



Number 4 of 2002

ELECTORAL (AMENDMENT) ACT, 2002

ARRANGEMENT OF SECTIONS

Section

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[No. 4.] *Electoral (Amendment) Act, 2002.* [2002.]

ACTS REFERRED TO

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ELECTORAL (AMENDMENT) ACT, 2002

AN ACT TO AMEND AND EXTEND THE ELECTORAL ACTS, 1992 TO 2001, THE EUROPEAN PARLIAMENT ELECTIONS ACTS, 1992 TO 2001, THE LOCAL ELECTIONS REGULATIONS 1995, THE LOCAL ELECTIONS (DISCLOSURE OF DONATIONS AND EXPENDITURE) ACT, 1999, AND TO PROVIDE FOR RELATED MATTERS. [25th March, 2002]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—The Electoral Act, 1992, is amended—

Amendment of
Electoral Act, 1992.

(a) in section 15(2) by inserting “to the procedure for making applications under subsection (1) and” after “shall apply”,

(b) in section 44, by substituting the following for paragraph (b):

“(b) the local authority offices where persons registered as Dáil electors in the constituency may assent to the nomination of a candidate referred to in section 46(4A);”,

(c) in section 46(2), by inserting the following after paragraph (a):

“(aa) a note of—

(i) the details to be entered on the nomination paper of a candidate referred to in subsection (4A) by a person assenting in accordance with this section to that candidate’s nomination, and

(ii) the form of identification to be produced by the assentor;”,

(d) in section 46, by inserting the following after subsection (4):

“(4A) In the case of a candidate whose candidature is not authenticated by a certificate of political affiliation

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under subsection (4), the candidate's nomination shall, before delivery of his nomination paper to the returning officer in accordance with section 50, be assented to by 30 persons (excluding the candidate and any proposer) who are registered as Dáil electors in the constituency.

(4B) The following provisions apply in respect of the assents required by subsection (4A) to the nomination of a candidate referred to in that subsection:

- (a) the candidate or the candidate's proposer, if any, shall complete part of a nomination paper as directed on that paper and lodge the paper in the prescribed local authority offices for the constituency;
- (b) the local authority shall number any nomination papers lodged under paragraph (a) in the order in which they are lodged;
- (c) where more than one nomination paper for the same candidate is lodged with the local authority, the first such nomination paper shall be deemed to be the nomination paper for that candidate for that election unless the candidature is withdrawn under section 54 or is deemed under section 62(1) to have been withdrawn;
- (d) to assent to the nomination, a person registered as a Dáil elector in the constituency shall sign the candidate's nomination paper and produce a prescribed photographic identification to the local authority official;
- (e) the local authority official shall note the following details on the nomination paper and then sign the note:
 - (i) the assentor's number on the register of electors;
 - (ii) the form of identification produced by the assentor, including any number on it;
 - (iii) the time and date of the assentor's signature on the paper;
- (f) where the nomination paper bears the signatures of more than the required number of qualified assentors, the signatures (up to the required number of those assentors) appearing first on the nomination paper shall be taken into account to the exclusion of any others;
- (g) where a person registered as a Dáil elector in the constituency signs as assentor the nomination papers of 2 or more different candidates in the same election, that person's signature on the first such nomination paper lodged with the local authority shall alone be regarded

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and that person's signature on every other S.1
nomination paper shall be disregarded.

(4C) For the purposes of subsections (4A) and (4B), a person whose application to have his name entered in a supplement to the register of 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.”,

(e) by repealing sections 47 and 48,

(f) in section 52, by substituting the following for subsection (1):

“(1) The returning officer shall rule on the validity of each nomination paper within one hour after its delivery and may rule that it is invalid if, but only if, the returning officer considers that—

(a) in the case of the nomination paper of a candidate referred to in section 46(4A), the nomination is not assented to in the manner required by section 46, and

(b) in the case of the nomination paper of any candidate, the paper is for any other reason not properly made out or signed.”,

(g) in section 52(7) by deleting “47(1) or”,

(h) in section 124(3) by substituting “the purposes of subparagraph (ii) (inserted by the Electoral (Amendment) Act, 2001) of section 21(1)(a) of the Electoral Act, 1997” for “the purposes of section 48(1)(e)”, and

(i) in the Second Schedule by inserting the following in Part II:

“14A. (1) Subject to paragraph (2), an application to be entered on the supplement to the register of electors shall be made by the applicant directly to the registration authority and the declaration on the application shall—

(a) before the application is submitted to the registration authority, be signed by the applicant in the presence of a member of the Garda Síochána from the applicant's local Garda station who, on being satisfied of the applicant's identity, including if necessary, by the production of photographic identification and any other identification that may be requested by that member, shall sign, date and stamp the application form, or

(b) where the applicant establishes in writing that he is unable to comply with subparagraph (a), be signed by the applicant in the presence of an official of the registration authority who, on being satisfied of the applicant's identity, including if necessary, by the production of photographic identification and any other identification that may be requested by that

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officer, shall sign, date and stamp the application form.

