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**AN BILLE TOGHCHÁIN (LEASÚ), 2000  
ELECTORAL (AMENDMENT) BILL, 2000**

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**EXPLANATORY AND FINANCIAL MEMORANDUM**

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*General*

The purpose of the Bill is to—

- improve the registration of electors process,
- provide for the inclusion of photographs and political party emblems on ballot papers,
- revise the conditions for registration of political parties,
- provide for miscellaneous amendments to the Electoral Act, 1992,
- provide for the use of voting machines and electronic vote counting at elections,
- provide for amendments to the Electoral Act, 1997, to improve the operation of that Act, and
- provide for consequential amendments to other Electoral and Referendum Acts.

*Part 2* of the Bill proposes certain amendments to the Electoral Act, 1992, to enhance the registration procedure for the Register of Electors, including supplements to the register. It includes provision for persons to decide that their names and addresses in the register of electors should not be used for a purpose other than electoral or other statutory use. The Bill revises the conditions for registration of political parties in the Register of Political Parties; provides for the inclusion of photographs of candidates and political party emblems on ballot papers at statutory elections and for earlier opening of polling stations. It contains a number of other amendments including provision for the display by candidates of one poster on the approach roads at polling stations but outside the curtilage of the polling station and provision for the display of a large print copy of a ballot paper in the polling station to assist electors, especially visually impaired electors.

The Bill, in *Part 3*, makes statutory provision for the use of voting machines and electronic vote counting at statutory elections. Voting machines, except for postal and special voters, will replace paper ballots while the manual count of ballot papers will be replaced by computer software.

*Part 4* of the Bill proposes amendments to the Electoral Act, 1997, as well as consequential (arising from the amendments to the Electoral Act, 1992) and other amendments to the other electoral codes. The amendments proposed to the Act of 1997 will improve the operation of that Act for candidates, election agents, political parties and the Public Offices Commission. The changes are listed at pages 6 and 7.

The amendments to the European Parliament Elections Act, 1997 include the transfer of the functions of the Clerk of the Dáil (other than in relation to casual vacancies) to a chief returning officer. This will revert the position to that which existed prior to the Act of 1997.

### *Part 1*

*Sections 1 and 2* provide for citations, construction, commencement and interpretation.

### *Part 2 — Amendments to Electoral Act, 1992*

*Section 3* provides additional definitions for Part II of the Electoral Act, 1992, arising from the Bill's provisions.

*Sections 4, 32 and 34* provide for the publication of an edited register of electors. It will exclude the names and addresses of electors who indicate that they do not want their names and addresses used for commercial purposes. Registration authorities will have 3 years to contact all electors on the register before the publication of an "edited register" is mandatory. If a registration authority is in a position to publish an "edited register" before the expiration of the 3 years it may do so. Use of registration information excluded from the "edited register" for non-statutory purposes will be an offence. Section 4 also provides an enabling power to create a national register of electors which may be required in the future for electronic/internet voting. There is also a provision that the preparation and maintenance of the register of electors can be assigned by order of the Minister to a body other than a registration authority. Such an order would have to be approved in draft by both Houses of the Oireachtas.

*Section 5* provides for an appeal procedure for electors whose applications for entry to the postal voters list are refused. The section also formalises the present application procedure for members of the Garda Síochána for entry in the postal voters list.

*Sections 6 and 27* provide that a registered voter who changes address during the currency of a register of electors can apply for entry on the supplement to the register, provided he or she consents to the deletion of his or her name from the register at the old address. The section also clarifies that a person who reaches 18 years on or before polling day is eligible for entry on the supplement. Section 27 includes technical amendments, arising from this clarification, to section 111 of the Electoral Act, 1992, concerning questions which can be asked by a presiding officer to establish whether a person has reached 18 years. Section 6 also provides for the publication of an "edited" supplement in line with the edited version of the published register of electors.

*Section 7* provides that members of the diplomatic staff and Defence Forces can apply for entry on a supplement to the postal voters lists. The section also extends by 2 days the closing date for applying for entry in the supplement to the postal voters list.

*Section 8* extends by 2 days the closing date for applying for entry in the supplement to the special voters list.

*Section 9* clarifies that, where 2 polls are held on the same day, the latest polling day order determines the last day for applying for entry in the supplements to the postal voters and special voters lists for each poll.

*Section 10* replaces and extends section 16 to provide that electors lists can be compiled in place of the draft register, register and supplement to the register. List A will replace the register of electors, List B will be the same as the supplement while List C will be a list of deletions. List A will be published on the same date as the register and at the same time as the supplement before a poll. A registration authority will be permitted to publish a revised List A at another time in addition to the 2 times referred to if it thinks fit and provided it gives public notice. Lists B and C will be published at the same time as the draft register to allow for public participation.

