Changes to Legislation: as of 13 October 2026, this Act is up to date with all changes known to be in force.

Number 15 *of* 2004

ELECTORAL (AMENDMENT) ACT 2004

REVISED

Updated to 31 March 2024

This Revised Act is an administrative consolidation of the *Electoral (Amendment) Act 2004*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Road Traffic Act 2024* (10/2024), enacted 17 April 2024, and all statutory instruments up to and including the *Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024 (Commencement) Order 2024* (S.I. No. 123 of 2024), made 28 March 2024, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

Number 15 *of* 2004

ELECTORAL (AMENDMENT) ACT 2004

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SCHEDULE 1

MODIFICATION OF CERTAIN PROVISIONS OF ACT OF 1997

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SCHEDULE 4

MODIFICATION OF CERTAIN PROVISIONS OF ACT OF 1993

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ACTS REFERRED TO

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Electoral (Amendment) Act 1996	1996, No. 43
Electoral (Amendment) Act 2001	2001, No.38
Electoral Act 1997	1997, No. 25
Electoral Acts 1992 to 2002	
European Communities Act 1972	1972, No. 27
European Parliament Elections Act 1997	1997, No. 2
European Parliament Elections Acts 1992 to 2004	
Houses of the Oireachtas Commission Act 2003	2003, No. 28
Insurance Acts 1909 to 2000	
Local Elections (Petitions and Disqualifications) Act 1974	1974, No. 8
Local Government Act 2001	2001, No. 57
Local Government (No. 2) Act 2003	2003, No. 17
Local Government Acts 1925 to 2003	
Local Elections Acts 1974 to 2002	
Presidential Elections Act 1993	1993, No. 28
Presidential Elections Acts 1992 to 2001	
Referendum Act 1994	1994, No. 12
Referendum Acts 1992 to 2001	

Number 15 *of* 2004

ELECTORAL (AMENDMENT) ACT 2004

REVISED

Updated to 31 March 2024

AN ACT TO AMEND AND EXTEND THE ELECTORAL ACTS 1992 TO 2002, THE EUROPEAN PARLIAMENT ELECTIONS ACTS 1992 TO 2004, THE PRESIDENTIAL ELECTIONS ACTS 1992 TO 2001, THE LOCAL GOVERNMENT ACTS 1925 TO 2003, THE LOCAL ELECTIONS ACTS 1974 TO 2002 AND THE REFERENDUM ACTS 1992 TO 2001 AND TO PROVIDE FOR RELATED MATTERS.

[18*th May*, 2004]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

Preliminary and General

Short title, collective citations, construction and commencement.

1. —(1) This Act may be cited as the Electoral (Amendment) Act 2004.

(2) The Electoral Acts 1992 to 2002 and this Act may be cited together as the Electoral Acts 1992 to 2004 and shall be read together as one.

(3) The European Parliament Elections Acts 1992 to 2004 and this Act in so far as it relates to European Parliament elections shall be read together as one and this Act (in so far as it so relates) shall be included in the collective citation "European Parliament Elections Acts 1992 to 2004".

(4) The Presidential Elections Acts 1992 to 2001 and this Act in so far as it relates to presidential elections may be cited together as the Presidential Elections Acts 1992 to 2004, and shall be read together as one.

(5) The Referendum Acts 1992 to 2001 and this Act in so far as it relates to referendums may be cited together as the Referendum Acts 1992 to 2004 and shall be read together as one.

(6) The Local Elections Acts 1974 to 2002, the Local Government (No. 2) Act 2003 and this Act in so far as it relates to local elections may be cited together as the Local Elections Acts 1974 to 2004 and shall be read together as one.

(7) *Section 34* and the Local Government Acts 1925 to 2003 may be cited together as the Local Government Acts 1925 to 2004 and shall be read together as one.

(8) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

(9) An order under *subsection (8)* shall be laid before each House of the Oireachtas as soon as may be after it is made.

Annotations

Editorial Notes

E1 Power pursuant to subs. (8) exercised (17.02.2005) by *Electoral (Amendment) Act 2004 (Commencement) Order 2005* (S.I. No. 76 of 2005).

2. On the 17th day of February 2005, subsection (4) of section 5 of the Electoral (Amendment) Act 2004 shall come into operation.

E2 Power pursuant to subs. (8) exercised (19.05.2004) by *Electoral (Amendment) Act 2004 (Commencement) Order 2004* (S.I. No. 215 of 2004).

2. On the 19th day of May 2004, Parts 1 and 3, sections 33, 34 and 35 of Part 4 and Schedule 5 of the Electoral (Amendment) Act 2004 shall come into operation.

Offences relating to voting system equipment.

2. —(1) A person shall be guilty of an offence if—

(*a*) wilfully and without lawful authority, he or she takes, destroys, conceals, opens or otherwise interferes with any voting system equipment, or

(*b*) he or she maliciously destroys, tears or defaces any voting machine equipment.

(2) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding €3,500 or imprisonment for a term not exceeding 12 months or both.

Annotations

Editorial Notes:

E3 A fine of €3,500 translates into a class B fine, not greater than €4,000, as provided (4.01.2011) by *Fines Act 2010* (8/2010), ss. 3, 5(2) and table ref. no. 1, S.I. No. 662 of 2010.

Repeal.

3. — Section 48 of the Electoral (Amendment) Act 2001 is repealed.

PART 2

Vote Recording and Electronic Vote Counting

Interpretation.

4. —(1) In this Part—

"Act of 1992" means the Electoral Act 1992;

"Act of 1993" means the Presidential Elections Act 1993;

"Act of 1994" means the Referendum Act 1994;

"Act of 1997" means the European Parliament Elections Act 1997;

"Act of 2001" means the Electoral (Amendment) Act 2001;

"Regulations of 1995" means the Local Elections Regulations 1995 (S.I. No. 297 of 1995);

"cartridge or disc" means a device that is used in a voting machine to record each vote;

"election" means, as the context may require, a Presidential election, a European election or a local election;

"electronic" includes electrical, digital, magnetic, optical, electromagnetic and any other form of related technology;

"electronic voting system" means a voting system in which the votes are recorded and automatically counted and the results automatically tabulated by use of electronically operated apparatus;

"enactment" includes an instrument made under an enactment;

"relevant Act or Regulations" means, as appropriate, the Act of 1993, the Act of 1994, the Act of 1997 or the Regulations of 1995;

"returning officer" means, as the context may require, a returning officer for the election or referendum concerned including a local returning officer;

"voting machine" means an apparatus on which voters cast their votes, that records each vote, and that furnishes a total of the number of votes cast on the machine at an election or at a referendum;

"voting system" means a method of casting and counting votes that is designed to function wholly or partly by use of mechanical, electro-mechanical or electronic apparatus and includes the procedures for casting and counting votes and the programmes, operating manuals, printouts and other software necessary for the system's operation;

"voting system equipment" means any kind of mechanical, electro-mechanical or electronic apparatus for use in a voting system.

(2) Where a section of the Act of 1992 is applied to a referendum by any provision of the Act of 1994, including any such section as modified and applied by Part 3 of the Act of 2001, each such section shall be deemed to be applied to the conduct of a referendum in a constituency in accordance with this Act.

(3) Where a section of the Act of 1992 is applied to a presidential election by any provision of the Act of 1993, including any such section as modified and applied by Part 3 of the Act of 2001, each such section shall be deemed to be applied to the conduct of a presidential election in a constituency in accordance with this Act.

Use of voting machines and electronic vote counting.

5. —(1) Notwithstanding the provisions contained in Parts III and V of the Act of 1993, Parts II and III of the Act of 1994, Parts VI to XI of the Second Schedule to the Act of 1997 and Parts IX to XIII of the Regulations of 1995, voting and vote counting at an election or at a referendum may be undertaken on voting system equipment approved for such purpose under Part 3 of the Act of 2001.

(2) Save to the extent that provision corresponding to a provision of that Part is made elsewhere by this Act, Part 3 of the Act of 2001 shall apply to an election or referendum referred to in *subsection (1)* as if a reference in that Part to a Dáil election were a reference to such an election or referendum as appropriate and with other necessary modifications.

(3) The Minister may, if he or she is of opinion that the public interest so requires, by order designate—

(*a*) one or more or all constituencies,

(*b*) one or more or all local electoral areas,

as being a constituency or constituencies or a local electoral area or areas in which voting system equipment approved under section 36(1) of the Act of 2001 shall be used at an election or referendum.

(4) The Minister may by order amend or revoke an order under this section or section 36(2) of the Act of 2001 (including an order under this subsection made in relation to either of those sections).

(5) The Minister may, whenever he or she thinks proper so to do, issue to a returning officer such instructions in relation to voting and vote counting under this Part as he or she shall consider necessary or expedient in order to ensure smooth and efficient voting and vote counting and to secure uniformity of procedures under this Part.

(6) A returning officer shall not be required or authorised by an instruction given by the Minister under *subsection (5)* to do any act (whether of commission or omission) which is contrary to the Act of 1993, the Act of 1994, the Act of 1997 or the Regulations of 1995.

Annotations

Editorial Notes:

E4 Power pursuant to subs. (4) exercised (30.04.2007) by *Electoral (Amendment) Act 2001 Part 3 Order 2002 (Revocation) Order 2007* (S.I. No. 192 of 2007).

E5 Power pursuant to subs. (4) exercised (17.02.2005) by *Electoral (Amendment) Act 2001 - Part 3 Order 2002 (Revocation) Order 2005* (S.I. No. 75 of 2005).

Application of certain provisions of relevant enactments.

6. —The provisions of—

(*a*) Parts I to III and VII of the Act of 1993,

(*b*) Parts I, II and IV of the Act of 1994,

(*c*) Parts I and II of the Act of 1997 and Parts I to IV, VI to X, XII and XIV to XVI of the Second Schedule to that Act, and

(*d*) Parts II, IV to VII, IX to XII and XIV to XVI of the Regulations of 1995,

shall, subject to the modifications specified in *Schedule 1, 2, 3* or *4* to this Act, apply and have effect in relation to voting and vote counting under this Part at a relevant election or, as the case may be, a referendum.

Modification of relevant enactments in their application for purposes of Act.

7. — *Schedules 1* to *4* to this Act have effect for the purpose of modifying certain enactments in so far as those enactments apply for the purposes of this Act.

Preparation of voting machines.

8. —(1) The returning officer at an election or referendum shall, after the content of a ballot paper is finalised, arrange for the printing and procuring of a sufficient quantity of such ballot papers for use on voting machines and to supply, where relevant, as soon as practicable to the local returning officers concerned such number of ballot papers for use on voting machines as those officers reasonably require.

(2) The returning officer or the local returning officer shall arrange to have installed on the voting machines for his or her constituency or local electoral area the ballot paper referred to in *subsection (1)*, shall programme the details of the ballot paper in the cartridges or discs for recording votes to be cast on each such voting machine and have such a cartridge or disc installed in each voting machine.

(3) The returning officer or local returning officer shall ensure that, after installing a ballot paper and a cartridge or disc as aforesaid in the machine, each voting machine is operating satisfactorily.

(4) The returning officer or local returning officer shall cause the compartment of the machine which contains a cartridge or disc to be locked and sealed in such a manner as to prevent the compartment being interfered with without breaking the lock or seal except in accordance with *section 11*.

Opening of poll.

9. —(1) Immediately before the commencement of the poll at an election or referendum, the presiding officer at each polling station, after ensuring that the lock on the machine referred to in *section 8* has not been interfered with, shall operate the voting machine in his or her charge to demonstrate to such persons as are present in the polling station that no votes are cast or recorded on the machine. The presiding officer shall cause a printed statement to be produced by the machine showing the names of candidates on the ballot paper at the election or the two questions on the ballot paper in the case of a referendum and that no votes are cast or recorded on the machine. The statement shall be signed by the presiding officer and witnessed by an agent or other person in the polling station. The presiding officer shall then place the voting machine in his or her view during the poll.

