



AN BILLE UM AN SEANAD (UIMH. 2), 2013
SEANAD (NO. 2) BILL 2013

Mar a tionscnaíodh
As initiated

ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title and commencement.
2. Interpretation.
3. Regulations.
4. Expenses.
5. Repeal.

PART 2

COMPOSITION OF THE SEANAD

6. Composition of Seanad.
7. Gender equality.
8. Remuneration of members of Seanad Éireann.

PART 3

ROLE OF THE SEANAD

CHAPTER 1

Overarching Role

9. Role of Seanad Éireann.

CHAPTER 2

Express Constitutional Role of Seanad Éireann and its Members

10. Express Constitutional role — Legislature.
11. Express Constitutional role — Removal of the President.

12. Express Constitutional role — Scrutiny of Dáil Bills.
13. Express Constitutional role — Early signature of legislation.
14. Express Constitutional role — Referral of Dáil Bill deemed to have been passed to the people.
15. Express Constitutional role — Members of Seanad Éireann may be members of Government.
16. Express Constitutional role — Prior approval of certain aspects of EU affairs.
17. Express Constitutional role — Removal of Comptroller and Auditor General.
18. Express Constitutional role — Removal of a judge.
19. Express Constitutional provision — Roles of Chairman and Deputy Chairman of Seanad.
20. Chapter not to delimit role of Seanad.

CHAPTER 3

Additional Roles

21. Scrutiny of EU legislation.
22. Scrutiny of draft statutory instruments.
23. Appointments to public bodies.
24. Public interest inquiries.
25. Inquiries concerning the necessity for legislation.
26. Petitions and consultation.
27. Business of the House Committee.
28. Nomination of Chairman and Vice-Chairman.
29. Adoption of new powers by the Seanad.

PART 4

CHAPTER 1

The Electorate

30. One person, one vote.
31. The electorate.

CHAPTER 2

Register of Electors

32. Register of electors.
33. Sub-registers of University graduates.
34. Application for entry in the register — Division 1 (persons entitled to vote in other elections).

35. Application for entry in the register — Division 2 (persons living in Northern Ireland).
36. Application for entry in the register — Division 3 (persons holding an Irish passport).
37. Application for entry in the register — Division 4 (University graduates).
38. Existing register of University graduates.
39. Extension of the franchise — universities and other institutions of higher education in the State.
40. Applicant to provide information or documents.
41. Consideration of applications.
42. Revision of register.

PART 5

NOMINATION OF CANDIDATES

43. Nomination of persons.
44. Nomination by nominating body.
45. Nomination by local authority.
46. Nomination by popular nomination.
47. Qualifications and experience of candidates — vocational constituencies.
48. Disqualification of candidates.
49. Completion of constituencies in preparation for election.

PART 6

ELECTORAL PROCESS

CHAPTER 1

Preliminary

50. Seanad general election order.
51. Seanad returning officer.
52. Seanad election expenses.

CHAPTER 2

Ballot Papers

53. Publication of copy of constituencies.
54. Ballot papers for Seanad general election.
55. Method of marking votes on ballot paper at Seanad general election.

56. Sending of ballot papers to electors at Seanad general election.
57. Issue of ballot papers.
58. Method of voting at Seanad general election.
59. Voting outside the State.
60. Ascertainment of result of Seanad general election.
61. Election petitions in relation to Seanad general elections.

PART 7

CASUAL VACANCIES

62. Notice of casual vacancy.
63. Filling of casual vacancy.
64. Publication of result.

PART 8

MISCELLANEOUS

65. Resignation of membership of Seanad Éireann.
66. Preservation of the secrecy of the voting.
67. Non-compliance with rules.
68. Application of Electoral Act 1992.

SCHEDULE 1

ELECTORATE — REGISTRATION RULES

SCHEDULE 2

NOMINATING BODIES

SCHEDULE 3

RULES FOR NOMINATION OF CANDIDATES BY LOCAL AUTHORITIES

SCHEDULE 4

RULES FOR NOMINATION BY POPULAR NOMINATION

SCHEDULE 5

COMPLETION OF CONSTITUENCIES

SCHEDULE 6

RULES FOR CONDUCT OF SEANAD GENERAL ELECTIONS

SCHEDULE 7

RULES FOR COUNTING OF VOTES

ACTS REFERRED TO

Electoral Act 1992	No. 23 of 1992
Electoral Act 1997	No. 25 of 1997
European Communities Act 1972	No. 27 of 1972
European Parliament (Elections) Act 1997	No. 2 of 1997
European Union (Scrutiny) Act 2002	No. 25 of 2002
Institute of Technology Acts 1992 to 2006	
Local Government Act 2001	No. 37 of 2001
Public Offices (Fees) Act 1879	42 & 43 Vict., c. 58
Regional Technical Colleges Act 1992	No. 16 of 1992
Seanad Electoral (Panel Members) Act 1947	No. 42 of 1947
Seanad Electoral (University Members) Act 1937	No. 30 of 1937
Statutory Instruments Act 1947	No. 44 of 1947
Taxes Consolidation Act 1997	No. 39 of 1997
Universities Act 1997	No. 24 of 1997



AN BILLE UM AN SEANAD (UIMH. 2), 2013
SEANAD (NO. 2) BILL 2013

BILL

entitled

5 AN ACT TO REFORM THE SYSTEM OF ELECTING THE
ELECTED MEMBERS OF SEANAD ÉIREANN AS PRO-
VIDED FOR IN ARTICLE 18.10 OF THE CONSTITUTION
BY EXTENDING THE RIGHT TO VOTE TO ALL PER-
SONS ENTITLED TO VOTE IN ELECTIONS FOR DÁIL
10 ÉIREANN, AND TO CERTAIN OTHER PERSONS RESI-
DENT IN THE STATE AND TO PERSONS RESIDENT IN
NORTHERN IRELAND WHO QUALIFY FOR IRISH
CITIZENSHIP AND TO IRISH CITIZENS RESIDENT
ABROAD WHO HOLD IRISH PASSPORTS, AND TO
15 PROVIDE FOR GENDER EQUALITY IN THE ELECTION
OF THE ELECTED MEMBERS OF SEANAD ÉIREANN,
AND TO MAKE PROVISION FOR THE EXERCISE BY
SEANAD ÉIREANN OF POWERS RELATING TO SCRU-
TINY OF EU LEGISLATIVE PROPOSALS AND FOR THE
20 HOLDING OF INQUIRIES AND THE RECEIPT OF CITI-
ZENS' PETITIONS, AND FOR THE REPEAL OF CER-
TAIN ACTS RELATING TO SEANAD ÉIREANN, AND
TO PROVIDE FOR RELATED MATTERS.

WHEREAS the Constitution provides that the Oireachtas shall
25 be the National Parliament and shall consist of the President and
two Houses, viz: a House of Representatives to be called Dáil
Éireann and a Senate to be called Seanad Éireann,

AND WHEREAS Seanad Éireann's role under the Constitution
includes important safeguards for the citizens and the State and
30 important checks and balances in relation to the performance of the
executive, legislative and judicial powers of government in the State
and in relation to the European Union,

AND WHEREAS the Constitution permits the election of the
elected members of Seanad Éireann by proportional representation
35 by an electorate determined by law,

AND WHEREAS it is essential for the proper discharge of its
constitutional functions that the Oireachtas should also include in its
membership persons representative of aspects of national life and
citizens' interests chosen on a basis different from multi-seat geo-
40 graphical Dáil constituencies,

AND WHEREAS the proper functioning of democracy in the State requires that citizens should participate in the election of the Oireachtas to the greatest extent possible,

AND WHEREAS it is expedient to provide that Seanad Éireann should perform its constitutional and statutory functions in a manner that enhances the democratic character of the Oireachtas within the existing terms of the Constitution, 5

BE IT THEREFORE ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1 10

PRELIMINARY AND GENERAL

Short title and commencement.

1.—(1) This Act may be cited as the Seanad Act 2013.

(2) This Act comes into operation on such day or days as the Minister may appoint by order either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes and different provisions. 15

Interpretation.

2.—In this Act—

“board of a public body” means a collection of persons howsoever called which is charged with the governance of a public body and includes the board of an agency, an authority, a board, a council, a commission or any other collections of persons in a public body whose powers or functions are similar to persons in a position of governance in respect of the aforementioned entities; 20

“constituency” means a vocational panel or a universities panel referred to in Article 18 of the Constitution; 25

“election expenses” has the meaning assigned to it by section 31 of the Electoral Act 1997;

“Electoral Commission” means the Northern Ireland division of the Electoral Commission of the United Kingdom;

“gender sub-panel” means a sub-panel which has been formed under section 7(2); 30

“judicial assessor” means a person appointed under section 47(3) or paragraph 5 of Schedule 5;

“local authority” means—

(a) a city council, or 35

(b) a county council;

“Minister” means the Minister for the Environment, Community and Local Government;

“other specified elections” means—

(a) a Dáil election, 40

(b) a European Parliament election,

(c) a local government election;

“prescribe” means prescribe by regulations made by the Minister under this Act;

5 “registration officer” means a registration officer appointed by the governing body of a university or other third-level institution under *section 33(3)*;

“relevant Irish Embassy or Consulate” means the Irish Embassy or Irish Consulate which has been assigned responsibility for the country in which the voter is ordinarily resident;

10 “Seanad election register” means the register which is required to be established and maintained under *section 32*;

“Seanad returning officer” means—

(a) a person appointed under *section 51*,

15 (b) where the context so permits may include a specified member of the staff of an Irish embassy or consulate abroad to which functions have been delegated under *section 51(6)*, and

(c) in the context of the registration of electors for the universities constituency, may include a registration officer;

20 “universities constituency” means the university or other institutions of higher education in the State constituency which is referred to in *section 6(2)*;

25 “university or other third-level institution” means a university or other third-level institution which is referred to in *section 39* or is prescribed by a regulation made under that section;

“university sub-register” means a university sub-register which has been prepared by a registration officer pursuant to *section 37*;

“vocational constituency” means one or all of the vocational constituencies which is referred to in *section 6(1)*.

30 **3.—(1)** The Minister may make regulations prescribing any Regulations. matter or thing referred to in this Act as prescribed or to be prescribed.

35 (2) Regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

40 (3) Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is 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 under the regulation.

45 **4.—**The expenses incurred by the Minister in the administration Expenses. of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Repeal.

5.—(1) The Seanad Electoral (Panel Members) Act 1947 and any enactments made thereunder are hereby repealed.

(2) The Seanad Electoral (University Members) Act 1937 and any enactments made thereunder are hereby repealed.

PART 2

5

COMPOSITION OF THE SEANAD

Composition of Seanad.

6.—(1) At a Seanad general election the number of seats available on each vocational constituency shall be as follows:

(a) in the case of the cultural and educational constituency — eight, 10

(b) in the case of the agricultural constituency — nine,

(c) in the case of the labour constituency — ten,

(d) in the case of the industrial and commercial constituency — eight,

(e) in the case of the administrative constituency — eight. 15

(2) At a Seanad general election the number of seats available on the universities and other institutions of higher education in the State constituency (hereafter referred to as the “universities constituency”) shall be six.

(3) The Taoiseach nominates eleven persons to be members of the Seanad as provided for in Article 18.3 of the Constitution. 20

Gender equality.

7.—(1) The purpose of this provision is to ensure that, to the greatest extent possible, the elected members of the Seanad shall consist of an equal number of males and females.

(2) At a Seanad general election, the candidates in— 25

(a) each vocational constituency, and

(b) the universities constituency,

shall consist of two gender sub-panels, namely the male gender sub-panel and the female gender sub-panel.

(3) In respect of each vocational constituency, each of the gender sub-panels shall consist of the following: 30

(a) in the case of the cultural and educational constituency — four males and four females;

(b) in the case of the agricultural constituency — four males and four females and the remaining ninth seat shall be filled by the person of either gender who has secured the next highest number of votes; 35

(c) in the case of the labour constituency — five males and five females;

(d) in the case of the industrial and commercial constituency — four males and four females;

(e) in the case of the administrative constituency — four males and four females.

5 (4) In respect of universities constituency, the gender sub-panels shall consist of three males and three females.

(5) (a) There shall be different ballot papers for each vocational constituency and one ballot paper in respect of the universities constituency.

10 (b) Each ballot paper shall contain a mix of males and females.

(c) Each elector is only entitled to receive one ballot paper in total in accordance with their preference expressed under *section 30(3)* at the time of application for inclusion in the register of electors.

15 (d) Each elector shall be free to mark on the ballot paper their preferences as they choose regardless of gender for the election of all candidates and the election shall be conducted in the manner provided for in this Act.

20 **8.—**(1) Notwithstanding any other enactment, the level of remuneration payable to a member of Seanad Éireann who is elected after the passing of this Act shall not exceed 50 per cent of the salary which is payable for the time being to a member of Dáil Éireann. Remuneration of members of Seanad Éireann.

(2) Notwithstanding any other enactment, a person who was first elected to Seanad Éireann after the passing of this Act shall not upon resignation or upon the loss of his or her seat in Seanad Éireann be entitled to receive a lump sum payment in respect of his or her tenure.

PART 3

30 ROLE OF THE SEANAD

CHAPTER 1

Overarching Role

35 **9.—**The principal role of the Seanad is to discharge the functions and exercise the powers conferred on it by Bunreacht na hÉireann (hereafter referred to as the Constitution) and to carry out such further functions as may be conferred on it or on its committees or members by law. Role of Seanad Éireann.

CHAPTER 2

Express Constitutional Role of Seanad Éireann and its Members

40 **10.—**(1) As provided in Article 15 of the Constitution Seanad Éireann is one of the three constituent parts of the Oireachtas. Express Constitutional role — Legislature.

(2) As provided in Article 15.2.1° of the Constitution the sole and exclusive power of making laws for the State is hereby vested in the Oireachtas.

(3) As provided in Article 20.2.1° of the Constitution Seanad Éireann may, with the exception of Money Bills and Bills to amend the Constitution, initiate, consider, and pass Bills for the enactment of laws. 5

Express
Constitutional role
— Removal of the
President.

11.—As provided in Article 12.10 of the Constitution the Seanad plays an integral role in the procedures envisaged for the impeachment of the President. 10

Express
Constitutional role
— Scrutiny of Dáil
Bills.

12.—(1) As provided in Article 20.1 of the Constitution every Bill initiated in and passed by Dáil Éireann is required to be sent to Seanad Éireann and may, save for Money Bills, be amended in Seanad Éireann, and Dáil Éireann is required to consider any such amendment. 15

(2) As provided in Article 21.1.2° of the Constitution every Money Bill passed by Dáil Éireann must be sent to Seanad Éireann for its recommendations.

