Click here for
Explanatory Memorandum

THIRTY-FIRST AMENDMENT OF THE CONSTITUTION (THE PRESIDENT) BILL 2011

As initiated

ARRANGEMENT OF SECTIONS

Section

1. Amendment of Article 12 of the Constitution.

2. Citation.

Click here for
Explanatory Memorandum

AN BILLE UM AN AONÚ LEASÚ IS TRÍOCHA AR AN mBUNREACHT (AN tUACHTARÁN), 2011

Mar a tionscnaíodh

ARRANGEMENT OF SECTIONS

Section

1. Leasú ar Airteagal 12 den Bhunreacht.

2. Lua.

[Uimh. 71 de 2011]

THIRTY-FIRST AMENDMENT OF THE CONSTITUTION (THE PRESIDENT) BILL 2011

BILL

entitled

AN ACT TO AMEND THE CONSTITUTION.

WHEREAS by virtue of Article 46 of the Constitution any provision of the Constitution may be amended in the manner provided by that Article:

AND WHEREAS it is proposed to amend Article 12 of the Constitution:

BE IT THEREFORE ENACTED BY THE OIREACHTAS AS FOLLOWS:

Amendment of Article 12 of the Constitution.

1.—Article 12 of the Constitution is hereby amended as follows:

(*a*) (i) "agus de réir na hionadaíochta cionúire agus" shall be deleted in subsection 3° of section 2 of the Irish text,

(ii) "and on the system of proportional representation" shall be deleted in subsection 3° of section 2 of the English text,

(*b*) (i) "cúig bliana" shall be substituted for "seacht mbliana" in subsection 1° of section 3 of the Irish text,

(ii) "five" shall be substituted for "seven" in subsection 1° of section 3 of the English text,

(*c*) (i) "ocht mbliana déag" shall be substituted for "cúig bliana tríochad" in subsection 1° of section 4 of the Irish text,

(ii) "the age of eighteen years" shall be substituted for "his thirty-fifth year of age" in subsection 1° of section 4 of the English text,

(*d*) (i) "deichniúr" shall be substituted for "fiche duine" in subsection 2°(i) of section 4 of the Irish text,

(ii) "ten" shall be substituted for "twenty" in subsection 2°(i) of section 4 of the English text,

AN BILLE UM AN AONÚ LEASÚ IS TRÍOCHA AR AN mBUNREACHT (AN tUACHTARÁN), 2011

BILLE

dá ngairtear

ACHT CHUN AN BUNREACHT A LEASÚ.

DE BHRÍ gur cead, de bhua Airteagal 46 den Bhunreacht, aon fhoráil den Bhunreacht a leasú ar an modh a shocraítear leis an Airteagal sin:

AGUS DE BHRÍ go bhfuil beartaithe Airteagal 12 den Bhunreacht a leasú:

ACHTAÍTEAR AG AN OIREACHTAS AR AN ÁBHAR SIN MAR A LEANAS:

1.—Leasaítear leis seo mar a leanas Airteagal 12 den Bhunreacht: Leasú ar Airteagal 12 den Bhunreacht.

(*a*) (i) scriosfar "agus de réir na hionadaíochta cionúire agus" i bhfo-alt 3° d'alt 2 den téacs Gaeilge,

(ii) scriosfar "and on the system of proportional representation" i bhfo-alt 3° d'alt 2 den téacs Sacs-Bhéarla,

(*b*) (i) cuirfear "cúig bliana" in ionad "seacht mbliana" i bhfo-alt 1° d'alt 3 den téacs Gaeilge,

(ii) cuirfear "five" in ionad "seven" i bhfo-alt 1° d'alt 3 den téacs Sacs-Bhéarla,

(*c*) (i) cuirfear "ocht mbliana déag" in ionad "cúig bliana tríochad" i bhfo-alt 1° d'alt 4 den téacs Gaeilge,

(ii) cuirfear "the age of eighteen years" in ionad "his thirty-fifth year of age" i bhfo-alt 1° d'alt 4 den téacs Sacs-Bhéarla,

(*d*) (i) cuirfear "deichniúr" in ionad "fiche duine" i bhfo-alt 2°(i) d'alt 4 den téacs Gaeilge,

