

General Scheme Local Government (Directly Elected Mayor in Limerick city and county) Bill 2021

## GENERAL SCHEME

of

Local Government (Directly Elected Mayor with  
Executive Functions in Limerick City & County) Bill 2021

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## **PART ONE**

### **PRELIMINARY AND GENERAL**

This Part contains provisions normally included in legislation in relation to short title, collective citation, construction, interpretation, the making of regulations, repeals and the construction of enactments.

#### **Head 1. Short title and Collective Citation.**

##### **Provide that:**

- (1) This Bill may be cited as Local Government (Directly Elected Mayor with executive functions in Limerick city & county) Bill 2021.
- (2) The Local Government Acts 1925 to 2019 and this Act shall be read together as one and this Act shall be included in the collective citation Local Government Acts 1925 to 2021.

##### **Notes:**

This is a standard provisions about short title and collective citation for a listing of acts included or previously included in the collective citation.

## **Head 2. Definitions and interpretations.**

### **Provide that:**

(1) In this Act –

"Chief executive" shall be read in accordance with Part 14 of the Local Government Act 2001;

"delivery board" has the meaning assigned to it in Head 39;

"directly elected mayor" has the meaning assigned to it by Part 2;

"director general" has the meaning assigned to it by Part 3;

"elected council" means the members of the local authority concerned and shall be read in accordance with **section 11(5)** of the Principal Act;

"establishment day" means the day upon which the office of directly elected mayor is established;

"executive function" shall be read in accordance with **section 149** of the Local Government Act 2001;

"forum" has the meaning assigned to it by Head 37;

"local authority" shall be read in accordance with Part 2 of the Principal Act;

"Limerick city and county council" shall be read in accordance with Part 2 and Schedule 5 of the Principal Act;

"Limerick city region" shall have the meaning attributed to it by the Project Ireland 2040 - National Planning Framework;

"mayoral executive function" has the meaning assigned to it by Head 28;

"mayoral programme for local government" has the meaning assigned by Head 34 and Head 35;

"Meetings administrator" shall be read in accordance with section 46 of the Principal Act;

"member", in relation to a local authority with a directly elected mayor, includes the directly elected mayor;

"Minister" means the Minister for Housing, Local Government and Heritage;

"Principal Act" means Local Government Act 2001;

"príomh comhairleoir" has the meaning assigned to it by Head 23;

"programme of delivery" has the meaning assigned to it by Head 46;

"specified function" has the meaning assigned to it by Head 47;

**Notes:**

Standard provision to give meaning to terms used throughout the Bill. This Head defines various words and expressions used in the Bill for the purposes of defining the new administrative framework in Limerick city & county. Further interpretations may be included during the drafting process.

### **Head 3. Regulations**

#### **Provides that:**

- (1) The Minister may make regulations prescribing any matter or thing which is referred to in this Bill as prescribed or to be prescribed or to be the subject of regulations or for the purpose of enabling any provisions to have full effect.
- (2) Every regulation made under this Bill shall be laid before each House of the Oireachtas as soon as may be after it has been 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.

#### **Notes:**

This Head allows the Minister to make regulations



#### **Head 4. Commencement**

**Provide that:**

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

**Notes:**

Standard provision to commence each section

## **Head 5. Saver.**

### **Provide that:**

- (1) The acts, decisions and proceedings of the local authority immediately prior to the establishment day shall not be invalidated by the establishment of a directly elected mayor with executive functions.
- (2) All acts duly done and decisions duly made before the establishment day by the chief executive of Limerick City and County Council, shall, subject to this Act, continue to have all such force and effect as they had immediately before that day.

### **Notes:**

This Head provides that anything carried out by the local authority during the current electoral term and prior to the establishment of the office of directly elected mayor with executive functions is not invalidated by the establishment of the office of directly elected mayor or by the transfer of executive functions.

**Head 6. Expenses.**

**Provide that:**

The expenses incurred by the Minister in the administration of this Bill shall, to such extent as may be sanctioned by the Minister of Public Expenditure and Reform, be paid out of monies provided by the Oireachtas.

**Notes:**

Standard provision. This is based on section 8 of the Principal Act.

## **PART TWO**

### **OFFICE OF DIRECTLY ELECTED MAYOR WITH EXECUTIVE FUNCTIONS**

This Part contains provisions for the establishment of the office of directly elected mayor with executive functions and for the roles of príomh comhairleoir and director general.

#### **CHAPTER 1 ESTABLISHMENT OF THE OFFICE**

##### **Head 7. Establishment of the office of directly elected mayor.**

###### **Provide that:**

- (1) The council of the city and county of Limerick shall have a directly elected mayor with executive functions, elected in accordance with Part Six of this Bill.
- (2) The directly elected mayor with executive functions, in this Bill referred to as “the mayor” shall be elected and hold office in accordance with Part Six of this Bill.

###### **Notes:**

This Head provides for Limerick city and county to have a directly elected mayor with executive functions, and provides for the method of election.

**Head 8. Establishment day.**

**Provide that:**

- (1) The Minister shall by order appoint a day to be the establishment day for the purposes of the Bill.
- (2) The office of directly elected mayor with executive functions shall come into effect on the establishment day.

**Notes:**

Standard provision for an establishment day. In this case the establishment day refers to the establishment of the office of directly elected mayor.

## **Head 9. Term of office.**

### **Provide that:**

- (1) The term of office for the first elected mayor shall commence on the establishment day and shall run until the ordinary day or retirement of the council in 2029.
- (2) Subsequent terms of office shall coincide with the terms of office of the elected council as prescribed in the Principal Act.
- (3) Following a subsequent election to the office of mayor, the outgoing mayor shall continue to hold office for the period between the retirement of the outgoing mayor and the commencement of the annual meeting at which the new council takes office unless he or she sooner dies or resigns from the office or becomes disqualified for local authority membership.
- (4) A person who holds, or who has held, office as directly elected mayor with executive functions shall be eligible for re-election to that office on one more occasion, subject to eligibility and disqualification criteria as defined in sections 12 and 13 of the Principal Act.

### **Notes:**

This Head provides for the term of office to start on the establishment day and to run through to the end of the local government cycle in 2029. Subsequent elections for mayor will correspond with local electoral cycle, and the term will match that of the councillors elected for that local electoral cycle. The outgoing mayor will continue in the role of mayor between the election and the date the next mayor takes office. A mayor may run again for office, but only once.

## **Head 10. Alternative titles.**

### **Provide that:**

- (1) The person duly elected to the office of mayor shall be known as the “Mayor of Limerick”, and in the Irish language as “Méara Luimnigh”.
  
- (2) **Section** 32(1A)(a) and (c) of the Principal Act shall no longer apply to any municipal district within the administrative area of Limerick city and county.

### **Notes:**

This Head provides for the mayor’s title in Irish and in English. The metropolitan district and the municipal districts in Limerick city & county can no longer use the term “mayor” to refer to their cathaoirligh.

## **Head 11. Cessation of the role of cathaoirleach.**

### **Provide that:**

- (1) The office of cathaoirleach as set out in section 31 of the Principal Act, as it applies to Limerick city and county council shall cease at midnight on the day before the establishment day.
- (2) The office of leas-cathaoirleach as set out in section 31 of the Principal Act, as it applies to Limerick city and county council shall cease at midnight on the day before the establishment day.

### **Notes:**

This Head provides that the office of cathaoirleach/mayor as it currently exists will cease just as a new office of directly elected mayor with executive functions is established. It also provides for the cessation of the office of leas-cathaoirleach or deputy mayor as it currently exists.



## **Head 12. Membership of the local authority.**

### **Provide that:**

- (1) The mayor shall be a member of the council but may not chair a plenary meeting of the elected council.
- (2) The mayor shall exercise a vote in relation to all matters that come before the elected council, except where the vote is in relation to the council's oversight role in respect of the mayor.
- (3) Where a Minister in exercising Part 21 of the Principal Act to remove by order the members of a local authority for failure to perform functions, the mayor shall continue as Head of the local authority executive.
- (4) In such circumstances the mayor shall not have any role in making decisions in relation to reserved functions.

### **Notes:**

This Head provides that the mayor shall be an ex officio member of the council but will not chair the plenary session. The mayor will have a vote on all matters before the council except in matters of oversight

Where a Minister exercises Part 21 of the Principal Act to remove by order the members of a local authority for failure to perform functions, the mayor will cease to be a member of the local authority, along with all other members. However, the mayor will continue to exercise the executive role as head of the local authority. In this case, the mayor will have no role in relation to reserved functions that were previously carried out by the elected members.

### **Head 13. Conflict of interest**

#### **Provide that:**

- (1) A candidate who is elected shall be required to give up, step down from or put on hold any profession, business or remunerated position they hold upon election, where there is a potential conflict of interest.

#### **Notes:**

This Head requires a successful candidate to cease to be involved in any other profession, business or remunerated position where there is a potential conflict of interest.

#### **Head 14. Vacancies.**

**Provide that:**

- (1) A vacancy occurs
  - (a) Upon the death or resignation of the mayor or
  - (b) Upon disqualification as provided for in Head 17 or
  - (c) In such circumstances as may be prescribed by regulations made by the Minister under Part Six.
- (2) In any case where at the time of a vacancy occurring in the office of mayor, the term of office then remaining exceeds 6 months, an election shall be held to fill that vacancy in accordance with Part Six of this Bill.
- (3) An election under Subhead (2) shall take place within 6 months of the date upon which the vacancy occurred.
- (4) A person elected to fill a vacancy in the office of mayor shall hold office for the remainder of the term of office of his or her predecessor.
- (5) In the case where at the time of the vacancy occurring in the office of mayor the term of office remaining is less than 6 months, no election is held.
- (6) The príomh comhairleoir as defined in Part 2, shall carry out the responsibilities of the office of mayor, pending the next mayoral election.
- (7) Where the príomh comhairleoir is carrying out the responsibilities of the office of mayor, the elected council will elect a temporary príomh comhairleoir to carry out the duties of príomh comhairleoir.

- (8) Where there is a concurrent vacancy in the office of mayor and príomh comhairleoir, the elected members shall appoint a member to the office of mayor, pending the next mayoral election by
- (a) First electing a príomh comhairleoir who shall then carry out the responsibilities of the office of mayor and then
  - (b) electing a member to act as príomh comhairleoir until such time as a bye election is held to fill the mayoral vacancy.
- (9) The member appointed to carry out the responsibilities of the office of mayor under Subhead (8)(a) shall revert to the role of príomh comhairleoir upon the election of a mayor to fill the vacancy which the member had been acting in.
- (10) Where the príomh comhairleoir is acting in the role of mayor for a period in excess of 2 weeks, he or she shall receive an allowance equivalent to the portion of the mayor's salary apportioned over the time spent by that individual in the role.
- (11) Such allowance shall replace any other allowances receivable by the príomh comhairleoir.

**Notes:**

This Head defines the circumstances in which a vacancy can occur. A vacancy in the role of mayor must be filled within 6 months of it occurring. If there is more than 6 months left in the vacated term, an election must be held within 6 months to fill the vacancy. A person duly elected will hold the office the remaining term. The next mayoral election will take place alongside the local government elections at the end of the local government cycle in which the vacancy occurs. Note, if there is if there is less than 6 months remaining in the term when the vacancy arises, there is no requirement to hold a bye election. The príomh comhairleoir shall act in the role until such time as a new mayor is elected and the council shall to elect a temporary príomh comhairleoir for this period. This Head further sets out the procedure if there is a vacancy in both the mayor and príomh comhairleoir roles at the same time.

**Head 15. Retirement.**

**Provide that:**

- (1) The first directly elected mayor shall hold office until the next ordinary day of retirement of the full council as provided for in Head 9 of this Bill unless he or she sooner dies, resigns, becomes disqualified, is removed from office or otherwise ceases to be the mayor.
  
- (2) Subsequent directly elected mayors shall hold office until the next ordinary day of retirement of the full council as provided for in Section 17 of the Principal Act unless he or she sooner dies, resigns, becomes disqualified, is removed from office or otherwise ceases to be the mayor.

**Notes:**

This Head provides for the retirement date of the first and subsequent mayors.

**Head 16. Resignation from office of directly elected mayor.**

**Provide that:**

- (1) The mayor may resign from that office by notice in writing signed by him or her and delivered to the elected council.
  
- (2) A vacancy caused by a resignation shall occur on the date specified in the notice as the resignation date or, where no such date is specified, on receipt of such a notice.

**Notes:**

This Head outlines the procedures by which a mayor may resign.

**Head 17. Disqualification.**

**Provide that:**

- (1) A person disqualified from local authority membership as provided for in section 13 and 13A of the Principal Act shall not be eligible for election to the office of directly elected mayor with executive functions.

**Notes:**

As the mayor will be a member of the council, the provisions surrounding eligibility for and disqualification from membership of the council equally apply to the office of directly elected mayor with executive functions.

## **Head 18. Cesser of holding of office of mayor.**

### **Provide that:**

- (1) A person ceases to be mayor and a vacancy arises in that office immediately upon he or she becoming disqualified from being mayor
  - (a) under Head 17 above or
  - (b) under section 182 of the Principal Act or
  - (c) under section 20 of the Local Elections (Disclosure of Donations and Expenditure) Act 1999.
- (2) The mayor shall be deemed to have automatically resigned from his or her role as a member of the council on cessation of their tenure in the office of role of directly elected mayor.
- (3) Nothing in Subhead (1) or (2) above shall be read so as to affect the validity of anything previously done by the person while mayor or a member of the body concerned.
- (4) A person to whom a disqualification referred to in Subhead (1) applies is so disqualified from being or becoming a member of any committee, joint committee or joint body.

### **Notes:**

This Head is modelled on section 16 of the Principal Act and provides that an individual ceases to be mayor when the individual is disqualified or fails to comply with sections 182 of the Principal Act (ethics) or section 20 of the local elections (Disclosure of donations and Expenditure) Act 1999. Section 182 of the Principal Act provides for disqualification in the event of being convicted of certain offences section 20 of the Local Elections Disclosure of Donations and Expenditure Act 1999 provides for suspension or disqualification from membership where a member fails to furnish the



local authority with a statement of donations and election expenses, or a statutory declaration

An individual ceases to be a member upon ceasing to be mayor. In short, the individual is either both mayor and member, or neither. Modelled on section 18 of Principal Act. The directly elected mayor is a member of the council only by virtue of holding the office of directly elected mayor. The directly elected mayor cannot serve as mayor and not be a member of the council. Similarly, the directly elected mayor cannot resign the post of mayor but retain membership of the council.

Anything done by the mayor up to that date is not automatically invalidated as a result of the mayor ceasing to hold the office under this Head.

**Head 19. Offence to act as mayor when disqualified.**

**Provide that:**

- (1) A person is guilty of an offence if he or she knowingly acts as mayor when disqualified or knowingly votes when prohibited by or under any enactment.
- (2) The provisions of section 15(2) and 15(3) of the Principal Act shall apply to any person guilty of an offence under this Head.

**Notes:**

This Head provides that it is an offence for a person to continue to act as mayor upon becoming disqualified.

## **Head 20. Prohibition on multiple membership.**

### **Provide that:**

- (1) A person who is serving as a councillor in any local authority at the time of an election for mayor, and who is successful in that election must resign the role of councillor in favour of the office of directly elected mayor.
- (2) The subsequent vacancy arising on the council shall be filled in accordance with section 19 of the Principal Act.
- (3) Where a mayoral election is held on the same day as a local election pursuant to section 26 of the Local Government Act 2001 and a person is elected as mayor and as a member of a local authority, the person shall be deemed to have resigned his or her local authority membership and the subsequent vacancy arising shall be filled in accordance with section 19 of the Principal Act.

### **Notes:**

A serving councillor may run for the office of mayor, but cannot hold both offices. A serving councillor elected to the role of mayor must resign their "council seat" in favour of the role of mayor. The subsequent council vacancy is filled in the normal way as provided for in Section 19 of the Principal Act. This will also apply when the mayoral and local elections are held simultaneously.

## **Head 21. The mayor's terms and conditions.**

Provides that:

- (1) The local authority shall pay to the mayor a salary at such a level as a Minister of State, with the consent of the Minister for Public Expenditure and Reform.
- (2) Section 142 of the Principal Act shall not apply to the holder of the office of directly elected mayor with executive functions.
- (3) Section 161 of the Principal Act does not apply to the office of directly elected mayor.

### **Notes:**

This Head provides for the local authority to pay the directly elected mayor a salary with the consent of the Minister for Finance.

The mayor will not be entitled to any additional expenses or remuneration provided for members by section 142 of the Principal Act. Section 161 of the Principal Act provides that a member of a local authority is not to be employed by the local authority. This will not apply to the mayor, as the role is that of office holder and not employee.

## **Head 22: the mayor's office**

### **Provide that**

- (1) The council may allocate a staff of not more than five members to the mayor's office, and these staff members shall be drawn from within the existing local authority complement.
- (2) The mayor may separately appoint a special advisor as long as the overall staff complement does not exceed five members.
- (3) Any person so appointed shall have relevant expertise and experience in relation to the role to which they are appointed.
- (4) A document, setting out the expertise and experience of a person appointed under Subhead (3), shall be laid before the local authority as soon as may be following that person's appointment.
- (5) An appointment under Subhead (3) above is an appointment as an employee of the local authority.
- (6) A person so appointed shall be an employee of the local authority for the duration of the term of office for which the mayor was elected.
- (7) No appointment under Subhead (2) above shall be such as to extend beyond the term of office for which the mayor was elected.

### **Notes:**

This Head provides that the local authority will provide the mayor with an administrative and research staff of up to 5 persons to be sourced from within the council staff. The assignment of individual staff members to these roles will be a matter for the director general with one exception. The mayor to engage advisors as he or she see fit, as long as the total complement of staff does not exceed 5. .,

## CHAPTER 2 THE ROLE OF THE ELECTED COUNCIL

### Head 23. Position of príomh comhairleoir.

Provide that

- (1) The elected council of Limerick city & county shall have a príomh comhairleoir.
- (2) The local authority shall elect a príomh comhairleoir from amongst its members at every annual meeting. The method of election is provided for in Head 25.
- (3) In the first instance, the serving cathaoirleach at the time of the first election to the role of mayor, shall automatically become the príomh comhairleoir until the end of the term which he or she would have served, had there been no election for mayor.
- (4) A member who holds the office of príomh comhairleoir shall hold that office until a successor is elected at the next annual meeting of the local authority after that member's election to that office unless he or she sooner dies, resigns, becomes disqualified, is removed from office or otherwise ceases to be the príomh comhairleoir.
- (5) A local authority may pay an allowance for reasonable expenses to its príomh comhairleoir.
- (6) A decision to pay an allowance under Subhead (5) and the determination of the amount of the allowance is a reserved function.
- (7) An outgoing príomh comhairleoir shall be eligible for re-election.

#### Notes:

This Head provides for the role of príomh comhairleoir to be created. The príomh comhairleoir will be elected from among the members, but in the first instance, the serving cathaoirleach at the time will automatically become the príomh comhairleoir until the next annual meeting. This is to ensure continuity during the transition. The príomh comhairleoir will remain in office until the next annual election unless they cease or are removed, and the outgoing príomh comhairleoir is eligible for re-election. The council may make a resolution to pay the príomh comhairleoir an allowance.

## **Head 24. The príomh comhairleoir and council meetings**

Provides that

- (1) The príomh comhairleoir shall take precedence at all meetings of the local authority.
- (2) If present at a meeting, the príomh comhairleoir shall chair it. The provisions of Schedule 10, paragraph 10 and paragraph 13 of the Principal Act shall apply to the príomh comhairleoir in his or her role as chair of the council meeting.
- (3) If and for so long as the príomh comhairleoir is not present, or the office of príomh comhairleoir is vacant, the meeting shall proceed to the election of any one of the members present, with the exception of the mayor, to chair the meeting and such member shall leave the chair on the arrival at the meeting of the príomh comhairleoir.
- (4) It is the duty of the príomh comhairleoir or any other member who is required in accordance with this subhead to chair a meeting to take the chair and to proceed with the business of the meeting.
- (5) The procedure for the chairing of an annual meeting in an election year until the election of a príomh comhairleoir shall be specified in standing orders and may include provision, subject to subhead (6) for the taking of the chair for this period by a member or by an employee of Limerick city and county council.
- (6) Any member selected to chair an annual meeting under subhead (5) shall not have a second or casting vote and the employee of the local authority, if so selected in accordance with that subhead, shall not have any vote.
- (7) Where there is a vote taken at a plenary meeting, and there is an equality of votes for and against a motion, the príomh comhairleoir shall have a casting vote.
- (8) The príomh comhairleoir shall be a member of the corporate policy group.

**Notes:**



This Head provides for the príomh comhairleoir to be the principal councillor at each meeting and to chair the meetings of the plenary council meetings, and sets out the procedure to be followed where the príomh comhairleoir is not present. The príomh comhairleoir shall be a member of the Corporate Policy Group (CPG).

## **Head 25. Oversight of the directly elected mayor.**

### **Provide that:**

- (1) For the purposes of oversight by the elected council in the discharge of functions conferred on the elected council by law, the mayor shall, when requested by the elected council, report on the actions already taken and planned to be taken to carry out the directions of the elected council of a local authority in relation to the exercise and performance of the reserved functions of the local authority or joint body.
- (2) Following consideration of a report referred to in Subhead (2) the elected council may, by resolution, adopt a statement indicating that it is the opinion of the elected council that the actions already taken or planned to be taken by the mayor to carry out the directions of the elected council in relation to the exercise and performance of the reserved functions of the local authority or joint body are not sufficient for such purpose, or are not sufficient to ensure the efficient discharge of such function, and such resolution shall state the reasons for such opinion.
- (3) Within 14 days of the adoption of a statement pursuant to Subhead (3), the mayor shall provide to the elected council a response indicating the changes, if any, to the actions or intended actions he or she shall put in place, and where the mayor considers it so warranted, may indicate where in his or her opinion the policy of the council requires review and amendment.
- (4) The mayor shall, when requested by the elected council, whether consequent on the council's consideration of the mayor's response for the purposes of Subhead (3) or otherwise, advise on the review of any policy, or a review of the implementation of any policy, of the local authority (being a policy approved as a reserved function) by the local authority or joint body.

- (5) The provisions of sections 138, 139 and 140 of the Principal Act apply equally to the director general in the performance of specified functions.
- (6) The mayor shall engage in question and answer sessions with the council on all matters relating to the Programme for local government in Limerick on a regular basis.
- (7) The príomh comhairleoir shall have the right to convene a special meeting to consider any matter or topic where, in the opinion of the elected council, the mayor has failed to fulfil a statutory obligation.

**Notes:**

This Head provides a formal oversight mechanism for the council in relation to its oversight of the mayor. It ensures that key provisions in the Principal Act relating to prior information to elected councils, direction that works not proceed and requirement that a particular thing be done will apply to the mayor in the performance of mayoral executive functions. A new provision for a formal question and answer structure, similar to the parliamentary questions procedure in the Oireachtas is included.

The príomh comhairleoir may convene a special meeting where in the opinion of the elected council, the mayor is not fulfilling certain statutory obligations including the completion of the corporate plan as outlined in section 134 (4)(b)(i) of the Principal Act

## Head 26. Application of the ethical framework.

### Provide that

- (1) Part 15 of the Principal Act shall apply to the mayor, the príomh comhairleoir and the director general.
- (2) Section 174 of the Principal Act is amended by the insertion of the following subsection

“(7A) Where the ethics registrar in a local authority with a directly elected mayor with executive functions becomes aware of a possible contravention of this Part it is his or her duty to bring the matter to the attention of

  - (a) the director general for the local authority, in case the matter relates to any other employee,
  - (b) the mayor of the local authority, in case the matter relates to the director general,
  - (c) the mayor of the local authority, in case the matter relates to the ethics registrar,
  - (d) the mayor of the local authority, in case the matter relates to the príomh comhairleoir,
  - (e) the príomh comhairleoir of the local authority, in case the matter relates to the mayor,
  - (f) the mayor, and the director general for the local authority in case the matter relates to a member of the local authority other than the mayor, and
  - (g) in any other case, the director general for the local authority.
- (3) Section 180 of the Principal Act is amended by the insertion of the following subsection

“(3)(aa) Where a report prepared by the commission in respect of a local authority with a directly elected mayor relates to -

- (i) the director general, it shall be furnished to the mayor,
- (ii) the mayor, it shall be furnished to the príomh comhairleoir,
- (iii) the príomh comhairleoir, it shall be furnished to the mayor,
- (iv) any other member of the local authority, it shall be furnished to the mayor and the director general,
- (v) any employee other than the director general, it shall be furnished to the director general.

**Notes:**

This provides that the provisions of Part 15 of the Principal Act are applicable to the new offices of directly elected mayor, príomh comhairleoir and director general.

## CHAPTER 3 FUNCTIONS OF THE OFFICE

### Head 27. The mayor and reserved functions.

#### Provide that:

- (1) The mayor shall be the head of the local authority and first citizen of Limerick.
- (2) Subject to law the functions of a mayor shall be performed in accordance with the policy of the local authority as determined by the elected council in accordance with Part 14 of the Principal Act.
- (3) It is the duty of the mayor to carry into effect all lawful directions of the elected council of a local authority for which he or she is mayor in relation to the exercise and performance of the reserved functions of the local authority or joint body.
- (4) It is the duty of the mayor to advise and assist the elected council, with the support of the director general, and to assist the corporate policy group, each strategic policy committee and local community development committee within the administrative area
  - (a) generally as regards the exercise or performance by—
    - (i) the council of the local authority of its reserved functions, and
    - (ii) by the strategic policy committee or local community development committee, of its functions in relation to the reserved function of the local authority, and
  - (b) as regards any particular matter or thing in relation to such exercise or performance on or in respect of which the council of a local authority, corporate policy group, strategic policy committee or local community development committee requests the advice or assistance of the mayor,  
  
And each shall have regard to that advice or assistance.
- (5) The mayor shall perform functions assigned to the office under this Bill, or any other Act.

- (6) The Minister may issue a code of conduct for the mayor, as for elected members and employees of local authorities.
- (7) Any function which immediately before the Establishment day was a role or duty of the cathaoirleach shall, on and from that date, be a function of the mayor.

**Notes:**

This Head provides that the mayor is the executive head of the local authority and that anything the mayor does must be in accordance with the policy of the council. It obliges the mayor to carry out into effect the lawful directions of the council. The mayor has a statutory responsibility to advise and assist the elected council. It allows for the mayor to perform functions under any Act that assigns the functions, as well as this Bill. The Minister may to issue a code of conduct for the mayor. Finally it provides that any function of the cathaoirleach will be a functions of the mayor.

## **Head 28. Mayoral executive functions.**

### **Provide that:**

- (1) Mayoral executive functions shall include
  - (a) Any function which immediately before the Establishment day was the function of the chief executive shall, on and from that date, be vested in, and a function of, the mayor with the exception of specified functions set out in Schedules 1 - 4 or unless otherwise stated, and
  - (b) New functions arising as a result of additional powers functions and responsibilities being conferred on the mayor, including any new functions arising under Part 3 and
  - (c) New executive functions arising as a result of additional powers and responsibility being vested in the local authority as a result of the establishment of the office of mayor.
- (2) This Head shall not be read as setting out all the mayoral executive functions.

### **Notes:**

This Head provides for the transfer of existing executive functions to the mayor.



## **Head 29. Powers to carry out functions.**

### **Provide that:**

- (1) All functions which were previously performed by the chief executive, with the exception of functions listed in Schedules 1 - 4, shall become mayoral functions and shall be exercisable by the mayor from the establishment day.
- (2) Functions so assigned may be exercisable by the mayor, acting on behalf of the local authority in accordance with the provisions of this Bill, or any Act that provides for the performance of an executive function, with the exception of functions listed in Schedule 1 - 4.
- (3) References to chief executive in this Bill or any other Act insofar as they refer to the chief executive of a local authority may be read as referring to the directly elected mayor, unless such reference is in respect of a specified function or otherwise stated..
- (4) Subject to law, the executive functions vested in the mayor in accordance with Subhead (1) shall be performed in accordance with the policy of the local authority as determined by the elected council in accordance with Part 14 of the Principal Act.
- (5) The mayor shall be responsible for all legal proceedings relating to or arising from mayoral executive functions.

### **Notes:**

This Head provides for the mayor to have the power to carry out all of the executive functions that are transferred to the office from the chief executive. Responsibility will transfer on the establishment day.

### **Head 30. The mayor acting by signed order.**

Provide that

- (1) The mayor shall in carrying out mayoral executive functions act by a written order signed and dated by him or her in respect of the functions to which this section applies.
- (2) This section applies to executive functions which, prior to the election of the mayor were the subject of a managers order as provided for in section 151 of the Principal Act.
- (3) The mayor shall keep, a register in which is entered a copy of every order made by him or her in accordance with this section.
- (4) The provisions of section 151 of the Principal Act in relation to the certification and availability for inspection of orders shall apply to orders signed by the mayor

#### **Notes:**

This Head provides for the mayor to act by signed order in respect of certain executive functions.

### **Head 31. The mayor and the budget.**

#### **To Provide that:**

- (1) The draft local authority budget shall be prepared under the direction of the mayor, with the assistance of the director general , in the manner and in the format that may be prescribed by regulations made by the Minister showing the amounts necessary for the functional programmes of the authority.
- (2) Current provisions, which allow the council to pass the budget by simple majority shall apply.
- (3) Part 12 of the Principal Act, as it relates to the auditing of local authority accounts is a specified function and shall be the responsibility of the director general.

#### **Notes:**

This Head provides that the mayor will prepare and present the budget to council with the assistance of the director general, and reaffirms that there will be no change to the current provisions where a budget will pass by simple majority. All provisions relating to the accounting and audit of local authority spending will remain with the director general as a specified function.

## **Head 32. The mayor and the municipal districts.**

Provide that

- (1) The mayor may attend municipal district meetings and metropolitan district meetings and shall have speaking rights at those meetings.
- (2) A municipal district or metropolitan district may request the attendance of the mayor at a meeting.

### **Notes:**

The mayor is elected by the entirety of the Limerick city and county electorate, and therefore does not represent any individual municipal district. However, as head of the local authority he or she is entitled to attend any and all municipal districts meetings as he or she sees fit. A municipal district may also invite the mayor to attend any meeting in order to address a particular matter.

### Head 33. The mayor and local authority committees.

#### Provide that:

- (1) The mayor shall be the chairperson of the Corporate Policy Group in Limerick city & county.
- (2) The members of the policy group may request the directly elected mayor to provide a report to the policy group on any matter or thing related to a function of the local authority
  - (a) for which the mayor is responsible, and
  - (b) specified by the policy group memberssubject to the provisions of this Head, the directly elected mayor shall provide such report.
- (3) A directly elected mayor shall provide such a report in so far as compliance with such request would not—
  - (a) duplicate a similar request by the elected council or a direction under **Error! Hyperlink reference not valid.**(2) of the Principal Act, or
  - (b) be contrary to law
- (4) Where the policy group requests a report under subhead (2),
  - (a) the policy group may at the time of such request by direction in writing signed and dated by all members of the policy group in favour of the direction and given to the mayor require the mayor to refrain from doing any particular act, matter or thing related to the subject matter of the report and specifically mentioned in the direction and which the local authority or the mayor concerned can lawfully refrain from doing.
  - (b) Subject to subhead (4)(a), a direction under subhead (2) shall continue to have effect, unless withdrawn, until the next meeting of the local authority and may be extended by resolution at that meeting and where not so extended ceases to have effect.

- (c) A direction under subhead (2) (whether extended under subhead (4)(a) or not) shall not in any case have effect for longer than 3 months and shall cease to have effect on the expiration of 3 months after the date on which it is given, unless it is earlier withdrawn or has ceased to have effect under subhead (4)(b).
  - (d) Where a direction ceases to have effect a similar direction or a direction of substantially like effect in relation to the act, matter or thing in question may not be given.
  - (e) The mayor shall comply with a direction duly and lawfully given under Head.
- (5) The mayor shall have the right to attend any strategic policy committee of Limerick city & county.
- (6) The mayor shall be a member of the audit committee.

**Notes:**

The mayor shall be the chair of the corporate policy group. The members of the corporate policy group may request the mayor to provide a report on any matter or thing related to a function for which the mayor is responsible. The mayor shall provide such a report subject to the provisions of this Head. The mayor shall have the right to attend any strategic policy committee and is a member of the audit committee.

#### **Head 34. Mayoral programme for local government in Limerick.**

**Provide that:**

- (1) Within 3 months of his or her election the mayor shall prepare a programme for local government which shall set out the policies which the mayor intends to promote during his or her tenure.
- (2) The programme for local government shall have regard to national policies as set out by Government and the obligations of the local authority as defined in the Principal Act.
- (3) The first mayor's programme for local government shall have regard to existing corporate and local area plans.
- (4) Subsequent mayoral programmes for local government shall be completed within 3 months of the mayoral elections as provided for in Subhead (1) but in any event in advance of the completion of the corporate plan.
- (5) Any resolution made under Section 134(8)(a) of the Principal Act shall have regard to the mayoral programme for local government.
- (6) Corporate plans prepared in accordance with section 134 of the Principal Act shall have regard to the mayoral programme for local government.
- (7) The mayor shall present his or her programme for local government to the elected council for approval not later than 4 months after the election of the mayor and not later than 7 days before a meeting of the local authority.
- (8) The mayor shall consider any comments or observations made in relation to the Programme for local government at the meeting of the local authority before finalising the Programme for local government.
- (9) The mayor shall publish the programme for local government on the local authority's website and in such other form as the mayor may decide.

**Notes:**

The mayor shall draw up a programme for local government in Limerick within 3 months of election and present it to council within 4 month. This programme will be a strategic high level overview of the mayor's ambitions for Limerick city and county, while remaining within the overarching principles of national policy. The programme will form the basis from which future statutory corporate plans will flow. However as the first mayor will be elected mid-cycle, the programme will have to complement the existing corporate plan. There is no requirement for Limerick city and county council to reopen or review their existing corporate plans. Subhead (7) provides that s that if the elected council decide by resolution to review the corporate plan, the review must have regard to the mayoral programme for local government.