(3) As provided in Article 22.2.2° of the Constitution Seanad Éireann may request the President to refer the question whether the Bill is or is not a Money Bill to a Committee of Privileges. 20

Express
Constitutional role
— Early signature
of legislation.

13.—As provided in Article 25.2.2° of the Constitution the prior concurrence of Seanad Éireann is a prerequisite to the President being requested to sign a Bill at an earlier stage.

Express
Constitutional role
— Referral of Dáil
Bill deemed to have
been passed to the
people.

14.—As provided in Article 27.1 of the Constitution, in the case of any Bill not passed by Seanad Éireann but which is deemed under Article 23 to have been passed by both Houses of the Oireachtas, other than a Bill to amend the Constitution, a majority of the members of Seanad Éireann and not less than one-third of the members of Dáil Éireann may petition the President to decline to sign a Bill on the grounds of national importance and to refer the Bill for consideration by the people by means of a referendum. 25
30

Express
Constitutional role
— Members of
Seanad Éireann
may be members of
Government.

15.—As provided in Article 28.7.2°, not more than two members of Seanad Éireann may be members of the Government.

Express
Constitutional role
— Prior approval of
certain aspects of
EU affairs.

16.—As provided in Article 29.4.8° of the Constitution the prior approval of Seanad Éireann is required in order for the State to exercise any options or discretions provided by or under Articles 1.6, 1.9, 1.11, 1.12, 1.13 and 2.1 of the Treaty on European Union. 35

Express
Constitutional role
— Removal of
Comptroller and
Auditor General.

17.—As provided in Article 33.5.1° of the Constitution the Seanad may, along with the Dáil, pass a resolution to remove the Comptroller and Auditor General on grounds of stated misbehaviour. 40

18.—As provided in Article 35.4.1° of the Constitution the Seanad Express
may pass a resolution to remove a member of the judiciary on Constitutional role
grounds of stated misbehavior or incapacity. — Removal of a
judge.

5 19.—(1) As provided in Article 14.2.1° of the Constitution the Express
Chairman of Seanad Éireann shall serve as a member of the Presi- Constitutional
dential Commission. provision — Roles
of Chairman and
Deputy Chairman
of Seanad.

(2) As provided in Article 14.2.4° of the Constitution the Deputy
Chairman of Seanad Éireann shall, in certain circumstances act as a
member of the Commission in the place of the Chairman of Seanad
10 Éireann.

(3) As provided in Article 31.2.i of the Constitution, the Chair-
man of Seanad Éireann is an ex-officio member of the Council of
State.

15 20.—This Chapter is included for information only and does not Chapter not to
purport to affect, interpret or delimit the Constitutional provisions delimit role of
mentioned or any other such provisions, and is included without Seanad.
prejudice to all or any of the powers and functions of Seanad Éireann
and its members under the Constitution.

CHAPTER 3

20 *Additional Roles*

21.—The European Union (Scrutiny) Act 2002 is amended by Scrutiny of EU
inserting the following new section after section 2: legislation.

25 “Scrutiny of
draft EU
legislative
proposals. 2A.—(1) Each of the following classes of legis-
lative measures prepared by the institutions of the
European Union shall be laid in draft form before
Seanad Éireann by the Minister for Foreign
Affairs—

(a) a draft Directive,

(b) a draft Regulation.

30 (2) For the purpose of discharging its functions
under this section Seanad Éireann shall establish
from among its membership a committee to be
known as the Seanad Scrutiny of EU Legislation
Committee comprising 7 members, the chair of
35 which shall be selected from non-government
members of the House.

(3) The Seanad Scrutiny of EU Legislation
Committee shall—

40 (a) make arrangements for the monitoring
and scrutiny of all measures laid before
the Seanad pursuant to subsection (1),
and

(b) shall in respect of each measure, within
21 sitting days of the date of laying of

the draft measure, report its conclusions and recommendations to the relevant Minister of the Government.

(4) When devising the official Government stance in respect of the relevant legislative measure which has been laid before the Seanad pursuant to subsection (1), a Minister of the Government shall take into consideration the conclusions and recommendations reported to him or her by the Seanad Scrutiny of EU Legislation Committee pursuant to subsection (3). 5
10

(5) In this section a ‘relevant legislative measure’ means a draft Directive or draft Regulation which is required to be laid before Seanad Éireann pursuant to subsection (1).” 15

Scrutiny of draft statutory instruments.

22.—The Statutory Instruments Act 1947 is amended by inserting the following new section after section 2:

“Scrutiny of draft statutory instruments.

2A.—(1) Notwithstanding any other enactment, each of the following classes of statutory instrument shall be laid in draft form before Seanad Éireann and may not be made before 21 sitting days have elapsed from the date of laying— 20

(a) a statutory instrument made under European Communities Act 1972,

(b) a statutory instrument which purports to effect an amendment to primary legislation, 25

(c) a statutory instrument which creates a criminal offence,

(d) a statutory instrument which is otherwise deemed to be of statutory effect. 30

(2) For the purpose of discharging its functions under this section Seanad Éireann shall establish from among its membership a committee to be known as the Seanad Scrutiny of Statutory Instruments Committee comprising 7 members, the chair of which shall be selected from non-government members of the House. 35

(3) The Seanad Scrutiny of Statutory Instruments Committee shall— 40

(a) make arrangements for the monitoring and scrutiny of all statutory instruments laid before Seanad Éireann pursuant to subsection (1), and

(b) shall in respect of each measure, within 21 sitting days of the date of laying of the draft measure, report its conclusions and recommendations to the relevant Minister of the Government 45

or the proposed maker of the statutory instrument.

5 (4) Prior to making the statutory instrument which has been laid before Seanad Éireann pursuant to subsection (1), a Minister of the Government or the proposed maker of the statutory instrument shall take into consideration the conclusions and recommendations reported to him or her by the Scrutiny of Statutory Instruments Committee pursuant to subsection (3).

10 (5) (a) Save as provided for in paragraph (b), a statutory instrument which is made in contravention of subsection (1) shall be void and of no effect.

15 (b) The requirement imposed by subsection (1) shall not apply in circumstances where the Attorney General has certified that the relevant statutory instrument—

20 (i) is required to be made as a matter of extreme urgency, and

25 (ii) that for stated reasons there was insufficient time available to allow for compliance with the terms of subsection (1).”.

23.—(1) Where an appointment is to be made by the Government or a Minister of the Government to the board of a public body— Appointments to public bodies.

30 (a) the Minister who is charged with making the appointment shall inform Seanad Éireann of the proposed appointment,

35 (b) the Minister who is charged with making the appointment shall provide a statement to Seanad Éireann indicating the relevant experience and expertise of the persons or person nominated by the Minister for appointment and such other matters as the Minister considers relevant,

(c) Seanad Éireann may conduct hearings into any proposed appointments and may invite prospective candidates to appear before it to answer questions pertaining to their experience or expertise,

40 (d) Seanad Éireann shall within the period of 90 days of being so informed, advise the Minister who is charged with making the appointment of its views regarding the person or persons proposed for appointment,

45 (e) the Minister who is charged with making the appointment shall have regard to the views of Seanad Éireann, and

(f) shall inform Seanad Éireann of his or her decision.

(2) For the purpose of discharging its functions under *subsection (1)*, Seanad Éireann shall establish from among its membership a committee to be known as the Public Appointments Committee,

comprising 7 members the chair of which shall be selected from non-government members of the House.

(3) In this section “public body” means—

(a) a body established—

(i) by or under an enactment (other than the Companies Acts), or 5

(ii) under the Companies Acts in pursuance of powers conferred by or under another enactment, and financed wholly or partly by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government, 10

in respect of which a public service pension scheme exists or applies or may be made,

(b) a body that is wholly or partly funded directly or indirectly out of moneys provided by the Oireachtas or from the Central Fund or the growing produce of that Fund and in respect of which a public service pension scheme exists or applies or may be made, 15

(c) any subsidiary of, or company controlled (within the meaning given by section 10 of the Taxes Consolidation Act 1997) by, a body to which *paragraphs (a) or (b)* relates and in respect of which a public service pension scheme exists or applies or may be made, 20

(d) any other body prescribed by the Minister whose characteristics are similar to bodies referred to in *paragraphs (a) to (c)*. 25

Public interest inquiries.

24.—(1) Seanad Éireann shall have the power by virtue of this section to undertake an inquiry which consists only of recording evidence and reporting the evidence, and may make recommendations or, subject to *subsection (2)*, findings of fact. 30

(2) In exercise of the power to undertake inquiry pursuant to *subsection (1)*, Seanad Éireann or a committee thereof shall not make any findings of fact save as to:

(a) uncontested facts (namely facts that are not contested by any witness to the inquiry or any person who submits a written statement or evidence), or 35

(b) that any particular person has failed to co-operate with the inquiry by any of the following means—

(i) refusing a request or requirement from the inquiry to attend as a witness, 40

(ii) attending as a witness but failing to answer any question that the person was not legally entitled to refuse to answer,

(iii) refusing to deliver a document or part of a document that the person was not legally entitled to withhold, 45

- (iv) giving evidence or delivering a document that is false or misleading,
- (v) destroying evidence,
- (vi) attempting to influence or influencing witnesses improperly,
- (vii) otherwise wrongfully obstructing or interfering with the inquiry in an unlawful manner.

(3) An inquiry under this section may not take place unless Seanad Éireann has passed a resolution providing for:

- (a) the terms of reference including the specific matter to be inquired into,
- (b) the specific purpose of the inquiry,
- (c) whether or not the inquiry may make findings of fact and recommendations or is limited to the taking of and reporting of evidence on the issues to be inquired into,
- (d) the time-frame for submission of the final report,
- (e) any other matter that Seanad Éireann consider appropriate.

(4) A person whose evidence has been, is being or is to be given before an inquiry under this section, or who produces, or sends a document pursuant to a direction or who is directed to give evidence or produce a document or to attend to give evidence or produce a document—

- (a) has the same immunities and privileges in respect of that evidence or those documents, and
- (b) is subject to the same liabilities, as a party in proceedings in the Court.

(5) Notwithstanding *subsection (4)*, a person shall not be entitled to refuse to answer a question of furnish a document on the grounds that it would incriminate the person.

(6) The rules governing the conduct of such inquiries shall be determined by the Standing Orders of Seanad Éireann.

25.—(1) Seanad Éireann or a committee thereof has the power to undertake an inquiry and may make findings of fact and recommendations arising therefrom, relating to the legislative functions of the House or Houses including whether or not there is a need for new legislation arising out of, or in respect of a particular matter.

Inquiries concerning the necessity for legislation.

(2) The rules governing the conduct of such inquiries shall be determined by the Standing Orders of Seanad Éireann.

26.—(1) Where the Seanad Public Consultation Committee receives a petition containing 1,000 signatures and which calls for the holding of a debate on an issue of national importance, the Seanad Public Consultation Committee, having satisfied itself of the validity

Petitions and consultation.

of all aspects of the petition, shall forward the petition to the Chairman of the Seanad.

(2) Upon receipt of a petition under *subsection (1)*, the Chairman of the Seanad shall, within 18 sitting days, arrange for the holding of a debate in Seanad Éireann pursuant to the petition. 5

(3) In this section the “Seanad Public Consultation Committee” means the Committee of Seanad Éireann known as the Seanad Public Consultation Committee and which was established on 5 October 2011.

Business of the House Committee.

27.—(1) Seanad Éireann shall establish from among its membership a committee to be known as the Seanad Business of the House Committee, comprising 15 members the chair of which shall be selected from non-government members of the House. 10

(2) The role of the Committee established under *subsection (1)* shall be to facilitate dialogue between representatives of Seanad Éireann and the Government Chief Whip and also Dáil Éireann. 15

(3) The business of Seanad Éireann shall be determined solely by the Seanad Business of the House Committee.

(4) The Chairman and Vice-Chairman of Seanad Éireann shall be responsible for ensuring that the House is afforded adequate time to debate and consider matters of national importance. 20

Nomination of Chairman and Vice-Chairman.

28.—The position of Chairman and Vice-Chairman of Seanad Éireann shall be nominated by members of Seanad Éireann by means of a secret ballot.

Adoption of new powers by the Seanad.

29.—The provisions of this Chapter shall only be deemed to be operative if and for so long as a resolution to that effect stands by Seanad Éireann pursuant to Article 15.10. 25

PART 4

CHAPTER 1

The Electorate 30

One person, one vote.

30.—(1) Every person referred to in *section 31* and who has attained the age of 18 shall be eligible to cast one vote at a Seanad general election which shall be conducted using proportional representation — single transferable vote.

(2) A person’s name shall only be entered once in the electoral register for the election and in respect of one constituency. 35

(3) When applying for inclusion in the electoral register, a person shall indicate the constituency in respect of which the voter has opted to cast his or her vote.

The electorate.

31.—At every Seanad general election the electorate shall consist of— 40

- (a) all persons entitled to be registered to vote in other specified elections,
- (b) all persons living in Northern Ireland who qualify for Irish citizenship,
- 5 (c) all persons holding a valid and current Irish passport and who reside outside the State, and
- (d) graduates of universities or other institutions of higher education in the State.

CHAPTER 2

10 *Register of Electors*

32.—(1) A register of persons entitled to vote in every Seanad Register of electors. election shall be established and maintained in accordance with this Act.

15 (2) The register shall be maintained by the Seanad returning officer in such form as he or she thinks proper.

(3) The register shall be divided into four divisions as follows—

- (a) Division 1 — Register of all persons entitled to be registered to vote in other specified elections,
- 20 (b) Division 2 — Register of all persons living in Northern Ireland who qualify for Irish citizenship,
- (c) Division 3 — Register of persons who hold a valid and current Irish passport and who reside outside the State,
- 25 (d) Division 4 — Register of persons who are graduates of universities or other institutions of higher education in the State.

(4) The register shall—

- (a) indicate the constituency in respect of which the voter has opted to cast his or her vote, and
- 30 (b) shall contain the names, addresses, voter registration number and descriptions of the persons constituting the electorate at a Seanad general election.

(5) A person shall not be eligible for inclusion in any Division of the Seanad electoral register unless they have attained the age of 18 years.

35 (6) The Minister may prescribe the evidence and proof which is required to establish eligibility for inclusion in any Division of the Register.

40 (7) The provisions of *Schedule 1* to this Act shall apply to the applications for inclusion in the register made pursuant to *sections 34, 35, 36 or 37* and shall also apply to the maintenance of the Seanad electoral register.

Sub-registers of University graduates.

33.—(1) The governing body of every university or other third-level institution in the State shall cause a register of electors (in this Act referred to as a university sub-register) to be kept which records the details of the persons who are for the time being entitled to be registered as electors in Division 4 of the Seanad electoral register. 5

(2) Every register maintained under this section in respect of the universities constituency shall be in such form as the Seanad returning officer, with the consent of the Minister, shall direct.