(2) Where the applicant is unable, due to a physical illness or physical disability, to comply with paragraph (1), the application shall be accompanied by a certificate in the form directed by the Minister from a medical practitioner certifying—

(a) the nature and extent of the applicant's physical illness or physical disability, and

(b) an indication of the expected duration of that illness or disability.

(3) Nothing in this rule limits the powers that are given to the registration authority under rule 5(3) and that under rule 15(1) apply in relation to the consideration of an application to be entered on the supplement to the register of electors.”.

Amendment of
European
Parliament
Elections Act, 1997.

2.—The European Parliament Elections Act, 1997, is amended—

(a) in section 12, by inserting the following after subsection (1):

“(1A) In the case of a candidate whose candidature is not authenticated by a certificate of political affiliation under rule 5(3) of the Second Schedule, the candidate's nomination shall, before delivery of his or her nomination paper to the returning officer in accordance with rule 11 of that Schedule, be assented to by 60 persons (excluding the candidate and any proposer) who are registered as European electors in the constituency.

(1B) The following provisions apply in respect of the assents required by subsection (1A) to the nomination of a candidate referred to in that subsection:

(a) the candidate or the candidate's proposer, if any, shall complete part of a nomination paper as directed on the nomination paper and lodge the paper in the prescribed local authority offices for the constituency;

(b) the local authority shall number any nomination papers lodged under paragraph (a) in the order in which they are lodged;

(c) where more than one nomination paper for the same candidate is lodged with the local authority, the first such nomination paper shall be deemed to be the nomination paper for that candidate for that European election unless the candidature is withdrawn under rule 15 of the Second Schedule or is deemed under rule 27 of the Second Schedule to have been withdrawn;

(d) to assent to the nomination, a person registered as a European elector in the constituency shall sign the candidate's nomination paper

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and produce a prescribed photographic S.2
identification to the local authority official;

(e) the local authority official shall note the following details on the nomination paper and then sign the note:

(i) the assentor's number on the register of electors;

(ii) the form of identification produced by the assentor, including any number on it;

(iii) the time and date of the assentor's signature on the paper;

(f) where the nomination paper bears the signatures of more than the required number of qualified assentors, the signatures (up to the required number of those assentors) appearing first on the nomination paper shall be taken into account to the exclusion of any others;

(g) where a person registered as a European elector in the constituency signs as assentor the nomination papers of 2 or more different candidates in the same election, that person's signature on the first such nomination paper lodged with the local authority shall alone be regarded and that person's signature on every other nomination paper shall be disregarded.

(1C) For the purposes of subsections (1A) and (1B), a person whose application to have his or her name entered in a supplement to the register of 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 European elector in the constituency.”,

(b) by repealing section 13,

(c) in rule 2 of the Second Schedule, by substituting the following for paragraph (b):

“(b) the local authority offices where persons registered as European electors in the constituency may assent to the nomination of a candidate referred to in section 12(1A),”,

(d) in rule 5 of the Second Schedule, by inserting the following after subparagraph (a) of paragraph (1):

“(aa) a note of—

(i) the details to be entered on the nomination paper of a candidate referred to in section 12(1A) by a person assenting in accordance with section 12 to the candidate's nomination, and

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(ii) the form of identification to be produced by the assentor;”,

(e) by deleting rules 8 and 9 of the Second Schedule,

(f) in rule 13(1) of the Second Schedule, by substituting the following for subparagraph (a):

“(a) The returning officer shall rule on the validity of each nomination paper within one hour after its delivery and, subject to subparagraph (b), may rule that it is invalid if, but only if, the returning officer considers that—

(i) in the case of the nomination paper of a candidate referred to in section 12(1A), the nomination is not assented to in the manner required by section 12, and

(ii) in the case of the nomination paper of any candidate, the paper is for any other reason not properly made out or signed.”,

(g) in rule 13(7) of the Second Schedule, by deleting “section 13 or”, and

(h) in rule 88(3) of the Second Schedule, by substituting “section 21 of the Electoral Act, 1997” for “rule 9(1)(e)”.

Amendment of
Local Elections
Regulations 1995.

3.—The Local Elections Regulations 1995 (S.I. No. 297 of 1995) are amended—

(a) in article 11, by substituting the following for paragraph (b):

“(b) the local authority offices where electors may assent to the nomination of a candidate referred to in article 14(6A),”,

(b) in article 14(2), by substituting “nomination paper in the form directed by the Minister.” for “nomination paper in the form specified in Part 1 of the Schedule.”,

(c) in article 14, by inserting the following after sub-article (6):

“(6A) In the case of a candidate whose candidature is not authenticated by a certificate of political affiliation under sub-article (5), the candidate’s nomination shall, before delivery of the candidate’s nomination paper to the returning officer in accordance with article 18, be assented to by 15 persons (excluding the candidate and any proposer) who are electors in the local electoral area.

