

Act on elections to the European Parliament in Germany (16 June 1978)

Caption: On 16 June 1978, the German Parliament adopts a law which lays down the provisions relating to the election by direct universal suffrage of the German representatives in the European Parliament.

Source: Bundesgesetzblatt 1978 I. Hrsg. Der Bundesminister der Justiz. 21.06.1978, Nr. 31. Bonn: Bundesanzeiger Verlagsges. m. b. H. "Gesetz über die Wahl der Abgeordneten des Europäischen Parlaments aus der Bundesrepublik Deutschland (16. Juni 1978)", p. 709-717.

Copyright: (c) Translation CVCE.EU by UNI.LU

All rights of reproduction, of public communication, of adaptation, of distribution or of dissemination via Internet, internal network or any other means are strictly reserved in all countries.

Consult the legal notice and the terms and conditions of use regarding this site.

URL:

http://www.cvce.eu/obj/act_on_elections_to_the_european_parliament_in_germany_16_june_1978-en-9b8cada3-0a9b-4ae7-b8a0-3d80316d2640.html



Last updated: 05/07/2016

Act concerning the election of Members of the European Parliament from the Federal Republic of Germany (*Europawahlgesetz* [European Parliamentary Elections Act] — EuWG)

of 16 June 1978

The Federal Parliament has adopted the following Act:

Part I

Election of Members of the European Parliament from the Federal Republic of Germany

Section 1

General principles of electoral law

(1) The number of Members of the European Parliament allocated to the Federal Republic of Germany is 81. They shall be elected for five years by Germans entitled to vote in general, direct, free, equal and secret elections.

(2) Members of the European Parliament may at the same time be Members of the German Federal Parliament.

Section 2

Electoral system, allocation of seats

(1) Elections shall take place in accordance with the principles of proportional representation by means of electoral list nominations. Electoral nominations may be drawn up for one *Land* or as a common list for all *Länder*. Each voter shall have one vote.

(2) For the allocation of seats, the votes cast for each nomination shall be counted together. Lists for individual *Länder* showing the same nominee shall count as connected lists, unless a declaration is made that one or more participating lists shall be excluded from the list connection. In the allocation of seats in relation to the other nominations, connected lists shall count as one nomination.

(3) The seats to be filled shall be allocated to the nominations in proportion to the total votes cast for them in accordance with the d'Hondt maximum number procedure. In the event of a tied maximum number, the lot to be drawn by the Federal Electoral Supervisor shall determine the allocation of the final seat.

(4) The seats allocated to the nominations shall be filled in the sequence determined in those nominations. Candidates who are elected on two lists for individual *Länder* (second sentence of Section 9(3)) shall be disregarded on the list on which they appear later in the sequence; in the event that they appear at the same place on the lists, the lot to be drawn by the Federal Electoral Supervisor shall determine on which list they are elected. If more seats are allocated to a nomination than the number of candidates listed, these seats shall remain vacant.

(5) Seats allocated to connected lists shall be assigned to the lists for the individual *Länder* in proportion to the total votes cast for each of these lists in accordance with the d'Hondt maximum number procedure. The second sentence of subsection 3 and subsection 4 shall apply *mutatis mutandis*.

(6) In the allocation of seats to nominations, only those nominations shall be considered which have received at least five per cent of valid votes cast in the electoral region.

Section 3

Subdivision of the electoral region

(1) The electoral region shall be the area to which this Act applies.

(2) The electoral region shall be subdivided into electoral wards for polling purposes.

Section 4

Application of the Federal Electoral Act

Unless otherwise determined in this Act, the provisions of Parts II to VII of the Federal Electoral Act relating to

electoral bodies,

electoral law and eligibility for election,

preparation of the election,

polling,

determination of the election result and

by-elections and repeat elections

shall apply *mutatis mutandis* to the election of Members of the European Parliament.

