

# How the Dáil is Elected (Lower House of Parliament)



VOTING ▶ NECESSARY DOCUMENTATION ▶ THE COUNT

DONATIONS ▶ EXPENDITURE ▶ ELECTORAL LAW

STRUCTURE ▶ DURATION ▶ TIMING ▶ HOW IT WORKS

NOMINATION ▶ POLLING ▶ VOTING



AN ROINN COMHSHAOIL, OIÐHREACHTA AGUS RIALTAIS AITIÚIL  
DEPARTMENT OF THE ENVIRONMENT, HERITAGE  
AND LOCAL GOVERNMENT

# How the Dáil (Lower House of Parliament) is Elected

1

## INTRODUCTION

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This leaflet is intended as a practical guide. It is not a definitive interpretation of electoral law. For more information you should consult the relevant constitutional and legislative provisions relating to Dáil elections (see **20**).

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## STRUCTURE OF THE DÁIL

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The Dáil (Lower House of Parliament) is comprised of 166 members representing 42 constituencies; this will increase to 43 at the next General Election. The Constitution requires the total membership of the Dáil to be set so that the national average population per member will be between 20,000 and 30,000. The Constitution also requires that the ratio of population to member must, as far as is practicable, be equal in each constituency. The constituencies must be revised at least once in every twelve years. In practice, constituencies are revised following the publication of the results of each census of population: a census is normally taken every fifth year. An independent Commission draws up a revised scheme of constituencies which is given effect by an Act of the Oireachtas (National Parliament).

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## DURATION OF DÁIL

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The maximum life of the Dáil is 7 years but, as provided for under the Constitution, a shorter period of 5 years has been set by law. The Dáil may be dissolved by the President on the advice of the Taoiseach (Prime Minister) at any time.

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## TIMING OF DÁIL ELECTIONS

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A Dáil election (general election) must be held within 30 days after the dissolution of the Dáil. The Clerk of the Dáil issues a writ to the returning officer in each constituency instructing him or her to hold an election of the prescribed number of members. The returning officer is the county registrar or, in Dublin and Cork, the city or county sheriff. The Ceann Comhairle (chairman of the Dáil) is automatically returned without an election unless he or she signifies that they do not wish to continue as a member.

The Minister for the Environment and Local Government appoints the polling day which must be between the 18th and 25th day (excluding Good Friday, Sundays and Public Holidays) after the issue of the writ. The Minister also appoints the polling period which must consist of at least 12 hours between 7.00 a.m. and 10.30 p.m.

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## THE ELECTORAL SYSTEM

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Voting at a Dáil election is by secret ballot using the PR-STV system (proportional representation by means of the single transferable vote). PR-STV allows the elector to indicate their first and subsequent choices for the candidates on the ballot paper.

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## WHO CAN BE ELECTED?

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Every citizen of Ireland over 21 years of age who is not disqualified under the Constitution or by law is eligible to be elected to the Dáil. A member of the Dáil is referred to as Teachta Dála (TD). Persons undergoing a prison sentence in excess of 6 months, undischarged bankrupts and persons of unsound mind are disqualified from election. Certain occupations are incompatible with membership of the Dáil, for example, members of the judiciary, senior officials of the institutions of the European Union, civil servants, wholetime members of the Defence Forces and Gardaí (police); persons are prohibited from holding Dáil membership and such an occupation at the same time.



## WHO CAN VOTE AT A DÁIL ELECTION?

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Every citizen of Ireland, and British citizens, ordinarily resident in the State who are aged 18 years or over and whose names appear on the register of electors are entitled to vote. A register of electors is compiled each year by county councils and city councils. A draft register is published on 1st November and is available for inspection in public libraries, post offices and other public buildings. Claims for correction to the draft may be made up to 25th November. Claims are adjudicated on by the county registrar who is a legally qualified court officer. An appeal may be made to the Circuit Court against the county registrar's decision. The register of electors comes into force on 15th February and remains in force, for a year, from that date. Eligible persons not included in the register may apply for inclusion in a supplement to the register, the closing date for which is 15 days (excluding Good Friday, Sundays and Public Holidays) before polling day.