### **Head 35. Review of functions.**

#### **Provide that:**

- (1) A systematic Government review, to be laid before the Oireachtas, of powers assigned to the mayor should be carried out at the end of the 3rd year of the term so that any legislative amendments can be made in time for the commencement of the next term.
- (2) Such a review shall commence on 1 January of the mayor's 3rd full year in office and shall be completed within 90 days.
- (3) The first review shall take place in advance of the commencement of the next local government cycle in 2024.

#### **Notes:**

This Head provides for a review to take place in year 3 of the cycle so that any potential legislative amendments can be made before the start of the next cycle. The first review to take place before the start of the 2024 local government cycle as a result of the first mayoral term running to 2029.

## CHAPTER 4 PLANNING AND DEVELOPMENT

### Head 36 Directly elected mayor implementation forum.

Provide that

- (1) On the commencement of this section there shall stand established a committee which shall be known as the directly elected mayor Implementation forum (in this Bill referred to as the “forum”) to perform the functions conferred on them by or under this Bill.
- (2) The forum shall be convened and chaired by the Minister.
- (3) The forum shall be attended by the Limerick mayor and appropriate representatives of Government, depending on the agenda.
- (4) The forum shall hold one annual meeting at ministerial level and such and so many meetings as may be necessary for the due fulfilment of the functions as set out in Head 37.

#### Notes:

This Head provides for the creation of a new institutional structure to facilitate regular engagement between national Government and the Limerick mayor at political level. It shall be chaired by the Minister for Housing, Local Government and Heritage, and shall be attended by other ministers as required.

### **Head 37. The functions of the forum.**

Provide that

- (1) The forum shall oversee and facilitate the establishment of the office of directly elected mayor with executive functions and consider issues arising and make recommendations in that regard.
- (2) The forum shall make a plan (in this Bill referred as the plan) specifying the measures that shall be taken in order to achieve the as far as possible, the recommendations of the Limerick implementation advisory board report.
- (3) The plan may specify one or more of the following
  - (a) The issues of national policy on which the mayor shall be a statutory consultee;
  - (b) the assignment of additional functions identified in the report of the Limerick Implementation Group report on the establishment of a directly elected mayor with executive functions to Limerick city and county council including arrangements to be made between Limerick city and county council and the relevant government department to advance those assignments, and the assignment of any further additional functions deemed appropriate;
  - (c) The arrangements to be made between Limerick city and county council and the relevant government department or departments to advance financial autonomy, including but not limited to revenue raising measures, borrowing and local expenditure ;
  - (d) the implementation of the national planning framework in Limerick city and county.
- (4) The plan shall be updated and published on an annual basis.

**Notes:**

This Head provides for the forum to oversee the smooth transition of executive responsibility to the mayor, examination of new policy decisions at government level and how they impact to limerick and consideration of new functions and powers to be transferred to limerick and to oversee the implementation of the NPF in Limerick.

### **Head 38. Limerick PI2040 city delivery board.**

Provide that

- (1) On the commencement of this section there shall stand established a committee which shall be known as the Limerick PI2040 city delivery board (in this Bill referred to as the “delivery board”) to perform the functions conferred on them by or under this Bill.
- (2) The delivery board shall be convened and chaired by the mayor.
- (3) The delivery board shall be attended by senior officials of relevant Government departments and agencies, depending on the agenda.
- (4) Membership of the delivery board may include the cathaoirleach and chief executive of Clare county council where appropriate.
- (5) The mayor may invite any such stakeholders as he or she deems appropriate to attend send contribute to delivery board meeting
- (6) The delivery board shall hold such and so many meetings as may be necessary for the due fulfilment of the functions as set out in Head 39

#### **Notes:**

This Head provides for a new institutional structure to be created to oversee the implementation of elements of the national planning framework in Limerick city. This structure will be chaired by the mayor who will invite different stakeholders as he or she sees fit to support the work of the board.

### **Head 39. Functions of the Limerick PI2040 city delivery board**

Provide that

- (1) The delivery board shall oversee the strategic implementation of Project Ireland 2040 or any successor strategy in respect of the Limerick City Region, to include:-
  - (a) Population and employment growth further to the National Planning Framework (NPF) and Regional Spatial and Economic Strategy (RSES);
  - (b) Investment priorities further to the National Development Plan (NDP);
  - (c) The alignment of spatial planning and investment;
  - (d) Integrated urban regeneration strategies, including Limerick Regeneration, Limerick 2030, the Urban Regeneration and Development Fund (URDF) and Land Development Agency (LDA) Cities Strategy partnerships;
  - (e) the Limerick Metropolitan Area Transport Strategy (LMATS).
  
- (2) The City Delivery board shall engage with the national PI2040 board at least annually.

#### **Notes**

The purpose of the Limerick PI2040 delivery board is to ensure the co-ordination of all strategic spatial planning and investment necessary to achieve the delivery of PI2040 city growth for the Limerick City Region, in line with the objectives of the NPF, NDP, RSES, to monitor progress, including development priorities for large-scale housing and regeneration, employment and enterprise and supporting infrastructure, amenities and investment in terms of transport, water services and climate action. A formal engagement between the national PI 2040 Board and the mayor, as chair of the Limerick PI2040 Board shall take place every year.

#### **Head 40. The mayor and rural Limerick**

Provide that

- (1) The mayor shall convene a Rural Limerick Board (in this Bill referred to as the “rural board”) to examine all aspects of rural life including, but not limited to planning and development, transport, social isolation and investment.
  
- (2) The rural board may develop a programme of measures to address
  - (a) The coordination of government schemes and supports aimed at supporting rural life;
  - (b) The coordination of funding streams focussed on rural life;
  - (c) Any measures to address the regeneration of rural towns.
  
- (3) The rural board may develop a programme of measures to support the implementation of key deliverables in The Rural Development Policy 2021 – 2025 Our Rural Future and any successor strategy.

#### **Notes**

This Head allows the mayor to convene specific limerick rural board to examine all aspects of rural life including planning and development, transport, social isolation and investment. The mayor will be able to convene a varied group of stakeholders who will devise a strategy of actionable tasks and to pursue funding. The work of this board will complement, support and advance the recommendations in the rural development policy 2021 – 2025.

## **Head 41. Planning and development.**

Provide that

- (1) The mayor shall have a specific role in the preparation of city and county development plans.
- (2) The mayor may make a city and county development plan where the elected council refuses or is unable.
- (3) The mayor shall be a member of any group tasked with developing the potential of the Shannon estuary as outlined in the Programme for Government.
- (4) The mayor shall be consulted in the development of Regional spatial and Economic Strategy (RSES).
- (5) The mayor shall be the lead in the development of the new Metropolitan Area Spatial Plan (MASP) for the Limerick city area.
- (6)** The mayor shall manage the transition from The Limerick Regeneration Framework Implementation Plan (LRFIP), to a new Limerick regeneration investment plan.

### **Notes:**

This Head provides for the mayor to have a specific role in the making of city and county development plans. This may not apply to the first mayor elected, as these plans will likely be in place at that time. However, the mayor may have a role in any amendment to such plans.



## **Head 42. Entitlement to convene and consult.**

Provide that

- (1) The mayor shall be consulted by any relevant Department or Departments and associated public bodies in relation to
  - (a) Any matter which relate to any function, duty or responsibility that are the functions, duties or responsibilities of the mayor and
  - (b) any matters of policy, procedure or governance which interact with the policy procedure or governance of Limerick city and county council and
  - (c) public affairs administered by any Department insofar as they impact on Limerick
  - (d) Any other any matters that impact the functional area of limerick city and county council.
- (2) The mayor may seek consultation in relation to any matter which he or she considers to be relevant to Limerick, including in relation to matters for which the council has no direct mandate.
- (3) Any government department or agency to which this consultation is sought shall reply to the mayor within 14 days.
- (4) The mayor shall have the power to convene stakeholders on issues that impact on life in Limerick, including in relation to matters for which the council has no direct mandate.

### **Notes**

This Head provides for the mayor to have the right in law to be consulted on all dimensions of national policy that were affect the well-being of Limerick.

## **PART THREE**

### **DIRECTOR GENERAL**

This Part provides for the creation of a new executive position of director general.

#### **CHAPTER 1 the establishment of the office of director general.**

##### **Head 43 Establishment of the position of director general.**

**Provide that:**

- (1) The council of the city and county of Limerick shall have a director general, known as “the director general of Limerick city and county council” and who shall hold employment under the council of Limerick city and county.
- (2) The position of director general shall come into effect on the establishment day.
- (3) The position of chief executive as set out in **section** 144 of the Principal Act, as it applies to Limerick city & county shall cease at midnight on the day before the establishment day
- (4) A person who was, immediately before the establishment day, the chief executive of Limerick city and county, shall, unless he or she is retiring or resigning with effect from the end of that day, be appointed as director general until the end of the term which he or she would have served, had the position of chief executive not ceased.

**Notes:**

Subhead (1) creates the post of director general, subhead (2) identifies when the post comes in to effect and subhead (3) ceases the existing post of chief executive.

Subhead (4) provides that the incumbent chief executive may continue in the role of director general if he or she wishes to.

#### **Head 44. Deputy Director General:**

##### **Provide that:**

- (1) The director general, following consultation with the mayor, may by order appoint an employee to be a deputy director general.
- (2) A deputy director general shall by virtue of this Head act as and be the director general for the duration of any period which may arise from time to time (whether by way of vacation, illness or other reason) during which the director general is temporarily unable to act.
- (3) The director general may at any time terminate the appointment of the deputy director general.
- (4) Any reference to director general in this Act shall be read as including a deputy director general acting as director general in accordance with the provisions of Section 148 of the Principal Act.

##### **Notes:**

This Head provides for the appointment of a deputy director general. This is required so that the separation of specified functions from the mayor is protected by putting in place a mechanism to nominate someone to act if the director general is unavailable. Both the mayor and the príomh comhairleoir are consulted by the director general in the process.

## **CHAPTER 2 Duties of the director general.**

### **Head 45. Duties of the director general.**

#### **Provide that:**

- (1) The director general shall carry out and manage, and control generally, the staff, administration and business of the local authority and perform such other functions (if any) as may be determined by the mayor or the elected council in accordance with the provisions of this Bill.
- (2) The director general shall be responsible for the use and assignment of resources, including funds and personnel within the local authority.

#### **Notes:**

This Head provides that the director general will perform his or her duties in the same manner that a chief executive in any other local authority does. The director general will be responsible for the day-to-day running of the administration. In particular, the director general will be responsible for the allocation of resources, including staff resources.

## **Head 46. The director general and mayoral executive functions**

### **Provide that**

- (3) The mayor may by order delegate such of his or her functions as he or she thinks proper to the director general, and the director general shall perform such duties as are appropriate to the functions so delegated and shall for that purpose act in place of the director general.
- (4) The mayor and the director general shall agree a programme of delivery of local authority services following the budget meeting.
- (5) The programme of delivery shall form the basis of the local authority service delivery plans as provided for in section 134(a) of the Principal Act.

### **Notes:**

This Head provides that the mayor may delegate or assign the performance of a function (as distinct from the function itself) to the director general. It also provides for the mayor and the director general to agree how the assignment of the performance of functions shall work on a practical basis. The programme of delivery shall complement the service delivery plans.

## **Head 47. Specified functions**

### **Provide that**

- (6) The administration of scheme, grants and loans, including a decision on an application under any enactment for the grant of a permission, approval, permit, consent, certificate, licence or other form of statutory authorisation is a specified function.
- (7) Existing provisions in relation to Subhead (1) are listed in Schedule 1.
- (8) All executive functions relating to staffing matters including the appointment of staff and the completion of a human resources strategy shall be specified functions.
- (9) Existing provisions in relation to Subhead (4) are listed in schedule 2.
- (10) All executive functions relating to the holding of polls and the management of elections are specified functions. All functions provided for in Part Six of this Bill are specified functions.
- (11) Functions arising from the operation of key schemes and service level agreements listed in Schedule 3 are specified functions.
- (12) Schedules 1 – 3 should not be read as being the totality of specified functions.
- (13) The Minister may by regulations provided for in Subhead (3), amend the schedule of specified functions.
- (14) Compliance and enforcement matters arising from activities in this Head are specified functions.

- (15) The taking of legal proceedings in relation to individual grants or schemes or enforcements is a specified function.
- (16) All executive functions provided for under the Waste Management Act 1996 are specified functions.
- (17) All executive functions provided for under the Litter Pollution Act 1997 are specified functions.
- (18) All executive functions relating to waste and waste management arising from EU legislation, including regulations listed in schedule 1, are specified functions.

**Notes:**

This Head provides that the performance of certain executive functions currently exercised by the chief executive insofar as they relate to individual instances of those functions, e.g. allocating social housing to individuals or families, or approving individual planning applications, or granting licences or permits will not transfer to the mayor, but will instead become the legal responsibility of the director general, and be carried out in line with policies approved by the council.

Compliance and enforcement matters up and including legal proceedings, insofar as they relate to individual instances, such as planning enforcement will also be carried out by the director general, in line with policies approved by the council.

## **Head 48. The Director General and Specified functions**

### **Provide that**

- (1) The director general shall be answerable to the council for the performance of all specified functions.
- (2) The mayor shall not request by direction in writing signed and dated by him or her and given to the director general that the director general refrain from doing any act, matter or thing necessary in the performance of specified functions.
- (3) The director general may by order delegate such of his or her functions as he or she thinks proper to an employee, and such person shall perform such duties as are appropriate to the functions so delegated and shall for that purpose act in place of the director general.
- (4) Subject to law the specified functions of a director general shall be performed in accordance with the policy of the local authority as determined by the elected council in accordance with Part 14 of the Principal Act.
- (5) The provisions of section 133 of the Principal Act apply equally to the director general in the performance of specified functions.
- (6) The provisions of sections 138, 139 and 140 of the Principal Act apply equally to the director general in the performance of specified functions.
- (7) The provisions of section 229 of the Principal Act apply equally to the director general in relation to the entering into contracts etc required as a consequence of the performance of specified functions.

### **Notes:**

This Head provides the legal basis for the director general to perform specified functions. It provides for the director general to be directly answerable to the elected



council in respect of the performance of those functions. Subhead (2) is included to prevent the mayor from exerting any undue influence on the performance of specified functions. The director general may to delegate or otherwise assign the performance of the specified functions to a member of staff. Subhead (4) ensures that all specified functions are carried out in accordance with the policies of the elected council. Subhead (5) to (7) ensures that key provisions in the Principal Act relating to requests from the corporate policy group for a report; prior information to elected councils; direction that works not proceed and requirement that a particular thing be done will apply to the director general in the performance of specified functions. Subhead (7) ensures that the director general has the right to enter in to contracts in relation to specified functions.

#### **Head 49. The Director General as accounting officer.**

##### **Provide that**

- (1) The director general shall be the accounting officer for the local authority, and shall be responsible for the preparation of the annual financial statement as provided for in section 108 of the Principal Act
- (2) The director general shall be responsible for the keeping of accounts s provided for in section 107 of the Principal Act.
- (3) All revenue gathering activities, including but not limited to rent & loan charge collection, development contribution collection, charges for services and sale of graves shall be specified functions.
- (4) Additional functions relating to the role of accounting officer listed in Schedule 4 shall be the responsibility of the director general.

##### **Notes:**

This Head provides for the director general to act as accounting officer for the local authority, and is responsible for the annual financial statement, keeping of accounts and all revenue gathering activities. Other specified functions relating to the role of accounting officer are detailed in schedule 4.

## **Head 50. Director General acting by signed order**

### **Provide that**

- (1) The director general shall in carrying out specified functions act by a written order signed and dated by him or her in respect of the functions to which this section applies.
- (2) This section applies to specified functions which are
  - a. listed in Schedule 1 – 4 or
  - b. which prior to the election of the mayor were the subject of a manager's order as provided for in section 151 of the Principal Act.
- (3) The director general shall keep, a register in which is entered a copy of every order made by him or her in accordance with this section.
- (4) The provisions of section 151 of the Principal Act in relation to the certification and availability for inspection of orders shall apply to orders signed by the director general.

### **Notes:**

This head provides for the director general to act by signed order in respect of certain specified functions.

## **Head 51. Attendance at local authority meetings.**

### **Provide that:**

- (1) The director general has the right—
  - (a) to attend and speak at meetings of the local authority and
  - (b) to take part in its discussions,but shall not be entitled to vote on any question which is decided by a vote of the members of such local authority.
- (2) In so far as it is not inconsistent with the due performance of specified functions, the director general shall attend—
  - (a) any meeting of the local authority where he or she is requested by the elected council of that local authority to attend, and
  - (b) any meeting of a committee of the local authority where he or she is requested by the elected council of that local authority to attend.
- (3) This Head applies to the director general in respect of meetings of a municipal district of the local authority in the same manner as it applies to meetings of the authority.
- (4) In this Head director general includes an employee to whom the functions of the director general stand delegated in accordance with that Head in respect of the local authority in question.

### **Notes:**

This Head provides the legal basis for the director general to attend meetings of the local authority.

## PART FOUR

### REMOVAL OF THE DIRECTLY ELECTED MAYOR.

This Part contains the provisions for a legal mechanism to remove or recall a directly elected mayor with executive functions.

#### Head 52. Removal of a directly elected mayor with executive functions.

**Provide that:**

- (1) The Minister may, by regulation, remove an elected mayor provided that
  - (a) A motion to remove the mayor is received from the elected council and
  - (b) The matter has been considered by an independent panel.
- (2) The elected Council may initiate procedures to remove a mayor from office, only in cases where there is
  - (a) major failure to perform functions or
  - (b) Stated misbehaviour.
- (3) In initiating procedures to remove a mayor from office, the council shall have regard to Part 2 Chapter 3 of this Bill and Head 46 and Head 46(2)

**Commented [DO(1):** Part 2 Chp 3 includes head 25, right? This is the head referenced by the AGO

**Notes:**

The removal of an elected official has never been legislated for at the local government level. This is therefore based on existing provisions in article 12 of the constitution for the removal of the president. The Council may initiate proceedings to remove the mayor only where there is a failure to perform functions and for stated misbehaviour. When deciding to initiate the removal procedures on the grounds of failure to perform functions, the council must have regard to Chapter 3 of Part 2, which sets out the functions of the office of directly elected mayor and also to the programme of delivery

**Commented [DO(2):** Sorry, forgot to put on track changes. This is a new sentence.

of local authority services agreed between the mayor and the director general and provided for in Head 46(2).

### **Head 53. Initiation of a removal procedure.**

#### **Provide that:**

- (1) A removal procedure may be initiated by way of a motion to commence removal procedures which
  - (a) is signed by more than half of the total number of members of the council and
  - (b) contains a statement of the reason for the proposed removal and
  - (c) is delivered to the príomh comhairleoir, and
  - (d) is delivered or sent to the mayor.
- (2) Upon receipt of a motion to commence removal procedures, the príomh comhairleoir, through the director general, shall without delay send a copy of it to every member of the council.
- (3) The príomh comhairleoir shall immediately advise the Minister that a motion to commence removal procedures has been received.
- (4) The príomh comhairleoir shall convene a special meeting at the earliest possible date and in any case within no more than 21 days to consider the proposed removal.
- (5) Public notice of the intention to hold a special meeting to consider a motion to commence removal procedures must be posted.
- (6) Section 45 and Schedule 10(8) of the Principal Act shall apply to the holding of this meeting.
- (7) The mayor may prepare a statement of response in relation to the proposed removal and such statement shall be sent to each member of the council.
- (8) The mayor shall be afforded every opportunity to discuss the matter at the special meeting.

- (9) In order to assure a fair procedure the mayor may invite appropriate support to the meeting, including advisors and legal representation.
- (10) In order for the motion to be passed successfully it shall be necessary that
- (a) at least three quarters of the total number of members of the council vote in favour of the resolution, and
  - (b) the members of the council shall have considered any statement of response prepared by the mayor.
- (11) If the motion is passed, the príomh comhairleoir shall inform the Minister immediately.
- (12) Any subsequent removal procedure may not be initiated during the twelve month period following an unsuccessful removal procedure.

**Notes:**

Subhead (1) provides that a motion must be laid before council signed by more than half of the members and must contain the reasons for such a proposal. Subheads (2), (3) and (11) provide for the príomh comhairleoir to take action in relation to advising every council member and convening a special meeting within 21 days. Subheads (5) and (6) provide that the meeting must be publically advertised and the existing provisions, and standing orders where they exist, will apply to the meeting. Subheads (7) and (8) provide the mayor the opportunity to prepare a defence or statement in relation to the contents of the motion. This must also be circulated to each member of the council. Subhead (12) is included to ensure that due consideration is given before initiating the process as an unsuccessful attempt cannot be repeated for a minimum of 12 months. This is intended to help prevent vexatious use of the mechanism.



**Head 54. Procedure following a successful council motion to remove a directly elected mayor with executive functions.**

**Provide that:**

- (1) The Minister shall, within 7 days of the date of the special meeting at which the motion was passed, appoint a panel of at least 3 suitably qualified persons—
  - (a) to examine and investigate the motion of the council to remove the mayor where a proposal has been passed by the requisite majority of the members of the council;
  - (b) to satisfy itself that the grounds for removal have been met;
  - (c) To ensure that fair procedures have been followed by the council in passing the motion
  - (d) to recommend whether the Minister should, by regulation, sanction the removal of the directly elected mayor and
  - (e) to make any other recommendations as the panel may consider appropriate in all the circumstances.
- (2) The panel shall be independent in the performance of its functions and shall conduct its examination within 21 days of appointment.
- (3) As part of its deliberations, the panel shall provide the mayor the opportunity to make a submission to the panel and the mayor shall have the right to appear and to be represented at any investigative procedure held by the panel.
- (4) Upon reaching a conclusion, the panel shall advise the council and the mayor of its conclusions and both parties shall have the right to respond to the conclusions within 7 days.
- (5) The panel shall have regard to any additional submission or evidence presented at this time before making a final recommendation to the Minister.
- (6) Such a recommendation, shall state the reasons for the recommendation and shall be published

**Commented [DO(3)]:** Is this overstating the obvious? It means that the motion could be rejected by the panel on the basis that fair procedures were not followed?

- (7) The Minister's decision to give or withhold sanction shall have regard to a recommendation or recommendations of the panel.
- (8) Any regulation signed by the Minister to remove an elected mayor shall require a positive resolution in both Houses of the Oireachtas.
- (9) Where there is a positive resolution from the Houses of the Oireachtas,
  - (a) the mayor shall cease to act in the role and
  - (b) the príomh comhairleoir shall carry out the duties and responsibilities of the mayor until an election is held.
- (10) An election to replace a mayor must be held within 6 months of a successful removal procedure, unless such a procedure occurs within 6 months of the next local elections.

**Notes:**

When the Minister is notified by the príomh comhairleoir that the motion to remove the mayor was successful, he or she must, within 7 days establish an independent panel to consider the question and provide a recommendation. . The panel must also give an opportunity to the mayor and council to respond before finalising its findings. The Minister will have regard to the panel's findings. If, after receiving the findings of the independent panel, the Minister decides to sign an order to remove the mayor, this order must be placed before the houses of the Oireachtas, and this must be passed by both houses. Subhead (5) affirms that the mayor remains in office until there is a positive resolution from both Houses of the Oireachtas.

## PART FIVE

### PLEBISCITES ON DIRECT ELECTION OF MAYORS IN OTHER ADMINISTRATIVE AREAS.

This Part contains the provisions necessary to allow any local authority to hold a plebiscite on the topic of directly elected mayor with executive functions for their administrative area, with the plebiscite to be held in tandem with the local government elections in 2024.

#### Head 55 Interpretation.

(1) In this Part -

“Directly elected mayor” means the executive Head of a local authority elected to that office by the electors of the administrative area of that local authority and on whom are conferred –

- (a) some or all of the functions for the time being performable by the chief executive of that local authority, and
- (b) such other functions as may be provided by or under statute;

“local authority” has the meaning provided in Part 2 of the Principal Act;

“plebiscite” means, in relation to an administrative area, the plebiscite of the electors of that administrative area required to be held under this Part;

“proposal” means a proposal to provide by law for a directly elected mayor of the administrative area of a local authority.

#### Notes:

Standard provision to give meaning to terms used in relation to the holding of plebiscites.

## **Head 56 Plebiscite.**

### **Provide that:**

- (1) The proposal shall be submitted to a plebiscite of the electors of the administrative area to which the proposal relates.
- (2) Each plebiscite shall be held on such day and at such times as the Minister shall, by order, appoint.
- (3) Each plebiscite shall be conducted in accordance with regulations made by the Minister under Head 57.
- (4) For the purposes of a plebiscite, the local authority concerned shall, not later than 30 days before the day appointed under Subhead (2), cause information relating to the proposal to be published and distributed in such manner as it considers most likely to bring the proposal that is the subject of the plebiscite to the attention of electors in its administrative area.
- (5) Without prejudice to the generality of subsection (4), information published and distributed in accordance with that subsection shall, in accordance with guidelines under Subhead (6), contain a summary of –
  - (a) the functions and office of directly elected mayor for the administrative area concerned,
  - (b) the effect that the establishment of such office shall have on the performance by the local authority concerned of its functions and the likely nature of the relationship between the holder of that office and that local authority,
  - (c) the likely nature of the relationship between the holder of that office and any other body established by or under statute charged with performing functions in relation to the administrative area concerned,
  - (d) the likely cost and other resource implications if the proposal were implemented,

- (e) the effects (if any) that the proposal would have in relation to the functions and organisational structure of any other body,
  - (f) the possible advantages and disadvantages that would result if the proposal were implemented, and
  - (g) such further information as the Minister considers appropriate.
- (6) The Minister shall issue guidelines to each local authority regarding the publication and distribution of information to electors for the purposes of a plebiscite.

**Notes:**

This Head provides for the holding of plebiscites in any local authority jurisdiction. Subheads (2) and (3) provide for the Minister to make regulations and determine the date of the plebiscites. Any such plebiscite will likely be held on the same day as the local government elections in May/June 2024.

Subhead (4) places the onus on the local authority in question to publish and distribute information to voters. Subhead (5) outlines the nature and content of the information to be circulated. Subhead (6) provides for the Minister to issue guidelines in this regard.

## Head 57 Regulations.

### Provide that:

- (1) The Minister may make regulations for the purposes of this Part.
- (2) Without prejudice to the generality of Subhead (1), regulations under this section may make provision in relation to any one or more of the following:
  - (a) the form of the ballot paper in respect of a plebiscite, including the wording of the proposal to be included on the ballot paper,
  - (b) arrangements and requirements relating to the publication of notices and the provision of information to electors,
  - (c) the appointment of the returning officer for the purposes of the plebiscite, his or her duties and the assignment of staff to him or her for the purposes of the plebiscite,
  - (d) the taking of the poll and the counting (including recounting) of votes in a plebiscite,
  - (e) the use of school premises and other premises to which the public ordinarily have access for purposes connected with a plebiscite,
  - (f) arrangements for –
    - i. voting at the plebiscite in person or by post,
    - ii. special voting, and
    - iii. voting at the plebiscite by persons who are members of the staff of the returning officer,
  - (g) voting at a plebiscite by electors who are physically ill or physically disabled,
  - (h) polling at a plebiscite on islands belonging to the administrative area to which the plebiscite applies,
    - (i) the issue of polling information cards,
    - (j) the maintenance of the secrecy of the ballot,
    - (k) the removal of persons misconducting themselves in polling stations,
    - (l) procedures to be followed in cases of disorder or obstruction at polling stations or otherwise in relation to the holding of a plebiscite,
  - (m) procedures to be followed in the case of damage to ballot boxes or damage to a polling station,

- (n) arrangements to prevent interference with ballot boxes or ballot papers and procedures to be followed should such interference occur or be suspected of having occurred,
- (o) such other matters relating to the holding of a plebiscite as the Minister considers appropriate.

**Notes:**

This head provides that the plebiscites are to be held in accordance with regulations to be made by the Minister.

**Head 58 Electoral offences.**

**Provide that:**

Articles 67, 95, 96, 97, 98, 99, 100, 101, 106, 107, 108, 109, 110, 111, 113, 115, 116, 117, 118, 119 and 123 of the Local Elections Regulations 1995 (S.I. No. 297 of 1995) shall apply and have effect in relation to a plebiscite as they apply and have effect in relation to a local election, subject to such necessary modifications as shall be specified in regulations under Head 3.

**Notes:**

Standard provision



**Head 59 Persons entitled to vote at a plebiscite.**

**Provide that:**

Every person whose name is entered on the register of local government electors prepared under Part II of the Act of 1992 in force for the administrative area of the local authority concerned at the time of the plebiscite, shall be entitled to vote in the plebiscite in respect of that administrative area.

**Notes:**

This Head is based on section 68 of the Local Government Reform Act 2014. It provides that the persons entitled to vote in the plebiscites are those entitled to vote at local elections for the jurisdiction in which the plebiscite is being held.

## **Head 60 Report to Houses of Oireachtas.**

### **Provide that:**

- (1) The Minister shall, in respect of each administrative area in respect of which a plebiscite was held in accordance with this Part and not later than 2 years from the day appointed under Subhead (2) of Head 8, prepare and submit to both Houses of the Oireachtas either –
  - (a) a report specifying proposals for the enactment of a law providing for a directly elected mayor for such administrative area, or
  - (b) a report specifying the reasons for his or her not preparing and submitting a report under paragraph (a).

### **Notes:**

This head is based on section 44 of the Local Government Act 2019 and provides that action will be taken in the event of a positive outcome to the plebiscite.

**Head 61 Costs of holding plebiscites.**

**Provide that:**

The costs incurred by a local authority in the holding of a plebiscite shall be borne by that local authority.

**Notes:**

This Head provides for the local authority in which the plebiscite is being held shall bear all the costs arising from the holding of the plebiscites in their respective areas, including the information publication and distribution costs.

## PART 6

### Election of Mayor

#### CHAPTER 1 - Preliminary and General

##### Head 62 - Interpretation.

###### Provide that:

(1) "Act of 1992" means the Electoral Act 1992;

"ballot paper" has the meaning assigned to it by *Head 97*;

"certificate of political affiliation" has the meaning assigned to it by *Head 78*;

"Covid-19" means a disease caused by infection with the virus SARS-CoV-2 and specified as an infectious disease in accordance with article 6 of, and the Schedule to, the Infectious Diseases Regulations 1981 (S.I. No. 390 of 1981) or any variant of the disease so specified as an infectious disease in those Regulations;

"deposit" shall be construed in accordance with *Head 79*;

"elector" means a local government elector;

"excluded day" means a day which is a Sunday, Good Friday or a day which is a public holiday;

"local election" means an election under Part 24 of the Act of 2001;

"Local Elections Regulations" means the Local Elections Regulations 1995 (S.I. No. 297 of 1995) as given statutory effect as if they were an Act of the Oireachtas by section 20 of the Electoral (Amendment) Act 2009;

“local electoral area” means an area referred to in section 24 of the Local Government Act 1994;

“local government elector” means a person entitled, pursuant to section 24 of the Act of 2001, to vote at a local election;

“mayoral election” means an election for Mayor held pursuant to this Part;

“mayoral election agent” has the same meaning as it has in Part X (inserted by Head 147) of the Electoral Act 1997;

“notice of election” has the meaning assigned to it by *Head 75*;

“notice of poll” has the meaning assigned to it by *Head 96*;

“official mark” has the meaning assigned to it by *Head 98*;

“personation agent” has the meaning assigned to it by *Head 91*;

“polling day” means -

- (a) in relation to the mayoral election first held after the passing of this Act, the day fixed under *Head 67(1)* for the holding of the poll at that election,
- (b) in relation to all other mayoral elections (other than bye elections), the day fixed under *Head 67(3)*, for the holding of the poll,
- (c) in relation to a bye-election, the day fixed under *Head 67(4)*, or
- (d) in relation to a mayoral election held in accordance with *Head 67(5)*, the day or days fixed for the holding of the poll;

“polling information card” has the meaning assigned to it by *Head 100*;

“postal voter” has the meaning assigned to it by *Head 94*;

“postal voters list” means a list prepared pursuant to section 14 of the Act of 1992 for the register of local government electors for a local electoral area situated in the Limerick City and County Electoral Area;

“quota” has the meaning assigned to it by *Head 111*;

“register of electors” has the meaning assigned to it by *Head 66*;

“special voter” has the meaning assigned to it by *Head 95*.

(2) The Local Elections Regulations shall apply to a mayoral election subject to the following modifications:

- (a) a reference to a local election or an election shall be construed as a reference to a mayoral election;
- (b) a reference to local electoral area shall be construed as a reference to the Limerick City and County Electoral Area;
- (c) a reference in article 31 of those Regulations to Part XV shall be construed as a reference to Chapter 14;
- (d) a reference in article 32 of those Regulations to article 26 shall be construed as a reference to section 97 of the Act of 1997 (inserted by *Head 147*) and *Heads 90* and *91*;
- (e) a reference in article 40 of those Regulations to article 76 shall be construed as a reference to *Head 104*;
- (f) the reference in article 58(2) of those Regulations to “as a candidate or as a prospective candidate” shall be construed as a reference to “as a mayoral election agent, candidate or prospective candidate”;
- (g) a reference in article 63 of those Regulations to -

- (i) article 10 shall be construed as a reference to *Head 74*;
  - (ii) article 29 shall be construed as a reference to *Head 94*; and
  - (iii) article 43 shall be construed as a reference to *Head 95*;
- (h) a reference in article 70 of those Regulations to -
- (i) article 24 shall be construed as a reference to *Head 88*;
  - (ii) article 28 shall be construed as a reference to *Head 93*;
  - (iii) section 21 of the Act of 1994 shall be construed as a reference to *Head 67*;
- (i) article 69 of those Regulations shall be construed as if “(disregarding any excluded day)” was deleted;
- (j) article 72(2) of those Regulations shall be construed as if “separately in respect of each poll” was deleted;
- (k) the reference in article 73(2)(a) and article 73(3) of those Regulations to “register of local government electors for the local electoral area of...” shall be construed as a reference to “register of electors”;
- (l) a reference to a provision of those Regulations shall be construed as a reference to that provision as applied by this Part; and
- (m) any other necessary modifications.