(6B) The following provisions apply in respect of the assents required by sub-article (6A) to the nomination of a candidate referred to in that sub-article:

(a) the candidate or the candidate’s proposer, if any, shall complete part of a nomination paper as directed on the nomination paper and lodge the paper in the offices of the local authority for which the election is held;

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- (b) the local authority shall number any nomination papers lodged under paragraph (a) in the order in which they are lodged; S.3
- (c) where more than one nomination paper for the same candidate is lodged with the local authority, the first such nomination paper shall be deemed to be the nomination paper for that candidate for that election unless the candidature is withdrawn under article 22 or is deemed under article 25(2) or 28(1) to have been withdrawn;
- (d) to assent to the nomination, an elector in the local electoral area shall sign the candidate's nomination paper and produce a specified photographic identification to the local authority official;
- (e) the local authority official shall note the following details on the nomination paper and then sign the note:
 - (i) the assentor's number on the register of electors;
 - (ii) the form of identification produced by the assentor, including any number on it;
 - (iii) the time and date of the assentor's signature on the paper;
- (f) where the nomination paper bears the signatures of more than the required number of qualified assentors, the signatures (up to the required number of those assentors) appearing first on the nomination paper shall be taken into account to the exclusion of any others;
- (g) where an elector in the constituency signs as assentor the nomination papers of 2 or more different candidates in the same election, that elector's signature on the first such nomination paper lodged with the local authority shall alone be regarded and the elector's signature on every other nomination paper shall be disregarded.

(6C) For the purposes of sub-articles (6A) and (6B)—

- (a) a person whose application to have his or her name entered in the supplement to the register 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 an elector in the local electoral area, and
- (b) any type of photographic identification that for the time being is prescribed under section 3 of the Act of 1992 for the purposes of section 46(4B)(d) of that Act is considered to be

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‘specified photographic identification’ as referred to in sub-article (6B)(d).’,

(d) by revoking articles 15 and 16,

(e) in article 20, by substituting the following for sub-article (1):

“(1) The returning officer shall rule on the validity of each nomination paper within one hour after its delivery and may rule that it is invalid if, but only if, the returning officer considers that—

(a) in the case of the nomination paper of a candidate referred to in article 14(6A), the nomination is not assented to in the manner required by article 14, and

(b) in the case of the nomination paper of any candidate, the paper is for any other reason not properly made out or signed.”,

(f) in article 20(7), by deleting “15(1)”,

(g) by revoking article 86(3), and

(h) by revoking Part 1 of the Schedule.

Amendment of
Electoral Act, 1997.

4.—The Electoral Act, 1997, is amended—

(a) in section 22(2)(a) by deleting in subparagraph (v) “the commercial price, or” and substituting “the commercial price,” and by substituting the following for subparagraph (vi):

“(vi) in the case of a contribution made by a person in connection with an event organised for the purpose of raising funds for a member of either House of the Oireachtas, a representative in the European Parliament or a third party or a candidate at a Dáil, Seanad or European election, the proportion attributable to that contribution of the net profit, if any, deriving from the event, or

(vii) in the case of a contribution made by a person in connection with an event organised for the purpose of raising funds for a political party, the proportion attributable to that contribution of the net profit, if any, that is derived from the event and that, although not specifically raised for the purpose of supporting one or more of the political party’s candidates at a Dáil, Seanad or European election, is used for the latter purpose;”,

(b) in section 22(2)(b) by substituting the following subparagraph for subparagraph (vi):

“(vi) expenses incurred by a political party on behalf of a candidate authenticated by the political party at a Dáil or European election, member

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of either House of the Oireachtas or representative in the European Parliament, other than a donation of money.”, S.4

(c) by inserting the following in section 25 after subsection (2):

“(2A) It shall be a defence to a prosecution of—

(a) the appropriate officer of a political party or the person deemed to have been appointed as the appropriate officer under section 71, or

(b) the responsible person of a third party or of an accounting unit,

for an offence under subsection (1)(a) or (b) that he or she did not know and could not reasonably have known of the receipt of a donation acceptance of which is prohibited by section 23 or 23A or a donation the value of which exceeds the relevant amount specified in section 24(4).”, and

(d) by substituting the following for subparagraph (d) of paragraph 2 of the Schedule (inserted by the Electoral (Amendment) Act, 2001):

“(d) necessary travelling expenses incurred by a candidate or an assentor in meeting the requirements of section 46(4A) and (4B) of the Act of 1992 and section 12(1A) and (1B) of the Act of 1997.”.

5.—The Local Elections (Disclosure of Donations and Expenditure) Act, 1999, is amended in section 6(1)(b) by substituting the following for subparagraph (i):

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“(i) necessary travelling expenses incurred by a candidate or an assentor in meeting the requirements of article 14(6A) and (6B) of the Local Elections Regulations 1995 (S.I. No. 297 of 1995);”.

6.—(1) This Act may be cited as the Electoral (Amendment) Act, 2002. Short title, collective citation and construction.

(2) The Electoral Acts, 1992 to 2001, and this Act may be cited together as the Electoral Acts, 1992 to 2002, and shall be read together as one.

(3) The European Parliament Elections Acts, 1992 to 2001, and this Act (in so far as it relates to European Parliament elections) may be cited together as the European Parliament Elections Acts, 1992 to 2002, and shall be read together as one.

(4) The Local Elections Acts, 1974 to 2001, and this Act (in so far as it relates to local elections) may be cited together as the Local Elections Acts, 1974 to 2002, and shall be read together as one.