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



Number 9 *of* 2009

ELECTORAL (AMENDMENT) (NO. 2) ACT 2009

REVISED

Updated to 9 January 2023

This Revised Act is an administrative consolidation of *Electoral (Amendment) (No. 2) Act 2009*. It is prepared by the Law Reform Commission in accordance with its function under *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 *Local Government (Maternity Protection and Other Measures for Members of Local Authorities) Act 2022* (52/2022), enacted 21 December 2022, and all statutory instruments up to and including *Planning And Development And Foreshore (Amendment) Act 2022 (Commencement) Order 2023* (S.I. No. 1 of 2023), made 9 January 2023, 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 9 *of* 2009

ELECTORAL (AMENDMENT) (NO. 2) ACT 2009

REVISED

Updated to 9 January 2023

ARRANGEMENT OF SECTIONS

Section

1. Definition.
2. Amendment of section 2 of Act of 1999.
3. Amendment of section 6 of Act of 1999.
4. Insertion of Part IIIA in Act of 1999.
5. Amendment of section 19 of Act of 1999.
6. Amendment of section 19C of Act of 1999.
7. Amendment of section 20 of Act of 1999.
8. Amendment of section 21 of Act of 1999.
9. Amendment of section 19 of Litter Pollution Act 1997.
10. Short title, construction and collective citations.

ACTS REFERRED TO

Electoral (Amendment) Act 2001	2001, No. 38
Electoral Act 1992	1992,No. 23
European Parliament Elections Act 1997	1997,No. 2
Litter Pollution Act 1997	1997,No. 12
Litter Pollution Acts 1997 to 2003	
Local Elections (Disclosure of Donations and Expenditure) Act 1999	1999, No. 7
Local Government Act 2001	2001,No. 37
Planning and Development Act 2000	2000,No. 30
Presidential Elections Act 1993	1993,No. 28
Referendum Act 1994	1994,No. 12
Údarás na Gaeltachta Act 1979	1979, No. 5

Number 9 *of* 2009

ELECTORAL (AMENDMENT) (NO. 2) ACT 2009

REVISED

Updated to 9 January 2023

AN ACT TO REGULATE EXPENDITURE BY POLITICAL PARTIES AND CANDIDATES; TO AMEND THE LOCAL ELECTIONS (DISCLOSURE OF DONATIONS AND EXPENDITURE) ACT 1999; TO AMEND THE LITTER POLLUTION ACT 1997; AND TO PROVIDE FOR RELATED MATTERS.

[25*th March*, 2009]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

C1 Application of collectively cited *Electoral Acts 1923 to 1990* and *Electoral Acts 1992 to 2013* restricted (1.07.2014) by *Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2014* (6/2014), s. 2(6)(a), S.I. No. 210 of 2014.

Payment of Parliamentary Activities Allowance to parliamentary leaders of qualifying parties and to independent members

2. ...

(6) An allowance paid under this section shall not be used for, or to recoup, election or poll expenses incurred for the purposes of any election or poll held under—

(a) the Electoral Acts 1923 to 1990 or the Electoral Acts 1992 to 2013,

...

C2 Offences under collectively cited *Litter Pollution Acts 1997 to 2003* deemed to be offences for the purposes of s. 34(5)(a) of the *Waste Management Acts 1996 to 2007* (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), art 21(l).

Offences for the purpose of section 34(5) of the Act

21. It is hereby prescribed that, notwithstanding the revocation of any Regulations specified hereunder and subject to any amendment that may be made to these Regulations from time to time— ...

(*l*) an offence under the Litter Pollution Acts 1997 — 2003 (S.I. No. 12 of 1997 and S.I. No. 27 of 2003),

...

shall be an offence for the purposes of section 34(5)(*a*) of the Act.

C3 Offences under collectively cited *Litter Pollution Acts 1997 to 2003* deemed to be offences for the purposes of arts. 36 and 38 of *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007) (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007*(S.I. No. 821 of 2007), art. 22(l).

