

PRESIDENTIAL ELECTIONS ACT, 1993

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ENACTMENTS REPEALED

ACTS REFERRED TO

Presidential Elections Act, 1937	1937, No. 32
County Management Acts, 1940 to 1991	
Electoral Act, 1963	1963, No. 19
Electoral (Amendment) Act, 1972	1972, No. 4
Electoral (Amendment) Act, 1973	1973, No. 3
Holidays (Employees) Act, 1973	1973, No. 25
Postal and Telecommunications Services Act, 1983	1983, No. 24

Electoral (Amendment) Act, 1985	1985, No. 12
Electoral (Amendment) (No. 2) Act, 1986	1986, No. 35
Electoral Act, 1992	1992, No. 23

Number 28 of 1993

PRESIDENTIAL ELECTIONS ACT, 1993

AN ACT TO REVISE AND CONSOLIDATE WITH
AMENDMENTS THE LAW RELATING TO THE
ELECTION OF THE PRESIDENT.

[27th November, 1993]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1993 29 1

Short title, collective citation
and commencement.

1.—(1) This Act may be cited as the [Presidential Elections Act, 1993](#).

(2) Part II (insofar as it relates to presidential electors) and Part XXIII (insofar as it relates to presidential elections) of the Act of 1992 and this Act may be cited together as the Presidential Elections Acts, 1992 and 1993.

(3) This Act (other than this section) shall come into operation on such day or days as may be fixed therefor by order or orders of the Minister either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions of this Act.

1993 29 2

Repeals.

2.—(2) The enactments mentioned in the *Schedule* to this Act are hereby repealed to the extent specified in the *third column* of that *Schedule*.

1993 29 3

Interpretation.

3.—(1) In this Act—

"the Act of 1992" means the [Electoral Act, 1992](#);

"authorised representative" means a person authorised in the prescribed form by a person purported to be nominated as a candidate at a presidential election to represent the person at the

ruling on nominations at the election;

"a ballot paper" has the meaning assigned to it by section 37;

"constituency" has the meaning assigned to it by section 12;

"DAil" means DIOil nireann;

"DAil election" means an election of a member or members to serve in the DIOil;

"election", except where the context otherwise requires, means a presidential election;

"elector", except where the context otherwise requires, means a presidential elector;

"excluded day" means a day which is a Sunday, Good Friday or a day which is a public holiday within the meaning of the [Holidays \(Employees\) Act, 1973](#), or a day which by virtue of a statute or proclamation is a public holiday;

"extraordinary presidential election" means a presidential election rendered necessary by a vacancy in the office of President occasioned otherwise than by the expiration by effluxion of time of the term of office of a President;

"the judicial assessor" has the meaning assigned to it by section 23;

"the last day for receiving nominations" has the meaning assigned to it by section 6;

"the local returning officer" has the meaning assigned to it by section 10;

"the Minister" means the Minister for the Environment;

"a nomination" means a nomination of a person under Part II to be a candidate at a presidential election and cognate words shall be construed accordingly;

"the notice of poll" has the meaning assigned to it by section 36;

"the official mark" has the meaning assigned to it by section 38;

"ordinary presidential election" means a presidential election held in contemplation of the expiration by effluxion of time of the term of office of the President then holding office;

"a personation agent" has the meaning assigned to it by section

34;

"a petition" has the meaning assigned to it by section 57;

"the polling day" has the meaning assigned to it by section 6;

"a postal voter" means a presidential elector whose name is entered in the postal voters list;

"the postal voters" list means the list prepared pursuant to section 14 of the Act of 1992 insofar as it relates to presidential electors;

"prescribed" means prescribed by regulations made by the Minister;

"presidential election" means an election of a person to the office of President of Ireland;

"presidential election order" has the meaning assigned to it by section 6;

"presidential elector" means a person entitled to vote at a presidential election;

"the presidential returning officer" has the meaning assigned to it by section 9;

"the quota" has the meaning assigned to it by section 50;

"the register of electors", except where the context otherwise requires, means the register of presidential electors;

"the register of presidential electors" has the meaning assigned to it by section 13 of the Act of 1992;

"the ruling on nominations" has the meaning assigned to it by section 20;

"Seanad" means Seanad nireann;

"a special voter" means a presidential elector whose name is entered in the special voters list;

"the special voters list" means the list prepared pursuant to section 17 of the Act of 1992 insofar as it relates to presidential electors.

(2) In this Act—

(a) a reference to a Part or section is to a Part or section of this Act, unless it is indicated that reference to some

other enactment is intended;

(*b*) a reference to a subsection, paragraph or subparagraph is to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended;

(*c*) a reference to any enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment including this Act.

(3) For the purpose of the application by virtue of this Act to presidential elections of certain provisions of the Act of 1992, the said provisions as so applied shall have effect as if—

(*a*) a reference in that Act to a DAil elector or an elector was a reference to a presidential elector;

(*b*) a reference in that Act to a DAil election or an election was a reference to a presidential election;

(*c*) a reference in that Act to the register of DAil electors or the register of electors was a reference to the register of presidential electors;

(*d*) a reference in that Act to a returning officer was a reference to a local returning officer;

(*e*) a reference in that Act to the Act of 1992 was a reference to this Act, including the provisions of that Act applied to presidential elections by this Act;

(*f*) the reference in section 67 of the said Act to section 60 thereof was a reference to section 34;

(*g*) the reference in section 76 of the said Act to section 129 thereof was a reference to section 54 and the references in the said section 76 to the Clerk of the DAil were references to the presidential returning officer;

(*h*) the reference in section 85 of the said Act to section 87 thereof was a reference to section 36;

(*i*) in section 98 (*c*) of the said Act "his local agent" was inserted after "election agent";

(*j*) in section 101 of the said Act the references to sections 38 and 64 thereof were references to section 40 and the reference to section 79 thereof was a reference to section 41;

(*k*) in section 106 of the said Act "or of members of a political party" was deleted;

(*l*) in section 108 of the said Act the reference to section 56 thereof was a reference to section 29, the reference to section 62 thereof was a reference to section 31, the reference to section 96 thereof was a reference to section 7 and "63," was deleted;

(*m*) in section 112 of the said Act "and shall notify the presidential returning officer of the place so appointed" was added to the section;

(*n*) in sections 112, 114 and 116 of the said Act the

reference to Part XIX thereof was a reference to Part IV;
(*o*) in section 113 (1) of the said Act "(or to his local agent if he has appointed one)" was inserted after "to each candidate";

(*p*) in section 115 of the said Act "(except so far as, following consultation with the presidential returning officer, he otherwise decides)" was substituted for "(except so far as he and the candidates otherwise agree)";

(*q*) in section 134 of the said Act the reference to section 68 thereof was a reference to *section 40*;

(*r*) in section 138 of the said Act the reference to the returning officer was a reference to the presidential returning officer;

(*s*) in sections 140 and 144 of the said Act the references to a returning officer were a reference to the presidential returning officer and a local returning officer;

(*t*) in the said section 138 "or any certificate of political affiliation" was deleted;

(*u*) in sections 144 and 147 (2) of the said Act the references to promoting the interests of a political party were deleted;

(*v*) in sections 139 and 151 of the said Act the references to a period of time were references to the period commencing on the date of the making of a presidential election order in relation to an election and ending on the sending by the presidential returning officer to the Taoiseach of the certificate of the election of a person as the President at that election;

(*w*) in section 148 of the said Act the reference to section 96 thereof was a reference to section 6;

(*x*) in section 154 of the said Act the reference to section 130 thereof was a reference to section 55;

(*y*) in section 155 of the said Act "or the cesser of membership of the DAil was deleted;

and with any other necessary modifications.

1993 29 4

Regulations.

4.—(1) The Minister may make regulations prescribing any matter or thing that is referred to in this Act as prescribed.

(2) Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

1993 29 5

Expenses.

5.—(1) The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

(2) The expenses incurred by reason of this Act by An Post (whether such expenses relate to the exercise by candidates at elections of the right of free postage conferred by section 32 or are otherwise so incurred in relation to an election) shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of the Central Fund or the growing produce thereof.

1993 29 6

Presidential election order.

6.—(1) Before a presidential election, the Minister shall by order (in this Act referred to as "the presidential election order") appoint for the purposes of the election—

(*a*) the day (in this Act referred to as "the last day for receiving nominations") which shall be the last day on which the presidential returning officer may receive nominations,

(*b*) the place at which the presidential returning officer will sit to rule upon nominations on the last day for receiving nominations,

(*c*) the day (in this Act referred to as "the polling day") on which, and the period during which, the poll (if any) at the election shall be taken; and

(*d*) the address of the presidential returning officer at which nomination papers may be delivered and to which other communications may be sent to the officer.

(2) In the case of an ordinary presidential election, the presidential election order under this section shall be so made and the days thereby appointed shall be so selected that the election will be completed at such time as will enable the President thereby elected to enter upon office on the day following the expiration of the term of office of the outgoing President.

(3) In the case of an extraordinary presidential election, the presidential election order shall be so made and the days thereby appointed shall be so selected that the election will be completed within 60 days after the cesser of office of the late President.