(3) There shall be a registration officer for each university or other third-level institution who shall be appointed by the governing body of the university forming the constituency. 10

(4) It shall be the duty of every registration officer to revise annually the register of electors for such constituency.

(5) Upon the request of the Seanad returning officer, a registration officer shall furnish to the Seanad returning officer the most recent version of the university sub-register in respect of that university or other third-level institution. 15

Application for entry in the register — Division 1 (persons entitled to vote in other elections).

34.—(1) When applying for inclusion in the Register of Electors for elections under—

(a) section 8 of the Electoral Act 1992, 20

(b) section 6 of the European Parliament Elections Act 1997, or

(c) section 24 of the Local Government Act 2001,

an applicant may also apply under *subsection (2)* of this section to be entered in the Seanad general election register. 25

(2) The following provisions shall apply in relation to persons who are eligible to apply to be entered in the register for other specified elections and who are seeking to be entered in the Seanad general election register—

(a) the application shall be in the form prescribed by the Minister, 30

(b) the application shall be signed by the applicant and completed in accordance with the instructions provided thereon and shall be accompanied by a certificate or a statutory declaration, as the case may require, 35

(c) the applicant shall indicate the constituency in respect of which he or she has opted to cast his or her vote,

(d) the application form, duly completed, and the certificate or declaration shall be delivered or sent by post so as to be received by the Seanad returning officer not later than the last date for making applications for inclusion in the draft register. 40

(3) In respect of persons who, at the time of the coming into operation of this Act, are already included in the register of electors for other specified elections and who wish to apply to be entered in the Seanad general election register, the following provisions shall apply: 45

- (a) the application shall be in the form prescribed by the Minister;
- (b) the application shall be signed by the applicant and completed in accordance with the instructions provided thereon and shall be accompanied by a certificate or a statutory declaration, as the case may require;
- (c) the applicant shall indicate the constituency in respect of which he or she has opted to cast his or her vote;
- (d) the application form, duly completed, and the certificate or declaration shall be delivered or sent so as to be received by the Seanad returning officer not later than the last date for making applications for inclusion in the draft register.

15 **35.**—The following provisions shall apply in relation to persons living in Northern Ireland who qualify for Irish citizenship and who are seeking to be entered in the Seanad general election register—

Application for entry in the register — Division 2 (persons living in Northern Ireland).

- (a) the application shall be in the form prescribed by the Minister,
- (b) the application shall be signed by the applicant and completed in accordance with the instructions provided thereon and shall be accompanied by a certificate or a statutory declaration, as the case may require,
- (c) the application shall be accompanied by evidence in the prescribed form of the applicant's entitlement to Irish citizenship,
- (d) the application shall be accompanied by a document in the prescribed form and endorsed by the Electoral Commission which confirms that the applicant is ordinarily resident in Northern Ireland and is registered to vote in Northern Ireland elections,
- (e) the applicant shall indicate the constituency in respect of which he or she has opted to cast his or her vote,
- (f) the application form, duly completed, and the certificate or declaration shall be delivered or sent so as to be received by the Seanad returning officer not later than the last date for making applications for inclusion in the draft register.

40 **36.**—(1) The following provisions shall apply in relation to persons who can demonstrate that they hold a valid and current Irish passport and who reside outside the State, and who are seeking to be entered in the Seanad general election register:

Application for entry in the register — Division 3 (persons holding an Irish passport).

- (a) the application shall be in the form prescribed by the Minister;
- (b) the application shall be signed by the applicant and completed in accordance with the instructions provided thereon and shall be accompanied by a certificate or a statutory declaration, as the case may require;

- (c) the application shall be accompanied by the applicant's valid and current Irish passport;
- (d) the application shall be accompanied by proof of the applicant's ordinary residence;
- (e) the applicant shall indicate the constituency in respect of which he or she has opted to cast his or her vote; 5
- (f) the application form, duly completed, and the certificate or declaration shall be delivered or sent so as to be received not later than the last date for making applications for inclusion in the draft register. 10

(2) An application under this section shall be submitted to the relevant Irish Embassy or Consulate.

Application for entry in the register — Division 4 (University graduates).

37.—(1) Every person who is an Irish citizen and who has received a degree (other than an honorary degree) from a university or other third-level institution (within the meaning of *section 39*) shall be entitled to be entered in the Seanad general election for the purpose of voting for candidates who are contesting the universities constituency. 15

(2) The following provisions shall apply in relation to persons who can demonstrate that they are a graduate of a university or other third-level institution, and who are seeking to be entered in the Seanad general election register: 20

- (a) the application shall be in the form prescribed by the Minister;
- (b) the application shall be signed by the applicant and completed in accordance with the instructions provided thereon and shall be accompanied by a certificate or a statutory declaration, as the case may require; 25
- (c) the application shall be accompanied by evidence of the attainment of a degree from the relevant university or third-level institution; 30
- (d) the applicant shall confirm that he or she has opted to cast his or her vote for candidates on the universities constituency;
- (e) the application form, duly completed, and the certificate or declaration shall be delivered or sent so as to be received not later than the last date for making applications for inclusion in the draft register. 35

(3) An application under this section shall be submitted to the registration officer at the relevant university or other institution of higher education. 40

(4) Division 4 of the Seanad electoral register shall be compiled by the Seanad returning officer from the university sub-registers maintained by the registration officer of each university or other third-level institution under this section. 45

Existing register of University graduates.

38.—The register of electors prepared and maintained pursuant to the Seanad Electoral (University Members) Act 1937 may form the

basis of Division 4 of the Seanad electoral register for the first Seanad general election to be held after the passing of this Act.

5 **39.—(1)** The graduates of the following third-level institutions are the sole category of persons who shall be eligible to vote in a Seanad general election for candidates who contest the universities constituency:

Extension of the franchise — universities and other institutions of higher education in the State.

- (a) the National University of Ireland;
- (b) the University of Dublin;
- (c) the Dublin City University;
- 10 (d) the University of Limerick;
- (e) the National College of Ireland;
- (f) the National College of Art and Design;
- (g) the Dublin Institute of Technology;
- 15 (h) an educational institution established under section 3 of the Regional Technical Colleges Act 1992 as a regional technical college to which the Institutes of Technology Acts 1992 to 2006 apply;
- (i) an educational institution to which, pursuant to section 4 of the Universities Act 1997, that Act applies; and
- 20 (j) an educational institution in the State that provides higher education and which stands prescribed for the time being pursuant to *subsection (2)*.

(2) The Minister may, having consulted with—

- (a) the Minister for Education, and
- 25 (b) the Higher Education Authority,

prescribe an educational institution in the State whose graduates shall be eligible to vote in a Seanad general election.

(3) In making regulations under *subsection (2)*, the Minister shall have regard to following matters:

- 30 (a) the level of courses offered by the institution;
- (b) the extent to which courses are accredited by Quality and Qualifications Ireland;
- (c) the length of time since the establishment of the institution; and
- 35 (d) the number of students enrolled at the institution annually.

40.—(1) An applicant who is seeking to be entered in the Seanad general election register pursuant to *sections 34, 35, 36 or 37* shall furnish to the Seanad returning officer any information or documents in the applicant's possession or procurement which may be required

Applicant to provide information or documents.

so as to demonstrate that the applicant is a person to whom that section applies.

(2) Whenever the Seanad returning officer requires information or documents from an applicant pursuant to *subsection (1)* the applicant shall furnish the Seanad returning officer with the information or documents within the time (being not less than 7 days from the day on which the request is made) specified in the requirement and, if the applicant does not furnish the required information or, as the case may be, documents within the time so specified, the application shall be deemed to have been withdrawn.

Consideration of applications.

41.—(1) Where the Seanad returning officer is satisfied that an applicant—

- (a) is an elector to whom *sections 34, 35, 36 or 37* applies,
- (b) has duly completed the application form,
- (c) has furnished the certificate or, as the case may be, statutory declaration required, and
- (d) has satisfied all other requirements,

the Seanad returning officer shall—

- (i) rule that the application is granted and mark the application form accordingly, and
- (ii) notify the applicant of the decision.

(2) Where the Seanad returning officer is not satisfied that an applicant—

- (a) is an elector to whom *sections 34, 35, 36 or 37* applies,
- (b) has duly completed the application form,
- (c) has furnished the certificate or, as the case may be, statutory declaration required, or
- (d) has satisfied all other requirements,

the Seanad returning officer shall—

- (i) rule that the application is refused and mark the application form accordingly, and
- (ii) notify the applicant of the decision and of the reason therefor.

(3) Whenever an application is received by the Seanad returning officer after the last date for applications for inclusion in the register, the application shall be disregarded and the applicant shall be notified accordingly.

Revision of register.

42.—The Seanad Returning Officer shall on an annual basis revise the register in accordance with the rules contained in *Schedule 1* to this Act.

PART 5

NOMINATION OF CANDIDATES

5 **43.**—At a Seanad general election subject to any specified eligibility requirements, a person may be nominated to be a candidate in a Seanad general election by one of the following methods: Nomination of persons.

- (a) by one or more nominating bodies;
- (b) by one or more local authorities;
- (c) by popular nomination.

10 **44.**—(1) At a Seanad general election, a nominating body which is registered in the register of nominating bodies in respect of a particular constituency shall be entitled to propose one person for nomination to the relevant constituency. Nomination by nominating body.

(2) The provisions of *Schedule 2* shall have effect in relation to nominating bodies.

15 **45.**—(1) At a Seanad general election, a local authority shall be entitled to propose one person to be a candidate at a Seanad general election. Nomination by local authority.

(2) The provisions of *Schedule 3* shall have effect in relation to nominations by local authorities.

20 **46.**—(1) At a Seanad general election, a person whose nomination for a specified constituency has the verified support of 500 persons whose names are included in the Seanad general election register, shall be deemed to be nominated to the relevant constituency. Nomination by popular nomination.

25 (2) The provisions of *Schedule 4* shall have effect in relation to nominations by means of popular nomination.

47.—(1) A person who seeks to be nominated to any of the vocational constituencies shall demonstrate requisite knowledge and experience of the vocational area of the constituency they wish to contest. Qualifications and experience of candidates — vocational constituencies.

30 (2) Notwithstanding the generality of *subsection (1)*, persons seeking nomination to the—

- 35 (a) cultural and educational constituency shall, to the satisfaction of the judicial assessor, demonstrate knowledge and practical experience of the following interests and services, namely national language and culture, literature, art, education and professional interests,
- 40 (b) agricultural constituency shall, to the satisfaction of the judicial assessor, demonstrate knowledge and practical experience of the following interests and services, namely, agriculture and allied interests including the natural environment, the food industry, and fisheries,

- (c) labour constituency shall, to the satisfaction of the judicial assessor, demonstrate knowledge and practical experience of the following interests and services, namely, labour, whether organised or unorganised,
- (d) industrial and commercial constituency shall, to the satisfaction of the judicial assessor, demonstrate knowledge and practical experience of the following interests and services, namely, industry and commerce, including banking, finance, accountancy, engineering and architecture, 5
- (e) administrative constituency shall, to the satisfaction of the judicial assessor, demonstrate knowledge and practical experience of the following interests and services, namely, public administration and social services, including voluntary social activities and non-governmental organisations. 10
15

(3) The Minister, having consulted with the Minister for Justice, shall appoint a serving or former Judge of the High Court to serve as a judicial assessor for the purpose of this section.

Disqualification of candidates.

48.—No person who is for the time being disqualified from or incapable of being elected as a member of Dáil Éireann shall be a candidate at a Seanad general election. 20

Completion of constituencies in preparation for election.

49.—The provisions of *Schedule 5* shall have effect in relation to the completion of constituencies in preparation for a Seanad general election.

PART 6 25

ELECTORAL PROCESS

CHAPTER 1

Preliminary

Seanad general election order.

50.—(1) Before every Seanad general election, the Minister shall by order (in this Act referred to as a Seanad general election order) appoint for the purposes of the election— 30

- (a) the day and hour (in this Act referred to as the expiration of the time for constituency proposed nominations) on and at which the period during which the Seanad returning officer may receive proposals for nominations to the constituencies will expire, 35
- (b) the day on which and the place at which the Seanad returning officer will sit for the completion of the constituencies,
- (c) the day on which the ballot papers for the election will be issued, 40
- (d) the day and hour (in this Act referred to as the close of the poll) on and at which the poll at the election will be closed,

(e) the address of the Seanad returning officer to which nomination papers and other communications may be sent to him or her.

5 (2) The following provisions shall have effect in relation to a Seanad general election order:

(a) the order shall be made within seven days after the dissolution of Dáil Éireann which occasions the election;

10 (b) the day appointed by the order for the expiration of the time for proposed nominations shall not be less than four weeks after such dissolution and, where practicable, shall not be prior to the date fixed for the reassembly of Dáil Éireann after such dissolution;

(c) the order shall be published in *Iris Oifigiúil* as soon as may be after it is made.

15 (3) In making an order under *subsection (1)* the Minister may notwithstanding the provisions of *section 51(2)*, in respect of votes to be cast outside the State—

(a) appoint different dates for the day on which the ballot papers for the election will be issued,

20 (b) appoint different dates and time for the day and hour on and at which the poll at the election will be closed,

(c) specify the location at which such votes may be counted, including at locations outside the State, and

25 (d) specify the means by which the results of the count shall be furnished to the Seanad returning officer.

51.—(1) The person who for the time being holds the office of Clerk of Seanad Éireann shall be the Seanad returning officer for the purposes of this Act.

(2) It shall be the duty of the Seanad returning officer to—

30 (a) conduct every Seanad general election,

(b) to count the votes cast thereat,

(c) to ascertain and declare the result thereof in accordance with this Act,

(d) to engage in the filling of casual vacancies which arise, and

35 (e) to do such other things in respect of every such election as he or she is required by this Act to do.

(3) The Minister for Finance shall, with the approval of the Minister for Public Expenditure and Reform, pay to the Seanad returning officer the amount of his or her reasonable charges, not exceeding such amount as may, with the consent of the Minister for Public Expenditure and Reform, be sanctioned by that Minister, in respect of the performance by the Seanad returning officer of his or her duties under this Act out of the Central Fund or the growing produce thereof.

(4) On the request of the Seanad returning officer for an advance on account of his or her charges the Minister for Finance may, with the consent of the Minister for Public Expenditure and Reform and after consultation with the Minister if he or she thinks fit, and on such terms as he or she thinks fit, make such an advance. 5

(5) If and so long as the office of Clerk of Seanad Éireann is vacant or the holder of that office is unable through illness, absence or other cause to fulfil his or her duties, the Clerk-Assistant of Seanad Éireann shall act as Seanad returning officer and references in this Act to the Seanad returning officer shall have effect accordingly. 10

(6) (a) The Minister may, having consulted with the Seanad returning officer, delegate any functions of the Seanad returning officer to a specified member of the staff of an Irish Embassy or Consulate and that member of staff shall be accountable to the Minister for the performance of the functions so delegated. 15

(b) The Minister may revoke a delegation made under this section.