Offences for the Purpose of articles 36 and 38

22. It is hereby prescribed that, notwithstanding the revocation of any Regulations specified hereunder, subject to any amendments which may be made to the regulations from time to time—

...

(*l*) an offence under the Litter Pollution Acts, 1997 — 2003,

...

shall be an offence for the purposes of articles 36 and 38.

Definition.

1.— In this Act "Act of 1999" means the Local Elections (Disclosure of Donations and Expenditure) Act 1999.

Amendment of section 2 of Act of 1999.

2.— Section 2 of the Act of 1999 is amended by—

(*a*) substituting the following definition for the definition of "clerk":

" 'clerk', in relation to a city, borough or town council means the town clerk;",

(*b*) substituting the following definition for the definition of "local authority":

" 'local authority' has the same meaning as in the Local Government Act 2001;",

and

(*c*) inserting the following definition:

" 'local election' means an election under Part 4 of the Local Government Act 2001;".

Annotations

Modifications (not altering text):

C4 References to "city council" and "town council" construed (1.06.2014) by *Local Government Reform Act 2014* (1/2014), ss. 9(2) and 25(2), S.I. No. 214 of 2014.

Cesser and amalgamation of certain local government areas

9.— ...

(2) Except where otherwise provided for by this Act, a reference, however expressed, in any enactment—

(*a*) to a county council or a city council (including a reference construed by section 3(2) of, and Schedule 2 to, the Principal Act as a reference to a county council or to a city council, as the case may be) shall, if the context permits, be read as a reference to a county council, a city council or a city and county council, and

(*b*) to a county council and a city council (including a reference so construed) shall, if the context permits, be read as a reference to a county council, a city council and a city and county council.

...

Dissolution of town councils — consequential provisions

25.— ...

(2) A function of a town council (including a reference construed by section 3(2) of, and Schedule 2 to, the Principal Act as a reference to a town council and whether of general application to town councils or otherwise under an enactment) that—

(*a*) has not been repealed or otherwise provided for by this Act, or

(*b*) is neither spent nor obsolete,

shall, if the context permits in respect of one or more than one town council concerned, be read as a reference to a function of the local authority in whose administrative area the town council so dissolved is situated.

...

Amendment of section 6 of Act of 1999.

3.— Section 6 of the Act of 1999 is amended—

(*a*) in subsection (1)(*b*) by repealing subparagraph (v), and

(*b*) in subsection (3) by substituting the following paragraph for paragraph (*a*):

"(*a*) all election expenses incurred by or on behalf of a political party or a candidate at any time during the period specified by the Minister by order under section 12B (inserted by *section 4* of the *Electoral (Amendment) (No. 2) Act 2009*);".

Insertion of Part IIIA in Act of 1999.

4.— The Act of 1999 is amended by inserting the following Part after Part III:

"PART IIIA

EXPENDITURE BY POLITICAL PARTIES AND CANDIDATES AT LOCAL ELECTIONS

Limitation of election expenses at local election.

12A.— (1) (*a*) Subject to paragraphs (*b*) and (*c*), the aggregate of election expenses which may be incurred by or on behalf of a candidate in connection with his or her candidature at a local election shall not exceed—

(i) in the case of a county or city council electoral area with a population in excess of 32,500, €15,000;

(ii) in the case of a county or city council electoral area with a population of between 22,501 and 32,500, €13,000;

(iii) in the case of a county or city council electoral area with a population of between 12,001 and 22,500, €11,500;

(iv) in the case of a county or city council electoral area with a population of 12,000 or less, €9,750;

and

(v) in the case of an electoral area of a borough council or a town council, €7,500.

(*b*) Where a candidate contests an election for both a county council and a borough or town council, the election expenses which may be incurred by or on behalf of the candidate in connection with his or her candidature at the election shall be the limit appropriate to the electoral area in the county in which the candidate is nominated plus one quarter of the spending limit appropriate to the electoral area in the borough council or town council in which the candidate is also a candidate.