(2) If, for whatever reason, the voting machine concerned fails to produce the printed statement referred to in *subsection (1)*, the information that would have been recorded in that statement, being information displayed on the voting machine's display screen, together with any other information specified by the form to be entered on it, shall be entered on a form directed by the Minister for the purposes of this subsection. The form shall be signed by the presiding officer and witnessed by an agent or other person in the polling station.

Procedure for voting.

10. —(1) Subject to the provisions in the relevant Act or Regulations concerning voting with the assistance of a companion or presiding officer, personation and the right to vote, the presiding officer shall permit an elector, who applies to vote and declares his or her name and address, to vote on a voting machine.

(2) Immediately before an elector is permitted to vote—

(*a*) the number (including polling district letter) and name of the elector as stated in the register shall be called out,

(*b*) a mark shall be placed in the register against the number of the elector to denote that the elector has been permitted to vote, and

(*c*) the presiding officer or person authorised by him or her shall open the voting machine.

(3) An elector on receiving permission to vote shall (subject to the provisions concerning voting with the assistance of a companion or presiding officer) go alone to one of the voting machines in the polling station or such one of them as he or she is directed to so go to by the presiding officer and there shall secretly record his or her preferences on the ballot paper displayed on the voting machine and shall then cast his or her vote by pressing the cast vote button on that machine. He or she shall vote without undue delay and shall leave the polling station as soon as he or she has voted.

(4) Where an elector has failed to cast, in accordance with *subsection (3)*, his or her vote and has left the polling station and the presiding officer, accordingly, has reason to believe that the voting machine concerned is still open, the presiding officer shall verify, remotely (by means of the control unit), whether that is the case and, if the machine is open, shall de-activate it. Where an elector fails to leave a voting machine within a reasonable time, the provisions of section 106(1) of the Act of 1992, Rule 67 of the Second Schedule to the Act of 1997 or Article 68 of the Regulations of 1995,

as appropriate, shall apply and, where, in such circumstances, the voting machine is still open, the presiding officer shall de-activate it.

(5) In a case to which *subsection (4)* applies, an elector shall not be entitled to re-apply to vote at the poll.

(6) The presiding officer shall keep a separate record and make out a separate statement in a form directed by the Minister of the number of electors permitted to vote on voting machines in the polling station and, as respects each such machine, the number of electors who voted on it and the number of instances arising under *subsection (4)* with respect to each such machine.

Duties of presiding officer at close of poll.

11. —(1) At the time fixed for the close of the poll the presiding officer shall take steps to ensure that no further electors are admitted to the polling station, but any elector on the premises at that time shall, subject to the provisions of the relevant Act or Regulations and this Part, be entitled to vote.

(2) As soon as practicable after the close of the poll, the presiding officer, after ensuring that the lock referred to in *section 8* on each voting machine in the polling station has not been interfered with, shall cause a statement showing a list of the candidates on the ballot paper at the election or two questions on the ballot paper in the case of a referendum and the total number of votes recorded on the machine at the polling station to be produced by the machine. The statement shall be signed by the presiding officer and witnessed by another person in the polling station. The presiding officer shall then open the lock and remove the cartridge or disc from each such voting machine so that no further votes can be entered therein.

(3) The presiding officer shall immediately send the said cartridge or disc together with the statements produced at the opening and close of the poll referred to in *section 9(1)* and *subsection (2)* to the returning officer or to the local returning officer together with a polling station reconciliation account, in such form as may be directed by the Minister, made out by him or her and shall seal up in separate packets—

(*a*) the marked copies of the register of electors used,

(*b*) a statement prepared in accordance with section 104(2) of the Act of 1992 as applied to the relevant election or referendum by the Schedules to this Act, Rule 65 of the Second Schedule to the Act of 1997 or Article 66 of the Regulations of 1995,

(*c*) any authorisations given by the returning officer or local returning officer authorising persons to vote at the polling station and any undertakings by a personation agent to prove that a person has committed personation, and

(*d*) unused stationery and other documents and materials relating to the election or referendum,

and shall deliver all such packets to the relevant returning officer or local returning officer.

(4) The returning officer or the local returning officer shall make adequate arrangements for the safe custody of the packages delivered in pursuance of this section and of all documents connected with the poll.

(5) If, for whatever reason, the voting machine concerned fails to produce the printed statement referred to in *subsection (2)*, the information that would have been recorded in that statement, being information displayed on the voting machine's display screen, together with any other information specified by the form to be entered on it, shall be entered on a form directed by the Minister for the purposes of this subsection. The form shall be signed by the presiding officer and witnessed by an agent or other person in the polling station.

Counting of postal and special voter ballot papers under this Part.

12. —(1) The sealed ballot box containing postal and special voters ballot papers shall be opened, in the presence of agents and not less than 2 members of the returning officer or local returning officer's staff, not earlier than one hour before the conclusion of voting on polling day.

(2) The ballot papers extracted by the returning officer or local returning officer from the said ballot box shall be counted and their total number compared with the number shown in the appropriate ballot paper account prepared under section 76 of the Act of 1992 (as modified and applied to the Act of 1993 or Act of 1994) or Rule 39 of the Second Schedule to the Act of 1997 or Article 41 of the Regulations of 1995 as applied to this Part by a Schedule to this Act.

(3) The returning officer or local returning officer, while counting and recording the number of ballot papers, shall cause the said papers to be kept face upwards and shall take due precautions to prevent any person from seeing the numbers printed on the backs of the said papers.

(4) Section 48 of the Act of 1993, section 34 of the Act of 1994, Rule 82(2) to (4) of the Second Schedule to the Act of 1997 and Article 80(2) to (5) of the Regulations of 1995, as appropriate, shall apply to ballot papers dealt with under this section.

(5) The returning officer or local returning officer shall reject any of the ballot papers that are invalid and before commencing the entry of ballot paper preferences, the returning officer or local returning officer shall operate the voting machine in his or her charge, which shall have a cartridge or disc installed in it in accordance with *section 8*, to demonstrate to such persons as are present that no votes are cast or recorded on the voting machine. The returning officer or local returning officer shall cause a printed statement to be produced by the voting machine showing the names of the candidates on the ballot paper at the election or the two questions on the ballot paper in the case of a referendum and that no votes are cast or recorded on the machine. The returning officer or local returning officer shall then in the presence of agents and not less than 2 members of his or her staff enter the preferences shown on the postal and special voters ballot papers on the ballot paper displayed on the voting machine. After a vote preference or preferences has or have been entered on the said ballot paper from each postal or special voter ballot paper, the returning officer or local returning officer shall then press the cast vote button on the voting machine.

(6) On completion of the entry of the votes in the voting machine, the returning officer or local returning officer shall cause a printed statement to be produced by the machine showing the list of candidates on the ballot paper at the election or the questions on the ballot paper in the case of a referendum and the number of votes recorded.

(7) The statements produced under *subsections (5)* and *(6)* shall be signed by the returning officer or local returning officer or a person authorised by him or her and witnessed by an agent or if no agent is present by another person present.

(8) The returning officer or local returning officer shall extract the cartridge or disc from the voting machine and retain it, together with statements produced by the voting machine, in a sealed envelope until the counting of votes commences in accordance with *section 13*.

(9) On completion of the activity referred to in *subsection (8)*, the returning officer or local returning officer shall place in separate sealed packets—

(*a*) the postal and special voters ballot papers, and

(*b*) the ballot papers rejected under *subsection (5)*,

and shall mark on each packet particulars of its contents, the date of the polling day at the election or referendum and the constituency or local electoral area to which it relates and such packets shall be retained and accounted for together with other election or referendum documents specified in the relevant Act or Regulations.

(10) If, for whatever reason, the voting machine concerned fails to produce the printed statement referred to in *subsection (5)* or *(6)*, the information that would have been recorded in that statement, being information displayed on the voting machine's display screen, together with any other information specified by the form to be entered on it, shall be entered on a form directed by the Minister for the purposes of this subsection. The form shall be signed by the returning officer or local returning officer and witnessed by an agent or if no agent is present by another person present.

Preliminary proceedings and time for counting of votes.

13. —(1) Following the closing of the poll, the returning officer or local returning officer, at the place appointed under the relevant Act or Regulations, shall, unless circumstances arise that render it impracticable at that time to do so, proceed with the counting of the votes, in the presence of agents, as the cartridges or discs referred to in *sections 11* and *12* are received at the count centre. If circumstances as aforesaid arise, the returning officer or local returning officer shall, upon those circumstances ceasing to exist, proceed with the counting of the votes in the manner aforesaid.

(2) Immediately on receipt of the cartridges or discs from the various polling stations, including the cartridge or disc containing the votes of postal and special voters, the returning officer or local returning officer in the presence of the agents shall insert each cartridge or disc in an apparatus provided in the constituency or local electoral area concerned for the purpose of counting the votes entered in the voting machines in the various polling stations in that constituency or local electoral area (in this Part referred to as a "constituency vote counting machine").

(3) The returning officer or local returning officer shall compare the number of votes shown on the constituency vote counting machine in respect of each cartridge or disc from a voting machine with the number of votes recorded on the statements prepared pursuant to *sections 11* and *12* in respect of each machine and shall prepare a statement showing the result of this comparison in respect of all the voting machines. The returning officer or local returning officer shall, on request, allow an agent to be present at that procedure and shall on request provide a copy of the second-mentioned statement to any agent.

(4) When the cartridges or discs are received from all the voting machines for the constituency or local electoral area and are dealt with in accordance with *subsection (2)*, the returning officer or local returning officer shall cause the constituency vote counting machine to mix the votes recorded in all the cartridges or discs inserted on the said machine, to create a table of the mixed votes which shall be numbered in consecutive order, the number "1" being assigned to the vote placed highest in the table, the number "2" being assigned to the vote placed next highest in the table and so on, and to proceed to cause the said machine to count the votes in accordance with the provisions of the relevant Act or Regulations and this Act.

(5) Where more than one poll, including a referendum, is held on the same polling day, the provisions of section 165 of the Act of 1992 as modified by Part 3 of the Act of 2001 shall apply.

Further application of certain provisions of relevant enactments.

14. —(1) Without prejudice to *section 12(4)*, in the case of a European election, Part XI of the Second Schedule to the Act of 1997 (other than paragraphs (2) to (4) of Rule 82 and Rule 89) shall apply to the counting of votes under this Act. Any reference in the Act of 1997 to a ballot paper or papers shall be construed as a reference to a vote cast on a voting machine or, in the case of a reference to postal or special voters ballot papers, a vote entered in a voting machine.

(2) Any reference to the functions referred to in that Part XI, as applied to this Act, being performed by the returning officer or local returning officer shall be construed as a reference to the performance of those functions by electronic methods.

(3) Rule 83 of the Second Schedule to the Act of 1997, as so applied, shall have effect as if the reference in that Rule to Rule 79 were a reference to *section 13* of this Act and the words ", rejecting any that are invalid," were deleted.

(4) Without prejudice to *section 12(4)*, in the case of a local election, Part XIII of the Regulations of 1995 (other than sub-articles (2) to (5) of Article 80 and Article 87) shall apply to the counting of votes under this Act. Any reference in that Part XIII to a ballot paper shall be construed as a reference to a vote cast on a voting machine or, in the case of a reference to postal or special voters ballot papers, a vote entered in a voting machine.

(5) Any reference to the functions referred to in that Part XIII, as applied to this Act, being performed by the returning officer shall be construed as a reference to the performance of those functions by electronic methods.

(6) Article 81 of the Regulations of 1995, as so applied, shall have effect as if the reference in that Article to Article 76 were a reference to *section 13* of this Act and the words ", rejecting any that are invalid," were deleted.