(4) Every presidential election order shall be published in Iris Oifigi3il as soon as may be after it is made.

1993 29 7

The polling day.

7.—The poll (if any) at a presidential election shall—

(*a*) be taken on such day as shall be appointed for this purpose by the presidential election order; and

(*b*) shall continue for such period, not being less than 12 hours, between the hours of 8 a.m. and 10.30 p.m., as may be appointed by the said order, subject to the restriction that the same day and the same period shall be so appointed for all constituencies.

1993 29 8

Alteration of polling day consequent on dissolution of DAil.

8.—Subject to section 6, where a dissolution of the DAil takes place after the making by the Minister of a presidential election order (in this section referred to as the "original order") and before the polling day appointed by such order, the Minister, if he so thinks fit, may by order amend the original order by substituting the day which is the polling day at the general election consequent on such dissolution of the DAil for the day named in the original order as the polling day at the presidential election and, in relation to the said presidential election, references in this Act to the polling day shall be construed accordingly.

1993 29 9

The presidential returning officer.

9.—(1) Not later than the day on which a presidential election order is made, the Minister shall appoint a person to be the returning officer (in this Act referred to as "the presidential returning officer") for the purposes of the presidential election concerned.

(2) Where the presidential returning officer is prevented by illness or other reasonable cause from performing all or any of his duties at the election, the Minister shall appoint a person to act as presidential returning officer for the performance of those duties during the period of the prevention and references in this Act to the presidential returning officer shall be construed accordingly.

(3) It shall be the duty of the presidential returning officer to conduct the election for the purposes of which he is appointed, to ascertain and declare the result thereof in accordance with this Act, and to do such other things in respect of the election as he is required by this Act to do.

(4) There shall be charged on and paid out of the Central Fund or the growing produce thereof to the presidential returning officer such sums as the Minister for Finance shall sanction for that officer's services and expenses in respect of the

election for the purposes of which he is appointed.

(5) For the purpose of payment for such services and expenses, an account of them shall be submitted by the presidential returning officer to the Minister for Finance and the Minister for Finance may issue directions as to the time when and the manner and form in which the account shall be so submitted to him.

(6) On the request of the presidential returning officer for an advance on account of his services and expenses the Minister for Finance may, if he thinks fit and on such terms as he thinks fit, make such an advance.

(7) The appointment of a presidential returning officer for the purposes of an election shall be deemed to extend to and include appointment for the purposes of any fresh election held pursuant to section 28, 31 or 57 following such election.

1993 29 10

Local returning officers.

10.—(1) The person who would be the returning officer at a DAil election in a constituency shall be the returning officer (in this Act referred to as "the local returning officer") in that constituency for the purposes of a presidential election.

(2) Where a person referred to in subsection(1) is prevented by illness or other reasonable cause from performing all or any of the duties of a local returning officer or where a vacancy occurs in an office by virtue of which a person would be the returning officer at a DAil election, the Minister shall appoint a person to act as local returning officer for the constituency concerned during the period of the prevention or vacancy, as the case may be.

(3) It shall be the duty of the local returning officer for a constituency to take the poll at the election in the constituency and to count the votes cast thereat and to do such acts and things as may be necessary for effectually taking the poll and counting the votes in the constituency in accordance with this Act.

(4) Where at a contested election the same person is local returning officer for two or more constituencies, the person shall—

(a) in case those constituencies are two and not more, appoint, in respect of one of them, a deputy local returning officer to open the ballot boxes and count the votes,

(b) in any other case, appoint, in respect of each of the constituencies (except one), a deputy local returning

officer to open the ballot boxes and count the votes.

(5) An appointment under subsection (4) may be revoked by the local returning officer concerned and, where an appointment is so revoked or the deputy local returning officer dies, resigns or becomes incapable of acting during the election, another deputy local returning officer shall be appointed under subsection (4).

(6) Where pursuant to section 30 (2) of the Act of 1992 a person has been appointed as assistant returning officer for a part of a constituency, such person shall be the assistant local returning officer for the purposes of a contested presidential election in that part of the constituency.

(7) An assistant local returning officer shall perform, in the part of the constituency for which he was appointed, such of the duties of the local returning officer for the constituency as that officer is not required by law to perform in person but, if any doubt arises as to the duties of an assistant local returning officer, the doubt shall be determined by the Minister.

(8) References in this Act to local returning officers shall, where appropriate, include references to assistant, deputy and acting local returning officers.

1993 29 11

Expenses of local returning officers.

11.—(1) The Minister for Finance shall in respect of every presidential election prepare a scale of maximum charges for local returning officers and a local returning officer shall be paid by the Minister for Finance out of the Central Fund or the growing produce thereof, the officer's reasonable charges, in respect of services and expenses in relation to a presidential election, not exceeding the maximum charges specified in the scale prepared under this section in respect of that election.

(2) For the purpose of the payment of such charges, an account of them shall be submitted by a local returning officer to the Minister for Finance and the Minister for Finance may issue to local returning officers directions as to the time when and the manner and form in which such accounts shall be so submitted.

(3) On the request of a local returning officer for an advance on account of the officer's charges, the Minister for Finance may, if he thinks fit and on such terms as he thinks fit, make such an advance.

(4) The Minister for Finance may, if he thinks fit, before payment of a local returning officer's charges under this section, apply to a judge of the Circuit Court having jurisdiction in any

part of the constituency concerned for the taxation of the account submitted by the local returning officer and such judge shall tax the account and determine the amount payable thereunder.

(5) The taxation under this section of the account of a local returning officer shall, if the judge aforesaid so decides on the application of the officer, include the determination of any claim made against the officer in respect of any matter charged for in the account.

1993 29 12

Constituencies.

12.—(1) For the purpose of taking the poll at a presidential election, the State shall be deemed to be divided into the same constituencies as those into which it is for the time being divided for the purpose of DAil elections and the poll shall be taken separately in each such constituency.

(2) Where he is satisfied that it is appropriate so to do, the Minister may, by order, made not later than the date of the presidential election order, provide that for the purpose of the presidential election concerned each county and each county borough shall be deemed to be a constituency for the purpose of DAil elections and, as respects a presidential election for the purpose of which such an order is in force—

(a) the poll shall be taken separately in each county and each county borough;

(b) each voter at the poll shall vote in the constituency in which the voter would be entitled to vote at a DAil election if each county and each county borough in the State were a constituency for such election;

(c) the local returning officer shall be—

(i) in the case of the county of Cork, the county of Dublin, the county borough of Cork and the county borough of Dublin, the appropriate sheriff, and

(ii) in any other case, the county registrar for the county or county borough concerned;

and

(d) in this Act (other than this subsection) references to a constituency shall be construed in accordance with the order.

(3) An order under this section shall be published in Iris Oifigi3il as soon as may be after it is made.

1993 29 13

Polling districts and polling places.

13.—For the purpose of the poll at a presidential election, each constituency shall be deemed to be divided into the same polling districts as those into which it is for the time being divided for the purpose of DAil elections and the places which are for the time being appointed as polling places in each such polling district for the purpose of DAil elections shall be the polling places for the purpose of taking the poll at a presidential election and references in this Act to polling districts and polling places shall be construed accordingly.

1993 29 14

General provision relating to nomination of candidates.

14.—(1) A candidate at a presidential election shall be nominated in accordance with the provisions of this Part.

(2) A nomination shall be effected by means of a nomination paper or nomination papers in such one of the prescribed forms as may be appropriate.

(3) A nomination paper (other than a nomination paper referred to in section 17 (1) shall include a declaration that the person proposed to be nominated thereby to be a candidate is eligible for election to the office of President and has consented to the proposed nomination.

(4) A nomination paper purporting to nominate a person to be a candidate at an election shall be delivered by the person or one or more of the persons making the nomination to the presidential returning officer not earlier than 10 a.m. on the second day (excluding any excluded day) next following the date of the presidential election order and not later than 12 noon on the last day for receiving nominations.

(5) A nomination paper purporting to nominate to be a candidate at a presidential election a person who has been re-elected once to the office of President shall be invalid.

1993 29 15

Nomination by members of the Oireachtas.

15.—(1) A nomination of a person to be a candidate at a presidential election which is made by members of the Oireachtas shall be made in accordance with the following provisions, that is to say:

(a) the nomination shall be in writing and shall be signed by the persons by whom it is made (being not less than 20 in number and each of whom is a member of one of the Houses of the Oireachtas),

(b) the nomination shall be made by means of a single nomination paper,

(c) a nomination paper shall state the names (the surname being stated first), address and occupation (if

any) of the person thereby nominated to be a candidate and shall also state all such matters as are required by the nomination paper to be stated therein.

(2) The presidential returning officer shall furnish free of charge a nomination paper or papers to any member of the Oireachtas applying therefor.

(3) The presidential returning officer shall furnish to the Clerk of the DAil and the Clerk of the Seanad a supply of nomination papers for the use of members of each House of the Oireachtas.