(ii) cuirfear "ten" in ionad "twenty" i bhfo-alt 2°(i) d'alt 4 den téacs Sacs-Bhéarla,

(*e*) (i) after subsection 2°(ii) of section 4 of the Irish text, to insert the following subsection entitled subsection 2°(iii):

"iii. deich míle saoránach ar a laghad agus gach duine faoi leith díobh sin i dteideal, de thuras na huaire, vótáil i dtoghchán a dhéantar faoin Airteagal seo, agus is ar mhodh a fhorordófar le dlí a dhéanfar an t-ainmniú sin.",

(ii) after subsection 2°(ii) of section 4 of the English text, to insert the following subsection entitled subsection 2°(iii):

"iii. not less than ten thousand citizens, each of whom is entitled for the time being to vote in an election held under this Article, such nomination to be made in a manner prescribed by law.",

(*f*) (i) "eile ná aon phost eile a bheith aige atá ar neamhréir le hoifig an Uachtaráin" shall be substituted for "post sochair a bheith aige seachas a oifig Uachtaráin" in subsection 3°(i) of section 6 of the Irish text,

(ii) "or any other position inconsistent with the office of President" shall be substituted for "or position of emolument" in subsection 3°(i) of section 6 of the English text,

(*g*) (i) ", ar féidir leis an Uachtarán na tagairtí creidimh a fhágáil ar lár as," shall be inserted after the words "an dearbhú seo a leanas" in subsection 8 of the Irish text,

(ii) "from which the President may omit the religious references" shall be inserted after the word "declaration" in subsection 8 of the English text.

Citation.

2.—(1) The amendment of the Constitution effected by this Act shall be called the Thirty-First Amendment of the Constitution.

(2) This Act may be cited as the Thirty-First Amendment of the Constitution (The President) Act 2011.

(*e*) (i) i ndiaidh fho-alt 2°(ii) d'alt 4 den téacs Gaeilge, an fo-alt seo a leanas dar teideal fo-alt 2°(iii) a chur isteach:

"iii. deich míle saoránach ar a laghad agus gach duine faoi leith díobh sin i dteideal, de thuras na huaire, vótáil i dtoghchán a dhéantar faoin Airteagal seo, agus is ar mhodh a fhorordófar le dlí a dhéanfar an t-ainmniú sin.",

(ii) i ndiaidh fho-alt 2°(ii) d'alt 4 den téacs Sacs-Bhéarla, an fo-alt seo a leanas dar teideal fo-alt 2°(iii) a chur isteach:

"iii. not less than ten thousand citizens, each of whom is entitled for the time being to vote in an election held under this Article, such nomination to be made in a manner prescribed by law.",

(*f*) (i) cuirfear "eile ná aon phost eile a bheith aige atá ar neamhréir le hoifig an Uachtaráin" in ionad "post sochair a bheith aige seachas a oifig Uachtaráin" i bhfo-alt 3°(i) d'alt 6 den téacs Gaeilge,

(ii) cuirfear "or any other position inconsistent with the office of President" in ionad "or position of emolument" i bhfo-alt 3°(i) d'alt 6 den téacs Sacs-Bhéarla,

(*g*) (i) cuirfear ", ar féidir leis an Uachtarán na tagairtí creidimh a fhágáil ar lár as," isteach i ndiaidh na bhfocal "an dearbhú seo a leanas" i bhfo-alt 8 den téacs Gaeilge,

(ii) cuirfear "from which the President may omit the religious references" isteach i ndiaidh an fhocail "declaration" i bhfo-alt 8 den téacs Sacs-Bhéarla.

2.—(1) An tAonú Leasú is Tríocha ar an mBunreacht a thabharfar ar an leasú a dhéantar ar an mBunreacht leis an Acht seo. Lua.

(2) Féadfar an tAcht um an Aonú Leasú is Tríocha ar an mBunreacht (An tUachtarán), 2011 a ghairm den Acht seo.

