



STATUTORY INSTRUMENTS.

S.I. No. 481 of 2019



ELECTORAL (AMENDMENT) (No.2) REGULATIONS 2019

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I, JOHN PAUL PHELAN, Minister of State at the Department of Housing, Planning and Local Government, in exercise of the powers conferred on me by sections 3, 46 and 111 of the Electoral Act 1992 (No. 23 of 1992) (as adapted by the Housing, Planning, Community and Local Government (Alteration of Name of Department and Title of Minister) Order (S.I. No. 358 of 2017) and the Housing, Planning and Local Government (Delegation of Ministerial Functions) Order 2017 (S.I. No. 473 of 2017)), hereby order as follows:

1. These Regulations may be cited as the Electoral (Amendment) (No. 2) Regulations 2019.

2. The Electoral Regulations 2007 (S.I. No. 156 of 2007) are hereby amended by: -

(a) the substitution of the following regulation for regulation 4:

“4. The prescribed photographic identification for the purposes of section 46(6)(b) of the Electoral Act 1992 shall be:

- (i) a passport;
- (ii) a driving licence;
- (iii) an employee identity card containing a photograph;
- (iv) a student identity card issued by an educational institution and containing a photograph;
- (v) a travel document containing name and photograph;
- (vi) a Public Services Card.”

(b) the substitution of the following regulation for regulation 8:

“8. A specified document for the purposes of section 111 of the Electoral Act 1992 shall be:

- (i) a passport;
- (ii) a driving licence;
- (iii) an employee identity card containing a photograph;
- (iv) a student identity card issued by an educational institution and containing a photograph;
- (v) a travel document containing name and photograph;
- (vi) a Bank or Savings or Credit Union book containing address in constituency or local electoral area;
- (vii) a Public Services Card;
- (viii) a cheque book;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 27th September, 2019.*

- (ix) a cheque card;
- (x) a credit card;
- (xi) a birth certificate;
- (xii) a marriage certificate.

Items (viii) to (xii) shall be accompanied by a further document which establishes the address of the holder in the constituency or local electoral area.”,

- (c) the substitution of the following Schedule for the First Schedule to the said Regulations –

“FIRST SCHEDULE

NOMINATION PAPER FOR DÁIL ELECTION

(_____/____)

(month/year)

No. _____

(To be inserted by returning officer)

1. I nominate the person named under as a candidate for election to Dáil Éireann for the constituency of _____

2. I declare that I have read the notes on this nomination paper and that –

(a) I believe the person named as candidate to be eligible for election, and

(b) the person has consented to the nomination.

(PLEASE USE BLOCK CAPITALS TO COMPLETE THE TABLE BELOW)

Surname of Candidate		
Other Names		
Gender *		
(state Male or Female)		
Description	Address	
	Occupation	
	Name of Political Party, if any	

* not relevant to a bye-election

3. Please tick (1) or, where (1) is not applicable, (2) or (3) below –

(1) Certificate of Political Affiliation attached,

or

(2) Assentor statutory declarations (30) attached,

or

(3) Deposit of €500 enclosed.

Name and address of person to whom deposit is to be returned:

Name _____

Address _____

4. Please tick, as appropriate –

Photographs attached (see paragraph 4 of notes) for
inclusion on ballot paper.

Yes No

5. (Where nomination paper is completed by a person other than the candidate.)

Proposer's Number and polling district letters on Register of Electors for
the constituency concerned _____

Signature: _____

(Candidate/Proposer)

Address: _____

Date: _____

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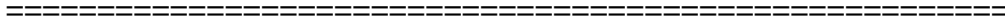
6. Decision of Returning Officer

I have decided that this nomination paper is valid (or is invalid because

_____)

Returning Officer

Date: _____



TO BE HANDED OR SENT TO THE CANDIDATE

I have decided that nomination paper No. _____ in respect of
_____ is valid (or is invalid because

_____)

Returning Officer

Address: _____

Date: _____

Notes: The notes attached are for guidance only and do not purport to be a legal interpretation.

