between 8.00 a.m. and 10.00 p.m. It contains necessary modifications of the Referendum Acts to that end, along the lines of *section 4*.

Section 6 provides for Friday polling and extended hours in future elections and referenda. If any special circumstances exist, polling may be ordered for a different day, but such circumstances must be expressly recited in the order appointing polling day.

Section 7 extends Friday polling to islands, and terminates the practice of advance polling on islands, in the absence of special difficulty. Modern communications and transport mean that voters on islands should normally be entitled to vote on the same day as the rest of the country. Existing arrangements for advance polling can discriminate against islanders, who may miss out on events towards the end of the campaign. There may also be inadequate publicity as to the polling date. Cases of genuine difficulty may still be provided for under the section.

Section 8 provides that the Minister for the Environment and Local Government, or Ministers of State in that Department, shall not be agents or directors of election. It is inappropriate for a Minister having statutory functions in relation to elections to play a lead role in an election campaign, unless of course he or she is a candidate.

Section 9 will cure a technical defect which has arisen in connection with the supplement to the postal and special voters register in the presidential election. Under the Electoral Acts, an application to be included on such supplement delivered after the making of an order appointing polling day shall be disregarded in relation to that election or referendum. Because orders are being made on different days in relation to the presidential election and referendum, any such applicant who applies after the making of the presidential election order (13th September 1997) but before the making of the referendum order (proposed for 30th September 1997) is on a literal interpretation of the Act entitled to be registered to vote only in the referendum and not at the presidential election. This section cures this defect.

An Teachta Breandán Ó Húilín
Meán Fómhair, 1997.