Seanad election expenses.

52.—The Electoral Act 1997 is amended by inserting the following new section after section 32: 20

“Seanad election expenses.

32A.—(1) The aggregate of election expenses which may be incurred by or on behalf of a candidate in connection with his or her candidature at a Seanad election shall not exceed— 25

(a) in the case of a constituency returning eight members, €40,000;

(b) in the case of a constituency returning nine members, €45,000; and

(c) in the case of a constituency returning ten members, €50,000. 30

(2) Where a political party authenticates the candidature of a candidate at a Seanad election, the party may incur such proportion not exceeding 50 per cent, of the amount of the election expenses which that candidate is entitled to incur at that election under subsection (1), as may be agreed in writing between the party and the candidate concerned. 35

(3) The aggregate of election expenses which may be incurred by the national agent of a political party on behalf of that party at a Seanad election shall be the sum of the amounts of election expenses agreed in writing between the party and candidates whose candidatures were authenticated by the party at the election. 40 45

(4) The Minister may by regulation, having regard to the Consumer Price Index and also the level of expenses ordinarily incurred in contesting elections, revise the monetary amounts specified in subsection (1).” 50

Ballot Papers

53.—As soon as practicable after the completion of the electoral register in respect of a Seanad general election, the Seanad returning officer shall publish on the internet and in at least one national newspaper in the State, a copy of the notice by which publication of the constituencies was effected.

Publication of copy of constituencies.

54.—(1) The following provisions shall apply and have effect in relation to the ballot papers at a Seanad general election:

Ballot papers for Seanad general election.

10 (a) there shall be different ballot papers for each vocational constituency;

(b) there shall be one ballot paper for the universities constituency;

15 (c) a ballot paper shall contain the names, addresses, gender and descriptions of all the candidates named in the constituency to which it relates arranged in the alphabetical order of their surnames and, in cases of identity of surname, of their other names, and either in one continuous column or in two or more columns as the Seanad returning officer, with the consent of the Minister, considers to be most convenient;

20 (d) a ballot paper shall include a photograph of each candidate in accordance with such requirements as may be prescribed;

25 (e) the surnames of the several candidates shall be printed on a ballot paper in large characters and their other names and their addresses and descriptions shall be printed in small characters, save that, whenever the surnames of two or more candidates are the same, there shall be printed in large characters (in addition to their surnames) the other names of such candidates and so much of the address or the description or of both the address and the description of each such candidate as will, in the opinion of the Seanad returning officer, effectively distinguish such candidate.

(2) Subject to the provisions of *subsection (1)* of this section, the ballot papers shall be in the prescribed form and each ballot paper shall have a number printed on the back thereof and shall have attached thereto a counterfoil with the same number printed on the face of such counterfoil, and every ballot paper shall, at the time of issue thereof, be marked on both sides thereof with an official mark either stamped or perforated.

55.—(1) An elector in marking a ballot paper at a Seanad general election must place on the ballot paper the figure 1 opposite the name of the candidate for whom he or she votes, and he or she may in addition place on the ballot paper the figures 2 and 3, or 2, 3 and 4, and so on, opposite the names of other candidates in the order of his or her preference.

Method of marking votes on ballot paper at Seanad general election.

- (2) Any ballot paper—
- (a) which does not bear the official mark, or
 - (b) on which the figure 1 standing alone is not placed at all or is not so placed as to indicate a first preference for some candidate, or 5
 - (c) on which the figure 1 standing alone indicating a first preference is set opposite the name of more than one candidate, or
 - (d) on which the figure 1 standing alone indicating a first preference and some other number is set opposite the name of the same candidate, or 10
 - (e) on which anything except the number on the back is written or marked by which the voter can be identified,

shall be invalid and shall not be counted.

Sending of ballot papers to electors at Seanad general election.

56.—(1) On the day appointed for the issue of ballot papers at a Seanad general election the Seanad returning officer shall send to each person whose name is on the electoral register for that election at the address stated on such electoral register a ballot paper for the constituency in respect of which the voter has opted to cast his or her vote. 15 20

(2) Where the Seanad returning officer is satisfied that a registered voter has not received a ballot paper, the Seanad returning officer may at his or her sole discretion arrange for the issuing of a duplicate ballot paper which by being printed on paper of a special colour or otherwise, is clearly distinguished as a duplicate of the ballot paper originally sent to such person. 25

(3) The Seanad returning officer shall, when sending out ballot papers in pursuance of this section, observe the rules contained in *Schedule 6* to this Act.

Issue of ballot papers.

57.—The Seanad returning officer shall issue the ballot papers at a Seanad general election in accordance with the rules contained in *Schedule 6* to this Act on the day appointed in that behalf by the relevant Seanad (general election) order. 30

Method of voting at Seanad general election.

58.—(1) Every person entitled to vote at a Seanad general election shall be entitled to vote at that election in the following and no other manner, that is to say, by marking the ballot paper sent to him or her under this Act and returning by ordinary prepaid post to the Seanad returning officer the ballot paper together with the form of declaration of identity, furnished to him or her pursuant to the rules contained in *Schedule 6* to this Act, duly made and completed by him or her. 35 40

(2) Whenever a person entitled to vote at a Seanad general election states in writing to the Seanad returning officer that he or she duly returned by ordinary prepaid post to the Seanad returning officer the ballot paper and a form of declaration of identity and that the same does not appear to have been delivered to the Seanad returning officer and that he or she desires a duplicate ballot paper 45

to be issued to him or her, the Seanad returning officer, if such statement is received by him or her not less than forty-eight hours before the close of the poll at the election, shall forthwith or, if such statement is received by him or her less than forty-eight hours before the close of the poll at the election, may send to such person at his or her address as stated in the electoral register a ballot paper for the constituency in respect of which the voter has opted to cast his or her vote which, by being printed on paper of a special colour or otherwise, is clearly distinguished as a duplicate of the ballot paper originally sent to such person.

(3) The procedure to be followed in connection with the marking of the ballot papers at a Seanad general election and the sending of such papers to the Seanad returning officer shall be that specified in the rules contained in *Schedule 6* to this Act.

(4) In this section the expression “returning by ordinary prepaid post” includes—

(a) in the case of an elector who is detained in prison pursuant to an order of a court, the return by the relevant official, or by a person acting under the relevant official’s direction, of the documents referred to in *subsection (1)* on behalf of the elector concerned, and

(b) in the case of an elector who is outside the State, the return by ordinary prepaid post to the relevant Irish Embassy or Consulate.

59.—(1) Ballot papers which have been completed outside the State, together with the form of declaration of identity duly made and completed by the voter, shall be returned by means of ordinary prepaid post to the relevant Irish Embassy or Consulate.

Voting outside the State.

(2) An Embassy or Consulate which is in receipt of ballot papers submitted to it under *subsection (1)* shall arrange for the counting of votes in accordance with the rules contained in *Schedule 7* and shall furnish to the Seanad returning officer, in the prescribed manner, the results of the count.

60.—(1) The Seanad returning officer shall, in the presence of such candidates as may be in attendance, ascertain separately, in accordance with this Act and, in particular, the rules contained in *Schedule 6* and *Schedule 7* to this Act, the result of a Seanad general election in respect of each constituency and shall declare to be elected from such constituency the candidates who are so ascertained to be elected.

Ascertainment of result of Seanad general election.

(2) The decision of the Seanad returning officer as to any question arising at a Seanad general election on the ballot papers, the envelopes containing the ballot papers, the declarations of identity or any other matter arising on the issue or the receipt of the ballot papers or on the counting of the votes shall be final, but subject, where an objection in writing to the decision has been delivered to the Seanad returning officer before the declaration of the result of the election, to review by a court trying an election petition in relation to the election.

61.—(1) The enactments for the time being in force relating to the presentation and trial of election petitions in relation to elections of members of Dáil Éireann shall apply to Seanad general elections with the following modifications:

- (a) the court trying an election petition in relation to a Seanad general election shall not have power to declare the whole election to be void but may declare the election of any one or more of the candidates returned as elected at the election to be void or to be valid as justice may require;
- (b) where the court so declares the election of a candidate to be void, the court shall declare that such one as justice may require of the candidates not returned as elected was elected;
- (c) the said court shall have power to make such amendments as may be necessary to give effect to its decisions in the certificate of the Seanad returning officer of the result of the election;
- (d) it shall not be obligatory on the said court to cause a recount to be made of the votes given for, or to investigate the voting or the counting of the votes in respect of, the candidates on a constituency in relation to which the said court is satisfied that the voting in respect of the candidates on such constituency is not in issue on the petition;
- (e) references (including references by adaptation) to Dáil Éireann shall be construed as references to Seanad Éireann, and references (including references by adaptation) to the Chairman or the Ceann Comhairle of Dáil Éireann shall be construed as references to the Chairman of Seanad Éireann.

(2) A person who has voted at a Seanad general election shall not, in any legal proceedings to question the election or return of any candidate at the election, be required to state for whom he or she has voted.

PART 7

CASUAL VACANCIES

62.—(1) Where a casual vacancy occurs in the membership of Seanad Éireann, the Clerk of Seanad Éireann shall, on the direction of Seanad Éireann, send to the Minister notice (in this Act referred to as a “notice of a casual vacancy”) in writing of the vacancy.

(2) A notice of a casual vacancy shall state, in respect of the member whose death, resignation, or disqualification occasioned the vacancy, the name and gender of the person and the constituency from which the member was elected at the next preceding Seanad general election.

(3) A notice of a casual vacancy shall be accompanied by a copy of the final results of the next preceding Seanad general election in respect of the constituency in which the vacancy has arisen.

63.—(1) Where the Minister receives a notification under *section 62* he or she shall proceed to fill the vacancy by examining the results of the next preceding Seanad general election in respect of the constituency in which the vacancy has arisen, and of the candidates who contested the relevant constituency but were unelected and who are of the same gender as the person in respect of whom the casual vacancy has been occasioned, deem the candidate with the highest number of votes to be elected.

Filling of casual vacancy.

(2) The Minister shall by notice in writing inform the Seanad returning officer of the name of the person who has been deemed to be elected along with the name of the constituency.

(3) Where pursuant to the procedures set out in *subsection (1)* it does not provide possible to fill the vacancy by a person of the same gender as the person in respect of whom the casual vacancy has been occasioned, the requirement in *subsection (1)* to fill the vacancy with a person of the same gender shall be disregarded in that instance.

64.—Upon receipt of a notice from the Minister under *section 63* the Seanad returning officer shall prepare and publish on the internet and also in *Iris Oifigiúil* a statement in the prescribed form of the name of the candidate deemed to be elected to fill a casual vacancy which has arisen on a specified constituency.

Publication of result.

PART 8

MISCELLANEOUS

65.—(1) A member of Seanad Éireann elected under this Act may voluntarily resign his or her membership of Seanad Éireann by notice in writing to the Chairman of Seanad Éireann who shall announce the resignation to Seanad Éireann at the next meeting thereof.

Resignation of membership of Seanad Éireann.

(2) The resignation under this section of a member of Seanad Éireann shall take effect immediately upon the announcement thereof by the Chairman of Seanad Éireann in pursuance of this section.

66.—(1) The Seanad returning officer and every officer and clerk concerned in the issue or the receipt of ballot papers or the counting of votes under this Act and every candidate or other person present at such issue, receipt, or counting shall maintain and aid in maintaining the secrecy of the voting at the election and shall not, before the completion of the election, communicate, except for some purpose authorised by law, any information as to whether any elector has or has not voted at the election or as to the official mark, and shall not at any time communicate to any person any information obtained at or in connection with such issue, receipt, or counting as to the candidate for whom any elector has voted or as to whether any elector has or has not voted or as to the number on the back of any ballot paper.

Preservation of the secrecy of the voting.

(2) A person shall not interfere with or attempt to interfere with the receipt, marking, or return of the ballot paper of any elector at an election under this Act.

(3) A person shall not directly or indirectly induce any elector at an election under this Act to display his or her ballot paper after he or she has marked it so as to make known to such person or to any other person the name of any candidate for whom he or she has marked his or her vote on such ballot paper.

5

(4) A person who acts in contravention of this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to imprisonment for any term not exceeding six months.

Non-compliance
with rules.

67.—An election of a candidate at an election under this Act shall not be declared void by reason only of a non-compliance with the rules contained in any Schedule to this Act, or any mistake in the use of the forms prescribed under this Act, if it appears to the tribunal having cognisance of the question that the election was conducted in accordance with the principles laid down in the body of this Act and that the non-compliance or mistake did not affect the result of the election.

10

15

Application of
Electoral Act 1992.

68.—(1) Sections 133, 134, 135, 136, 138, 139, 140, 144, 145, 149, 151, 152, 153, 154, 155, 156, 157, 160 and 163 of the Electoral Act 1992 shall apply to a Seanad general election and for that purpose, in the said sections of that Act—

20

(a) every reference to “Dáil election” and “election” shall be construed and have effect as a reference to a Seanad general election;

(b) every reference to the “register of Dáil electors” shall be construed and have effect as a reference to the register of electors in respect of a Seanad general election;

25

(c) every reference to “Dáil elector” and “elector” shall be construed and have effect as a reference to an elector in a Seanad general election;

30

(d) every reference to “constituency” shall be construed and have effect as a reference to a vocational constituency or universities constituency;

(e) the reference in sections 139 and 151 to a period of time shall be construed and have effect as a reference to the period commencing on the date of the order appointing dates and times at a Seanad election and ending at the close of the poll at such election.

35

(2) In addition and without prejudice to the provisions of the foregoing subsection of this section, every statutory provision for the time being in force relating to bribery, personation or other offences at elections of members of Dáil Éireann shall apply to a Seanad general election as if these elections were elections of members of Dáil Éireann.

40

SCHEDULE 1

ELECTORATE — REGISTRATION RULES

Publication of draft register of Seanad electors.

- 5 1. On the 1st day of November in every year, the Seanad returning officer shall publish, in respect of each Division of the register, a list of all persons who appear to him or her to be entitled to be registered to vote in Seanad elections.

Right to send claims.

- 10 2. Any person who is not entered in the register of electors and claims to be entitled to be registered as an elector may send, on or before the 25th day of November next after the publication of such draft register, to the Seanad returning officer a claim in the prescribed form to be so registered in a specified Division.

Contents of prescribed form of claim.

- 15 3. The prescribed form of claim referred to in the next preceding rule shall be such as to enable the person filling up the same to state therein—

- (a) such particulars (including the location and date of his or her birth),
- 20 (b) the address at which he or she was normally resident on the next previous 15th day of November,
- (c) the Division of the Seanad electoral register in which he or she claims eligibility for inclusion, and
- 25 (d) that he or she does not wish his or her name and address to be used for a purpose other than an electoral or other statutory purpose.