Section 5

Electoral bodies

(1) The electoral bodies shall be

the Federal Electoral Supervisor and the Federal Election Committee for the electoral region,

a *Land* Electoral Supervisor and a *Land* Election Committee for each *Land*,

a District Electoral Supervisor and a District Election Committee for each district and a Borough Electoral Supervisor and Borough Election Committee for each autonomous borough,

a Chief Election Officer and an Election Board for each electoral ward

and

at least one Chief Election Officer and one Election Board for each district and each autonomous borough for the determination of postal voting results.

(2) The Election Boards shall consist of the Chief Election Officer as chairman, his deputy and a further three to five eligible voters appointed by the Chief Election Officer as ordinary members; the *Land* Government or an agency designated by it may determine that the municipal authority shall appoint the ordinary members of the Election Board and the District Chief Election Officer or the Borough Chief Election Officer the ordinary members of the Election Board for the verification of the postal voting results alone or in consultation with the Chief Election Officer. In the appointment of ordinary members, the parties represented in the district concerned shall be taken into account as far as possible.

(3) Section 11 of the Federal Electoral Act shall apply *mutatis mutandis* with the proviso that the administrative authority within the meaning of paragraph 1 of Section 36(1) of the Administrative Offences Act shall be the Borough Chief Election Officer if an eligible voter refuses to serve as Chief Election Officer, Deputy Chief Election Officer or ordinary member of an Election Board or Borough Election

Committee in an autonomous borough without justification or fails to honour the obligations of such service without sufficient excuse.

Section 6

Right to vote, exercise of the right to vote

(1) The eligible voters shall be all Germans within the meaning of Article 116(1) of the Basic Law who, on the day of the election, are eligible to vote in elections for the German Federal Parliament pursuant to Section 12 of the Federal Electoral Act.

(2) Also eligible to vote, provided the other conditions of Section 12 of the Federal Electoral Act are met, shall be those Germans within the meaning of Article 116(1) of the Basic Law who, on the day of the election, have had a residence in the European territories of the other Member States of the European Communities or have been habitually resident there for at least three months. A period of residence in the electoral region immediately prior thereto shall count as part of the three-month period. In the event of the return of a person eligible to vote in accordance with the first sentence into the area of application of this Act, the three-month period referred to in paragraph 2 of Section 12(1) of the Federal Electoral Act shall not apply.

(3) The right to vote may be exercised only once and in person. That provision shall also apply to eligible voters who are at the same time eligible to vote in elections for the European Parliament in another Member State of the European Communities.

(4) Persons in possession of a ballot paper may take part in the election in the district or autonomous borough in which the ballot paper was issued,

a) by casting a vote in any electoral ward

or

b) by postal voting.

Section 7

Election day

The Federal Government shall determine the date of the main election (election day) on the basis of the decision laying down the time of the election by the Council of the European Communities and during the period of time laid down in Articles 9 and 10 of the Act concerning the election of Members of the European Parliament by direct universal suffrage (BGBl. [Federal Law Gazette] 1977 II page 733). The date of the election shall be announced in the Federal Law Gazette.

Section 8

Right to nomination for election

(1) Electoral nominations may be submitted, subject to the provisions of Section 9(5), by parties and other membership-based associations whose aim is to participate in the formation of political will and in deliberations of popular representation bodies having their registered office, management, activity and membership base located in the European territories of the Member States of the European Communities (other political associations).

(2) A party or other political association may submit either lists for individual *Länder*, and in that case only one list in each *Land*, or a common list for all *Länder*. The decision on submission of a common list for all *Länder* or lists for individual *Länder* shall be taken by the board of the federal organisation of the party or association or, if there is no federal organisation, the boards of their organisations in areas ranking nearest to federal level in the electoral region jointly, or another body for which the constitution of the organisation

entitled to submit nominations makes provision for this purpose.

Section 9

Content and form of nominations

(1) Nominations by parties must include the name of the submitting party and, if it uses an abbreviation, also the abbreviation. Nominations by other political associations must include their names or an identifying word or phrase. A party may add to the designation of its nomination the name and abbreviation of its European affiliation body and another political association the name and abbreviation of its membership association in the electoral region.

(2) The names of candidates must be listed in the nomination in a recognisable sequence. A substitute candidate may be listed alongside each candidate.

