

Electoral Law for the first Bundestag and the first Federal Assembly (15 June 1949)

Caption: On 15 June 1949, the Parliamentary Council in Bonn adopts a law laying down the voting arrangements for the first elections to the Bundestag and the Federal Assembly.

Source: Archives Nationales du Luxembourg, Luxembourg. Deuxième Guerre mondiale. Question allemande. Loi fondamentale de l'Allemagne 1949, AE 4191.

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A. Election for the Bundestag

Article I

(1) Entitled to vote shall be anyone who, on the day of the election:

- 1) is a German subject
- 2) has completed, his 21st year
- 3) and at least 3 months before the day of the election is domiciled in, or in default of another domicile, has his abode within the territory of the Federation.

(2) Should the provisions of paragraph (1) item 1) above not apply, all those persons of German nationality shall also be entitled to vote, who, on 1 January 1945 had their permanent residence within the boundaries of the German Reich as it existed on 1 March 1938, or were domiciled outside these frontiers, and have fled, or been expelled from there, or have been released from war captivity, and who are unable to return to their homeland and have taken up their permanent abode within the territory of the Federation.

Article 2

Excluded from voting shall be anyone:

- 1) who is interdicted or under temporary guardianship or who, by reason of mental deficiency is under supervision.
- 2) who by judgement of a court has legally lost his civic rights.
- 3) who according to valid provisions for denazification (politische Saeuberung) in the Land in which he has his domicile is not entitled to vote.
- 4) who, by reason with his connection with National Socialism, has been arrested by Military Government or has been dismissed, suspended or excluded, from his occupation or an influential position in public or private life, in the case of there being no legal classification by denazification proceedings on the day of the election.

Article 3

The right to vote shall be suspended for persons who on account of mental illness or weakness are lodged in a sanatorium or asylum, or are in prison.

Article 4

Only he whose name appears on an electoral list or register, or who holds an election certificate, may vote.

Article 5

(1) Every enfranchised person shall be eligible for election :

- a) who is 25 years old on the day of the election,
- b) who on the day of election has possessed German citizenship for at least one year or who has not hitherto

possessed German citizenship and is a refugee or expellee within the meaning of Articles 1, para 2,

c) and on 8 May 1949 according to the valid law of the Land in which he is a candidate was eligible for election to the Landtag. Provisions which make eligibility for election dependent on a specified domicile or residence or a specified period of domicile or residence in a Land shall not apply.

(2) Officials (Beamte) and federal judges as well as officials of a purely federal corporation or public law institution or any of the establishments set out in Article 132 of the Basic Law which exercise supreme powers shall apply for transfer to the inactive list before accepting election to the Bundestag. The transfer of the officials to the inactive list without claim to compensation for the duration of their membership of the Bundestag is to be stated while their claims to reinstatement shall be maintained. This provision also applies accordingly to employees of the above named administrations which exercise supreme powers.

Article 6

An elected candidate shall become a representative only after he has made a written declaration of acceptance of his election to the Land election officer.

Article 7

(1) A delegate shall lose his seat :

1) by non acceptance

2) by subsequent loss of franchise

3) by deprivation of franchise through a criminal court

4) by declaration of invalidity of the election, or any other form of elimination in the course of electoral review proceedings

5) by subsequent alteration of the election results.

(2) Non acceptance must be notified to the Land election officer and after the first convocation of the Bundestag, to the President of the Bundestag; it must be in writing and may not be revoked.

Article 8

(1) The Bundestag shall consist of at least 400 representatives who shall be elected in the Laender of the Federation in accordance with the following procedure.

The Laender shall elect:

Baden	11	representatives,	of whom 6 in the electoral districts
Bavaria (including Lindau)	78	"	39
Bremen	4	"	2
Hamburg	13	"	7
Hessen	36	"	18
Niedersachsen	58	"	29

North Rhine/Westphalia	109	"	55
Rhineland/Palatinate	25	"	13
Schleswig Holstein	23	"	12
Württemberg Baden	33	"	17
Württemberg Hohenzollern	10	"	5

Article 9

One deputy shall be elected in each electoral district. The candidate who gains the most votes shall be elected.

Article 10

(1) All votes cast in a Land for each party shall be added together and from this total the mandates accruing to each party shall be calculated according to the maximum figure procedure (de Hondt).

(2) From the number of representatives thus ascertained for each party, the number of mandates acquired by it in the electoral districts shall be deducted. The seats then accruing to it from the supplementary Land nomination lists shall be taken up in order of precedence of those nominations.

(3) Mandates won in the electoral districts shall also remain acquired to the party even if they exceed the figure ascertained according to para 1. In such a case the total number of seats envisaged for the Land shall be correspondingly increased. This increased total shall be taken as a basis for the calculation in para,1.

Article 11

(1) Written Kreis nominations for each Kreis must be delivered to the Kreis election officer at the latest on the 17th day before the election, during working hours up to 18.00 hours; they must be signed by at least 100 electors of the electoral district. If it is stated in the nomination of a candidate that he stands for a political party, then the signature of the Land party authority competent for the electoral districts shall suffice.

(2) Each nomination may contain the name of only one candidate and shall give the surname, Christian name, date of birth, place of birth, occupation and address. If the candidate stands for a political party, the designation of the party must likewise be given.

(3) Each candidate shall submit his consent in writing and at the same time an officially attested certificate to the effect that he has complied with the provisions for eligibility. These supporting documents shall be handed in by the day and time provided for in para 1.

(4) Surnames, Christian names, occupation and address of the signatories of the nomination must be given.