**Note**

This Head defines various expressions used throughout Part 6 of the Bill which deals with the election of a Mayor of Limerick. The interpretation provisions use the approach/text in section 3 of the Presidential Elections Act 1993, article 2 of the Local Elections Regulations 1995 and section 2 of the Local Government Act 2001.

## **Head 63 - Forms.**

### **Provide that:**

Any document referred to in this Part or in any provision of an enactment applied to a mayoral election by virtue of this Part, as a document to be used at a mayoral election, shall, save as otherwise provided for by this Part, be in the same form as the corresponding form used at an election to Dáil Éireann, subject to any necessary modification.

### **Note**

This Head mirrors the provision in article 3(2) of the Local Elections Regulations 1995 in relation to forms.



General Scheme Local Government (Directly Elected Mayor in Limerick city and county) Bill 2021

**Head 64 - Eligibility for office of Mayor.**

**Provide that:**

Subject to the disqualifications set out in *Head 17*, a person is eligible for election to the office of Mayor if he or she is a citizen of Ireland, or is ordinarily resident in the State, and has attained the age of 18 years -

- (a) on or before polling day at the election, or
- (b) if there is no poll, the latest day for receiving nominations at the election.

**Note**

This Head is based on section 12 of the Local Government Act 2001 regarding eligibility for election.

General Scheme Local Government (Directly Elected Mayor in Limerick city and county) Bill 2021

**Head 65 - Limerick City and County Electoral Area.**

**Provide that:**

For the purposes of a mayoral election, there shall be one electoral area (in this Act referred to as the “Limerick City and County Electoral Area”) which shall consist of the local electoral areas in force at that time in respect of the city and county of Limerick.

**Note**

This Head ensures that the Limerick City and County Electoral Area is made up of the local electoral areas in the city and county of Limerick. It is based on section 40(1)(b) of the Local Government Act 2001.

**Head 66 - Right to vote at mayoral elections.**

**Provide that:**

- (1) For the purposes of a mayoral election and subject to the provisions of this Part, every person whose name is on the register (in this Part referred to as the “register of electors”) of local government electors prepared under Part II of the Act of 1992 for the time being in force for a local electoral area situated within the Limerick City and County Electoral Area, is entitled to vote at the poll at a mayoral election in that Area.
- (2) A person’s name shall be taken to be on the register of electors if it includes a name which, in the opinion of the returning officer or presiding officer, was intended to be the person’s name.
- (3) A person who has voted at a mayoral election shall not in any legal proceeding be required to state for whom he or she has voted.
- (4) A person who -
  - (a) is registered in the register of electors for the time being in force for a local electoral area but is not entitled to be so registered, or
  - (b) is not registered in the register of electors,shall not vote at the poll at a mayoral election.

- (5) Nothing in this Head shall be construed as entitling any person to vote who is not entitled to do so, or as relieving that person from any penalties to which that person may be liable for voting.

**Note**

This Head is based on section 24 of the Local Government Act 2001 to provide, inter alia, that every local government elector registered in a local electoral area to vote at local elections can vote at the direct election.

**Head 67 - Day and time of mayoral election.**

**Provide that:**

- (1) The poll at the mayoral election first held after the passing of this Act shall be held on such day and shall continue for such period, not being less than 12 hours between the hours of 7.00 a.m. and 10.30p.m., as may be fixed by the Minister by order.
- (2) The poll at a mayoral election (other than a mayoral election to which subsection (1) applies or a bye-election or a fresh mayoral election held pursuant to *Head 93* or *159*) shall be held on such day and for such period as may be fixed by the Minister by order under subsection (3).
- (3) As soon as practicable after the Minister makes an order under section 26(2) of the Act of 2001 for the holding of polls at local elections, he or she shall make an order fixing the same day and period for the holding of a poll at a mayoral election as is fixed in the aforementioned order.
- (4) The poll at a fresh mayoral election held pursuant to *Head 159* or a bye-election shall be held on such day and shall continue for such period, not being less than 12 hours between the hours of 7.00 a.m. and 10.30 p.m., as may be fixed by the Minister by order.
- (5) (a) Notwithstanding subsections (1) to (4), in the public interest and having regard to the immediate, exceptional and manifest risk posed to human life and public health by the spread of Covid-19 and any public health restrictions that may be in place when the order fixing the day of a poll at a mayoral election is being made, a poll at a mayoral election may be

taken on such day or days, subject to a maximum period of 2 consecutive days, as shall be appointed by the Minister by order; and

(b) a poll at a mayoral election taken in accordance with paragraph (a) shall continue for such period, not being less than twelve hours, between the hours of 7 a.m. and 10.30 p.m. on each of the polling days fixed by the Minister by order.

(6) Where the Minister makes an order under subsection (5)(a), the provisions of Table A and Table B of the Fifth Schedule shall apply to said election.

(7) An order under this section shall be published in the *Iris Oifigiúil* as soon as may be after it is made.

#### **Note**

1. This Head is based on section 26 of the Local Government Act 2001. It provides for the holding of the first direct election and thereafter alongside other local elections. It also provides for the day and times for the taking of a poll at such elections.
2. Head 5(a) provides for the taking of a poll over more than one polling day if an election is held where Covid19 restrictions apply.
3. The new subsection (6) provides that where the Minister appoints more than one polling day for a mayoral election in accordance with the new subsection 5(a), that the provisions set out in the Fifth Schedule would apply. That Schedule sets out amendments that would take effect so that references to “polling day” are clarified.

**Head 68 - Conduct of election.**

**Provide that:**

- (1) (a) If a mayoral election is contested, the poll shall be taken according to the system of proportional representation, each local government elector having one transferable vote.
- (b) In paragraph (a) "transferable vote" means a vote which is capable of being -
- (i) given so as to indicate the voter's preference for the candidates in order, and
  - (ii) transferred to the next choice when, owing to the deficiency in the number of the votes given for a prior choice, that choice is excluded from the list of candidates.
- (2) No election is invalid by reason of non-compliance with any provision of this Part, or any mistake in the use of forms provided for by this Part, if it appears to the court before which the matter is raised that -
- (a) the election was conducted in accordance with the principles laid down in this Part taken as a whole, and
  - (b) the non-compliance or mistake did not materially affect the result of the election.

**Note**

This Head is based on sections 27(1) and 40(3) of the Local Government Act 2001 to provide for PR-STV as the electoral system, subject to deletion of provision for the transfer of a surplus which will not arise as only one seat is to be filled. It also includes

a standard provision as in section 27(6) of the 2001 Act concerning validity of an election.

## **CHAPTER 2 - Returning Officer**

### **Head 69 - Returning officer.**

#### **Provide that:**

- (1) There shall for the purposes of this Part be a returning officer in respect of the Limerick City and County Electoral Area and the Chief Executive of Limerick City and County Council shall assign to an employee of the Council the duties of returning officer for the election of the Limerick Mayor.
- (2) Where an employee of the Council has been assigned to perform the functions of returning officer under subsection (1) and is prevented by illness or other reasonable cause from performing all or any of his or her functions at the election, the Chief Executive of Limerick City and County Council shall appoint another employee of the Council to act as returning officer for the performance of those functions, during the period of the prevention and references in this Part to the returning officer shall be construed accordingly.

#### **Note**

This Head provides for the designation of an officer of Limerick City and County Council to be the returning officer for the election of a Mayor of Limerick City and County. It also makes provision for a situation where the returning officer is not able to perform his functions due to illness or other reasonable cause.



## **Head 70 - General duty of returning officer.**

### **Provide that:**

It shall be the general duty of the returning officer for a mayoral election to –

- (a) do all such acts and things as may be necessary for effectually conducting the election in accordance with this Part,
- (b) ascertain and declare the results of the election, and
- (c) furnish to Limerick City and County Council a return of the person elected as Mayor.

### **Note:**

This Head provides for the setting out of the general duties of the returning officer for an election to the office of Mayor of Limerick City and County. These include conducting the election in accordance with this Act, ascertaining and declaring the results of the election and furnishing to Limerick City and County Council a return of the person elected to be Mayor of Limerick City and County.

This Head is based on section 31 of the Electoral Act 1992 and article 5 of the Local Elections Regulations 1995.

**Head 71 - Deputy returning officers.**

**Provide that:**

- (1) The returning officer for a mayoral election may, in writing, appoint one, or more than one, person to be deputy returning officer or officers and may delegate to any such deputy such of the functions of the returning officer as may be specified in the appointment.
- (2) The returning officer may at any time revoke the appointment of a deputy returning officer appointed under subsection (1).
- (3) A deputy returning officer at a mayoral election shall have all the rights and be subject to all the duties and liabilities of the returning officer in relation to the functions for which he or she is appointed.
- (4) In this Part, any reference to the returning officer in relation to any act, matter or function for which a deputy returning officer is appointed by or under this section shall, unless the context otherwise requires, be interpreted as a reference to such deputy returning officer.

**Note:**

This Head provides power for the returning officer at an election to appoint one or more persons to be a deputy returning officer at an election under this Act.

This Head is based on section 30 of the Electoral Act 1992 and article 6 of the Local Elections Regulations 1995.

**Head 72 - Expenses of returning officer.**

**Provide that:**

- (1) (a) The Limerick City and County Chief Executive shall prepare a scale of maximum charges for the returning officer in respect of every mayoral election.
  - (b) Limerick City and County Council shall pay to the returning officer the reasonable charges incurred by the returning officer in respect of his or her services and expenses in relation to a mayoral election.
  - (c) The charges paid by Limerick City and County Council pursuant to this subsection shall not exceed the maximum charges specified in the scale prepared pursuant to paragraph (a).
- (2) (a) Limerick City and County Council shall, in respect of services and expenses other than services and expenses to which the scale of maximum charges referred to in paragraph (a) of subsection (1) applies, recoup to (or, where appropriate, pay on behalf of) the returning officer, the officer's reasonable charges in relation to a mayoral election.
  - (b) In this subsection "expenses" includes -
    - (i) expenses incurred by a returning officer in respect of legal representation in proceedings before a court arising out of the performance or purported performance by the returning officer of his or her functions in respect of the mayoral election concerned (other than the trial of a petition presented to the High Court), and

- (ii) damages and costs payable by the returning officer pursuant to an order of a court in respect of such proceedings,

except where the court is satisfied that the returning officer has been grossly negligent in the discharge of his or her duties.

- (3) An account of charges sought to be paid pursuant to subsections (1) and (2) shall be submitted by the returning officer to Limerick City and County Council at such time and in such manner as the Limerick City and County Chief Executive may from time to time direct.
- (4) The returning officer may request Limerick City and County Council to advance to him or her such sum or sums in respect of such charges as he or she anticipates are likely to be incurred by him or her in respect of the mayoral election concerned, and Limerick City and County Council may make such an advance on such terms as they think fit.

**Note:**

This Head provides for the expenses of the returning officer at an election to be borne by Limerick City and County Council. It also provides, on the request of the returning officer, for the making of an advance on his/her expenses at the election in relation to the conduct of the election, and the council may make an advance on such terms as it thinks fit. This Head is based on article 8 of the Local Elections Regulations 1995.

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**Head 73 - Mutual assistance.**

**Provide that:**

It shall be the duty of every person upon whom any function in relation to a mayoral election is conferred by or under this Part and of every person appointed or employed (otherwise than by any candidate or political party) for any purpose relating to the election, to furnish such information and render such other assistance to any other such person as that other person requires for the purposes of the election.

**Note**

This Head provides for a requirement on persons who are conferred with any function in relation to an election to furnish any information and provide such assistance to any other person as he or she requires for the purpose of the election. This Head is based on article 9 of the Local Elections Regulations 1995.

**CHAPTER 3 - Manner of Voting**

**Head 74 - Manner of voting.**

**Provide that:**

Subject to *Heads 94(1)* and *95(1)*, a person who is entitled to vote at a mayoral election shall be entitled to vote in person only and at the polling station allotted to him or her or, in case that person is authorised by a returning officer under article 61 or 62 of the Local Elections Regulations (as applied to a mayoral election by *Head 101*) at the polling station specified in the authorisation.

**Note**

This Head mirrors article 10(1) of the Local Elections Regulations 1995 in relation to voting at polling stations.

#### CHAPTER 4 - Nominations

##### Head 75 - Notice of election.

###### Provide that:

The returning officer shall, not later than the twenty-eighth day before the polling day, give public notice of the mayoral election (in this Part referred to as the “notice of election”) stating -

- (a) the times for receiving nominations,
- (b) the requirement on candidates referred to in *Head 78(6)(a)* to secure 60 assents or make a deposit in accordance with *Head 79*,
- (c) the times and place at which nomination papers may be obtained,
- (d) the times and place at which the returning officer will attend to receive the nominations, and
- (e) the day and the period fixed for the holding of the poll if the election is contested.

###### Note

This Head provides for giving of public notice of a mayoral election. It mirrors provisions in section 44 of the Electoral Act 1992 (for Dáil Elections) and article 11 of the Local Elections Regulations 1995.

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**Head 76 - Register of political parties.**

**Provide that:**

- (1) On the day (disregarding any excluded day) before the latest day for the publication of the notice of election, the Registrar of Political Parties shall send to the returning officer a copy of the Register of Political Parties.
- (2) Section 25(2)(a) of the Electoral Act 1992 is amended by the insertion of “or, (iv) a mayoral election within the meaning of *Part 6* of the Local Government (Directly Elected Mayor with Executive Functions in Limerick City and County) *Act 2021*” after “a local election”.

**Note**

This Head mirrors article 12 of the Local Elections Regulations 1995 in relation to voting at polling stations.

It also amends section 25(2)(a) of the Electoral Act 1992 to include the Limerick Mayor election as a category in the Register of Political Parties.



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**Head 77 - Necessity for nomination.**

**Provide that:**

A person shall not be entitled to have his or her name entered in a ballot paper as a candidate at a mayoral election unless that person has been nominated in the manner provided by this Part and the person's nomination paper has been ruled as valid by the returning officer.

**Note**

This Head mirrors article 13 of the Local Elections Regulations 1995 in relation to voting at polling stations.

**Head 78 – Nomination of candidates.**

**Provide that:**

- (1) At a mayoral election a person may nominate himself or herself as a candidate or may, with his or her consent, be nominated by another person (being a person whose name is on the register of electors) as proposer.
- (2) Each candidate shall be nominated by a separate nomination paper in the form directed by the Minister.
- (3) Each nomination paper shall state the names (the surname being stated first) and the address and occupation (if any) of the candidate.
- (4)
  - (a) A candidate may include in the nomination paper the name of the political party registered in the Register of Political Parties as a party organised to contest a mayoral election of which he or she is a candidate, provided that, at the time the nomination paper is delivered to the returning officer, a certificate in the form directed by the Minister (in this Part referred to as a “certificate of political affiliation”) authenticating the candidate’s candidature is produced to the returning officer, being a certificate signed by the officer or officers of such party whose name or names appear in the said Register pursuant to section 25(7)(d) (inserted by section 11 of the Electoral (Amendment) Act 2001) of the Act of 1992.
  - (b) Where such a certificate is produced, the returning officer, provided he or she is satisfied that it is appropriate to do so in relation to the candidate, shall cause –
    - (i) a statement of the name of the relevant political party and a copy of the political party’s emblem as registered in the said Register

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to be specified in relation to the candidate on all the ballot papers,  
and

(ii) a statement of the name of the relevant political party to be specified in relation to the candidate on notices.

- (5) If a candidate is not the candidate of a political party registered in the Register of Political Parties as a party organised to contest a mayoral election, the candidate shall be entitled to enter after his or her name on the nomination paper the expression "Non-Party" and, if the candidate does so, the returning officer shall cause a statement of that expression to be specified in relation to the candidate on all the ballot papers and on notices.
- (6) In the case of a candidate whose candidature is not authenticated by a certificate of political affiliation under subsection (4), one or other of the following paragraphs shall, before the expiration of the time appointed by *Head 81* for receiving nominations, be complied with:
- (a) the candidate's nomination shall have been assented to by 60 persons (excluding the candidate and any proposer) who are electors in the Limerick City and County Electoral Area (each of whom in this Chapter is referred to as an "assentor");
- (b) the candidate, or someone on his or her behalf, shall have made a deposit in accordance with *Head 79*.
- (7) The following provisions apply in respect of the assents required by subsection (6)(a) to the nomination of a candidate referred to in that subsection:
- (a) to assent to the nomination, an assentor shall make a statutory declaration in the form directed by the Minister stating the following:

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- (i) his or her number (including polling district letters) on the register of electors in force on the date of the making of the statutory declaration;
  - (ii) his or her place of ordinary residence in respect of which he or she is registered in the register of electors referred to in subparagraph (i);
  - (iii) his or her contact details, including telephone numbers (if any);
  - (iv) the name of the local electoral area, in the Limerick City and County Electoral Area, on the date of the making of the statutory declaration, in which he or she is ordinarily resident;
  - (v) the name and address of the candidate;
  - (vi) the form of identification produced by him or her in accordance with paragraph (b), including any number on it that distinguishes it from similar forms held by others;
  - (vii) that he or she assents to the nomination of the candidate;
  - (viii) that he or she has not assented to the nomination of any other candidate in respect of that election;
- (b) when making the statutory declaration referred to in paragraph (a), the assentor shall produce to the person taking and receiving the declaration

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a specified photographic identification in accordance with subsection (8)(b) and shall, on so doing, be deemed, for the purposes of the Statutory Declarations Act 1938, to be personally known to the person taking and receiving the declaration;

- (c) subject to paragraph (d), the assent shall have effect as respects, and only as respects, the mayoral election held next after the making of the statutory declaration;
- (d) notwithstanding paragraph (c), the assent shall cease to have effect if the register of electors referred to in paragraph (a) ceases to be in force before the holding of the election referred to in paragraph (c);
- (e) the candidate or proposer shall attach the required number of statutory declarations (that is to say, the 60 statutory declarations constituting the assents) to the nomination paper and the nomination paper delivered to the returning officer in accordance with *Head 82*, shall have the declarations so attached;
- (f) where more than the required number of statutory declarations is attached to the nomination paper, the declarations (up to the required number) first attached to the nomination paper shall be taken into account to the exclusion of any others;
- (g) it shall be lawful for a member of the Garda Síochána or an official of the Authority or an official of the registration authority in the Limerick City and County Electoral Area to take and receive a statutory declaration referred to in paragraph (a) and any such declaration shall be stamped by the member or official concerned;

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- (h) Limerick City and County Council and the returning officer shall arrange for the provision of forms, for the purposes of making a statutory declaration referred to in paragraph (a), free of charge to any person who requests such a form.
- (8) For the purposes of subsections (6)(a) and (7) –
- (a) a person whose application to have his or her name entered in the supplement to the register of electors is approved by the registration authority in the Limerick City and County Electoral Area at or before the latest time for delivery of a nomination paper to the returning officer, shall be deemed to be an elector in the Limerick City and County Electoral Area, and
  - (b) any type of photographic identification that for the time being is prescribed under section 3 of the Act of 1992 for the purposes of section 46(6)(b) (inserted by section 1 of the Electoral (Amendment) Act 2007) of that Act is considered to be “specified photographic identification” as referred to in subsection 7(b).
- (9) The returning officer shall provide nomination papers during the usual office hours, at such place or places as are named in the notice of election, on each weekday during the period beginning on the publication of that notice and ending at 12 noon on the latest day for receiving nominations and the returning officer shall supply a nomination paper or papers free of charge to any person applying therefor, but the use of a paper supplied by the returning officer pursuant to this Head shall not be obligatory at a mayoral election, provided that the nomination paper used is in the form directed by the Minister in accordance with subsection (2).

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(10) In this Head –

“Register of Political Parties” shall be construed as a reference to the copy of that Register sent to the returning officer pursuant to *Head 76*;

“registration authority” means a registration authority within the meaning of Part II of the Act of 1992.

**Note**

This Head provides for the nomination of candidates at the Mayoral election. It provides for the nomination of a person by that person himself or herself or, with his or her consent, by another person who is registered as a local government elector in a local electoral area within the Limerick City and County Electoral Area, as proposer. The Head requires each candidate to be nominated by a separate nomination paper in the form directed by the Minister. Where a candidate is not a member of a political party their nomination is to be assented to by 60 assentors registered as local government electors, or a deposit is to be paid. It is based on article 14 of the Local Elections Regulations 1995 with necessary modifications.

**Head 79 – Deposit by certain candidates.**

**Provide that:**

- (1) This Head applies to a candidate referred to in *Head 78(6)(b)* unless the candidate concerned has opted to have his or her nomination assented to by the means specified in *Head 78(6)(a)* and (7).
- (2) A candidate at an election referred to in *Head 78(6)(b)*, or someone on his or her behalf, may, before the expiration of the time appointed by *Head 81* for receiving nominations, deposit with the returning officer the sum of €1,000, and if the said sum is not deposited, his or her candidature shall be deemed to have been withdrawn.
- (3) The deposit that may be made by or on behalf of a candidate pursuant to this Head may be made by means of legal tender or, with the consent of the returning officer, in any other manner.

**Note**

This Head provides that, unless a candidate has opted to have his or her nomination assented to, this Head will apply. In that case, the alternative is that the candidate or someone on his or her behalf may, before the expiration of the time limit for receiving nominations, deposit with the returning officer the sum of €1,000. If that sum is not deposited before the expiration of the time appointed for the receipt of nominations, the candidature of the candidate will be deemed to have been withdrawn. This Head is based on article 15 of the Local Elections Regulations 1995.



**Head 80 – Return or disposal of deposit.**

**Provide that:**

- (1) The deposit referred to in *Head 79* shall be returned where the candidate -
  - (a) withdraws his or her candidature in accordance with *Head 86*,
  - (b) is deemed, under *Head 93(1)*, to have withdrawn his or her candidature,
  - (c) dies before the poll is closed,
  - (d) has not, before the expiration of the time for the receipt of nominations, been validly nominated as a candidate at the mayoral election,
  - (e) is elected, or
  - (f) is not elected but the greatest number of votes credited to him or her at any stage of the counting of the votes at the election exceeds one quarter of the quota.
- (2) Any deposit which is not returned under subsection (1) shall be forfeited.
- (3) Where a deposit is to be returned under subsection (1) it shall be returned to the person by whom it was made, provided that a deposit made by a person

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who dies before the deposit is returned shall be returned to his or her personal representative.

- (4) A deposit forfeited under this Head shall be disposed of by the returning officer in such manner as may be directed by the Chief Executive of Limerick City and County Council.
- (5) In this Head "personal representative" has the meaning assigned to it by section 3 of the Succession Act 1965.

**Note**

This Head provides for the return or disposal of a deposit at a Mayoral election. Under this Head, the deposit of a candidate is returned to the candidate where, for example, he or she withdraws the candidature or dies before the close of the poll, or has not been validly nominated before the expiry of time for receipt of nominations. This Head is based on article 16 of the Local Elections Regulations 1995.

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**Head 81 – Time for receiving nominations.**

**Provide that:**

The earliest time for receiving nominations shall be 10.00 a.m. on the day (disregarding any excluded day) next following the latest day for the publication of the notice of election and the latest time for receiving nominations shall be 12 noon on the seventh day (disregarding any excluded day) next following the latest day for the publication of that notice.

**Note**

This Head provides for the earliest and latest times for receipt of nominations. This Head is based on article 17 of the Local Elections Regulations 1995.

**Head 82– Delivery of nomination papers.**

**Provide that:**

- (1) Every nomination paper shall be delivered to the returning officer within the times specified in *Head 81*, by the candidate or the proposer of the candidate.
- (2) The delivery of the nomination paper shall be made by the candidate in person except that, where the candidate is proposed by another person, it may be made either as aforesaid or by the proposer in person.
- (3) The returning officer shall attend to receive nominations at the place specified in that behalf in the notice of election between the hours of 10.00 a.m. and 12 noon and between the hours of 2.00 p.m. and 5.00 p.m. on the day (disregarding any excluded day) before the latest day for receiving nominations and between the hours of 10.00 a.m. and 12 noon on such latest day.

**Note**

This Head provides for the delivery of nomination papers to the returning officer. Nomination papers must be delivered within the statutory period set out in Head 81. This Head is based on article 18 of the Local Elections Regulations 1995.

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**Head 83 - Selection of nomination papers.**

**Provide that:**

The returning officer shall number the nomination papers in the order in which they are received and the first valid nomination paper received by the returning officer nominating a candidate for the mayoral election shall be deemed to be the nomination of that candidate.

**Note**

This Head requires the returning officer to number the nomination papers in the order in which they are received. The first valid nomination paper received nominating a candidate is deemed to be that candidate's nomination. This Head is based on article 19 of the Local Elections Regulations 1995.

**Head 84 - Ruling on validity of nomination papers.**

**Provide that:**

- (1)
  - (a) The returning officer shall rule on the validity of each nomination paper within one hour after its delivery and may rule that it is invalid if, but only if, the returning officer considers that the paper is not properly made out or signed.
  - (b) Without prejudice to paragraph (a), the returning officer may also rule that the nomination paper of a candidate referred to in *Head 78(6)(a)* is invalid if he or she considers that subsections (6)(a) and (7) of *Head 78* have not been complied with.
  - (c) The returning officer shall not rule that a nomination paper is invalid by reason only of an assentor having assented to the nomination of more than one candidate at the same election.
- (2) The candidate nominated by each nomination paper and the candidate's proposer (if any) and one other person designated by the candidate or proposer, as the case may be, and no other person, except with the permission of the returning officer, shall be entitled to attend while the said nomination paper is being ruled upon by the returning officer.
- (3) The returning officer shall object to the name of a candidate in a nomination paper if such name –
  - (a) is not a name by which the candidate is commonly known,

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- (b) is misleading and likely to cause confusion,
- (c) is unduly long, or
- (d) contains a political reference,

and where the returning officer so objects, he or she shall allow the candidate or proposer, as may be appropriate, to amend the name and, if it is not so amended to the returning officer's satisfaction, the returning officer may amend it, as he or she thinks fit, after consultation with the candidate or proposer, if either is present, or may rule that the nomination paper is invalid as not being properly made out.

- (4) (a) The returning officer shall object to the description of a candidate in a nomination paper that is, in the opinion of the returning officer, incorrect, insufficient to identify the candidate or unnecessarily long or that contains a political reference other than, where appropriate, a reference to a public or elected office held, or formerly held, by the candidate or an entry made pursuant to subsection (4) or (5) of Head 78.
  - (b) Where the returning officer so objects, he or she shall allow the candidate or proposer, as may be appropriate, to amend the description and, if it is not so amended to the returning officer's satisfaction, the returning officer may amend or delete it, as he or she thinks fit, after consultation with the candidate or proposer, if either is present, or may rule that the nomination paper is invalid as not being properly made out.
- (5) (a) Having ruled on the validity of a nomination paper, the returning officer shall note the decision on the nomination paper and shall sign the note.

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- (b) If the returning officer rules that the paper is invalid, the officer shall include a statement of the reasons for the decision.
  - (c) The decision of the returning officer under this Head shall be final subject only to reversal on a petition questioning the election.
- (6) As soon as practicable after ruling on the validity of a nomination paper, the returning officer shall give, by post or otherwise, notice in writing of the ruling to the candidate.
- (7) Every person in respect of whom a nomination paper has, under this Head, been determined to be valid and whose candidature is not withdrawn in accordance with *Head 86* or is not deemed under *Head 79(2)* or *93(1)* to have been withdrawn shall stand validly nominated as a candidate.

**Note**

This Head provides for the procedures in relation to the ruling by the returning officer on the validity of nomination papers. This Head is based on article 20 of the Local Election Regulations 1995.



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**Head 85 – Publication of nominations.**

**Provide that:**

The returning officer shall, as soon as practicable after ruling that a nomination paper is valid, cause a notice to be displayed outside the place at which the officer is receiving nominations stating the name and description of the person nominated in the paper and the name and address of the person's proposer (if any).

**Note**

This Head provides that the returning officer must publish a notice stating the names and descriptions of the person nominated and the name and address of his or her proposer (if any) as soon as they have ruled a nomination paper valid. This must be displayed outside the places where they are receiving nominations. This Head is based on article 21 of the Local Election Regulations 1995.

**Head 86 – Withdrawal of candidature.**

**Provide that:**

- (1) A candidate may withdraw his or her candidature for the election by a notice of withdrawal signed by the candidate and delivered in person by the candidate or by the candidate's proposer to the returning officer not later than the hour of 12 noon on the day (disregarding any excluded day) next following the latest day for receiving nominations.
  
- (2) Where the returning officer is satisfied that a candidate wishes to withdraw his or her candidature and that the candidate and proposer are unable to attend, withdrawal may be effected by delivering to the returning officer, not later than the hour referred to in subsection (1), a notice of withdrawal signed by the candidate and by the person delivering the notice.

**Note**

This Head provides for the withdrawal by a candidate of his or her candidature at a Mayoral election. This Head is based on article 22 of the Local Election Regulations 1995.

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**Head 87 – Publication of withdrawal.**

**Provide that:**

The returning officer shall, immediately on the delivery to the said officer of a notice of withdrawal under *Head 86*, give public notice of the withdrawal (and, in the case of the withdrawal of a candidate who was nominated by another person as proposer, of the name of the other person).

**Note**

This Head provides for the publication by the returning officer of a public notice setting out details of the withdrawal at a mayoral election. This Head is based on article 23 of the Local Election Regulations 1995.

**Head 88 – Obstruction of nominations.**

**Provide that:**

- (1) If the proceedings for or in connection with the nomination of candidates at a mayoral election are obstructed by violence the 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 the returning officer so considers it necessary, may further adjourn the proceedings until such obstruction shall have ceased.
  
- (2)
  - (a) Where any proceedings for or in connection with the nomination of candidates are adjourned under this Head, the returning officer shall postpone the latest time for receiving nominations for a period equal to the period of such adjournment and shall so inform the Minister who may, by order, appoint the day for the taking of the poll at the election.
  
  - (b) Where the Minister appoints a day under paragraph (a), the returning officer shall give public notice accordingly, and the poll shall be taken on the day so appointed and the order under *Head 67* shall be construed and have effect as if the day appointed under paragraph (a) were the day specified in the said order for taking the poll.

**Note**

This Head provides for procedures in the event of obstruction of nominations at a Mayoral election. In the event of obstruction, the proceedings may be adjourned to later in the same day or to the following day, and if necessary may be further adjourned. This Head is based on article 24 of the Local Election Regulations 1995.

**Head 89 – Procedure after nominations.**

**Provide that:**

- (1) If at 12 noon on the day (disregarding any excluded day) next following the latest day for receiving nominations -
  - (a) the number of candidates standing nominated at the mayoral election is 2 or more, the returning officer shall adjourn the election and shall take a poll in accordance with this Part, or
  - (b) one candidate only stands nominated at the mayoral election, the returning officer shall forthwith declare the said candidate to be elected as Mayor and shall make a return to Limerick City and County Council and give public notice of the candidate elected in accordance with *Head 115*.
- (2) Where, at 12 noon on the day (disregarding any excluded day) next following the latest day for receiving nominations, no person stands nominated as a candidate at the mayoral election -
  - (a) the returning officer shall so inform the Minister,
  - (b) the relevant order under *Head 67* shall be deemed to be revoked,
  - (c) a fresh election shall be held in accordance with this Part, and
  - (d) the Minister shall, as soon as practicable, make an order for the purposes of the fresh election.

**Note**

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SubHead (1) is based on article 25(1) of the Local Elections Regulations 1995 and provides for an election to be held if two or more candidates stand nominated. If only one candidate stands nominated they are deemed elected. SubHead (2) is based on Head 28 of the Presidential Elections Act 1993 and provides that a fresh election be held in the event that no candidate is nominated at the first election.

## **CHAPTER 5 - Agents of Candidates**

### **Head 90 – Appointment of agents.**

#### **Provide that:**

- (1) A candidate or his or her mayoral election agent may appoint with respect to any polling district in the Limerick City and County Electoral Area one person (in this Part referred to as a “deputy agent”) to assist the candidate in the polling district and to act therein as deputy for the candidate’s mayoral election agent.
- (2) The appointment of a deputy agent may be revoked by the candidate or his or her mayoral election agent.
- (3) Where the appointment of a deputy agent under this Head is revoked or a deputy agent under this Head dies, resigns or becomes incapable of acting during a mayoral election, another deputy agent may be appointed under this Head in his or her place.
- (4) A deputy agent appointed under this Head shall immediately after the appointment give written notice of his or her appointment and details of his or her name and address to the returning officer.

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**Note**

This Head provides that the candidate or the candidate's mayoral election agent may appoint one deputy agent for each polling district in the Limerick City and County Electoral Area to assist the candidate and to act a deputy for the mayoral election agent in the polling district. The revocation of the appointment is also covered.

**Head 91 – General provisions as to agents.**

**Provide that:**

- (1) A candidate at a mayoral election or his or her mayoral election agent may appoint agents to be present on his or her behalf -
  - (a) at the issue of ballot papers to postal voters,
  - (b) in polling stations,
  - (c) at the opening of the postal ballot boxes, and
  - (d) at the counting of the votes.
- (2) Subject to subsection (3), the number of agents who may be appointed to be present on behalf of any candidate shall be fixed by the returning officer so, however, that the same number shall be allowed on behalf of every candidate.
- (3) A candidate or his or her mayoral election agent may appoint one person (in this Part 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 and shall be produced to the presiding officer for the polling station concerned.
- (4) An appointment under this Head may be revoked by the candidate or his or her mayoral election agent.