AN BILLE UM AN AONÚ LEASÚ IS TRÍOCHA AR AN mBUNREACHT (AN tUACHTARÁN), 2011

THIRTY-FIRST AMENDMENT OF THE CONSTITUTION (THE PRESIDENT) BILL 2011

Meabhrán Mínitheach
Explanatory Memorandum

[*Note: To be associated with Bill No. 71 of 2011*]

Click here for Bill

THIRTY-FIRST AMENDMENT OF THE CONSTITUTION (THE PRESIDENT) BILL 2011

EXPLANATORY MEMORANDUM

Purpose of the Bill

The primary purpose of the Thirty-First Amendment of the Constitution (The President) Bill 2011 is to amend sections 2, 3, 4, 6, 7, 8, 10 and 11 of Article 12 of the Constitution to give effect to the Article 12 reforms recommended by the All-Party Oireachtas Committee on the Constitution in its 1998 report entitled the *''Third Progress Report — The President''*.

The amendments recommended by the aforementioned report vary between technical amendments intended to streamline the text of Article 12 to more significant changes to the eligibility of presidential candidates, the nomination requirements for candidates and the length of the incumbent's term of office.

Provisions of Bill

SECTION 1

Section 1 of the bill sets out the text of the amendments it is intended to make to Article 12 of the Constitution. The purpose of each amendment is the following:

a) The purpose of this amendment is to delete text which is superfluous to the needs of *sub-section 3°* of *section 2*. This technical amendment was recommended by the All-Party Oireachtas Committee on the Constitution in its 1998 report entitled ''Third Progress Report — The President'' as, given that only one candidate can be successful in seeking election to the office of President, proportional representation is an impossibility and the existence of this phrase is therefore redundant.

b) The purpose of this amendment is to reduce the Presidential term of office from seven to five years in order to encourage a stronger sense of engagement between the President and the people of Ireland by means of increased electoral interaction. Furthermore, with a shorter term of office in place, it is anticipated that increased demographic diversity among Presidential candidates would be encouraged thereby providing a choice which is reflective of the increasingly diverse nature of Irish society.

Click here for Bill

AN BILLE UM AN AONÚ LEASÚ IS TRÍOCHA AR AN mBUNREACHT (AN tUACHTARÁN), 2011

MEABHRÁN MÍNITHEACH

Cuspóir an Bhille

Is é is príomhchuspóir don Bhille um an Aonú Leasú is Tríocha ar an mBunreacht (An tUachtarán), 2011 ailt 2, 3, 4, 6, 7, 8, 10 agus 11 d'Airteagal 12 den Bhunreacht a leasú chun éifeacht a thabhairt do na hathchóirithe ar Airteagal 12 a mhol Coiste Uile-Pháirtí an Oireachtais ar an mBunreacht sa tuarascáil uaidh i 1998 dar teideal *''An Tríú Tuarascáil faoi Dhul Chun Cinn — An tUachtarán''*.

Is iad atá sna leasuithe a moladh sa tuarascáil réamhluaite, leasuithe éagsúla, idir leasuithe teicniúla atá beartaithe chun téacs Airteagal 12 a shimpliú agus athruithe is suntasaí ná sin ar incháilitheacht iarrthóirí i dtoghchán Uachtaráin, ar na ceanglais a bhaineann le hiarrthóirí a ainmniú agus ar fhad téarma oifige shealbhóir na hoifige.

Forálacha an Bhille

ALT 1

In *alt 1* den bhille leagtar amach téacs na leasuithe a bheartaítear a dhéanamh ar Airteagal 12 den Bhunreacht. Is é is cuspóir do gach leasú an méid seo a leanas:

a) Is é is cuspóir don leasú seo téacs is téacs de bhreis ar riachtanais *fho-alt 3° d'alt 2* a scriosadh. Ba é Coiste Uile-Pháirtí an Oireachtais ar an mBunreacht a mhol an leasú teicniúil seo sa tuarascáil uaidh i 1998 dar teideal ''An Tríú Tuarascáil faoi Dhul Chun Cinn — An tUachtarán'' toisc, ós rud é nach féidir go n-éireoidh ach le hiarrthóir amháin ina iarracht nó ina hiarracht go dtoghfar chun oifig an Uachtaráin é nó í, nach indéanta gníomhú de réir na hionadaíochta cionúire agus dá bhrí sin go bhfuil an frása seo iomarcach.