Notes on Nomination Paper for Dáil election

(References in parentheses are to the provisions of the Electoral Act 1992, as amended, unless otherwise stated.)

1. Nomination

A candidate may nominate himself or herself or may, with the candidate's consent, be nominated by a proposer. A proposer must be registered as a Dáil elector in the constituency for which he or she proposes to nominate the candidate (section 46).

2. Candidate Nomination Procedures

A nomination paper from a candidate of a registered political party must have a certificate of political affiliation attached (see paragraph 3 below).

If no certificate is attached, one or other of the following procedures must be complied with before the expiration of the time for receiving nominations:

(i) the completion of statutory declarations by 30 assentors registered as Dáil electors in the relevant constituency which must be witnessed by a Commissioner for Oaths, a Peace Commissioner, a Notary Public, a member of the Garda Síochána or an official of the registration authority,

or

(ii) the candidate, or someone on his or her behalf, lodging a deposit of €500 with the returning officer.

Under the assentors option, the relevant forms for the making of statutory declarations are available from returning officers and registration authorities. The relevant details of the assentors must be included on the statutory declarations - number (and polling district letters) on the register of Dáil electors in force at the time of assent, address on the register, contact details, the relevant Dáil constituency on the date of assent where he or she is registered, the name and address of the candidate, and the form of prescribed photographic ID produced and any identifying number on it.

Each assentor MUST when making the statutory declaration bring one of the following photographic documents for identification purposes – passport, driving licence, employee identity card containing a photograph, student identity card issued by an educational institution and containing a photograph, a travel document containing name and photograph or a Public Services Card. One of the documents MUST be produced to the person taking the statutory declaration.

An assent is valid in respect of the constituency in which the assentor's address at the time of assent is located at election time. The assent may be made at any time but it may only be used at the next general or bye-election in the relevant constituency and it expires when the register current when the statutory declaration was made ceases to be in force, notwithstanding that no such election may have been held by then.

Responsibility lies with the candidate or proposer to secure the necessary assents, to attach the 30 statutory declarations to the nomination paper and to deliver all the documentation to the returning officer by the deadline for receipt of nominations.

An assentor must confirm on the statutory declaration that he or she has not assented to the nomination of any other candidate in the election concerned. Under the Statutory Declarations Act 1938, a person who knowingly makes a false or misleading statutory declaration in any material respect is liable on conviction to a class B fine or imprisonment for a term not exceeding 6 months or both. However, a candidate's nomination will not be invalid where a person assents to the nomination of more than one candidate.

Under the deposits option, a candidate may choose the alternative of making a deposit and, if he or she does not do so and has not opted to secure 30 assents, their candidature will be deemed to have been withdrawn. A candidate, or someone on his or her behalf, may lodge a deposit of €500 with the returning officer before the expiration of the time for receiving nominations. The deposit may be made by means of legal tender or, with the consent of the returning officer, in any other manner. The deposit will be returned in the case of successful candidates, those receiving votes in excess of a quarter of the quota and in certain other circumstances: not being validly nominated, withdrawal of candidature or death. Otherwise, the deposit will be forfeited. (Where the deposit is to be returned, it will be returned to the person making it and the name and address of that person should be entered at 3 on the nomination paper.)

All relevant parts of the nomination paper must be completed by all candidates (sections 46, 47 and 48).

3. Certificate of Political Affiliation

- (a) If a candidate represents a registered political party, a completed certificate of political affiliation must be lodged with the nomination paper and the name of the party inserted in the appropriate row at 2 of the nomination paper.
- (b) If the candidate does not represent a registered political party, the row may be left blank or the words "Non-Party" may be entered in it (section 46).

4. **Candidate's Photograph**

If a candidate wishes to have his or her photograph included on the ballot paper, they must provide with the nomination paper -

- A photograph in digitised format (passport size – 35mm x 45mm); **AND**
- Two identical printed copies of the photograph.

The photograph must be taken not more than 12 months prior to polling day and must be of good quality, in colour and taken to a professional standard, showing the candidate's full face, head and shoulders only, on a light background (any colour).