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- (5) A candidate or his or her mayoral election agent shall, not later than the time for the commencement of the issue of ballot papers to postal voters, give written notice to the returning officer of the name and address of every agent appointed by the candidate or his or her mayoral election agent to be present at the said issue and the 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.
- (6) (a) A candidate or his or her mayoral election agent shall, not later than 2 days (disregarding any excluded day) before the polling day, give written notice to the returning officer of the name and address of every personation agent appointed by the candidate or his or her mayoral election agent together with the name of the polling station for which the personation agent is appointed.
- (b) A personation agent appointed in accordance with this Head and whose name and address have been duly notified to the 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 article 72 of the Local Elections Regulations, as applied to a mayoral election by *Head 101*, and the documents and materials specified in that article have been placed in sealed packets.
- (7) A candidate or his or her mayoral election agent shall, not later than 2 days (disregarding any excluded day) before the polling day, give written notice to the returning officer of the name and address of every agent appointed by the candidate or his or her mayoral election agent to be present at the opening of the postal ballot boxes and the returning officer may refuse to admit to the place

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where the postal ballot boxes are to be opened any agent whose name and address have not been so notified.

- (8) A candidate or his or her mayoral election agent shall, not later than 2 days (disregarding any excluded day) before the polling day, give written notice to the returning officer of the name and address of every agent appointed by the candidate or his or her mayoral election agent to be present at the counting of the votes and the 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.
- (9) Where the appointment of an agent under this Head is revoked or an agent appointed under this Head dies, resigns or becomes incapable of acting during a mayoral election, another agent may be appointed under this Head in place of the first-mentioned agent and, where such an appointment is made, the candidate or his or her mayoral election agent shall forthwith give written notice of the name and address of the agent appointed to the returning officer.
- (10) A candidate may lawfully do or assist in the doing of anything which may lawfully be done on the candidate's behalf by a mayoral election agent, deputy agent or an agent appointed under this Head 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 Part, be present.
- (11) Anything required by this Part to be done in the presence of the mayoral election agent or 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.

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**Note**

This Head provides for matters relating to the appointment of agents at a Mayoral election. It covers the position of agents appointed to be present at the issue of ballot papers to postal voters, in polling stations, at the opening of postal ballot boxes and at the counting of votes. This Head is based on article 26 of the Local Elections Regulations 1995.

**Head 92- Officers not to act as agents of candidates, further candidature etc.**

**Provide that:**

- (1) A returning officer or a person employed by such officer 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 or promoting the interests of a political party at the election.

A 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 or promoting the interests of a political party at the election.

**Note**

This Head provides that a returning officer or any person employed by such officer, may not act as an agent for a candidate at that election and must not be associated in furthering the candidature of any candidate or promoting the interests of a political party at the election. The returning officer is also prohibited from employing in any capacity for the purpose of an election a person who has been employed by or on behalf of a candidate at the election or has been associated in furthering the candidature of a candidate or promoting the interests of a political party at the election.

This Head is based on article 27 of the 1995 Regulations.

**CHAPTER 6 - Death of a Candidate**

**Head 93 - Death of a candidate.**

**Provide that:**

- (1) Where, not less than 48 hours before the latest time for receiving nominations at a mayoral election, the returning officer becomes satisfied that a candidate standing nominated has died, the returning officer shall immediately give public notice to that effect and the candidature of the candidate shall be deemed to have been withdrawn.
  
- (2) Where, at any time during the period beginning 48 hours before the latest time for receiving nominations and ending on the commencement of the poll, the returning officer becomes satisfied that a candidate standing nominated for election has died, the following provisions shall have effect:
  - (a) if notice of poll has been given, the returning officer shall forthwith countermand the poll;
  
  - (b) the returning officer shall forthwith give public notice that all acts done in connection with the mayoral election (other than the nomination of the surviving candidates) are void and that a fresh mayoral election will be held;
  
  - (c) all the proceedings for the mayoral election shall be commenced afresh, but a fresh nomination or consent shall not be necessary in respect of any candidate who stood nominated at the time of giving the public notice under paragraph (b);

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- (d) the returning officer shall forthwith publish the notice of election in relation to the fresh mayoral election;
  - (e) at the fresh mayoral election the earliest time for receiving nominations shall be 10.00 a.m. on the day (disregarding any excluded day) next following the date of the publication of the notice of election in relation to the fresh mayoral election and the latest time for receiving nominations shall be 12 noon on the third day (disregarding any excluded day) next following the said date;
  - (f) the poll at the fresh mayoral election shall be taken either on the seventh day (disregarding any excluded day) after the latest day for receiving nominations, and shall continue for such period (not being less than 12 hours 15 between the hours of 7.00 a.m. and 10.30 p.m.) as shall be fixed by the returning officer, or on the day and during the relevant period fixed pursuant to *Head 67* as appropriate, whichever is the later;
  - (g) *Head 76* shall not apply in relation to the fresh mayoral election and references to the Register of Political Parties contained in *Head 78* shall, in relation to the fresh mayoral election, be construed as references to the copy of that Register sent to the returning officer in relation to the original mayoral election.
- (3) Where, at any time after the commencement of the poll at a mayoral election and before the close of such poll, the returning officer becomes satisfied that a candidate standing nominated for election has died -

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- (a) all votes cast at the mayoral election shall be disregarded and the ballot papers shall be destroyed by the returning officer;
  
  - (b) paragraphs (b) to (g) of subsection (2) shall apply.
- (4) Where a candidate at a mayoral election dies in circumstances other than those referred to in subsection (1), (2) or (3) the death of that candidate shall not invalidate his or her nomination or any preference recorded for the candidate and, if the candidate is elected, such election shall not be invalidated by reason of the candidate's death, but he or she shall be deemed to have vacated the office of Mayor on the day of his or her death and a bye-election shall be held in accordance with this Part.
- (5) Where a poll is countermanded under this Head, all ballot papers issued to postal voters and special voters relating to the countermanded poll shall be disregarded and the returning officer shall destroy all ballot papers received for inclusion in the countermanded poll.

**Note**

This Head provides for potential situations at various stages during an election process where a candidate at an election dies and provides for responses to the various circumstances which are likely to arise due to such situations. Where a candidate dies after he/she is elected, the election is valid and the person is deemed to have vacated the Office. The filling of a Mayoral vacancy outside of the election process is provided for in Head 14.

This Head is based, with appropriate modifications, on article 28 of the 1995 Regulations.

**CHAPTER 7 - Postal Voting**

**Head 94 - Postal voting.**

**Provide that:**

- (1) Every local government elector whose name is, at the time of a mayoral election, entered in the postal voters list for the Limerick City and County Electoral Area (in this Part referred to as a “postal voter”) shall be entitled to vote in that Area at the poll at the election by sending a ballot paper by post to the returning officer for the Limerick City and County Electoral Area and shall not be entitled to vote at the election in any other manner.
- (2) The returning officer shall, as soon as practicable after the adjournment of an election for the purpose of taking a poll, send to each elector whose name is on the postal voters list for the Limerick City and County Electoral Area, a ballot paper and a form of receipt for such ballot paper and, if the ballot paper duly marked by the said elector and accompanied by the said receipt duly signed by the elector, is received by the returning officer before the close of the poll, it shall be counted by the 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 a poll.
- (3) Articles 30 to 41 of the Local Elections Regulations shall, subject to the modifications specified in *Head 62(2)*, apply and have effect in relation to postal voting at a mayoral election and, in sending out, receiving and otherwise dealing with the ballot papers of postal voters, the returning officer shall comply with those provisions.



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- (4) For the purposes of this Head, a reference to an agent in articles 30 to 41 of the Local Elections Regulations shall be deemed to include a reference to the mayoral election agent and any person appointed by a candidate or the mayoral election agent to be present at the issue of ballot papers to postal voters or the opening of postal voters ballot boxes.

**Notes:**

This Head is modelled on section 40 of Presidential Act 1993 (omitting subsection (4)). It applies, with the necessary modifications, Part VII of the 1995 Regulations to the direct election of the Mayor of Limerick City and County. It provides that local government electors in the Limerick City and County Electoral Area whose names are on the postal voters list are entitled to vote by post and in no other manner and provides for the issue and return of ballot papers, and the opening of postal ballot boxes. It further specifies that a reference to an agent in any of the provisions of the 1995 Regulations relating to postal voting, being applied by this Head, shall include a reference to an election agent of the candidate and any person appointed by a candidate to attend at the issue of postal ballot papers or the opening of postal ballot boxes. The Head applies the provisions of articles 30 to 41 of the Local Elections Regulations.

Article 30 provides for the issue of postal voters ballot papers to local government electors who are serving in the diplomatic service abroad and who are entitled to vote by post at an election.

Article 30A provides for postal voting arrangements for persons who are entered in the postal voters list under section 63 of the Electoral Act 1997. To be entered in the postal voters list, such an elector must satisfy the registration authority that the circumstances of his or her employment are such as to render it likely that he or she will be unable to go in person on polling day to vote at the polling place for the polling district.

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Article 30B provides for voting arrangements for persons who cannot vote in person at their polling place due to their being detained in prison.

Article 31 specifies that the ballot paper sent to postal voters should be in the same form as and indistinguishable from ballot papers sent to other electors who vote in person. It also requires that the receipt sent with a ballot paper to postal voters should have printed on the receipt instructions to the voter and a statement of offences and penalties relating to postal voting set out in Part XV.

Article 32 specifies the categories of persons who may be present at the proceedings on the issue of postal ballot papers, and at the opening of postal voters' ballot boxes and the envelopes contained in such boxes.

Article 33 provides for the notification in writing by the returning officer to each candidate of the time and place at which he or she will issue the ballot papers to postal voters and of the number of persons each candidate can appoint to attend the issue of such ballot papers. It also provides for the procedure to be followed at the issue of ballot papers to postal voters.

Article 34 provides for the provision of postal voters' ballot boxes for the reception of postal voters envelopes returned to the returning officer. The ballot box must be shown open and empty to the agents at the time of issue of postal ballot papers and then closed and sealed and marked "Postal Voters Ballot Box".

Article 35 provides for the unopened covering envelopes to be placed in postal voters ballot boxes.

Article 36 relates to envelopes other than covering envelopes in which the returning officer finds a document which it would have been appropriate to send to him or her.

Article 37 provides for procedures at the close of the poll.

Article 38 provides for the procedure at the opening of the postal voters' ballot boxes, in the presence of the agents, if any.

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Article 39 relates to rejected receipts at the counting of votes.

Article 40 provides for the placing of postal voters' ballot papers from the postal voters ballot box in a ballot box once the covering envelopes and the ballot paper envelopes have been opened.

Article 41 relates to the duties of a returning officer concerning documents relating to postal voters.

## **CHAPTER 8 - Voting by Special Voters**

### **Head 95 - Voting by special voters.**

**Provide that:**

- (1) Every local government elector whose name is, at the time of a mayoral election, entered in the special voters list for the Limerick City and County Electoral Area (in this Part referred to as a "special voter") shall be entitled to vote in that Area at the poll at the election in the manner described in article 46 of the Local Elections Regulations and shall not be entitled to vote in any other manner.
- (2) Articles 42 and 44 to 48 of the Local Elections Regulations shall, subject to the modifications specified in Head 62(2), apply and have effect in relation to voting by special voters at a mayoral election and, the returning officer shall in delivering, receiving and otherwise dealing with the ballot papers of special voters, comply with those articles.

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- (3) Where a person is entered on the special voters list and the place where such special voter is ordinarily resident is not accessible by the special presiding officer appointed pursuant to article 44 of the Local Elections Regulations (subject to the modifications specified in Head 62(2)) and the special voter is therefore unable to cast his vote, the returning officer may, as circumstances may require, on or before 7 days before the polling day, treat the special voter as if he or she was entered on the postal voters list for the Limerick City and County Electoral Area, and issue a postal vote to that voter in accordance with Chapter 7 of this Act and this Part does not apply.

**Note**

This Head applies, with the necessary modifications, Part VIII of the 1995 Local Election Regulations to the direct election of the Mayor of Limerick City and County. It provides that voters with a disability, who are registered as special voters, may vote at the election of the Mayor of Limerick City and County by means of the special voting arrangement.

Subsection (3) also provides for a situation where a special presiding officer is unable to gain access to the place where the special voter is ordinarily resident and allows the returning officer the flexibility to treat the special voter as if he or she was on the postal voters list and issue a postal vote to that person.

Subsection 2 applies the provisions of articles 42 and 44 to 48 of the Local Elections Regulations. (Article 43 is not applied here as it is covered in subsection 1 above). These cover the following matters:

Article 42 provides for the interpretation of expressions used in this Part.

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Article 44 provides for the appointment of special presiding officers to carry out functions at an election.

Article 45 provides for the delivery of a ballot paper and accompanying documentation to every special voter entitled to vote at the election.

Article 46 provides for the method of voting by special voters at an election.

Article 47 sets out the duties of special presiding officers in relation to covering envelopes and other documentation.

Article 48 makes provision for the duties of the returning officer in relation to documents relating to special voters.

**CHAPTER 9 - Arrangements for the Poll**

**Head 96 - Notice of poll.**

**Provide that:**

Where a mayoral election is adjourned for the purpose of taking a poll, the returning officer shall, as soon as practicable after the adjournment, publish a notice (in this Part 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 mayoral election as entered in their nomination papers, and of the proposers (if any), and
- (c) the order in which the names of the said candidates will appear on the ballot papers.

**Note**

This Head provides for the giving of public notice by the returning officer as soon as possible after the adjournment of the election for the taking of the poll. This notice will set out the day and hours during which the poll will be taken, the names and descriptions of candidates standing nominated at the election as entered in their nomination papers and the order in which the names of the candidates will appear on the ballot paper.

This Head is based on section 87 of the Electoral Act 1992 and article 50 of the Local Elections Regulations 1995.

**Head 97 - Ballot papers.**

**Provide that:**

- (1) The ballot of a voter at a mayoral election shall consist of a paper (in this Part referred to as a “ballot paper”) in the form specified in the Sixth Schedule subject to any necessary modifications thereof provided under paragraph (b) of subsection (2).
- (2) Ballot papers shall be prepared by the returning officer in accordance with the following provisions:
  - (a) a ballot paper shall contain the names (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 returning officer) and descriptions of the candidates standing nominated at the election, as shown in their respective nomination papers;
  - (b) a ballot paper may include a photograph of each candidate and the registered emblem of the candidate’s political party (if any) and the form of the ballot paper as specified in the Sixth Schedule may be adjusted accordingly in accordance with directions by the Minister;
  - (c) the surname of each candidate and the name of the candidate’s political party (if any) or, if appropriate, the expression “Non-Party” shall be printed in large capitals, the candidate’s surname and other name shall be printed in small capitals and the address and occupation of the

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candidate (if any) as appearing in the relevant nomination paper, shall be printed in ordinary characters;

- (d) the list of candidates shall be arranged in one continuous column in such manner (without departing from the alphabetical order) as, in the opinion of the 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;
- (e) 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;
- (f) 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;
- (g) apart from anything permitted by the form specified in the Sixth Schedule, and the modifications thereof which may be provided for under paragraph (b), nothing shall appear on the ballot paper except in accordance with these provisions.

- (3) A notice containing a copy of the ballot paper in large print shall be displayed by the presiding officer in the polling station.

**Note**



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This Head specifies the requirements relating to the contents of the ballot paper at an election, which must be in the form specified in the Sixth Schedule, subject to any necessary modifications. It is proposed to only provide for the ballot paper to be arranged in one continuous column to accommodate Ballot Paper Templates (which assist visually impaired people). This Head is based on section 88 of the Electoral Act 1992 - see also article 51 of the Local Elections Regulations 1995 and section 37 of the Presidential Elections Act 1993.

**Head 98 - The official mark.**

**Provide that:**

- (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 returning officer shall provide a sufficient number of marking instruments for this purpose.
- (2) The returning officer shall ensure that the official mark is kept secret before the taking of the poll and that no mark previously used at an election shall be used at an election under this Act before the expiry of the 10 years next after such previous use.

**Note**

This Head sets out the requirements which must be complied with in relation to the official mark at an election. It specifies that the official mark must be either embossed or perforated so as to be visible on both sides of the paper.

This Head is based on section 89 of the Electoral Act 1992 (see also article 52 of the Local Elections Regulations 1995 and section 38 of the Presidential Elections Act 1993).

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**Head 99 - Application of certain provisions of Part X of the Regulations of 1995.**

**Provide that:**

- (1) The provisions of articles 53, 54, 56, 57 and 58 of the Regulations of 1995 shall, subject to the modifications specified in *Head 62(2)*, apply and have effect in relation to the arrangements for the poll at a mayoral election.

**Note:**

This Head calls up the provisions in the Local Elections Regulations which deal with ballot boxes, use of Dáil ballot boxes etc., use of schools and public premises by the returning officer, polling stations and presiding officers and poll clerks.

Article 55 of the Local Elections Regulations, which deals with polling information cards, is not called up as it is envisaged that the process will operate differently at a mayoral election. The provision relating to polling information cards is set out in Head 100.

**Head 100 - Polling information cards.**

**Provide that:**

- (1) Where a poll is to be taken at a mayoral election, the returning officer shall send to every elector whose name is on the register of electors and is not on the postal voters list or the special voters list a card (in this Head referred to as a "polling information card") in such form as may be directed by the Minister informing the elector of his or her number (including polling district letter) on the register of local government electors and of the place at which he or she will be entitled to vote, and containing a statement in relation to the specified documents referred to in article 73 of the Local Elections Regulations, as applied to a mayoral election by *Head 101*, and, where appropriate, other information concerning the poll, including the address of the polling station.
- (2) A polling information card shall be addressed to the elector at the address in respect of which he or she is registered in the register of electors and shall be delivered at that address not later than the third day before the polling day.
- (3) Where a polling information card is dispatched by post it shall be transmitted without prepayment of charges therefor by the earliest practicable post.
- (4) No action or other proceedings shall lie against a returning officer in respect of any failure to send, non-delivery of or error or misstatement in a polling information card.

**Note**

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This Head makes provision for the sending by the returning officer of a polling information card to each elector whose name is on the register of local government electors for the area in which the elector is registered.

This Head is based on section 92 of the Electoral Act 1992.

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## CHAPTER 10 - The Poll

### Head 101 - Application of certain provisions of Part XI of the Regulations of 1995.

#### Provide that:

- (1) The provisions of articles 59 to 73 of the Regulations of 1995 shall, subject to the modifications specified in *Head 62(2)*, apply and have effect in relation to the taking of the poll at a mayoral election.

#### Note

This Head applies various provisions of the Local Elections Regulations 1995 to the taking of a poll at an election of a Mayor of Limerick City and County, subject to modifications set out in *Head 62(2)*.

The provisions applied relate to:

- the opening of the poll (Art 59);
- admission to the polling station (Art 60);
- voting by persons employed by the returning officer (Art 61);
- authorisation of physically ill or physically disabled elector to vote at another polling station (Art. 62);
- procedure for voting (Art. 63);
- spoilt ballot papers (Art. 64);
- voting by blind, incapacitated and illiterate electors (Art. 65);
- alleged personation (Art. 66);
- arrest of person committing personation (Art. 67);
- maintenance of order in polling stations (Art. 68);
- obstruction of the poll (Art. 69);
- damage to polling stations (Art. 70);
- destruction etc of ballot boxes or ballot papers (Art. 71);
- duties of presiding officer at close of poll (Art. 72);
- right to vote (Art. 73).

**CHAPTER 11 - Arrangements for the Counting of the Votes**

**Head 102 - Time and place for counting of votes.**

**Provide that:**

- (1) The counting of the votes at a mayoral election shall commence not later than the hour of 9.00 a.m. on the day next following the polling day.
- (2) The returning officer shall appoint a place within the Limerick City and County Electoral Area or convenient to the said area as the place at which the officer will count the votes and shall, at the place so appointed, provide suitable accommodation and all furniture and equipment necessary for counting the votes in accordance with Chapter 12 and shall make adequate arrangements for the safe custody of the ballot papers and other documents relating to the election.
- (3) The returning officer shall, where practicable, ensure that the place duly appointed under subsection (2) at which votes will be counted is accessible to wheelchair users.

**Note**

This Head provides that the counting of votes at a Mayoral election shall commence at 9 a.m. on the day after polling day.

The returning officer is required to appoint a place within or convenient to the Limerick City and County Electoral Area for the counting of votes, and to provide suitable accommodation and equipment for the counting of votes. He or she is required to

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make adequate arrangements for the safety of the ballot paper and other documents at the count centre.

The returning officer will also ensure, where practicable, that the place appointed at which votes will be counted is accessible to wheelchair users.



**Head 103 - Attendance at counting of votes.**

**Provide that:**

- (1) Not less than 4 days (disregarding any excluded day) before the polling day the returning officer shall give written notice to each candidate of the time and place at which he or she will proceed to count the votes and of the number of agents each candidate may appoint to be present at the counting of the votes.
- (2) The returning officer, the assistants and clerks of the returning officer, members of the Garda Síochána on duty, the mayoral election agent and the agents of the candidates duly appointed for the purpose under this Part may be present at the counting of the votes and no other person shall be present without the permission of the returning officer.
- (3) The returning officer shall give the agents of the candidates all such reasonable facilities for overseeing the proceedings at the counting of the votes (including, in particular, facilities for satisfying themselves that the ballot papers have been correctly sorted) and all such information with respect thereto as the returning officer can give them consistent with the orderly conduct of the proceedings and the performance of the functions of the returning officer.

**Note**

This Head relates to the attendance at the counting of votes at a Mayoral election. The returning officer must give written notice to each candidate of details of the arrangements for the counting of votes and of the number of agents they may appoint to attend. He/she is required to give the agents of the candidates reasonable facilities for overseeing proceedings at the count. This Head is based on article 75 of the Local Elections Regulations 1995.

**Head 104 - Preliminary proceedings.**

**Provide that:**

- (1) At the time fixed by the returning officer and at the place appointed under *Head 102(2)*, the returning officer shall, in the presence of the agents of the candidates, open the ballot boxes and extract the ballot papers therefrom.
- (2) For the purposes of subsection (1), the manner in which a ballot box, being a box containing not more than 50 ballot papers, shall be opened shall be such that, although the box is opened in the presence of the agents of the candidates, the preferences on the individual ballot papers cannot be read by those agents or other persons present at the count.
- (3) Where the poll at another election has been taken on the same day, in the same polling station and ballot papers for either election are found in the ballot box provided for the other election, the returning officer shall place such ballot papers, together with a statement signed by the said officer showing the number of papers enclosed and giving particulars of the ballot box in which they were found, in a packet which the said returning officer shall seal and forthwith transmit by hand to the appropriate returning officer.
- (4)
  - (a) The ballot papers extracted by the returning officer from each ballot box shall be counted and their total number shall be compared with the number shown in the appropriate ballot paper account.
  - (b) The returning officer shall prepare a statement showing the result of this comparison in respect of all the ballot boxes and shall include particulars of the ballot papers (if any) transmitted to the said officer pursuant to subsection (3) and the returning officer shall, on request, allow the agent of any candidate to copy the statement.

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- (5) Where the statement referred to in subsection (4) is prepared by a deputy returning officer the statement shall be transmitted to the returning officer as soon as practicable.
- (6) The returning officer shall mix together the whole of the ballot papers (including any ballot papers transmitted to the officer in pursuance of subsection (3)) and shall proceed to count the votes in accordance with Chapter 12.
- (7) The returning officer, while counting and recording the number of ballot papers, shall cause the said papers to be kept face upwards and shall take due precautions to prevent any person from seeing the numbers printed on the backs of the said papers.

**Note**

This Head sets out the procedure for the opening of the ballot boxes, the opening of ballot boxes with 50 or less ballot papers, the counting of the ballot papers in each box and the mixing of ballot papers before the count. This Head is based on article 76 of the Local Elections Regulations 1995.

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**Head 105 - Times for counting of votes.**

**Provide that:**

The returning officer shall, so far as practicable, proceed continuously with the counting of votes, except during time for necessary rest and refreshment.

**Note**

This Head is based on article 77 of the Local Elections Regulations 1995.

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**Head 106 - Conduct of counting of votes.**

**Provide that:**

The returning officer shall cause the ballot papers to be scrutinised for the purpose of discovering any papers liable to be rejected as invalid and shall, in accordance with *Chapter 12*, ascertain and record the number of votes given to each candidate.

**Note**

This Head is a general provision in relation to the conduct of the counting of votes which requires the returning officer to cause the ballot papers to be scrutinised for the purpose of discovering any papers liable to be rejected as invalid. It requires him/her to ascertain and record the number of votes given to each candidate in accordance with Chapter 12. It is based on article 78 of the Local Elections Regulations 1995.

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**Head 107 - Handling of ballot papers by candidates or agents.**

**Provide that:**

Candidates or their agents shall not handle ballot papers during the counting of votes.

**Note**

This Head prohibits candidates or their agents from handling ballot papers during the counting of votes at a Mayoral election. It is based on article 79 of the Local Elections Regulations 1995.

Head 140 provides that contravention of this Head shall be an offence.

**CHAPTER 12 - Rules for the Counting of the Votes**

**Head 108 - Definitions.**

**Provide that:**

(1) In this Chapter -

“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;
- (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;

“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;

“determine by lot” means determine in accordance with the following directions, namely, the names of the candidates concerned having been written on similar slips of paper, and the slips having been folded so as to prevent identification and mixed and drawn at random, the candidate or candidates shall be excluded in the order in which their names are drawn;

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“first preference” means any mark which, in the opinion of the returning officer, clearly indicates a first preference;

“next available preference” means a preference which, in the opinion of the 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 candidates already excluded being disregarded;

“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 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 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 regard to any candidate means a vote derived from a ballot paper on which a first preference is recorded for that candidate;

“second preference” means any mark which, in the opinion of the returning officer, clearly indicates a second preference standing in succession to a first preference;



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“third preference” means any mark which, in the opinion of the returning officer, clearly indicates a third preference standing in succession to a second preference, and so on;

“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.

**Note**

This Head based on article 80(1) of the Local Elections Regulations 1995, section 118(1) of the Electoral Act 1992 and section 45 of the Presidential Elections Act 1993 to make provision for interpretation of expressions used in Chapter 12.

**Head 109 - Invalid ballot papers.**

**Provide that:**

- (1) Any ballot paper -
  - (a) which does not bear the official mark, or
  - (b) on which the figure “1” standing alone, or the word “one” or any other mark which, in the opinion of the 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, or
  - (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 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 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 carrying the words “one”, “two”, “three” (and so on) or any other mark which, in the opinion of the returning officer, clearly indicates a preference or preferences.

- (2) The returning officer shall endorse “rejected” on any ballot paper which under this Head is not to be counted. The returning officer shall prepare a statement

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showing the number of ballot papers rejected under each of the paragraphs (a), (b), (c) and (d) of subsection (1) and shall, on request, allow any candidate or agent of a candidate to copy such statement.

- (3) Where the statement referred to in subsection (2) is prepared by a deputy returning officer the statement shall be transmitted to the returning officer as soon as practicable.
- (4) The returning officer may endorse on any ballot paper which the officer does not reject as invalid an indication of the officer's decision on it without, however, interfering with any mark placed by the elector on the ballot paper.

**Note**

This Head is based on article 80(2), (3), (4) and (5) of the Local Elections Regulations 1995. Following the style of section 48 of the Presidential Elections Act 1993, this provision regarding invalid ballot papers is set out as a separate section - this differs from the Electoral Act 1992, section 118(2).

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**Head 110 - First count.**

**Provide that:**

- (1) After the ballot papers have been mixed in accordance with *Head 104*, the returning officer shall, rejecting any that are invalid, arrange them in parcels according to the first preferences recorded for each candidate.
  
- (2) The returning officer shall then count the number of papers in each parcel and credit each candidate with a number of votes equal to the number of valid papers on which a first preference has been recorded for such candidate and the returning officer shall ascertain the number of all valid papers.

**Note**

This Head is based on article 81 of the Local Elections Regulations 1995 and provides for the procedure to be followed at the first count at an election.

**Head 111 - Quota.**

**Provide that:**

- (1) After the returning officer has ascertained the number of all valid ballot papers pursuant to *Head 110*, he or she shall then divide the number of all valid ballot papers by 2 and the result increased by one, any fractional remainder being disregarded, shall be the number (in this Part referred to as the “quota”) of votes sufficient to secure the election of a candidate.
- (2) 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.
- (3) 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.

**Note**

This Head provides the formula for the calculation of the quota at an election. It provides that if at the end of any count the number of votes credited to a candidate is equal to or greater than the quota, that candidate is deemed to be elected. It is based on article 82 of the Local Elections Regulations 1995 and section 50 of the Presidential Elections Act 1993. This is comparable to a Presidential election or a Dáil bye-election where, in both such cases, only one successful candidate can emerge from the election.

**Head 112 - Exclusion of candidate.**

**Provide that:**

- (1) Where, at the end of any count, no candidate has reached the quota and no candidate can be deemed to be elected under *Head 111(3)*, the returning officer shall -
  - (a) exclude the candidate credited with the lowest number of votes and examine all the papers of that candidate,
  - (b) arrange the transferable papers in sub-parcels according to the next available preferences recorded thereon for continuing candidates,
  - (c) transfer each sub-parcel to the candidate for whom the preference is recorded,
  - (d) place the sub-parcel on top of the parcel of papers of the candidate to whom the transfer is made,
  - (e) credit the candidate with a number of votes equal to the number of papers transferred to him or her,
  - (f) make a separate sub-parcel of the non-transferable papers and set them aside as finally dealt with, such papers being, for the purposes of this Chapter, described as nontransferable papers.

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- (2) Where the total of the votes of the 2 or more lowest candidates is less than the number of votes credited to the next highest candidate, the returning officer shall in one operation exclude such 2 or more lowest candidates provided that -
- (a) the number of votes credited to the second lowest candidate is greater than one quarter of the quota, or
  - (b) where the number of votes credited to any such 2 or more lowest candidates does not exceed one quarter of the quota, it is clear that the exclusion of the candidates separately in accordance with subsection (1) could not result in a number of votes exceeding one quarter of the quota being credited to any such candidate.
- (3) If, when a candidate has to be excluded under this Head, 2 or more candidates have each the same number of votes and are lowest, regard shall be had to the number of original votes credited to each of those candidates, and the candidate with the lowest number of original votes shall be excluded and, where the numbers of original votes are equal, regard shall be had to the total numbers of votes credited to those candidates at the first count at which they had an unequal number of votes and the candidate with the lowest number of votes at that count shall be excluded and, where the numbers of votes credited to those candidates were equal at all counts, the returning officer shall determine by lot which shall be excluded.

**Note**

This Head provides for the exclusion of a candidate; it is based on article 84 of the Local Elections Regulations 1995 with necessary amendment for a single candidate to be elected (i.e. no surplus to transfer) and with reference to section 51 of the Presidential Elections Act 1993.

**Head 113 - Recount.**

**Provide that:**

- (1)
  - (a) Any candidate or the mayoral election agent of a candidate may, at the conclusion of any count, request the returning officer to reexamine and recount all or any of the papers dealt with during that count, and the returning officer shall reexamine 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 any error discovered in the recount.
  - (b) Nothing in this subsection shall make it obligatory for the returning officer to reexamine or recount the same parcel of papers more than once.
- (2) The returning officer may at his or her discretion recount papers either once or more often in any case in which the officer is not satisfied as to the accuracy of any count. The power under this subsection of a returning officer to recount papers shall extend to papers dealt with at an earlier count than the immediately preceding one.
- (3)
  - (a) One request (and not more) may be made by each candidate or his or her mayoral election agent for a complete reexamination and recount of all parcels of ballot papers and the returning officer shall reexamine and recount the parcels of ballot papers accordingly.
  - (b) In the reexamination and recount, the number or order of ballot papers in any parcel shall not be disturbed.



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- (c) Nothing in this subsection shall make it obligatory on the returning officer to reexamine or recount the same parcel of papers more than once, but if an error is discovered which is, in the opinion of the returning officer, a significant error likely to affect the result of the election, the returning officer shall count all the papers afresh from the point at which the error occurred.
  - (d) Nothing in this subsection shall make it obligatory on the returning officer to comply with a request by a candidate or his or her mayoral election agent which, in the opinion of the returning officer, is frivolous or vexatious.
  - (e) A request under this subsection may be made only at the conclusion of a count.
- (4) Where an error is discovered, the returning officer shall, where necessary, amend any results previously announced by the officer.
- (5) Where a request made under subsection (3) is withdrawn by the candidate as respects whom it is made or by the mayoral election agent of the said candidate, it shall be open to the returning officer not to proceed, or proceed further with the reexamination and recount.

**Note**

This Head is based on article 87 of the Local Elections Regulations 1995 to provide for a recount at an election.

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**Head 114 - Declaration of result of poll.**

**Provide that:**

On the completion of the counting of the votes the returning officer shall determine and declare the result of the poll and the candidate deemed to be elected shall thereupon stand elected.

**Note**

This Head is based on article 89 of the Local Elections Regulations 1995 and provides for the declaration of the result of the poll.

**Head 115 - Return of person elected.**

**Provide that:**

- (1) The returning officer shall make a return to Limerick City and County Council of the person elected to be Mayor.
- (2) The return shall be made by a certificate of the name and description of such person signed by the returning officer, as soon as practicable after the result of the poll has been declared in accordance with *Head 114* or, where there is no poll, when such person has been declared elected in accordance with *Head 89(1)(b)*.
- (3) The returning officer shall give public notice of the name and description of the candidate elected and, in the case of a contested election, of the total number of votes given for each candidate, whether elected or not, of any transfer of votes and of the total number of votes credited to each candidate at the end of the count at which such transfer took place.
- (4) The returning officer shall send a copy of the notice referred to in subsection (3) to the Minister.

**Note**

This Head is based on article 90 of the Local Elections Regulations 1995 to provide for a return to be made following the election.