Evidence of eligibility for inclusion in the Register.

- 30 4. A claim form which is submitted under the next preceding rule shall be accompanied by evidence and proof as prescribed by the Minister by reference to the relevant Division.

Publication of list of claims.

- 35 5. Not later than the 30th day of November in every year the Seanad returning officer shall prepare and publish a list of claims in the prescribed form and shall enter in such list the name of every person, by reference to the division of the register in respect of which eligibility is claimed, who shall have sent to him or her, on or before the 25th day of November, a prescribed form of claim duly completed.

Time for and mode of making objections.

- 40 6. Any person who is registered in any division of the Seanad electoral register may object to the registration in such register of any person whose name appears in the register of electors or a list of claims in respect of a Division of the Seanad electoral register; every such objection shall be made by sending a notice of objection
- 45 in the prescribed form to the Seanad returning officer not later than the 14th day of December next after the publication of the draft

register or the list of claims (as the case may be) to which such objection relates.

Obligation to notify person objected to.

7. An objection under the next preceding rule shall not be considered unless, within the time limited for sending the notice of objection, a copy of the notice of objection sent to the Seanad returning officer is sent by ordinary prepaid post by the person making the objection to the person whose registration is objected to at his or her address as stated in the electoral register or the list of claims as the case may be.

Publication of list of objections.

8. The Seanad returning officer shall prepare and publish as soon as practicable after the 14th day of December in every year a list of the persons named in the electoral register or the list of claims in respect of whose registration a notice of objection has been received by the Seanad returning officer on or before the said 14th day of December.

Consideration of and ruling upon objections.

9. The Seanad returning officer shall, as soon as practicable, consider and rule upon all objections of which notice has been given to him or her in accordance with these rules, and for that purpose shall give, in respect of every such objection, at least five clear days notice to the person making the objection and to the person whose registration is thereby objected to of the time and place at which he or she will consider and rule upon such objection.

Consideration of and ruling upon claims.

10. The Seanad returning officer shall also consider, as soon as practicable, every claim mentioned in the list of claims in respect of which no notice of objection has been given in accordance with these rules and—

- (a) if he or she considers that such claim may be allowed without further inquiry, he or she shall allow such claim and give notice thereof to the claimant, or
- (b) if he or she is not satisfied that such claim can be allowed without further inquiry, he or she shall give at least five clear days notice to the claimant of the time and place at which he or she will consider and rule upon such claim.

Objections by the Seanad returning officer.

11. The Seanad returning officer may make such further inquiries as he or she may deem necessary in respect of any claim mentioned in a list of claims and, if after such inquiry it shall appear to him or her that the claimant is not entitled to be registered, the Seanad returning officer may himself or herself at any time object to such claim by sending a notice of objection stating the grounds of the objection to the claimant.

Every objection made by a Seanad returning officer under this rule shall be considered and ruled upon by him or her, and for that purpose he or she shall give to the claimant at least five clear days notice of the time and place at which he or she will so consider and rule upon such claim.

Claims for correction of entries in a register.

12. Any person who is registered as an elector in a register of electors and claims that he or she is entered in such register in an incorrect manner or with incorrect particulars may send to the Seanad returning officer, on or before the 25th day of November, a notice in the prescribed form stating that he or she is so entered incorrectly, and stating the alterations which he or she alleges to be necessary in order to make such register correct in regard to him or her, and claiming that the register be altered accordingly.

No claim made under this rule shall be included in the list of claims.

Consideration of and ruling upon claims for corrections.

13. The Seanad returning officer shall consider, as soon as practicable and in any event not later than the 23rd day of December, every claim made under the next preceding rule and—

(a) if he or she considers that such claim may be allowed without further inquiry, he or she shall allow such claim and give notice thereof to the claimant, or

(b) if he or she is not satisfied that such claim can be allowed without further inquiry, he or she shall give at least five clear days notice to the claimant of the time and place at which he or she will consider and rule upon such claim.

Publication of the register of Seanad electors.

14. The Seanad returning officer shall publish the register of Seanad electors not later than the 1st day of February.

Method of appealing to the Circuit Court.

15. A person desiring to appeal against the decision of the Seanad returning officer must give notice of appeal in the prescribed form to such returning officer and to the opposite party (if any) when such decision is given or within five days thereafter.

The Seanad returning officer shall transmit every such notice of appeal so given to him or her to the county registrar for the county borough of Dublin in the manner directed by rules of court together with, in every case, a statement of the material facts which, in the opinion of such returning officer, have been established in the case, and of his or her decision upon the whole case and on any point which may be specified as a ground of appeal.

The Seanad returning officer shall furnish to the court hearing any such appeal such further information, within his or her knowledge or procurement, as such court may require.

Appeals on similar grounds.

16. Where it appears to the Seanad returning officer that any two or more notices of appeal from his or her decisions are based on similar grounds, he or she shall inform the county registrar for the county borough of Dublin of that fact for the purpose of enabling the judge hearing such appeals (if he or she so thinks fit) to consolidate such appeals or to select one of such appeals as a test case.

Changes of address of registered electors.

17. Any person registered in the Seanad electoral register may at any time inform the Seanad returning officer of any change in the address of such person and thereupon such returning officer shall amend such register of electors by entering therein such change of address. 5

Deletion of deceased electors from the register.

18. Whenever it comes to the knowledge of the Seanad returning officer that a person registered in the register of electors is dead he or she shall take note of that fact and shall, at the next annual revision of such register in pursuance of this Act, omit the name of such person from the electoral register. 10

Method of publishing documents.

19. Where the Seanad returning officer is required by these rules to publish any document, and no specific provision is made as to the mode of publication, such returning officer shall publish such document by making it available in electronic form on the internet and shall also make copies available for inspection in his or her office during office hours and posting a notice in some conspicuous place on the outside of his or her office stating the times at which such document may be inspected in his or her office. 15 20

Provision of forms by returning officers.

20. The Seanad returning officer shall, on the application of any person, supply to such person free of charge such number of forms of claim and forms of notice of objection as he or she shall reasonably require. 25

The Seanad returning officer shall also, on the application of any person, permit such person to inspect and take copies of any claim or notice of objection received by such returning officer under these rules and shall also, on payment of the prescribed fee, supply to such person a copy of any such claim or notice of objection. 30

Method of sending notices.

21. Any claim, notice of objection, or other document which is, under these rules, to be sent to the Seanad returning officer may be sent to him or her at his or her office. 35

Any notice which is required by these rules to be sent by the Seanad returning officer to any person shall be sufficiently sent if sent to such person at the address given by him or her for that purpose or, if he or she is a registered elector, at his or her address as stated in the register of electors or, where neither of such addresses is available, at his or her last known place of abode. 40

Persons entitled to appear and be heard before the Seanad returning officer.

22. On the consideration of any claim or objection or other matter by the Seanad returning officer in pursuance of these rules, any person appearing to such returning officer to be interested may appear and be heard either in person or by some other person (other than counsel) on his or her behalf. 45

Power of returning officer to take evidence on oath.

23. On the consideration of any claim or objection, or other matter by the Seanad returning officer in pursuance of these rules, such returning officer may, at the request of any person interested or, if he or she so thinks fit, without such request, require that the evidence tendered by any person should be given on oath and may administer an oath for that purpose.

Misnomers and inaccurate descriptions.

24. No misnomer or inaccurate description of any person or place in any list or in a register of electors or in any notice shall prejudice the operation of this Act or these rules as respects that person or place provided such person or place is so designated as to be commonly understood.

SCHEDULE 2

NOMINATING BODIES

Chapter 1

The Register of Nominating Bodies

Establishment and maintenance of register of nominating bodies. 5

1. (1) A register of bodies entitled to nominate persons to the constituencies of candidates for the purpose of every Seanad general election shall be established and maintained in accordance with this Act.

(2) The following provisions shall have effect in relation to the register of nominating bodies: 10

(a) the register shall be in such form as the Seanad returning officer thinks proper;

(b) a body shall not be eligible to be registered in the register in respect of any particular constituency unless either— 15

(i) its objects primarily relate to or are connected with the interests and services mentioned in subsection 1° of section 7 of Article 18 of the Constitution in respect of that particular constituency, and

(ii) its activities are concerned mainly with such interests and services, or 20

(iii) its members are representative of persons who have knowledge and practical experience of such interests and services;

(c) a body which is formed or carried on wholly or substantially for profit or which carries on, as its sole or principal function, any trade or business for profit shall not be eligible for registration in the register; 25

(d) the Seanad returning officer may refuse to register any body (not being an excepted body) in the register unless— 30

(i) its organisation and direction are governed by articles of association, rules or other regulations which—

(I) provide for an annual general meeting to which all members are invited by a notice forwarding an agenda including the following items, that is to say, minutes of preceding meeting, presentation of annual report, consideration of statement of accounts as certified by the auditor, election of executive committee, election of auditors, 35 40

(II) make adequate provision for the carrying on of the business of the body by an executive committee, and

(III) provide for the audit and certification of accounts by a public auditor or other qualified person;

5 (e) a body which is composed wholly or mainly of persons who are in the employment of the State or of persons who are in the employment of local authorities and the objects of which include the advancement or protection of the interests of such persons in relation to their said employment shall not be eligible for registration in the register;

(f) every body which is registered in the register shall be so registered in respect of one, and only one, vocational constituency;

15 (g) except as otherwise provided by this subparagraph, a body shall not be registered in the register save in pursuance of an application in that behalf made by such body in accordance with this Act.

(3) In *paragraph (2)(d)* the expression “excepted body” means a body which is—

20 (a) a body established under an Act of the Oireachtas for any of the following purposes:

(i) the regulation or control of professional qualifications or conduct,

25 (ii) the provision or improvement of cultural or educational facilities;

or

(b) a cultural, educational or professional organisation in receipt of a grant voted specifically for it by the Oireachtas.

30 Applications for registration in register of nominating bodies.

2. (1) Any body which desires to be registered in the register of nominating bodies in respect of any particular vocational constituency and claims to be eligible for registration in that register in respect of that constituency may apply for that purpose to the Seanad
35 returning officer in accordance with this paragraph.

(2) The following provisions shall have effect in relation to applications for registration in the register of nominating bodies at the preparation of that register:

40 (a) an application shall be made in the prescribed form provided by the Seanad returning officer;

(b) the Seanad returning officer shall furnish free of charge on request to any body which proposes to apply for registration an application form for that purpose;

45 (c) an application shall be sent to the Seanad returning officer at his or her office on or before the date specified in that behalf in the notice published under *paragraph 1* and any application which is received at that office after that date

shall not be entertained or considered by the Seanad returning officer;

(d) an application shall state the constituency in respect of which the applicant desires to be registered and the grounds on which the applicant claims to be eligible to be registered; 5

(e) an application shall also state all such things in relation to the applicant as are indicated in that behalf in the prescribed form.

Publication of notice of the preparation of register of nominating bodies. 10

3. As soon as practicable after the passing of this Act, the Seanad returning officer shall publish on the internet and in at least one national newspaper in the State, a notice in the prescribed form giving public notice that the register of nominating bodies is being prepared, and giving such information (including the latest date for receipt of applications for registration) and instructions in relation to applications for registration as the Minister thinks proper. 15

Preparation of register of nominating bodies.

4. (1) As soon as practicable after the day prescribed for this paragraph, and in any event not later than fourteen days thereafter, the Seanad returning officer shall prepare the register of nominating bodies and for that purpose— 20

(a) shall examine all applications for registration duly received by him or her, 25

(b) shall disallow every application which appears to him or her to be irregular in form and every application as respects which the applicant fails to satisfy him or her that the applicant is eligible for registration in respect of the constituency to which the application relates, 30

(c) may disallow any applications which he or she is authorised by the subsequent provisions of this paragraph to disallow, and

(d) shall allow all such applications as he or she does not disallow in pursuance of the foregoing provisions of this paragraph. 35

(2) The Seanad returning officer may require from any applicant for registration in the register of nominating bodies all such information relevant to the registration of the applicant as he or she reasonably requires for the determination by him or her of the allowance or disallowance of the application, and the Seanad returning officer may disallow the application of any applicant which fails or refuses to give any information required of it under this paragraph. 40

(3) It shall be lawful for the Seanad returning officer to disallow an application for registration in the register of nominating bodies made by any body which is a branch of or affiliated or subsidiary to a body which is already registered in the register or whose application for such registration he or she has allowed. 45

(4) Not later than fourteen days after the day prescribed for this paragraph, the Seanad returning officer shall send to every body 50

which applied for registration in the register of nominating bodies (whether its application has been allowed or disallowed) a copy of the register as prepared by the Seanad returning officer under this paragraph.

5 (5) Where the Seanad returning officer has disallowed an application for registration in the register of nominating bodies, he or she shall, on the request of the body which made the application, furnish to the body a statement of his or her reasons for the disallowance.

10 (6) Where the Seanad returning officer has disallowed under this paragraph an application for registration in the register of nominating bodies because the applicant has failed to satisfy him or her that the applicant is eligible for registration in respect of the constituency to which the application relates, a statement to that effect by the Seanad returning officer shall, for the purposes of *subparagraph (5)*,
15 be a sufficient statement of the reasons for the disallowance.

(7) The allowance or disallowance by the Seanad returning officer of any application for registration in the register of nominating bodies shall be final and conclusive, subject only to such appeal as is provided for by this Act.

20 Appeal Board.

5. (1) There shall be a board (appeal board) to hear appeals from decisions of the Seanad returning officer in respect of the registration of nominating bodies.

(2) The appeal board shall consist of five members, namely—

25 (a) a chairman, who shall be a judge of the Supreme Court or the High Court nominated by the Chief Justice,

(b) the Chairman of Dáil Éireann,

(c) the Deputy-Chairman of Dáil Éireann,

(d) the Chairman of Seanad Éireann,

30 (e) the Deputy-Chairman of Seanad Éireann.

(3) The quorum for a meeting of the appeal board shall be three.

(4) The chairman of the appeal board shall preside at every meeting thereof and *subparagraph (5)* shall accordingly not apply in relation to the chairman.

35 (5) The appeal board may act notwithstanding any vacancy thereon.

(6) Subject to the express provisions of this Act, the appeal board shall regulate its own procedure.

40 Appeals to the appeal board in connection with preparation of register of nominating bodies.

6. (1) Any applicant for registration in the register of nominating bodies whose application for registration has been disallowed by the Seanad returning officer on the preparation of the register may appeal in accordance with this paragraph to the appeal board against
45 the disallowance.

