

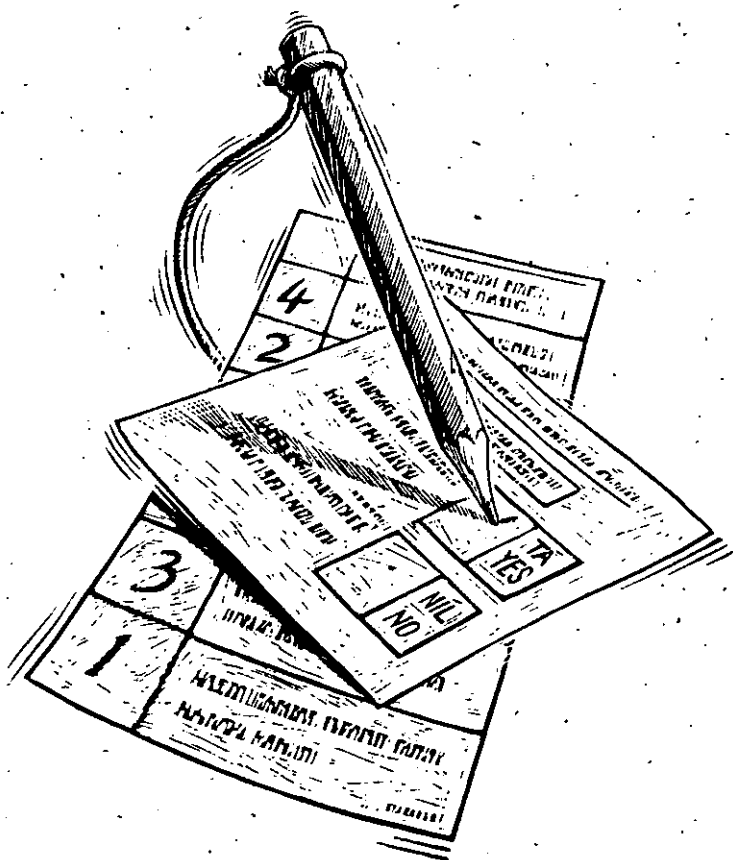
Date Printed: 04/21/2009

JTS Box Number: IFES_65
Tab Number: 17
Document Title: How the President is Elected
Document Date: 1994
Document Country: Ireland
Document Language: English
IFES ID: CE00861



* C D A 7 5 1 3 D - 3 8 C 2 - 4 6 9 4 - 8 7 D 6 - 0 9 0 F 2 4 8 3 6 F 4 5 *

How the President is Elected



DEPARTMENT OF THE
ENVIRONMENT

1. The Office of the President

The office of President of Ireland was established by the Constitution. The President takes precedence over all other persons in the State and exercises powers and functions conferred by the Constitution and by law. With specified exceptions, the functions of the President are performed on the advice of the Government. The President is not answerable to either House of the Oireachtas or to any court in the performance of his/her functions but the Constitution lays down a procedure under which the President may be impeached for stated misbehaviour. The President holds office for seven years.

2. Who Can Vote at a Presidential Election?

There are approximately 2.6 million registered electors entitled to vote at presidential elections. Every citizen of Ireland over 18 years, whose name appears on the register of electors is entitled to vote. A register of electors is prepared each year by county councils and city corporations. A draft register is published on 1st November and is displayed for inspection in public libraries, post offices, and other public buildings. Claims for corrections 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 a county registrar's decision. The register of electors comes into force on 15th February. Eligible persons not included in the published register may apply for inclusion in a supplement to the register.

Members of the Garda Síochána (police force), Defence Forces and civil servants (and their spouses) attached to Irish missions abroad may vote by post. Electors with physical disabilities may apply to have their names entered on the special voters list and vote at home. A ballot paper is delivered to them at their residence by a special presiding officer, accompanied by a member of the Garda Síochána. 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. Otherwise, electors vote in person at their local polling station.

3. Who Can Become President?

Every citizen of Ireland who has reached the age of 35 years is eligible for election to the office of President. A person who holds or has held office as President is eligible for re-election only once.

4. When Must an Election Take Place?

A presidential election must take place within the sixty days before the expiration of the term of office of the outgoing President. If a vacancy occurs before the completion of a normal term of office, the election takes place within 60 days after the occurrence of the vacancy. The Minister for the Environment makes an order appointing the last day for receiving nominations, the polling day and the polling period, which must consist of at least 12 hours between 8am and 10.30pm. The Minister also appoints a person to be the presidential returning officer.

5. Nomination of Candidates

A candidate must be nominated by either:

- (a) not less than 20 members of the Oireachtas (Parliament), or
- (b) at least four county and/or county borough councils.

A member of the Oireachtas or a county or county borough council may not nominate more than one candidate at the same election. A former or the retiring President may nominate him/herself as a candidate. Nominations must be on a prescribed nomination paper and must be delivered to the presidential returning officer within a prescribed period.

At 12 noon on the last day for receiving nominations the presidential returning officer, accompanied by a judicial assessor, who is either the President of the High Court or another judge of the Court nominated by the President of the Court, rules on the validity of the nominations received. Every prospective candidate or his/her representative must attend at the ruling on nominations and must furnish all relevant information required by the presidential returning officer or the judicial assessor.