b) Is é is cuspóir don leasú seo téarma oifige an Uachtaráin a laghdú ó thréimhse seacht mbliana go tréimhse cúig bliana chun comhpháirtíocht níos dlúithe a spreagadh idir an tUachtarán agus muintir na hÉireann trí idirghníomhaíocht mhéadaithe toghcháin. Thairis sin, táthar ag súil, agus téarma oifige is giorra ann, gur mhó dá bharr sin an éagsúlacht dhéimeagrafach i measc iarrthóirí i dtoghchán Uachtaráin, rud a chuirfeadh rogha ar fáil a bheadh ag teacht le sochaí na hÉireann, ar sochaí í atá ag éirí níos éagsúla de réir a chéile.

c) The purpose of this amendment is to reduce the age at which a person becomes eligible for election to the office of President,the change is from thirty five years to eighteen years. This was recommended by the All-Party Oireachtas Committee on the Constitution in its 1998 report entitled ''Third Progress Report — The President'' as the committee, it is said, could find no logical reason for setting the age at which one becomes eligible for election to the office of President at a greater age than that at which one may exercise the right to vote in elections, namely eighteen years.

d) The purpose of this amendment is to reduce the number of Oireachtas members required to nominate a Presidential candidate from twenty to ten persons. This change was recommended by the All-Party Oireachtas Committee on the Constitution in its 1998 report entitled ''Third Progress Report — The President'' in order to make the means of nominating a Presidential candidate less restrictive than is the case under the current provision. This would have the effect of allowing an increasingly diverse selection of Presidential candidates to be presented to the people of Ireland, thereby providing a choice which is reflective of the increasingly diverse nature of Irish society.

e) The purpose of this amendment is to insert a new subsection into section 4 of Article 12 entitled subsection 2°(iii) in order to introduce a mechanism whereby a Presidential candidate may be nominated directly by ten thousand members of the Presidential electorate. This change was recommended by the All-Party Oireachtas Committee on the Constitution in its 1998 report entitled ''Third Progress Report — The President'' in order to further democratize the nomination process for presidential elections. This would have the effect of allowing an increasingly diverse selection of Presidential candidates to be presented to the people of Ireland, thereby providing a choice which is reflective of the increasingly diverse nature of Irish society.

f) The purpose of this amendment is to clarify the terminology of section 6, subsection 3° of Article 12 in order that this subsection cannot be read to mean that the President is precluded from holdinghonorary offices during his or her term in office. This technical amendment was recommended by the All-Party Oireachtas Committee on the Constitution in its 1998 report, entitled ''Third Progress Report — The President'' in which theargument of the authors of JM Kelly's *The Irish Constitution*to effect such a clarification is alluded to.

g) The purpose of this amendment is to provide a means by which a President elect may, should they so wish, enter into office by taking and subscribing publically to the prescribed declaration without requirement to make religious references. The introduction of such an option is intended to ensure that each President elect retains their right to freedom of religion during the inauguration ceremony and in order to reflect the increasingly diverse nature of Irish society. This change was recommended by the All-Party Oireachtas Committee on the Constitution in its 1998 report entitled ''Third Progress Report — The President'' as it highlights that it is highly unusual, even among states such as Malta and Iceland who both have state religions, that an option to make a non-religious declaration is not made available to a President elect.

c) Is é is cuspóir don leasú seo an aois ag a dtagann duine chun bheith intofa chun oifig an Uachtaráin a laghdú, is athrú ó chúig bliana is tríocha go dtí ocht mbliana déag d'aois atá i gceist. Ba é Coiste Uile-Pháirtí an Oireachtais ar an mBunreacht a mhol é seo sa tuarascáil uaidh i 1998 dar teideal ''An Tríú Tuarascáil faoi Dhul Chun Cinn — An tUachtarán'' toisc nach raibh ar chumas an choiste, deirtear, teacht ar aon chúis loighciúil chun an aois ag a dtagann duine chun bheith intofa chun oifig an Uachtaráin a shocrú ag aois is mó ná an aois ag a bhféadann duine ceart vótála i dtoghcháin a fheidhmiú, eadhon, ocht mbliana déag d'aois.