(2) Any applicant for registration in the register of nominating bodies on the preparation thereof in respect of any particular constituency (whether its application for registration has been allowed or has been disallowed by the Seanad returning officer) may appeal in accordance with this paragraph to the appeal board against the allowance by the Seanad returning officer of the application of any other applicant for such registration in respect of the same constituency. 5

(3) An appeal under this paragraph to the appeal board shall be made in writing and shall state the grounds on which the appeal is made and shall be delivered or sent by post to the Clerk of Dáil Éireann on or before the day prescribed for this paragraph, and any such appeal which is received by the Clerk of Dáil Éireann after that day shall not be entertained or considered by the appeal board. 10

(4) An appeal under this paragraph shall be open to inspection at all convenient times by the Seanad returning officer. 15

Decision of appeals in connection with preparation of register of nominating bodies.

7. (1) The appeal board shall consider every appeal duly made under *paragraph 5* and shall, in respect of each such appeal, either reverse the decision of the Seanad returning officer which is the subject of the appeal or disallow the appeal. 20

(2) The appeal board shall, when considering an appeal made under *paragraph 5* of this Schedule, consider—

(a) the grounds for the appeal stated pursuant to *paragraph 5(3)*, and no other grounds, and 25

(b) such information (if any) as was made available to the Seanad returning officer, and no other information.

(3) A decision of the Seanad returning officer shall not be reversed under this paragraph by the appeal board unless a majority of the members present are in favour of the reversal. 30

(4) The Seanad returning officer shall give to the appeal board such information and assistance in relation to every appeal considered pursuant to this paragraph as the board may reasonably require of him or her. 35

(5) The decision of the appeal board on any appeal considered pursuant to this paragraph shall be final and conclusive.

Completion and publication of register of nominating bodies.

8. (1) If no appeal under *paragraph 5* is duly made to the appeal board, the Clerk of Dáil Éireann shall, on the day prescribed for this paragraph inform the Seanad returning officer of that fact and the Seanad returning officer shall thereupon sign and publish in *Iris Oifigiúil* the register of nominating bodies prepared by him or her under the foregoing provisions of this Act. 40

(2) If any appeal is duly made under *paragraph 5* to the appeal board, the board shall communicate to the Seanad returning officer their decision (if any) on every such appeal and the Seanad returning officer shall thereupon make such (if any) amendment in the register of nominating bodies prepared by him or her under the foregoing provisions of this Schedule as may be necessary to give effect to 50

such decision and, when all such appeals have been decided and the decisions (if any) thereon have been communicated to and dealt with by the Seanad returning officer, the Seanad returning officer shall sign the register of nominating bodies as so prepared and amended (if at all) by him or her as aforesaid and shall publish it in *Iris Oifigiúil* as soon as conveniently may be.

(3) The register of nominating bodies as published in *Iris Oifigiúil* in pursuance of this paragraph shall be final and conclusive and shall not be open to review by any court and shall be in force for the first Seanad general election held after it is first published and every subsequent Seanad general election, subject only to such annual revision as is provided by this Act.

Annual revision of register of nominating bodies.

9. (1) The Seanad returning officer shall, on or after the 1st, but not later than the 15th day of January in the year after the year of the preparation of the register of nominating bodies and in every subsequent year, publish on the internet and in at least one national newspaper in the State, a notice in the prescribed form giving public notice that, on the 15th day of February next following or, if that day is a Sunday, the 16th day of February next following, the Seanad returning officer will proceed to revise the register of nominating bodies, and giving such information and instructions in relation to applications for insertion, deletion, or amendment of entries in that register as the Minister thinks proper.

(2) Any body not registered in the register of nominating bodies, which desires to be registered in respect of any particular constituency in that register and claims to be eligible for such registration, and any body registered in that register which desires to be removed therefrom, or desires that the entry in respect of it in that register should be amended in any way, may make application in the prescribed form to the Seanad returning officer by delivering the application to or sending it by post so as to reach the Seanad returning officer during the period beginning on the 15th day of January and ending at twelve o'clock noon on the 14th day (being a week-day) or the 13th day (being a Saturday) of February in the year after the year of the preparation of the register of nominating bodies or in any subsequent year, for such registration, deletion, or amendment, as the case may be and any such application which is received by the Seanad returning officer after that period shall not be entertained or examined by him or her.

(3) On the 15th day of February or, if that day is a Sunday, on the 16th day of February in every year the Seanad returning officer shall revise (in this Act referred to as an annual revision) the register of nominating bodies and for that purpose—

(a) shall examine all applications for registration, deletion or amendment received by him or her during the period specified in *subparagraph (2)*,

(b) shall disallow every application which appears to him or her to be irregular in form,

(c) shall disallow every application for registration which appears to him or her to be an application for a registration prohibited by this Act,

(d) shall disallow every application for registration as respects which the applicant fails to satisfy him or her that the

applicant is eligible for registration in respect of the constituency to which the application relates,

- (e) shall disallow every application for registration made by a body which appears to him or her to be a branch of or affiliated or subsidiary to a body which is already registered in the register (not being a body whose registration he or she is deleting) or whose application for such registration he or she is allowing, 5
- (f) may disallow any application for registration where the registration is proper to be refused having regard to *paragraph 1(2)(d)*, 10
- (g) may disallow any application for registration where the applicant fails or refuses to give any information required of the applicant under this paragraph,
- (h) shall allow all such applications for registration as he or she does not disallow, 15
- (i) shall delete from the register the registration of every body which has duly applied for such deletion,
- (j) shall delete from the register the registration of every body which appears to him or her to have ceased to exist, 20
- (k) shall delete from the register the registration of every body which appears to him or her to have become a body whose registration is prohibited by this Act,
- (l) shall delete from the register the registration of every body which appears to him or her to have ceased to be eligible for registration, 25
- (m) shall delete from the register the registration of every body which appears to him or her to be a branch of or affiliated or subsidiary to a body whose application for registration he or she is allowing, 30
- (n) may make all such amendments in the register as appear to him or her by virtue of applications under this paragraph or otherwise to be requisite or proper.

(4) The Seanad returning officer may require, from any applicant under this paragraph for registration or amendment, any information relevant to the application which the Seanad returning officer may reasonably consider necessary. 35

(5) The Seanad returning officer may make such inquiries as he or she thinks proper for the purpose of any annual revision of the register of nominating bodies, but he or she shall not make any deletion or amendment without giving notice thereof to the body whose entry he or she proposes to delete or amend or without giving such body a reasonable opportunity of making representations in regard thereto unless the deletion or amendment is made by virtue of an application under this paragraph. 40 45

(6) Nothing in *paragraphs 2 or 4* of this Schedule shall apply in relation to any annual revision of the register of nominating bodies.

(7) For the purposes of this Schedule a body shall be regarded as affiliated to another body when the first-mentioned body is a

member of or represented on the other body and the objects of the other body include the furtherance of the principal objects of the first-mentioned body.

Appeals to appeal board in connection with annual revision.

5 10. (1) Not later than the 1st day of March in the year after the year of the preparation of the register of nominating bodies and in every subsequent year, the Seanad returning officer shall—

10 (a) inform every body which applied for registration in, deletion from, or amendment of the register of nominating bodies at the annual revision in that year whether he or she allowed or disallowed the application and, in the case of disallowance, his or her reasons therefor, and

15 (b) inform every body which is authorised by *subparagraph (2)(b)* to appeal against the allowance of an application for registration of his or her decision to allow such application, and

20 (c) communicate to every body whose entry in the register of nominating bodies has been deleted or amended by him or her at the annual revision in that year otherwise than on an application by such body the particulars of such deletion or amendment and his or her reasons therefor.

(2) Any of the following persons may appeal to the appeal board against such of the decisions of the Seanad returning officer at an annual revision as are hereinafter specified, that is to say—

25 (a) in the case of a disallowance of an application, the body by which the application was made,

30 (b) in the case of an allowance of an application by a body for registration in respect of any particular constituency, any body which applied at the annual revision for registration in respect of the same constituency and any nominating body which is registered in respect of the same constituency,

35 (c) in the case of a deletion from or amendment of the register of nominating bodies made by the Seanad returning officer otherwise than on an application under this Act, the body affected by the deletion or amendment.

40 (3) An appeal under this paragraph to the appeal board shall be made in writing and shall state the grounds on which the appeal is made and shall be delivered to or sent by post so as to reach the Clerk of Dáil Éireann before twelve o'clock noon on the 15th day (being a week-day) or the 14th day (being a Saturday) of March in the year in which the decision appealed against was given, and any such appeal which is received by the Clerk of Dáil Éireann after that hour on that day shall not be entertained or considered by the
45 appeal board.

(4) An appeal under this paragraph shall be open to inspection at all convenient times by the Seanad returning officer.

(5) In the case of an appeal referred to in *subparagraph (2)(a)*—

50 (a) the appellant shall send a copy of the appeal by registered post to every body which appears to the Seanad returning

officer to be a branch of or affiliated or subsidiary to it and which either is registered in the register of nominating bodies or has applied at the annual revision for registration therein and shall attach the certificate or certificates of posting to the appeal before it is delivered or sent by post to the Clerk of Dáil Éireann, 5

- (b) any body to which a copy of the appeal is required by the foregoing paragraph to be sent may submit comments on the grounds of the appeal and such comments shall be made in writing and shall be delivered to or sent by post so as to reach the Clerk of Dáil Éireann not later than twelve o'clock noon on the 22nd day (being a week-day) or the 21st day (being a Saturday) of March in the year in which the decision appealed against was given, and any such comments which are received by the Clerk of Dáil Éireann after that hour on that day shall not be entertained or considered by the appeal board, 10 15

and to facilitate compliance with this subparagraph, the Seanad returning officer shall, on the request of a body proposing to appeal against the disallowance of an application, furnish the body with a statement specifying every body which appears to him or her to be a branch of or affiliated or subsidiary to the body proposing to appeal and which is registered in the register of nominating bodies or has applied at the annual revision for registration therein. 20

(6) In the case of an appeal referred to in *subparagraph (2)(b)*— 25

- (a) the appellant shall send a copy of the appeal by registered post to the respondent, and shall attach the certificate of posting to the appeal before it is delivered or sent by post to the Clerk of Dáil Éireann, 30
- (b) the respondent may submit comments on the grounds of the appeal and such comments shall be made in writing and shall be delivered to or sent by post so as to reach the Clerk of Dáil Éireann not later than twelve o'clock noon on the 22nd day (being a week-day) or the 21st day (being a Saturday) of March in the year in which the decision appealed against was given, and any such comments which are received by the Clerk of Dáil Éireann after that hour on that day shall not be entertained or considered by the appeal board. 35

(7) Where the Seanad returning officer has disallowed under *paragraph 8* an application for registration in respect of a constituency because the applicant has failed to satisfy him or her that the applicant is eligible for such registration, a statement to that effect shall, for the purposes of *subparagraph (1)* of this paragraph, be a sufficient statement of the reasons for the disallowance. 40 45

(8) Where the Seanad returning officer has deleted under *paragraph 8* the registration of a body on the ground that the body has ceased to be eligible for such registration, a statement to that effect shall, for the purposes of *subparagraph (1)*, be a sufficient statement of the grounds for the deletion. 50

Decision of appeals in connection with annual revision.

11. (1) The appeal board shall consider every appeal duly made to it under *paragraph 9* and shall, in respect of each such appeal,

either reverse the decision of the Seanad returning officer which is the subject of the appeal or disallow the appeal.

(2) The appeal board shall, when considering an appeal made under *paragraph 9*, consider—

5 (a) the grounds for the appeal stated pursuant to *paragraph 9(3)*, and no other grounds, and

(b) such information (if any) as was made available to the Seanad returning officer, and no other information.

10 (3) Where, in the case of an appeal made under *paragraph 9*, comments on the grounds of the appeal have been duly submitted under *paragraphs 9(5) or 9(6)*, the appeal board shall consider the comments and *subparagraph (2)* of this paragraph shall not be construed as preventing or restricting such consideration.

15 (4) A decision of the Seanad returning officer shall not be reversed under this paragraph by the appeal board unless a majority of the members present are in favour of the reversal.

20 (5) The Seanad returning officer shall give to the appeal board such information and assistance in relation to every appeal considered in pursuance of this paragraph as the board may reasonably require of him or her.

(6) The decision of the appeal board on any appeal considered in pursuance of this paragraph shall be final and conclusive.

(7) The decision of the appeal board on any appeal considered in pursuance of this paragraph shall comprise—

25 (a) if the decision reverses a decision disallowing an application by a body for registration, a direction to the Seanad returning officer for deletion from the register of any other specified registration which appears to the appeal board to be a registration of a body which is a
30 branch of or affiliated or subsidiary to the first-mentioned body, and

(b) if the decision reverses a decision allowing an application by a body for registration, a direction for registration of
35 any other specified body as respects which, on the current annual revision, a deletion of the registration thereof has come into force or a disallowance of an application for registration thereof has been made, such deletion or disallowance having been solely on the ground that the body
40 was a branch of or affiliated or subsidiary to the first-mentioned body.

Completion of annual revision.

12. (1) Not later than the 20th day of March in the year after the year of the preparation of the register of nominating bodies and in every subsequent year, the Seanad returning officer shall revise the
45 register of nominating bodies in such manner as may be requisite to give effect to all decisions given by him or her at the annual revision in that year against which no appeal to the board has been made within the time limited in that behalf by this Act, and every revision
50 so made shall come into force on the 21st day of March of the year in which it is made.

(2) The Clerk of Dáil Éireann shall communicate to the Seanad returning officer every decision by the appeal board on an appeal considered pursuant to *paragraph 10*, and the Seanad returning officer shall forthwith make such (if any) revision of the register of nominating bodies as is necessary to give effect to such decision, and every such revision shall come into force on the day after the day on which it is made and shall be notified by the Seanad returning officer to every body affected thereby. 5

(3) As soon as any annual revision of the register of nominating bodies has been completed in accordance with this Schedule, the Seanad returning officer shall sign and publish in *Iris Oifigiúil* the register as revised at the annual revision and the register as so published shall be conclusive evidence of the alterations made in the register at the annual revision. 10

Fee on appeal to appeal board. 15

13. (1) Every body which appeals to the appeal board shall pay to the Clerk of Dáil Éireann a fee of €200, and the payment of the fee before the expiration of the time limited by this Act for sending or delivering the appeal to the Clerk of Dáil Éireann shall be a condition precedent to the entertainment of the appeal by the appeal board. 20

(2) Every fee paid to the Clerk of Dáil Éireann in pursuance of this paragraph shall be retained by him or her until the appeal in respect of which the fee was paid has been decided by the appeal board and— 25

(a) if the appeal board reverses the decision of the Seanad returning officer which is the subject of the appeal, the Clerk of Dáil Éireann shall forthwith repay the fee to the appellant by whom it was paid to him or her, and

(b) in every other case, the Clerk of Dáil Éireann shall pay the fee into, or dispose of it for the benefit of, the Exchequer in such manner as the Minister for Public Expenditure and Reform directs. 30

(3) The Public Offices (Fees) Act 1879, shall not apply in respect of fees payable under this paragraph. 35

Chapter 2

Nomination by Nominating Bodies

1. Within ten days after a dissolution of Dáil Éireann, the Seanad returning officer shall send to every nominating body registered in the register of nominating bodies a form of proposal for nomination form and also a notice in the prescribed form informing the body of— 40

(a) its right to propose a person for nomination to a specified constituency, and

(b) giving to the body such information and instructions in relation to the making of the proposal for nomination as the Minister thinks proper to prescribe. 45

2. A proposal for nomination to a constituency by a nominating body shall be made in accordance with the following provisions:

- (a) the proposal shall be made in writing on the prescribed proposal for nomination form;
- 5 (b) the proposal for nomination form shall contain the particulars required by the prescribed form of proposal for nomination form to be stated therein (including a statement of the qualifications of the person thereby proposed for the constituency to which he or she is proposed) and shall be signed by the nominating body;
- 10 (c) where the nominating body is a body corporate, the proposal for nomination form shall be signed by the body by affixing to such form the seal of the body in the manner and with the counter signatures required by the constitution, articles of association, or other regulations of the body;
- 15 (d) where the nominating body is not a body corporate, the proposal for nomination form shall be signed in the name of the body by some person having authority to sign in that name.