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**Head 116 - Decision of returning officer.**

**Provide that:**

The decision of the returning officer, whether expressed or implied by his or her acts, on any question which arises in relation to the exclusion of any candidate under *Head 112* or to any ballot paper or transfer of votes shall be final, subject only to reversal on a petition questioning the election.

**Note**

This Head is based on article 91 of the Local Elections Regulations 1995.

**CHAPTER 13 - Retention, Inspection and Disposal of Documents**

**Head 117 - Retention and disposal of documents by returning officer.**

**Provide that:**

- (1) On the completion of the counting of the votes, the returning officer shall place in separate sealed packets -
  - (a) the counted ballot papers,
  - (b) the ballot papers rejected 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 and the date of the polling day at the election.
- (2) The returning officer shall also place in separate sealed packets -
  - (a) the marked copies of the register of electors,
  - (b) the ballot paper accounts and the statement prepared in accordance with *Head 104*,

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- (c) the candidates' nomination papers, whether valid or invalid, and the certificates of political affiliation, and
  
  - (d) the authorisations to electors to vote at other polling stations, and shall mark on each packet particulars of its contents and the date of the polling day at the election.
- (3) The returning officer shall retain the documents referred to in subsections (1) and (2), article 41 of the Local Elections Regulations (as applied by *Head 94*) and article 47(2) of the Local Elections Regulations (as applied by *Head 95*) for 6 months from the date of the certificate of the return under *Head 115* and shall then, unless otherwise directed by an order of a court having jurisdiction to decide petitions questioning the election or the returning officer has reason to believe that the documents may be required for a purpose referred to in *Head 118(3)*, cause the documents to be destroyed.

**Note**

This Head provides for the retention by the returning officer of various documents relating to the Mayoral election for a specified period and their disposal at the end of this period. This Head reflects the provisions in article 92 of the Local Elections Regulations 1995.

**Head 118 - Inspection of ballot papers.**

**Provide that:**

- (1) No person shall be allowed to inspect any of the documents mentioned in subsection (2) except under an order of a court having jurisdiction to decide petitions questioning the election.
- (2) The documents referred to in subsection (1) are -
  - (a) the counterfoils of the ballot papers sent to postal voters under article 33 of the Local Elections Regulations (as applied by *Head 94*),
  - (b) the counterfoils of the ballot papers delivered to special voters under article 46 of the Local Elections Regulations (as applied by *Head 95*),
  - (c) the documents referred to in sub-articles (2) and (3) of article 41 of the Local Elections Regulations (as applied by *Head 94*), and
  - (d) the documents referred to in subsection (1) of *Head 117*.
- (3) An order referred to in subsection (1) shall not be made unless the court is satisfied that the inspection or production of such documents is required for the purposes of instituting or maintaining a prosecution for an offence under Chapter 14 or for the purpose of a petition.

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- (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 for the production by the returning officer of any document relating to an election in the possession of that officer, the production by the returning officer of that document shall be sufficient to prove that the document relates to the specified election, and any endorsement appearing on any packet so produced shall, until the contrary is shown, be sufficient evidence that the contents of such packet are what they are stated to be in such endorsement.

**Note**

This Head provides that ballot papers and other confidential documents relating to an election may be inspected only under an order of the High Court and that such an order may be made only where the documents are required for the purposes of an election petition or the prosecution of the electoral offences under Chapter 14. The Head lays down procedures in relation to the court order and in relation to the production of the documents by the returning officer.

This Head reflects the provisions in article 93 of the Local Elections Regulations 1995.



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**Head 119 - Inspection of certain other documents.**

**Provide that:**

- (1) All documents relating to an election retained by the returning officer in accordance with *Head 117* other than documents referred to in *Head 118*, shall be open to public inspection at such time and under such conditions as may be specified by the returning officer.
- (2) The returning officer shall supply copies of, or extracts from, the said documents to any person demanding the same, on payment of such fees not exceeding the reasonable cost of copying.

**Note**

This Head provides for the inspection of documents relating to a Mayoral election retained by the returning officer other than those for which a High Court order is needed as provided for in Head 118.

This Head reflects article 94 of the Local Elections Regulations 1995.

## CHAPTER 14 – Electoral Offences

### Head 120 - Personation.

#### Provide that:

- (1) A person who -
  - (a) at a mayoral election applies for a ballot paper in the name of some other person, whether that name be the name of a living person or of a dead person or of a fictitious person, or
  - (b) having obtained a ballot paper once at a mayoral election applies at the same election for a ballot paper in that person's own name (otherwise than under article 64 of the Local Elections Regulations (as applied by *Head 101*)),is guilty of an offence.
- (2) For the purposes of this Head a person to whom a ballot paper has been issued pursuant to article 33 of the Local Elections Regulations (as applied by *Head 94*) shall be deemed to have obtained a ballot paper.
- (3) A person who aids, abets, counsels or procures the commission of an offence under subsection (1) is guilty of an offence.

#### Note

This Head makes it an offence for a person to apply at a Mayoral election for a ballot paper in any other person's name. A person who aids or abets the commission of such an offence of shall also be guilty of an offence.

This Head reflects the provisions in article 95 of the Local Elections Regulations 1995 and section 134 of the Electoral Act 1992 (for Dáil elections).

**Head 121 - Bribery.**

**Provide that:**

- (1) A person shall not, in relation to a mayoral election -
  - (a) give valuable consideration to induce a voter to vote, or to procure the election of any person or the vote of any voter, or on account of a voter having voted, or
  - (b) procure, by means of, or in consequence of, valuable consideration, the election of any person or the vote of any voter, or
  - (c) withdraw or refrain from withdrawing, in consequence of any valuable consideration, from being a candidate, or
  - (d) induce, by means of, or in consequence of, valuable consideration, any person to withdraw or to refrain from withdrawing from being a candidate, or
  - (e) receive, agree or contract to receive, valuable consideration for voting or agreeing to vote.
- (2) A person who contravenes subsection (1) is guilty of an offence.
- (3) A person who aids, abets, counsels or procures the commission of an offence under this Head is guilty of an offence.

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(4) In this Head -

“give”, “induce” and “procure” include agreeing or promising or attempting to give, induce or procure, as the case may be, whether directly or indirectly;

“valuable consideration” includes the giving, lending or agreeing to give or lend, or the offer or promise to procure or to attempt to procure, any money, money’s worth or valuable security or any valuable consideration or any office, place or employment to or for any person;

“vote” includes voting in a particular way or refraining from voting.

**Note**

This Head designates the act of bribery in relation to a Mayoral election as an offence. It reflects provisions in article 96 of the Local Elections Regulations 1995 and section 135 of the Electoral Act 1992.

**Head 122 - Undue influence.**

**Provide that:**

A person who, in relation to a mayoral election, directly or indirectly makes use of or threatens to make use of any force, violence or restraint against or inflicts or causes or threatens to inflict or cause any temporal or spiritual injury or loss on or to any person, or attempts by abduction, duress, or fraud -

- (a) to induce or compel any person to vote or refrain from voting, or to vote or refrain from voting for a particular person or in a particular way, or
- (b) to induce or compel any person to withdraw, or to refrain from withdrawing, from being a candidate, or
- (c) to induce or compel any person to be a candidate or to impede or prevent any person from being a candidate, or
- (d) to impede or prevent the free exercise of the franchise by any elector, is guilty of an offence.

**Note**

This Head makes it an offence for a person to use undue influence to cause a person to vote in a particular way or refrain from voting at a Mayoral election. It will also be an offence to cause a person to withdraw from being a candidate or compel a person to become a candidate.

This Head reflects the provisions in article 97 of the Local Elections Regulations 1995 and section 136 of the Electoral Act 1992.

**Head 123 - Breach of secrecy.**

**Provide that:**

- (1) A person who is present at the issue of ballot papers to postal voters or at voting by special voters or at the opening of postal ballot boxes is guilty of an offence if, except for some purpose authorised by law, the person -
  - (a) communicates, before the poll is closed, to any person any information obtained at the said issue or the said voting as to the official mark, or
  - (b) attempts to ascertain at the said issue or the said voting or the said opening the number on the back of any ballot paper or the candidate for whom any vote is given in any ballot paper, or communicates to any other person any information with respect thereto obtained at the said issue or the said voting or the said opening.
- (2) A person admitted to a polling station in any capacity at a mayoral election is guilty of an offence if, before the poll is closed, the person communicates, except for some purpose authorised by law, to any other person any information as to the name or the number on the register of electors of any voter who has or has not applied for a ballot paper or voted at a polling station, or as to the official mark.
- (3) A person who is present in any capacity at the counting of the votes at a mayoral election is guilty of an offence if, except for some purpose authorised by law, the person ascertains or attempts to ascertain at such counting the number on the back of any ballot paper or if at any time the person communicates any information obtained at such count as to the candidate for whom any vote is given on any ballot paper.

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- (4) A person is guilty of an offence if, at a mayoral election, except for some purpose authorised by law, the person -
- (a) interferes with or attempts to interfere with a voter when marking a ballot paper, or obtains or attempts to obtain in a polling station information as to the candidate for whom any voter in the station is about to vote or has voted,
  - (b) communicates at any time to any other person any information obtained in a polling station as to the candidate for whom a voter in that station is about to vote or has voted, or as to the number on the back of the ballot paper issued to a voter at that station,
  - (c) directly or indirectly induces any voter to display a ballot paper after the voter has marked it so as to make known to any person the name of the candidate for whom the voter has or has not voted, or
  - (d) interferes with or attempts to interfere with the receipt, marking or return of a ballot paper by any postal voter or attempts to obtain information as to the candidate for whom any such voter has or has not voted.

**Note**

This Head provides that unless authorised for some purpose by law, it shall be an offence for a person to breach the secrecy of the electoral process. This Head reflects the provisions in article 98 of the Local Elections Regulations 1995 and section 137 of the Electoral Act 1992.

**Head 124- Offences relating to ballot boxes, ballot papers, nomination papers, certificates of political affiliation, official marks, etc.**

**Provide that:**

A person is guilty of an offence if the person -

- (a) wilfully and without lawful authority, takes, destroys, conceals, opens or otherwise interferes with any ballot box or packet of ballot papers, or any packet of papers or documents of any kind then in use or intended to be used for the purposes of a mayoral election, or any ballot paper account or marked copy of a register of electors prepared or used for the purposes of the election, or any unused ballot paper,
- (b) maliciously destroys, tears, or defaces a ballot paper,
- (c) forges or counterfeits a ballot paper or the official mark on a ballot paper,
- (d) without lawful authority, supplies a ballot paper to any person,
- (e) fraudulently puts into a ballot box any paper other than the ballot paper which the person is authorised by law to put in it,
- (f) without lawful authority, takes a ballot paper out of a polling station,
- (g) forges or fraudulently defaces or fraudulently destroys any nomination paper or any certificate of political affiliation or any authorisations under article 61 or 62



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of the Local Elections Regulations (as applied by *Head 101*) or any official envelope or form of declaration of identity or form of receipt used in connection with special voting or voting by post, or any other form or document used at a mayoral election,

- (h) produces to the returning officer a nomination paper, knowing the same to be forged,
- (i) counterfeits the official mark, or
- (j) without lawful authority, removes, destroys or damages any instrument for placing the official mark on ballot papers or makes or is in possession of any imitation or counterfeit of any such instrument.

**Note**

This Head makes it an offence for a person to take, destroy, conceal, open or in any other way tamper with ballot boxes, ballot papers, nomination papers, certificates of political affiliation or official marks at a Mayoral election. This Head reflects the provisions in article 99 of the Local Elections Regulations 1995 and section 138 of the Electoral Act 1992.

**Head 125 - Disorderly conduct at election meeting.**

**Provide that:**

- (1) A person is guilty of an offence if, between the date of publication of the notice of election and the date on which the return is made of a person elected to be the Mayor under *Head 115*, the person acts in a disorderly manner at a lawful public meeting held in connection with a mayoral election.
- (2) A person who aids, abets, counsels or procures the commission of an offence under *subsection (1)* is guilty of an offence.

**Note**

This Head makes it an offence for a person to behave in a disorderly way at a public meeting relating to a Mayoral election. A person who aids and abets such an offence will also be guilty of an offence.

This Head reflects the provisions in article 100 of the Local Elections Regulations 1995 and section 139 of the Electoral Act 1992.

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**Head 126 - Omission of name and address of printer and publisher from election documents.**

**Provide that:**

- (1) Every notice, bill, poster or similar document having reference to a mayoral election or distributed for the purpose of furthering the candidature of any candidate at a mayoral election shall bear upon its face the name and address of the printer and of the publisher thereof.
- (2) A person is guilty of an offence if he or she prints, publishes, or posts, or causes to be printed, published or posted, any such notice, bill, poster or similar document as aforesaid which does not bear upon its face the name and address of the printer and of the publisher thereof.
- (3) *Subsections (1) and (2)* shall not apply as respects any such notice, bill, poster or similar document printed, published or posted by a returning officer.
- (4) In this section "print" includes any process for producing copies of a notice, bill, poster or similar document, other than copying it by hand.

**Note**

This Head provides that it is an offence not to show the name and address of the printer and publisher at the front of all promotional material for candidates at a Mayoral election. This does not apply to any documents printed, published or posted by a returning officer.

This Head reflects provisions in article 101 of the Local Elections Regulations 1995 and section 140 of the Electoral Act 1992.

**Head 127 - Nominating or withdrawing a candidate without consent.**

**Provide that:**

- (1) A person shall not -
- (a) nominate another person for election under this Part to the office of Mayor, or
  - (b) withdraw the candidature of another person for such election to the office of Mayor,
- save with the consent of that person.
- (2) A person who contravenes *subsection (1)* is guilty of an offence.

**Note**

This Head provides that it shall be an offence to nominate or withdraw the candidature of another person without the consent of that person.

This Head reflects the provisions in article 102 of the Local Elections Regulations 1995 and in section 141 of the Electoral Act 1992.

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**Head 128 - Forged certificate of political affiliation.**

**Provide that:**

A person who produces to a returning officer a certificate of political affiliation which that person knows to be forged, is guilty of an offence.

**Note**

This Head provides that it shall be an offence to submit a forged certificate of political affiliation to a returning officer. It reflects the provisions in article 103 of the Local Elections Regulations 1995 and section 142 of the Electoral Act 1992.

**Head 129 - False declaration on nomination paper.**

**Provide that:**

- (1) In case a person who, being a candidate or the proposer of a candidate at a mayoral election, makes a declaration on a nomination paper that the person has read the notes on the nomination paper and believes the candidate to be eligible for election then if the candidate is not eligible for election that person is guilty of an offence.
  
- (2) In a prosecution for an offence under, it shall be a good defence for the defendant to show that he or she had reasonable grounds for believing that the candidate was eligible for election.

**Note**

This Head provides that it shall be an offence to make a false declaration on a nomination paper. It reflects provisions in article 104 of the Local Elections Regulations 1995 and section 143 of the Electoral Act 1992.

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**Head 130 - Officer acting as agent of candidate or furthering a candidature.**

**Provide that:**

A returning officer, deputy returning officer or any person employed by any such officer for any purpose relating to a mayoral election who acts as agent for any candidate at that election or who is actively associated in furthering the candidature of any candidate or promoting the interests of any political party at the election is guilty of an offence.

**Note**

This Head makes it an offence for a returning officer, deputy returning officer or any person employed by any such officer in connection with an election to act as an agent of a candidate, or to actively further a candidature, or promote the interests of any political party at a Mayoral election.

This Head reflects provisions in article 105 of the Local Elections Regulations 1995 and section 144 of the Electoral Act 1992.

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**Head 131 - Obstruction of nomination or poll.**

**Provide that:**

A person who at a mayoral election obstructs by violence the nomination of candidates or the poll is guilty of an offence.

**Note**

This Head makes it an offence to cause an obstruction by violence at the nomination of candidates or at the poll at a Mayoral election.

It reflects provisions in article 106 of the Local Elections Regulations 1995 and section 145 of the Electoral Act 1992.



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**Head 132 - Damages for breach of duty by officers, etc.**

**Provide that:**

Where any person upon whom any functions or duties are conferred by or under this Part in relation to a mayoral election fails without reasonable cause to perform his or her functions or duties in that behalf, any person injured by such failure shall be entitled to recover from him or her by action at law such sum by way of damages as the court by which such action shall be tried shall consider just.

**Note**

This Head provides for damages resulting from breach of duty by any person who has Mayoral election functions and duties.

It reflects provisions in section 159 of the Electoral Act 1992.

**Head 133 - Interference with or destruction of postal ballot papers.**

**Provide that:**

- (1) Any person who, at a mayoral election -
- (a) wilfully and without lawful authority takes, destroys, conceals, opens or otherwise interferes with any ballot paper or other document sent to a postal voter under this Part, or
  - (b) without lawful authority knowingly supplies any such ballot paper or other document to a person other than the person lawfully entitled to receive it,
- is guilty of an offence.
- (2) A person who aids, abets, counsels or procures the commission of an offence under this section or who solicits or incites any other person to commit such an offence is guilty of an offence.

**Note**

This Head provides that it shall be an offence to interfere with or destroy postal ballot papers. It shall also be an offence to aid and abet the commission of such an offence. It reflects provisions in article 107 of the Local Elections Regulations 1995 and section 146 of the Electoral Act 1992.

**Head 134 - Obstruction of or interference with electors.**

**Provide that:**

- (1) A person shall not interfere with or obstruct or impede an elector going to or coming from or in the vicinity of or in a polling station.
  
- (2) During the period commencing 30 minutes before the time appointed for the taking of a poll at a mayoral election, including a poll which has been adjourned under article 69 of the Local Elections Regulations (as applied by *Head 101*), and ending 30 minutes after the close of the said poll, a person shall not, in or in the curtilage of a polling station or in any place within 50 metres of such station, for the purpose of promoting the interest of a political party or furthering the candidature of a candidate or candidates or soliciting votes for a candidate or candidates or for any contrary purpose, do any or all of the following things:
  - (a) loiter or congregate with other persons;
  
  - (b) attempt to induce, by any means whatsoever, an elector to vote for a candidate or candidates or vote in a particular way or refrain from voting;
  
  - (c) display or distribute any notice, sign or poster (other than a notice, sign or poster displayed by the returning officer) or card, circular or other document relating to the election; or
  
  - (d) use or cause to be used any loud-speaker or other public address mechanism to broadcast matter relating to the election.

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- (3) For the purpose of this section, a polling station shall be deemed to include all parts of the building and any land within the curtilage of the building in which the polling station is situate and the distance referred to in *subsection (2)* shall be measured from any entrance to the polling station or to the curtilage thereof.
- (4) A person who contravenes *subsection (1)* or *(2)* is guilty of an offence.

**Note**

This Head makes it an offence to interfere with or obstruct an elector on polling day. There are restrictions on the promotion of candidates, within 50 metres of the polling station during, and for 30 minutes before and after, polling times.

It reflects provisions in article 108 of the Local Elections Regulations 1995 and section 147 of the Electoral Act 1992.

**Head 135 - Personation agent leaving polling station without permission.**

**Provide that:**

- (1) A personation agent shall not, during the hours fixed under *Head 67* for the holding of the poll, leave the polling station to which the said agent is appointed without previously obtaining the permission of the presiding officer and depositing with the presiding officer all registers, books and documents in which the personation agent has made any note, writing or mark during the poll.
- (2) A personation agent who contravenes *subsection (1)* is guilty of an offence and in addition shall not, save with the permission of the presiding officer, return to the polling station in question.

**Note**

This Head prohibits a personation agent from leaving a polling station during the period fixed for the taking of the poll without the prior permission of the presiding officer.

It reflects provisions in article 109 of the Local Elections Regulations 1995 and section 148 of the Electoral Act 1992.

**Head 136- Prohibition on voting by person registered as elector when not entitled to be so registered.**

**Provide that:**

- (1) A person -
- (a) who is registered in the register of electors but is not entitled to be so registered, or
  - (b) who is not registered in that register,
- shall not vote at a mayoral election.
- (2) A person who contravenes *subsection (1)* is guilty of an offence.

**Note**

This Head makes it an offence for a person who is not entitled to be registered as a voter or is not registered, to vote.

It reflects the provisions in article 110 of the Local Elections Regulations 1995 and section 149 of the Electoral Act 1992.

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**Head 137 - Unlawful marking of ballot papers by person acting as companion.**

**Provide that:**

A person who contravenes sub-article (8) or (9) of article 65 of the Local Elections Regulations (as applied by *Head 101*) is guilty of an offence.

**Note**

This Head designates as an offence the unlawful marking of a ballot paper by a person acting as a companion at a Mayoral election. It reflects the provisions in article 111 of the Local Elections Regulations 1995 and section 150 of the Electoral Act 1992.

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**Head 138 - False statement of withdrawal or death of a candidate.**

**Provide that:**

A person who, between the date of publication of the notice of election and the date on which the return is made of the person elected to be Mayor under *Head 115*, knowingly publishes a false statement of the withdrawal or death of a candidate at the election is guilty of an offence.

**Note**

This Head makes it an offence to publish a false statement of the withdrawal or death of a candidate between the date of publication of the notice of election and the date on which the return is made to the local authority of the person elected to be Mayor. It reflects provisions in article 112 of the Local Elections Regulations 1995 and section 151 of the Electoral Act 1992.



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**Head 139 - Misleading statement as to process of voting.**

**Provide that:**

Any person who, before or during a mayoral election, makes or publishes any statement which is likely to mislead voters as to the actual process of voting is guilty of an offence.

**Note**

This Head designates as an offence the making or publishing of a statement which is likely to mislead voters as to the process of voting. It reflects the provisions article 113 of the Local Elections Regulations 1995 and section 152 of the Electoral Act 1992.

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**Head 140- Handling of ballot papers by candidate or agent.**

**Provide that:**

A candidate or an agent of a candidate who handles a ballot paper during the counting of the votes at a mayoral election is guilty of an offence.

**Note**

This Head makes it an offence for ballot papers to be handled by candidates or agents during the counting of votes at a Mayoral election. It reflects provisions in article 114 of the Local Elections Regulations 1995 and section 153 of the Electoral Act 1992.

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**Head 141 - Unauthorised inspection of documents.**

**Provide that:**

Unauthorised inspection of any document which is a document mentioned in *Head 118* shall be an offence.

**Note**

This Head makes the unauthorised inspection of ballot papers an offence. It reflects provisions in article 115 of the Local Elections Regulations 1995 and section 154 of the Electoral Act 1992.

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**Head 142 - Corrupt withdrawal of petition.**

**Provide that:**

A person who makes any agreement or enters into any undertaking in relation to the withdrawal of a petition presented under *Chapter 16* in consideration of any payment or the cesser of the office of Mayor or for any substantial reason not stated in the affidavit referred to in *Head 160(3)* is guilty of an offence.

**Note**

This Head makes the corrupt withdrawal of a petition an offence. It is based on section 155 of the Electoral Act 1992.

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**Head 143 - Limitation of time for prosecution of offence.**

**Provide that:**

Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, proceedings for an offence under this Part may be instituted within 12 months from the date of the offence or, if the offence was committed in relation to a mayoral election as respects which proceedings questioning the election are held before a court, may be commenced within 12 months from the date of the offence or within 3 months from the decision of the court, whichever period last expires, but proceedings for an offence under this Part shall not be commenced after the expiration of the period of 2 years beginning on the date of the offence.

**Note**

This Head restates the law in relation to the limitation on the time for the prosecution of an offence committed in connection with a Mayoral election. It reflects the provisions in article 116 of the Local Elections Regulations 1995 and section 156 of the Electoral Act 1992.

**Head 144 – Penalties.**

**Provide that:**

- (1) A person guilty of an offence under this Chapter (other than an offence mentioned in *subsection (2)*) is liable—
- (a) on summary conviction, to a fine not exceeding €1,300 or imprisonment for a period not exceeding 6 months or both, or
  - (b) on conviction on indictment, to a fine not exceeding €3,200 or imprisonment for a period not exceeding 2 years or both.
- (2) A person guilty of an offence under *Head 126, 135* or *140* is liable on summary conviction to a fine not exceeding €600 or imprisonment for a period not exceeding 3 months or both.

**Note**

This Head provides for penalties in respect of the various offences provided for under this Chapter.

The terms of imprisonment for summary conviction or conviction on indictment reflect those in article 117 of the Local Elections Regulations 1995 and in section 157 of the Electoral Act 1992. The fines closely resemble the fines in that article and section when converted to Euro.

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**Head 145 - Compensation where certain charge is unjustly made or not prosecuted.**

**Provide that:**

Where any person is arrested under article 67 of the Local Elections Regulations (as applied by *Head 101*) on a charge made by a personation agent that such person has committed the offence of personation and either such personation agent (or someone on the agent's behalf) fails to appear before the court and support the charge, or the court acquits the person of having committed the offence and finds that the charge was made by the personation agent without reasonable or just cause, the court may, at the request of the person so charged but not otherwise, order the personation agent to pay to the person such sum not exceeding €600 as the court shall think proper by way of damages, and such sum when duly paid shall

be accepted by the person so charged in full satisfaction of all claims by that person in respect of damages arising from the said charge and arrest and detention thereon.

**Note**

This Head provides for the payment of compensation by a personation agent where he or she has made a charge of personation against a person who has been arrested on foot of that charge and either the personation agent fails to appear before the court to support the charge or the court acquits the person and finds that the charge was made without reasonable or just cause.

This Head reflects the provisions in article 118 of the Local Elections Regulations 1995 and section 158 of the Electoral Act 1992.

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**Head 146 - Certificate of returning officer to be *prima facie* evidence.**

**Provide that:**

In any civil or criminal proceedings in relation to an alleged offence at a mayoral election, the certificate of the returning officer of the due holding of the election or that a particular person was a candidate at the election shall be *prima facie* evidence of the facts stated therein and it shall not be necessary to prove the signature of the returning officer or that the person was in fact such returning officer.

**Note**

This Head provides that in any civil or criminal proceedings in relation to an alleged offence at a Mayoral election the certificate of a returning officer of the due holding of the election, or that a particular person was a candidate at the election, shall be *prima facie* evidence of the fact.

It reflects provisions in article 119 of the Local Elections Regulations 1995 and 160 of the Electoral Act 1992.



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## **CHAPTER 15 – Spending and donations**

### ***Spending and Donations at an Election of the Mayor of Limerick***

#### **Head 147 - Insertion of Part X in Electoral Act 1997.**

##### **Provide that:**

The Electoral Act 1997 is amended by the insertion of the following Part after Part IX:

##### **Note**

This Head inserts a new Part X, comprising 21 sections, into the Electoral Act 1997 to provide for the limitation of expenditure at a mayoral election and for the disclosure of donations. These new sections will appear as sections 91 to 111 of the amended Electoral Act 1997. The Act of 1997 legislates for election spending and donations requirements as they apply at Dáil, Seanad, European Parliament and Presidential elections.

#### **“PART X**

#### **DONATIONS AND ELECTION EXPENSES AT A MAYORAL ELECTION**

##### **Section 91 - Interpretation (Part X).**

(1) In this Part -

‘account’ means an account in an institution in the State for the purpose of crediting and debiting money received in respect of donations;

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'candidate' means a person who on or before the date of the making of the order appointing polling day at a mayoral election is declared by himself or herself or by others to be a candidate at that election;

'donation' means any contribution given by any person to a candidate at a mayoral election for the purpose of promoting the election of the candidate at that election or otherwise affecting the outcome of that election or to a third party for the purpose of promoting the election of a candidate at the mayoral election or otherwise affecting the outcome of that election, and includes all or any of the following, namely -

- (a) a donation of money,
- (b) a donation of property or goods,
- (c) conferring the right to use, without payment or other consideration, indefinitely or for a specified period of time, any property or goods,
- (d) the supply of services without payment or other consideration therefor,
- (e) the difference between the commercial price charged for the purchase, acquisition or use of property or goods, or the supply of any service where the price, fee or other consideration is less than the commercial price, or
- (f) in the case of a contribution made by a person in connection with an event organised for the purpose of raising funds for a candidate at a mayoral election, the proportion attributable to that contribution of the net profit (if any) deriving from the event;

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- (g) a payment by the person on their own behalf, or on behalf of one or more than one other person, of a fee or subscription for membership or continued membership of a political party;

'institution' means –

- (a) the holder of a licence under section 9 of the Central Bank Act 1971,
- (b) a building society incorporated or deemed to be incorporated under the Building Societies Acts 1989 and 2006, or a body incorporated in a corresponding manner under the law of any other Member State,
- (c) a trustee savings bank within the meaning of the Trustees Savings Bank Act 1989,
- (d) ACC Bank plc,
- (e) An Post, or
- (f) a person authorised in accordance with the European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992, to carry on business in the State;

references to promoting the election of a candidate at a mayoral election or otherwise affecting the outcome of that election shall be construed as references to –

- (i) promoting or opposing, directly or indirectly, the election of a candidate or soliciting votes for or against a candidate,
- (ii) presenting the policies or a particular policy of a candidate or the views of a candidate on any matter connected with the mayoral

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election or the comments of a candidate with regard to the policy or policies of a candidate at the mayoral election or otherwise,

- (iii) otherwise influencing the outcome of the mayoral election;

'mayoral election agent' has the meaning assigned to it by section 97;

'person' shall include an individual, a body corporate and an unincorporated body of persons (including a political party) and a body corporate and any subsidiary thereof shall be deemed to be one person;

'political party' means a political party registered in the Register of Political Parties in accordance with section 25 of the Act of 1992 as a party organised to contest a Dáil election or a European election or a local election or mayoral election or all or any combination of such elections;

'responsible person', in relation to a third party, means the person or persons responsible for the organisation, management or financial affairs of the third party;

'returning officer' means a returning officer at a mayoral election;

'third party', in relation to a mayoral election, means any person, other than a political party registered in the Register of Political Parties under Part III of the Act of 1992, or a candidate at a mayoral election, who, in any particular year, accepts a donation the value of which exceeds €127.

- (2) For the purposes of this Part, none of the following is a donation:
  - (a) any payment, service or facility provided to a candidate out of public funds or moneys provided by an institution of the European Union or other intergovernmental organisation to which the State is a party (whether pursuant to this Act, the Oireachtas

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(Allowances to Members) Acts 1938 to 1998, the Ministerial and Parliamentary Offices Acts 1938 to 2009, the European Assembly (Irish Representatives) Act 1979, European Parliament Elections Act 1997, or otherwise) by virtue of being a member of either House of the Oireachtas, the holder of a qualifying office (within the meaning of the Ministerial and Parliamentary Offices Acts 1938 to 2014), the holder of a position referred to in the Oireachtas (Allowances to Members) (Amendment) Act 1994, a member of the European Parliament, the holder of an elective or other public office or a member of, delegate to or representative in a body established by or under an agreement or arrangement to which the State is a party;

(b) benefits derived from -

- (i) a service rendered by an individual on behalf of a candidate at a mayoral election, including the use of the individual's motor vehicle, where that service is gratuitous and is not part of the individual's work carried out under a contract of employment, or where the individual is self employed, in the course of the individual's business or in the practice of the individual's profession, or
- (ii) a service rendered at a mayoral election by an individual in the employment of a political party, including the use of the individual's motor vehicle, whether the individual's remuneration is paid out of the party's resources or out of public funds, on behalf of a candidate at the mayoral election where the individual is not in receipt of any reward or benefit in kind other than his or her normal remuneration (including recoupment of expenses) in consideration of that service;

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- (c) the publication in a newspaper, magazine or other periodical publication or the broadcast on radio or television of news, reports, regulations, features, editorial or other comments, including the publication of letters to the editor, where such publication or broadcast is effected in the same manner as that of other material relating to issues of public interest or concern, and the newspaper, magazine or other periodical publication is not published for the purpose of promoting the interests of a candidate at a mayoral election;
  - (d) the transmission on radio or television free of charge of a broadcast on behalf of a candidate;
  - (e) election expenses incurred by a political party on behalf of a candidate at a mayoral election other than a donation of money.
- (3) For purposes of this Part, a donation, whether made directly or through any intermediary, shall be deemed to be made to a candidate at a mayoral election if it is made to the candidate concerned or to any agent or other person acting for the said candidate and any reference to a donation or the acceptance thereof shall be construed accordingly.

**Note**

This section provides for the interpretation of terms used in the new Part X of the Electoral Act 1997 in respect of spending and donations at a mayoral election. These interpretations are in addition to, and consistent with, the general definitions set out under section 2 of the 1997 as they apply to the Act as a whole. This section is based on section 46 of the Electoral Act 1997, which provides for interpretations in respect of the treatment of donations and election expenses at a Presidential election.

**Section 92 - Anonymous donations to mayoral candidate.**

**Provide that:**

- (1) A candidate at a mayoral election or third party shall not, directly or through any intermediary, accept a donation exceeding €100 in value unless the name and address of the person by or on whose behalf the donation is made are known to the candidate.
- (2) Where, notwithstanding subsection (1), a donation, acceptance of which is prohibited by that subsection, is made to a candidate at a mayoral election or third party, the mayoral election agent of the candidate concerned or third party shall, in the statement to be furnished under section 93, or the certificate to be furnished under section 95 include particulars of such donation and shall, at the same time as the statement under section 93 is furnished, remit the donation or the value thereof to the Standards in Public Office Commission.
- (3) The Standards in Public Office Commission shall dispose of all moneys, property or goods received under subsection (2) in such manner as may be directed by the Minister for Finance.

**Note**

This section deals with anonymous donations and is based on the existing section 47 of the Electoral Act 1997, that applies at a Presidential election and which has been modified to apply in respect of a mayoral election. Similar provisions also apply in

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respect of candidates and third parties at a Dáil, Seanad and European Parliament election under section 23 of the 1997 Act.