(*c*) (i) Where a political party authenticates the candidature of a candidate at a local election, the party shall incur 10 per cent of the amount of the election expenses which that candidate is entitled to incur at that election, or such alternative percentage of the amount as may be agreed in writing between the candidate and national agent of the political party.

(ii) The election expenses which a political party may incur under subparagraph (i) may relate to expenditure in the electoral area concerned, or otherwise.

(iii) In the case of a candidate whose candidature is authenticated by a political party at a local election, the national agent of the party may by agreement in writing authorise the designated person of the party to incur such proportion of election expenditure at the election which the candidate is entitled to incur under paragraph (*a*) as may be agreed in writing between the national agent and the designated person.

(2) The aggregate of election expenses which may be incurred by the national agent of a political party on behalf of that party at a local election shall be the sum of the amounts of election expenses incurred pursuant to subsection (1)(*c*)(i), between candidates whose candidatures were authenticated by the party at the election and the party.

(3) Subject to subsection (1)(*c*)(iii), the aggregate of election expenses which may be incurred by the national agent and designated person of the party on behalf of that party within an electoral area of a county council, city council, borough council or town council at a local election, shall not exceed the sum of the amounts of election expenses for all candidates of that party in that electoral area, provided for under subsection (1)(*c*)(i).

(4) In this section, ' population' means population as ascertained by the Central Statistics Office in the Census Report setting out the final result of the most recent Census of Population.

Period in respect of which election expenses are reckoned at local election.

12B.— (1) After the Minister has made an order under section 26 of the Local Government Act 2001 fixing the polling day at a local election, he or she may by order specify the period during which election expenses at the local election concerned shall be reckoned for the purposes of this Part.

(2) An order under subsection (1) shall specify—

(*a*) a date not less than 50 and not more than 60 days prior to the polling day at the local election concerned, as the date on which the period shall commence, and

(*b*) the polling day at the local election concerned, as the date on which the period shall end.".

Annotations

Modifications (not altering text):

C5 References to "county council", "city council" and "town council" construed (1.06.2014) by *Local Government Reform Act 2014* (1/2014), ss. 9(2) and 25(2), S.I. No. 214 of 2014.

Cesser and amalgamation of certain local government areas

9.— ...

(2) Except where otherwise provided for by this Act, a reference, however expressed, in any enactment—

(*a*) to a county council or a city council (including a reference construed by section 3(2) of, and Schedule 2 to, the Principal Act as a reference to a county council or to a city council, as the case may be) shall, if the context permits, be read as a reference to a county council, a city council or a city and county council, and

(*b*) to a county council and a city council (including a reference so construed) shall, if the context permits, be read as a reference to a county council, a city council and a city and county council.

...

Dissolution of town councils — consequential provisions

25.— ...

(2) A function of a town council (including a reference construed by section 3(2) of, and Schedule 2 to, the Principal Act as a reference to a town council and whether of general application to town councils or otherwise under an enactment) that—

(*a*) has not been repealed or otherwise provided for by this Act, or

(*b*) is neither spent nor obsolete,

shall, if the context permits in respect of one or more than one town council concerned, be read as a reference to a function of the local authority in whose administrative area the town council so dissolved is situated.

...

Amendment of section 19 of Act of 1999.

5.— Section 19 of the Act of 1999 is amended by inserting the following subsection after subsection (3):

"(4) An annual report of a local authority prepared in accordance with section 221 of the Local Government Act 2001, in respect of the year in which a local election is held, shall include details of—

(*a*) the aggregate election expenditure in respect of each candidate, designated person, third party and national agent, and

(*b*) donations received in respect of each candidate, designated person, third party and national agent,

as contained in the statements and declarations furnished to it pursuant to section 13.".

Amendment of section 19C of Act of 1999.

6.— Section 19C (inserted by section 58(*m*) of the Electoral (Amendment) Act 2001) of the Act of 1999 is amended, in subsection (1), by inserting "12A," before "19A".