(7) Without prejudice to *section 12(4)*, in the case of a referendum, Part III of the Act of 1994 (other than subsections (1) to (4) of section 34 and section 36) shall apply to the counting of votes under this Act. Any reference in that Part III to a ballot paper or papers shall be construed as a reference to a vote cast on a voting machine or, in the case of a reference to postal or special voters ballot papers, a vote entered in a voting machine.

(8) Any reference to the functions referred to in that Part III, as applied to this Act, being performed by the returning officer or local returning officer shall be construed as a reference to the performance of those functions by electronic methods.

(9) Section 35 of the Act of 1994, as so applied, shall have effect as if the words " *section 13* of the *Electoral (Amendment) Act 2004* " were substituted for the words "section 114 of the Act of 1992 (as applied by section 33)" and the words ", rejecting any that are invalid," were deleted.

(10) Without prejudice to *section 12(4)*, in the case of a presidential election, Part IV of the Act of 1993 (other than sections 48 and 52) shall apply to the counting of votes under this Act. Any reference in that Part IV to a ballot paper shall be construed as a reference to a vote cast on a voting machine or, in the case of postal or special voters ballot papers, a vote entered in a voting machine.

(11) Any reference to the functions referred to in that Part IV, as applied to this Act, being performed by the local returning officer or returning officer shall be construed as a reference to the performance of those functions by electronic methods.

(12) Section 54 of the Act of 1993, as so applied, shall have effect as if the words " *section 13* of the *Electoral (Amendment) Act 2004* " were substituted for the words "section 114 of the Act of 1992 (as applied by section 47)" and the words ", rejecting any that are invalid," were deleted.

Election petitions.

15. —Part V of the Act of 1993, Part IV of the Act of 1994, Part XV of the Second Schedule to the Act of 1997 or the Local Elections (Petitions and Disqualifications) Act 1974, as appropriate, shall apply to voting and vote counting under this Part as modified by *section 16* and the relevant Schedule to this Act.

Modification of Local Elections (Petitions and Disqualifications) Act 1974 in its application for purposes of Act.

16. — The Local Elections (Petitions and Disqualifications) Act 1974, in its application to voting and vote counting under this Act, shall have effect as if the following section were substituted for section 8:

"8.—(1) The court may, for the purposes of the trial of a petition, if it thinks fit, order—

(*a*) that all the votes cast at the election in a local electoral area shall be counted afresh, or

(*b*) that all the votes so cast or recorded in cartridges or discs in particular voting machines shall be so counted,

and where the court so orders, the provisions of this section shall have effect.

(2) For the purpose of enabling such an order to be carried out, the software used for counting votes cast on voting machines shall include a capability of providing a table of the preferences recorded for each vote cast at the poll at the election, including the vote number referred to in *section 13* of the *Electoral (Amendment) Act 2004* and a separate record of each vote cast at the election, showing the preferences recorded on it and the vote number referred to in that *section 13* and where applicable, the number at each count at which the vote was either transferred to the next available preference recorded on it or became a non-transferable vote not effective.

(3) Votes to which an order under this section relates shall be counted afresh under the direction of the court in accordance with Part XIII of the Regulations of 1995 as modified by *Schedule 2* to the *Electoral (Amendment) Act 2004* but subject to subsections (4), (5) and (6) of this section and to such modifications (if any) as the court considers necessary.

(4) In counting the votes afresh pursuant to an order under this section, the count shall begin without disturbing the mix carried out by the constituency vote counting machine under *section 13* of the *Electoral (Amendment) Act 2004*.

(5) Where votes are counted afresh pursuant to an order under this section and the court decides that votes shall be added to, or removed from, the vote table the software shall be capable of so adding or removing votes so that there shall be a minimum disturbance to the mix carried out by the constituency vote counting machine prior to the original count.

(6) The court shall have power to reverse any decision of the returning officer at the original count.

(7) The costs of giving effect to an order under this section shall be paid by the local authority concerned.".

PART 3

Commission on Electronic Voting

Commission on Electronic Voting.

17. —(1) The Commission constituted by the Government prior to the passing of this Act as the Commission on Electronic Voting and Counting and styled in the Irish language "An Coimisiún um Vótáil Leictreonach" and in the English language "Commission on Electronic Voting" shall continue in being and continue to be so known and styled (and in this Act is referred to as the "Commission").

(2) A person who immediately before the passing of this Act is the chairperson or an ordinary member of the Commission shall continue in office as such chairperson or ordinary member subject to and in accordance with this Act.

Independence of Commission.

18. —The Commission and its members shall be independent in the performance of their functions under this Part.

Membership.

19. —The Commission shall consist of the following members:

(*a*) a judge of the High Court who shall be the chairperson of the Commission;

(*b*) the Clerk of the Dáil;

(*c*) the Clerk of the Seanad; and

(*d*) 2 other persons with knowledge or experience in the field of information technology.

Provisions in relation to members.

20. —(1) Where, before the reports of the Commission referred to in *section 21* have been presented to the Chairman of the Dáil under *section 22*, the person appointed to be chairperson of the Commission—

(*a*) through ill-health or other reasonable cause becomes unable to act as such chairperson, the President of the High Court shall assign another judge of the High Court to be a member and the chairperson of the Commission,

(*b*) ceases to hold office as a judge of the High Court, the person shall continue as such chairperson until the reports of the Commission have been presented unless the President of the High Court assigns another judge to be a member and the chairperson of the Commission,

and the person so assigned shall be a member and the chairperson of the Commission accordingly.

(2) Where the holder of an office referred to in *paragraph (b)* or *(c)* of *section 19* or a person referred to in *paragraph (d)* of that section, through ill-health or other reasonable cause, is unable to act as a member of the Commission, or any such office is vacant, the Government may appoint, in the case of—

(*a*) the Clerk of the Dáil, the Clerk-Assistant of the Dáil,

(*b*) the Clerk of the Seanad, the Clerk-Assistant of the Seanad,

(*c*) the person referred to in *paragraph (d)* of that section, another such person,

to be a member of the Commission and the person so appointed shall remain a member of the Commission until the reports of the Commission are presented to the Chairman of the Dáil under *section 22*.

(3) Where, before the reports of the Commission have been presented to the Chairman of the Dáil under *section 22*, a person who is a member of the Commission ceases to hold an office referred to in *paragraph (b)* or *(c)* of *section 19*, that person shall continue as a member of the Commission until the reports of the Commission have been presented unless the Government by order directs that the person's successor in office or the appropriate person referred to in *paragraph (a)* or *(b)* of *subsection (2)* shall be a member of the Commission.

(4) Subject to *subsections (1), (2)* and *(3)*, the Commission may act notwithstanding vacancies in its membership.

Functions of Commission.

21. —It shall be the function of the Commission to make—

(*a*) such reports as are required by the terms of reference given by the Government to the Commission before the passing of this Act and which terms of reference are set out in *Schedule 5* to this Act, and

(*b*) such reports (if any) as may be required pursuant to *section 22(5)*, and, for the purposes of this Act, the references in those terms to elections shall be deemed to include references to any other poll or polls held throughout the State on the date concerned pursuant to any enactment.

Presentation of reports of Commission.

22. —(1) The Commission shall present the reports which it is required to make in accordance with *section 21(a)* to the Chairman of the Dáil.

(2) The Commission shall present any report which it is required to make pursuant to *subsection (5)* to the Chairman of the Dáil.

(3) As soon as may be after the receipt of a report referred to in *subsection (1)* or *(2)* the Chairman of the Dáil shall cause the report to be laid before each House of the Oireachtas.

(4) Subject to *subsection (5)*, upon the expiry of 2 months from the presentation by the Commission of the last of the reports (the "final report") which it is required to make in accordance with *section 21(a)*, the Commission shall stand dissolved.

(5) If, before the presentation of the final report, the Government by order (which order the Government is, by virtue of this section, empowered to make) request the Commission to make such further report or reports in relation to such matters as may be specified in the order, the Commission shall not stand dissolved until the presentation of the report, or the last of the reports, pursuant to that order.

(6) An order under *subsection (5)* shall not have effect unless and until it is confirmed by resolution passed by each House of the Oireachtas.

Commission to invite and consider submissions.

23. —(1) The Commission may, in accordance with its terms of reference, invite and consider submissions from the public on such basis as it may consider appropriate.

(2) The Commission shall consider submissions made to it pursuant to this section.

Staff and assistance.

24. —The Secretary General of the F1**[**Houses of the Oireachtas Service**]** shall make available to the Commission such services, including the services of staff of the Houses of the Oireachtas Commission, as may reasonably be required by the first-mentioned Commission.

Annotations

Amendments:

F1 Substituted (1.01.2010) by *Houses of the Oireachtas Commission (Amendment) Act 2009* (44/2009), s. 14(1) and sch. 1 item 7, commenced as per s. 15(3).

Expenses.

25. —(1) The expenses of the Commission, including the reasonable travelling and other expenses of the members of the Commission and expenses arising from the provision of services to the Commission pursuant to *section 24* shall, subject to such conditions as the F2**[**Minister for Public Expenditure and Reform**]** may determine, be charged on and paid out of the Central Fund or the growing produce thereof F3**[**by the Minister for Finance with the approval of the Minister for Public Expenditure and Reform**]**.

(2) Notwithstanding the provisions of any other enactment, *subsection (1)* shall apply and have effect in relation to all expenses incurred by the Commission prior to the passing of this Act and such expenses shall be recouped from the Central Fund in accordance with such arrangements as may be determined by the F4**[**Minister for Public Expenditure and Reform**]**.

(3) Section 5(3) of the Houses of the Oireachtas Commission Act 2003 shall not apply to any monies recouped pursuant to this section.

(4) The Commission shall keep all proper and usual accounts of all moneys received or expended by it in the performance of its functions under this Part and shall comply

with any direction of the Minister for Finance as to the form and manner and period in respect of which such accounts are to be kept.

(5) Accounts kept in pursuance of *subsection (4)* shall be submitted by the Minister for Finance to the Comptroller and Auditor General for audit and, immediately after the audit, a copy of the accounts and a copy of the report of the Comptroller and Auditor General on the accounts shall be laid by that Minister before each House of the Oireachtas.

Annotations

Amendments:

F2 Substituted (6.07.2011) by *Ministers and Secretaries (Amendment) Act 2011* (10/2011), s. 94(a)(i), S.I. No. 401 of 2011.

F3 Inserted (6.07.2011) by *Ministers and Secretaries (Amendment) Act 2011* (10/2011), s. 94(a)(ii), S.I. No. 401 of 2011.

F4 Substituted (6.07.2011) by *Ministers and Secretaries (Amendment) Act 2011* (10/2011), s. 94(b), S.I. No. 401 of 2011.

Modifications (not altering text):

C1 Functions transferred and references to "Department of Finance" and "Minister for Finance" construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9.

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of —

(a) the enactments specified in Schedule 1, and

(b) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year (1)	Short Title (2)	Provision (3)
...	...	...
No. 15 of 2004	Electoral (Amendment) Act 2004	Section 25(4) and (5)
...	...	...

Procedure of Commission.

26. —Subject to the provisions of this Act, the Commission shall regulate its own procedure.

Prohibition on disclosure of information and absolute privilege of certain matters.

27. —(1) No person shall, without the consent of the Commission, disclose to any person any information obtained while serving as (or during service as) a member of the Commission or as a person whose services are made available to the Commission under *section 24* or as a consultant or other person providing services to the Commission, being information relative to the business of the Commission or the performance of its functions.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €1,500.

(3) The following shall be absolutely privileged:

(*a*) documents of the Commission, and documents of its members connected with the Commission or its functions, wherever published;

(*b*) reports of the Commission, wherever published;

(*c*) statements made in any form at meetings or sittings of the Commission by its members or staff, consultants or other persons providing services to the Commission and such statements wherever published subsequently.