Having examined all the nomination papers, the presidential returning officer rules on them and ascertains who is validly nominated. The presidential returning officer is required to object to the **description** of a candidate which is, in his/her opinion, incorrect, insufficient to identify the candidate or unnecessarily long. The candidate, his/her authorised representative or the presidential returning officer may amend the particulars shown on the nomination paper. A candidate may appeal to the High Court against the presidential returning officer's ruling on the validity of a nomination or in regard to the eligibility of a candidate.

A candidate may withdraw at any time up to the close of the ruling on nominations. If no candidate stands nominated or if all candidates withdraw, the proceedings in relation to the election commence afresh. If only one candidate stands nominated, the presidential returning officer declares that candidate elected. If two or more candidates stand nominated, a poll is taken.

6. Free Postage for Candidates

Each candidate at a presidential election is entitled to send one election letter free of postage charge to each elector on the register of presidential electors. The cost of the facility is met by the Exchequer.

7. The Poll

For the purpose of a presidential election, the country is divided into the same constituencies as for a Dáil election (there are 41 constituencies at present). The Dáil returning officer for a constituency (i.e. the sheriff or county registrar) is the local returning officer for the constituency at a presidential election.

The local returning officer is responsible for the detailed polling arrangements in each constituency. He/she must send a polling information card to each

presidential elector informing the elector of his/her number on the register of presidential electors and the polling station at which he/she may vote. The local returning officer also makes the necessary arrangements for voting by postal and special voters.

Polling places are appointed by county councils or county borough corporations, subject to the approval of the Minister for the Environment. The local returning officer provides polling stations at each polling place. Usually schools or public buildings are used. 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.

8. Voting

The President is elected by the direct vote of the people. Voting is by secret ballot on the single transferable vote system. The system enables the elector to indicate his/her first and subsequent choices on the ballot paper. The form of ballot paper is prescribed by law.

The elector applies for a ballot paper in the polling station by stating his/her name and address. The elector may be required to produce evidence of identity and, if he/she fails to do so, will not be permitted to vote. Where the presiding officer is satisfied as to the elector's identity, a ballot paper is stamped with an official authenticating 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. The political affiliation, if any, of the candidate is not disclosed on the ballot paper. The voter indicates the order of his/her choice by writing 1 opposite the name of his/her first choice and, if he/she so wishes, 2 opposite the name of the second choice, 3 opposite the name of the 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 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 vote only once at the election.

Persons with a visual impairment or physical disability who cannot vote without help may be assisted by the presiding officer or by a companion. Persons with reading or writing difficulties who cannot vote without help may be assisted by the presiding officer.

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

9. The Count

The votes are counted in the individual constituencies. The count commences at 9am on the day after polling day. Each ballot box is opened and the number of ballot papers checked against a return furnished by the presiding officer. The papers are sorted according to the first preferences

shown on them and the number of first preference votes recorded for each candidate is notified to the presidential returning officer. That officer calculates the quota (the number of votes necessary for election). With a single position to be filled, the quota is fifty per cent of the valid votes plus one. If a candidate receives a number of votes equal to or greater than the quota, he/she is declared elected.

If no candidate reaches the quota, the presidential returning officer directs the local returning officers to exclude the lowest candidate, transfer his/her votes in accordance with the next preference shown on them and notify the presidential returning officer of the result. The process of excluding candidates and transferring their votes continues until one of the candidates has sufficient votes to secure election. That candidate is declared elected by the presidential returning officer. Each candidate is entitled to be represented at the counting of the votes and may demand a partial or complete recount of all the ballot papers.

10. Election Petition

The result of a presidential election may be questioned by way of petition to the High Court, presented by the Director of Public Prosecutions, a candidate or the agent of a candidate at the election. A petition may be presented only if the High Court, by order, grants leave to a person to do so. Application for leave to present a petition must be made within seven days of the declaration of the result of the election.

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 or the poll to be taken again in any constituency, or it may declare the election void, in which case a fresh election is held. The decision of the High Court is final, subject only to appeal on a question of law to the Supreme Court.

11. Taking Up Office

The newly elected President takes up office on the day following the expiration of the term of office of the outgoing President.

12. Holders of the Office of President

Seven persons have held office as President – Douglas Hyde (1938-45), Seán T. O'Kelly (1945-59), Eamon de Valera (1959-73), Erskine Childers (1973-74), Cearbhall Ó Dálaigh (1974-76), Patrick Hillery (1976-90), Mary Robinson (1990-).

13. Presidential Election Law

The law relating to the election of the President is contained in the Constitution of Ireland (IR£1.30), the Electoral Act, 1992 (IR£13.35) and the Presidential Elections Act, 1993 (IR£5.35). Results of presidential elections are given in "Presidential Elections 1938-1990" (IR£1.35). These publications are available from the Government Publications Sale Office, Sun Alliance House, Molesworth Street, Dublin 2.

14. Other Leaflets

Other leaflets available in this series are as follows:

The Referendum in Ireland

How the Dáil (Lower House of Parliament) is elected

How the Seanad (Senate or Upper House of Parliament) is elected

European Parliament: How Ireland's representatives are elected

The Register of Electors

Information for Voters with Disabilities