## NOMINATION OF CANDIDATES

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Candidates may nominate themselves and be nominated by a Dáil elector for the constituency. The latest date for nominating a person as a candidate is 12 noon on the seventh day after the issue of the writs. A candidate may have their photograph included on the ballot paper by providing a photograph in the specified format with their nomination. A candidate may also include party affiliation and a party emblem. If the candidate has no party affiliation they may describe themselves as "non-party" or leave the appropriate space blank.

Candidates at a Dáil election, not in possession of a certificate of political affiliation, must have their nomination papers assented to by 30 Dáil electors registered in the constituency. The 30 electors must assent to the nomination form at the principal offices of the local authority in the constituency concerned and they must produce specified photographic identification in order to assent to a nomination.

The returning officer must rule on the validity of a nomination paper within one hour of its presentation. They are required to object to the name of a candidate if it is not the name by which the candidate is commonly known, is misleading and likely to cause confusion, is unnecessarily long or contains a political reference. The returning officer is also required to object to the description of a candidate that is, in their opinion, incorrect, insufficient to identify the candidate or unnecessarily long. The candidate or the returning officer may amend the particulars shown on the nomination paper. The returning officer may rule a nomination paper invalid only if it is not properly made out or signed.



## FREE POSTAGE FOR CANDIDATES

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Each candidate at a Dáil election is entitled to send one election letter free of postage charge to each elector in the constituency. Where two or more candidates of the same political party stand for election in a constituency, they are limited to one election letter under this arrangement. The cost of the facility is met by the Exchequer.



## APPOINTMENT OF ELECTION AGENTS

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Each political party which authenticates the candidature of a candidate must appoint a national agent to account for expenditure nationally at an election. Each candidate is required to appoint an election agent for the purposes of accounting for expenditure incurred by or on behalf of the candidate at the election; the agent may also assist the candidate generally in relation to the election. The appointment of the election agent by the candidate, who may be the candidate him/herself, must be made not later than the last day for receiving nominations and be notified to the returning officer.

A candidate or their agent may also appoint one deputy agent (or sub-agent) for each polling district in the constituency to assist the candidate in the polling district and to act as deputy for the candidate's election agent in the district. The appointment of a deputy agent (or sub-agent) must be notified in writing to the returning officer by the person making the appointment.



## THE POLL

Polling places are appointed by county and city councils. The returning officer provides polling stations at each polling place. Schools or public buildings are normally used. The returning officer is responsible for the organisation of the poll, printing of ballot papers and counting of votes in each constituency. The returning officer must send a polling information card to each voter informing the voter of his or her number on the register of electors and the polling station at which he or she may vote. It is an offence to interfere with a polling card or to use a polling card at a polling station which is not addressed to the person presenting it. The returning officer also makes the necessary arrangements for voting by postal and special voters.

At each polling station the poll is taken by a presiding officer assisted by a poll clerk. Each candidate may be represented at a polling station by a personation agent who assists in the prevention of electoral offences.



## VOTING ARRANGEMENTS

Generally, electors vote in person at their local polling station.

Postal voting is available to the Garda Síochána (police force), Defence Forces and civil servants (and their spouses) attached to Irish missions abroad, as well as to electors living at home who are unable to vote at a polling station due to a physical illness or disability. A person employed by a returning officer on polling day in a constituency other than where they are registered to vote may apply for entry on the supplement to the postal voters list.

Postal voting is also available to electors whose occupations are likely to prevent them from voting at their local polling station (including full-time students registered at home who are living elsewhere while attending an educational institution in the State). Under this arrangement, a ballot paper is posted to the elector at home who must arrange to have his or her declaration of identity witnessed by a Garda before marking the ballot paper and returning it by post to the returning officer.

Special voting is available to electors living in a hospital, nursing home or similar institution who are unable to vote at a polling station due to a physical illness or physical disability. The ballot paper is brought to them in the hospital etc. and they vote in the presence of a special presiding officer accompanied by a Garda.

Electors with physical disabilities who have difficulty in gaining access to their local polling station may be authorised to vote at a more accessible station in the constituency.



## VOTING

On polling day, the elector applies for a ballot paper in the polling station by stating his or her name and address. The elector may be required to produce evidence of identity and, if they fail to do so, will not be permitted to vote.