(4) Without prejudice to sections 30 and 31, where a member of a House of the Oireachtas signs as a nominator 2 or more nomination papers which are delivered to the presidential returning officer in accordance with section 14 and which purport to nominate different persons to be candidates at an election, the signature of the member on the first such nomination paper received by the presidential returning officer shall alone be regarded and the member's signature on every other such paper shall be disregarded but without prejudice to any other signature thereon.

1993 29 16

Nominations by county councils and county borough corporations.

16.—(1) A council of a county or a corporation of a county borough may, by resolution (of the intention to propose which not less than 3 clear days' notice has been given in writing to every person who, at the time when such notice is given, is a member of the council or the corporation, as appropriate) resolve to nominate one named person to be a candidate at a presidential election.

(2) A resolution under this section shall not be passed before the date of the making of the presidential election order in respect of the presidential election to which the resolution relates and, subject to sections 30 and 31, such a resolution shall not be rescinded.

(3) A resolution passed under this section shall be given effect to by means of a nomination paper in the form prescribed for this purpose sealed with the seal of the council or corporation concerned.

(4) A nomination paper referred to in this section shall state the names (the surname being stated first), address and occupation (if any) of the person thereby nominated to be a candidate and shall also state all such matters as are required by the nomination paper to be stated therein.

(5) A nomination paper referred to in this section which is

delivered to the presidential returning officer in accordance with section 14 and which is regular and valid on its face shall (unless the contrary is shown) be conclusive evidence that the resolution mentioned therein was duly proposed and passed in accordance with this section on the date stated in that behalf in the nomination paper at a meeting properly convened and held of the council or corporation whose seal is affixed to the nomination paper.

(6) The presidential returning officer shall furnish free of charge a nomination paper or papers to any council of a county or corporation of a county borough applying therefor.

(7) Without prejudice to sections 30 and 31, where, in accordance with section 14, the presidential returning officer receives from the council of the same county or the corporation of the same county borough 2 or more nomination papers which are regular and valid on their face and, which purport to nominate different persons to be candidates at the said election, the following provisions shall have effect:

- (a) any 2 or more of such nomination papers which purport to give effect to resolutions passed on the same day shall be invalid, and all (if any) of such nomination papers which purport to give effect to a resolution passed on a subsequent day shall also be invalid,
- (b) subject and without prejudice to *paragraph (a)*, that one (if any) of such nomination papers which purports to give effect to a resolution passed on a day earlier than that on which any of the resolutions to which the others of such nomination papers purport to give effect was passed, shall alone be regarded and the others of such nomination papers shall be invalid.

(8) Four valid nomination papers each nominating the same person to be a candidate in pursuance of a resolution passed in accordance with this section by the council of a different county or the corporation of a different county borough shall be necessary to constitute a nomination of the person by councils of counties or corporations of county boroughs.

(9) The exercise of the powers conferred by this section shall be, in the case of the council of a county, a reserved function for the purposes of the County Management Acts, 1940 to 1991, and, in the case of the corporation of a county borough, a reserved function for the purposes of the Acts relating to the management of the county borough.

1993 29 17

Nomination by a former or the retiring President.

17.—(1) A nomination of a person who is a former or the retiring President to be a candidate at a presidential election

made pursuant to Article 12.4.4¹¹ of the Constitution shall be in writing on a nomination paper in the appropriate prescribed form signed by the person and delivered to the presidential returning officer in accordance with section 14 by the person or the authorised representative of the person.

(2) Such nomination paper shall state the names (the surname being stated first), address and occupation (if any) of the person thereby nominated to be a candidate and shall also state all such matters as are required by the nomination paper to be stated therein.

(3) The presidential returning officer shall furnish free of charge on request a nomination paper or nomination papers to any former or the retiring President.

1993 29 18

Consecutive numbering of nomination papers.

18.—(1) The presidential returning officer shall number consecutively in the order in which they are received all nomination papers (whether or not they appear to be regular and valid on their face) purporting to nominate in accordance with this Act a person to be a candidate at the election which are delivered in accordance with section 14 and, for that purpose, shall, immediately after receiving any such nomination paper, endorse thereon the said consecutive number thereof.

(2) The numbers endorsed on nomination papers by the presidential returning officer in pursuance of this section shall (unless the contrary is shown) be conclusive evidence of the order in which such papers were received.

1993 29 19

Notice of receipt of nomination papers.

19.—(1) Whenever the presidential returning officer receives in accordance with section 14 a nomination paper purporting to nominate a person to be a candidate at an election, the officer shall—

(a) forthwith give by post or otherwise to the person named in the nomination paper as a candidate at the election notice in writing stating that the presidential returning officer has received the nomination paper and that the person is purported to be nominated as aforesaid (as the case may be) by a named council of a county or corporation of a county borough or by members (who need not be named) of the Oireachtas or by a former or the retiring President, and

(b) give public notice of the receipt of the nomination paper.

(2) The omission of the presidential returning officer to give

or the failure of the person named as aforesaid to receive the notice referred to in subsection (1) shall not relieve the latter person from the obligation imposed on the person by this Act to attend at the ruling on nominations.

1993 29 20

Ruling of nominations.

20.—(1) At 12 noon on the last day for receiving nominations at a presidential election, the presidential returning officer shall attend at the place appointed in that behalf by the presidential election order and shall there and then do the following things:

- (a) produce all the nomination papers delivered in accordance with section 14 purporting to nominate a person to be a candidate at the election,
- (b) examine all such papers in the order in which they were received,
- (c) rule that a nomination paper is invalid if, in his opinion, it is not properly made out and signed or is invalid under section 14 (5) or 16 (7) or relates to a person whose nomination to be a candidate at the election he has ruled to be invalid under section 22 or 26 and write the word "invalid" on the nomination paper,
- (d) rule that a nomination paper stands withdrawn if it purports to nominate as a candidate at the election a person in respect of whom he has received a notice of withdrawal under section 30 or who is deemed to have withdrawn under section 31 (1) and write the word "withdrawn" on the nomination paper,
- (e) examine each nomination paper which he has not ruled to be invalid or to stand withdrawn under this subsection and delete therefrom any signature which in accordance with section 15 (4) is to be disregarded,
- (f) ascertain from the nomination papers not ruled to be invalid or to stand withdrawn under this subsection the persons who are nominated in accordance with law to be candidates at the election and declare each such person to stand nominated as a candidate at the election,
- (g) if only one person is so declared as aforesaid, declare the person to have been elected to be the President and send to the Taoiseach and publish in *Iris Oifigiúil* a certificate in the prescribed form of such election of such person and comply with the provisions of section 56 (2),
- (h) if 2 or more persons are so declared as aforesaid, adjourn the election for the purpose of taking a poll in accordance with this Act.

(2) The proceedings under this section are referred to in this Act as "the ruling on nominations".

1993 29 21

Persons permitted to attend at the ruling on nominations.

21.—The following (and no other) persons shall be entitled to be present at the ruling on nominations:

- (a) the presidential returning officer and his assistants,
- (b) the judicial assessor and one person brought by the assessor to attend on him,
- (c) the persons purported to be nominated as candidates at the election concerned,
- (d) the authorised representatives (if any) of the persons purported to be so nominated, but not more than one such representative of each such person,
- (e) not more than 2 other persons brought by each person purported to be so nominated (or, if the person is not present, by the person's authorised representative) to assist the person or the representative,
- (f) witnesses giving oral evidence, but only while giving such evidence,
- (g) such other persons as the presidential returning officer thinks proper to admit.

1993 29 22

Attendance of persons nominated to be candidates at the ruling on nominations.

22.—(1) A person purported to be nominated as a candidate at an election shall attend, either in person or by an authorised representative, during the whole of the ruling on nominations and shall furnish (either personally or by the authorised representative of the person) all such information as shall be within the person's knowledge and shall be reasonably required to be furnished by the presidential returning officer or the judicial assessor for the purpose of the performance of their duties under this Act.

(2) Where a person purported to be nominated as aforesaid fails to attend, in person or by an authorised representative, at the ruling on nominations as required by this section or fails or refuses to furnish to the presidential returning officer or the judicial assessor information required under this section to be furnished by the person, the presidential returning officer may rule the nomination of the person to be a candidate at the election concerned to be invalid.

1993 29 23

The judicial assessor.

23.—(1) The President of the High Court or some other judge of the High Court nominated by the President of the High Court shall attend at the ruling on nominations and there sit with and act as judicial assessor to the presidential returning officer.

(2) The presidential returning officer may, on his own motion, and shall, if so requested by a person purported to be nominated as a candidate at the election concerned or the authorised representative of such a person, refer to the judicial

assessor any question arising during the ruling on nominations in relation to any nomination paper or the nomination of any person to be a candidate or any other matter connected with the nomination of persons to be candidates including the eligibility for election to the office of President of any person purported to be nominated as a candidate.

(3) The judicial assessor shall there and then give his opinion on every question referred to the said assessor under this section and the presidential returning officer shall have regard to such opinion.

1993 29 24

Appeal to high court.