Article 12

Each candidate may be named on the nomination of only one electoral district; he may campaign in several electoral districts and in different Laender.

Article 13

Each voter shall have one vote. The casting of a vote shall be accomplished by putting a cross against the name of the Kreis nominee to whom he wishes to give his vote.

Article 14

(1) Political parties may send in their nominations for the Land to the Land election officer up to 6 pm. on the 17th day before the election. The number of candidates on such a nomination shall be unrestricted. The

provisions of Article 11 shall apply appropriately to the contents and submission of these nominations. Nevertheless, the signature of the highest party authority of the Land shall be sufficient to sign the nomination.

(2) Candidates on the supplementary Land nomination lists may also stand as candidates for the same party in the Kreis nomination lists and in different Laender.

(3) Supplementary Land nomination lists may only be submitted by approved political parties in the Land in accordance with the Land Rules.

Article 15

If a candidate declines to accept election, if a representative dies or loses his seat, (cf Article 7) then the candidate next in order of precedence on the same supplementary Land nomination list takes his place, irrespective of whether he was elected in an electoral district or from the supplementary Land nomination list.

Article 16

The combination of nomination lists of several parties is inadmissible.

Article 17

The proposal of candidates for electoral districts and supplementary Land nomination lists shall be determined by secret vote at a meeting of the political party concerned to which a number of delegates corresponding either to the number of members or to other statutory provisions of the party concerned shall be duly invited. An attested copy of the minutes of this meeting must accompany the nomination.

Article 18

Persons entitled to vote may only do so in the electoral district, in the electoral list or register of which their names are entered. Possessors of election certificates may vote in any desired electoral district within the Federal territory.

Article 19

(1) Seamen, who by reason of their occupation are only temporarily resident in a Gemeinde, shall receive their election certificate from this Gemeinde if they wish to exercise their right of vote in it; they must however, produce a valid entry in their sailor's registration book, made by the sailors' registration office or the Gemeinde authorities, which shall entitle them to receive an election certificate. For this purpose the sailor's registration book must be surrendered to the seaman. Should the request for the election certificate be first made after 12 p.m. on the day of the election, it may be rejected if participation in the election no longer appears to be possible.

(2) The sailors' registration office shall be obliged, on request, to make an entry in the sailor's registration book after having ascertained from the Gemeinde authorities, by whom the applicant is to be entered in the electoral register that no objection exists. The making of an entry shall be communicated to the Gemeinde authority which shall then make a note of it in the electoral register against the name of the person entitled to vote.

(3) The granting of the election certificate shall, at the time of issue, be certified by the Gemeinde authority by an entry dated for the day of the election.

Article 20

(1) The electoral districts shall form a cohesive whole; in the process of their formation the boundaries of the Stadt and Land Kreise shall, as far as possible, remain unchanged. They should comprise an approximately equal number of inhabitants.

(2) The boundaries of the electoral districts in each Land shall be determined by a committee convened by the Land parliament.

Article 21

Whoever procures his registration on the electoral list or register by false declaration,

Whoever registers another voter whom he knows to have no claim to registration,

Whoever prevents the registration of a person entitled to vote, knowing full well he has a right to vote,

Whoever votes while included in that category of persons who, according to this law, are excluded from voting rights,

Whoever stands as candidate knowing that he is not eligible under this law,

Whoever votes in more than one electoral precinct or under a false name, shall be punished with imprisonment up to six months, or fined up to 5000 DM insofar as he is not liable to heavier punishment under other criminal laws.

Article 22

(1) The election shall take place at the latest three months after the day on which the Basic Law of the Federal Republic of Germany comes into force. The election day shall be a Sunday.

(2) The Presidium of the Parliamentary Council shall determine the date of the election.

Article 23

(1) Each Land shall by means of an order from its Land government, approve for its own territory all further preparations and provisions required for the implementation of the election including the ascertaining of the election results.

(2) The Laender shall transmit the election results for electoral districts and Land to the Presidium of the Parliamentary Council as quickly as possible.

B. Elections to the Federal Assembly

Article 24

(1) The delegates to be elected in accordance with Article 54 of the Basic Law of the Federal Republic of Germany from the Land parliaments as members of the Federal Convention shall be elected according to the principles of proportional representation.

(2) The Presidium of the Parliamentary Council shall determine within 3 days after the confirmation of the election result, the number of delegates to be elected by each Land parliament. The Land parliaments immediately after the receipt of this information shall proceed to the election of the delegates and shall transmit the result of the election together with statements of consent to the Presidium of the Parliamentary

Council.

Article 25

(1) At the latest on the 30th day following the election of the Bundestag, the Presidium of the Parliamentary Council shall convoke the Bundestag for its initial meeting and the Federal Convention for the election of the first Federal President. Directly following the election of the President of the Bundestag the election of the Federal President shall take place.

(2) The President of the Bundestag shall conduct the election. He shall inform the elected candidate of his election. The elected candidate shall give him his declaration of acceptance.

(3) The President of the Bundestag shall arrange the taking of the oath of the Federal President and announce the latter's assumption of office in the official gazettes of the Land governments.

C. Concluding and Transitional Provisions

Article 26

The Parliamentary Council recommends that the town council of Berlin, while awaiting the entry of Land Berlin into the Federal Republic of Germany, shall send fifteen delegates from among its members to the Bundestag where they shall have an advisory function.

Article 27

This law shall come into force together with the Basic Law for the Federal Republic of Germany as adopted by the Parliamentary Council.

[signatures]