



AN BILLE TOGHCHÁIN (LEASÚ) 2007
ELECTORAL (AMENDMENT) BILL 2007

Mar a tionscnaíodh
As initiated

ARRANGEMENT OF SECTIONS

Section

1. Amendment of Electoral Act 1992.
 2. Amendment of Electoral Act 1997.
 3. Short title, collective citation and construction.
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ACTS REFERRED TO

Electoral Act 1992	1992, No. 23
Electoral Act 1997	1997, No. 25
Electoral Acts 1992 to 2006	
Statutory Declarations Act 1938	1938, No. 37
Succession Act 1965	1965, No. 27



AN BILLE TOGHCHÁIN (LEASÚ) 2007
ELECTORAL (AMENDMENT) BILL 2007

BILL

entitled

5 AN ACT TO AMEND THE ELECTORAL ACT 1992 AND THE
ELECTORAL ACT 1997 AND TO PROVIDE FOR
RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—The Electoral Act 1992 is amended—

Amendment of
Electoral Act 1992.

10 (a) by substituting for sections 44 to 52 the following:

“Notice of
election.

44.—The returning officer shall, within 2
days (disregarding any excluded day) after
the day on which he receives the writ, give
public notice in the form directed by the
Minister (in this Act referred to as the
'notice of election') stating—

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(a) the times for receiving
nominations,

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(b) the requirement on candidates
referred to in section 46(5) to
secure 30 assents or make a
deposit in accordance with this
Part,

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(c) the times and place at which
nomination papers may be
obtained,

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(d) the times and place at which he
will attend to receive nomi-
nations, and

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Necessity for
nomination.

45.—A person shall not be entitled to
have his name inserted in a ballot paper as
a candidate at a Dáil election unless he has

been nominated in the manner provided by this Act and his nomination paper has been ruled as valid by the returning officer.

Nomination of candidates.

46.—(1) At a Dáil election a person may nominate himself as a candidate or may, with his consent, be nominated by another person (being a person registered as a Dáil elector in the constituency for which he proposes to nominate the candidate) as proposer.

(2) Each candidate shall be nominated by a separate nomination paper in the form prescribed by regulations made by the Minister. The form of nomination paper may include—

(a) a note of the qualifications, disqualifications and incapacities as regards election to and membership of the Dáil,

(b) a note of the provisions that apply under this Part to the nomination of a candidate referred to in subsection (5), including—

(i) the procedure for assenting under subsections (5)(a) and (6),

(ii) the making of a deposit under section 47, and

(iii) the fact a candidate referred to in subsection (5) may either follow the foregoing procedure for assenting or make a deposit under section 47,

and

(c) a form of declaration, to be signed by the candidate or his proposer, that he has read the note referred to in paragraph (a) and believes the candidate to be eligible for election and that the candidate has consented to the nomination.

(3) Each nomination paper shall state the names (the surname being stated first) and the address and occupation (if any) of the candidate.

(4) A candidate may include in his nomination paper the name of the political party registered in the Register of Political Parties as a party organised to contest a Dáil

5 election of which he is a candidate, provided that, at the time the nomination paper is delivered to the returning officer, a certificate in the form directed by the Minister (in this Act referred to as a 'certificate of political affiliation') authenticating the candidature is produced to the returning officer, being a certificate signed by the officer or officers of such party whose name or names appear in the said Register pursuant to section 25(7)(d). Where such a certificate is produced, the returning officer, provided he is satisfied that it is appropriate to do so in relation to the candidate, shall cause—

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20 (a) a statement of the name of the relevant political party and a copy of the political party's emblem as registered in the Register of Political Parties to be specified in relation to the candidate on all the ballot papers, and

25 (b) a statement of the name of the relevant political party to be specified in relation to the candidate on notices.

30 (5) In the case of a candidate whose candidature is not authenticated by a certificate of political affiliation under subsection (4), one or other of the following paragraphs shall, before the expiration of the time appointed by this Act for receiving nominations, be complied with:

35 (a) the candidate's nomination shall have been assented to by 30 persons (excluding the candidate and any proposer) who are registered as Dáil electors in the constituency (each of whom in this Part is referred to as an 'assentor');

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45 (b) the candidate, or someone on his behalf, shall have made a deposit in accordance with section 47.