Amendment of section 20 of Act of 1999.

7.— Section 20(5) of the Act of 1999 is amended by inserting "or section 21(3A) (inserted by *section 8* of the *Electoral (Amendment) (No. 2) Act 2009*)" after "subsection (4)".

Amendment of section 21 of Act of 1999.

8.— Section 21 of the Act of 1999 is amended—

(*a*) in subsection (1) by inserting the following paragraph after paragraph (*b*):

"(*bb*) directly, or through any other person, incurs election expenses in excess of the relevant amount calculated in accordance with section 12A (inserted by *section 4* of the *Electoral (Amendment) (No. 2) Act 2009*), or",

(*b*) in subsection (2)—

(i) in paragraph (*c*) by substituting "section 13, or" for "section 13.", and

(ii) by inserting the following paragraph after paragraph (*c*):

"(*d*) directly, or through any other person, incurs election expenses in excess of the relevant amount calculated in accordance with section 12A (inserted by *section 4* of the *Electoral (Amendment) (No. 2) Act 2009*).",

(*c*) by inserting the following subsection after subsection (3):

"(3A) A candidate at a local election shall be guilty of an offence if he or she directly, or through any other person, incurs election expenses in excess of the relevant amount calculated in accordance with section 12A (inserted by *section 4* of the *Electoral (Amendment) (No. 2) Act 2009*).",

(*d*) by inserting the following subsection after subsection (4B):

"(4C) A person shall be guilty of an offence if, at a local election, he or she incurs election expenses, or makes any payment, advance or deposit in respect of such expenses—

(*a*) on behalf of a political party unless the person is the national agent of the party concerned or a person authorised by such national agent acting within the limit of such authorisation, or

(*b*) on behalf of a candidate unless the person is a designated person, or a person authorised by such person acting within the limit of such authorisation.",

and

(*e*) in subsection (5)(*a*), by substituting the following for subparagraph (ii):

"(ii) where the offence is an offence to which subsection (1)(*b*), (2)(*b*), (3)(*c*), (3A) (inserted by *section 8(c)* of the *Electoral (Amendment) (No. 2) Act 2009*), (4A)(*b*), or (4B)(*d*) relates, he or she shall be liable on conviction on indictment to a fine not exceeding €25,000 or, at the discretion of the court, to imprisonment for a period not exceeding 3 years or to both such fine and such imprisonment.".

Amendment of section 19 of Litter Pollution Act 1997.

9.— Section 19 of the Litter Pollution Act 1997 is amended by substituting the following subsection for subsection (7):

"(7) Notwithstanding subsection (6), it shall not be an offence for a person to exhibit an advertisement if the advertisement—

(*a*) is exempted development within the meaning of the Planning and Development Act 2000, or is a notice displayed or erected in pursuance of a requirement by or under any enactment,

(*b*) advertises a public meeting, other than an auction, unless the advertisement has been in place for 30 days or more prior to, or for 7 days or more after, the date specified in the advertisement for the meeting,

(*c*) relates to—

(i) a presidential election within the meaning of the Presidential Elections Act 1993,

(ii) a general election or a bye-election, within the meaning, in each case, of the Electoral Act 1992,

(iii) a local election within the meaning of the Local Government Act 2001, or

(iv) an election of members of the European Parliament under the European Parliament Elections Act 1997,

unless the advertisement has been in place prior to the making of an order by the Minister appointing the day upon which the relevant poll shall be taken or for 30 days prior to the date of the poll, whichever is the shorter period, or for 7 days or more after the latest day upon which the poll was taken for the election or bye-election concerned,

(*d*) relates to an election of members of Údarás na Gaeltachta under the Údarás na Gaeltachta Act 1979, unless the advertisement has been in place prior to the making of an order by the Minister for Community, Rural and Gaeltacht Affairs appointing the day upon which the poll shall be taken or for 30 days prior to the date of the poll, whichever is the shorter period, or for 7 days or more after the latest day upon which the poll was taken, or

(*e*) relates to a referendum, within the meaning of the Referendum Act 1994, unless the advertisement has been in place prior to the making of an order by the Minister appointing the day upon which the poll shall be taken, or for 7 days or more after the latest day upon which the poll was taken.".