(3) A candidate or substitute candidate on a common list for all *Länder* may only be nominated in one nomination; however, a candidate may also be nominated as a substitute candidate. A candidate on a list for one *Land* may also be nominated on a list of the same nominating organisation for another *Land*; provided he only appears in one nomination, he may also be nominated in that nomination as a substitute candidate. A substitute candidate may not be nominated more than once as such in a single nomination. Candidates and substitute candidates may only be nominated if they have given their written consent thereto; that consent shall be irrevocable.

(4) Lists of parties for individual *Länder* must be signed by the boards of the *Land* organisations or, if there are no *Land* organisations, by the boards of their organisations ranking nearest to that level which exist in the area of the *Land*. Common lists for all *Länder* must be signed by the boards of the federal organisations of the parties or, if there are no federal organisations, by the boards of their organisations in areas ranking nearest to federal level located in the electoral region. The first and second sentences shall also apply *mutatis mutandis* to nominations of other political associations.

(5) Lists for individual *Länder* of parties and other political associations which were not represented by at least five Members in the European Parliament, the German Federal Parliament or a *Land* Parliament since the most recent elections thereto without interruption on the basis of the organisations' own nominations in the electoral region must, in addition, be signed in person and by hand by one per mille of those who were eligible to vote in the *Land* concerned in the most recent elections to the European Parliament, but by a maximum of 2 000 eligible voters. For the first elections to the European Parliament, the criterion applicable shall be the number of those eligible to vote in the most recent Federal Parliament election. Common lists for all *Länder* of nominees within the meaning of the first sentence must, in addition, be signed in person and by hand by 4 000 eligible voters.

(6) For every nomination an authorised agent and a deputy shall be designated. Where no such designation is made, the first signatory shall count as the authorised agent and the second as his deputy.

Section 10

Procedure for drawing up nominations

(1) A nomination may only indicate as a candidate or substitute a person who has been selected for the purpose at a special or general meeting of representatives of the party or at a membership meeting for the selection of candidates.

(2) A special meeting of representatives shall be taken to mean a meeting of party representatives which has been elected to select candidates. A general meeting of representatives shall be taken to mean a meeting of party representatives which has been elected, in accordance with the constitution of the party, for the general consideration of forthcoming elections. The representatives at the special or general meeting of representatives must have been elected directly from the ranks of one or more membership meetings or from the ranks of meetings of representatives which, for their part, were composed either from the ranks of one or

more membership meetings or from the ranks of one or more intervening meetings of representatives. A membership meeting for the selection of candidates for a common list for all *Länder* and of representatives for a meeting of representatives shall be taken to mean a meeting of members of the party who, at the time of their meeting, are eligible to vote in elections for the European Parliament. A membership meeting for the selection of candidates for a list for one *Land* and of representatives for a meeting of representatives shall be taken to mean a meeting of members of the party who, at the time of their meeting, were eligible to vote in the *Land* concerned in elections for the European Parliament.

(3) The representatives for the meeting of representatives and the candidates shall be elected by secret ballot; this provision shall also apply to the determination of the ranking of the candidates in the nomination. The elections may not be held earlier than nine months before the beginning of the year in which the elections to the European Parliament are due to be held.

(4) The board of the federal organisation or, if there is no federal organisation, the boards of the organisations in areas ranking nearest to federal level in the electoral region jointly or another agency designated for the purpose in the constitution of the party may object to the decision of a meeting of the membership or representatives on the presentation of a common list for all *Länder*. In the case of the decision of a meeting of the membership or representatives on the presentation of candidates for a list for a *Land*, the board of the *Land* organisation or, if there are no *Land* organisations, the boards of the organisations in areas ranking nearest to that level located in the area of the *Land* may object jointly or another agency designated for the purpose in the constitution of the party may object. In the event of such an objection, the ballot must be repeated. Its result shall be final.

(5) Other details regarding the election of representatives for the meetings of representatives, the convening and quorums of meetings of members or representatives and the procedure for the selection of candidates shall be regulated by the parties in their constitutions.

