

European Parliament

How Ireland's representatives are elected



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AND LOCAL GOVERNMENT



The European Parliament - How Ireland's Representatives are Elected

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REPRESENTATION IN THE EUROPEAN PARLIAMENT

The European Parliament is elected to promote the interests of the 375 million citizens of the European Union. It has legislative, budgetary and supervisory powers through which it plays an important part in the EU legislative process, in shaping the annual EU budget and in the supervision of the economy.

The Parliament originally consisted of delegates nominated by the national parliaments of the Member States but since 1979, Members of the European Parliament (MEPs) have been elected directly. Ireland has elected 15 MEP's since the first direct elections but that number was reduced to 13 for the 2004 elections as part of the EU enlargement process.

Ten countries became new EU members on 1 May 2004: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovak Republic and Slovenia. The EU population has increased by 75 million citizens with this enlargement.

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CONSTITUENCIES

The Irish members of the European Parliament are elected by secret ballot in four constituencies under the single transferable vote system of proportional representation. Following the recommendations of the Constituency Commission, the constituencies for the election of 13 members to the European Parliament are as follows:

Constituency	Number of Members
Dublin	4
East	3
North-West	3
South	3

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ELECTIONS TO THE PARLIAMENT

Direct elections to the European Parliament are held every five years: the first direct elections were held in 1979. The elections take place in each Member State within a four-day period in the month of June fixed by the Council of Ministers. The Minister for the Environment, Heritage and Local Government appoints the polling day and the polling period, which must last at least 12 hours between 7am and 10.30pm.

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WHO CAN BECOME AN MEP?

Every Irish citizen and every resident EU citizen, over 21 years of age, who is not disqualified by Community or national law and is not standing as a candidate in another Member State, is eligible to be elected in Ireland to the European Parliament. Persons undergoing a prison sentence in excess of six months, undischarged bankrupts and persons of unsound mind are disqualified from election. Certain occupations are incompatible with membership of the Parliament, for example, Ministers and Ministers of State, Members of the Houses of the Oireachtas (a once off derogation applies for a Member who is elected to the European Parliament in 2004, until the next general election, when the incompatibility will apply), members of the judiciary, members & officials of various EU institutions, civil servants, wholetime members of the Defence Forces and Gardai (police).

Irish citizens living in another Member State are entitled to contest the European elections in that country. However, a person is not entitled to seek election to the Parliament in more than one constituency or country.



WHO CAN VOTE AT A EUROPEAN ELECTION?

There are over 3 million registered electors entitled to vote at European elections.

Every Irish and EU citizen living in Ireland who is aged 18 years or over and whose name appears on the register of electors is entitled to vote. A register of electors is compiled each year by the county or city council. With the exception of British citizens, EU citizens not registered to vote at the 1994 or 1999 European elections in Ireland must apply for registration and complete a statutory declaration. These declarations are sent to the home Member State of the elector to guard against double voting.

A draft register of electors is published on 1 November annually and is made available for public inspection in libraries, post offices and other public buildings. Claims for corrections to the draft may be made up to 25 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 15 February. Persons not included in the register may apply for inclusion in a supplement to the register: the closing date is fifteen working days before polling day.

Irish citizens living in another Member State are entitled to vote at the European election in that country. However, a person is not entitled to vote at the elections in more than one constituency or country.



VOTING ARRANGEMENTS

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

Postal voting is available to the Garda Síochána (police force), members of the Defence Forces and to 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.

A form of 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 their declaration of identity witnessed by a Garda before marking the ballot paper in the Garda station and returning it by post to the returning officer.

Special voting is available to electors living in hospitals, nursing homes or similar institutions who are unable to vote at a polling station due to a physical illness or disability. The ballot paper is brought to them in the institution 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.



WHO CONDUCTS THE ELECTION?

There are four European returning officers who are responsible for conducting the election in each of the four constituencies. A European local returning officer has the responsibility of taking the poll in each county and city. The European returning officers are appointed by the Minister for the Environment, Heritage and Local Government and must be a county registrar or a city or county sheriff. The local returning officers must also be a city or county sheriff.



NOMINATION OF CANDIDATES

EU citizens living in Ireland can stand for election in any European Constituency in the State. Candidates at a European election in Ireland must be at least 21 years of age.

The nomination of candidates takes place over a period of a week about one month before polling day. A person may nominate themselves as a candidate or be nominated by one elector for the constituency. A person may only be nominated in one constituency. A nomination form from a candidate of a registered political party must have a certificate of political affiliation attached. If no certificate is attached, the form must be assented to by 60 electors (excluding the candidate or proposer) who are registered as European electors in the constituency. If the candidate is not an Irish or British citizen, the nomination paper must be accompanied by a statutory declaration (form available from the returning officer) and an attestation from the candidate's home Member State certifying that they have not been deprived, through an individual criminal or civil law decision, of the right to stand as a candidate at the European election in the home State. The information in the statutory declaration is sent to the persons home State to guard against dual candidacy.

A candidate may include party affiliation in the nomination paper. If the candidate has no party affiliation, they may describe themselves as "Non-Party" or leave the appropriate space blank. A non-party candidate who is a member of a political group in the European Parliament may have the name of that group included on all ballot papers and notices. A candidate may have their photograph included on the ballot paper.

The returning officer must rule on the validity of a nomination paper within one hour of its presentation. The returning officer is required to object to the name of a candidate if it is not the name by which the person is commonly known, if it 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 which is, in the officers 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, or, in the case of a national of a Member State other than Ireland or the United Kingdom, if it is not accompanied by the necessary declaration and attestation regarding eligibility to stand.