**Section 93 - Mayoral election donation statement.**

**Provide that:**

- (1) Not later than the fifty-sixth day after the polling day at a mayoral election, the mayoral election agent of each candidate at the election shall furnish to the Standards in Public Office Commission a written statement, signed by the mayoral election agent and the candidate concerned, in the form directed by the said Commission, to be known, and referred to in this Part, as a 'mayoral election donation statement', indicating whether, in relation to the election, the candidate received a donation exceeding €600 in value including donations received at any time before the date of the order appointing polling day at the election and stating in respect of each such donation (if any) –
  - (a) the value of the donation, and
  - (b) the name, description and postal address of the person by or on whose behalf the donation was made.
- (2) A statement furnished pursuant to subsection (1) shall be accompanied by -
  - (a) a statutory declaration made by the mayoral election agent concerned, and



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(b) a statutory declaration made by the candidate concerned,

that, to the best of his or her knowledge and belief, the statement is correct in every material respect and that he or she has taken all reasonable action in order to be satisfied as to the accuracy of the statement.

(3) Where the Standards in Public Office Commission requests additional or supplemental information in relation to a mayoral election donation statement, such information shall be provided by the mayoral election agent concerned and shall be in a form directed by the Commission, accompanied, if the Commission so requests, by -

(a) a statutory declaration made by the mayoral election agent concerned, and

(b) a statutory declaration made by the candidate concerned,

that, to the best of his or her knowledge and belief, the information is correct in every material respect and that he or she has taken all reasonable action in order to be satisfied as to the accuracy of the information.

(4) It shall be the duty of every person who is required to furnish a statement or make a declaration pursuant to this section to make such enquiries and maintain such records as are necessary for the purpose of furnishing the statement or making the declaration.

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- (5) Where a person makes more than one donation to the same candidate in relation to the same mayoral election all such donations shall for the purposes of this section be treated as a single donation.

**Note**

This section provides for the submission of a “mayoral election donations statement” and is based on similar provisions contained within section 48 of the Electoral Act 1997 in respect of the submission of a statement of donations at a Presidential election.

**Section 94 - Limits on donation amounts.**

**Provide that:**

(1) Without prejudice to subsection (2), none of the following persons, namely -

- (a) a candidate,
- (b) a mayoral election agent, or
- (c) a third party at a mayoral election,

shall directly or through any intermediary, accept from a particular person in a particular year a donation the value of which exceeds -

- (i) in case the first-mentioned person falls within paragraph (a) or (b), €1,000,
- (ii) in case the first-mentioned person falls within paragraph (c), €2,500, or
- (iii) a donation in cash of an amount which exceeds €200.

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- (2) None of the persons referred to in any of paragraphs (a), (b) or (c) of subsection (1) shall, directly or through any intermediary, accept a donation of whatever value given by -
- (a) an individual (other than an Irish citizen) who resides outside the island of Ireland, or
  - (b) a body corporate or unincorporated body of persons which does not keep an office in the island of Ireland, being an office from which the carrying on of one or more of its principal activities is directed.
- (3) For the avoidance of doubt, if section 23A or 48A, or section 19B of the Local Elections (Disclosure of Donations and Expenditure) Act 1999, falls to be applied to anything referred to in subsection (1) or (2), the said section 23A, 48A or 19B (as the case may be) and subsection (1) or (2) shall be construed as permitting only one donation of the value of €100 or €2,500, as the case may be (or two or more donations of a total value of the said amount) to be received from a particular person in relation to the same matter.
- (4) Where a person makes more than one donation in relation to the same mayoral election to the same candidate, mayoral election agent or third party all such donations shall, for the purposes of this section, be aggregated and treated as a single donation received by the person concerned and references in subsequent provisions of this section to a donation the acceptance of which is prohibited by subsection (1) shall be construed accordingly.

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- (5) Where notwithstanding subsection (1) or (2), a donation, the acceptance of which is prohibited by either subsection, is made to a person, mayoral election agent or third party, as the case may be, or, in the case of a donation to the first mentioned person which is made after the appointment by him or her of a mayoral election agent, the mayoral election agent, shall not later than 14 days after the receipt of the donation, either -
- (a) return the donation, or in the case of a donation referred to in subsection (1) which is a monetary donation the part of it exceeding the limit concerned, to the donor and keep a written record of that return for the purposes of its being furnished to the Standards in Public Office Commission, if required by it, or
  - (b) notify the Standards in Public Office Commission of such receipt and remit the donation, or, in the case of a donation referred to in subsection (1) which is a monetary donation, the part of it exceeding the limit concerned or the value thereof, to the Commission.
- (6) If a donation is accepted by or on behalf of a candidate at a mayoral election before the appointment by the candidate of a mayoral election agent, the candidate shall furnish to the relevant agent details of such donations, together with the relevant documentation, and thereafter the mayoral election agent shall be responsible for furnishing the relevant statement to the Standards in Public Office Commission.

**Note**

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This section will place limits on the level of donations that can be accepted from the same person by a candidate, mayoral election agent or third party. The donation limits that are to apply in respect of a mayoral election are the same as those that already apply in respect of other elections, specifically a Presidential, Dáil, Seanad, European Parliament and Local Election.

**Section 95 - Political donations accounts.**

**Provide that:**

- (1) Where a candidate at a mayoral election, a mayoral election agent or a third party receives a monetary donation the value of which exceeds €100, there shall be opened and maintained -
  - (a) in the case of such receipt by the candidate before the appointment by him or her of a mayoral election agent, by the candidate,
  - (b) in the case of such receipt by the candidate after such an appointment is made, by that agent, and
  - (c) in any other case, by the mayoral election agent or third party at a mayoral election, as the case may be,

an account at an institution in the State and there shall be lodged to that account by the person who has opened it that donation and any further monetary donations received by him or her or it.

- (2) A mayoral election agent shall ensure that a donation statement furnished by him or her under section 93 to the Standards in Public Office Commission is accompanied by -

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- (a) a statement provided by the institution referred to in subsection (1) with which he or she or the candidate for whom he or she is a mayoral election agent has opened the account referred to therein specifying the transactions that have taken place in relation to the account during the period beginning on the date of opening of the account and ending on polling day at the mayoral election, and
  - (b) a certificate, in the form directed by the Standards in Public Office Commission, signed by the mayoral election agent, stating that all monetary donations received during the said period by him or her or the candidate for whom he or she is such an agent were lodged to the said account and all amounts debited from that account were used for promoting the election of the said candidate or otherwise affecting the outcome of the said election.
- (3) A third party shall, not later than 56 days after polling day at a mayoral election, furnish to the Standards in Public Office Commission a statement provided by the institution referred to in subsection (1) with which the third party has opened the account referred to therein specifying the transactions that have taken place in relation to the account during the period beginning on the date of opening of the account and ending on polling day at the mayoral election, together with a certificate, in a form directed by the Commission, signed by the third party, stating that all monetary donations received during the said period by the third party were lodged to the said account and all amounts debited from that account were used for promoting the election of a candidate at the mayoral election or otherwise affecting the outcome of the mayoral election.



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(4) The certificate furnished pursuant to subsection (2) or (3) shall be accompanied -

(a) by a statutory declaration made by the person by whom the certificate is furnished, and

(b) where the certificate is furnished by a mayoral election agent, by a statutory declaration made by the candidate,

that, to the best of his or her knowledge and belief, the certificate is correct in every material respect and that he or she has taken all reasonable action in order to be satisfied as to the accuracy of the certificate.

(5) The Standards in Public Office Commission shall retain the statements, certificates and statutory declarations furnished to it pursuant to subsection (2), (3) or (4) and shall not disclose the contents of those statements, certificates or declarations unless ordered by a Court to do so or save when such disclosure is required in connection with an investigation held by the Commission.

**Note**

This section sets out the requirements to apply in respect of the opening of a political donations account at a mayoral election and the furnishing of relevant related documents to the Standards in Public Office Commission. This section is based on section 48B of the Electoral Act 1997 that applies in respect of a Presidential election. Similar provisions also apply at Dáil and European Parliament elections under section

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23B of the 1997 Act, and at local elections under section 19D of the Local Elections (Disclosure of Donations and Expenditure) Act 1999. For local elections reporting is to the relevant local authority rather than the Standards in Public Office Commission.

**Section 96 - Registration of third parties.**

**Provide that:**

As soon as may be after the receipt by it of a donation the value of which exceeds €127 and before incurring any expenses for the purposes of promoting the election of a candidate at a mayoral election or otherwise affecting the outcome of such an election or, as the case may be, incurring, subsequent to that receipt, any further such expenses a third party at a mayoral election shall furnish to the Standards in Public Office Commission in writing -

- (a) the name and address of the third party and the name and address of the responsible person or each responsible person in relation to the third party,
- (b) a statement of the nature, purpose and estimated amount of the donations to, and proposed expenses of, the third party in any year, and
- (c) an indication of the third party's connection (if any) with any political party or candidate at the election.

**Note**

This section provides that a third party at a mayoral election shall register with the Standards in Public Office Commission. This section is based on the existing section 48C of the Electoral Act 1997 that applies in respect of third parties at a Presidential

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election. The requirements on third parties are also the same as those applying at Dáil and European Parliament elections under section 23C of the 1997 Act.

Similar provisions are also contained within section 6 of the Local Elections (Disclosure of Donations and Expenditure) Act 1999.

**Section 97 - Appointment of mayoral election agent.**

**Provide that:**

- (1)
  - (a) Before incurring any election expenses at a mayoral election, each candidate shall appoint an agent (in this Part referred to as 'mayoral election agent') for the purposes of this Part and to assist the candidate generally in relation to the election and shall, not later than the last day for receiving nominations at the mayoral election, notify in writing the name of the mayoral election agent and the address of the office of the mayoral election agent to the returning officer for the mayoral election.
  - (b) A candidate may appoint himself or herself as mayoral election agent, and shall, on so doing, so far as circumstances permit, be subject to the provisions of this Part both as a candidate and as a mayoral election agent and, except where the context otherwise requires, any reference in this Part to a mayoral election agent shall be construed as including a reference to the candidate acting as mayoral election agent.
- (2) Where a candidate has not, at the time referred to in subsection (1)(a), notified the returning officer for the mayoral election the name of the mayoral election agent appointed by the candidate and the address of the agent's office, the candidate shall be deemed to have appointed himself or herself as mayoral election agent and to have revoked the appointment of any other person as mayoral election agent and the candidate shall be subject to the provisions of this Part as a candidate and as mayoral election agent.

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- (3) A candidate may at any time, revoke the appointment of a mayoral election agent appointed by the candidate under this section.
  
- (4) (a) If, before the mayoral election donation statement and the statement of election expenses has been furnished to the Standards in Public Office Commission in accordance with sections 93 and 104, the appointment of a mayoral election agent is revoked, or a person appointed as such mayoral election agent dies, resigns or is otherwise unable to act, the candidate shall forthwith appoint another mayoral election agent and shall notify in writing the name of the person so appointed and the address of the person's office to the mayoral returning officer.
  - (b) (i) Where a candidate at a mayoral election who has appointed himself or herself as mayoral election agent dies before a statement of election expenses has been furnished by him or her in accordance with section 104 the personal representative of the candidate may appoint another mayoral election agent in respect of the candidate.
    - (ii) The personal representative of a candidate referred to in sub-paragraph (i) may appoint himself or herself as mayoral election agent in respect of that candidate.
  - (c) The provisions of this section shall apply to a mayoral election agent appointed under this subsection.
  
- (5) The mayoral returning officer shall as soon as may be notify the Standards in Public Office Commission in writing and give public notice

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of the name and the address of the office of every mayoral election agent appointed or deemed to have been appointed under this section.

- (6) A mayoral election agent appointed or deemed to have been appointed under this section shall have an office or place in or convenient to the Limerick City and County Electoral Area (within the meaning of *Part 6* of the *Act of 2021*) to which claims, notices, writs, summonses and other documents may be sent.
- (7) Any claim, notice, writ, summons or document delivered at the office or place of a mayoral election agent of a candidate and addressed to such mayoral election agent shall be deemed to have been served on the mayoral election agent, and the mayoral election agent may in respect of any matter connected with the election be sued in any court having competent jurisdiction at the place where the office of the mayoral election agent is situated.

**Note**

This section provides for the appointment by each candidate of a mayoral election agent on or before the last day for receiving nominations at the election. This section is based on similar provisions that apply in respect of the appointment of a Presidential election agent under section 50 of the Electoral Act 1997. A Presidential election has similar organisational characteristics to those that will apply at the mayoral election. There will be a single constituency, with one candidate declared elected after the election. Provision is made for a single election agent that will combine the role in respect of agent for the candidate and their political party (if any). By way of contrast, at a Dáil and European Parliament election, there is provision for both a candidate's agent and a national agent of a political party. These are appointed under section 28 of the 1997 Act. Such an arrangement will not be necessary at a mayoral election.

**Section 98 - Making of contracts through mayoral election agent.**

**Provide that:**

- (1) A contract (including a contract of employment and whether in writing or otherwise) by which any election expenses at a mayoral election exceeding €635 in value are incurred by or on behalf of a candidate at the election shall be made by the mayoral election agent of the candidate and shall not be enforceable against the said candidate or mayoral election agent unless so made.
  
- (2) Nothing in this section shall prejudice the right of any person who is a party to a contract to recover from any other such person any moneys, property, goods or services due to the first-mentioned person on foot of such contract.

**Note**

This section provides for the making of contracts through the mayoral election agent, where the value of the contract exceeds €635. Any such contract made other than through the agent will not be enforceable against the candidate or the mayoral election agent. This is a standard provision and similarly applies in respect of a Dáil and European Parliament election under section 30 of the Electoral Act 1997 and at a Presidential election under section 51 of the 1997 Act.



**Section 99 - Expenses and payments at mayoral election.**

**Provide that:**

- (1) (a) In this Part 'election expenses' means all expenses falling within paragraph (b) incurred in the provision of property, goods or services for use at a mayoral election during the period referred to in subsection (3) in order -
    - (i) to promote or oppose, directly or indirectly, the election of a candidate at the mayoral election or to solicit votes for or against a candidate,
    - (ii) to present the policies or a particular policy of a candidate or the views of a candidate on any matter connected with the mayoral election or the comments of a candidate on the policy or policies of another candidate at the mayoral election; or
    - (iii) otherwise to influence the outcome of a mayoral election.
  - (b) The expenses mentioned in the foregoing definition of 'election expenses' shall be those, and only those, set out, in the Schedule to this Act.
- (2) Where property, goods or services are provided to a candidate at a mayoral election without payment or other consideration therefor or at a price which is less than the commercial price, the provision of the property, goods or services shall be deemed to be an election expense and the property, goods or services shall be deemed to have been provided at the commercial price and shall be accounted for accordingly

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by the mayoral election agent in the statement to be furnished under section 104 to the Standards in Public Office Commission.

- (3) The following shall be reckoned for the purposes of this Part and shall be included in the statement to be furnished to the Standards in Public Office Commission under section 104:
- (a) all election expenses incurred by or on behalf of a candidate at a mayoral election at any time during the period specified by an order made by the Minister under section 92(1);
  - (b) all election expenses incurred by or on behalf of a candidate at a mayoral election at any time before the commencement of the relevant period referred to in paragraph (a) for the provision of property, goods or services for use at the election during that period;
  - (c) all payments made in respect of the election expenses referred to in paragraphs (a) and (b).
- (4) No election expenses shall be incurred at a mayoral election and no payment, advance or deposit shall be made in respect of such election expenses on behalf of a candidate at the mayoral election other than by the mayoral election agent of the candidate or such person or persons authorised for this purpose by the said mayoral election agent and subject to limits regarding expenditure and payment which shall be specified in such authorisation.
- (5) Where any election expenses are incurred at a mayoral election by a body which -
- (a) is a political party which supports the candidature of a candidate,  
or

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- (b) was established by or on behalf of a candidate, or by or on behalf of a political party which supports the candidature of the candidate, for the purpose of incurring election expenses or making payments in respect of such expenses or for any of the purposes referred to in subsection (1)(a), or
- (c) is a member of or is a branch or subsidiary organisation (within the meaning of section 22(1)) of a political party which supports the candidature of the candidate, or
- (d) is effectively controlled by the candidate or a political party which supports the candidature of the candidate or is or appears to be so connected with or associated with the candidate or a political party which supports the candidature of the candidate that a reasonable person would believe that it is controlled or substantially influenced by the candidate or political party,

such expenses shall be deemed to have been incurred on behalf of the candidate concerned and shall be accounted for accordingly by the mayoral election agent of the candidate and the provisions of this Part shall apply in relation thereto.

- (6) Before incurring any expenses at a mayoral election a person (other than the mayoral election agent or a person authorised by any such mayoral election agent for the purpose of subsection (4)) who proposes to incur election expenses (within the meaning of this Part), shall furnish to the Standards in Public Office Commission in writing -
  - (a) the name, address and description of the person proposing to incur the expenses,
  - (b) a statement of the nature, purpose and estimated amount of such expenses, and

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- (c) an indication of the person's connection (if any) with any candidate or with any political party which supports the candidature of a candidate at the mayoral election.
  
- (7) Where, notwithstanding section 97(1)(a), election expenses are incurred by or on behalf of a candidate at a mayoral election before the appointment by the candidate of a mayoral election agent the candidate shall furnish to the mayoral election agent details of such expenses, together with all relevant vouchers, and such election expenses shall be deemed to be expenses incurred by the mayoral election agent.
  
- (8)
  - (a) It shall be the duty of the candidate concerned to furnish the relevant material referred to in subsection (7) to the relevant mayoral election agent in sufficient time to enable the mayoral election agent to carry out his or her duties under section 104.
  
  - (b) A candidate who fails to comply with this section is guilty of an offence.
  
- (9) Every payment of election expenses made pursuant to this Part shall, where the said payment exceeds €127, be supported by a voucher stating the particulars of the transaction to which it relates.
  
- (10) The publisher of a newspaper, magazine or other periodical publication shall not, other than at the request of a candidate at a mayoral election or the mayoral election agent of such candidate, or a person authorised in writing by such candidate or mayoral election agent, publish any advertisement or notice in relation to a mayoral election purporting to promote or oppose, directly or indirectly, the interests of a candidate at that election unless the person produces to the said publisher a certificate from the Standards in Public Office Commission that that person has complied with subsection (6) in relation to that election.

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- (11) This section shall not be construed to prevent or restrict the lawful publication of any matter in relation to an election in a newspaper or other publication or the broadcast of such matter by radio or television or the lawful expression of opinion on any matter of public interest by any person.

**Note**

This section deals with the treatment of expenses and payments at a mayoral election. Similar provisions as apply at a Presidential election under section 52 of the Electoral Act 1997 are to be applied at a mayoral election.

**Section 100 - Period in respect of which election expenses are reckoned at mayoral elections.**

**Provide that:**

- (1) After the Minister has made an order *under subsection (1), (4) or (5) of Head 67 of the Act of 2021*, he or she may by order specify the period during which election expenses at the election concerned shall be reckoned for the purposes of this Part.
- (2) An order under subsection (1) shall specify -
  - (a) a date not less than 50 and not more than 60 days prior to the polling day at the election concerned, as the date on which the period shall commence, and
  - (b) the polling day at the election concerned, as the date on which the period shall end.
- (3) The spending period at a mayoral election (other than one to which subsection (1) applies) shall continue for the same period as may be fixed by the Minister by order under section 12B (inserted by section 4 of the Electoral (Amendment) (No. 2) Act 2009) of the Local Elections (Disclosure of Donations and Expenditure) Act 1999, for local elections.
- (4) Every order made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House sits after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

**Note**

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This section sets out the formula for determining the period during which expenses are reckoned for the purposes of a mayoral election. It is based on the equivalent provision set out in section 12B of the Local Elections (Disclosure of Donations and Expenditure) Act 1999.

**Section 101 - Limitation of election expenses at mayoral election.**

**Provide that:**

- (1) The aggregate of election expenses which may be incurred by or on behalf of a candidate at a mayoral election in connection with his or her candidature shall not exceed €72,100.
- (2) Expenditure by a political party at the election on behalf of a candidate whose candidature is authenticated by the party shall be deemed to be expenditure incurred by the candidate and shall be accounted for accordingly by the candidate's election agent.
- (3) Election expenses incurred pursuant to this section by a political party shall be deemed for the purposes of section 105 to be expenses incurred by the candidate.

**Note**

This section provides for a limit of €72,100 in the amount of election expenses that can be incurred at a mayoral election. It is based on section 32 of the Electoral Act 1997 that provides for the setting of the spending limits that apply at a Dáil election.

**Section 102 - Period for making claims in relation to mayoral election expenses.**

**Provide that:**

Notwithstanding anything contained in any other enactment, every claim in respect of election expenses against the mayoral election agent of a candidate at a mayoral election or a person referred to in section 99(6) which is not delivered to the election agent or person concerned on or before the forty-fifth day after the polling day at the election shall not be paid and shall not be enforceable against the said mayoral election agent or person.

**Note**

This section sets a time limit within which claims for the payment of election expenses at a mayoral election must be made. All claims in respect of election expenses must be lodged with the mayoral election agent or candidate or third party not later than 45 days after the close of poll. It is based on similar provisions set out in section 54 of the Electoral Act 1997 that apply to the agents of candidates at a Presidential election. A similar provision also applies at Dáil and European Parliament elections under section 34 of the 1997 Act.



**Section 103 - Disputed claims in relation to mayoral election expenses.**

**Provide that:**

If the mayoral election agent of a candidate at a mayoral election or a person referred to in section 99(6) disputes any claim delivered to the election agent or person concerned within the period allowed for delivery of such claims under section 102, the person by whom the claim is made may apply to a court of competent jurisdiction for an order for payment of the claim and the court may, on being satisfied that the claim should be paid, make an order for payment and specify the amount which is payable.

**Note**

This section deals with disputed claims in relation to mayoral election expenses and is based on similar provisions as set out in section 55 of the Electoral Act 1997 that apply to the agents of candidates at a Presidential election. A similar provision is also in place in respect of Dáil and European Parliament elections, under section 35 of the 1997 Act.

**Section 104 - Statements in relation to mayoral election expenses.**

**Provide that:**

- (1) The mayoral election agent of a candidate at a mayoral election and every person who incurs election expenses under section 99(6) shall, within the 56 days next following the polling day at the mayoral election furnish to the Standards in Public Office Commission a statement in writing of all election expenses (whether paid or not) incurred by the agent or person at the election and the several matters to which such expenses relate, together with all relevant vouchers.
  
- (2) Each statement of mayoral election expenses furnished pursuant to subsection (1) shall be in the form directed by the Standards in Public Office Commission and shall be accompanied -
  - (a) by a statutory declaration made by the mayoral election agent or person by whom the statement is furnished, and
  
  - (b) (other than where the statement is furnished pursuant to subsection (6) or by a person referred to in section 99(6)) by a statutory declaration made by the candidate,

that to the best of his or her knowledge and belief, the statement is correct in every material respect and that he or she has taken all reasonable action in order to be satisfied as to the accuracy of the statement.

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- (3) Where the Standards in Public Office Commission requests additional or supplemental information in relation to a statement of election expenses under this section, such information shall be provided by the mayoral election agent or person who furnished the statement and shall be in a form, directed by the Commission, accompanied, if the Commission so requests -
- (a) by a statutory declaration made by the mayoral election agent or person by whom the statement is furnished, and
  - (b) (other than where the statement is furnished pursuant to subsection (6) or by a person referred to in section 99(6)) by a statutory declaration made by the candidate,

that to the best of his or her knowledge and belief, the information is correct in every material respect and that he or she has taken all reasonable action in order to be satisfied as to the accuracy of the information.

- (4) Where, after the statement of election expenses is furnished under this section, an order for payment of a claim is made by a court under section 103 the mayoral election agent or person referred to in section 99(6) shall, not later than 7 days after the date of the order of the court, furnish to the Standards in Public Office Commission a copy of the said order together with a statement of the sum payable under the order.
- (5) It shall be the duty of every person who is required to furnish a statement of election expenses or make a declaration pursuant to this section, to make such enquiries and maintain such records as are necessary for the purpose of furnishing the statement or making the declaration.

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- (6) Where a candidate standing nominated at the election dies -
- (a) in any of the circumstances referred to in *subsection (1), (2) or (3)* of **Head 93 of the Act of 2021**, or
  - (b) after the close of poll at the mayoral election and before a statement of election expenses has been furnished to the Standards in Public Office Commission in respect of that candidate,

the mayoral election agent of the said candidate shall, notwithstanding the death of the candidate, furnish a statement of the election expenses of the candidate in accordance with this section.

- (7) This section shall apply to a mayoral election agent appointed under section 97(4)(b), subject to the proviso that the statement of election expenses to be furnished by the said election agent shall be furnished to the Standards in Public Office Commission within the 56 days next following polling day at the election or as soon as practicable after the expiration of that period.

**Note**

This section requires each mayoral election agent, and any third party who incurs election expenses, to furnish a statement to the Standards in Public Office

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Commission in relation to the election expenses incurred. The statement must be submitted within 56 days following polling day.

A similar requirement to furnish a statement of election expenses to the Standards in Public Office Commission within 56 days following polling day applies in respect of candidates at a Dáil and European Parliament election under section 36 of the Electoral Act 1997, and in respect of Presidential election candidates under section 56 of that same Act.

**Section 105 - Reimbursement of mayoral election expenses of candidates.**

**Provide that:**

- (1) (a) Subject to paragraphs (b), (c) and (d), election expenses shall be reimbursed to a candidate at a mayoral election who -
  - (i) is elected at the election; or
  - (ii) is not so elected but the greatest number of votes credited to him or her at any stage of the counting of the votes at the election exceeds one quarter of the quota.
- (b) (i) The amount of election expenses which may be reimbursed to a candidate under this section shall be the actual expenses incurred by the candidate or €18,500, whichever is the less.
- (b) (ii) Election expenses deemed to have been incurred by a candidate of a political party under section 101(2) shall be reckoned for the purposes of this section.
- (c) Subject to paragraph (d), payments in respect of the reimbursement of election expenses under this section shall be made by the Minister for Finance out of the Central Fund or the growing produce thereof to each candidate referred to in paragraph (a), who applies therefor to the Standards in Public Office Commission in a form directed by the Commission.

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- (d) No payment in respect of the reimbursement of election expenses of a candidate shall be made unless and until the Standards in Public Office Commission has -
  - (i) certified to the Minister for Finance that the relevant statement of election expenses and statutory declarations have been furnished by the mayoral election agent of the candidate to the Commission under section 104 of this Act,
  - (ii) certified to the said Minister that the said statement was completed in accordance with guidelines issued by the Commission under section 4, and complies with the provisions of this Part,
  - (iii) furnished to the Minister for Finance details of the amount of the actual expenses incurred by the candidate, including expenses (if any) referred to in section 101(2) in relation to the candidate, and
  - (iv) certified to the said Minister that a mayoral election donation statement has been furnished to the Commission and such statement was completed in accordance with guidelines issued by the Commission under section 4.
- (e) The Standards in Public Office Commission shall furnish to the Minister for Finance, as soon as may be after consideration by it or an application for reimbursement of election expenses under paragraph (c) and the statement of election expenses furnished to it in respect of the candidate under section 104, the details

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referred to paragraph (d) in respect of each candidate who is eligible for reimbursement of election expenses at a mayoral election.

- (f) (i) Where a candidate referred to in paragraph (a) dies after the close of the poll at a mayoral election and has not made an application for the reimbursement of election expenses under this section, an application for the reimbursement of the said candidate's election expenses may be made by, and where appropriate, the payment may be made to, the personal representative of the candidate.
- (ii) Where a candidate referred to in paragraph (a) dies after making an application for the reimbursement of election expenses under this section and before payment is made to the candidate, payment in respect of the reimbursement of the said candidate's expenses may be made to the personal representative of the candidate.
- (g) Every payment made to a candidate, or the personal representative of a candidate, as the case may be, under this section shall not be liable to income tax.

**Note**

This section provides for the reimbursement of election expenses to a mayoral election candidate who is either elected or exceeds one quarter of the quota at any stage in the counting of votes.



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The section is based on section 21 of the Electoral Act 1997, which makes provision for the reimbursement of expenses at Dáil elections, and for the making of regulations to provide for the reimbursement of expenses to candidates at Presidential and European Parliament elections. It makes provision for a payment up to a maximum of €18,500 to be made to a candidate as a reimbursement of expenditure incurred during his or her mayoral election campaign.

**Section 106 - Laying of copy of documents before each House of the Oireachtas.**

**Provide that:**

(1) Subject to subsection (2), as soon as may be after the receipt of a statement -

(a) in relation to donations under section 93, or

(b) of election expenses under section 104,

the Standards in Public Office Commission shall cause a copy of the said statement to be laid before each House of the Oireachtas, together with, in the case of a statement referred to in paragraph (a), a copy of the statutory declarations referred to in section 93(2), and, in the case of a statement referred to in paragraph (b), a copy of the statutory declarations referred to in section 104 and any relevant court orders.

(2) Where an error or omission in a statement of election expenses is corrected or made good, as the case may be, in accordance with section 4(2), the Standards in Public Office Commission shall cause a copy of the said statement as so corrected to be laid before each House of the Oireachtas.

**Note**

This section is based on section 57 of the Electoral Act 1997 and provides that statements in relation to donations and election expenses be laid before both Houses of the Oireachtas by the Standards in Public Office Commission, in a manner similar to the practice at a Presidential election. These are standard provisions that also apply under section 37 of the 1997 Act in respect of Dáil and European Parliament elections.

**Section 107 - Relief for noncompliance with Part X.**

**Provide that:**

- (1) In any legal proceedings arising from the provisions of this Part, where in the case of -
  - (a) a candidate at a mayoral election, the mayoral election agent of the candidate fails to furnish to the Standards in Public Office Commission a statement of election expenses or any part of such statement or a statutory declaration which he or she was required to furnish under section 104 or there is an error, omission or false or misleading statement therein,
  - (b) the mayoral election agent of a candidate at a mayoral election, such agent fails to furnish to the Standards in Public Office Commission a statement of election expenses or any part of such statement or a statutory declaration which he or she was required to furnish under section 104 or there is an error, omission or false or misleading statement therein, or
  - (c) a person referred to in section 99(6), the person fails to furnish to the Standards in Public Office Commission a statement of election expenses or any part of such statement or a statutory declaration which the person was required to furnish under section 104 or there is an error, omission or false or misleading statement therein,

the following provisions shall apply.

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- (2) Where it is shown to the court that the failure, error, omission or false or misleading statement arose -
- (a) due to the illness of a party to the proceedings,
  - (b) where a party to the proceedings is a candidate at the mayoral election, due to the death, illness, absence or misconduct of his or her mayoral election agent or of any employee of such mayoral election agent,
  - (c) where a party to the proceedings is the mayoral election agent of a candidate at the mayoral election, due to the death, illness, absence or misconduct of any person who had previously been such mayoral election agent, or of any employee of the election agent,
  - (d) where a party to the proceedings is a person referred to in section 99(6), due to the death, illness, absence or misconduct of any employee of such person, or
  - (e) due to inadvertence or other reasonable cause not involving negligence on the part of such party to the proceedings, or the contravention, knowingly, by such party of the provisions of this Part,

and was not due to any lack of bona fides on the part of such party to the proceedings and where the proceedings are based wholly or partly on the grounds of misconduct on the part of any person, such

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misconduct was without the approval or knowledge of such party to the proceedings and such party took all reasonable action to prevent such misconduct, the court may on application to it by such party, on being satisfied that it is appropriate to do so, make such order granting relief for the failure, error, omission or false or misleading statement the subject of the proceedings, as it considers reasonable.

(3) Without prejudice to the generality of subsection (2), where it is proved to the court by a candidate that -

(a) any act or omission of the mayoral election agent of such candidate in relation to the statement of election expenses furnished by him or her was without the approval or knowledge of the candidate, and

(b) the candidate took all reasonable action to prevent the act or omission,

the court shall relieve the candidate from the consequences of the act or omission of his or her mayoral election agent.

(4) An order under subsection (2) -

(a) shall relieve the candidate, mayoral election agent or person, as the case may be, the subject of the proceedings from any liability or consequences under this Act or the Local Elections Regulations 1995 (S.I. No. 297 of 1995), as applied to mayoral elections, and

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- (b) may make the granting of the relief conditional on the furnishing of a statement of election expenses in a modified form or within an extended period of time and subject to compliance with such other conditions as seem proper to the court in order to give effect to the provisions of this Part.

**Note**

This section sets out the grounds under which an application for relief can be made to a court by a mayoral election agent, candidate or other person arising from their non-compliance with the provisions contained within the new Part X of the 1997 Electoral Act - Donations and Election Expenses at a Mayoral Election. The specific grounds for seeking relief are set out. This section is based on the provisions that apply in respect of a Presidential election under section 58 of the Electoral Act 1997. Similar provisions also apply in respect of a Dáil and European Parliament election under section 38 of the 1997 Act.

**Section 108 - Power of court to require information from mayoral election agent.**

**Provide that:**

- (1) Where, in dealing with legal proceedings referred to in section 107, it appears to the court that any person who is, or has been, the mayoral election agent of a candidate at a mayoral election has refused or failed to furnish a statement of election expenses, or to furnish the particulars necessary to enable the provisions of this Part in relation to the furnishing of the statement of election expenses to be complied with, the court may, before making an order under the said section 107, order that person to attend before it.
- (2) Unless a person referred to in subsection (1) shows cause to the contrary, the court may order that person -

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- (a) to furnish the statement of election expenses to the Standards in Public Office Commission, or
- (b) to furnish such particulars in the possession or procurement of that person as may be required for the purpose of furnishing such statement, as the court thinks fit, within such period, to such person and in such manner as it directs, and may require that person to provide such explanation of such particulars as the court directs.

**Note**

This section enables a court dealing with legal proceedings in relation to an application for relief under Section 107 to require a person who is or was a mayoral election agent to attend before it and supply information as directed by the court.

This section is based on section 59 of the Electoral Act 1997, that applies at a Presidential election. A similar provision applies under section 39 in respect of a Dáil or European Parliament election.