Each printed copy of the photograph must have the candidate's name clearly shown on the back.

If the above requirements are not complied with, the returning officer may not include the photograph on the ballot paper. In these circumstances, or if no photograph is supplied, the space for the candidate's photograph will be left blank on the ballot paper.

THE ONUS IS ON THE CANDIDATE TO MEET THESE REQUIREMENTS.

5. **Delivery of Nomination Paper**

The completed nomination paper must be delivered to the returning officer in person by the candidate or proposer within the period fixed for the receipt of nominations (ending at 12 noon on the last day for receiving nominations) (*sections 49 and 50*).

6. **Ruling on Nomination Paper**

The returning officer will rule on the validity of the nomination paper within one hour of its delivery to him or her and may rule that it is invalid if he or she considers that it is not properly made out or signed. A returning officer may also rule as invalid a nomination paper from a candidate without a certificate of political affiliation who has opted for the assentors option referred to in paragraph 2 above if he or she considers that the candidate has not complied with the statutory requirements relating to assenting.

The returning officer is required to object to the **candidate's name** if it:

- (a) is not the name by which the candidate is commonly known, or
- (b) is misleading and likely to cause confusion, or

- (c) is unduly long, or
- (d) contains a political reference.

The returning officer is also required to object to a candidate's description if it is, in his or her opinion, 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 in the nomination paper referred to at paragraph 3(a) or (b) above.

The ruling on the nomination paper may be attended by the candidate and proposer (if any), one other person designated by the candidate (or his or her proposer) and any other person authorised by the returning officer (*section 52*).

7. Eligibility for Election to Dáil Éireann

A person who –

- (a) is not a citizen of Ireland, or
- (b) has not reached the age of 21 years on polling day, or
- (c) is a member of the Commission of the European Communities, or
- (d) is a Judge, Advocate General or Registrar of the Court of Justice of the European Communities, or
- (e) is a member of the Court of Auditors of the European Communities, or
- (f) is a member of the Garda Síochána, or
- (g) is a wholetime member of the Defence Forces, or
- (h) is a civil servant who is not by the terms of his or her employment expressly permitted to be a member of the Dáil, or
- (i) is a person of unsound mind, or
- (j) is undergoing a sentence of imprisonment for any term exceeding 6 months imposed by a court of competent jurisdiction in the State,

is not eligible for election (*section 41*).

8. Withdrawal of Nomination

A candidate may withdraw his or her nomination up to 12 noon on the day (disregarding any excluded day) after the latest date for receiving nominations. The notice of withdrawal to the returning officer must be signed by the candidate and delivered in person by the candidate or

proposer. Where the returning officer is satisfied that a candidate wishes to withdraw and that neither the candidate nor the proposer can attend in person, the returning officer will accept a notice of withdrawal, signed by the candidate and by the person delivering it, which is received by the latest time for withdrawal (*section 54*).

9. **Appointment of Election Agent**

Each candidate must appoint an election agent before incurring any expenses at an election. The main function of the election agent is to authorise and control spending connected to the candidate's election campaign and to assist the candidate generally in relation to the election. The candidate must, not later than the last day for receiving nominations at the election, supply the name and office address of the election agent in writing to the returning officer for the constituency in which the candidate is standing. (If a person is standing as a candidate in more than one constituency, he or she must supply the information to the returning officer for each of the constituencies.) The returning officer will subsequently supply the details to the Standards in Public Office Commission. Further information on the role of an election agent is contained in the Commission's guidelines (*section 28 of the Electoral Act 1997*).

10. **Penalties**

There are penalties for –

- (a) producing a forged:
 - (i) nomination paper, or
 - (ii) certificate of political affiliation to the returning officer (*sections 138 and 142*),
- (b) without the consent of the person concerned:
 - (i) nominating such person as a candidate, or
 - (ii) withdrawing the candidature of such person (*section 141*),
- (c) making a false declaration with respect to the eligibility of a candidate for election (*section 143*).