Short title, construction and collective citations.

10.— (1) This Act may be cited as the Electoral (Amendment) (No. 2) Act 2009.

(2) The Electoral Acts 1992 to 2009 and this Act (other than *section 9*) shall be read together as one and this Act shall be included in the collective citation "Electoral Acts 1992 to 2009".

(3) The Local Elections Acts 1974 to 2009 and this Act (other than *section 9*) shall be read together as one and this Act shall be included in the collective citation "Local Elections Acts 1974 to 2009".

(4) The Litter Pollution Acts 1997 to 2003 and *section 9*, may be cited together as the Litter Pollution Acts 1997 to 2009, and shall be read together as one.

Number 9 *of* 2009

ELECTORAL (AMENDMENT) (NO. 2) ACT 2009

REVISED

Updated to 9 January 2023

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 first passed.

Related legislation

Electoral 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(2)). The Acts in this group are:

- *Electoral Act 1992* (23/1992)
- *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), in so far as it relates to functions of the 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)
- *Local Government Reform Act 2014* (1/2014), s. 1(6), s. 5(4) and sch. 2 part 2, sch. 4 paras. 17 and 18, in so far as it relates to the *Electoral Act 1992*
- *Electoral (Amendment) Act 2014* (8/2014)
- *Electoral (Amendment) Act 2014* (62/2015)
- *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

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 this group are:

• *Local Elections (Petitions and Disqualifications) Act 1974* (8/1974)
• *Electoral Act 1992* (23/1992), so much of Act as relates to local elections
• *Local Government Act 1994* (8/1994), Parts II and III
• *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), other than s. 1(4) and so much of s. 25 as relates to the European Parliament elections
• *Local Government Act 2001* (37/2001), Parts 3, 4 and Chapter 3 of Part 5, s. 243
• *Electoral (Amendment) Act 2001* (38/2001), in so far as it relates to local elections
• *Electoral (Amendment) Act 2002* (4/2002), in so far as it relates to local elections
• *Local Government (No. 2) Act 2003* (17/2003), in so far as it relates to local elections
• *Electoral (Amendment) Act 2004* (15/2004), in so far as it relates to local elections
• *Electoral (Amendment) Act 2006* (33/2006), in so far as it relates to local elections
• *Electoral (Amendment) Act 2009* (4/2009), in so far 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), s. 1(5), s. 5(4) and sch. 2 part 2, in so far as it relates to the *Local Elections (Petitions and Disqualifications) Act 1974* and the *Local Elections (Disclosure of Donations and Expenditure) Act 1999*

Litter Pollution Acts 1997 to 2009: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Electoral (Amendment) (No. 2) Act 2009* (9/2009), s. 10(4)). The Acts in this group are:

• *Litter Pollution Act 1997* (12/1997)
• *Waste Management (Amendment) Act 2001* (36/2001), s. 14
• *Protection of the Environment Act 2003* (27/2003), Part 4
• *Electoral (Amendment) (No. 2) Act 2009* (9/2009), s. 9

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions. A version without annotations, showing only textual amendments, is also available.

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

• *Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2014* (6/2014)

• *Local Government Reform Act 2014* (1/2014)

All Acts up to and including *Local Government (Maternity Protection and Other Measures for Members of Local Authorities) Act 2022* (52/2022), enacted 21 December 2022, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

• *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007)
• *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007)

All statutory instruments up to and including *Planning And Development And Foreshore (Amendment) Act 2022 (Commencement) Order 2023* (S.I. No. 1 of 2023), made 9 January 2023, were considered in the preparation of this revision.