(6) A record of the meeting to draw up the nomination, with an indication of the time and place of the meeting, the manner in which it was convened, the number of members or representatives attending and the result of the ballot, shall be drawn up; it shall be signed by the chairman of the meeting and two delegates designated by him.

(7) Subsections 1 to 6 shall apply *mutatis mutandis* to other political associations.

Section 11

Submission of nominations, declaration on the connection of lists for individual *Länder*

(1) Lists for one *Land* shall be submitted in writing to the *Land* Electoral Supervisor concerned and common lists for all *Länder* to the Federal Electoral Supervisor by 6 p.m. on the forty-seventh day before the election at the latest.

(2) The following shall be submitted to the Electoral Supervisor with the nomination:

1. the declarations of consent of the candidates and substitute candidates included in the nomination (fourth sentence of Section 9(3)),

2. a copy of the record of the proceedings to draw up the nomination (Section 10(6)), in connection with which the chairman of the meeting and two delegates designated by him must state to the Electoral Supervisor in an affirmation in lieu of oath that the selection of candidates and the determination of their ranking and the selection of substitute candidates took place by secret ballot. The Electoral Supervisor shall be authorised to receive such affirmations; he shall count as the authority within the meaning of Section 156 of the Criminal Code. Section 27 of the Administrative Procedure Act shall be applicable to the receipt of affirmations in lieu of oath,

3. in cases covered by Section 9(5), the requisite valid signatures with proof of eligibility to vote of the

signatories,

4. the written constitution, the manifesto, the names and addresses of board members (Section 9(4)) and proof that the members of the board have been democratically elected where the party or other political association has not been represented without interruption by at least five members on the basis of its own nomination in the European Parliament, the German Federal Parliament or a *Land* Parliament since elections were last held for them.

(3) Where a list or several lists for individual *Länder* are to be excluded from the connection of lists (second sentence of Section 2(2)), the authorised agent for the nomination and his deputy shall notify the Federal Electoral Supervisor of the fact by a joint declaration in writing by 6 p.m. on the forty-seventh day before the election at the latest.

Section 12

Amendment and withdrawal of nominations

(1) A nomination may only be amended after the expiry of the submission deadline by a joint declaration in writing of the authorised agent and his deputy and then only if a candidate or substitute candidate dies or ceases to be eligible for election. The procedure under Section 10 shall not need to be applied; the signatures in accordance with Section 9(5) shall not be needed. Once a decision on the acceptance of a nomination (Section 14) has been taken, no amendment shall be possible.

(2) A nomination may only be withdrawn by a joint declaration in writing of the authorised agent and his deputy if no decision has been taken on its acceptance (Section 14). In cases covered by Section 9(5), the majority of signatories may withdraw the nomination by a declaration executed in person and in writing by them.

(3) If a candidate dies or ceases to be eligible for election after the acceptance of the nomination but before the election, the substitute candidate shall take his place provided a substitute has been nominated for him.

Section 13

Rectification of errors

(1) The Electoral Supervisor shall verify the nominations immediately on receipt. If he detects errors in a nomination, he shall immediately inform the authorised agent for the nomination and call on him to rectify remediable errors in good time.

(2) After the expiry of the submission deadline only errors in ostensibly valid nominations may be rectified. A nomination shall not be valid if

1. the designation of the body eligible to submit nominations in accordance with Section 9(1) is missing,
2. the valid signatures required in accordance with Section 9(4) and (5) with proof of eligibility to vote of the signatories in accordance with subsection 5 of this provision are missing,
3. the form or time-limit laid down in Section 11(1) is not observed,
4. the declarations, records, affirmations or supporting documents required by paragraphs 1, 2 and 4 of Section 11(2) are not presented or provided.

(3) After a decision has been taken on the acceptance of a nomination (Section 14), rectifications of errors shall be excluded.

(4) The authorised agent for the nomination may appeal to the *Land* Election Committee against decisions of the *Land* Electoral Supervisor in the error rectification procedure and to the Federal Election Committee

against decisions of the Federal Electoral Supervisor.