24.—(1) Where at the ruling on nominations a person purported to be nominated as a candidate at the election concerned or the authorised representative of such a person objects, on grounds which shall be stated there and then, to—

(a) the ruling by the presidential returning officer on the validity of any nomination, or

(b) the eligibility for election to the office of President of any person declared to stand nominated as a candidate at the presidential election concerned,

and states that it is intended to appeal to the High Court against the ruling or declaration, the presidential returning officer shall adjourn the ruling on nominations until such time after the appeal is finally determined or withdrawn as the presidential returning officer may fix or, if such an appeal is not instituted within the period of 2 days from the date of the adjournment, until the expiration of that period.

(2) A person purported to be nominated as a candidate at an election may, subject to compliance with subsection (1), appeal to the High Court against a ruling or declaration specified in subsection (1) at the election.

(3) The High Court shall dismiss an appeal under subsection (2) unless a written statement of the objection concerned and of the grounds on which it is based together with security in the sum of €1,000 for any costs which may become payable by the appellant is lodged at the Central Office of the High Court not later than 24 hours (disregarding any excluded day) after the adjournment of the ruling on nominations concerned.

(4) The High Court shall give such priority as is reasonably possible to the hearing and determination of an appeal under subsection (2).

(5) An appeal shall lie to the Supreme Court on a point of law from a decision of the High Court on an appeal under

subsection (2).

(6) The decision of the High Court on an appeal under subsection (2) shall be complied with by the presidential returning officer and, where it rules that a person purported to be nominated as a candidate at the election concerned is not eligible for election to the office of President or was not duly nominated as such candidate, the presidential returning officer shall, on the resumption of the ruling on nominations, rule the nomination of such candidate to be invalid.

(7) Where arising from a decision of the High Court no person stands duly nominated as a candidate at an election, section 28 shall apply.

(8) A ruling or a declaration referred to in subsection (1) may be questioned only in accordance with this section.

1993 29 25

Identity of candidate.

25.—Where the identity of the person purported to be nominated in a nomination paper to be a candidate at an election is free from doubt, the nomination paper shall not be ruled invalid merely because of an error in, or the incompleteness of, the statement therein of the name, address or occupation of such person.

1993 29 26

Objection to description of candidate.

26.—The presidential returning officer shall object to the description of a person purported to be nominated as a candidate in a nomination paper which is, in his opinion, incorrect, insufficient to identify the person or unnecessarily long and where the presidential returning officer so objects, he shall allow the person or the authorised representative of the person, as may be appropriate, to amend the description and, if it is not so amended to his satisfaction, the presidential returning officer may amend or delete it, as he thinks fit, after consultation with the person or the authorised representative of the person if either is present, or may rule that the nomination paper is invalid on the ground that it has not been properly made out.

1993 29 27

Matters open at the ruling on nominations.

27.—(1) At the ruling on nominations every question relevant to the nomination of a person to be a candidate (including in particular the person's eligibility for election to the office of President) shall be open and may be raised by the presidential returning officer or the judicial assessor or any person purported to be nominated as a candidate at the presidential election concerned or the authorised representative of such a person.

(2) For the purpose of deciding any question at issue during the ruling on nominations, the presidential returning officer or the judicial assessor (as the case may be) may receive and act on evidence, whether oral or written, tendered by or on behalf of any interested person, and may, if he so thinks proper, require such evidence to be given on oath and may for that purpose administer an oath.

1993 29 28

Procedures where no candidates stands nominated.

28.—Where at the close of the ruling on nominations no person stands nominated as a candidate at the election, the presidential returning officer shall so inform the Minister, the presidential election order concerned shall be deemed to be revoked and a fresh election shall be held in accordance with this Act and the Minister shall as soon as practicable make a presidential election order for the purposes of the fresh election.

1993 29 29

Obstruction of nominations.

29.—(1) If the proceedings for or in connection with the nomination of persons to be candidates or the ruling on nominations at a presidential election are obstructed by violence, the presidential returning officer may adjourn the proceedings to a later hour on the same day or to the next following day (disregarding any excluded day) and, if he so considers it necessary, may further adjourn the proceedings until such obstruction shall have ceased. Where the adjournment relates to the nomination of persons to be candidates, the presidential returning officer may postpone the latest time for receiving nominations for a period equal to the period of such adjournment.

(2) Whenever the latest time for receiving nominations is postponed under this section, the presidential returning officer shall so inform the Minister who may, by order, appoint a day to be the polling day at the election in lieu of the day appointed in the presidential election order. In case the Minister appoints a day under this section, the poll (if any) at the election shall be taken on the day so appointed and the presidential election order under section 6 shall be construed and have effect as if the day appointed under this section were the day specified in the said presidential election order for taking the poll.

1993 29 30

Withdrawal of candidates.

30.—(1) A person in respect of whom a nomination paper has been delivered to the presidential returning officer pursuant to section 14 may withdraw his candidature at any time before the completion of the ruling on nominations but not thereafter.

(2) The withdrawal of the candidature of a person under this section shall be effected by the delivery by the person or the

person's authorised representative to the presidential returning officer before the completion of the ruling on nominations of notice in writing of such withdrawal signed by the person or the said representative.

(3) Where a notice of withdrawal under this section is delivered to the presidential returning officer before the completion of the ruling on nominations, the officer shall thereupon give public notice of the withdrawal.

(4) Where the candidature of a person is withdrawn in accordance with this section, then for the purposes of sections 15 and 16 the person shall be deemed not to have been nominated to be a candidate at the election concerned.

1993 29 31

Death of a candidate.

31.—(1) Where, more than 5 days before the last day for receiving nominations for the purposes of an election the presidential returning officer becomes satisfied that a person in respect of whom a nomination paper has been delivered pursuant to section 14 has died, the presidential returning officer shall give public notice to that effect and the candidature of the person shall be deemed to have been withdrawn and, for the purposes of sections 15 and 16, the person shall be deemed not to have been nominated to be a candidate at the election.

(2) Where, at any time during the period commencing 5 days before the last day for receiving nominations for the purposes of an election and ending at 12 noon on the said last day, the presidential returning officer becomes satisfied that a person in respect of whom a nomination paper has been delivered pursuant to section 14 has died, the following provisions shall have effect:

(a) the election shall be discontinued and a fresh election shall be held and the presidential returning officer shall notify the Minister of the death of the person and shall give public notice that all acts done in connection with the discontinued election (other than the nomination of any surviving person nominated to be a candidate thereat) are void and that a fresh election will be held,

(b) all the proceedings for an election shall be commenced afresh, but (subject otherwise to the requirements of this Act) a fresh nomination shall not be necessary in respect of any surviving person nominated to be a candidate,

(c) for the purposes of sections 15 and 16 the nomination of the deceased person shall be deemed not to have been made, and

(d) the presidential election order concerned shall be

deemed to be revoked and the Minister shall make a new presidential election order for the purposes of the fresh election.

(3) Where, at any time during the period commencing immediately after 12 noon on the last day for receiving nominations for the purposes of an election and ending on the completion of the ruling on nominations the presidential returning officer becomes satisfied that a person in respect of whom a nomination paper has been delivered pursuant to section 14 has died, the presidential returning officer shall complete the ruling on nominations in accordance with this Act, and—

(*a*) if the deceased person has not been declared under section 20 to stand nominated as a candidate at the election, the election shall proceed as if the person had not died, and

(*b*) if the deceased person has been declared under section 20 to stand nominated as a candidate at the election, the provisions of paragraphs (*a*) to (*d*) of subsection (2) shall apply with the substitution of "declared to stand nominated as" for "nominated to be" in *paragraphs (a) and (b)* of the said subsection.

(4) Where, at any time after the completion of the ruling on nominations and before the close of the poll at an election the presidential returning officer becomes satisfied that a candidate standing nominated at the election has died—

(*a*) the provisions of *paragraphs (a) to (d)* of subsection (2) shall apply, subject to the substitution of "declared to stand nominated as" for "nominated to be" in *paragraphs (a) and (b)* of the said subsection,

(*b*) if the notice of the poll has been published, the presidential returning officer shall countermand the poll,

(*c*) any votes cast at the election shall be disregarded and the ballot papers shall be destroyed by the relevant local returning officers, and

(*d*) any ballot papers issued to postal voters and special voters at the election shall be disregarded and the local returning officers shall destroy any ballot papers received by them for inclusion in the countermanded poll.

(5) Where a candidate at an election dies in circumstances other than those referred to in subsection (1), (2), (3) or (4)

(*a*) the death shall not invalidate the nomination of the candidate or any votes recorded for him,

(*b*) if the candidate is not elected, the death shall not invalidate or prejudicially affect the election of the

candidate who is elected, and
(c) if the candidate is elected, the Minister shall, by order, cancel the election and direct that a fresh election be held, the presidential election order concerned shall be deemed to be revoked and the Minister shall make a new presidential election order for the purposes of the fresh election.

1993 29 32

Candidates entitled to free postage.

32.—(1) Each candidate at an election may, subject to such conditions as may be specified under [section 74](#) of the [Postal and Telecommunications Services Act, 1983](#), send, free of any charge for postage, to each person on the register of presidential electors or to any combination of such persons, one postal communication containing matter relating to the election only and not exceeding 50 grammes in weight.