50 (6) The following provisions apply in respect of the assents required by subsection (5)(a) to the nomination of a candidate referred to in that subsection:

(a) to assent to the nomination, an assentor shall make a statutory declaration in the prescribed form stating the following:

- (i) his number (including polling district letters) on the register of Dáil electors in force on the date of the making of the statutory declaration; 5
- (ii) his place of ordinary residence in respect of which he is registered in the register of Dáil electors referred to in subparagraph (i); 10
- (iii) his contact details, including telephone numbers (if any);
- (iv) the name of the Dáil constituency, on the date of the making of the statutory declaration, in which he is ordinarily resident; 15
- (v) the name and address of the candidate; 20
- (vi) the form of identification produced by him in accordance with paragraph (b), including any number on it that distinguishes it from similar forms held by others; 25
- (vii) that he assents to the nomination of the candidate; 30
- (viii) that he has not assented to the nomination of any other candidate in respect of that Dáil election;
- (b) when making the statutory declaration referred to in paragraph (a), the assentor shall produce to the person taking and receiving the declaration a prescribed photographic identification and shall, on so doing, be deemed, for the purposes of the Statutory Declarations Act 1938, to be personally known to the person taking and receiving the declaration; 35 40 45
- (c) the assent shall have effect as respects, and only as respects, the Dáil constituency in which the place referred to in paragraph (a)(ii) is situated at the time of the Dáil election concerned; 50

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- (d) subject to paragraph (e), the assent shall have effect as respects, and only as respects, the Dáil election in the constituency referred to in paragraph (c) held next after the making of the statutory declaration;
- (e) notwithstanding paragraph (d), the assent shall cease to have effect if the register of Dáil electors referred to in paragraph (a) ceases to be in force before the holding of the Dáil election referred to in paragraph (d);
- (f) the candidate or proposer shall attach the required number of statutory declarations (that is to say, the 30 statutory declarations constituting the assents) to the nomination paper and the nomination paper delivered to the returning officer in accordance with section 50 shall have the declarations so attached;
- (g) where more than the required number of statutory declarations is attached to the nomination paper, the declarations (up to the required number) first attached to the nomination paper shall be taken into account to the exclusion of any others;
- (h) it shall be lawful for a member of the Garda Síochána or an official of the registration authority to take and receive a statutory declaration referred to in paragraph (a) and any such declaration shall be stamped by the member or official concerned;
- (i) a registration authority and a returning officer shall arrange for the provision of forms for the purposes of making a statutory declaration referred to in paragraph (a) free of charge to any person who requests such a form.

(7) For the purposes of subsections (5)(a) and (6), a person whose application to have his name entered in a supplement to the register of Dáil electors is approved by the registration authority at or before the latest time for delivery of a nomination paper to the returning officer shall be

deemed to be registered as a Dáil elector in the applicable constituency.

(8) Where a candidate is not the candidate of a political party registered in the Register of Political Parties as a party organised to contest a Dáil election he shall be entitled to enter after his name on the nomination paper the expression 'Non-Party' and, if he does so, the returning officer shall cause a statement of that expression to be specified in relation to the candidate on all the ballot papers and on notices.

(9) The returning officer shall provide nomination papers during the usual office hours, at such place or places as are named in the notice of election, on each week-day during the period beginning on the publication of that notice and ending at 12 noon on the latest date for receiving nominations and he shall supply a nomination paper or papers free of charge to any person applying therefor, but the use of a paper supplied by the returning officer pursuant to this section shall not be obligatory at a Dáil election, provided that the nomination paper used at the election is in the prescribed form.

(10) Every reference in this section to the Register of Political Parties shall be construed as a reference to the copy of that Register sent to the returning officer pursuant to section 25C(7).

Deposit by certain candidates.

47.—(1) This section applies to a candidate referred to in section 46(5) unless the candidate concerned has opted to have his nomination assented to by the means specified in section 46(5)(a) and (6).

(2) A candidate at a Dáil election referred to in section 46(5), or someone on his behalf, may, before the expiration of the time appointed by this Act for receiving nominations, deposit with the returning officer the sum of €500, and if he fails to do so, his candidature shall be deemed to have been withdrawn.

(3) The deposit that may be made by or on behalf of a candidate pursuant to this section may be made by means of legal tender or, with the consent of the returning officer, in any other manner.

Return or disposal of deposit.

48.—(1) The deposit referred to in section 47 shall be returned where the candidate—

(a) withdraws his candidature in accordance with section 54,

(b) dies before the poll is closed,

(c) has not, before the expiration of the time for the receipt of nominations, been validly nominated as a candidate,

(d) is elected, or

(e) is not elected but the greatest number of votes credited to him at any stage of the counting of votes at the election exceeds—

(i) in the case of a general election, one quarter of the quota, or

(ii) in the case of a bye-election, one quarter of what would have been the quota in that constituency were the full number of members of the Dáil for the existing constituency to be elected.

(2) Any deposit which is not returned under the foregoing subsection shall be forfeited.

(3) Where a deposit is to be returned under subsection (1) it shall be returned to the person by whom it was made, provided that a deposit made by a person who dies before the deposit is returned shall be returned to his personal representative.

(4) A deposit forfeited under this section shall be disposed of by the returning officer in such manner as may be directed by the Minister for Finance.

(5) In this section ‘personal representative’ has the meaning assigned to it by section 3 of the Succession Act 1965.