Section 14

Acceptance of nominations, decision on the connection of lists for individual *Länder*

(1) The *Land* Election Committee shall take a decision on the thirty-seventh day before the election on the acceptance of the lists for the *Land* concerned, the Federal Election Committee on the acceptance of common lists for all *Länder*. The authorised agents for nominations shall be invited to the meeting.

(2) The Election Committee must reject nominations if they

1. are submitted late or

2. do not conform to the requirements laid down in this Act and the election regulations issued pursuant to it, unless otherwise determined in these provisions.

If the requirements are not met only in respect of individual candidates or substitute candidates, their names shall be struck from the nomination. A candidate whose name has been deleted shall be replaced by his substitute candidate, if one has been nominated. The views of the authorised agents for the nominations concerned shall be sought before the decision is taken.

(3) The decision on acceptance of electoral nominations shall be announced at the meeting of the Election Committee.

(4) If the *Land* Election Committee rejects a nomination in whole or in part, a complaint may be submitted to the Federal Election Committee within three days from the announcement of the decision. Those entitled to file complaints shall be the authorised agent for the nomination and the *Land* Electoral Supervisor. The *Land* Electoral Supervisor may also appeal against a decision by which a nomination is accepted. The views of the parties concerned shall be sought in the complaints procedure. The decision on the complaint must be taken at the latest on the thirty-first day before the election.

(5) The Federal Electoral Supervisor shall publish the nominations accepted (lists for individual *Länder* and common lists for all *Länder*) at the latest on the twenty-seventh day before the election.

(6) The Federal Election Committee shall take a decision on the thirty-seventh day before the election on declarations made in accordance with Section 11(3). The first sentence of subsection 2 shall apply *mutatis mutandis*. The decision shall be announced at the meeting of the Federal Election Committee. The Federal Electoral Supervisor, in conjunction with his publication under subsection 5, shall publish the connection of lists and the lists for which a declaration effective in law pursuant to Section 11(3) was provided.

Section 15

Ballot papers

(1) Ballot papers, associated envelopes and postal voting envelopes shall be officially printed for each *Land*.

(2) The ballot paper shall include:

1. the heading: 'Election of Members of the European Parliament',

2. the names of the parties and, if they use an abbreviation, the abbreviation as well; in the case of other political associations, their names or their identifying words or phrases,

3. an indication of whether the nominations appear as lists for individual *Länder* or common lists for all *Länder* and, in the case of lists for individual *Länder*, an indication of the *Land* for which the nomination has been drawn up, and

4. the first ten candidates and substitute candidates of the nominations accepted with first names and family names, profession or status, place of residence (main residence) and, in the case of candidates on common lists for all *Länder*, in addition the abbreviation of the *Land* in which the place of residence is located.

The third sentence of Section 9(1) shall apply *mutatis mutandis*.

(3) The sequence of nominations on the ballot papers shall follow the number of votes in the individual *Länder* which the parties and other political associations obtained in the most recent elections to the European Parliament with their nomination in the *Land* concerned. The other nominations shall follow, in alphabetical order, the names or identifying words or phrases of the organisations eligible for election. For the first elections to the European Parliament, the criterion for the first sentence is the number of second votes in the most recent Federal Parliament election.

Section 16

Polling

(1) Voting shall take place using official ballot papers in official election envelopes.

(2) The voter shall cast his vote by placing a cross on the ballot paper or in some other way clearly indicating the nomination to which it applies.

Section 17

Voting devices

In order to ease the casting and counting of votes, instead of ballot papers, election envelopes and ballot boxes, voting devices with self-contained counting mechanisms may be used, the design of which was officially approved for the most recent elections to the German Federal Parliament, provided the Federal Minister for Home Affairs has authorised the use of voting devices in the election.

Section 18

Determination of the results of the election

(1) After the end of polling, but not before the end of polling in the other Member States of the European Communities, the Election Board shall ascertain how many votes have been cast in the electoral ward for the individual nominations. The Election Board designated for postal voting shall ascertain how many votes have been cast by postal voting for the individual nominations.