Annotations

Editorial Notes:

E6 A fine of €1,500 translates into a class C fine, not greater than €2,500, as provided (4.01.2011) by *Fines Act 2010* (8/2010), ss. 3, 6(2) and table ref. no. 1, S.I. No. 662 of 2010.

Prohibition of certain communications.

28. —(1) Subject to the provisions of *section 23*, it shall not be lawful for any person to communicate with the members of the Commission, or staff whose services are made available to the Commission under *section 24* or a consultant or other person providing services to the Commission, for the purposes of influencing the Commission in performing its functions.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €1,500.

Annotations

Editorial Notes:

E7 A fine of €1,500 translates into a class C fine, not greater than €2,500, as provided (4.01.2011) by *Fines Act 2010* (8/2010), ss. 3, 6(2) and table ref. no. 1, S.I. No. 662 of 2010.

Indemnification of Commission and certain other persons.

29. —(1) The Government shall, on such terms as it thinks appropriate, indemnify the Commission and each of its members against all actions and claims however they arise in respect of the performance by the Commission or a member of it of functions under this Part.

(2) The costs of any indemnification under *subsection (1)* shall, to such extent as may be determined by the Minister and the Minister for Finance, be met in the same manner as *section 25* provides that the expenses of the Commission shall be met.

(3) The Commission may, with the consent of the Minister for Finance and subject to any conditions that the Minister for Finance specifies in the consent, indemnify, on such terms as it thinks appropriate—

(*a*) any person against any loss or damage in respect of intellectual property rights or other loss or damage that may arise from the performance by it of functions under this Part, or

(*b*) any person against all actions or claims however they arise in respect of any act or omission of that person if it considers such indemnification of that person to be necessary or expedient for the purpose of the performance by it of functions under this Part.

(4) References in this section to the performance by the Commission or a member of it of functions under this Part shall be deemed to include references to activities undertaken by the Commission or the member, before the passing of this Act, in fulfilment or purported fulfilment of the terms of reference as set out in *Schedule 5* to this Act (including those terms as they are to be construed in accordance with *section 21(b)*); accordingly an indemnity under this section may be given in respect of an act done or an omission made before the passing of this Act, including in respect of any damage resulting from such an act or omission.

(5) For the avoidance of doubt, nothing in the Insurance Acts 1909 to 2000, regulations made under those Acts or regulations relating to insurance made under the European Communities Act 1972 shall affect anything required or authorised to be done by this section.

Annotations

Modifications (not altering text):

C2 Functions of Minister for Finance under section transferred to Minister for Public Expenditure and Reform (6.07.2011) by *Ministers and Secretaries (Amendment) Act 2011* (10/2011), s. 9(2) and sch. 2 part 1, commenced as per s. 1(2) and S.I. No. 401 of 2011, subject to s. 20(1).

Transfer of certain other functions to Minister.

9.— ...

(2) The functions conferred on the Minister for Finance by or under any of the provisions specified in Part 1 of Schedule 2 are transferred to the Minister.

...

Schedule 2

Functions Transferred To Minister

PART 1

Functions performable with consent of Minister for Finance

...

No. 15 of 2004	Electoral (Amendment) Act 2004	Section 29(2) and (3)

...

PART 4

Miscellaneous

Provision of detailed poll information.

30. —(1) The Minister may provide, by regulations, for the provision, after the conclusion of the counting of votes in an election or a referendum, of statistical information on a specified proportion of the poll concerned, including detailed information on the votes cast and comprised in that specified proportion.

(2) The content, format and extent of the information which may be provided pursuant to those regulations shall be such that the secrecy of the ballot is preserved.

(3) Subject to *subsection (2)*, regulations under this section shall provide for the means by which the information concerned is provided to persons (and the means so provided shall include provision for publication, in a specified manner, of the information to members of the public) and may provide for payment of a reasonable fee in respect of such provision (other than such provision by means of publication).

(4) Notwithstanding anything in regulations under this section, the returning officer or local returning officer concerned may decide not to allow for the provision of information referred to in *subsection (1)* in respect of any grouping of votes where he or she forms the opinion, whether by reason of the limited number of votes cast in an area or otherwise, that the provision of such detailed information in respect of that grouping of votes would infringe the secrecy of the ballot, and where he or she so decides that information shall, accordingly, not be provided in respect of that grouping of votes.

Amendment of section 88 of Electoral Act 1992.

31. —Section 88(2) of the Electoral Act 1992 is amended in paragraph (*cc*) (inserted by section 21(*b*) of the Electoral (Amendment) Act 2001) by inserting after "for that purpose", "and the purposes of Part 3 of the Electoral (Amendment) Act 2001 ".

Amendment of Electoral (Amendment) Act 2001.

32. — The Electoral (Amendment) Act 2001 is amended—

(*a*) in section 35 by—

(i) deleting ", biometric, photonic" in the definition of "electronic", and

(ii) inserting "recorded and" after "are" in the definition of "electronic voting system",

(*b*) in section 36 by—

(i) in subsection (1), inserting after "Minister." the following:

"In considering whether to approve such equipment the Minister shall have regard to any report or reports available to him or her with respect to the matter (being a report or reports prepared by a body or bodies which are accredited to or recognised by the European Co-operation for Accreditation) and shall be satisfied that the equipment enables a Dáil election to be conducted in accordance with the relevant enactments (in particular with regard to such matters as the integrity and confidentiality of the voting and vote counting processes).",

(ii) inserting after subsection (1), the following:

"(1A) Without prejudice to the generality of subsection (1), a voting machine shall not be approved under that subsection unless—

(*a*) it is designed so as to de-activate automatically, or be capable of being de-activated by an operator under the control of the presiding officer, between each vote cast by individual voters, and

(*b*) the control unit (or other appropriate device) of it is designed so as to indicate to the operator whether the machine is open for voting and the total number of votes cast and stored on the machine without, in either case, revealing individual preferences of the votes so cast and stored.

(1B) Without prejudice to subsection (4), the Minister may from time to time prepare and publish to returning officers guidelines concerning the steps to be taken by them and such other persons as are specified in the guidelines to ensure compliance by them with this Part generally and, in particular, the matters specified in subsection (1) and section 41(4) or, as appropriate, *section 10(4)* of the *Electoral (Amendment) Act 2004*.",

and

(iii) in subsection (2), inserting after "Minister may", ", if he or she is of opinion that the public interest so requires,",

(*c*) in section 38 by substituting the following subparagraphs for subparagraphs (ii) to (iv) of paragraph (*ll*):

"(ii) for 'obtained a ballot paper' in subsection (1)(*b*) there were substituted 'applied to vote';

(iii) there were deleted `(otherwise than under section 102)' in subsection (1)(*b*); and

(iv) for 'obtained a ballot paper' in subsection (2) there were substituted 'applied to vote';",

(*d*) in section 40 by substituting the following subsection for subsection (2):

"(2) If, for whatever reason, the voting machine concerned fails to produce the printed statement referred to in subsection (1), the information that would have been recorded in that statement, being information displayed on the voting machine's display screen, together with any other information specified by the form to be entered on it, shall be entered on a form directed by the Minister for the purposes of this subsection. The form shall be signed by the presiding officer and witnessed by an agent or other person in the polling station.",

(*e*) in section 41 by substituting the following subsection for subsection (4):

"(4) Where an elector has failed to cast, in accordance with subsection (3), his or her vote and has left the polling station and the presiding officer, accordingly, has reason to believe that the voting machine concerned is still open, the presiding officer shall verify, remotely (by means of the control unit), whether that is the case and, if the machine is open, shall de-activate it. Where an elector fails to leave a voting machine within a reasonable time the provisions of section 106(1) of the Act of 1992 shall apply and where, in such circumstances, the voting machine is still open the presiding officer shall de-activate it.",

(*f*) in section 42 by substituting the following subsection for subsection (5):

"(5) If, for whatever reason, the voting machine concerned fails to produce the printed statement referred to in subsection (2), the information that would have been recorded in that statement, being information displayed on the voting machine's display screen, together with any other information specified by the form to be entered on it, shall be entered on a form directed by the Minister for the purposes of this subsection. The form shall be signed by the presiding officer and witnessed by an agent or other person in the polling station.",

and

(*g*) in section 43 by—

(i) in subsection (1), inserting after "staff,", "not earlier than one hour", and

(ii) substituting the following subsection for subsection (10):

"(10) If, for whatever reason, the voting machine concerned fails to produce the printed statement referred to in subsection (5) or (6), the information that would have been recorded in that statement, being information displayed on the voting machine's display screen, together with any other information specified by the form to be entered on it, shall

be entered on a form directed by the Minister for the purposes of this subsection. The form shall be signed by the returning officer or a person authorised by him or her and witnessed by an agent or if no agent is present by another person present.".

Amendment of Schedule to Electoral Act 1997.

33. —The Schedule to the Electoral Act 1997 (inserted by section 50(*v*) of the Act of 2001) is amended by deleting subparagraph (*a*) of paragraph 2.

Amendment of section 161 of Local Government Act 2001.

34. — Section 161 of the Local Government Act 2001 is amended—

(*a*) in subsection (2), by substituting "Act, subject to the proviso that an order under subsection (1)(*b*) may be made before or after that day" for "Act",

(*b*) in subsection (3), by substituting "Where, after the said ordinary day of retirement," for "Where", and

(*c*) by the deletion of subsection (4).

Unlawful possession of polling information card.

35. —(1) A person shall be guilty of an offence if the person, without lawful authority—

(*a*) takes, destroys, conceals or otherwise interferes with a polling information card, or

(*b*) presents such a card at a polling station,

which is not addressed to the person in accordance with section 92 of the Act of 1992, section 23 of the Act of 1994, Rule 54 of the Second Schedule to the Act of 1997 F5**[**, Article 55 of the Regulations of 1995 or paragraph 40 of Part 1 of Schedule 2 to the Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024.**]**

(2) A person guilty of an offence under this section shall be liable—

(*a*) on summary conviction, to a fine not exceeding €3,500 or imprisonment for a term not exceeding 12 months or both, or

(*b*) on conviction on indictment, to a fine not exceeding €10,000 or imprisonment for a term not exceeding 2 years or both.

Annotations

Amendments:

F5 Substituted (31.03.2024) by *Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024* (7/2024), s. 42, S.I. No. 123 of 2024.

Editorial Notes:

E8 A fine of €3,500 translates into a class B fine, not greater than €4,000, as provided (4.01.2011) by *Fines Act 2010* (8/2010), ss. 3, 5(2) and table ref. no. 1, S.I. No. 662 of 2010.

Section 7 .