(2) A candidate shall not exercise the right of free postage conferred by this section unless and until the candidate and at least one other person have been declared by the presidential returning officer to stand nominated as candidates at the election concerned and the election has been adjourned for the purpose of taking a poll.

(3) An Post may permit a candidate to exercise the right aforesaid before the candidate is entitled under subsection (2) so to do upon his giving such security as may be required by An Post for the payment of the postage on all communications sent by him under this section in the event of his not becoming so entitled to exercise the said right.

(4) The conditions referred to in subsection (1) may include conditions in relation to the time and place at and the manner in which communications for delivery under this section are presented to An Post.

1993 29 33

Appointment of agents.

33.—(1) Where a poll is to be taken at an election—

(a) each candidate may appoint one election agent to assist him generally in relation to the election,

(b) each candidate or the election agent of the candidate may appoint one local agent for each constituency to assist the candidate in the constituency and to act as deputy in the constituency for the election agent of the candidate, and

(c) each candidate or the election agent or the local agent of the candidate may appoint with respect to each polling district in a constituency one deputy local agent to assist the candidate in the polling district and to act

therein as deputy for the candidate's election agent and local agent.

(2) An appointment under this section may be revoked—

(a) in case the appointment is made under *subsection (1) (a)*, by the candidate,

(b) in case the appointment is made under *subsection (1) (b)*, by the candidate or the election agent of the candidate, and

(c) in case the appointment is made under *subsection (1) (c)*, by the candidate or the election agent or local agent of the candidate for the constituency concerned.

(3) Where the appointment of an agent under this section is revoked or an agent appointed under this section dies, resigns or becomes incapable of acting during an election, another agent may be appointed under this section in the place of that agent.

(4) The person by whom an agent is appointed under this section shall immediately after the appointment give written notice of the appointment and of the name and address of the agent to—

(a) in the case of an election agent, the presidential returning officer, and

(b) in the case of a local agent or a deputy local agent, the local returning officer for the constituency concerned.

1993 29 34

General provisions as to agents. **34.**—(1) A candidate at an election (referred to subsequently in this section as "a candidate") or the election agent of the candidate may appoint agents to be present on the candidate's behalf at the ascertainment of the result of the election.

(2) A candidate or the election agent or local agent of the candidate for the constituency concerned may appoint agents to be present on the candidate's behalf—

(a) at the issue of ballot papers to postal voters,

(b) at the opening of the postal ballot boxes, and

(c) at the counting of the votes.

(3) Subject to the provisions of subsection (4) the number of agents who may be appointed to be present on behalf of a candidate shall be fixed—

(a) in the case of agents appointed to be present at the ascertainment of the result of the election, by the presidential returning officer, and

(b) in the case of any other agents appointed under this section, by the local returning officer,

so, however, that the same number shall be fixed in respect of every candidate.

(4) A candidate or the election agent or local agent of the candidate may appoint one person (in this Act referred to as "a personation agent") to be present as the candidate's agent in each polling station for the purpose of assisting in the detection of personation, and such appointment shall be in writing.

(5) An appointment under this section may be revoked by the candidate concerned or the election agent of the candidate and, if it was made under subsection (2) or (4), may also be revoked by the local agent of the candidate for the constituency concerned.

(6) A candidate or the election agent or local agent of the candidate shall, not later than the time for the commencement of the issue of ballot papers to postal voters, give written notice to the local returning officer for the constituency concerned of the name and address of every agent appointed by the candidate or the election agent or local agent to be present at the said issue and the local returning officer may refuse to admit to the place where the ballot papers are to be issued any agent whose name and address have not been so notified to him.

(7) A candidate or the election agent or local agent of the candidate shall, not less than 2 days (disregarding any excluded day) before the polling day, give written notice to the local returning officer for the constituency concerned of the name and address of every personation agent appointed by the candidate or the election agent or local agent together with the name of the polling station for which the personation agent is appointed. A personation agent appointed in accordance with this section and whose name and address have been duly notified to the local returning officer shall be entitled to be present in the polling station referred to in the notification during the period commencing 30 minutes before the time fixed by the Minister for the commencement of the poll and ending when the ballot boxes have been sealed by the presiding officer pursuant to section 110 of the Act of 1992 (as applied by section 44) and the documents and materials specified in that section have been placed in sealed packets.

(8) A candidate or the election agent or local agent of the candidate shall, not less than 2 days (disregarding any excluded day) before the polling day, give written notice to the local returning officer for the constituency concerned of the name and address of every agent appointed by the candidate or the election agent or local agent to be present at the opening of the

postal ballot boxes and the local returning officer may refuse to admit to the place where the postal ballot boxes are to be opened any agent whose name and address have not been so notified to him.

(9) A candidate or the election agent or local agent of the candidate shall, not less than 2 days (disregarding any excluded day) before the polling day, give written notice to the local returning officer for the constituency concerned of the name and address of every agent appointed by the candidate or the election agent or the local agent to be present at the counting of the votes and the local returning officer may refuse to admit to the place where the votes are to be counted any agent whose name and address have not been so notified to him.

(10) A candidate or the election agent of the candidate shall, not less than 2 days (disregarding any excluded day) before the polling day, give written notice to the presidential returning officer of the name and address of every agent appointed by the candidate or the election agent to be present at the ascertainment of the result of the election and the presidential returning officer may refuse to admit to the place where the result is to be ascertained any agent whose name and address have not been so notified to him.

(11) Where the appointment of an agent under this section is revoked or an agent appointed under this section dies, resigns or becomes incapable of acting during an election, another agent may be appointed under this section in the place of the agent and, where such an appointment is made, the person making the appointment shall forthwith give written notice of the name and address of the agent appointed to—

(a) in case the appointment is made under subsection (1), the presidential returning officer, and

(b) in case the appointment is otherwise made under this section, the local returning officer for the constituency concerned.

(12) A candidate may lawfully do or assist in the doing of any thing which may lawfully be done on behalf of the candidate by an agent appointed under this section or section 33 and may be present (in addition to or in substitution for any such agent) at any place at which any such agent may, pursuant to this Act, be present.

(13) Any thing required by this Act to be done in the presence of an agent of a candidate shall not be invalidated by reason only of the agent's not being present at the time and place appointed for doing such thing.

Officers not to act as agents of candidates.

35.—(1) The presidential returning officer, a local returning officer or a person employed by either of them for any purpose relating to an election shall not act as an agent for a candidate at that election and shall not be associated in furthering the candidature of a candidate at the election.

(2) The presidential returning officer or a local returning officer shall not employ in any capacity for the purposes of an election a person who has been employed by or on behalf of a candidate in or about the election or has been associated in furthering the candidature of a candidate at the election.

1993 29 36

Notice of the poll.

36.—(1) Where an election is adjourned for the purpose of taking a poll, the presidential returning officer shall, as soon as practicable after the adjournment, send to every local returning officer notice in writing of such adjournment and publish a notice (in this Act referred to as "the notice of poll") stating—

- (a) the day on which and the hours during which the poll will be taken,
- (b) the names and descriptions of the candidates standing nominated at the election, and
- (c) the order in which the names of the candidates will appear on the ballot papers.

(2) The presidential returning officer shall send a copy of the notice of poll to every local returning officer and the local returning officer shall publish it in the constituency concerned.

1993 29 37

Ballot papers.

37.—(1) The ballot of a voter at an election shall consist of a paper (in this Act referred to as "a ballot paper") in the prescribed form.

(2) Ballot papers shall be prepared in accordance with the following directions:

- (a) a ballot paper shall contain the names and descriptions of the candidates standing nominated at the election. The names shall be arranged alphabetically in the order of the surnames or, if there are 2 or more candidates bearing the same surname, in the alphabetical order of their other names or, if their surnames and other names are the same, in such order as shall be determined by lot by the presidential returning officer,
- (b) the surname of each candidate shall be printed in large capitals, the candidate's name shall be printed in small capitals and the candidate's address and

occupation (if any) shall be printed in ordinary characters,

(c) the list of candidates shall be arranged either in one continuous column or in 2 or more columns in such manner (without departing from the alphabetical order) as, in the opinion of the presidential returning officer, is best for marking and counting, but subject to the restriction that the spaces on the ballot paper within which the candidates' names and descriptions appear shall be the same for each of the candidates,

(d) the ballot papers shall be numbered consecutively on the back and the back of the counterfoil attached to each ballot paper shall bear the same number,

(e) the numbers on the ballot papers shall be printed in the smallest characters compatible with legibility and shall be printed on or about the centre of the paper, and

(f) apart from anything permitted by the prescribed form, nothing shall appear on the ballot paper except in accordance with these directions.

(3) It shall be the duty of the presidential returning officer to arrange for the printing and procuring of a sufficient quantity of ballot papers and to supply as soon as practicable to every local returning officer such numbers of ballot papers as that officer shall reasonably require.

1993 29 38

The official mark.