(2) The District and Borough Election Committees shall ascertain how many votes have been cast in the districts and autonomous boroughs for the individual nominations. They shall have the right to verify the findings of the Election Boards.

(3) The *Land* Election Committees shall ascertain how many votes have been cast in the *Länder* for the individual nominations.

(4) The Federal Election Committee shall establish how many votes have been cast in total for the individual nominations, how many seats are to be allocated to the individual nominations and which candidates have been elected.

Section 19

Acceptance and rejection of the vote

(1) The Federal Electoral Supervisor shall notify those elected and call on them to declare in writing within one week whether they accept the vote. In so doing, he shall draw to the attention of those elected that, after their acceptance of the vote, they become Members of the European Parliament on the opening of the first

sitting after the election (Section 21).

(2) If the person elected fails to provide any declaration or fails to provide one in the proper form by the expiry of the time-limit, the vote shall then be deemed to have been accepted. A declaration made with reservations shall count as a rejection. Acceptance and rejection declarations may not be withdrawn. A rejection declaration may be limited to the position of a candidate or substitute candidate or to candidacy in one nomination.

Section 20

Notification of the election result

After expiry of the legal time limit (Section 19), the Federal Electoral Supervisor shall immediately notify the President of the German Federal Parliament of the names of persons elected to the European Parliament and of the candidates and substitute candidates whose names remain in the nominations. The President of the German Federal Parliament shall immediately forward the overall election result to the President of the European Parliament.

Part II

Acquisition and forfeiture of membership of the European Parliament

Section 21

Acquisition of membership of the European Parliament

(1) An elected candidate shall acquire membership of the European Parliament after acceptance of the vote on the opening of the first sitting of the European Parliament after the election.

(2) If a candidate is elected on the basis of a by-election or a repeat election or has the status of a list successor (Section 24), he shall acquire membership of the European Parliament on receipt by the Federal Electoral Supervisor within the time-limit and in the proper form of the acceptance declaration subsequent to notification (Section 19(1)) but not before the opening of the first sitting after the election and not before the withdrawal of the Member originally elected; Section 19(2) shall apply *mutatis mutandis*.

Section 22

Ending and forfeiture of membership of the European Parliament

(1) Membership of the European Parliament shall end on the opening of the first sitting of the newly elected Parliament.

(2) A Member shall forfeit membership of the European Parliament in the event of

1. invalid acquisition of membership,
2. review of the election result,
3. a condition of eligibility for election at any time ceasing to exist,
4. renunciation,
5. the party or subordinate organisation of a party to which he belongs being declared unconstitutional by the Federal Constitutional Court in accordance with the second sentence of Article 21(2) of the Basic Law,
6. prohibition by law of the political association to which he belongs in the electoral region,
7. acceptance of election as Federal President,

8. appointment as a judge in the Federal Constitutional Court,
9. appointment as Parliamentary State Secretary,
10. appointment as Parliamentary Commissioner for the Armed Forces of the German Federal Parliament,
11. appointment as Federal Commissioner for Data Protection,
12. acceptance of election or appointment as a Member of a *Land* Government,
13. appointment to one of the posts listed in Article 6(1) of the Act concerning the election of the representatives of the European Parliament by direct universal suffrage (BGBl. [Federal Law Gazette] 1977 II page 733) and
14. appointment to a post which, in accordance with other legal provisions, is incompatible with Membership of the European Parliament.

(3) Renunciation shall only be effective if it is conveyed in a statement recorded by the President of the European Parliament, a notary with his registered office in the area of application of this Act or an official of a diplomatic mission of the Federal Republic of Germany empowered to file official records. A statement of renunciation recorded by a notary or a diplomatic mission shall be forwarded by the Member to the President of the European Parliament. The statement of renunciation shall not extend to any substitute candidacy or candidacy in another electoral nomination. The renunciation shall be irrevocable. The Federal Electoral Supervisor shall be notified by the person stating his renunciation by the forwarding of a copy of the renunciation statement.