***The following documents are acceptable for identification purposes:***

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| (i) a passport;  | (ii) a driving licence;  |
| (iii) an employee identity card containing a photograph; | (iv) a student identity card issued by an educational institution and containing a photograph; |
| (v) a travel document containing name and photograph;    | (vi) a Bank or Savings or Credit Union book containing address in constituency;                |
| (vii) a cheque book;                                     | (viii) a cheque card;  |
| (ix) a credit card;                                      | (x) a birth certificate;   |
| (xi) a marriage certificate.                             |  |

*Items (vii) to (xi) must be accompanied by a further document which establishes the address of the holder in the constituency.*

Where the presiding officer is satisfied as to the elector's identity, a ballot paper is stamped with an official mark and handed to the elector.

The elector votes in secret in a voting compartment. The names of the candidates appear in alphabetical order on the ballot paper, together with their photograph, political affiliation and party emblem, if any. The voter indicates the order of their choice by writing 1 opposite the name of their first choice, 2 opposite the name of their second choice, 3 opposite the name of their third choice and so on. In this way the voter instructs the returning officer to transfer the vote to the second choice candidate if the first choice is either elected or eliminated. If the same situation applies to the second choice, the vote may be transferred to the third choice and so on. The voter folds the ballot paper to conceal how it has been marked and places it in a sealed ballot box. A person may only vote once at the election.

Persons with a visual impairment, a physical disability or literacy difficulties may be assisted by the presiding officer or by a companion.

The presiding officer may order the arrest of any person suspected of committing an electoral offence.



## THE COUNT

### **Counting arrangements:**

All ballot boxes are taken to a central counting place for each constituency. Agents of the candidates are permitted to attend at the counting place to oversee the counting process. Before the counting of votes begins, the envelopes containing the postal and special voters' ballot papers are opened in the presence of the agents of the candidates and the ballot papers are associated with the other ballot papers for the constituency.

The count commences at 9 a.m. on the day after polling day. Each ballot box is opened and the number of ballot papers checked against a return furnished by each presiding officer. They are then thoroughly mixed and sorted according to the first preferences recorded for each candidate, invalid papers being rejected.

### **Quota:**

The quota is the minimum number of votes necessary to guarantee the election of a candidate. It is ascertained by dividing the total number of valid ballot papers by one more than the number of seats to be filled and adding one to the result. Thus, if there were 40,000 valid papers and 4 seats to be filled, the quota would be 8,001, i.e. +1. It will be seen that in this example only four candidates (the number to be elected) could possibly reach the quota.

### **Transfer of Surplus:**

At the end of the first count any candidate who has received a number of votes equal to or greater than the quota is deemed to be elected. If a candidate receives more than the quota, the surplus votes are transferred proportionately to the remaining candidates in the following way. If the candidate's votes are all first preference votes, all his or her ballot papers are sorted into separate parcels according to the next preference shown on them. A separate parcel is made of the non-transferable papers (papers on which an effective subsequent preference is not shown). If the surplus is equal to or greater than the number of transferable votes, each remaining candidate will receive all the votes from the appropriate parcel of transferable papers. If the surplus is less than the number of transferable papers each remaining candidate will receive from the appropriate parcel of transferable papers a number of votes calculated as follows:-

$$\frac{\text{Surplus} \times \text{number of papers in parcel}}{\text{Total number of transferable papers}}$$

If the surplus arises out of transferred papers, only the papers in the parcel last transferred to that candidate are examined and this parcel is then treated in the same way as a surplus consisting of first preference votes. If 2 or more candidates exceed the quota, the larger surplus is distributed first.

### ***Elimination of Candidate:***

If no candidate has a surplus or the surplus is insufficient to elect one of the remaining candidates or materially affect the progress of the count, the lowest of the remaining candidates is eliminated and his or her papers are transferred to remaining candidates according to the next preference indicated on them. If a ballot paper is to be transferred and the second preference shown on it is for a candidate already elected or eliminated, the vote passes to the third choice and so on.

### ***Completion of Counting:***

Counting continues until all the seats have been filled. If the number of seats left to be filled is equal to the number of candidates still in the running, those remaining candidates are declared elected without having reached the quota.