Penalties under the Statutory Declarations Act 1938 in respect of knowingly making a false or misleading statutory declaration are set out at paragraph 2 above.”,

- (d) the substitution of the following Schedule for the Second Schedule to the said Regulations –

“SECOND SCHEDULE

**FORM OF STATUTORY DECLARATION BY ASSENTORS TO
NOMINATION OF CERTAIN CANDIDATES AT DÁIL ELECTION**

I(*assentor name in capitals*)

do solemnly and sincerely declare the following:-

Particulars of Assentor

1. Number and polling district letters on Register of Electors currently in force: _____

2. Address on Register of Electors referred to at 1 (*address in capitals*):

3. Contact details, including daytime and mobile telephone numbers:

4. Form of photographic identification produced to witness and any identifying number on it:

Constituency/Candidate

5. Name of current Dáil constituency in which assentor’s address at 2 is located:

6. Name of candidate (*name in capitals*):

7. Address of candidate (*address in capitals*):

Assent

8. I assent to the nomination of the candidate referred to at 6 and 7 at the next Dáil election to be held in the constituency in which the address at 2 is located at the time of the election.

9. I have not assented to the nomination of any other candidate at the election referred to at 8 or at any other Dáil election to be held at the same time as that election,

and I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

Signature of assentor.....

Declared before me[*name in capitals*] [a notary public] [a commissioner for oaths] [a peace commissioner] [a member of the Garda Síochána] [an official of the registration authority] by.....who is personally known to me at.....[*place of signature*] this.....day of[*date*]

.....
[*signature of witness*]

Garda Station/ Registration Authority Stamp

[*where appropriate*]”,

(e) the substitution of the following Schedule for the Third Schedule to the said Regulations –

“THIRD SCHEDULE

PHOTOGRAPHS

1. A photograph in digitised format and 2 identical printed copies of the photograph (passport size - 35mm x 45mm) shall be delivered with the candidate’s nomination paper.
2. The photograph shall be of good quality and in colour showing the candidate’s full face, head and shoulders only, on a light background (any colour) and taken to a professional standard.
3. The photograph shall have been taken not more than 12 months prior to the date appointed by the Minister for Housing, Planning and Local Government by order under section 96 of the Electoral Act 1992 for the taking of the poll at the election.
4. Each copy of the printed photograph shall have the candidate’s name clearly shown on the back.”, and

(f) the substitution of the following Schedule for the Fourth Schedule to the said Regulations.

“FOURTH SCHEDULE

EMBLEMS

1. An emblem shall be delivered to the Registrar of Political Parties with the application form specified by the Registrar under section 25(3) of the Electoral Act 1992, in digitised format along with 2 identical printed copies.
2. The emblem shall be designed to a professional standard.
3. The 2 printed copies of the emblem shall be signed on the back by an officer of the party whose name appears in the Register of Political Parties pursuant to section 25(7)(d) of the Electoral Act 1992.”.
3. The Electoral (Amendment) (No.2) Regulations 2014 (S.I. No.321 of 2014) and the Electoral (Amendment) Regulations 2019 (S.I. No. 76 of 2019) are hereby revoked.

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GIVEN under my hand,
25 September 2019

JOHN PAUL PHELAN

Minister of State at the Department of Housing, Planning and Local
Government.

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation.)

In these regulations the lists of photographic identifications that may be produced (i) when a statutory declaration is being made by a person who lives in the relevant constituency is assenting to the nomination of a candidate at an election and (ii) which a voter may be required to produce at a polling station, are amended to remove the reference to identifications acceptable only for local elections. In these regulations a revised form of Nomination Paper to be used at a Dáil Election is prescribed for the purpose of removing the requirement for a candidate's photograph to be submitted specifically by Jpeg or CD. The requirement to submit the emblem of a political party by Jpeg or CD is also removed. A revised Statutory Declaration for assentors is also provided for.

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(Teil: 01 - 6476834 nó 1890 213434)

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434)

€ 4.50