(4) If a party or the subordinate organisation of a party is declared unconstitutional by the Federal Constitutional Court pursuant to the second sentence of Article 21(2) of the Basic Law, the Members shall forfeit their membership of the European Parliament and the list successors their future interest, to the extent that they belonged to that party or subordinate organisation in the period between the submission of the application (Section 43 of the Federal Constitutional Court Act) and the publication of the decision (Section 46 of the Federal Constitutional Court Act). The seats of such Members shall remain vacant.

(5) Subsection 4 shall apply *mutatis mutandis* if another political association has been prohibited by law in the electoral region on the basis of the Associations Act.

Section 23

Decisions on forfeiture of membership

(1) A decision shall be taken on forfeiture of membership pursuant to Section 22(2)

1. in the case of paragraphs 1 and 3, in the electoral review process,
2. in the case of paragraphs 2, 5 to 12 and 14: by the Council of Elders of the German Federal Parliament,
3. in the case of paragraphs 4 and 13, by the European Parliament when it declares the seat to have become vacant.

(2) If a decision is taken on forfeiture of membership in the electoral review process, the Member shall retire from the European Parliament once the decision becomes effective in law.

(3) If the Council of Elders of the German Federal Parliament takes the decision on forfeiture of membership, the Member shall retire from the European Parliament on service of the decision. The decision shall be immediately taken *ex officio*. Within two weeks from service of the decision, the person concerned may petition a decision of the German Federal Parliament on forfeiture of membership in the electoral

review process. Notice of the decision shall be served in accordance with the rules of the Administrative Notices Service Act.

(4) If the European Parliament decides on forfeiture of membership, the Member shall leave the European Parliament on announcement of the decision on the vacancy of the seat.

(5) The President of the German Federal Parliament shall immediately notify the President of the European Parliament of the reason why and time at which the forfeiture of membership occurred when the decision on the matter has been taken in the electoral review process or by the Council of Elders of the German Federal Parliament.

Section 24

Appointment of list successors

(1) If an elected candidate dies or refuses to accept the vote or if a Member dies or otherwise subsequently retires from the European Parliament, the seat shall be taken by his substitute candidate. If a substitute candidate is not nominated or has retired prior to the event or retires subsequently, the seat shall be taken by the next candidate, who has not yet been declared as elected, on the nomination list for which the person retiring stood for election. In the succession, those candidates and substitute candidates shall not be considered who, since the date on which the nomination was drawn up, have resigned from the party or political association concerned. If the list is exhausted, the seat shall remain vacant.

(2) A candidate who has not yet been declared as elected or a substitute candidate shall forfeit his future interest as a list successor if he notifies the Federal Electoral Supervisor in writing of his renunciation. The renunciation may be limited to the position as a candidate or substitute candidate and to the candidacy in one nomination. The renunciation shall be irrevocable.

(3) The designation of the list successor shall be made by the Federal Electoral Supervisor. Sections 19 to 21 shall apply *mutatis mutandis*.

Part III

Final provisions

Section 25

Election expenses, election statistics, election regulations

(1) Sections 50 and 51 of the Federal Electoral Act shall apply *mutatis mutandis*.

(2) The Federal Minister for Home Affairs shall issue election regulations for the implementation of this Act by statutory instrument. He shall be empowered to declare the Federal Election Regulations and the Federal Voting Devices Regulation as applicable *mutatis mutandis* and to adopt special provisions in the election regulations, in particular on

1. the electoral bodies,
2. preparations for the election, including the content and form of nominations along with associated documents, their submission, verification, rectification and acceptance and the form and content of the ballot paper and voting envelope,
3. participation in the election of eligible voters living in the European territories of the other Member States of the European Communities,
4. postal voting,

5. the giving and recording of affirmations in lieu of oath,
6. the electoral period,
7. the determination and ascertainment of the election result,
8. notification of the elected candidates,
9. verification of the election,
10. the appointment of list successors,
11. the conduct of by-elections and repeat elections.

Section 26

Electoral review and contesting of the election

(1) Decisions on the validity of the election shall be taken in the electoral review process.

(2) The provisions of the Review of Elections Act shall be applicable *mutatis mutandis* to the electoral review process with the exception of indent (e) of Section 6(3), the second sentence of Section 14 and Section 16(2) and (3).