38.—(1) A ballot paper shall at the time of issue be marked with an official mark (in this Act referred to as "the official mark"), which shall be either embossed or perforated so as to be visible on both sides of the paper and the local returning officer shall provide a sufficient number of marking instruments for this purpose.

(2) The local returning officer shall ensure that the official mark is kept secret before the taking of the poll and that any particular mark is not used at 2 consecutive presidential elections in the constituency.

1993 29 39

Application of certain provisions of Part XVI of Act of 1992.

39.—The provisions of sections 90 to 95 of the Act of 1992 shall, subject to the modifications specified in section 3 (3), apply and have effect in relation to an election.

1993 29 40

Voting by postal voters.

40.—(1) Every presidential elector whose name is, at the time of an election, in the postal voters list for a constituency (in this Act referred to as "a postal voter") shall be entitled to vote in that constituency at the poll at the election by sending a ballot paper by post to the local returning officer for the constituency

and shall not be entitled to vote at the election in any other manner.

(2) The local returning officer for a constituency shall, as soon as practicable after the receipt from the presidential returning officer of notice of the adjournment of an election for the purpose of taking a poll, send to each postal voter for the constituency a ballot paper and a form of receipt for such ballot paper in the form directed by the Minister and, if the ballot paper duly marked by the said postal voter and accompanied by the said receipt duly signed by the voter is received by the local returning officer before the close of the poll, it shall be counted by the local returning officer and treated for all purposes in the same manner as a ballot paper placed in a ballot box in the ordinary way at the taking of the poll.

(3) The provisions of sections 65 to 76 of the Act of 1992 shall, subject to the modifications specified in section 3 (3), apply and have effect in relation to postal voting at an election and, in sending out, receiving and otherwise dealing with the ballot papers of postal voters, the local returning officer shall comply with the provisions of those sections.

(4) The notices required to be given to each candidate pursuant to sections 68 and 73 of the Act of 1992 (as applied by subsection (3)) shall, where a candidate has appointed a local agent for the constituency concerned, be given to such local agent.

(5) A reference to an agent in any of the sections of the Act of 1992 referred to in subsection (3) shall be deemed to include a reference to the election agent and local agent of a candidate and any person appointed by or on behalf of a candidate to be present at the issue of ballot papers to postal voters or the opening of postal voters ballot boxes.

1993 29 41

Voting by special voters.

41.—(1) Every presidential elector whose name is, at the time of an election, in the special voters list for a constituency (in this Act referred to as "a special voter") shall be entitled to vote in that constituency at the poll at the election in the manner described in section 82 of the Act of 1992 and shall not be entitled to vote in any other manner.

(2) The provisions of sections 78 and 80 to 84 of the Act of 1992 shall, subject to the modifications specified in section 3 (3), apply and have effect in relation to voting by special voters at an election and, in delivering, receiving and otherwise dealing with the ballot papers of special voters, the local returning officer shall comply with the provisions of those sections.

1993 29 42

Polling on islands.

42.—The provisions of sections 85 and 86 of the Act of 1992 shall, subject to the modifications specified in section 3 (3), apply and have effect in relation to the taking of the poll at an election at a polling station situate on an island.

1993 29 43

Authorisation to vote at another polling station.

43.—(1) Where a presidential elector is employed by a local returning officer for any purpose in connection with a presidential election and the circumstances of the elector's employment are, in the opinion of the local returning officer, such as to prevent him from voting at the polling station at which the elector would otherwise be entitled to vote, the elector may, if so authorised in writing by the local returning officer in such form as may be directed by the Minister, vote at such other polling station in the constituency in which he is so employed as may be specified in the authorisation.

(2) Where, not less than 7 days before polling day at a presidential election, a presidential elector whose name is not on the postal voters list or the special voters list, satisfies the local returning officer that he is unable, by reason of physical illness or physical disability suffered by him, to vote at the polling station at which he would otherwise be entitled to vote and the local returning officer is of opinion that it would be more convenient for the elector because of his physical illness or physical disability to vote at another polling station in the same constituency, the elector may, if so authorised in writing by the local returning officer in such form as may be directed by the Minister, vote at such other polling station in the same constituency as may be specified in the authorisation.

1993 29 44

Taking the poll at polling station.

44.—(1) The provisions of sections 97 and 98 and 101 to 111 of the Act of 1992 shall, subject to the modifications specified in section 3 (3), apply and have effect in relation to the taking of the poll at a presidential election.

(2) Where in accordance with the provisions of section 107, 108 or 109 of the Act of 1992 (as applied by subsection (1), the poll at any polling station is adjourned or cannot be taken or continued or becomes void, the local returning officer concerned shall, in addition to doing the things required to be done by the said provisions, forthwith inform the presidential returning officer of the occurrence.

1993 29 45

45.—In this Part—

"continuing candidate" means any candidate not deemed to be elected and not excluded;

"count" means—

- (a) all the operations involved in the counting of the first preferences recorded for candidates, or
- (b) all the operations involved in the transfer of the votes of an excluded candidate, or
- (c) all the operations involved in the transfer of the votes of 2 or more candidates excluded together in accordance with section 51 (2);

"deemed to be elected" means deemed to be elected for the purpose of the counting of the votes but without prejudice to the declaration of the result of the poll;

"non-transferable paper" means a ballot paper on which no second or subsequent preference is recorded for a continuing candidate, provided that a paper shall be deemed to have become a non-transferable paper whenever—

- (a) the names of 2 or more candidates (whether continuing candidates or not) are marked with marks which, in the opinion of the local returning officer, indicate the same order of preference and are next in order of preference, or
- (b) the name of the candidate next in order of preference (whether a continuing candidate or not) is marked with a mark which, in the opinion of the local returning officer, does not follow consecutively after some other mark on the ballot paper, or with 2 or more marks indicating different orders of preference, or
- (c) it is void for uncertainty;

"original vote", in relation to a candidate, means a vote derived from a ballot paper on which a first preference is recorded for the candidate;

"preference" shall be interpreted as follows—

- (a) "first preference" means any mark which, in the opinion of the local returning officer, clearly indicates a first preference,
 - "second preference" means any mark which, in the opinion of the local returning officer, clearly indicates a second preference standing in succession to a first preference,
 - "third preference" means any mark which, in the opinion of the local returning officer, clearly

indicates a third preference standing in succession to a second preference, and so on,
(b) "next available preference" means a preference which, in the opinion of the local returning officer, is a second or subsequent preference recorded in consecutive order for a continuing candidate, the preferences next in order on the ballot paper for excluded candidates being disregarded;

"transferable paper" means a ballot paper on which, following a first preference, a second or subsequent preference is recorded in consecutive numerical order for a continuing candidate;

"transferred vote", in relation to a candidate, means a vote derived from a ballot paper on which a second or subsequent preference is recorded for that candidate.

1993 29 46

Ascertainment of results of election.

46.—(1) The presidential returning officer shall appoint a place at which he will ascertain the result of the voting at the election concerned and shall—

(a) at the place so appointed provide suitable accommodation and all necessary furniture and equipment,

(b) not less than 4 days (disregarding any excluded day) before the polling day, give written notice to each candidate of the time and place at which he will proceed to ascertain the result of the voting and of the number of agents that may be appointed to attend the proceedings on behalf of each candidate, and

(c) give the agents of the candidates all such reasonable facilities for overseeing the proceedings and all such information as is consistent with the orderly conduct of the proceedings and the performance of his duties.

(2) The presidential returning officer, his assistants and clerks, members of the Garda Síochána on duty, the candidates and the agents of the candidates duly appointed for the purpose under this Act may be present at the ascertainment of the result of the voting and no other person shall be present without the permission of the presidential returning officer.

(3) The presidential returning officer shall, so far as practicable, proceed continuously with the ascertainment of the result of the voting, except during time for refreshment and (except so far as he and the candidates otherwise agree) the period between 11 p.m. and 9 a.m.

1993 29 47

Arrangement in relation to the counting of the votes.

1993 29 48

Invalid ballot papers.

47.—The provisions of sections 112 to 117 of the Act of 1992 shall, subject to the modifications specified in section 3 (3), apply and have effect in relation to the arrangements for the counting of votes by the local returning officer in each constituency at an election.

48.—(1) A ballot paper—

- (*a*) which does not bear the official mark,
- (*b*) on which the figure 1 standing alone, or the word "one" or any other mark which, in the opinion of the local returning officer, clearly indicates a first preference, is not placed at all or is not so placed as to indicate a first preference for some candidate,
- (*c*) on which the figure 1 standing alone indicating a first preference, or the word "one" or any other mark which, in the opinion of the local returning officer, clearly indicates a first preference, is set opposite the name of more than one candidate, or
- (*d*) on which anything is written or marked which, in the opinion of the local returning officer, is calculated to identify the elector,

shall be invalid and not counted, but the ballot paper shall not be invalid by reason only of its bearing the words "one", "two", "three" (and so on) or any other mark which, in the opinion of the local returning officer, clearly indicates a preference or preferences.