**Section 109 - Excess expenditure.**

**Provide that:**

Without prejudice to the operation of section 111, where the total of the election expenses incurred or deemed to have been incurred by the mayoral election agent of a candidate at a mayoral election exceeds the relevant amount calculated in accordance with section 101, the Minister for Finance shall, on the recommendation of the Standards in Public Office Commission, deduct an amount equal to such excess from any sum which may be payable or become

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payable as a reimbursement of election expenses to the said member under section 105.

**Note**

This section provides that any expenditure exceeding the spending limit of €72,100 specified at section 101 shall be deducted from a reimbursement due to the candidate. The provision for the reimbursement of election expenses is set out at section 105.

This provision made without prejudice to the operation of section 111, which provides for offences and penalties that apply in respect of donations and election expenses requirements at a mayoral election.

This section is based on section 40 of the Electoral Act 1997 that applies at elections to the Dáil and European Parliament.



**Section 110 - Provisions relating to fresh mayoral election.**

**Provide that:**

- (1) Where a fresh election is held under *Head 93* of the *Act of 2021*, the original election shall be deemed to have been an election for the purposes of this Part and the provisions of this Part including section 104 shall be complied with in relation to the original election by the mayoral election agent of each surviving candidate.
  
- (2) The limits on election expenses at the fresh election for surviving candidates and candidates nominated at the fresh election shall be the relevant amount specified in section 101(1) or an order for the time being in force under section 3(1) (amended by *Head 148(b)* of the *Act of 2021*).

**Note**

This section is based on section 60 of the Electoral Act 1997 as applied in respect of a Presidential election. It makes provision for the submission of statements of election expenses, and the application of spending limits, in the event of a fresh mayoral election arising from the death of a candidate.

**Section 111 - Offences and penalties.**

**Provide that:**

- (1) A person is guilty of an offence if he or she -
  - (a) incurs election expenses, or
  - (b) makes any payment, advance or deposit in respect of such expenses,  
  
on behalf of a candidate at a mayoral election, unless the person is the mayoral election agent of that candidate or a person acting in accordance with an authorisation from such mayoral election agent.
- (2) A person is guilty of an offence if he or she contravenes -
  - (a) section 92, 94, 96, 101 or 104,
  - (b) subsection (1) or (2) of section 93,
  - (c) subsection (1), (2), (3) or (4) of section 95, or
  - (d) subsection (6) or (10) of section 99.
- (3) A person is guilty of an offence if, in contravention of section 102, he or she pays any claim in respect of election expenses.
- (4) (a) A mayoral election agent who, in purported compliance with section 93, furnishes to the Standards in Public Office Commission a mayoral election donation statement that is false or misleading in any material respect is guilty of an offence.

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- (b) A mayoral election agent or candidate who, in purported compliance with section 93 or subsection (4) of section 95, furnishes to the Standards in Public Office Commission a statutory declaration that is false or misleading in any material respect is guilty of an offence.
  - (c) A mayoral election agent who, in purported compliance with subsection (2) of section 95, furnishes to the Standards in Public Office Commission a statement to which paragraph (a) of that subsection applies or a certificate to which paragraph (b) of that subsection applies that is false or misleading in any material respect is guilty of an offence.
  - (d) A person who, in purported compliance with subsection (1) of section 104, furnishes to the Standards in Public Office Commission a statement that is false or misleading in any material respect is guilty of an offence.
  - (e) A person who, in purported compliance with subsection (2) or (3) of section 104, furnishes to the Standards in Public Office Commission a statutory declaration that is false or misleading in any material respect is guilty of an offence.
- (5) Subject to subsection (6), a person guilty of an offence under this section is liable, on summary conviction, to a fine not exceeding €1,300.
- (6) A person guilty of an offence under subsection (4) is liable -
- (a) on summary conviction, to a fine not exceeding €1,300, or
  - (b) on conviction on indictment, to a fine not exceeding €25,000 or imprisonment for a term not exceeding 3 years or both.
- (7) A person guilty of an offence under -

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- (a) subsection (1) of section 93,
- (b) subsection (2), (3) or (4) of section 95, or
- (c) subsection (1) of section 104,

is, on each day after having been convicted of that offence on which he or she continues to contravene that subsection, guilty of an offence and is liable on summary conviction to a fine not exceeding €130.

- (8) It shall be a defence to proceedings for an offence consisting of a contravention of section 101 for a person to show that he or she did not know and had no reasonable grounds for believing that he or she incurred election expenses greater than the aggregate specified in that section.
- (9) Proceedings for an offence under this Part shall not be brought except by, or with the consent of, the Director of Public Prosecutions.”.

**Note**

This section specifies the offences and penalties to apply in respect of the new Part X of the Electoral Act 1997 in relation to a mayoral election. In drafting this section, regard has been had for the offences and penalties provisions that apply under section 61 of the Electoral Act 1997 at a Presidential Election and the provisions that apply in respect of Dáil and European Parliament elections under section 43 of the 1997 Act. Regard was also had for the offences and penalties provisions that are set out at Part V of the Local Elections (Disclosure of Donations and Expenditure) Act 1999, specifically in relation to the disqualification of candidates, as provided for under section 20 of that Act.

While the offences and penalties that will apply to a mayoral election agent and to third parties at a mayoral election are broadly similar to those that apply at a Presidential,

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Dáil and European Parliament election, there are additional provisions that will apply to candidates, the most significant of which are the disqualification provisions. At sections 93, 95 and 104 it was noted that there will be a requirement for a candidate to furnish a statutory declaration to accompany the statements and statutory declarations submitted by the mayoral election agent in respect of donations, the holding of a political donations account and election expenses.

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## CHAPTER 16

### *Petitions*

#### **Head 148 - Interpretation (Chapter 16).**

##### **Provide that:**

In this Chapter -

“costs” includes charges and expenses;

“electoral offence” means –

- (a) an offence under *Chapter 14*, or
- (b) an offence under Part X (inserted by *Head 147*) of the Electoral Act 1997;

“petition” means a petition presented under this Chapter.

##### **Note**

This Head contains definitions of the terms used in Chapter 16.

**Head 149- Questioning a mayoral election.**

**Provide that:**

- (1) A mayoral election may, and may only, be questioned by a petition to the High Court.
- (2) Subject to *subsection (3)*, 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 14 days after the day on which the returning officer declares under *Head 114* the result of the poll, by order grants leave to the person to do so.
- (3) Where a person applying for leave to present a petition to the High Court alleges bribery and specifically alleges a payment or other consideration to have been made or to have passed after the declaration by the returning officer under *Head 114* of the result of the poll, notwithstanding the fact that another petition relating to the same election may have been previously presented or tried, the application to the Court may be made not later than 14 days next after the day on which the said payment or consideration is alleged to have been made or to have passed.
- (4) Where a petition alleges an irregularity or non-compliance with any provision of Part X (inserted by *Head 147*) of the Electoral Act 1997 whether before or after the declaration by the returning officer under *Head 114* of the result of the poll, notwithstanding the fact that another petition relating to the same election may have been previously presented or tried, leave of the High Court to present a petition under *subsection (2)* may be applied for not later than 14 days next after the laying of a copy of a statement of election expenses before each House of the Oireachtas in accordance with section 106 (inserted by *Head 147*) of the Electoral Act 1997.

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- (5) An application for leave to present a petition may be made by any person who is registered or entitled to be registered as a local government elector in the Limerick City and County Electoral Area.
  
- (6) Without prejudice to *subsection (5)*, where it appears to the Director of Public Prosecutions that a mayoral election may have been affected by the commission of an electoral offence, the Director may question the election pursuant to this Chapter.
  
- (7) The High Court shall not grant leave to present a petition unless it is satisfied -
  - (a) that there is *prima facie* evidence of a matter referred to in *Head 153* in relation to which the petition questions the election concerned, and
  
  - (b) that the said matter is such that it is likely to have materially affected the result of the election.

**Note**

This Head provides that a mayoral election may only be questioned by a petition to the High Court and if the High Court grants leave to the petitioner.



**Head 150 - Presenting of petition.**

**Provide that:**

- (1) 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 *Head 149*.
  
- (2) Where a petition has been lodged with the court the petitioner shall, as soon as may be, give a copy of the petition to -
  - (a) any person to whose election the petition relates,
  
  - (b) the Minister,
  
  - (c) the returning officer,
  
  - (d) the chief executive, and
  
  - (e) except in the case of a petition presented by the Director of Public Prosecutions, the Director of Public Prosecutions.

**Note**

This Head sets out the requirements in relation to the presentation of a petition.

**Head 151 - Security for costs.**

**Provide that:**

- (1) Subject to *subsections (2) and (4)*, a petition shall not be accepted for lodgement with the court unless the petitioner lodges with the petition security in the sum of €6,350 for costs which may become payable by the petitioner.
- (2) Where the court is satisfied that a petitioner is unable to lodge the amount specified in *subsection (1)* or that to require a petitioner to lodge the said amount would cause the petitioner serious hardship, the court may require the petitioner to lodge such lesser amount as the court considers appropriate.
- (3) The security required to be given by this section shall be given either by recognisances entered into by any number of sureties satisfactory to the court not exceeding 4 or by a deposit of money, or partly in one way and partly in the other.
- (4) This section shall not apply to a petition presented by the Director of Public Prosecutions.

**Note**

This Head deals with security for costs and sets the amount that must be lodged with the court by the petitioner. This amount is €6,350, same as the converted £5,000 for a Dáil election petition.

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**Head 152 - Particulars in petition.**

**Provide that:**

A petition shall be signed and dated by the petitioner and shall specify -

- (a) the mayoral election to which it relates,
- (b) the grounds on which it is based,
- (c) the remedy it seeks, and
- (d) the name and address of the petitioner and of the petitioner's solicitor or agent, if any.

**Note**

This Head identifies the particulars that must be set out in a petition. It is based on Rule 5, Third Schedule of the Electoral Act 1992 and section 6 of the Local Elections (Petitions and Disqualifications) Act 1974.

**Head 153 - Grounds for petition.**

**Provide that:**

- (1) A mayoral election may be questioned on the grounds that the result of the election was likely to have been affected by:
  - (a) want of eligibility under *Head 64*;
  - (b) the commission of an electoral offence;
  - (c) the obstruction of, interference with, or other hindrance to the conduct of the election;
  - (d) mistake or other irregularity; or
  - (e) failure by the returning officer to complete or otherwise to conduct the election in accordance with law.
- (2) A mayoral election shall not be declared invalid by reason of non-compliance with Part X (inserted by *Head 147*) of the Electoral Act 1997, or any mistake in the use of forms provided for in that Part, if it appears to the court that a candidate or party, as the case may be, complied with the principles laid down in that Part taken as a whole and that such non-compliance or mistake did not materially affect the result of the election.
- (3) Notwithstanding any other provision of this Chapter, a petition shall not be dismissed on account of an informality in its contents which does not materially affect its substance.

**Note**

This Head sets out the grounds for questioning a mayoral election and it is based on Rule 4, Third Schedule of the Electoral Act 1992 and section 5 of the Local Elections (Petitions and Disqualifications) Act 1974.

**Head 154 - Trial of petition.**

**Provide that:**

- (1) A petition shall be tried by the High Court and references to the court in this Chapter shall be construed as references to the High Court.
- (2) The following shall have effect in relation to the trial of a petition:
  - (a) in fixing the date for and conducting the trial, the court shall deal with the matter as soon as reasonably practicable;
  - (b) notwithstanding the death of any person to whose election the petition relates, the resignation of a person as Mayor or a person otherwise ceasing to be Mayor, the court shall have power to continue the trial if it considers it to be in the interests of justice to do so;
  - (c) the Director of Public Prosecutions may at any stage be represented at and take part in the trial as a party, whether on the Director's own motion or at the request of the court;
  - (d) the returning officer for the Limerick City and County Electoral Area shall, at the request of the court, attend the trial and give such assistance as shall be requested of such officer by the court, but without prejudice to the officer being a party to the proceedings or being called as a witness by any such party.

**Note**

This Head deals with the trial of a petition. It is based on Rule 6, Third Schedule of the Electoral Act 1992 and section 7 of the Local Elections (Petitions and Disqualifications) Act 1974.

**Head 155 - Counting of votes afresh.**

**Provide that:**

- (1) The court may, for the purposes of the trial of a petition questioning a mayoral election, if it thinks fit, order -
  - (a) that all the votes cast at the election shall be counted afresh, or
  - (b) that all the votes so cast and recorded on the ballot papers contained in a particular parcel shall be so counted,and where the court so orders, *subsections (2) to (6)* shall have effect.
- (2) Votes to which an order under this Head relates shall be counted afresh under the direction of the court and, subject to *subsections (3) and (4)* and to such modifications (if any) as the court considers necessary, *Chapter 12* shall apply to such counting.
- (3) Where votes are counted afresh pursuant to an order under this Head, the court shall cause the following to be disregarded:
  - (a) preferences recorded on ballot papers which are invalid by virtue of *Head 109(1)*;
  - (b) preferences recorded on forged or counterfeited ballot papers; and
  - (c) preferences recorded for any person who, with respect to the mayoral election, is found by the court not to have been eligible for such election.
- (4) The court shall have power to reverse any decision of the returning officer at the original count.
- (5) The costs of giving effect to an order under this section shall be paid out of moneys provided by Limerick City and County Council.

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**Note**

This Head provides that a court can order that the votes be counted afresh and it sets out the procedures to be followed in such a case. This Head is based on Rule 7, Third Schedule of the Electoral Act 1992 and section 8 of the Local Elections (Petitions and Disqualification) Act 1974.

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**Head 156 - Statement of case to Supreme Court.**

**Provide that:**

- (1) At any stage of the trial of a petition the court may, if it so thinks proper, on its own motion or on the application of any party to the petition, state a case for the opinion of the Supreme Court on any question of law arising at the trial.
- (2) Notwithstanding anything contained in this Chapter, where a case is stated under this section the court shall not determine the petition until the Supreme Court has given its decision and the court may adjourn the trial or any part thereof until such decision is given.
- (3) Costs incurred in relation to a case stated under this Head shall for all purposes be part of the costs incurred in relation to the petition.

**Note**

This Head allows the court or any party to the petition to state a case for the opinion of the Supreme Court on any question of law arising at the trial.

This Head is based on Rule 18, Third Schedule of the Electoral Act 1992 and section 23 of the Local Elections (Petitions and Disqualifications) Act 1974.



**Head 157 - Matters relating to final order on trial of petition.**

**Provide that:**

- (1) At the trial of a petition the 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 mayoral 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.
- (2) The court shall, as soon as practicable, give a copy of the order determining the petition to each of the following:
  - (a) any person to whose election the order relates;
  - (b) the Minister;
  - (c) the chief executive;
  - (d) the returning officer; and
  - (e) the Director of Public Prosecutions.
- (3) The court shall have power to make such amendments in the return of the person elected made to the chief executive by the returning officer as it considers necessary in consequence of its decision on a petition.

**Note**

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This Head provides that the court shall determine the matter at issue in the petition. If the court does not dismiss the petition it shall where appropriate include in its order a declaration of the correct result of the mayoral election or if it is unable to determine the correct result the court can declare that the election or a specified part of it was void.

This Head is based on section 132 and Rule 12, Third Schedule of the Electoral Act 1992 and section 14 of the Local Elections (Petitions and Disqualifications) Act 1974.

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**Head 158 - Appeal to Supreme Court.**

**Provide that:**

Any party to a petition may appeal on a question of law to the Supreme Court against a decision of the court on the petition and, subject to the foregoing, the decision of the court shall be final and not subject to appeal.

**Note**

This Head allows any party to a petition a right to appeal the decision of a court to the Supreme Court on a question of law. This provision is largely based on section 57(8) of the Presidential Elections Act 1993

**Head 159 - Fresh mayoral election.**

**Provide that:**

- (1) Subject to *subsection (2)*, where the court declares that the whole or any part of a mayoral election was void, a fresh mayoral election shall be held in accordance with this Part to fill the resulting vacancy within the period of 3 months beginning on the date of the court's order.
  
- (2) Notwithstanding *subsection (1)*, it shall not be obligatory to hold a fresh mayoral election if a vacancy occurs in the office of Mayor pursuant to that subsection during the period commencing 12 months before the 1st day of May in any year in which an election referred to in section 26 of the Act of 2001 is required to be held.

**Note**

This Head makes provision for the holding of a fresh mayoral election where the court declares that the election or any part of it was void.

**Head 160 - Withdrawal of petition.**

**Provide that:**

- (1) A petition shall not be withdrawn without the leave of the court and in giving such leave the court shall be satisfied that the notice given by the petitioner pursuant to *subsections (4) and (5)* was reasonable.
- (2) Where a petition is presented by more than one petitioner the court, before giving leave to withdraw a petition pursuant to *subsection (1)*, shall be satisfied that all the petitioners agree to the withdrawal.
- (3) Except in the case of a petition presented by the Director of Public Prosecutions, when applying for leave for the withdrawal of a petition, the petitioner shall submit to the court an affidavit stating -
  - (a) the reasons for the proposed withdrawal, and
  - (b) that, to the best of the petitioner's knowledge and belief, neither an agreement nor an undertaking has been made or entered into in relation to the withdrawal of the petition in consideration of any payment or the cesser of the office of Mayor or for any substantial reason not stated in the affidavit.
- (4) Notice of intention to apply for leave to withdraw a petition shall be given by the petitioner by the publication in at least 2 daily newspapers circulating in the Limerick City and County Electoral Area of a notice to that effect and the notice shall also state the time and place at which the application will be made and that any person may apply to the court to be substituted for the petitioner.

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- (5) Except in the case of a petition presented by the Director of Public Prosecutions, a copy of the affidavit referred to in *subsection (3)* together with notice of the time and place at which the application will be made shall be given by the petitioner to the Director of Public Prosecutions who may be represented at, and if the Director thinks fit, oppose the application.
- (6) Where the petition has been presented by more than one petitioner, the affidavit referred to in *subsection (3)* shall, unless the court otherwise directs, be made by all the petitioners.
- (7) The withdrawal of a petition pursuant to this section shall not affect the liability of any person (or of the estate of such person) for the payment of costs previously incurred.

**Note**

This Head deals with the withdrawal of a petition. It provides that a petition may only be withdrawn by leave of the court and if there is more than one petitioner, all of them must consent to the withdrawal. Head 142 makes the corrupt withdrawal of a petition an offence.

This Head is based on Rule 8, Third Schedule of the Electoral Act 1992 and section 9 of the Local Elections (Petitions and Disqualifications) Act 1974.

**Head 161 - Substitution of new petitioner following withdrawal.**

**Provide that:**

- (1) On the hearing of an application for leave to withdraw a petition, any person who, under *Head 149*, would be eligible to apply for leave to present a petition, may apply to the court to be substituted as a petitioner, and the court may, if it thinks fit, substitute that person accordingly.
- (2) In case the court substitutes a petitioner under *subsection (1)* and is of the opinion that the application for leave to withdraw the petition was the result of any agreement or undertaking the making of which or the entering into which is an offence pursuant to *Head 142*, the court may direct that the security for costs given by the original petitioner shall remain as security for the costs that may be incurred by the substituted petitioner and that, to the extent of the sum named in the security, the original petitioner and his or her sureties, if any, shall be liable to pay the costs of the substituted petitioner.
- (3) Subject to *subsection (2)*, a substituted petitioner shall, as nearly as may be, stand in the same position and be subject to the same liabilities as the original petitioner.
- (4) In case the court substitutes a petitioner under *subsection (1)* and does not make a direction under *subsection (2)*, or in case the court substitutes a petitioner under **Head 162**, the security required by **Head 151** in the case of a new petition, and subject to the like conditions, shall be given by the substituted petitioner, and in case such security is not so given, no further proceedings shall be had on the petition and the petition shall abate, but the abatement shall not affect the liability of any person (or of the estate of such person) for the payment of costs previously incurred.

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**Note**

This Head allows for the substitution of a new petitioner on the withdrawal of a petition. If the court considers that the withdrawal was corrupt, it can direct that the security for costs given by the original petitioner remain as security for the substituted petitioner.

This Head is based on Rule 9, Third Schedule of the Electoral Act 1992 and section 11 of the Local Elections (Petitions and Disqualifications) Act 1974.



**Head 162 - Abatement of petition.**

**Provide that:**

- (1) A petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.
- (2) The abatement of a petition under *subsection (1)* shall not affect the liability of the petitioner or any other person (or the estate of the petitioner or the estate of any other person) for the payment of costs previously incurred.
- (3) At any time within 14 days next after the abatement of a petition under *subsection (1)*, any person may apply to the court to be substituted as a petitioner and the court may, if it thinks fit, substitute that person accordingly, and where the court makes an order under this section the petition shall be revived.

**Note**

This Head provides that a petition will be abated by the death of the petitioner. In this event, any other person may within 14 days apply to the court to be substituted as petitioner.

This Head is based on Rule 11, Third Schedule of the Electoral Act 1992 and section 13 of the Local Elections (Petitions and Disqualifications) Act 1974.

**Head 163- Effect of certain declarations by court.**

**Provide that:**

- (1) Where the order of the court determining the trial of a petition declares that a person was not duly elected as Mayor, or was not qualified for election as Mayor, or that the whole or part of a mayoral election was void, the person to whom the declaration relates shall cease to be Mayor on (but not before) the day next following the day on which a copy of the order of the court is given to the chief executive pursuant to *Head 157* and, subject to *subsection (2)*, a vacancy shall exist accordingly.
- (2) Where an order under *subsection (1)* declares that, in the place of a person declared by the order not to have been duly elected or not to have been eligible for election, a specified other person was ascertained to have been elected, that other person shall stand elected as Mayor on (but not before) the day next following the day on which a copy of the order is given to the chief executive pursuant to *Head 157*.
- (3) As soon as practicable after a copy of the order is given to the chief executive pursuant to *Head 157*, the chief executive shall inform the members of the Authority of the terms of the order.

**Note**

This Head deals with the situation where the court finds that a person was not duly elected as Mayor or was not qualified for election as Mayor or that the whole or part of the election was void. In these circumstances the relevant person shall cease to be

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Mayor and a vacancy will exist. The court can also declare that another specified person was ascertained to have been elected and that person shall stand elected.

This Head is based on Rule 13, Third Schedule of the Electoral Act 1992 and section 15 of the Local Elections (Petitions and Declarations) Act 1974.

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**Head 164 - No action to be taken in certain circumstances to fill mayoral vacancy.**

**Provide that:**

No action shall be taken to fill a mayoral vacancy caused by the death or cesser as Mayor of a person who has died or resigned or otherwise ceased to be Mayor while the trial of a petition relating to that person is pending or proceeding.

**Note**

This Head provides that where a petition is proceeding or pending and the Mayor dies or resigns or otherwise ceases to be Mayor, the vacancy will not be filled until the petition has been determined by the court.

This Head is based on section 18 of the Local Elections (Petitions and Disqualifications) Act 1974.

**Head 165 - Witnesses.**

**Provide that:**

- (1) The court shall be entitled of its own volition, at any time during the trial of a petition, to direct that a particular person shall be brought before the court and shall give evidence at the trial, and where the court so directs the cost of bringing the person before the court (including any moneys payable to the person as witness's expenses) shall be regarded as part of the costs of the petition.
- (2) Subject to *subsection (3)*, a person who is called as a witness at the trial of a petition shall not be excused from answering any question relating to an electoral offence on the grounds that the answer to the question may incriminate or tend to incriminate that person or on grounds of privilege, provided that -
  - (a) a witness who satisfies the court that he or she has answered truly all the questions which the witness is required by the court to answer shall be entitled to receive from the court a certificate stating that the witness has so answered, and
  - (b) an answer by a witness who has received a certificate under *paragraph (a)* to a question put at the trial of a petition shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be in any proceeding, civil or criminal, admissible in evidence against the witness.
- (3) Nothing in this section shall be construed as affecting the right of any party to a petition to call any person as a witness.

**Note**

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This Head allows the court to direct the attendance of witnesses. This Head is based on Rule 15 of the Electoral Act 1992 and section 20 of the Local Elections (Petitions and Disqualifications) Act 1974.

**Head 166 - Costs of petition.**

**Provide that:**

- (1) All costs, other than the costs of counting votes afresh under *Head 155*, of and incidental to a petition shall be in the discretion of the court which shall have power to order such costs or any part of such costs of any party to the petition to be paid by any other such party, and, where the costs or any part of the costs of any such party are so ordered to be paid by the petitioner, the court shall, where necessary, make provision for the payment of those costs, to the extent of the amount named in the security given by the petitioner, out of or by means of such security.
- (2) Without prejudice to *subsection (1)*, where on the trial of a petition, it appears to the court that any person or persons committed an electoral offence in relation to the relevant mayoral election, the court may, after giving the person or persons an opportunity of being heard to show cause why the order should not be made, if it so thinks fit, order the whole or part of the costs of the petition other than the costs of counting votes afresh under *Head 155*, to be paid by that person, or any of those persons.

**Note**

This Head determines that costs in relation to a petition will be at the discretion of the court. The court may order any or all of the costs to be paid by persons who appear to it to have committed electoral offences in relation to the election.

The Head is based on Rule 16, Third Schedule of the Electoral Act 1992 and section 21 of the Local Elections (Petitions and Disqualifications) Act 1974.

**Head 167 - Further provisions regarding costs.**

**Provide that:**

- (1) Subject to *subsection (4)*, the costs and other expenses incurred on behalf of a returning officer at the trial of a petition shall be paid out of moneys provided by Limerick City and County Council.
- (2) Costs awarded to the returning officer at the trial of a petition shall be a simple contract debt due to the Limerick City and County Council Chief Executive and such debt, in default of being discharged, may be recovered by the Limerick City and County Council Chief Executive in any court of competent jurisdiction.
- (3) Subject to *subsections (4) and (5)*, costs awarded against the returning officer at the trial of a petition shall be paid out of moneys provided by Limerick City and County Council.
- (4) Where the court is satisfied that the returning officer has been grossly negligent in the discharge of the duties of the office, the court may order that the officer shall be personally liable for any costs awarded against the officer by the court.
- (5) Where an order is made under *subsection (4)* any costs awarded against the returning officer concerned, which are paid out of moneys provided by the Limerick City and County Council shall be a simple contract debt due to the Limerick City and County Council Chief Executive by the officer, and may be recovered by the Limerick City and County Council Chief Executive in any court of competent jurisdiction.



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**Note**

This Head provides that costs incurred by the returning officer at the trial of a petition will be paid by Limerick City and County Council. In addition, costs awarded against the returning officer will be paid by Limerick City and County Council unless the court finds that he was grossly negligent and directs that the costs be paid by him personally.

This Head is based on Rule 17, Third Schedule of the Electoral Act 1992 and is similar to section 22 of the Local Elections (Petitions and Disqualifications) Act 1974.

**Head 168 - Service of documents.**

**Provide that:**

A copy of an order, petition or other document that is required to be served on or given to a person under this Chapter, shall be addressed to the person concerned by name, and may be so served on or given to the person in one of the following ways:

- (a) by delivering it to the person;
- (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address; or
- (c) by sending it by post in a prepaid registered letter addressed to the person at the address at which the person ordinarily resides, or in a case in which an address for service has been furnished, at that address.

**Note**

This Head relates to service of documents in connection with a petition. It is based on Rule 19, Third Schedule of the Electoral Act 1992 and section 26 of the Local Elections (Petitions and Disqualifications) Act 1974.

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**CHAPTER 17**

*Miscellaneous*

**Head 169 - Application of certain provisions of Part XVI of Regulations of 1995.**

**Provide that:**

Articles 121 and 123 of the Local Elections Regulations shall, subject to the modifications specified in *Head 62(2)*, apply and have effect in relation to a mayoral election.

**Note**

This Head applies, with modifications, Regulations 121 and 123 of the Local Elections Regulations 1995 and deals with the secrecy of the ballot and the publication of notices.

**CHAPTER 18**

*Minor and Consequential Amendments*

**Head 170 - Amendments to Act of 1992.**

**Provide that:**

The Act of 1992 is amended -

(a) in section 2(1) by the insertion of the following definitions:

“Act of 2021’ means the *Local Government (Directly Elected Mayor with Executive Functions in Limerick City and County) Act 2021*;

‘Limerick City and County Electoral Area’ has the same meaning as in *Part 6 of the Act of 2021*;

‘mayoral election’ has the same meaning as it has in *Part 6 of the Act of 2021*,”

(b) in section 13(1) by the insertion of “or mayoral elections” after “local elections”,

(c) in section 15(1A)(c) (amended by section 6(b) of the Electoral (Amendment) Act 2001) by the substitution of “local or mayoral” for “or local”,

(d) in section 15A (inserted by section 76 of the Electoral Act 1997) -

(i) by the substitution in subsection (4)(c) of “, local or mayoral” for “or local”,  
and

(ii) by the substitution in subsection (5)(c) of “, local or mayoral” for “or local”,

(e) in section 15B (amended by section 8 of the Electoral (Amendment) Act 2001) -

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- (i) by the substitution in subsection (4)(c) of “, local or mayoral” for “or local”,  
and
  - (ii) by the substitution in subsection (5)(c) of “, local or mayoral” for “or local”,
- (f) in section 17(1) (amended by section 25 of the European Parliament Elections Act 1997) by the substitution of “at a local election in accordance with Part VIII of the Local Elections Regulations 1995 (S.I. No. 297 of 1995) or at a mayoral election in accordance with Part 6 of the Act of 2021” for “or at a local election in accordance with Part VIII of the Local Elections Regulations 1995 (S.I. No. 297 of 1995)”,
- (g) in section 25 (inserted by section 11 of the Electoral (Amendment) Act 2001) -
- (i) in paragraph (a) of subsection (2) by the insertion of the following subparagraph after subparagraph (iv):  
  
“(v) a mayoral election.”,
  - (ii) in clause (l) of paragraph (b)(i) of subsection (4), by the substitution of “local or mayoral” for “local”, and
  - (iii) in subparagraph (iii) of paragraph (b) of subsection (4), by the substitution of “a local or mayoral election” for “a local election”,
- (h) in section 25C(1) (inserted by section 11 of the Electoral (Amendment) Act 2001) by the insertion of the following paragraph after paragraph (d):
- “(e) in the case of a mayoral election relative to a party registered or seeking registration (including registration of a political party emblem) as a party organised to contest a mayoral election, after the date of the making of an order of the Minister under *Head 67* of the *Act of 2021*  
.”

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- (i) in section 28 -
  - (i) in subsection (1), by the substitution of “, local elections and mayoral elections” for “and local elections”, and
  - (ii) by the insertion of the following subsection after subsection (8):

“(8A) On the commencement of *Head 170* of the *Act of 2021*, the scheme then in force under this section shall apply for the purposes of a mayoral election until such time as the next such scheme comes into operation.”,
- (j) in section 41 by the insertion -
  - (i) of “or” at the end of paragraph (k), and
  - (ii) of the following paragraph after paragraph (k):

“(l) is the Mayor of Limerick City and County,”,
- (k) in section 164 -
  - (i) in subsection (1), by the insertion of “, mayoral elections”, after “local elections”, and
  - (ii) in subsection (3)(d)(ii), by the insertion of “*the Act of 2021*” after “Local Elections Acts, 1963 to 1992,”,
- (l) in section 165 -
  - (i) in subsection (1) by the substitution of the following paragraph for paragraph (g):

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“(g) the poll at a plebiscite within the meaning of Part 11 of the Local Government Reform Act 2014;

(h) the poll at a mayoral election.”,

and

(ii) the insertion in paragraph (f) of subsection (2) of “or mayoral election” after “local election”,

(m) in the Second Schedule -

(i) by the substitution of the following paragraphs for paragraph (d) of Rule 6(1):

“(d) for a local electoral area - to each local authority member for that area;

(e) for the Limerick City and Council Electoral Area - to the Mayor of Limerick.”,

(ii) by the substitution of the following paragraphs for paragraph (d) of Rule 13(4):

“(d) for a local electoral area - to each local authority member for that area;

(e) for the Limerick City and Council Electoral Area - to the Mayor of Limerick.”,

and

(iii) in Rule 14 by -

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- (I) the substitution of the following for clauses (ii) and (iii) of paragraph (4)(a):
  - “(ii) each candidate duly nominated for the constituency at a Dáil election,
  - (iii) each candidate duly nominated for the local electoral area at a local election, and
  - (iv) each candidate duly nominated at a mayoral election.”,
- (II) the substitution in paragraph (4)(c) of “, local election or mayoral election” for “or a local election”, and
- (III) the insertion in paragraph (5) of “or mayoral election” after “or a local election”.

**Note**

This Head provides for necessary minor and consequential amendments to the Electoral Act 1992. The amendments are primarily concerned with making provision for a mayoral election in general electoral law.



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**Head 171 - Amendments to European Parliament Elections Act 1997.**

**Provide that:**

The European Parliament Elections Act 1997 is amended in subsection (2) of section 11 (amended by section 2 of the European Parliament Elections (Amendment) Act 2004) by -

- (a) the substitution of the following subparagraph for subparagraph (iii) of paragraph (o):

“(iii) the European Central Bank, or”,

and

- (b) the insertion of the following paragraph after paragraph (o):

“(p) is the Mayor of Limerick,”.

**Note**

This Head provides for necessary minor and consequential amendments to the European Parliament Elections Act 1997. It provides that the Mayor of Limerick City and County will not be eligible for election as a member or for membership of the European Parliament.

**Head 172 - Amendments to Litter Pollution Act 1997.**

**Provide that:**

The Litter Pollution Act 1997 is amended -

(a) in section 19(7)(c) (inserted by section 9 of the Electoral (Amendment) (No. 2) Act 2009) -

(i) in subparagraph (iii) by the deletion of “or”,

(ii) in subparagraph (iv) by the insertion after “European Parliament Elections Act 1997,” of “or”, and

(iii) by the insertion after subparagraph (iv) of the following subparagraph:

“(v) a mayoral election within the meaning of *Part 6* of the Local Government (Directly Elected Mayor with Executive Functions in Limerick City and County) *Act 2021*,”

and

(b) in section 21(3)(b) (inserted by section 57 of the Protection of the Environment Act 2003) by the insertion of “a mayoral election within the meaning of *Part 6* of the Local Government (Directly Elected Mayor with Executive Functions in Limerick City and County) *Act 2021*,” after “*Local Government Act 2001*,”.