SCHEDULE 1

Modification of Certain Provisions of Act of 1997

For the purpose of the application by virtue of this Act to voting and the counting of votes of certain provisions of the Act of 1997, the said provisions as so applied shall have effect as if—

(*a*) a reference in any such provision to a ballot paper or ballot papers, other than in the case of postal voting and voting by special voters, were a reference, where appropriate, to a ballot paper displayed on a voting machine;

(*b*) a reference in any such provision to mark or marking in relation to a ballot paper, other than in the case of postal voting and voting by special voters, were a reference to pressing the designated space on a ballot paper displayed on a voting machine;

(*c*) a reference in any such provision to a ballot box or ballot boxes, other than in the case of postal voting and voting by special voters, were a reference to a voting machine or voting machines;

(*d*) a reference in any such provision to that Act included, where appropriate, a reference to this Act;

(*e*) in section 17(3)(*b*) of that Act, for "to open the ballot boxes and verify the ballot paper accounts" there were substituted "for the discharge of all or any particular part of his or her duties as local returning officer";

(*f*) in Rule 25 of the Second Schedule to that Act (referred to subsequently in this Schedule as the "Second Schedule")—

(i) there were inserted "and at the entry of votes on postal voters ballot papers on a voting machine" after "boxes" in subparagraph (*c*) of paragraph (1);

(ii) there were substituted for subparagraph (*d*) of paragraph (1) the following:

"(*d*) at the reading in and verification of vote data in cartridges or discs.";

(iii) for "ballot boxes have been sealed by the presiding officer as provided by Rule 71(2)" in paragraph (7), there were substituted "voting machines are closed down by the presiding officer pursuant to *section 11* of the *Electoral (Amendment) Act 2004* ";

(iv) there were inserted "and the entry of votes on postal voters ballot papers on a voting machine" after "postal voter ballot boxes" where those words first occur in paragraph (8) and there were inserted "and the votes on the postal voters ballot papers are to be entered on a voting machine" after "to be opened" in that paragraph;

(v) for "opening of the ballot boxes and the verification of ballot paper accounts" in paragraph (9) there were substituted "reading in and verification of vote data in cartridges or discs" and for "ballot boxes are to be opened" there were substituted "read in and verification takes place"; and

(vi) there were inserted "or the *Electoral (Amendment) Act 2004* " after "this Schedule" in paragraph (13);

(*g*) in Rule 28 of the Second Schedule for "ballot paper placed in a ballot box" there were substituted "vote cast on a ballot paper on a voting machine";

(*h*) in Rule 30(1) of the Second Schedule there were deleted ", and indistinguishable from," and for "delivered to" there were substituted "installed on a voting machine used by";

(*i*) in Rule 31 of the Second Schedule there were inserted "and the entry of postal voters and special voters votes on voting machines in accordance with *section 12* of the *Electoral (Amendment) Act 2004* " after "therein";

(*j*) in Rule 36 of the Second Schedule—

(i) in paragraph (1) there were substituted "after the final delivery of post to the local returning officer on polling day" for "before the time appointed by the local returning officer under rule 73 for the opening of ballot boxes and verification of ballot paper accounts"; and

(ii) there were inserted "and enter the votes on the ballot papers in the postal voters ballot box on a voting machine" after "therein" in paragraph (2);

(*k*) in Rule 38 of the Second Schedule for "with rule 75." there were substituted "with *section 12* of the *Electoral (Amendment) Act 2004*. The returning officer shall count and note the number of ballot papers placed in the ballot box and include such details in the statement referred to in Rule 39(5).";

(*l*) in Rule 39 of the Second Schedule there were inserted ", the unused ballot papers" after "postal voters list", where those words first occur in paragraph (1);

(*m*) in Rule 48 of the Second Schedule for "ballot boxes", in each place where those words occur in paragraphs (1)(*b*) and (3)(*b*), there were substituted "cartridges or discs from voting machines";

(*n*) in Rule 50 of the Second Schedule—

(i) there were inserted in paragraph (2)(*b*) (inserted by section 51(*j*) of the Act of 2001) "and the purposes of the *Electoral (Amendment) Act 2004* " after "for that purpose"; and

(ii) there were inserted "for postal and special voters" after "ballot papers" in each place where those words occur in subparagraph (*h*) of paragraph (2);

(*o*) in Rule 51(1) of the Second Schedule there were inserted "for a postal or special voter" after "ballot paper";

(*p*) in Rule 53 of the Second Schedule there were inserted "voting machines," after "ballot boxes," in each place where those words occur;

(*q*) in Rule 56 of the Second Schedule—

(i) in paragraph (7)—

(I) for "compartments" in subparagraph (*a*) there were substituted "voting machines";

(II) there were deleted subparagraphs (*c*), (*d*) and (*e*); and

(III) in subparagraph (i) there were deleted "and placing in the ballot box";

and

(ii) in paragraph (8), for "numbers on the ballot papers" there were substituted "serial numbers of the voting machines";

(*r*) in Rule 64 of the Second Schedule—

(i) in paragraph (1), for "for a ballot paper" there were substituted "to vote";

(ii) in paragraph (2), for "delivery of the ballot paper" there were substituted "permitting the elector to vote";

(iii) in paragraph (3), for "into one of the compartments in the polling station and there shall mark the ballot paper for the elector and shall fold it and show the back of the folded paper to the presiding officer so as to disclose the official mark and forthwith place the paper in the ballot box" there were substituted "to a voting machine in the polling station and then vote on the ballot paper displayed on the voting machine for the elector";

(iv) in paragraph (4), for "delivery of the ballot paper" there were substituted "permitting that person to vote for the elector"; and

(v) in paragraph (5), for "fold it and place it in the ballot box" there were substituted "vote on the voting machine";

(*s*) in Rule 65 of the Second Schedule—

(i) in paragraph (1)—

(I) for "a ballot paper", where those words first occur, there were substituted "a permission to vote";

(II) for "for a ballot paper" there were substituted "to vote"; and

(III) for "to receive a ballot paper and mark and place it in the ballot box" there were substituted "to vote";

and

(ii) in paragraph (2)—

(I) for "ballot papers issued pursuant to this rule" there were substituted "cases arising under paragraph (1)"; and

(II) for "such papers" there were substituted "such permissions referred to in that paragraph";

(*t*) in Rule 66 of the Second Schedule—

(i) in paragraph (1), for "for or has applied for a ballot paper" there were substituted "to vote or has voted"; and

(ii) in paragraph (2), for "for a ballot paper" in each place where those words occur, there were substituted "to vote";

(*u*) in Rule 70 of the Second Schedule—

(i) there were inserted "or voting machines" after "ballot boxes or ballot papers" where those words first occur;

(ii) for "ballot boxes or ballot papers" in paragraph (*a*) there were substituted "voting machines"; and

(iii) in paragraph (*e*) there were inserted "and the *Electoral (Amendment) Act 2004* " after "this Act";

(*v*) in Rule 72 of the Second Schedule for "for a ballot paper" in subparagraphs (*b*), (*c*) and (*d*) of paragraph (1) there were substituted "to vote";

(*w*) in Rule 73 of the Second Schedule—

(i) in paragraph (1) there were deleted "which shall not be later than 9 a.m. on the day next following the polling day," and there were substituted "read in and verify the vote data from the cartridges or discs in accordance with *section 13* of the *Electoral (Amendment) Act 2004* " for "open the ballot boxes and verify the ballot paper accounts in accordance with this Part"; and

(ii) in paragraph (2) there were substituted "read in and verify the vote data from the cartridges or discs" for "open the ballot boxes", there were substituted "reading in and verification of vote data from the cartridges or discs" for "verification of ballot paper accounts" and there were substituted "cartridges or discs" for "ballot papers";

(*x*) in Rule 74 of the Second Schedule—

(i) there were substituted in paragraph (1) "read in the vote data from the cartridges or discs" for "open the ballot boxes"; and

(ii) there were substituted in paragraph (3) "reading in and verification of vote data from the cartridges or discs" for "opening of the boxes and verification of the ballot paper accounts";

(*y*) in Rule 75 of the Second Schedule—

(i) there were substituted the following for subparagraphs (*a*) to (*e*) of paragraph (1):

"(*a*) read in and verify the vote data from the cartridges or discs received for each voting machine,

(*b*) prepare a statement showing the result of the verification under subparagraph (*a*) in respect of all the cartridges or discs for the county or county borough for which he or she is the local returning officer,

(*c*) forthwith, as instructed by the returning officer for the constituency, deliver the vote data and verification form to the said returning officer,

(*d*) place the cartridges and discs for each voting machine (including postal voters), in the cases provided, endorse on each such case the number of cartridges or discs contained therein, the name of the county or county borough and deliver each case to the chief returning officer as directed.";

and

(ii) there were deleted paragraph (2);

(*z*) in Rule 76 of the Second Schedule there were substituted "cartridges or discs" for "ballot papers" and there were substituted "read in and verification of vote data" for "verification of the ballot paper accounts";

(*aa*) in Rule 77 of the Second Schedule there were substituted "cartridges or discs containing vote data" for "ballot papers";

(*bb*) in Rule 78 of the Second Schedule in paragraph (3) for "the ballot papers have been correctly sorted" there were substituted "all the cartridges or discs received from the local returning officers have been correctly accounted for";

(*cc*) in Rule 79 of the Second Schedule—

(i) in paragraph (1) there were substituted "read in and verify the vote data received from the local returning officer" for "open the ballot boxes and the packets contained therein and extract the ballot papers therefrom"; and

(ii) in paragraph (2) there were substituted "the votes" for "the ballot papers" and there were inserted "and *section 13* of the *Electoral (Amendment) Act 2004* " after "Schedule";

(*dd*) Rule 81 of the Second Schedule were deleted;

(*ee*) in Rule 93 of the Second Schedule—

(i) in paragraph (1) there were substituted for subparagraphs (*a*) and (*b*) the following—

"(*a*) the cartridges or discs containing the vote data received from the local returning officers,

(*b*) the election database,";

(ii) in paragraph (3) there were substituted for subparagraphs (*a*), (*b*) and (*c*) the following:

"(*a*) the documents referred to in *section 12(9)(a)* and *(b)* of the *Electoral (Amendment) Act 2004*,

(*b*) verification of vote data in the cartridges or discs,";

(iii) in paragraph (4), there were inserted "and vote data to be deleted from the cartridges or discs" after "destroyed";

(*ff*) in Rule 103 of the Second Schedule—

(i) for "for a ballot paper" in subparagraphs (*a*) and (*b*) of paragraph (1) there were substituted "to vote";

(ii) for "obtained a ballot paper" in paragraph (1)(*b*) there were substituted "applied to vote" and there were deleted "(otherwise than under rule 63)"; and

(iii) for "obtained a ballot paper" in paragraph (2) there were substituted "applied to vote";

(*gg*) in Rule 106 of the Second Schedule—

(i) in paragraph (1), there were inserted "or at the entering of votes from postal and special voters ballot papers on a voting machine" after "postal voters ballot boxes";

(ii) in paragraph (1)(*b*), for "the said issue or the said voting or the said opening" there were substituted "the said issue, voting, opening or entering";

(iii) in paragraph (2), for "for a ballot paper" there were substituted "to vote" and there were deleted "or as to the official mark";

(iv) there were substituted the following for paragraph (3)—

"(3) A person who is present in any capacity at the read in and verification of vote data in cartridges or discs or the counting of votes at a European election shall be guilty of an offence if, except for some

purpose authorised by law, at any time he or she communicates any information obtained at such read in or such count.";

(v) in paragraph (4)(*a*), for "making a ballot paper" there were substituted "voting";

(vi) in paragraph (4)(*b*), there were deleted ", or as to the number on the back of the ballot paper issued to a voter at that station"; and

(vii) in paragraph (4)(*c*), for "display a ballot paper after the said voter has marked it so as to make known" there were substituted "disclose";

(*hh*) in Rule 107 of the Second Schedule there were inserted in paragraph (*a*) "or voting machine or cartridge or disc from a voting machine or software or other voting system equipment used for voting or vote counting" after "or any unused ballot paper";

(*ii*) in Rule 123 of the Second Schedule there were substituted for "ballot paper during the verification of the ballot paper accounts", "cartridge or disc during the read in and verification of vote data";

(*jj*) for Rule 134 of the Second Schedule there were substituted the following Rule:

"134. (1) The court may, for the purposes of the trial of a petition questioning a European election, if it thinks fit, order—

(*a*) that all the votes cast on voting machines at the election in a constituency to which the petition relates shall be counted afresh, or

(*b*) that all the votes so cast or recorded in cartridges or discs contained in particular voting machines shall be so counted,

and where the court so orders, the provisions of this Rule shall have effect. For the purpose of enabling such an order to be carried out, the software used for counting votes cast on voting machines shall include a capability of providing a table of the preferences recorded for each vote cast at the poll at the election, including the vote number referred to in *section 13(4)* of the *Electoral (Amendment) Act 2004* and a separate record of each vote cast at the referendum, showing the preference recorded on it and the vote number referred to in that *section 13(4)*.