### ***Recount:***

A returning officer may recount all or any of the papers at any stage of a count. A candidate or the election agent of a candidate is entitled to ask for a recount of the papers dealt with at a particular count or to ask for one complete recount of all the parcels of ballot papers. When recounting, the order of the papers must not be disturbed. If a significant error is discovered, the papers must be counted afresh from the point at which the error occurred.

### ***Results:***

When the count is completed, the returning officer declares the results of the election, endorses the names of the elected members on the writ issued to him or her by the Clerk of the Dáil and returns the writ.



## **ELECTION PETITION**

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Any person who is registered or entitled to be registered as a Dáil elector in a constituency may question the results of a Dáil election by way of petition in the High Court. The petition must be presented in accordance with section 132 of the Electoral Act 1992. The High Court, at the trial of an election petition, must determine the correct result of the election and, for this purpose, may order the votes to be recounted. The Court may declare the whole or part of the election in the constituency void and, in that event, a fresh election will be held to fill the vacant seat(s). The decision of the High Court is final, subject only to appeal on a question of law to the Supreme Court.



## **BYE-ELECTIONS**

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Casual vacancies in the membership of the Dáil are filled by bye-elections. On the instruction of the Dáil, the Clerk issues a writ to the returning officer for the constituency concerned directing the holding of a bye-election to fill the vacancy. Procedure at a bye-election is the same as at a general election.



## **POLITICAL DONATIONS**

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The acceptance of donations for political purposes is governed by law. Elected public representatives and candidates for election may not accept a donation from a person in a particular year that exceeds €2,539.48. In the case of a political party or campaign group, the maximum donation that may be accepted cannot exceed €6,348.69. The acceptance of a donation from a non-Irish citizen residing abroad is prohibited.

An unsuccessful candidate at a Dáil election is required to furnish to the Standards in Public Office Commission, within 56 days of polling day at the election, a statement indicating whether any donations exceeding €634.87 were received by them for the election and giving particulars of any such

donations and the persons who made them.

All public representatives, unsuccessful candidates at elections and third parties who receive a donation for political purposes greater than €126.97 in any particular year must open a political donation account through which all donation transactions in that year after the opening of the account must take place. Annual and post election donation statements must be accompanied by a statement from the financial institution specifying the transactions that have taken place in the account together with a certificate stating that all donations were lodged to the account and were used for political purposes.



## ELECTION EXPENDITURE

The amount of expenditure that may be incurred by candidates and political parties at Dáil elections is also regulated by law. The limits are €25,394.76 for a 3-seat constituency; €31,743.45 for a 4-seat constituency; and €38,092.14 for a 5-seat constituency.

The control of expenditure operates through a system of agents (see **10** above). The national agent of each political party and the election agent of each candidate is required to furnish to the Standards in Public Office Commission, within 56 days of polling day at the election, a statement in writing of all expenses incurred in connection with the election. A copy of each statement submitted to the Standards in Public Office Commission is laid before each House of the Oireachtas.



## REIMBURSEMENT OF ELECTION EXPENSES

Election expenses up to a maximum of €6,348.69 are reimbursed from the Exchequer to -

- a candidate who is elected at either a general election or a bye-election,
- an unsuccessful candidate at a general election who is not elected but the greatest number of votes credited to him/her exceeds a quarter of the quota of votes necessary for election,
- an unsuccessful candidate at a bye-election who is not elected but the greatest number of votes credited to him/her exceeds a quarter of what would have been the quota had the election been a general election.



## ELECTORAL LAW

The law relating to the election of members to the Dáil is contained mainly in:

- Article 16 of the Constitution of Ireland
- The Electoral Act 1992
- The Electoral (Amendment) Act 1996
- The Electoral Act 1997
- The Electoral (Amendment) Act 1998
- The Electoral (Amendment) Act 2001
- The Electoral (Amendment) Act 2002
- The Electoral (Amendment) Act 2005

These publications are available from the Government Publications Sale Office, Sun Alliance House, Molesworth Street, Dublin 2.

# OTHER LEAFLETS

Other leaflets available in this series are as follows:

The Referendum in Ireland

How the President is Elected

How the Seanad (Senate/Upper House of Parliament) is Elected

European Parliament: How Ireland's Representatives are Elected

How Members of Local Authorities are Elected

The Register of Electors

Information for Voters with Disabilities

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