**Note**

This Head provides for necessary minor and consequential amendments to the Litter Pollution Act 1997 in respect of the display of posters at a mayoral election.

**Head 173 - Amendments to Electoral Act 1997.**

**Provide that:**

The Electoral Act 1997 is amended -

(a) in subsection (1) of section 2 -

(i) by the insertion of the following definitions:

“*Act of 2021*” means the *Local Government (Directly Elected Mayor with Executive Functions in Limerick City and County) Act 2021*;

‘mayoral election’ has the same meaning as it has in the Act of 2021;”,

(ii) in the definition of “person” by the insertion of “or Part X” after “Part VI”,

(iii) in the definition of “political party” by the insertion of “, Part X” after “Part VI”, and

(iv) in the definition of “polling day” by the insertion of “or a mayoral election” after “local election”,

(b) in section 3, by the substitution in subsection (1), of “53, 91, 92, 93, 94, 95, 98, 99, 101 or 105” for “or 53”,

(c) in section 4 -

(i) in subsection (1), by the substitution of “56, 93 and 104” for “and 56”,

(ii) in subsection (2), by the substitution of “56, 93 or 104” for “or 56”,

(iii) in paragraph (a) of subsection (3) by -

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- (l) the substitution of “56, 92, 93 or 104” for “or 56”, and
- (ll) the substitution of “VI or X” for “or VI”,
- (iv) in paragraph (c) of subsection (3) by the substitution of “VI or X” for “or VI”,
- (v) in subsection (6) -
  - (l) in paragraph (a) by the substitution of “VI or X” for “or VI”,
  - (ll) in paragraph (b) by the substitution of “VI or X” for “or VI”,and
- (vi) in subsection (7) by the substitution of “VI or X” for “or VI”,
- (d) in section 18, by the substitution in subsection (2), of “*the Local Government (Directly Elected Mayor with Executive Functions in Limerick City and County) Act 2021 or the Local Elections Acts, 1974 to 1997*” for “*the Local Elections Acts, 1974 to 1997*”,
- (e) in section 22(2)(b)(iii) -
  - (i) in clause (I), by the insertion of “or mayoral election” after “local election”, and
  - (ii) in clause (II), by the insertion of “or mayoral election” after “local election”,
- (f) in section 23 -

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- (i) in subsection (1), by the insertion of “the Mayor of Limerick,” after “member of either House of the Oireachtas,” and
  - (ii) in subsection (2), by the insertion of “or the Mayor of Limerick” after “member of either House of the Oireachtas”,
- (g) in subsection (1) of section 23A -
- (i) by the deletion of “or” in paragraph (e),
  - (ii) by the insertion of “or” after paragraph (f), and
  - (iii) by the insertion of the following new paragraph:  
  
“(g) the Mayor of Limerick,”
- (h) in subsection (1) of section 24, by the insertion of “, Mayor of Limerick” after “member of either House of the Oireachtas”,
- (i) in subsection (1) of section 24A -
- (i) in paragraph (a), by the insertion of “or mayoral election” after “local election”, and
  - (ii) in paragraph (b), by the insertion of the following new subparagraph:  
  
“(iv) the Mayor of Limerick, or”,
- (j) in subsection (1) of section 25, by the insertion of “, the Mayor of Limerick” after “European Parliament”,
- (k) in section 26 -

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- (i) in subsection (1), by the substitution of “, 46 or 91 (inserted by *Head 147* of the *Act of 2021*)” for “or 46”, and
  - (ii) in paragraph (c) of subsection (2), by the insertion of “or paragraph (f) of the definition of ‘donation’ in subsection (1) of section 91 (inserted by *Head 147* of the *Act of 2021*),” after “section 46”,
- (l) in section 73 -
- (i) in subsection (b), by the substitution of “48 or 93” for “or 48”, and
  - (ii) in subsection (c), by the substitution of “56 or 104” for “or 56”,
- and
- (m) in the Schedule -
- (i) in paragraph 1, by the substitution of “, 52(1)(b) and 99(1)(b)” for “and 52(1)(b)”,
  - (ii) in paragraph 2(a), by the insertion of “or, in the case of a mayoral election, paragraphs (b) to (e) of section 91(2),” after “section 46(2)(b)”, and
  - (iii) in paragraph 2(b), by the substitution of “, local or mayoral election” for “or local election”.

**Note**

This Head provides for necessary minor and consequential amendments arising as a result of Head 147 of the Bill, which inserts a new Part X into the Electoral Act 1997.

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The 1997 Act legislates for election spending and donations requirements as they apply at a Dáil, European Parliament and Presidential election. The new Part X extends the scope of the 1997 Act and it will now also apply in respect of a mayoral election.

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**Head 174- Amendment to Electoral (Amendment) Act 2004.**

**Provide that:**

The Electoral (Amendment) Act 2004 is amended in subsection (1) of section 35 by the substitution of “, Article 55 of the Regulations of 1995 or *Head 100* of the *Local Government (Directly Elected Mayor with Executive Functions in Limerick City and County) Act 2021*.” for “or Article 55 of the Regulations of 1995.”.

**Note**

This Head provides for a consequential amendment to the Electoral (Amendment) Act 2004. Section 35 of the Electoral (Amendment) Act 2004 provides for the unlawful possession of a polling information card and makes it an offence for a person to interfere with a polling information card, or present such a card at a polling station which is not addressed to the person.

This Head extends the provisions relating to the unlawful possession of a polling information card to a mayoral election.



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**Head 175 - Amendment to Electoral (Amendment) Act 2006.**

**Provide that:**

The Electoral (Amendment) Act 2006 is amended in section 15(1)(b) by the substitution of “, local or mayoral” for “or local”.

**Note**

This Head provides for a necessary minor and consequential amendment to the Electoral (Amendment) Act 2006. The 2006 Act provides for postal voting by prisoners. Section 15 enables a prisoner released from prison to have their name deleted from the postal voters list, on notifying the registration authority in writing on or before the second day after the dissolution of the Dáil (general election) or on or before the second day after a polling day order (all other elections and referendums). They can then vote in person at their local polling station in the normal way. The amendment has the effect of extending the types of election to which this provision applies, to include a mayoral election.

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**PART SEVEN**

**CONSEQUENTIAL AMENDMENTS**

**Head 176 Amendments to the LGA 2001.**

Provide that

Consequential amendments to the Principal Act as a result of the introduction of a directly elected mayor with executive functions in Limerick city and county are listed in Schedule 7.

Notes:

this provides for the making of necessary amendments to the Principal Act While it is intended that this General Scheme will lead to a standalone Bill, there are some instances where it is necessary to amend the Principal Act either by inserting language that refers to the mayor, director general and príomh comhairleoir where necessary or by stating that the provisions of certain sections in the Principal Act will not apply to Limerick city and county council once the mayor is in place.

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## **SCHEDULES**

### **Schedule 1.**

*Head 47(2)*

#### **Executive functions in other legislation designated as specified function.**

Executive functions provided for by the following sections shall be designated as specified functions and shall be performed by the director general.

#### **The Housing Act 1966.**

- Section 4. Obligation to give information to housing authority
- Section 34. Repayment of grant to Minister or housing authority on breach of undertaking
- Section 35. Withholding or reduction in amount of Grant
- Section 49. Power of housing authority to make allowances to certain persons displaced.
- Section 57. Power of housing authority to provide building sites
- Section 58. Management and control of certain dwelling and of any ancillary amenities, works or services provided in connection therewith.
- Section 61. Requiring information from tenants and persons applying for tenancies
- Section 64. Obligation to give particulars relating to a house
- Section 65. Overcrowded houses
- Section 66. Unfit houses
- Section 67. Housing authority may affix notice of serving repairs notice, making closing order or demolition order or accepting undertaking
- Section 69. Enforcement of repairs notice or demolition order
- Section 71. Recovery of expenses of repair or demolition etc.
- Section 76. Procedure for compulsory acquisition of land.
- Section 77. Compulsory acquisition of land not immediately needed.
- Section 78. Validity and date of operation of compulsory purchase orders.
- Section 79. Notice to treat
- Section 80. Power of entry on, taking possession and use of land.
- Section 81. Vesting order.
- Section 82. Form and effect of vesting order and registration of title acquired under the registration of Title Acts, 1891 and 1942.

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- Section 83. extinguishment of ways, easements etc.
- Section 86. Amendment of section 10 of Local Government (No.2) Act, 1960.
- Section 90. Power of housing authority to sell or lease certain dwellings provided under this act.
- Section 91. Recovery of payments in respect of purchase money.
- Section 92. Registration under registration of Title acts, 1891 and 1942 of ownership of dwellings sold or leased under section 90 of Act.
- Section 98. Cottage or plot may be charged, mortgaged, subdivided or alienated.
- Section 107. Recovery of possession in certain circumstances of houses and dwellings sold or leased by housing authority
- Section 112. Provision of technical assistance
- Section 113. Power to provide prizes or other incentives for the maintenance of houses etc.
- Section 116. Prosecutions and offences
- Section 117. Power of authorised person to enter on land
- Section 118. Certain dwellings to be deemed to be provided under the act

**Housing (Miscellaneous Provisions) Act 1979**

- Section 6. Grants and other assistance by housing authorities for provision of new houses and improvement of houses
- Section 11. Subsidies by Minister and housing authorities for purchases or construction of houses

**Housing Act 1988**

- Section 2. Homeless persons for the purposes of this Act
- Section 4. Grant on surrender of certain houses
- Section 10. Additional provisions regarding accommodation for homeless persons
- Section 12. Reconstruction or improvement of certain houses provided by housing authorities
- Section 14. Provision of sites for private housing
- Section 16. Guarantees by housing authorities
- Section 17. Mortgage of houses sold or leased by housing authorities
- Section 18. Discharge of mortgage

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Section 29. Offences

**Housing (Miscellaneous Provisions) Act 1992**

Section 4. Subsidy towards rent of houses leased by means of shared ownership leases.

Section 5. Works by housing authorities to private houses

Section 10. Removal of temporary dwellings from certain locations.

Section 11. Housing loans by housing authorities

Section 12. Security of abandoned houses.

Section 14. Disposal of mortgages held by housing authorities or Housing Finance Agency plc.

Section 18A. Improvement notice.

Section 18B. Prohibition notice.

Section 37. Repeals and savings.

**Local Elections Regulations Act 1995**

Regulation 4 – The appointment of returning officer for the election of members of the local authority.

**Housing (Miscellaneous Provisions) Act 1997**

Section 3. Excluding orders.

Section 3A. Site excluding orders.

Section 9. Discharge of orders.

Section 14. Letting and sale of local authority housing.

Section 14A. Authorisation to occupy caravan on site.

Section 15. Provision of information.

Section 20. Illegal occupiers of local authority housing.

Section 21. Evidence.

**Housing (Traveller Accommodation) Act 1998**

Section 25. Loans for caravans or sites.

**Residential Tenancies Act 2004 (as amended) 27 of 2004**

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Section 146. Data exchange — private residential tenancies.

Section 147. Exchange of public service data.

**Housing (Miscellaneous Provisions) Act 2009**

Section 10. Provision of housing services

Section 20. Social housing assessment.

Section 22. Allocation of dwellings.

Section 24. Rental accommodation availability agreement.

Section 25. Chapter 4 tenancy agreement.

Section 28. Management and control functions.

Section 29. Tenancy agreements.

Section 31. Rent schemes and charges.

Section 32. Information requirements.

Section 33. Moneys owing to housing authority.

Section 34. Arrangements with households for payment of moneys due and owing to housing authority.

Section 43. Interpretation (Part 3).

Section 45. Sale of dwelling by incremental purchase arrangement.

Section 46. Charging order.

Section 47. Suspension of reduction of charged share.

Section 48. Control on resale of dwelling sold under an incremental purchase arrangement

Section 60. Lease of apartment to housing authority.

Section 61. Consequences of designation lapsing under section 55.

Section 64. Sale by housing authority of apartments to tenants.

Section 74. Charging order.

Section 75. Suspension of reduction of charged share.

Section 76. Control on resale of apartment subject to a charging order.

Section 80. Direct sales agreement.

Section 81. Open market dwelling.

Section 83. Affordable dwelling purchase arrangements.

Section 84. Assessment of eligibility of household for affordable dwelling purchase arrangement.

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- Section 86. Charging order.
- Section 87. Payments by purchaser during charged period.
- Section 88. Registration of charging orders and agreements with financial institutions.
- Section 89. Repayment on expiration of charged period.
- Section 90. Control on resale of dwelling purchased under affordable dwelling purchase arrangement.
- Section 91. Recovery of amounts due to housing authority.
- Section 92. Valuation of dwelling for certain purposes.
- Section 93. Discharge of charging order.
- Section 96. Transitional arrangements and savings provisions.
- Section 98. Control on resale of certain sites or dwellings thereon.
- Section 99. Repayment of adaptation grant.

**Housing (Miscellaneous Provisions) Act 2014**

- Section 7. Tenancy warning relating to anti-social behaviour etc.
- Section 8. Tenancy warning relating to rent arrears
- Section 9. Tenancy warning relating to tenancy breach
- Section 10. Review of tenancy warning
- Section 12. Proceedings for possession of local authority dwelling
- Section 13. Proceedings for possession against person in occupation of local authority dwelling
- Section 14. Abandoned local authority dwellings
- Section 15. Repossession of abandoned dwellings
- Section 16. Application to court in respect of tenancy terminated under section 15
- Section 17. Death of tenant and recovery of possession in certain cases
- Section 22. Extent of application of part 3 to certain houses
- Section 23. Disqualification from purchase
- Section 24. Calculation of tenant's income
- Section 25. Sale of house to tenant
- Section 43. Housing assistance payments
- Section 44. Payment of rent contribution by qualified household
- Section 45. Ineligibility for housing assistance, etc.

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- Section 46. Change of dwelling
- Section 47. Housing assistance in respect of accommodation provided under scheme of capital assistance
- Section 48. Review of certain decisions
- Section 53. Deduction of local authority rent, etc., by Minister for Social Protection
- Section 55. Data sharing and exchange
- Section 26. Charging order
- Section 27. Suspension of incremental release
- Section 28. Payment during charged period in respect of charged share or incremental release
- Section 29. Control on resale of house
- Section 39. Housing assistance
- Section 41. Requirements in relation to dwelling
- Section 42. Requirements in relation to landlord.

**European Union (Packaging) Regulations 2014 (S.I. no. 282 of 2014)**

All provisions relating to local authority functions.

**European Union (End of Life Vehicles) Regulations 2014 (S.I. no. 281 of 2014)**

All provisions relating to local authority functions.

**Waste Management (Tyres and Waste Tyres) Regulations 2017 (S.I. 400 of 2017)**

All provisions relating to local authority functions.

**Waste Management (Farm Plastics) Regulations 2001 (S.I. 341 of 2001)**

All provisions relating to local authority functions.



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**European Union (Waste Electrical and Electronic Equipment) Regulations 2014 (S.I. 149 of 2014)**

All provisions relating to local authority functions.

**European Union (Batteries and Accumulators) Regulations 2014 (S.I. 283 of 2014)**

All provisions relating to local authority functions.

**European Union (Household Food Waste and Bio-Waste) Regulations 2015 (S.I. 430 of 2015)**

All provisions relating to local authority functions.

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**Schedule 2.**

*Head 47(4)*

**Specified functions in relation to staffing and human resources.**

The director general shall be responsible for all executive functions arising from the following provisions in the Principal Act.

Section 46. Meetings administrator.

Section 52. Subsection (1) to (8). Joint committees of local authorities.

Section 99. Authorisation of payments.

Section 128C. Membership of Local Community Development Committees.

Section 128D. Staffing of Local Community Development Committee.

Section 167. Application (Part 15)

Section 179. Disclosure by employee, etc. of local authority of pecuniary or other beneficial interests

Section 180. Application of Ethics in Public Office Act, 1995, etc.

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**Schedule 3.**

*Head 47(6)*

**Service level agreements**

**Service level agreements.**

- Housing Assistance Payments Shared Services.
- Irish Water.
- Munster Regional Communications Centre.
- Southern regional waste management office
- Veterinary services on behalf of the Food Safety Authority.
- Mid-West National Road Design Office
- All Motor Tax activities

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**Schedule 4.**

Head 49(4)

**Specified functions arising from the role of Accounting Officer.**

The director general shall be responsible for all executive functions arising from the following provisions in the Principal Act.

Section 81. Assistance towards non-public roads.

Section 99. Authorisation of payments

Section 107. Keeping of accounts

Section 109. Community fund.

Section 112. Obligations in case of proposal involving illegal payment, deficiency or loss.

Section 120. Audit opinion and report.

Section 121. Consideration of annual financial statement and auditor's report.

Section 122. Audit committee.

Section 126D (7). Reports to Minister or appropriate Minister.

Section 129M. Annual BID multiplier

Section 129N. Annual BID contribution levy

Section 129O. Recalculation of levy in event of total destruction or demolition of property

Section 129T. Final accounting of BID fund on termination of BID scheme.

Section 211B. Entry year property levy.

Section 211C. Recalculation of levy in event of total destruction or demolition of property

Section 211D. Recalculation of entry year levy if rateable valuation amended.

Section 211E. Post-entry year property levy in specified circumstances.

Section 211F. Recalculation of post-entry year levy if rateable valuation amended.

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**Schedule 5**

Head 67(6)

**FIFTH SCHEDULE**

Each section of the Local Government (Directly Elected Mayor with Executive Functions in Limerick City and County) Bill 2021 mentioned in *column 1* of Table A to this *Schedule* is amended to the extent specified in *column 2* of that *Schedule* opposite such mention.

Each section of the Electoral Act 1992 mentioned in *column 1* of Table B to this *Schedule* is amended to the extent specified in *column 2* of that *Schedule* opposite such mention.

*Table A*

Head 50(6)

Provision affected	Amendment
Head 47	Substitute “the day the poll commences” for “polling day”
Head 58	Substitute “the day the poll commences” for “polling day”
Head 74(6)(a)	Substitute “day the poll commences” for “polling day”
Head 74(7)	Substitute “day the poll commences” for “polling day”
Head 74(8)	Substitute “day the poll commences” for “polling day”
Head 76(2)(f)	Substitute “commence” for “be taken”
Head 77(3), which applies Article 33(5) of the Local Elections Regulations 1995, insofar as it relates to a Mayoral election	Substitute “the day the poll commences” for “polling day”
Head 77(3), which applies Article 38(2) of the Local Elections	Substitute “ <i>day the poll commences</i> ” for “ <i>polling day</i> ”

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Regulations 1995, insofar as it relates to a Mayoral election	
Head 78(3)	Substitute “the day the poll commences” for “polling day”
Head 82 which applies Article 57(3A) of the Local Elections Regulations 1995, insofar as it relates to a Mayoral election	Substitute “the day the poll commences” for “polling day”
Head 84 which applies Article 62 of the Local Elections Regulations 1995, insofar as it relates to a Mayoral election	Substitute “the day the poll commences” for “polling day”
Head 84 which applies Article 70(1)(b) of the Local Elections Regulations 1995, insofar as it relates to a Mayoral election	Substitute “day the poll commences” for “polling day”
Head 84 which applies Article 71(1)(c) of the Local Elections Regulations 1995,	Substitute “day the poll commences” for “polling day”

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insofar as it relates to a Mayoral election	
Head 85(1)	Substitute “day the poll closes” for “polling day”
Head 86(1)	Substitute “day the poll commences” for “polling day”
Head 117(2)	Substitute “commencement of a poll” for “taking of a poll”
Head 130 - Section 93(1)	Substitute “the day the poll closes” for “polling day”
Head 130 - Section 95(2)(a)	Substitute “the day the poll commences” for “polling day”
Head 130 - Section 95(3)	Substitute “after the day the poll closes” for “after polling day” Substitute “ending on the day the poll commences” for “ending on polling day”
Head 130 - Section 100(2)(a)	Substitute “day the poll commences” for “polling day”
Head 130 - Section 100(2)(b)	Substitute “day the poll closes” for “polling day”
Head 130 - Section 102	Substitute “day the poll closes” for “polling day”
Head 130 - Section 104(1)	Substitute “day the poll closes” for “polling day”
Head 130 - Section 104(7)	Substitute “the day the poll closes” for “polling day”

*Table B*

Head 50(6)

Provision affected	Amendment
Section 15(1A)(c)	(a) Substitute “ <i>the day the poll closes</i> ” for “ <i>polling day</i> ” and (b) Substitute “ <i>local or mayoral</i> ” for “ <i>or local</i> ”
Section 15(5)	Substitute “ <i>the day the poll commences</i> ” for “ <i>polling day</i> ”

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Section 15A(4)(c)	(a) Substitute “ <i>the day the poll commences</i> ” for “ <i>polling day</i> ” (b) Substitute “ <i>local or mayoral</i> ” for “ <i>or local</i> ”
Section 15A(5)(c)	(a) Substitute “ <i>the day the poll commences</i> ” for “ <i>polling day</i> ” (b) Substitute “ <i>local or mayoral</i> ” for “ <i>or local</i> ”
Section 15B(4)(c)	(a) Substitute “ <i>the day the poll commences</i> ” for “ <i>polling day</i> ” (b) Substitute “ <i>local or mayoral</i> ” for “ <i>or local</i> ”
Section 15B(5)(c)	(a) Substitute “ <i>the day the poll commences</i> ” for “ <i>polling day</i> ” (b) Substitute “ <i>local or mayoral</i> ” for “ <i>or local</i> ”
Section 16(7)(ii)	Substitute “ <i>the day the poll commences</i> ” for “ <i>polling day</i> ”
Rule (18)(1) of Part II of Second Schedule	Substitute “ <i>the day the poll commences</i> ” for “ <i>polling day</i> ”

**Notes:**

If a mayoral election is held with Covid-19 restrictions in place and two polling days are appointed, the amendments in Table A are necessary to clarify what ‘polling day’ means where ‘polling day’ is referenced in the *Local Government (Directly Elected Mayor with Executive Functions in Limerick City and County) Bill 2021*.

Similarly, Table B sets out the amendments to Part II of the Electoral Act 1992 (the electoral register provisions) that would be necessary to clarify what ‘polling day’ means in Part II of the 1992 Act if two polling days are appointed for the mayoral election (see Head 91 – ‘Right to Vote’).



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**Schedule 6**

**Form of Ballot Paper**

(Front of Paper)









**TREORACHA**

1. Scríobh an figiúr 1 sa bhosca le hais an chéad iarrthóra is rogha leat, scríobh an figiúr 2 sa bhosca le hais an dara hiarrthóir is rogha leat, agus mar sin de.
2. Fill an páipéar ionas nach bhfeicfead do vóta. Taispeáin cúl an pháipéir don oifigeach ceannais, agus cuir sa bhosca ballóide é.

**INSTRUCTIONS**

1. Write 1 in the box beside the candidate of your first choice, write 2 in the box beside the candidate of your second choice, and so on.
2. Fold the paper to conceal your vote. Show the back of the paper to the presiding officer and put it in the ballot box.

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DOYLE – LIBERAL SOCIALISTS			
MARY DOYLE, of 10 High Street, Knockmore, Nurse.	Emblem	Photograph	
LYNCH – URBAN PARTY			
JANE ELLEN LYNCH, of 12 Main Street, Ardstown, Shopkeeper.	Emblem	Photograph	
MURPHY			
PATRICK MURPHY, of 12 Main Street, Ballyduff, Carpenter.		Photograph	
Ó BRIAIN — CUMANN NA SAORÁNACH			
SÉAMUS Ó BRIAIN, as 10 An tSráid Ard, Carn Mór, Oide Scoile.	Emblem	Photograph	
O'BRIEN – NON-PARTY			
EAMON O'BRIEN, of 22 Wellclose Place, Knockbeg, Barrister.			
O'BRIEN – THE INDEPENDENT PARTY			
ORLA O'BRIEN, of 103 Eaton Brae, Cahermore, Solicitor.	Emblem	Photograph	
O'CONNOR — NATIONAL LEAGUE			
CAROLINE O'CONNOR, of 7 Green Street, Carnmore, Engineer.	Emblem	Photograph	
THOMPSON — RURAL PARTY			
WILLIAM H. THOMPSON, of Dereen, Ballyglass, Farmer.	Emblem	Photograph	

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(Back of Paper)

Uimhir/Number .....

Méara ar Chathair agus Chontae Luimnigh a Thoghadh ar .... lá de .....

Election of Mayor for Limerick City and County on .... day of .....

(Back of Counterfoil)

Comhdhuille Uimhir

Counterfoil No. ....

**Note**

This Head provides for the form of the ballot paper. The directions which must be complied with in the preparation of the ballot paper are set out in Head 97. The form of the ballot paper is based on the ballot paper at a Dáil election, specified in schedule 4 of the Electoral Act 1992.

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**Schedule 7**

**Consequential amendments to the Local Government Act 2001.**

*Head 176*

The Local Government Act 2001 is amended as follows

in section 11(5)(a) by the insertion of "*with the exception of Limerick City and County Council*" after "*the elected council of the local authority*";

in section 11(5)(b) by the insertion of "*with the exception of Limerick City and County Council*" after "*Part 5*";

in section 31(1) by the insertion of "*that does not have a directly elected mayor*" following the word "*authority*",

in section 31(3) by the insertion of "*or directly elected mayor or príomh comhairleoir*" after "*cathaoirleach*",

32(1A)(a) by the deletion of the words "*Limerick city council or*";

in section 33 by the insertion of "*or príomh comhairleoir in the case of a local authority with a directly elected mayor*" following the word "*cathaoirleach*";

in section 34 by the insertion of "*or príomh comhairleoir in the case of a local authority with a directly elected mayor*" following the word "*cathaoirleach*";

in section 37 by the insertion of "*or príomh comhairleoir in the case of a local authority with a directly elected mayor*" following the word "*cathaoirleach*";

in section 38 by the insertion of "*or príomh comhairleoir in the case of a local authority with a directly elected mayor*" following the word each instance of the word "*cathaoirleach*";

in section 63(4) by the insertion of "*or the directly elected mayor in a local authority with a directly elected mayor*" after "*chief executive*";

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in section 68(4)(b) by the insertion of “*or director general in a local authority with a director general*” after “*chief executive*”;

in section 104(7)(a) by the insertion of “*or the mayor and the príomh comhairleoir in a local authority with a mayor*” the following after the word *cathaoirleach*;

in section 128A by the insertion of “*or director general of a local authority with a directly elected mayor*” after “*chief executive*”;

in subsection 134(4)(b)(i) by the insertion of “*or príomh comhairleoir in the case of a local authority with a directly elected mayor*” following the word “*cathaoirleach*”;

in subsection 136(1)(a) by of “*or príomh comhairleoir in the case of a local authority with a directly elected mayor*” following the word “*cathaoirleach*”;

in section 142(1) by the insertion of “*with the exception of the directly elected mayor*” after “*members*”;

in section 145 following sections

(a) Section 145 (1)(a) by the insertion of “*The appointment by Limerick city and county council of a director general under section 6 of the local authorities (officers and Employees) Act 1926 by virtue of a recommendation of director general of the Public Appointments Service*”;

(b) Section 145(1)(b) by the insertion of “*the suspension or removal from employment of a director general in accordance with section 146*”;

in section 145(2)(a) by the insertion of “*or director general of a local authority with a directly elected mayor*” after “*chief executive*”;

in section 145(2)(a)(ii) by the insertion of “*or director general of a local authority with a directly elected mayor*” after “*chief executive*”;

in section 145(2)(b)(i) by the insertion of “*or director general of a local authority with a directly elected mayor*” after “*chief executive*”;

in section 145(3)(a) by the insertion of “*or director general of a local authority with a directly elected mayor*” after “*chief executive*”;

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in section 145(5) by the insertion of “ *or director general of a local authority with a directly elected mayor*” after “ *chief executive*” in two instances;

in section 145(6) by the insertion of “ *or director general of a local authority with a directly elected mayor*” after “ *chief executive*” in two instances;

in section 145(7) by the insertion of “ *or director general of a local authority with a directly elected mayor*” after “ *chief executive*”;

in section 146(1)(a) is amended by the insertion of “ *or director general of a local authority with a directly elected mayor*” after “ *chief executive*”;

in section 146(4) is amended by the insertion of “ *or director general of a local authority with a directly elected mayor*” after “ *chief executive*”;

in section 146(7)(a) by the insertion of “ *or director general of a local authority with a directly elected mayor*” after “ *chief executive*”;

in section 146(7)(b)(i) by the insertion of “ *or director general of a local authority with a directly elected mayor*” after “ *chief executive*” in two instances;

in section 147(1) by the insertion of “ *or director general of a local authority with a directly elected mayor*” after “ *chief executive*”;

in section 147(2) by the insertion of “ *or director general of a local authority with a directly elected mayor*” after “ *chief executive*”;

in section 147(2)(a) by the insertion of “ *or director general of a local authority with a directly elected mayor*” after “ *chief executive*”;

in section 147(3)(b) is amended by the insertion of “ *or director general of a local authority with a directly elected mayor*” after “ *chief executive*”;

in section 147(4)(d) by the insertion of “ *or director general of a local authority with a directly elected mayor*” after “ *chief executive*”;

in section 147(5)(a) by the insertion of “ *or director general of a local authority with a directly elected mayor*” after “ *chief executive*”;

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in section 147(5)(a) by the insertion of “ *or director general of a local authority with a directly elected mayor*” after “ *chief executive*” in three instances;

in section 147(5)(b) by the insertion of “ *or director general of a local authority with a directly elected mayor*” after “ *chief executive*”;

in section 147(7) by the insertion of “ *or director general of a local authority with a directly elected mayor*” after “ *chief executive*”;

in section 147(9) by the insertion of “ *or director general of a local authority with a directly elected mayor*” after “ *chief executive*”;

in section 148(1) by the insertion of “ *or deputy director general of a local authority with a directly elected mayor*” after “ *deputy chief executive*”;

in section 148(1) by the insertion of “ *or deputy director general of a local authority with a directly elected mayor*” after “ *deputy chief executive*”;

in section 148(2) by the insertion of “ *or deputy director general of a local authority with a directly elected mayor*” after “ *deputy chief executive*”;

in section 148(3) by the insertion of “ *or deputy director general of a local authority with a directly elected mayor*” after “ *deputy chief executive*”;

in section 148(3)(a) by the insertion of “ *or deputy director general of a local authority with a directly elected mayor*” after “ *deputy chief executive*”;

in section 148(4)(a) by the insertion of “ *or deputy director general of a local authority with a directly elected mayor*” after “ *deputy chief executive*”;

in section 148(5) by the insertion of “ *or deputy director general of a local authority with a directly elected mayor*” after “ *deputy chief executive*”;

in section 148(5)(a) by the insertion of “ *or deputy director general of a local authority with a directly elected mayor*” after “ *deputy chief executive*”;

in section 148(6) by the insertion of “ *or deputy director general of a local authority with a directly elected mayor*” after “ *deputy chief executive*”;

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in section 148(6a) by the insertion of "*or deputy director general of a local authority with a directly elected mayor*" after "*deputy chief executive*";

in section 166(1)) by the insertion of "*or director general in the case of a local authority with a directly elected mayor*" after "*chief executive*";

in section 166(2)(c) by the insertion of "*or director general in the case of a local authority with a directly elected mayor*" after "*chief executive*";

in section 167(1)(c) by the insertion of "*or director general in a local authority with a directly elected mayor*" after "*chief executive*";

in section 174 (7) by the insertion of "*of a local authority which does not have a directly elected mayor*" after "*ethics registrar*";

in section 178 by the insertion of "*or the director general in the case of a local authority with a directly elected mayor*" after every instance of "*manager*";

in section 178(4) by the insertion of a new subsection "where a function would normally be dealt with by the manager and, as a result of the establishment of the officer of directly elected mayor with executive functions, is now a function of the directly elected mayor, the function shall be delegated by him or her in accordance with Head 46 of the Local Government (directly elected mayor in Limerick city and county) Bill 2021, after disclosures under subsection (2) to an employee";

in section 234 by the insertion of "*or director general in a local authority with a directly elected mayor*" after "*chief executive*";

in part 3 of Schedule 7, by the amendment of the number of members of Limerick City and County Council to read "41";

in paragraph 1 of Schedule 8 by the insertion of "*and which does not have a directly elected mayor*" after "*city and county council*";

in paragraph 3 of Schedule 10 by the insertion of "*or by the príomh comhairleoir in the case of a local authority with a directly elected mayor*" after every instance of "*cathaoirleach*";



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in paragraph 6 of Schedule 10 by the insertion of "*or by the príomh comhairleoir in a local authority with a directly elected mayor*" after every instance of "*cathaoirleach*";

in paragraph 7(9) of Schedule 10 by the insertion of "*or by the príomh comhairleoir in the case of a local authority with a directly elected mayor*" after "*cathaoirleach*";

in paragraph 9 of Schedule 10 by the insertion of "*with the exception of Limerick City and County Council*" after "*paragraph 16*";

in paragraph 10 of Schedule 10 by the insertion of a new subparagraph (7):

*"(7) In a local authority with a directly elected mayor, the provisions in subparagraphs (1) to (6) relating to the cathaoirleach shall be read as relating to the príomh comhairleoir."*;

in paragraph 13 of Schedule 10 by the insertion of "*or by the príomh comhairleoir in the case of a local authority with a directly elected mayor*" after every instance of "*cathaoirleach*";

in paragraph 16 of Schedule 10 by the insertion of "*or the Príomh Comhairleoir*" after "*the cathaoirleach*";

in paragraph 16(4)(c) of Schedule 10 by the insertion of "*or by the príomh comhairleoir in the case of a local authority with a directly elected mayor*" after "*cathaoirleach*";