



Number 14 of 2011

ELECTORAL (AMENDMENT) ACT 2011

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[No. 14.] *Electoral (Amendment) Act 2011.* [2011.]

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ELECTORAL (AMENDMENT) ACT 2011

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

[25th July, 2011]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act “Act of 1997” means the Electoral Act 1997. Definition.

2.—Section 39 of the Electoral Act 1992 is amended by inserting the following subsection after subsection (2): Amendment of section 39 of Electoral Act 1992.

“(2A) Notwithstanding subsection (2), where the Dáil has not directed the Chairman of the Dáil pursuant to that subsection within a period of 6 months from the date on which the vacancy occurred, the Chairman of the Dáil (or, where he or she is unable through illness, absence or other cause to fulfil his or her duties or where there is a vacancy in the office of Chairman, the Deputy Chairman of the Dáil) shall, as soon as practicable after the expiration of that period, direct the Clerk of the Dáil to issue a writ to the returning officer for the constituency in which the vacancy occurred directing the returning officer to cause an election to be held to fill the said vacancy.”.

3.—Section 6 (amended by section 9 of the Electoral (Amendment) Act 2009) of the Act of 1997 is amended in subsection (2) by substituting the following paragraph for paragraph (a): Amendment of section 6 of Act of 1997.

“(a) the total number of members of the Dáil, subject to Article 16.2.2 of the Constitution, shall be not less than 153 and not more than 160;”.

4.—Section 21 of the Act of 1997 is amended— Amendment of section 21 of Act of 1997.

(a) in paragraph (a) of subsection (2) by deleting “a presidential election or”, and

- (b) in subsection (4) by deleting “and, insofar as it relates to presidential elections, has the meaning assigned to it in section 52”.

Reimbursement of expenses at presidential elections.

5.—(1) The Act of 1997 is amended by inserting the following section after section 21:

“21A.—(1) (a) Subject to paragraphs (b), (c) and (d), election expenses shall be reimbursed to a candidate at a presidential election who—

- (i) is elected at the election, or
 - (ii) is not so elected but the greatest number of votes credited to him or her at any stage of the counting of votes at the election exceeds one quarter of the quota.
- (b) The amount of election expenses which may be reimbursed to a candidate under this section shall be the actual expenses incurred by the candidate or €200,000 whichever is the less.
- (c) Subject to paragraph (d), payments in respect of the reimbursement of election expenses under this section shall be made by the Minister for Finance, with the approval of the Minister for Public Expenditure and Reform, out of the Central Fund or the growing produce thereof to each candidate referred to in paragraph (a), who applies to the Standards in Public Offices Commission in a form directed by the Commission.
- (d) No payment in respect of the reimbursement of election expenses of a candidate shall be made under this section unless and until the Standards in Public Offices Commission has—
- (i) certified to the Minister for Public Expenditure and Reform that the relevant statement of election expenses and statutory declaration have been furnished by the election agent of the candidate to the Commission under section 56,
 - (ii) certified to the said Minister that the said statement was completed in accordance with guidelines issued by the Commission under section 4, and complies with Part VI, and
 - (iii) furnished to the said Minister details of the amount of the actual expenses incurred by the candidate.

(2) The Standards in Public Offices Commission shall furnish to the Minister for Public Expenditure and Reform, as soon as may be after consideration by it of an application for reimbursement of election expenses under subsection (1)(c) and the statement of election expenses furnished to it in respect of the candidate under section 56, the details referred to in subsection (1)(d) in respect of each candidate who is eligible for reimbursement of election expenses at a presidential election.

- (3) (a) Where a candidate referred to in subsection (1)(a) dies after the close of the poll at an election and has not made an application for the reimbursement of election expenses under this section, an application for the reimbursement of the said candidate's election expenses may be made by, and where appropriate, the payment may be made to, the personal representative of the candidate.
- (b) Where a candidate referred to in subsection (1)(a) dies after making an application for the reimbursement of election expenses under this section and before payment is made to the candidate, payment in respect of the reimbursement of the said candidate's expenses may be made to the personal representative of the candidate.
- (c) Every payment made to a candidate, or the personal representative of a candidate, as the case may be under this section shall not be liable to income tax.

(4) In this section 'election expenses' has the meaning assigned to it by section 52."

(2) The Presidential Election (Reimbursement of Expenses) Regulations 2004 (S.I. No. 442 of 2004) are revoked.

6.—(1) The Act of 1997 is amended by substituting the following section for section 53:

Limitation of presidential election expenses.

"53.—The aggregate of election expenses which may be incurred by or on behalf of a candidate at a presidential election in connection with his or her candidature at a presidential election shall not exceed €750,000."

(2) The Electoral Act 1997 (Section 53) Order 2004 (S.I. No. 441 of 2004) is revoked.

7.—The Act of 1997 is amended—

Consequential amendments to Act of 1997.

(a) in section 3 by substituting the following subsection for subsection (1):

"(1) The Minister may, by order, vary any monetary amount specified in section 21, 21A, 22, 23, 23A, 23B, 24(1A), 24(4), 26(1), 30, 31, 32, 46, 47, 48(1), 48A, 48B, 51, 52 or 53, or in regulations made under section 21 or in an order made under section 33(1), having regard to any change in the consumer price index since the coming into operation of the provision for the time being in force specifying the amount in question, including an order under this section."

(b) in section 60 by substituting the following subsection for subsection (2):

"(2) The limits on election expenses at the fresh election for surviving candidates and candidates nominated at the fresh election shall be the relevant amount specified in section 53."

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and

(c) in paragraph (a) of subsection (2) of section 61 by deleting “an order for the time being in force under”.

Short title,
collective citation
and construction.

8.—(1) This Act may be cited as the Electoral (Amendment) Act 2011.

(2) The Electoral Acts 1992 to 2009 and this Act may be cited together as the Electoral Acts 1992 to 2011 and shall be read together as one.