REPLACEMENT CANDIDATES

Casual vacancies in the Parliament are filled from lists of replacement candidates presented at the election. The replacement list presented by a registered political party may contain up to 4 names more than the number of candidates presented by the party in the constituency: the replacement list of a non-party candidate may contain up to 3 names. A replacement candidate who is a national of a Member State other than Ireland or the United Kingdom must make a statutory declaration and provide the necessary attestation from their home Member State (see section 8).

The entry on the ballot paper in relation to each candidate contains a reference to the associated replacement list. The lists of replacement candidates are published by the returning officer and copies are displayed in each polling station. A casual vacancy is filled by the person whose name stands highest on the relevant list of replacement candidates (see also section 18).



FREE POSTAGE FOR CANDIDATES

Each candidate at a European 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. The cost of this facility is met by the Exchequer.



DISCLOSURE OF DONATIONS

MEPs are required to furnish a donation statement to the Standards in Public Office Commission each year indicating whether a donation exceeding €634.87 was received

during the year and giving particulars of any such donation. A donation consists of any contribution made for political purposes and may include money, property, goods or services. Following a European Parliament election, unsuccessful candidates must furnish a similar statement in relation to donations received by them at the election.

A member of the European Parliament or a candidate at a European election must open a political donations account in a financial institution if they receive a monetary donation which exceeds €126.97. The annual statement of a member **or** the statement of an unsuccessful candidate must be accompanied by a statement from the financial institution and a certificate stating that all monetary donations received, were lodged to the account and that all amounts deducted from the account were used for political purposes.

A member of the European Parliament or a candidate at a European election may not accept a donation which exceeds €2,539.48 in any year from the same donor. Acceptance of anonymous donations exceeding €126.97 is prohibited and any such donations must be surrendered to the Standards in Public Office Commission.



ELECTION EXPENDITURE

The Electoral Act 1997 as amended, provides for the limitation of expenditure at a European election: the limit for the 2004 elections is €230,000. The control of expenditure operates through a system of agents. Expenditure by a party at national level must be channelled through a national agent. An election agent is responsible for expenditure on behalf of each candidate.

A statement in writing of all election expenses must be submitted to the Standards in Public Office Commission within 56 days of polling day at the election. Statements are laid before each House of the Oireachtas.



THE POLL

The constituency returning officer is responsible for the general organisation of the poll, taking of nominations, printing of ballot papers and the counting of votes in each constituency.

The local returning officer is responsible for the detailed polling arrangements in the county or city concerned. The officer must send a polling information card to electors informing them of their number on the register of electors and the polling stations at which they may vote. The local returning officer also makes the necessary arrangements for voting by postal and special voters.

Polling places are appointed by county or city councils. The local returning officer provides polling stations at each polling place. Usually schools or public buildings are used. The poll is taken at each polling station 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

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 Temporary Residence Certificate card; | (viii) a Garda National Immigration Bureau card; |
| (ix) a cheque book; | (x) a cheque card; |
| (xi) a credit card; | (xii) a birth certificate; |
| (xiii) a marriage certificate. | |

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

Items (vii) and (viii) are identity documents acceptable for local elections only.

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, physical disability or a person with 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:-

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

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 two 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. When 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 and returns the names of the elected members to the Chief Returning Officer for notification to the European Parliament.



ELECTION PETITION

A European election result may only be questioned by a petition to the High Court. Any person registered or entitled to be registered as a European elector in a constituency may apply to the High Court within 14 days of the declaration of the election result for leave to present a petition. In addition, the Director of Public Prosecutions may present a petition where it appears that a European election may have been affected by the commission of electoral offences.

At the trial of an election petition, the High Court 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 seats. The decision of the High Court is final, subject only to appeal on a question of law to the Supreme Court.



CASUAL VACANCIES

Casual vacancies arising in Ireland's representation in the European Parliament are filled from the replacement candidates list presented by the party or non-party candidate which won the seat at the previous election (see section 9). The vacancy is filled by the person standing highest on the relevant list who is both eligible and willing to become an MEP. If no replacement candidates list was presented in respect of the MEP who won the seat at the election or it is not possible to fill the vacancy from the relevant list, Dáil Éireann (House of Representatives) may select a person to fill the vacancy from any replacement candidates list presented for that constituency at the election.



ELECTORAL LAW

The law relating to the election of members to the European Parliament is contained in the following legislation:

- 1976 Act concerning the election of the representatives of the European Parliament by direct universal suffrage, annexed to Council decision 76/787/ECSC, EEC, European (commonly known as "the 1976 Act")
- Council Decision of 25 June and 23 September 2002 amending the 1976 Act.
- Council Directive (93/109/EC) of 6 December, 1993, laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections in the European Parliament for citizens of the Union residing in a Member State of which they are not nationals.
- Electoral Act 1992
- European Parliament Elections Act 1997
- Electoral Act 1997
- Electoral (Amendment) Act 1998
- Electoral (Amendment) Act 2001
- Electoral (Amendment) Act 2002
- European Parliament Elections (Amendment) Act 2004
- Electoral (Amendment) Act 2004

These publications can be obtained from the Government Publications Sale Office, Sun Alliance House, Molesworth Street, Dublin 2.

Other Leaflets

Other leaflets available in this series are as follows:

How the President is Elected

The Referendum in Ireland

How the Dáil (Lower House of Parliament) is Elected

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

How Members of Local Authorities are Elected

The Register of Electors

Information for Voters with Disabilities

Department of the Environment, Heritage and Local Government
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