*Section 11* provides for a revision of section 25 which deals with the registration of political parties. The main changes are:

- Criteria similar to that required for an “approved body” under the Referendum Act, 1998 (section 7) to be introduced for registration of new parties after commencement of the section. The criteria includes a membership of not less than 300 recorded members (100 in the case of registration in part of the State or local or *Údarás na Gaeltachta* elections), each of whom must have reached the age of 18 years, and at least fifty percent of recorded members must be included in the register of electors. In addition the organisation and direction of the party must be governed by a constitution, memorandum of association or other such document or other written rules, which have been adopted by the party. As an alternative to the number of recorded members, a party must have at the time of application for registration at least one member who is a member of *Dáil Éireann* or a representative in the European Parliament or in the case of local elections 3 members who are members of a local authority or in the case of an *Údarás* election 1 member.
- A party can register an abbreviation or acronym or party emblem;
- Name of party cannot exceed 6 words;
- New provision to allow a party to amend its name, etc.;
- Registration to provide for elections to *Údarás na Gaeltachta*;
- Clerk of Seanad to deal with appeals in place of Clerk of *Dáil* who is Registrar;
- Period for making an appeal extended from 5 to 21 days;
- If new information is provided to the Appeal Board, the Board will have the option of returning the appeal to Registrar to treat it as a new application or of considering the appeal in the normal manner;
- Application for registration or amendment of an entry in the register will not be effective if the final decision is not given

before the movement of the writ or the date of the making of a polling day order;

- The Register in force when the section commences will be deemed to be the Register without any action required of the political parties entered in the register. If required, an application will have to be made to the Registrar for registration for Údarás elections.

*Sections 12 and 13* provide that the Minister will not have to confirm or otherwise a polling scheme prepared by a local authority.

*Section 14* provides that the Minister for Finance can, following consultations with the Minister for the Environment and Local Government, make an advance to returning officers for electoral expenses before a “charges order” is made for the election concerned.

*Section 15* clarifies that a person who reaches 21 years on or before polling day is eligible for nomination for election.

*Sections 16, 18, 19, 20, 21 and 23* provide for the inclusion of photographs and political party emblems on ballot papers in accordance with regulations to be made by the Minister. To provide time for the printing of ballot papers, the period for receiving nominations at Dáil elections will be reduced to 7 days (same as in European and local elections) [section 18] and the minimum time for holding a Dáil election will be increased from 17 days to 18 days [section 23]. The amendments in sections 19 and 20 are consequential on section 18.

*Section 17* provides that a deposit at a Dáil bye-election can be returned if the candidate receives a quarter of what would have been the quota in the constituency had the bye-election been a general election, i.e. same condition for eligibility to recoup election expenditure under Electoral Act, 1997.

*Section 21* also provides for the display of a large print copy of the ballot paper in the polling station to assist electors, especially visually impaired electors.

*Section 22* provides for the inclusion of additional information on polling information cards.

*Section 23* provides for a 7 a.m. (instead of 8 a.m.) opening of polling stations. It also provides for increasing the minimum period for holding Dáil elections from 17 to 18 days — see note at section 16 etc.

*Sections 24 and 26* provide that persons, who are unable to read or write to the extent of not being able to vote, can have a companion vote for them. At present this facility is confined to electors with physical or sight disabilities.

*Section 25* provides that a person employed by a returning officer at a Dáil election who is registered to vote in another constituency can be included on the supplement to the postal voter’s list. At present, such staff are unable to vote at an election.

*Section 28* provides that ballot boxes with 50 or less ballot papers should be opened in view of the public (including tally persons) but at a distance to ensure the secrecy of the ballot.

*Sections 29, 30 and 31* provide mainly for consequential changes to the vote counting rules concerning the return of a deposit at a Dáil bye-election, following the amendment of section 17. In addition *section 29* removes the option a returning officer has to distribute a surplus in cases where the distribution of such surplus, together with any surplus not transferred, cannot materially affect the progress of the count. *Section 31* also codifies existing practice on a surplus distribution towards the end of an overall count where it is clear that this could not result in a change in the persons elected or save a deposit.

*Section 33* provides that a political party or non-party candidate can display one poster on each approach road to a polling station provided it is outside the curtilage of the station.

*Section 34* sets out amendments to the Second Schedule of the Act of 1992 consequential to earlier amendments providing for an opt-out clause from the use for commercial purposes of an elector's registration details (see note to section 4), and the compilation of an "edited register". It provides that a copy of the draft register and full register will not be submitted to the Minister unless requested and that such registers can be supplied in electronic format. The section also provides that the register or part of it can be supplied to an approved body at a referendum.

### *Part 3 — Direct Vote Recording and Electronic Vote Counting*

*Section 35* defines the terms used in *Part 3*.

*Section 36* provides for the use of voting machines and electronic vote counting at a Dáil election. It also includes a provision for the Minister to designate a constituency or constituencies where it may be used. It provides that the Minister can issue instructions to ensure the smooth and efficient introduction of voting machines and vote counting and uniformity of procedures under this Part.