20 3. A proposal for nomination form which purports to be sealed with the seal of a body corporate which is a nominating body and to be countersigned shall, until the contrary is proved, be deemed to have been so sealed in the manner and with the counter signatures required by the constitution, articles of association, or other regulations of the body.

25 4. A proposal for nomination form which purports to be signed in the name of an unincorporated body which is a nominating body shall, until the contrary is proved, be deemed to have been so signed by a person having authority to sign in that name.

30 5. Where a nominating body purports to propose for nomination by a proposal for nomination form more than one person, the proposal for nomination form shall be wholly void.

35 6. The Seanad returning officer shall furnish free of charge on request to a nominating body a proposal for nomination form (in addition to the form which he or she is required by *paragraph 1* to send to the body).

SCHEDULE 3

RULES FOR NOMINATION OF CANDIDATES BY LOCAL AUTHORITIES

1. A local authority may, by resolution (of the intention to propose which not less than 3 clear days' notice has been given in writing to every person who, at the time when such notice is given, is a member of the council or the corporation, as appropriate) resolve to nominate one person to be a candidate at a Seanad general election. 5

2. A resolution shall not be passed before the date of the making of the Seanad general election order in respect of the Seanad general election to which the resolution relates and such a resolution shall not be rescinded. 10

3. A resolution passed under these Rules shall be given effect to by means of a nomination form in the manner prescribed for this purpose sealed with the seal of the local authority concerned.

4. A nomination form under these Rules shall state the name (the surname being stated first), address and occupation (if any) of the person thereby nominated to be a candidate and shall also state all such matters as are required by the nomination form to be stated therein. 15

5. A nomination form under these Rules which is delivered to the Seanad returning officer and which is valid on its face shall (unless the contrary is shown) be conclusive evidence that the resolution mentioned therein was duly proposed and passed in accordance with this paragraph on the date stated in that behalf in the nomination form at a meeting properly convened and held of the local authority whose seal is affixed to the nomination form. 20 25

6. The Seanad returning officer shall furnish free of charge a nomination form to any local authority applying therefor.

7. One valid nomination form nominating a person to be a candidate in pursuance of a resolution passed in accordance with this paragraph by a local authority shall be necessary to constitute a nomination of the person by a local authority. 30

8. The exercise of the powers conferred by this Schedule shall be a reserved function.

SCHEDULE 4

RULES FOR NOMINATION BY POPULAR NOMINATION

1. The nomination of a candidate by means of the verified support of 500 persons whose names are included in the Seanad general election register, shall be accompanied by—
- (a) an application form, and
 - (b) the original version of each of the 500 nomination papers.
2. The application form and nomination papers referred to in *paragraph 1* shall be in the form prescribed by the Minister.
3. (a) The application form shall be signed by the applicant and completed in accordance with the instructions provided thereon and shall be accompanied by a certificate or a statutory declaration, as the case may require.
- (b) The applicant shall indicate the constituency in respect of which he or she is seeking nomination.
- (c) The application form, duly completed, and the certificate or declaration along with the nomination papers shall be delivered or sent so as to be received by the Seanad returning officer not later than the last date for receipt of nominations.
4. (a) Each nomination paper shall be completed in accordance with the instructions provided thereon and shall be accompanied by a certificate or a statutory declaration, as the case may require.
- (b) Each nomination paper shall contain—
- (i) the name, address and voter registration number of the elector,
 - (ii) a statutory declaration stating that the elector is—
 - (I) currently registered to vote in a Seanad general election, and
 - (II) has not nominated any other person to any constituency in respect of the forthcoming Seanad general election.
- (c) The nomination paper, duly completed, and the certificate or declaration shall be returned to the electoral candidate for submission as part of the nomination process.
5. (a) Upon receipt of an application form and accompanying nomination papers, the Seanad returning office shall satisfy himself or herself that, in respect of the application form and each nomination paper submitted, all of the requirements of this Act have been complied with.
- (b) Without prejudice to the generality of *subparagraph (a)*, the Seanad returning officer shall seek to verify that—

- (i) the voter name, address and electoral register registration number correspond with the most recent version of the Seanad general election register, and
- (ii) the voter has not nominated any other candidate in respect of the forthcoming Seanad general election. 5

6. Subject to the foregoing provisions of this Schedule, the fact that a voter who has completed a nomination paper and statutory declaration under *paragraph 4* has previously nominated or subsequently nominates another candidate for the same Seanad general election shall not invalidate or prejudice the nomination of the candidate thereto or any preferences recorded for him or her, and, if the candidate is elected, his or her election shall not, in the absence of systematic fraud, be invalidated on such grounds. 10

SCHEDULE 5

COMPLETION OF CONSTITUENCIES

Preparation of constituencies for election.

5 1. (1) A proposal for nomination form by which a person or persons is or are proposed for nomination at a Seanad general election shall be delivered or sent by post to the Seanad returning officer.

10 (2) Immediately after the expiration of the time for proposal nominations, the Seanad returning officer shall prepare, in respect of each constituency, a list (provisional constituencies) in the prescribed form of the persons in respect of whom he or she has received, before the expiration of the said time, proposals for nominations to such constituency.

15 (3) The Seanad returning officer shall ensure that the provisional constituencies prepared under *subparagraph (2)* are composed in accordance with the requirements of *section 7*.

(4) In preparing the provisional constituencies, the Seanad returning officer shall not—

20 (a) include the name of a person whose proposal for nomination has been received after the expiration of the time for general constituency proposed nominations,

(b) include the name of a person whose proposal for nomination is declared by this Act to be wholly void, or

(c) include the name of a person more than once in the same constituency.

25 Publication and inspection of proposal for nomination papers and nomination papers.

30 2. Where the Seanad returning officer receives a proposal for nomination form or a nomination form at a Seanad general election (other than a form declared by this Act to be wholly void or a form so received after the time limited by this Act for such receipt)—

35 (a) the Seanad returning officer shall forthwith post up, in such public place in the county borough of Dublin as he or she considers most suitable, a notice stating the fact of the receipt by him or her of the form and the name, address and description (as stated in the form) of the person purported to be proposed or nominated by the form and the constituency to which such person purports to be so proposed or nominated,

40 (b) the Seanad returning officer shall hold the form available for inspection by candidates between the hours of 10 a.m. and 1 p.m. on week-days during the period beginning on the day after the day of the receipt of the form and ending on the day before the day of the completion or resumption of the completion (as may be appropriate) of the constituencies.
45

The completion of the constituencies.

3. (1) At eleven o'clock in the morning on the day and at the place appointed in that behalf by a Seanad general election order,

the Seanad returning officer shall attend and hold a sitting (in this Act referred to as the completion of the constituencies) at which he or she shall do all such things as he or she is required by the subsequent provisions of this Act to do at such sitting.

(2) At the completion of the constituencies, the Seanad returning officer shall proceed as follows— 5

(a) as respects each of the groups of constituencies—

(i) he or she shall examine each nomination form in pursuance of which a person was entered in a constituency, shall rule upon the validity or invalidity of each nomination form and the validity or invalidity of the nomination purported to be made thereby and shall delete from the constituencies every entry made therein in pursuance of a nomination form or a nomination which he or she decides to be invalid, 10 15

(ii) he or she shall examine the qualifications of each person whose name remains on the constituencies after the said deletions and shall delete from the constituencies the name of every person in respect of whom he or she is not satisfied that such person is qualified under subsection 1° of section 7 of Article 18 of the Constitution to be on the constituency to which the constituencies relate, 20

(iii) he or she shall, in respect of every person whom he or she determines to be qualified to be on such constituency, enter in the relevant constituency a statement, in such form as he or she thinks proper, of the qualifications which he or she determines to be in fact the qualification of such person to be on such constituency, 25 30

(iv) he or she shall then delete all duplicate entries remaining on the constituencies and shall for that purpose give preference to a nomination by a nominating body;

(b) if, when the provisions of *subparagraph (2)(a)* have been complied with, any person is found to be entered in two or more constituencies— 35

(i) the Seanad returning officer shall retain the name of such person on such one of the constituencies as such person or his or her agent elects, 40

(ii) if such person or his or her agent (as the case may be) refuses or fails to elect or neither such person nor his or her agent is present or reasonably available, the Seanad returning officer shall retain the name of such person in such one of the constituencies as the Seanad returning officer determines by lot, 45

(iii) the Seanad returning officer shall delete the name of such person from all the constituencies except that on which he or she is required, by whichever of the foregoing subparagraphs of this paragraph is applicable, to retain the name of such person; 50

(c) as respects each gender sub-panel, the Seanad returning officer shall ensure that the constituencies are composed in accordance with the requirements of *section 7*.

5 (3) In carrying out the provisions of this Act in relation to the proceedings at the completion of the constituencies, the Seanad returning officer shall have due regard to all decisions of the judicial assessor on questions referred to him or her under this Act by the Seanad returning officer.

10 (4) A decision by the Seanad returning officer at the completion of the constituencies shall be final and conclusive subject only to such reference to the judicial assessor as is provided for by this Act.

Nominations by the Taoiseach to complete provisional constituencies.

15 4. (1) If, when the provisions of *paragraph 3* of this Schedule, have been complied with—

(a) the number of persons whose names are entered in any provisional constituency does not exceed by at least two the maximum number of members of Seanad Éireann permitted by this Act to be elected therefrom, or

20 (b) the requirements concerning the gender sub-panels as set out in *section 7* cannot be fulfilled from the existing nominations,

25 the Seanad returning officer shall adjourn to a convenient day and hour the further proceedings at the completion of the constituencies and shall report to the Taoiseach the deficiency in the said provisional sub-panel and furnish to the Taoiseach a copy of the provisional constituencies as settled immediately before the adjournment.

30 (2) Upon receiving a report under *subparagraph (1)*, the Taoiseach shall nominate to every provisional constituency or gender sub-panel in respect of which he or she receives the report such number of persons as will be sufficient to bring the number of persons on the provisional constituency up to a number exceeding by two (and no more) the maximum number of members of Seanad Éireann permitted by this Act to be elected therefrom.

40 (3) Where the Taoiseach is required by *subparagraph (2)* to make nominations to a provisional constituency, it shall be lawful for him or her to make additional nominations to such provisional constituency in excess of the number of nominations required by that subparagraph, but the additional nominations shall be substitutional only and shall be operative only if and so far as is requisite by reason of the invalidity of one or more of the other nominations made by the Taoiseach under this paragraph to such provisional constituency.

45 (4) A nomination made by the Taoiseach under this paragraph shall be made in accordance with the following provisions:

(a) the nomination shall be made on a nomination form in the prescribed manner;

(b) the nomination shall be made by a separate nomination form;

(c) the nomination form shall state the constituency in respect of which the nomination is made and shall also contain the particulars required by the said prescribed form of nomination form to be stated therein (including a statement of the qualifications of the person thereby nominated for the constituency to which he or she is so nominated) and shall be signed by the Taoiseach; 5

(d) the nomination form shall be delivered or sent to the Seanad returning officer and shall be so sent or delivered that it is received by the Seanad returning officer before the time to which the completion of the constituencies was adjourned under *subparagraph (1)*. 10

(5) On the resumption of the completion of the constituencies after the adjournment thereof under *subparagraph (1)*, the Seanad returning officer shall consider and rule upon the nominations made by the Taoiseach under this paragraph (including examining and ruling upon the qualifications of every person so nominated for the constituency to which he or she is so nominated) and shall enter in the proper place in the proper provisional constituency the name, address, and description of every person whom he or she finds to be validly so nominated, together with a statement, in such form as he or she thinks proper, of the qualifications which he or she determines to be in fact the qualifications of such person to be on such constituency. 15
20

The judicial referee at completion of constituencies. 25

5. (1) The Minister, having consulted with the Minister for Justice, shall appoint a serving or former Judge of the High Court to serve as a judicial assessor for the purpose of this Schedule.

(2) The Seanad returning officer may, on his or her own motion, and shall, if so requested by any person whose name is on a provisional constituency for the time being under consideration or by the agent of any such person, refer to the judicial assessor any question arising during the completion of the constituencies in relation to any nomination form, the nomination of any person to a constituency, the qualifications of any person for a constituency, the statement by the Seanad returning officer of such qualification, or any other matter connected with the provisional constituencies. 30
35

(3) The judicial assessor shall there and then decide and announce his or her decision on every question referred to him or her under this paragraph by the Seanad returning officer. 40

(4) The decision of the judicial assessor on any question referred to him or her under this paragraph by the Seanad returning officer shall be final and conclusive and shall not be open to review by any court.

(5) A question may be referred to the judicial assessor under this paragraph whether the Seanad returning officer has or has not himself or herself given a decision thereon. 45

Questions which may be raised at completion of constituencies.

6. (1) Subject to compliance (where appropriate) with *subparagraph (2)*, at the completion of the constituencies every question relevant to the nomination of a person to a constituency, including the validity of nomination forms, the sufficiency or the correctness of any statement in a nomination form, the validity or the disqualification of 50

any nomination and the qualifications of any person for any constituency, may be raised by the Seanad returning officer or by any person whose name is on a provisional constituency for the time being under consideration or by the agent of any such person.

5 (2) Where a person other than the Seanad returning officer proposes to raise a question at the completion of the constituencies, he or she shall deliver a statement of the question and of the grounds therefor to the Seanad returning officer at least two days before the day of the completion of the constituencies.

