General

The purpose of the Bill is to provide in primary legislation (rather than by way of Ministerial Orders as envisaged under section 48 of the Electoral (Amendment) Act 2001) for the conduct of European Parliament, local and presidential elections and referendums using voting machines and electronic vote counting. The Bill also provides for the establishment on a statutory basis of the independent Commission on Electronic Voting to report on the secrecy and accuracy of the chosen electronic voting and counting system for the European and local elections in June 2004 and to make recommendations in that regard.

PART 1

Section 1 provides for the Bill’s short title, citations, construction and commencement.

Section 2 provides for offences in relation to unlawful interference or damage to voting machines and other related equipment including software used for the voting system equipment.

Section 3 provides for the repeal of section 48 of the Electoral (Amendment) Act 2001 which will be replaced by Part 2 of the Bill and Schedules 1 to 4.

PART 2

The Bill, in Part 2 makes provision for the use of voting machines and electronic vote counting at European Parliament, local and Presidential elections as well as referendums. 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.

Section 4 defines the terms used in Part 2.

Section 5 provides for the use of voting machines and electronic vote counting at a European Parliament, local and Presidential election as well as at a referendum. It provides that the Minister can issue instructions to ensure the smooth and efficient introduction of
voting machines and electronic vote counting and uniformity of procedures under this Part. An equivalent provision already applies under the Dáil electoral code.

*Sections 6 and 7 provide for the application, subject to the modifications specified in the Schedules, of certain provisions of the Presidential Elections Act 1993, Referendum Act 1994, European Parliament Elections Act 1997 and the Local Elections Regulations 1995 to enable voting on voting machines and electronic vote counting to take place at the elections and referendum concerned.*

*Sections 8 to 11 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. Similar procedures to those contained in these sections and sections 12 and 13 already apply under the Dáil electoral code.*

*Section 12 provides for the procedures for processing postal and special voter ballot papers by returning officers using the voting system equipment.*

*Section 13 provides for the preliminary proceedings and time for the counting of votes. The same counting rules will apply as at a manual count.*

*Section 14 provides for the further application of certain provisions of the relevant enactments dealing with presidential, European and local elections and referendum concerning vote counting using electronic vote counting.*

*Sections 15 and 16 provide for the application of current statutory provisions for election/referendum petitions, as modified by section 16 and the Schedules to the Bill. A recount ordered by the High Court will begin at the first count without disturbing the mix carried out by the count software prior to the original first count.*

**PART 3**

*Commission on Electronic Voting*

This Part provides for the establishment on a statutory basis of the independent Commission on Electronic Voting to report on the secrecy and accuracy of the system chosen for use at the elections in June 2004 and to make recommendations in that regard.

*Section 17 provides for the continued establishment of the Commission on Electronic Voting constituted by the Government prior to the Bill and for the continuation in office of its Chairman and members.*

*Section 18 provides that the Commission is independent in the performance of its functions.*

*Section 19 sets out the membership of the Commission. The members comprise a Judge of the High Court, who is the Chairperson, the Clerk of the Dáil, the Clerk of the Seanad and two other persons with knowledge or experience in the field of information technology.*

*Section 20 provides for substitution where the Chairman or other member of the Commission is unable to act due to ill-health or other reasonable cause and includes provision for the possibility that a
Section 21 provides that it shall be the function of the Commission to make such reports as are required by its terms of reference and such other reports as may be required of it under section 22(5). The terms of reference of the Commission are set out in Schedule 5. They require it, inter alia, to make one or more reports by 1 May 2004 as to the secrecy and accuracy of the chosen electronic voting and counting system for the elections in June 2004 and as to its application or not and such subsequent reports as may be necessary.

Under section 22, the Commission is required to report to the Chairman of the Dáil who is required to cause a copy of each report to be laid before each House of the Oireachtas. The Commission will stand dissolved on presentation of the final report arising from its terms of reference — unless before then it is requested by way of Government Order under subsection (5) (approved in draft by both Houses) to make a further report, in which case it continues until presentation of such further report(s).

Section 23 requires the Commission to invite and consider submissions.

Section 24 requires the Secretary General of the Office of the Houses of the Oireachtas Commission to make available to the Commission such staff and services as it may reasonably require.

Under section 25, the expenses of the Commission, including travelling and other expenses of members, shall, subject to such conditions as determined by the Minister for Finance, be paid out of the Central Fund or the growing produce.

Section 26 provides that, subject to the provisions of this Act, the Commission will regulate its own procedure.

Section 27 prohibits the disclosure of information regarding the business or functioning of the Commission except with the consent of the Commission and provides that reports and statements by the Commission are privileged.

Section 28 provides that it shall be unlawful and an offence for any person, apart from a person making submissions, to communicate with members of the Commission or staff or other persons whose services are made available to the Commission for the purposes of influencing the Commission in carrying out its functions.

PART 4

Section 29 provides that the Minister may by regulations provide for the provision of statistical information on the poll concerned, including detailed information on the votes cast after the conclusion of a count provided that the secrecy of the ballot is preserved.

Section 30 makes an amendment to section 88 of the Electoral Act 1992 to provide for any necessary modifications to the form of a ballot paper for a Dáil election for use on a voting machine.

Section 31 provides for an amendment of section 38 of the Electoral (Amendment) Act 2001 concerning the offence of personation where voting machines are used.
Section 32 provides for the repeal of subparagraph 2(a) of the Schedule to the Electoral Act 1997 which dealt with the use of property, services or facilities paid for out of public funds but which were exempt from election expenses at a presidential election.

Section 33 provides for an amendment of section 161 of the Local Government Act 2001 to enable an order to be made under that section in sufficient time to continue at the June local elections arrangements which permit certain local authority staff to become councillors.

Schedules 1 to 4 provide for modifications of the European Parliament Elections Act 1997, Local Elections Regulations 1995, Presidential Elections Act 1993 and the Referendum Act 1994 respectively to provide for the use of voting system equipment at elections and referendum provided for in those Acts and Regulations.

Schedule 5 sets out the terms of reference of the Commission on Electronic Voting.

An Roinn Comhshaoil, Oidhreacht agus Rialtais Áitiúil
Máirta, 2004