(2) Votes to which an order under this Rule relates shall be counted afresh under the direction of the court and, subject to paragraphs (3), (4) and (5) and to such modifications (if any) as the court considers necessary.

(3) In counting the votes afresh pursuant to an order under this Rule, the count shall begin without disturbing the mix carried out by the constituency vote counting machine as provided for in *section 13* of the *Electoral (Amendment) Act 2004*.

(4) Where votes are counted afresh pursuant to an order under this Rule and the court decides that votes shall be added to, or removed from, the vote table, the software shall be capable of so adding or removing votes so that there shall be a minimum disturbance to the mix carried out by the constituency vote counting machine prior to the original count.

(5) The court shall have power to reverse any decision of the constituency returning officer at the original count.

(6) The costs of giving effect to an order under this section shall be paid by the Minister for Finance out of the Central Fund or the growing produce

thereof and section 18 shall, with respect to the services and expenses properly rendered or incurred by the returning officer or local returning officer for the purposes of, or in connection with, giving effect to the order, apply in the same manner as it applied in respect of the services and expenses rendered or incurred by the returning officer or local returning officer for, or in connection with, the election.";

and

(*kk*) in Rule 147 of the Second Schedule—

(i) there were inserted "and the entering of votes on postal and special voter ballot papers on a voting machine" after "postal voter ballot boxes" in paragraph (*c*); and

(ii) there were substituted "read in and verification of vote data in cartridges or discs" for "verification of ballot paper accounts" in paragraph (*e*).

Section 7 .

SCHEDULE 2

Modification of Certain Provisions of Regulations of 1995

For the purpose of the application by virtue of this Act to voting and the counting of votes of certain provisions of the Regulations of 1995, the said provisions as so applied shall have effect as if—

(*a*) a reference in any such provision to a ballot paper or ballot papers, other than in the case of postal voting and voting by special voters, were a reference, where appropriate, to a ballot paper displayed on a voting machine;

(*b*) a reference in any such provision to mark or marking in relation to a ballot paper, other than in the case of postal voting and voting by special voters, were a reference to pressing the designated space on a ballot paper displayed on a voting machines;

(*c*) a reference in any such provision to a ballot box or ballot boxes, other than in the case of postal voting and voting by special voters, were a reference to a voting machine or voting machines;

(*d*) in Articles 5, 9, 25 and 70(1) of those Regulations there were inserted "and the *Electoral (Amendment) Act 2004* " after "Act of 1994";

(*e*) in Article 26 of those Regulations—

(i) there were inserted "and at the entry of votes on postal voters ballot papers on a voting machine" after "boxes" in paragraph (*c*) of sub-article (1);

(ii) for "ballot boxes have been sealed by the presiding officer pursuant to Article 72" in sub-article (6), there were substituted "voting machines are closed down by the presiding officer pursuant to *section 11* of the *Electoral (Amendment) Act 2004* ";

(iii) there were inserted "and the entry of votes on postal voters ballot papers on a voting machine" after "postal ballot boxes" where those words first occur in sub-article (7) and there were inserted "and the votes on the postal voters ballot papers are entered on a voting machine" after "to be opened" in that sub-article; and

(iv) there were inserted "or the *Electoral (Amendment) Act 2004* " after "these Regulations" in sub-article (11);

(*f*) in Article 29 of those Regulations for "ballot paper placed in a ballot box" there were substituted "vote cast on a ballot paper on a voting machine";

(*g*) in Article 31(1) of those Regulations there were deleted ", and indistinguishable from," and for "delivered to" there were substituted "installed on a voting machine used by";

(*h*) in Article 32 of those Regulations there were inserted "and the treatment of postal voters and special voters votes in accordance with *section 12* of the *Electoral (Amendment) Act 2004* " after "therein";

(*i*) in Article 37 of those Regulations there were substituted "Before" for "At the hour fixed for";

(*j*) in Article 38 of those Regulations there were inserted "and enter the votes on the ballot papers in the postal voters ballot box on a voting machine" after "therein" in sub-article (2);

(*k*) in Article 40 of those Regulations for "for the purposes of Article 76" there were substituted "in accordance with *section 12* of the *Electoral (Amendment) Act 2004*. The returning officer shall count and note the number of ballot papers placed in the ballot box and include such details in the statement referred to in Article 41(5)";

(*l*) in Article 41 of those Regulations there were inserted ", the unused ballot papers," after "postal voters list", in sub-article (1);

(*m*) in Article 49 of those Regulations, for "ballot boxes", in each place where those words occur in sub-articles (1)(*b*) and (3)(*b*), there were substituted "cartridges or discs from voting machines";

(*n*) in Article 51 of those Regulations—

(i) there were inserted in sub-article (2)(*aa*) (inserted by section 54(*b*) of the Act of 2001) ", for that purpose and the purposes of the *Electoral (Amendment) Act 2004* " after "Schedule may"; and

(ii) there were inserted "for postal and special voters" after "ballot papers" in each place where those words occur in paragraph (*d*) of sub-article (2);

(*o*) in Article 52 of those Regulations there were inserted "for a postal or special voter" after "ballot paper";

(*p*) in Article 54 of those Regulations there were inserted "voting machines," after "ballot boxes," in each place where those words occur;

(*q*) in Article 57 of those Regulations—

(i) in sub-article (5)—

(I) for "compartments" in paragraph (*a*) there were substituted "voting machines";

(II) there were deleted paragraphs (*c*), (*d*) and (*e*); and

(III) in paragraph (*i*) (inserted by the Electoral (Amendment) Act 1996) there were deleted "and placing in the ballot box";

and

(ii) in sub-article (6), for "numbers on the ballot papers" there were substituted "serial numbers of the voting machines";

(*r*) in Article 58 of those Regulations, there were inserted "or the *Electoral (Amendment) Act 2004* " after "these Regulations" in sub-articles (4) and (5);

(*s*) in Article 65 of those Regulations—

(i) in sub-article (1), for "for a ballot paper" there were substituted "to vote";

(ii) in sub-article (2), for "delivery of the ballot paper" there were substituted "permitting the elector to vote";

(iii) in sub-article (3), for "into one of the compartments in the polling station and there shall mark the ballot paper for the elector and shall fold it and show the back of the folded paper to the presiding officer so as to disclose the official mark and forthwith place the paper in the ballot box" there were substituted "to a voting machine in the polling station and then vote on the ballot paper displayed on the voting machine for the elector";

(iv) in sub-article (4), for "delivery of the ballot paper" there were substituted "permitting that person to vote for the elector"; and

(v) in sub-article (5), for "fold it and place it in the ballot box" there were substituted "vote on the voting machine";

(*t*) in Article 66 of those Regulations—

(i) in sub-article (1)—

(I) for "a ballot paper", where those words first occur, there were substituted "a permission to vote";

(II) for "for a ballot paper" there were substituted "to vote"; and

(III) for "to receive a ballot paper and mark and place it in the ballot box" there were substituted "to vote";

and

(ii) in sub-article (2)—

(I) for "ballot papers issued pursuant to this article" there were substituted "cases arising under sub-article (1)"; and

(II) for "such papers" there were substituted "such permissions referred to in that sub-article";

(*u*) in Article 67 of those Regulations—

(i) in sub-article (1), for "for or has applied for a ballot paper" there were substituted "to vote or has voted"; and

(ii) in sub-article (2), for "for a ballot paper", in each place where those words occur, there were substituted "to vote";

(*v*) in Article 69(3) of those Regulations, for "open any of the ballot boxes" there were substituted "open the postal voters ballot box or cause to be read any votes on a cartridge or disc from any voting machine";

(*w*) in Article 70 of those Regulations—

(i) in paragraph (*c*) there were inserted "and the *Electoral (Amendment) Act 2004* " after "these Regulations", and

(ii) in paragraph (*d*) there were inserted "or cause to be read any votes on a cartridge or disc from any voting machine" after "ballot boxes";

(*x*) in Article 71 of those Regulations—

(i) there were inserted "or voting machines" after "ballot boxes or ballot papers" where those words first occur;

(ii) for "ballot boxes or ballot papers" in paragraph (*a*) there were substituted "voting machines"; and

(iii) in paragraph (*d*) there were inserted "and the *Electoral (Amendment) Act 2004* " after "these Regulations"; and

(iv) in paragraph (*e*) for "open any of the ballot boxes" there were substituted "open the postal voters ballot box or cause to be read any votes on a cartridge or disc from any voting machine";

(*y*) in Article 73 of those Regulations, for "for a ballot paper" in sub-articles (1)(*a*), (2) and (3) there were substituted "to vote";

(*z*) in Article 74 of those Regulations—

(i) in sub-article (1) there were substituted "after the close of the poll" for "not later than the hour of 9 a.m. on the day next following polling day"; and

(ii) in sub-article (2) there were inserted "and cartridges or discs from voting machines" after "ballot papers";

(*aa*) in Article 75(3) of those Regulations, for "the ballot papers have been correctly sorted" there were substituted "all the cartridges or discs from voting machines have been correctly accounted for";

(*bb*) in Article 79 of those Regulations, for "ballot papers" there were substituted "cartridges or discs from voting machines";

(*cc*) in Article 92 of those Regulations—

(i) in sub-article (1) there were deleted all the words from "sealed packets" down to and including "polling stations," and there were substituted "sealed packets the cartridges or discs from voting machines and the statements referred to in *sections 9(1), 11(2)* and *12(5)* and *(6)* of the *Electoral (Amendment) Act 2004*,"; and

(ii) for "article 76" in paragraph (*b*) of sub-article (2) there were substituted " *section 13(3)* of the *Electoral (Amendment) Act 2004* ";

(*dd*) in Article 93 of those Regulations—

(i) there were substituted the following for paragraph (*d*) of sub-article (2)—

"(*d*) the cartridges or discs referred to in *subsection (2)* of *section 13* of the *Electoral (Amendment) Act 2004* and the documents referred to in *paragraphs (a)* and *(b)* of *section 12(9)* of that Act.";

(ii) there were inserted "or the *Electoral (Amendment) Act 2004* " after "Part XV" in sub-article (3);

(*ee*) in Article 95 of those Regulations—

(i) for "for a ballot paper" in paragraphs (*a*) and (*b*) of sub-article (1) there were substituted "to vote";

(ii) for "obtained a ballot paper" in sub-article (1)(*b*) there were substituted "applied to vote" and there were deleted "(otherwise than under article 64)"; and

(iii) for "obtained a ballot paper" in sub-article (2) there were substituted "applied to vote";

(*ff*) in Article 98 of those Regulations—

(i) in sub-article (1), there were inserted "or at the entering of votes from postal and special voters ballot papers on a voting machine" after "postal ballot boxes";

(ii) in sub-article (1)(*b*), for "the said issue or the said voting or the said opening" there were substituted "the said issue, voting, opening or entering";

(iii) in sub-article (2), for "for a ballot paper" there were substituted "to vote" and "or as to the official mark" were deleted;

(iv) the following were substituted for sub-article (3)—

"(3) A person who is present in any capacity at the read in and verification of vote data in cartridges or discs or the counting of votes at a local election shall be guilty of an offence if, except for some purpose authorised by law, at any time he or she communicates any information obtained at such read in or such count.";

(v) in sub-article (4)(*a*), for "marking a ballot paper" there were substituted "voting";

(vi) in sub-article (4)(*b*), there were deleted ", or as to the number on the back of the ballot paper issued to a voter at that station"; and

(vii) in sub-article (4)(*c*), for "display a ballot paper after the voter has marked it so as to make known" there were substituted "disclose";

(*gg*) in Article 99(*a*) of those Regulations, there were inserted "or voting machine or cartridge or disc from a voting machine or software or other voting system equipment used for voting or vote counting" after "or any unused ballot paper";

(*hh*) in Article 114 of those Regulations, there were inserted "or a cartridge or disc from a voting machine" after "ballot paper";

(*ii*) in Article 121 of those Regulations, there were inserted "and the entering of votes on postal and special voter ballot papers on a voting machine" after "postal ballot boxes" in paragraph (*c*); and

(*jj*) in Article 123, there were inserted "and the *Electoral (Amendment) Act 2004* " after "these Regulations".