*Section 37* provides for purchasing voting machines and equipment for electronic vote counting, including the cost of training and publicity for the introduction of the system. The cost will be met from the Central Fund in line with established practice for meeting national election costs.

*Sections 38 and 46* modifies certain provisions of the Electoral Act, 1992 to allow for their use in this Part.

*Sections 39 to 42* provide for the various procedures to be followed in the use of voting machines including the preparation of the machines before polling day, during polling day and at the close of the poll.

*Section 43* provides for the counting of postal and special votes on a voting machine in the presence of agents.

*Sections 44 and 45* provide for the preliminary proceedings for the counting of votes and for the application of Part XIX of Electoral Act, 1992 (counting rules). The same counting rules will apply as at a manual count.

*Section 47* provides for the application of Part XXI and the Third Schedule of Electoral Act, 1992 (election petition) to this Part. The main change refers to a recount ordered by the High Court which

would begin at the first count without disturbing the mix carried out by the count software prior to the original first count.

*Section 48* provides for the adaptation or modification of other electoral legislative codes including Referendum Acts to provide for use of voting machines and electronic vote counting.

#### *Part 4 — Miscellaneous*

*Section 49* provides for amendments to the Electoral Act, 1997, as amended by the Electoral (Amendment) Act, 1998. The main changes are:

- extends the number of types of statements the Public Offices Commission can return for correction of minor errors or omissions,
- delegation of functions of the Public Offices Commission to its staff,
- provision that persons should act in accordance with guidelines issued by the Public Offices Commission,
- extension beyond 6 months of the time limits for bringing a prosecution under the Act,
- clarification that remuneration includes recoupment of normal expenses,
- election expenditure (other than a donation of money) by a political party on behalf of a candidate at a Seanad election will not be regarded as a donation (same as applies at a Dáil and European election),
- donations (other than money) made by a political party to its members will not be regarded as a multiple donation by the party,
- additional information sought by the Public Offices Commission may be required to be accompanied by a statutory declaration,
- it will be an offence for a company, trade union, building society or friendly society not to disclose donations more than £4,000 in their annual reports,
- clarification that living expenses includes accommodation,
- clarification that minor expenditure is expenditure not exceeding £100 in any one payment,
- election expenditure incurred and disclosed at a previous election including a local election is not required to be disclosed a second time,
- it will be an offence for a political party or candidate not to provide information to a national agent or election agent in sufficient time to permit the agent to fulfil his or her statutory duty,
- election expenditure limits are increased to £20,000, £25,000 and £30,000 in respect of a 3, 4 or 5 seat constituency,

- clarification that where there is a prosecution for an offence of exceeding expenditure limits by a national agent or election agent, the excess expenditure will be deemed to have occurred on polling day.

*Section 50* provides for consequential amendments to the European Parliament Elections Act, 1997, following amendments made in *Part 2*. Provision is also made to transfer to a chief returning officer from the Clerk of the Dáil responsibility for notifying the European Parliament of the result of the elections, storage of documentation, etc. This restores the position which existed prior to the European Parliament Elections Act, 1997.

*Sections 51, 52 and 53* provide for consequential amendments to the Presidential Elections Act, 1993, to the Local Government Act, 1994 and to the Local Elections Regulations, 1995, following amendments made in *Part 2*.

*Section 54* amends the Referendum Act, 1994, to allow for the issue of a statement for information of voters other than on a polling information card. It also makes consequential amendments to the referendum code following from amendments made in *Part 2*.

*Section 55* amends the Seanad Electoral (University Members) Act, 1937, to provide for photographs on ballot papers, producing the Seanad register of electors in electronic format, opt-out for Seanad university electors from the use of their university registration details for commercial purposes and deletion of names from the register where an elector cannot be contacted.

*Section 56* amends the Seanad Electoral (Panel Members) Act, 1947, to provide for photographs on ballot papers and 2 other technical amendments.

*Section 57* provides for consequential amendments of the Local Elections (Disclosure of Donations and Expenditure) Act, 1999, following the amendments to the Electoral Act, 1997.

#### *Financial and staffing implications*

The provisions in *Parts 2 and 4* will not have major staffing or financial implications. There may be some additional costs for local authorities in implementing the changes connected with the register of electors. The cost to the Central Fund of including photographs and political party emblems on ballot papers is estimated at £100,000 (€126,970) for a general election. A similar cost will arise for local authorities for local elections. Additional polling day costs will arise if polling stations are opened at 7 a.m. In relation to *Part 3*, the cost of purchasing a number of voting machines, ancillary equipment and the necessary software for electronic voting and counting for testing in 2001 will be approximately £500,000 (€634,850). Future use of such equipment at elections will be subject to further Government consideration following the testing of the equipment in 2001.

*An Roinn Comhshaoil agus Rialtais Áitiúil,  
Nollaig, 2000.*