(2) The local returning officer shall endorse the word "rejected" on any ballot paper which under this section is not counted. The local returning officer shall prepare a statement in such form as may be directed by the Minister showing the number of ballot papers rejected under each of the paragraphs (*a*) to (*d*) of subsection (1) and shall, on request, allow any candidate or agent of a candidate present to copy such statement.

(3) The local returning officer may endorse on any ballot paper which he does not reject as invalid an indication of his decision on it in relation to its validity without, however, interfering with any mark placed by the elector on the ballot paper.

(4) The decision of the local returning officer, whether expressed or implied by his acts, on any question which arises in relation to any ballot paper or transfer of votes shall be final, subject only to reversal on a petition questioning the election.

1993 29 49

First Count.

49.—(1) After the ballot papers have been mixed in accordance with section 114 of the Act of 1992 (as applied by section 47) the local returning officer shall, rejecting any that are invalid, arrange them in parcels according to the first preferences recorded for each candidate.

(2) The local returning officer shall then count the ballot papers in each parcel and credit each candidate with a number of votes equal to the number of valid ballot papers on which a first preference has been recorded for such candidate and shall ascertain the total number of valid ballot papers for the constituency concerned and shall forth with notify the presidential returning officer, in such manner as the latter may direct, of the number of votes credited to each candidate and the number of valid ballot papers and a reference in this Part to a ballot paper or a paper of a candidate is a reference to a ballot paper in respect of which a candidate has been credited with a vote under this section or section 51.

1993 29 50

The quota.

50.—(1) The presidential returning officer, on receipt from every local returning officer of a notification under section 49, shall ascertain from the notifications the total number of votes credited to each candidate and the total number of valid ballot papers.

(2) The presidential returning officer shall then divide the total number of valid ballot papers by 2 and the result increased by one, any fractional remainder being disregarded, shall be the number of votes sufficient to secure the election of a candidate. This number is referred to in this Act as "the quota".

(3) Where at the end of any count the number of votes credited to a candidate is equal to or greater than the quota, that candidate shall be deemed to be elected and no further transfer of votes shall be made.

(4) Where at the end of any count the number of votes credited to some one continuing candidate exceeds the total of all the votes credited to the other continuing candidates, that candidate shall be deemed to be elected and no further transfer of votes shall be made.

1993 29 51

Exclusion of candidate.

51.—(1) Where, at the end of any count, no candidate has reached the quota and no candidate can be deemed to be elected under section 50 (4), the presidential returning officer shall direct the local returning officers to exclude the candidate credited with the lowest number of votes and transfer the candidate's ballot papers in accordance with the next available

preferences recorded thereon for continuing candidates.

(2) Where the total of the votes of the 2 or more candidates credited with the lowest number of votes is less than the number of votes credited to the candidate credited with the next highest number of votes, the presidential returning officer shall direct under subsection(1) the exclusion of such 2 or more candidates and the transfer of their papers in one operation.

(3) (a) If, where a candidate falls to be excluded under this section, 2 or more candidates each stand credited with the same number of votes being the lowest number of votes, regard shall be had to the number of original votes credited to each of those candidates, and the candidate to whom the lowest number of original votes was credited shall be excluded and, where the numbers of the original votes so credited are equal, regard shall be had to the total numbers of votes credited to those candidates at the first count at which they had unequal numbers of votes and the candidate to whom the lowest number of votes was credited at that count shall be excluded and, where the numbers of votes credited to those candidates were equal at all counts, the presidential returning officer shall exclude the candidate whose name is determined by lot.

(b) For the purposes of *paragraph (a)*, where the names concerned are written on similar slips of paper and the slips are folded so as to prevent identification and mixed and drawn at random, the name shall be deemed, in the order in which the slip bearing the name is drawn, to have been determined by lot.

(4) On being so directed by the presidential returning officer pursuant to this section, each local returning officer shall—

(a) exclude the candidate or candidates specified in the direction, examine all the papers of that candidate or those candidates, as the case may be, and arrange the transferable papers in sub-parcels according to the next available preference recorded on each paper for continuing candidates,

(b) transfer each such sub-parcel to the candidate for whom the next available preferences are recorded in the papers concerned and place the sub-parcel on top of the parcel of papers of the candidate to whom the transfer is made,

(c) make a separate sub-parcel of the non-transferable papers and set them aside as finally dealt with, and

(d) forthwith notify the presidential returning officer, in such manner as may be directed by him, of the number of papers in the sub-parcel transferred to each continuing candidate and the number of non-transferable papers.

(5) The presidential returning officer shall ascertain from the notifications received under this section from every local returning officer the total number of papers transferred to each continuing candidate under subsection (4) and shall credit the candidate with a number of votes equal to such number.

1993 29 52

Recount.

52.—(1) A candidate or an agent of a candidate present at the counting of the votes in a constituency may, at the conclusion of any count, request the local returning officer to re-examine and recount all or any of the ballot papers dealt with during that count and the local returning officer shall re-examine and recount such papers accordingly without making any alterations in the arrangement of the papers in the various parcels, save where such alterations may be necessary in consequence of an error discovered in the recount. Nothing in this subsection shall make it obligatory on the local returning officer to re-examine or recount the same parcel of papers more than once.

(2) The local returning officer may at his discretion recount papers either once or more often in any case in which he is not satisfied as to the accuracy of any count. The power under this subsection to recount papers shall extend to papers dealt with at any count preceding the count concerned.

(3) (a) As respects each candidate, one request (and not more) may be made by the candidate or the election agent of the candidate to the presidential returning officer during the ascertainment of the result of the voting for a complete re-examination and recount of all parcels of ballot papers and, where such a request is made, the presidential returning officer shall (subject to paragraph (d) (ii)), cause each local returning officer to re-examine and recount the parcels of ballot papers accordingly and notify him, in such manner as he may direct, of the result of the re-examination and recount.

(b) In a re-examination and recount under paragraph (a), the number or order of ballot papers in any parcel shall not be disturbed but if an error is discovered which is, in the opinion of the presidential returning officer, a significant error likely to affect the result of the election, the presidential returning officer shall cause all the papers to be counted afresh from the point at which the error occurred.

(c) Where an error is discovered, the presidential returning officer shall, where necessary, amend any result previously announced.

(d) Nothing in this subsection shall make it obligatory on the presidential returning officer—

(i) to cause the same parcel of ballot papers to be

re-examined or recounted more than once, or
(ii) to comply with a request under this subsection by a candidate or his election agent which, in the opinion of the presidential returning officer, is frivolous or vexatious.

(e) A request under this subsection may be made only at the conclusion of a count.

(4) Where a request made under subsection (3) is withdrawn by the candidate as respects whom it is made or by the election agent of the said candidate, it shall be open to the presidential returning officer to direct the local returning officers not to proceed, or proceed further with the re-examination and recount.

1993 29 53

Report to the presidential returning officer.

53.—On the completion of the counting of the votes in a constituency, the local returning officer for the constituency shall send to the presidential returning officer, in such manner as the latter may direct, a report in writing, signed by the local returning officer, stating—

(a) the number of first preference votes credited to each candidate in the constituency,

(b) the number of ballot papers transferred to each continuing candidate following the exclusion of a candidate and the number of non-transferable papers on each such exclusion (the non-transferable papers being described in the report as "non-transferable papers not effective"), and

(c) the number of ballot papers not counted because of invalidity for each of the reasons referred to in section 48 (1).

1993 29 54

Retention and disposal of documents.

54.—(1) On the completion of the counting of the votes in a constituency, the local returning officer for the constituency shall place in separate sealed packets—

(a) the counted ballot papers,

(b) the ballot papers not counted because of invalidity at the counting of the votes,

(c) the unused and spoilt ballot papers, and

(d) the counterfoils of ballot papers issued at polling stations,

and shall mark on each packet particulars of its contents, the date of the polling day at the presidential election concerned and the constituency to which they relate.

(2) The local returning officer shall also place in separate sealed packets—

- (a) the marked copies of the register of electors used at polling stations,
- (b) the ballot paper accounts and the statement referred to in section 114 of the Act of 1992 (as applied by section 47), and
- (c) any authorisations issued by him to electors to vote at other polling stations,

and shall mark on each packet particulars of its contents, the date of the polling day at the presidential election and the constituency to which they relate.

(3) The local returning officer shall as soon as practicable, forward to the presidential returning officer the packets referred to in subsections (1) and (2) together with the packets and statement referred to in sections 76 and 83 (2) (other than paragraph (e) of that subsection) of the Act of 1992 (as applied by sections 40 and 41, respectively).

(4) The documents sent to the presidential returning officer in pursuance of this section shall be retained by that officer for 6 months from the date of the poll at the election concerned. At the expiration of the said period, the presidential returning officer shall, unless otherwise directed by an order of the High Court or he has reason to believe that the documents may be required for a purpose referred to in section 55 (3), cause the documents to be destroyed.

1993 29 55

Inspection of ballot papers etc.

55.—(1) No person shall be allowed to inspect any of the documents mentioned in subsection (2) except under an order of the High Court.