Section 7 .

SCHEDULE 3

Modification of Certain Provisions of Act of 1994

For the purpose of the application by virtue of this Act to voting and the counting of votes at a referendum of certain provisions of the Act of 1994, the said provisions as so applied shall have effect as if—

(*a*) a reference in any such provision to a ballot paper or ballot papers, other than in the case of postal voting and voting by special voters, were a reference, where appropriate, to a ballot paper displayed on a voting machine;

(*b*) a reference in any such provision to mark or marking in relation to a ballot paper, other than in the case of postal voting and voting by special voters, were a reference to pressing the designated space on a ballot paper displayed on a voting machine;

(*c*) a reference in any such provision to a ballot box or ballot boxes, other than in the case of postal voting and voting by special voters, were a reference to a voting machine or voting machines;

(*d*) a reference in any section of the Act of 1994 to that Act included, where appropriate, a reference to this Act;

(*e*) in section 2(3) of that Act there were inserted after paragraph (*i*) the following paragraph;

"(*ii*) in section 75 of the said Act for 'as a ballot box for the purposes of section 114' there were substituted 'in accordance with *section 12* of the *Electoral (Amendment) Act 2004* ';";

(*f*) in section 7 of that Act, there were inserted "and the entering of votes on postal and special voter ballot papers on a voting machine" after "postal ballot boxes" in paragraph (*c*);

(*g*) in section 15(4) of that Act, for "open the ballot boxes and count the votes", in each place where those words occur, there were substituted "open the postal voter ballot boxes and count the votes in accordance with the *Electoral (Amendment) Act 2004* ";

(*h*) in section 24 of that Act—

(i) there were inserted "or Part IA" after "Part I" in paragraph (*a*) of subsection (1);

(ii) there were inserted "or Part IIA" after "Part II" in subsection (2); and

(iii) there were inserted "for postal and special voters" after "ballot papers" in each place where those words occur in paragraphs (*a*) and (*b*) of subsection (5);

(*i*) in section 25(1) of that Act, there were inserted "for a postal or special voter" after "ballot paper";

(*j*) in section 26 of that Act—

(i) there were inserted "and at the entry of votes on postal voters ballot papers on a voting machine" after "boxes" in paragraph (*b*) of subsection (1);

(ii) for "ballot boxes have been sealed by the presiding officer pursuant to section 110 of the Act of 1992 (as applied by section 32)" in subsection (6), there were substituted "voting machines are closed down by the presiding officer pursuant to *section 11* of the *Electoral (Amendment) Act 2004* ";

(iii) there were inserted "and the entry of votes on postal voters ballot papers on a voting machine" after "postal ballot boxes" where those words first occur in subsection (7) and there were inserted "and the votes on the postal voters ballot papers are entered on a voting machine" after "to be opened" in that subsection;

(*k*) in section 28(2) of that Act for "ballot paper placed in a ballot box" there were substituted "vote cast on a ballot paper on a voting machine";

(*l*) in section 38 of that Act—

(i) in subsection (1) there were deleted all the words from "sealed packets" down to and including "polling stations," and there were substituted "sealed packets the cartridges or discs from voting machines and the statements referred to in *sections 9(1), 11(2)* and *12(5)* and *(6)* of the *Electoral (Amendment) Act 2004* "; and

(ii) for "section 114 of the Act of 1992 (as applied by section 33)" in paragraph (*b*) of subsection (2) there were substituted " *section 13* of the *Electoral (Amendment) Act 2004* ";

(*m*) in section 39 of that Act there were substituted for paragraph (*d*) of subsection (2) the following:

"(*d*) the cartridges or discs referred to in subsection (1) of section 38 (as modified by virtue of the *Electoral (Amendment) Act 2004*) and the documents referred to in *paragraphs (a)* and *(b)* of *section 12(9)* of that Act.";

(*n*) in section 47 of that Act the following were substituted for subsections (1) to (4)—

"(1) The court may, for the purposes of the trial of a referendum petition, if it thinks fit, order—

(*a*) that all the votes cast at a referendum on voting machines in a constituency shall be counted afresh, or

(*b*) that all the votes so cast or recorded on cartridges or discs contained in particular voting machines shall be so counted,

and where the court so orders, the provisions of this section shall have effect. For the purpose of enabling such an order to be carried out, the software used for counting votes cast on voting machines shall include a capability of providing a table of the preferences recorded for each vote cast at the poll at the referendum, including the vote number referred to in *section 13* of the *Electoral (Amendment) Act 2004* and a separate record of each vote cast at the referendum, showing the preference recorded on it and the vote number referred to in that *section 13* .

(2) Votes to which an order under this section relates shall be counted afresh under the direction of the court and subject to subsections (3), (4) and (4A) and to such modifications (if any) as the court considers necessary.

(3) In counting the votes afresh pursuant to an order under this section, the count shall begin without disturbing the mix carried out by the constituency vote counting machine under *section 13* of the *Electoral (Amendment) Act 2004*.

(4) Where votes are counted afresh pursuant to an order under this section and the court decides that votes shall be added to, or removed from, the vote table, the software shall be capable of so adding or removing votes so that there shall be a minimum disturbance to the mix carried out by the constituency vote counting machine prior to the original count.

(4A) The court shall have power to reverse any decision of the local returning officer at the original count.";

(*o*) in the Second Schedule to that Act—

(i) there were inserted after Part I, the following:

"Part IA

FORM OF BALLOT PAPER FOR USE ON A VOTING MACHINE AT CONSTITUTIONAL REFERENDUM
(Space for title if any)

	An bhfuil tú ag toiliú leis an togra chun an Bunreacht a leasú atá sa Bhille thíosluaite? Do you approve of the proposal to amend the Constitution contained in the undermentioned Bill? NÁ BRÚIGH ACH AON CHNAIPE AMHÁIN PRESS ONE BUTTON ONLY MÁ THOILÍONN TU, brúigh an cnaipe seo / IF YOU APPROVE, press this button — TÁ YES MURA dTOILÍONN TÚ, brúigh an cnaipe seo / IF YOU DO NOT APPROVE, press this button — NÍL NO

and

(ii) there were inserted after Part II, the following:

"Part IIA

FORM OF BALLOT PAPER FOR USE ON A VOTING MACHINE AT ORDINARY REFERENDUM
(Space for title if any)

	An bhfuil tú ag toiliú le dlí a dhéanamh den togra thíosluaite? Do you approve of the undermentioned proposal becoming law? NÁ BRÚIGH ACH AON CHNAIPE AMHÁIN PRESS ONE BUTTON ONLY MÁ THOILÍONN TU, brúigh an cnaipe seo / IF YOU APPROVE, press this button — TÁ YES MURA dTOILÍONN TÚ, brúigh an cnaipe seo / IF YOU DO NOT APPROVE, press this button — NÍL NO

Section 7 .

SCHEDULE 4

Modification of certain provisions of Act of 1993

For the purposes of the application by virtue of this Act to voting and the counting of votes at a presidential election of certain provisions of the Act of 1993, the said provisions as so applied shall have effect as if—

(*a*) a reference in any such provision to a ballot paper or ballot papers, other than in the case of postal voting and voting by special voters, were a reference, where appropriate, to a ballot paper displayed on a voting machine;

(*b*) a reference in any such provision to mark or marking in relation to a ballot paper, other than in the case of postal voting and voting by special voters, were a reference to pressing the designated space on a ballot paper displayed on a voting machine;

(*c*) a reference in any such provision to a ballot box or ballot boxes, other than in the case of postal voting and voting by special voters, were a reference to a voting machine or voting machines;

(*d*) a reference in any section of the Act of 1993 to that Act included, where appropriate, a reference to this Act;

(*e*) in section 10(4) of that Act there were inserted "postal voters" before "ballot boxes" and there were inserted ", read in the cartridges or discs" after "ballot boxes" in paragraphs (*a*) and (*b*);

(*f*) in section 34 of that Act—

(i) there were inserted "and the entering of votes on postal and special voter ballot papers on a voting machine" after "postal ballot boxes" in subsection 2(*b*);

(ii) in subsection (7) there were substituted "poll is closed in accordance with *section 11* of the *Electoral (Amendment) Act 2004* " for "ballot boxes have been sealed by the presiding officer pursuant to section 110 of the Act of 1992 (as applied by section 44)";

(iii) in subsection (8) there were inserted "and the entry of postal ballot papers on the voting machine" after "postal ballot boxes";

(*g*) in section 37 of that Act—

(i) there were inserted in subsection (2)(*aa*) (inserted by section 52(*d*) of the Act of 2001) after "for that purpose" "and the purposes of the *Electoral (Amendment) Act 2004* "; and

(ii) there were inserted "postal voter" before "ballot papers" in subsections (2)(*d*) and (2)(*e*);

(*h*) in section 38 of that Act there were inserted "postal voter and special voter" before "ballot paper" in subsection (1);

(*i*) in section 53 of that Act, the reference to ballot papers in paragraphs (*b*) and (*c*) were a reference to votes;

(*j*) in section 54 of that Act—

(i) in subsection (1), there were inserted "postal voter" before "ballot papers" in paragraphs (*a*), (*b*) and (*c*) and there were substituted the following for paragraph (*d*)—

"(*d*) the cartridges or discs containing votes and election database,";

(ii) in subsection (2) there were substituted the following for paragraph (*b*)—

"(*b*) the statement referred to in *section 13(3)* of the *Electoral (Amendment) Act 2004*, and";

(iii) there were inserted in subsection (4) "and the deletion of the votes in the cartridges or discs" after "destroyed";

(*k*) in section 55 of that Act, there were inserted "and the documents referred to in *paragraphs (a)* and *(b)* of *section 12(9)* of the *Electoral (Amendment) Act 2004* " after "section 54(1)" in paragraph (*d*) of subsection (2); and

(*l*) in section 60 of that Act, there were inserted "and the entry of postal votes on a voting machine" after "ballot boxes" in paragraph (*c*).

Section 21 .

SCHEDULE 5

COMMISSION ON ELECTRONIC VOTING

Text of Terms of Reference

The Commission, which shall be independent in the performance of its functions, shall prepare a number of reports for presentation to the Ceann Comhairle on the secrecy and accuracy of the chosen electronic voting and counting system, i.e. the Powervote/Nedap system.

The Commission shall make one or more of such reports to the Ceann Comhairle not later than 1 May, 2004 comprising recommendations on the secrecy and accuracy including the application or nonapplication as the case may be of the electronic voting and counting of the Powervote/Nedap system for the European and Local Elections on 11 June, 2004.

The Commission's subsequent report or reports will record its views of the operation and experience of electronic voting and counting at elections.

In carrying out its work, it will be open to the Commission to review the tests already undertaken to validate the electronic voting and counting system, and to have further tests undertaken. It may also retain the service of such consultants or other persons that it considers are desirable.

The Commission shall be entitled to invite and consider submissions on such basis as it thinks appropriate.