Times for receiving nominations.

49.—The earliest time for receiving nominations shall be 10 a.m. on the day (disregarding any excluded day) next following the latest date for the publication of the notice of election and the latest time for receiving nominations shall be 12 noon on the 7th day (disregarding any excluded day) next following the day on which the writ or writs for the election is or are issued.

Delivery of nomination papers.

50.—(1) Every nomination paper shall be delivered to the returning officer within the times specified in section 49, by the candidate or his proposer.

(2) The delivery of the nomination paper shall be made by the candidate in person except that, where the candidate is proposed by another person, it may be made either as aforesaid or by the proposer in person. 5

(3) The returning officer shall attend to receive nominations at the place specified in that behalf in the notice of election between the hours of 10 a.m. and 12 noon and between the hours of 2 p.m. and 5 p.m. on the day (disregarding any excluded day) before the latest date for receiving nominations and between the hours of 10 a.m. and 12 noon on the said latest date. 10 15

Selection of nomination papers.

51.—The returning officer shall number the nomination papers in the order in which they are received by him, and the first valid nomination paper nominating a candidate for election shall be deemed to be the nomination of that candidate for that constituency. 20

Ruling on validity of nomination papers.

52.—(1) (a) The returning officer shall rule on the validity of each nomination paper within one hour after its delivery to him and may rule that it is invalid if, but only if, he considers that the paper is not properly made out or signed. 25 30

(b) Without prejudice to paragraph (a), the returning officer may also rule that the nomination paper of a candidate referred to in paragraph (a) of section 46(5) is invalid if he considers that the provisions of subsections (5)(a) and (6) of that section have not been complied with. 35

(c) The returning officer shall not rule that a nomination paper is invalid because an assentor has assented to the nomination of more than one candidate at the same Dáil election. 40 45

(2) The candidate nominated by each nomination paper and his proposer, if any, and one other person designated by the candidate or his proposer, as the case may be, and no other person, except with the permission of the returning officer, shall be entitled to attend while the said nomination paper is being ruled upon by the returning officer. 50

(3) The returning officer shall object to the name of a candidate in a nomination paper if such name—

- (a) is not a name by which the candidate is commonly known,
- (b) is misleading and likely to cause confusion,
- (c) is unduly long, or
- (d) contains a political reference,

and where the returning officer so objects, he shall allow the candidate or his proposer, as may be appropriate, to amend the name and, if it is not so amended to the returning officer's satisfaction, the returning officer may amend it, as he thinks fit, after consultation with the candidate or his proposer, if either is present, or may rule that the nomination paper is invalid as not being properly made out.

(4) The returning officer shall object to the description of a candidate in a nomination paper which is, in the opinion of the returning officer, incorrect, insufficient to identify the candidate or unnecessarily long or which contains a political reference other than, where appropriate, a reference to a public or elected office held, or formerly held, by the candidate or an entry made pursuant to subsection (4) or (8) of section 46. Where the returning officer so objects, he shall allow the candidate or his proposer, as may be appropriate, to amend the description and, if it is not so amended to the returning officer's satisfaction, the returning officer may amend or delete it, as he thinks fit, after consultation with the candidate or his proposer, if either is present, or may rule that the nomination paper is invalid as not being properly made out.

(5) When the returning officer has ruled on the validity of a nomination paper, he shall put a note of his decision on the nomination paper and shall sign the note. If he rules that the paper is invalid, he shall include a statement of his reasons. His decision under this section shall be final, subject only to reversal on a petition questioning the election.

(6) As soon as practicable after ruling on the validity of a nomination paper, the returning officer shall give, by post or otherwise, notice in writing of his ruling to the candidate.

(7) Every person in respect of whom a nomination paper has, under this section, been determined to be valid and whose candidature is not withdrawn in accordance with section 54 or is not deemed under section 47(2) or 62(1) to have been withdrawn shall stand validly nominated as a candidate.”, 5

and

(b) in section 124(3), by inserting “or section 48(1)(e)” after “section 21(1)(a) of the Electoral Act, 1997”. 10

Amendment of Electoral Act 1997.

2.—The Schedule to the Electoral Act 1997 is amended by substituting for subparagraph (d) of paragraph 2 the following:

“(d) necessary travelling and other expenses incurred by a candidate or an assentor in meeting the requirements of subsections (5)(a) and (6) of section 46 of the Act of 1992 and subsections (1A) and (1B) of section 12 of the Act of 1997, 15

(dd) the payment by or on behalf of a candidate of a deposit under section 47 of the Act of 1992,”. 20

Short title, collective citation and construction.

3.—(1) This Act may be cited as the Electoral (Amendment) Act 2007.

(2) The Electoral Acts 1992 to 2006 and this Act may be cited together as the Electoral Acts 1992 to 2007 and shall be construed together as one. 25