(3) A complaint may be lodged against a decision of the German Federal Parliament in the electoral review process to the Federal Constitutional Court. The complaint may be made to the Federal Constitutional Court by the Member whose membership is contested, an eligible voter whose complaint to the German Federal Parliament has been rejected, if he is supported by at least one hundred eligible voters, or a group of at least eight Members of the European Parliament from the Federal Republic of Germany within one month from the date of the decision taken by the German Federal Parliament. The provisions of the Federal Constitutional Court Act shall apply *mutatis mutandis* to complaints to the Federal Constitutional Court.

(4) Other decisions and measures directly relating to the electoral process may only be contested by means of the remedies provided in this Act and in the Election Regulations.

Section 27

Amendment of the Criminal Code

The Criminal Code is hereby amended as follows:

The first sentence of Section 108d shall read:

‘Sections 107 to 108c shall apply to elections to the parliaments, election of Members of the European Parliament, other popular elections and ballots in the Federation, the Länder, municipalities and municipal associations, as well as direct elections in the social security system.’

Section 28

Refund of election campaign expenses, rendering of accounts

The provisions of the Parties Act on the refund of election campaign expenses in Federal Parliament elections and on the rendering of accounts shall apply *mutatis mutandis* to parties and other political associations participating in the election of Members of the European Parliament through their own nominations in the electoral region subject to the following criteria:

1. election campaign expenses shall be set at a flat rate of DM 3.50 per person eligible to vote in elections for the European Parliament;

2. the refund of election campaign expenses shall only be available to parties and other political associations which have obtained a minimum of 0.5 per cent of the valid votes cast in the electoral region after the final election result is declared;

3. the obligation to render accounts open to public scrutiny shall commence, in the case of other political associations, with the year in which the election takes place and ends with the year in which the final candidate elected from the nomination of the other political association has retired from the European Parliament;

4. payments on account of the amount to be refunded may be granted in the fourth year of the electoral period of the European Parliament at a rate of 20 per cent and in the election year at a rate of 40 per cent of the amount to be refunded after the result of the preceding election has been declared.

Section 29

Arrangements relating to Berlin

In consideration of the rights and responsibilities of France, the United Kingdom of Great Britain and Northern Ireland and the United States of America in respect of Berlin, the following arrangements shall apply until further notice:

Of the Members assigned to the Federal Republic of Germany, three shall be elected in *Land* Berlin subject to the following provisions:

1. The Berlin House of Deputies shall elect the Members and a sufficient number of substitutes on the basis of the composition of the House of Deputies at the time of the elections to the European Parliament. Corresponding nominations shall be made by the parliamentary parties and groups represented at that time in the House of Deputies.

2. Those elected shall declare their acceptance or rejection of the election in writing to the President of the Berlin House of Deputies.

3. The President of the Berlin House of Deputies shall notify the President of the Federal German Parliament of the result of the election without delay, together with the declarations of acceptance; the President of the Federal German Parliament shall forward the names of those elected and their substitutes, together with the election result in the remainder of the area of application of the Act (Section 20), to the President of the European Parliament.

4. The provisions of this Act shall also apply *mutatis mutandis* to eligibility for election and forfeiture of membership of the European Parliament. If a Member retires, the next substitute in line takes his place. He must belong to the same party or other political association as did the person withdrawing at the time of his election.

Section 30

Berlin Clause

This Act shall also take effect in *Land* Berlin pursuant to Section 13(1) of the Third Transference Act. Statutory instruments issued on the basis of this Act shall also apply in *Land* Berlin in accordance with Section 14 of the Third Transference Act.

Section 31

Entry into force

This Act shall enter into force on the day after its publication.

The constitutional rights of the Federal Council shall be upheld.

The aforementioned Act is hereby executed and shall be published in the Federal Law Gazette.

Bonn, 16 June 1978

The President of the Federal Republic
Scheel

The Federal Chancellor
Schmidt

The Federal Minister for Home Affairs
Maihofer

The Federal Minister for Finance
Matthöfer