Number 15 *of* 2004

ELECTORAL (AMENDMENT) ACT 2004

REVISED

Updated to 31 March 2024

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Electoral Acts 1992 to 2023: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Electoral (Amendment) Act 2023* (40/2023), s. 7(2)). The Acts in this group are:

- *Electoral Act 1992* (23/1992)
- *Electoral (Amendment) Act 1995* (21/1995) *(Repealed)*
- *Electoral (Amendment) Act 1996* (43/1996)
- *Electoral Act 1997* (25/1997)
- *Electoral (Amendment) Act 1998* (4/1998)
- *Electoral (Amendment) (No. 2) Act 1998* (19/1998) *(Repealed)*
- *Local Elections (Disclosure of Donations and Expenditure) Act 1999* (7/1999)
- *Standards in Public Office Act 2001* (31/2001), insofar as it relates to functions of the Standards in Public Office Commission under the *Electoral Act 1997* (25/1997)
- *Electoral (Amendment) Act 2001* (38/2001)
- *Electoral (Amendment) Act 2002* (4/2002)
- *Electoral Amendment (No. 2) Act 2002* (23/2002)
- *Electoral (Amendment) Act 2004* (15/2004)
- *Electoral (Amendment) Act 2005* (16/2005)
- *Electoral (Amendment) Act 2006* (33/2006)
- *Electoral (Amendment) Act 2007* (14/2007)
- *Electoral (Amendment) Act 2009* (4/2009)
- *Electoral (Amendment)(No. 2) Act 2009* (9/2009), other than s. 9
- *Electoral (Amendment) Act 2011* (14/2011)
- *Electoral (Amendment) Act 2012* (27/2012)
- *Electoral (Amendment) (Political Funding) Act 2012* (36/2012)
- *Electoral (Amendment) (Dáil Constituencies) Act 2013* (7/2013)
- *Electoral, Local Government and Planning and Development Act 2013* (27/2013), except Parts 8 and 9
- *Local Government Reform Act 2014* (1/2014), ss. 1(6), s. 5(4), Schedule 2, Part 2 and Schedule 4, paras. 17 and 18, in so far as it relates to the *Electoral Act 1992*
- *Electoral (Amendment) Act 2014* (8/2014)
- *Electoral (Amendment) (No. 2) Act 2014* (24/2014)
- *Electoral (Amendment) Act 2015* (62/2015), ss. 3 and 4
- *Electoral (Amendment) Act 2016* (5/2016)
- *Electoral (Amendment) (Dáil Constituencies) Act 2017* (39/2017)

- *Companies (Statutory Audits) Act 2018* (22/2018), ss. 71 and 73
- *European Parliament Elections (Amendment) Act 2019* (7/2019), s. 8
- *Electoral Reform Act 2022* (30/2022), ss. 6-30, 41-59, 61-69, 72, 77-114, 173
- *Electoral (Amendment) Act 2023* (40/2023), other than s. 5

European Parliament Elections Acts 1992 to 2023: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Electoral (Amendment) Act 2023* (40/2023), s. 7(3)). The Acts in the group are:

- *Electoral Act 1992* (23/1992), Parts II, III, IV and XXIII and Second Schedule so far as they relate to European elections and European electors
- *European Parliament Elections Act 1997* (2/1997)
- *Electoral Act 1997* (25/1997), insofar as it relates to the European elections
- *Local Elections (Disclosure of Donations and Expenditure) Act 1999* (7/1999), subs. 1(4) and so much of ss. 2 and 25 as relate to the European Parliament elections
- *Electoral (Amendment) Act 2001* (38/2001), insofar as it relates to European Parliament elections
- *Electoral (Amendment) Act 2002* (4/2002), insofar as it relates to European Parliament elections
- *European Parliament Elections (Amendment) Act 2004* (2/2004)
- *Electoral (Amendment) Act 2004* (15/2004), insofar as it relates to European Parliament elections
- *Electoral (Amendment) Act 2006* (33/2006), insofar as it relates to European Parliament elections
- *Electoral (Amendment) Act 2009* (4/2009), in so far as it relates to European Parliament elections
- *Electoral, Local Government and Planning and Development Act 2013* (27/2013)
- *European Parliament Elections (Amendment) Act 2014* (2/2014)
- *Electoral (Amendment) Act 2014* (8/2014), in so far as it relates to European Parliament elections
- *European Parliament Elections (Amendment) Act 2019* (7/2019), other than s. 8
- *Electoral Reform Act 2022* (30/2022), ss. 75, 115, 176
- *Electoral (Amendment) Act 2023* (40/2023), s. 5

Local Elections Acts 1974 to 2014: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Local Government Reform Act 2014* (1/2014), s. 1(5)). The Acts in the group are:

- *Local Elections (Petitions and Disqualifications) Act 1974* (8/1974)
- *Electoral Act 1992* (23/1992), Part II insofar as it relates to local government electors and Part XXIII insofar as it relates to local elections
- *Local Government Act 1994* (8/1994), Parts II and III *(Repealed)*
- *Electoral Act 1997* (25/1997), Parts VII and VIII insofar as they relate to local elections
- *Local Government Act 1998* (16/1998), ss. 9 and 10
- *Local Elections (Disclosure of Donations and Expenditure) Act 1999* (7/1999), s. 1, other than subs. (4), and so much of s. 25 as relates to the European Parliament elections
- *Local Government Act 2001* (37/2001), Parts 3 and 4, Part 5 Chapter 3 and s. 243
- *Electoral (Amendment) Act 2001* (38/2001), insofar as it relates to local elections
- *Electoral (Amendment) Act 2002* (4/2002), insofar as it relates to local elections
- *Local Government (No. 2) Act 2003* (17/2003)
- *Electoral (Amendment) Act 2004* (15/2004), insofar as it relates to local elections
- *Electoral (Amendment) Act 2006* (33/2006), insofar as it relates to local elections
- *Electoral (Amendment) Act 2009* (4/2009), insofar as it relates to local elections
- *Electoral (Amendment)(No. 2) Act 2009* (9/2009), other than s. 9
- *Electoral (Amendment) (Political Funding) Act 2012* (36/2012), in so far as it relates to local elections
- *Local Government Reform Act 2014* (1/2014), ss. 1(5), s. 5(4) and Schedule 2, part 2 in so far as it relates to *Local Elections (Petitions and Disqualifications) Act 1974* and *Local Elections (Disclosure of Donations and Expenditure) Act 1999*

Local Government Acts 1925 to 2024: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024* (7/2024), s. 1(2)(a)). The Acts in the group are:

- *Local Government Act 1925* (5/1925)
- *Local Government Act 1927* (3/1927)
- *Local Government Act 1941* (23/1941)
- *Local Government Act 1946* (24/1946)
- *Local Government Act 1955* (9/1955)
- *Local Government (No. 2) Act 1960* (40/1960)
- *Local Government (Buncrana) Act 1968* (2/1968)
- *Local Government (Rateability of Rents) (Abolition) Act 1971* (15/1971), in so far as it amends the Local Government Acts 1925 to 1968
- *Local Government (Financial Provisions) Act 1978* (35/1978)
- *Local Government (Financial Provisions) Act 1983* (10/1983)
- *Local Government (Financial Provisions) (No. 2) Act 1983* (21/1983)
- *Local Government (Reorganisation) Act 1985* (7/1985)
- *Local Government Act 1991* (11/1991)
- *Local Government Act 1994* (8/1994)
- *Local Government (Financial Provisions) Act 1997* (29/1997)
- *Local Government Act 1998* (16/1998)
- *Local Government (Financial Provisions) Act 2000* (6/2000)
- *Local Government Act 2001* (37/2001), other than ss. 163, 164 and 211 and Parts 23 and 24
- *Local Government Act 2003* (8/2003)
- *Local Government (No.2) Act 2003* (17/2003)
- *Electoral (Amendment) Act 2004* (15/2004), s. 34
- *Local Government (Business Improvement Districts) Act 2006* (42/2006), ss. 2 to 7
- *Water Services Act 2007* (30/2007), ss. 1(7), 13 and 115
- *Copyright and Related Rights (Amendment) Act 2007* (39/2007), Part 3
- *Local Government (Miscellaneous Provisions) Act 2012* (17/2012), Part 4
- *Electoral, Local Government and Planning and Development Act 2013* (27/2013), Part 9
- *Local Government Reform Act 2014* (1/2014), other than ss. 1(3)-(8), 5(3)-(5) and sch. 2
- *Housing (Miscellaneous Provisions) Act 2014* (21/2014), s. 57
- *Planning and Development (Housing) and Residential Tenancies Act 2016* (16/2016), ss. 1(2)(c) and 52
- *Local Government Act 2019* (1/2019)
- *Local Government Rates and Other Matters Act 2019* (24/2019), other than ss. 23-26
- *Local Government (Maternity Protection and Other Measures for Members of Local Authorities) Act 2022* (52/2022), s. 2
- *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023* (26/2023), Part 13 chapters 6, 7 (ss. 261-274)
- *Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024* (7/2024), other than Part 5 (ss. 36-45) and ss. 65, 66, 67, 69

Acts previously included in the group but now repealed are:

- *Local Government (Amendment) Act 1930* (26/1930)
- *Local Government Act 1931* (19/1931)
- *Local Government Act 1933* (5/1933)
- *Local Government (Amendment) Act 1934* (5/1934)
- *Local Government (Amendment) (No. 2) Act 1934* (44/1934)
- *Local Government Act 1936* (46/1936)
- *Local Government (Amendment) Act 1939* (9/1939)
- *Local Government Act 1953* (12/1953)
- *Local Government Act 1958* (9/1958)
- *Local Government Act 1959* (10/1959)
- *Local Government Act 1960* (23/1960)
- *Local Government (Roads and Motorways) Act 1974* (6/1974)
- *Local Government (Toll Roads) Act 1979*(34/1979)
- *Local Government Act 2000* (25/2000)

Presidential Elections Acts 1992 to 2006: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Electoral (Amendment) Act 2006* (33/2006), s. 20(4)). The Acts in the group are:

- *Electoral Act 1992* (23/1992), Part II, insofar as it relates to presidential electors, and Part XXIII, insofar as it relates to presidential elections
- *Presidential Elections Act 1993* (28/1993)
- *Electoral Act 1997* (25/1997), Part VI and, insofar as they relate to presidential elections, Parts VII and VIII
- *Electoral (Amendment) Act 2001* (38/2001), insofar as it relates to presidential elections
- *Electoral (Amendment) Act 2004* (15/2004), insofar as it relates to presidential elections
- *Electoral (Amendment) Act 2006* (33/2006), insofar as it relates to presidential elections

Referendum Acts 1992 to 2022: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Electoral Reform Act 2022* (30/2022), s. 1(4)). The Acts in the group are:

- *Electoral Act 1992* (23/1992), Parts II and XXIII, insofar as they relate to referenda
- *Referendum Act 1994* (12/1994)
- *Referendum Act 1998* (1/1998)
- *Electoral (Amendment) Act 2001* (38/2001), insofar as it relates to referendums
- *Referendum Act 2001* (53/2001)
- *Electoral (Amendment) Act 2004* (15/2004), insofar as it relates to referendums
- *Electoral (Amendment) Act 2006* (33/2006), insofar as it relates to referendums
- *Electoral, Local Government and Planning and Development Act 2013* (27/2013), insofar as it relates to referendums
- *Electoral Reform Act 2022* (30/2022), ss. 31-40, 117, 174

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024* (7/2024)
- *Ministers and Secretaries (Amendment) Act 2011* (10/2011)
- *Houses of the Oireachtas Commission (Amendment) Act 2009* (44/2009)

All Acts up to and including *Road Traffic Act 2024* (10/2024), enacted 17 April 2024, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011)

- *Electoral (Amendment) Act 2001 Part 3 Order 2002 (Revocation) Order 2007* (S.I. No. 192 of 2007)
- *Electoral (Amendment) Act 2004 (Commencement) Order 2005* (S.I. No. 76 of 2005)
- *Electoral (Amendment) Act 2001 - Part 3 Order 2002 (Revocation) Order 2005* (S.I. No. 75 of 2005)
- *Electoral (Amendment) Act 2004 (Commencement) Order 2004* (S.I. No. 215 of 2004)

All statutory instruments up to and including *Local Government (Mayor of Limerick) and Miscellaneous Provisions Act 2024 (Commencement) Order 2024* (S.I. No. 123 of 2024), made 28 March 2024, were considered in the preparation of this revision.