



**AN BILLE TOGHCHÁIN (LEASÚ) 2010
ELECTORAL (AMENDMENT) BILL 2010**

EXPLANATORY MEMORANDUM

Purpose of the Bill:

The Electoral Act 1992, Section 39(2) deals with bye-elections:

“Where a vacancy occurs in the membership of the Dáil by a person ceasing to be a member otherwise than in consequence of a dissolution, the Chairman of the Dáil (or, where he is unable through illness, absence or other cause to fulfil his duties or where there is a vacancy in the office of Chairman, the Deputy Chairman of the Dáil) shall, as soon as he is directed by the Dáil so to do, direct the Clerk of the Dáil to issue a writ to the returning officer for the constituency in the representation of which the vacancy has occurred directing the returning officer to cause an election to be held of a member of the Dáil to fill the vacancy mentioned in the writ.”

Dáil Standing Order 170 provides:

“(1) A motion may be made, after notice, directing the Ceann Comhairle to direct the Clerk to issue his or her Writ for the election of a member to fill any vacancy that may occur from time to time. Such motion shall be made at the commencement of public business.”.

Provisions of the Bill

At this point in time there is no time limit or other compelling factor that could be used to require a bye-election to be held when a seat becomes vacant due to the death or resignation of a sitting T.D.

Article 16.2.2. of the Constitution requires that there be one T.D. for every twenty to thirty thousand of the population.

There is no Constitutional reason why a law or standing order should not provide that a bye-election so be held at a specific time after a casual vacancy occurs.

The purpose of this Bill is to ensure that a constituency is not left without a T.D. for an indefinite period.

Article 16.2.2 of the Constitution requires that there be one T.D. for every twenty to thirty thousand of the population. It is the constitutional right of citizens to be adequately represented in the Dáil. Under the present situation a constituency may be left without a T.D. indefinitely.

*Deputies Maureen O’Sullivan, Finian McGrath and Joe Behan,
May, 2010.*