(2) The documents referred to in subsection (1) are—

- (a) the counterfoils of the ballot papers sent to postal voters in pursuance of section 40,
- (b) the counterfoils of the ballot papers delivered to special voters in pursuance of section 82 of the Act of 1992 (as applied by section 41),
- (c) the documents referred to in subsections (2) and (3) of section 76 of the Act of 1992 (as applied by section 40), and
- (d) the documents referred to in section 54 (1).

(3) An order referred to in subsection (1) shall not be made unless the court is satisfied that the inspection or production of the documents concerned is required for the purpose of

instituting or maintaining a prosecution for an offence under a provision of the Act of 1992 specified in section 59 and as applied by that section or for the purpose of a petition.

(4) An order referred to in subsection (1) may be made subject to such conditions as to persons, time and place and mode of inspection or production as the court may think expedient and shall make provision to ensure that the manner in which any voter voted shall not be disclosed.

(5) Where an order is made under subsection (1) in relation to a document referred to in that subsection—

- (a) the production in a court by the presidential returning officer of that document shall, until the contrary is proved, be sufficient proof that the document relates to the election specified in the order, and
- (b) any endorsement appearing on any packet produced in a court by the presidential returning officer shall, until the contrary is shown, be sufficient evidence that the contents of the packet are what they are stated to be in the endorsement.

1993 29 56

Declaration of the results of the poll.

56.—(1) On the completion of the ascertainment of the result of the voting at a presidential election, the presidential returning officer shall—

- (a) determine and declare the result and the candidate deemed to be elected under section 50 shall thereupon stand elected as the President,
- (b) send to the Taoiseach a certificate in the prescribed form stating the name of the candidate elected, the total number of votes credited to each candidate (whether the candidate is or is not elected), any transfer of votes made under this Part and the total number of votes credited to each candidate at the end of the count at which such transfer took place, and
- (c) send to the Minister and to the person elected to be the President a copy of the certificate referred to in *paragraph (b)* and publish in *Iris Oifigiúil* a copy of the certificate.

(2) As soon as may be after the presidential returning officer has declared a candidate (in this subsection referred to as the President Elect) to have been elected to be the President, the presidential returning officer shall, in the manner directed by the Government, inform the President, the President Elect, the Taoiseach, the Chief Justice, the Chairman of the Dáil, the Chairman of the Seanad and the Secretary to the President, of the name and address of the President Elect.

Questioning of presidential election.

57.—(1) A presidential election may, and may only, be questioned by a petition to the High Court (in this Act referred to as "a petition") and the High Court shall give priority to a petition over any other business.

(2) A petition shall not be presented to the High Court unless that court, on application made to it in that behalf by or on behalf of the person proposing to present the petition not later than 7 days after the declaration by the presidential returning officer of the result of the election, by order grants leave to the person to do so.

(3) The High Court shall not grant leave under subsection (2) unless it is satisfied—

- (a) that there is *prima facie* evidence of a matter referred to in *subsection (7)* in relation to which the petition questions the election concerned, and
- (b) that the said matter is such as to affect materially the result of the presidential election.

(4) A petition shall be presented by being lodged in the Central Office of the High Court not later than 3 days after the grant of leave by the High Court under *subsection (2)* but a petition (other than a petition by the Director of Public Prosecutions) shall not be accepted in the Central Office unless the petitioner lodges in the Central Office with the petition security in the sum of €5,000 (or such lesser sum as that court may consider appropriate if it is satisfied that such lodgement of €5,000 could not be made by the petitioner or could cause him serious hardship) for any costs of the proceedings in relation to the petition which may become payable by the petitioner.

(5) The petitioner shall, as soon as may be, give a copy of the petition—

to every person who was a candidate at the election,

- (a) to the Minister,
- (b) to the presidential returning officer,
- (c) to any local returning officer concerned, and
- (d) except in the case of a petition presented by the Director of Public Prosecutions, to the Director of Public Prosecutions.

(6) An application to present a petition may be made by any of the following:

- (a) the Director of Public Prosecutions,

- (*b*) a person who was a candidate at the election concerned, or
- (*c*) the election agent of a candidate at the election.

(7) A presidential election may be questioned on the grounds of the commission of an offence referred to in Part XXII of the Act of 1992 (as applied by section 59), obstruction of or interference with or other hindrance to the conduct of the election, or mistake or other irregularity which, if established, are likely to have affected the result of the election.

(8) Any party to a petition may appeal on a question of law to the Supreme Court against a decision of the High Court on the petition and subject to the foregoing the decision of the High Court shall be final and not appealable.

(9) At the trial of a petition the High Court shall determine the matter at issue in the petition and, if it does not dismiss the petition, shall, where appropriate, include in its order determining the matter at issue either—

- (*a*) a declaration of the correct result of the election, or
- (*b*) if it considers that it is unable to determine the correct result of the election, a declaration that the election or a specified part thereof was void together with a statement of its reasons for making the declaration.

(10) Where the court declares that a presidential election was void, a fresh election shall be held in accordance with this Act and the Minister shall, as soon as may be, make a presidential election order in respect of the fresh election.

(11) Where the court declares that part of a presidential election was void, the court may direct that the poll at the election shall be taken again in any constituency or part of a constituency and shall for that purpose fix the day on which and the period during which such poll shall be retaken and the provisions of this Act shall apply in relation to such taking with any necessary modifications.

(12) A copy of the order of the court determining the petition shall be given forthwith by the court to each of the following, namely, every person who was a candidate at the election, the Minister, the presidential returning officer, any local returning officer concerned and the Director of Public Prosecutions.

1993 29 58

Application of rules in Third
Schedule to Act of 1992.

58.—The provisions of the Third Schedule to the Act of 1992, other than Rules 2 (2), 3, 4 (1) (*c*), 6 (2) (*a*), 7 (3) (*c*), 12, 13 and 14, shall apply and have effect in relation to a petition

subject to the modifications referred to in section 3 (3) and as if—

(a) each reference to section 132 of that Act was a reference to section 57;

(b) the references in Rules 4 (1) (a), 6 (2) (d), 7 and 17 thereof to the returning officer were references both to the presidential returning officer and any local returning officer concerned;

(c) the words "his resignation as a member of the DAil or his otherwise ceasing to be such member" in Rule 6 (2) (b) thereof and "in the constituency to which the petition relates" in Rule 7 (1) (a) and "or the cesser of membership of the DAil" in Rule 8 (2) (b) thereof were deleted;

(d) the reference in Rule 7 (2) thereof to Part XIX of that Act was a reference to Part IV;

(e) the reference in Rule 7 (3) (a) thereof to section 118 (2) of that Act was a reference to section 48;

(f) the reference in Rule 7 (5) thereof to section 32 of that Act was a reference to sections 9 and 11;

(g) the references in Rules 8 (3) and 11 (3) thereof to a person and the reference in Rule 9 (1) thereof to a person who under section 132 of that Act would be eligible to present a petition were references to a person referred to in section 57 (6);

(h) in Rule 8 (3) thereof "throughout the State" was substituted for "in the constituency to which the petition relates";

(i) the reference in Rule 11 (3) thereof to fourteen days was a reference to three days;and with any other necessary modifications.

1993 29 59

Application of certain provisions of Part XXII of Act of 1992.

59.—The provisions of sections 134 to 140 and 144 to 160 of the Act of 1992 shall, subject to the modifications specified in section 3 (3), apply and have effect in relation to presidential elections.

1993 29 60

Secrecy.

60.—A person who, during a presidential election, is—

- (a) present at the issue of ballot papers to postal voters,
- (b) present while a special voter is voting,

(c) present at the opening of postal ballot boxes,
 (d) admitted to a polling station in any capacity, or
 (e) present in any capacity at the counting of the votes,
 shall maintain, and aid in maintaining, the secrecy of the
 ballot.

1993 29 61

Prohibition of disclosure of
 vote.

61.—A person who has voted at a presidential election shall not
 in any legal proceedings be required to state how or for whom
 he voted.

1993 29 62

Publication of notice.

62.—Any public notice required by this Act to be given by the
 presidential returning officer or a local returning officer may be
 given by any method which the returning officer concerned
 thinks necessary or desirable for the purpose of bringing to the
 attention of the public the matter the subject of the requirement.

1993 29

SCHEDULE

Section 2.

ENACTMENTS REPEALED

Year and Number	Short Title	Extent of Repeal
No. 32 of 1937.	Presidential Elections Act, 1937.	The whole Act
No. 19 of 1963.	Electoral Act, 1963.	The whole Act insofar as it relates to presidential elections.
No. 4 of 1972.	Electoral (Amendment) Act, 1972.	The whole Act insofar as it relates to presidential elections.
No. 3 of 1973.	Electoral (Amendment) Act, 1973.	The whole Act insofar as it relates to presidential elections.
No. 12 of 1985.	Electoral (Amendment) Act, 1985.	The whole Act insofar as it relates to presidential elections.
No. 35 of 1986.	Electoral (Amendment) (No. 2) Act, 1986.	The whole Act insofar as it relates to presidential elections.
No. 23 of 1992.	Electoral Act, 1992.	Sections 1 (2) and 167.