d) Is é is cuspóir don leasú seo an líon comhaltaí den Oireachtas is gá chun iarrthóir a ainmniú i dtoghchán Uachtaráin a laghdú ó fiche duine go deichniúr. Ba é Coiste Uile-Pháirtí an Oireachtais ar an mBunreacht a mhol an t-athrú seo sa tuarascáil uaidh i 1998 dar teideal ''An Tríú Tuarascáil faoi Dhul Chun Cinn — An tUachtarán'' chun na srianta atá leis an modh ar a n-ainmnítear iarrthóir i dtoghchán Uachtaráin faoin bhforáil reatha a mhaolú. Is é an éifeacht a bheadh leis seo go bhféadfaí rogha níos éagsúla iarrthóirí i dtoghchán Uachtaráin a chur os comhair mhuintir na hÉireann, rud a chuirfeadh rogha ar fáil a bheadh ag teacht le sochaí na hÉireann, ar sochaí í atá ag éirí níos éagsúla de réir a chéile.

e) Is é is cuspóir don leasú seo fo-alt nua a chur isteach in alt 4 d'Airteagal 12 dar teideal 2°(iii) chun sásra a thabhairt isteach trína bhféadfaidh deich míle duine de thoghlacht an Uachtaráin iarrthóir i dtoghchán Uachtaráin a ainmniú go díreach. Ba é Coiste Uile-Pháirtí an Oireachtais ar an mBunreacht a mhol an t-athrú seo sa tuarascáil uaidh i 1998 dar teideal ''An Tríú Tuarascáil faoi Dhul Chun Cinn — An tUachtarán'' chun an próiseas ainmniúcháin do thoghcháin Uachtaráin a dhaonlathú tuilleadh. Is é an éifeacht a bheadh leis seo go bhféadfaí rogha níos éagsúla iarrthóirí i dtoghchán Uachtaráin a chur os comhair mhuintir na hÉireann, rud a chuirfeadh rogha ar fáil a bheadh ag teacht le sochaí na hÉireann, ar sochaí í atá ag éirí níos éagsúla de réir a chéile.

f) Is é is cuspóir don leasú seo téarmaíocht alt 6, fo-alt 3° d'Airteagal 12 a shoiléiriú ionas nach féidir an fo-alt seo a léamh mar ní a chiallaíonn go bhfuil cosc ar an Uachtarán oifigí oinigh a shealbhú le linn a théarma oifige nó a téarma oifige. Ba é Coiste Uile-Pháirtí an Oireachtais ar an mBunreacht a mhol an leasú teicniúil seo sa tuarascáil uaidh i 1998 dar teideal ''An Tríú Tuarascáil faoi Dhul Chun Cinn — An tUachtarán'' ina dtagraítear d'áiteamh údair *The Irish Constitution* le JM Kelly gur cóir soiléiriú den sórt sin a dhéanamh.

g) Is é is cuspóir don leasú seo modh a sholáthar ar a bhféadfaidh Uachtarán tofa, más mian leis nó léi déanamh amhlaidh, dul i mbun oifige tríd an dearbhú forordaithe a dhéanamh agus a shíniú go poiblí gan ceanglas a bheith air nó uirthi tagairtí creidimh a dhéanamh. Beartaítear, trí rogha den sórt sin a thabhairt isteach, go gcinnteofar go gcoinneoidh gach Uachtarán tofa a cheart nó a ceart chun saoirse creidimh le linn an tsearmanais insealbhaithe agus d'fhonn go mbeifear ag teacht le sochaí na hÉireann, ar sochaí í atá ag éirí níos éagsúla de réir a chéile. Ba é Coiste Uile-Pháirtí an Oireachtais ar an mBunreacht a mhol an t-athrú seo sa tuarascáil uaidh i 1998 dar teideal ''An Tríú Tuarascáil faoi Dhul Chun Cinn — An tUachtarán'' toisc go léirítear sa tuarascáil sin go bhfuil sé thar a bheith neamhghnách, fiú i measc stát amhail Málta agus an Íoslainn a bhfuil creideamh stáit acu araon, gan rogha a chur ar fáil d'Uachtarán tofa dearbhú neamhchreidimh a dhéanamh.

SECTION 2

Section 2 of the bill sets out the standard citations for a bill of this type.

Deputy Catherine Murphy,
November, 2011.

ALT 2

In *alt 2* den bhille leagtar amach na luanna caighdeánacha le haghaidh bille den chineál seo.

Teachta Catríona Uí Mhurchú,
Samhain, 2011.

Wt. 54630. 635. 11/11. Clondalkin Pharma and Healthcare. (X58662). Gr. 30-15.