10 (3) Where the identity of the person purported to be nominated by a nomination form is free from doubt, the nomination form shall not be rejected or declared invalid merely because of an error in, or the incompleteness of, the statement therein of the name, address or description of such person.

15 (4) The Seanad returning officer may, for the purpose of deciding any question at issue during the completion of the constituencies, receive and act upon evidence, whether oral or written, tendered to him or her by or on behalf of any person affected by such question, and may, if he or she so thinks proper, require such evidence to be
20 given on oath and may for that purpose administer an oath.

(5) The judicial assessor may, for the purpose of deciding any question referred to him or her during the completion of the constituencies, receive and act upon evidence, whether oral or written, tendered to him or her by or on behalf of any person affected by such
25 question (being, save where the judicial assessor otherwise allows, evidence which was made available to the Seanad returning officer), and may, if he or she so thinks proper, require such evidence to be given on oath and may for that purpose administer an oath.

Persons permitted to attend completion of constituencies.

30 7. The following (and no other) persons shall be entitled to be present at the completion of the constituencies:

(a) the Seanad returning officer and his or her assistants;

(b) the judicial assessor and one person brought by him or her to attend on him or her;

35 (c) any person whose name is on a provisional constituency;

(d) one agent of each person whose name is on a provisional constituency;

(e) witnesses giving oral evidence, but only while giving such evidence;

40 (f) such other persons as the Seanad returning officer thinks proper to admit.

Continuity of proceedings at completion of constituencies.

8. (1) The proceedings at the completion of the constituencies shall, so far as practicable, be proceeded with continuously, but may
45 at any time be suspended by the Seanad returning officer, with the consent of the judicial assessor, for such period as the Seanad returning officer thinks proper for refreshment, night-time or other reason appearing to him or her to be sufficient.

(2) Whenever the proceedings at the completion of the constituencies are suspended under this paragraph, the Seanad returning officer shall take all proper precautions for the security of the nomination forms, provisional constituencies and other relevant documents.

5

Death or disqualification of a candidate.

9. (1) Where, before the expiration of the time for general constituency proposed nominations, the Seanad returning officer becomes aware that a person proposed for nomination to a constituency by the body has died or become disqualified for membership of Seanad Éireann, the Seanad returning officer shall forthwith cancel the proposal for nomination of such person, and thereupon such proposal for nomination shall be deemed for the purposes of this Act never to have been received by the Seanad returning officer and it shall be lawful for a replacement person to be nominated in the same manner as the deceased or disqualified person.

10

15

(2) In the counting of the votes cast at a Seanad general election, all the preferences recorded for a candidate named in a constituency of whose death (whether before or after the completion of the constituency) the Seanad returning officer is satisfied before the close of the poll shall be disregarded and regard shall be had in lieu thereof to the next available preferences.

20

(3) Subject to the foregoing provisions of this paragraph, the fact that a candidate named in a constituency has (whether before or after the close of the poll) died or become disqualified for membership of Seanad Éireann shall not invalidate or prejudice the constituency or the nomination of the candidate thereto or any preferences recorded for him or her, and, if he or she is elected, his or her election shall not be invalidated by reason of his or her having so died or become disqualified but he or she shall be deemed to have vacated his or her membership of Seanad Éireann immediately after his or her said election thereto.

25

30

Preparation and publication of the constituencies.

10. (1) When, at the completion of the constituencies, the proceedings provided for in the foregoing sections of this Act have been completed, the Seanad returning officer shall prepare the constituencies, each of which shall consist of a list (arranged in accordance with the subsequent provisions of this paragraph) of the persons who have been found to be validly nominated thereto.

35

(2) Each of the constituencies shall consist of a list of the persons nominated thereto and which shall:

40

- (a) describe the persons by their names, gender, addresses and descriptions as stated in their respective nomination forms;
- (b) contain a statement of each person's qualifications for such constituency as entered in the relevant provisional constituency in pursuance of the foregoing provisions of this Act; and
- (c) indicate the method by which each person has been nominated, and where relevant, shall indicate the name of the nominating body.

45

50

(3) The persons named shall be arranged in the alphabetical order of their surnames and, in the case of identical surnames, of their other names.

5 (4) When the Seanad returning officer has prepared the constituencies he or she shall publish them in *Iris Oifigiúil* by notice containing a copy of the constituencies and shall indicate the method by which each person has been nominated and where relevant, shall indicate the name of the nominating body.

10 (5) The constituencies as prepared and published by the Seanad returning officer in pursuance of this paragraph shall be final and conclusive and not open to review by any Court.

SCHEDULE 6

RULES FOR CONDUCT OF SEANAD GENERAL ELECTIONS

Issue of ballot papers.

1. On the day appointed for the issue of ballot papers the Seanad returning officer shall issue, in the manner directed in the following Rules, ballot papers to every elector named on the electoral register for the election. 5

Attendance of candidates.

2. Every candidate shall be entitled to attend at the issue of ballot papers for the election, and the Seanad returning officer shall, on the request of any such candidate, inform him or her of the time and place at which the issue will be made. 10

Persons present at issue of ballot papers.

3. The Seanad returning officer and his or her assistants, any candidate and any agent appointed by a candidate, and no other person, except with the permission of the Seanad returning officer, may be present at the issue of ballot papers. 15

Method of issuing ballot papers.

4. The Seanad returning officer shall issue ballot papers to each elector by doing or causing to be done in respect of such elector the following things in the following order, that is to say: 20

(a) a mark shall be placed on the electoral register opposite the elector's name thereon to indicate that ballot papers have been issued to such elector, but without disclosing the identity of such ballot papers; 25

(b) the ballot papers shall be marked on both sides with the official mark;

(c) there shall be placed in an envelope (hereinafter referred to as the outer envelope) in the prescribed form addressed to the elector at his or her address stated in the electoral register, the following documents, that is to say: 30

(i) a ballot paper for the constituency in respect of which the voter is registered to vote; and

(ii) a smaller envelope (hereinafter referred to as the ballot paper envelope) in the prescribed form; and 35

(iii) a declaration of identity in the prescribed form; and

(iv) an envelope (hereinafter referred to as the covering envelope) in the prescribed form addressed to the Seanad returning officer;

(d) the outer envelope shall be effectually closed; 40

(e) when the foregoing provisions of this Rule have been complied with in respect of all the electors whose names are on the electoral register, all the said closed outer envelopes shall be collected, counted, and posted.

Issue of duplicate ballot papers.

5. Every request for the issue of duplicate ballot papers shall, when received by the Seanad returning officer, be endorsed by him or her with the day and hour of the receipt thereof by him or her and with a consecutive number, and duplicate ballot papers issued in pursuance of any such request shall be issued in accordance with the provisions of the foregoing Rule so far as the same are applicable and when such ballot papers have been issued the said request shall be disposed of in like manner as the marked copy of the electoral register is required by these Rules to be disposed of.

Posting of ballot papers.

6. The Seanad returning officer shall post the said closed outer envelopes by delivering them to the nearest head post office, or such other office as may be arranged with the head postmaster, and the postmaster at such office shall stamp with the date stamp of An Post a form of receipt to be presented by the Seanad returning officer stating the number of envelopes so delivered, and shall immediately forward such envelopes by ordinary prepaid post for delivery to the persons to whom they are addressed.

20 Preservation of electoral register and counterfoils.

7. The Seanad returning officer, as soon as practicable after the completion of the issue of the ballot papers and in the presence of such candidates and agents as are in attendance, shall make up in separate packets, sealed with his or her own seal and sealed by such of the said candidates or agents as desire to affix their seals, the marked copy of the electoral register and the counterfoils of the ballot papers.

Procedure in connection with marking of ballot papers.

8. The following procedure shall be followed in connection with the marking of ballot papers:

- (a) the elector in the presence of a witness (no other person being present) shall do the following things in the following order:
 - (i) he or she shall produce to the witness the following documents sent to him or her under these Rules:
 - (I) the outer envelope;
 - (II) the ballot paper (that it is unmarked and as to whether it is or is not a duplicate ballot paper);
 - (III) the covering envelope;
 - (IV) the ballot paper envelope;
 - (ii) the witness shall furnish to the elector a form of declaration of identity in the prescribed form and in case the ballot paper produced is a duplicate, shall mark the declaration of identity with the word "duplicate";
 - (iii) the elector shall make and complete the said form of declaration of identity;

- (iv) the elector shall hand the declaration of identity together with the outer envelope produced to the witness who, if he or she is satisfied that the person who made the declaration of identity is the person to whom the outer envelope is addressed, shall sign the declaration of identity, return it to the elector, and then destroy the outer envelope; 5
- (v) the elector shall mark the ballot paper;
- (vi) the elector shall place the ballot paper, whether marked or unmarked, in the ballot paper envelope; 10
- (vii) the elector shall place the ballot paper envelope and the declaration of identity in the covering envelope and shall effectually close the covering envelope;
- (viii) the elector shall hand the covering envelope to the witness; 15
- (b) the witness, on being handed the covering envelope, shall affix thereto in the prescribed manner a label in the prescribed form and, if he or she is satisfied that it is proper to sign the certificate appearing on the label, shall sign that certificate and shall then return the covering envelope to the elector; 20
- (c) the elector shall affix thereto in the prescribed manner a label in the prescribed form, shall sign the certificate appearing on the label and shall send the covering envelope by ordinary prepaid post to the Seanad returning officer. 25

Seanad ballot box.

9. The Seanad returning officer shall provide a number of ballot boxes, being not less than one for each vocational constituency and not less than one for the universities constituency, marked "Seanad ballot box" and containing the name of the relevant constituency, for the reception of the covering envelopes when returned by the voters, and on the completion of the issue of the ballot papers the Seanad returning officer shall show such ballot boxes open and empty to the candidates and agents (if any) present, and shall seal such ballot boxes with his or her seal and shall make provision for the safe custody of such ballot boxes. 30 35

Disposal of covering envelopes on receipt.

10. The Seanad returning officer shall forthwith place unopened in the relevant Seanad ballot box every covering envelope received by him or her before the close of the poll and shall seal up unopened in a separate package all covering envelopes received by him or her after the close of the poll and shall also seal up unopened in a separate package all outer envelopes returned to him or her as undelivered. 40 45

Notice of counting of votes.

11. Not less than three days before the close of the poll, the Seanad returning officer shall send by post to every candidate at his or her address as stated in the constituencies of candidates notice in writing of the time and place at which he or she will open the Seanad ballot boxes and count the votes. 50

Opening of Seanad ballot box.

12. As soon as conveniently may be after the close of the poll, the Seanad returning officer shall open the Seanad ballot boxes and count the votes.

5 Persons present at counting of votes.

13. The Seanad returning officer and his or her assistants, any candidate and any agent appointed by a candidate, and no other person, except with the permission of the Seanad returning officer, may be present at the opening of the Seanad ballot boxes or the counting of the votes.

Procedure on opening of Seanad ballot boxes.

14. When a Seanad ballot box has been opened, the Seanad, returning officer shall do the following things:

- 15 (a) take all the covering envelopes out of the Seanad ballot box and count and note the number thereof;
- (b) examine separately each such covering envelope and mark with the word “rejected” any such covering envelope—
- (i) which is not registered,
- 20 (ii) to which there is not affixed in the prescribed manner the label provided for by *Rule 8* of these Rules bearing a certificate duly completed by a witness within the meaning of that Rule,
- (iii) which is open, or
- 25 (iv) which in his or her opinion has been opened after it was first closed, or has been attempted to be opened after it was closed;
- (c) open each such covering envelope not marked as aforesaid and segregate any of those envelopes containing a declaration of identity marked “duplicate”;
- 30 (d) take up separately each of the said covering envelopes not so segregated and examine the declaration of identity therein;
- 35 (e) if the said declaration of identity is found to be duly completed and made, he or she shall place the declaration of identity and the ballot paper envelope in separate receptacles;
- 40 (f) if he or she is not satisfied that the declaration of identity has been duly completed and made, he or she shall mark the declaration of identity with the words “vote rejected” and shall attach thereto the ballot paper envelope, without opening such envelope, or if there is no such envelope, the ballot papers or paper;
- 45 (g) where a declaration of identity does not appear to accompany the ballot paper envelope, he or she shall open the ballot paper envelope, and if it is found to contain the declaration of identity, he or she shall deal with

such declaration and ballot paper envelope in accordance with the foregoing provisions of this Rule;

- (h) he or she shall mark with the word “rejected” every declaration of identity which is not accompanied by a ballot paper and every ballot paper which is not accompanied by a declaration of identity; 5
- (i) when all the said covering envelopes not so segregated have been dealt with under the foregoing provisions of this Rule, he or she shall take up separately each of the said covering envelopes segregated as containing, a declaration of identity marked “duplicate”, examine the declaration of identity therein and ascertain whether a declaration of identity in respect of the same person has or has not been previously examined under this Rule; 10
- (j) if a declaration of identity in respect of the same person has been previously examined under this Rule, he or she shall mark the declaration marked “duplicate” with the words “vote rejected” and shall attach thereto the ballot paper envelope, without opening such envelope, or, if there is no such envelope, the ballot papers or paper; 15 20
- (k) if a declaration of identity in respect of the same person has not been previously examined under this Rule, he or she shall deal with the declaration marked “duplicate” and the ballot paper envelope and ballot papers or paper accompanying the same in accordance with the foregoing provisions of this Rule other than the two last preceding paragraphs thereof. 25

Ballot papers or declaration not in proper envelope.

15. Where ballot papers and a declaration of identity are received together, such ballot papers shall not be rejected solely on the ground that such ballot papers are not in the ballot paper envelope, such declaration is in the ballot paper envelope or the ballot paper envelope is not closed. 30

Rejection of covering envelope.

16. The Seanad returning officer shall show any covering envelope which he or she proposes to reject to the candidates and agents (if any) present, and if an objection is made by any such candidate or agent to his or her decision shall add to the endorsement the words “rejection objected to”. 35

Separation of rejected covering envelopes. 40

17. The Seanad returning officer shall keep all rejected covering envelopes separate from all other documents.

Rejection of declarations of identity.

18. The Seanad returning officer shall show any declaration of identity which he or she proposes to reject on the ground that it has not been properly completed and made to the candidates and, agents (if any) present, and if an objection is made by any such candidate or agent to his or her decision shall add to the endorsement the words “rejection objected to”. 45

Separation of rejected declarations.

19. The Seanad returning officer shall keep all rejected declarations, with the attached envelopes or ballot papers as the case may be, separate from other documents.

5 Opening of ballot paper envelopes.

20. (1) When all the covering envelopes (other than covering envelopes rejected) in a Seanad ballot box have been opened and their contents dealt with under the preceding Rules, the Seanad returning officer shall open each unopened ballot paper envelope.

10 (2) When such envelopes have been opened, the Seanad returning officer shall, as respects each envelope, ascertain whether it contains a ballot paper and, if not, he or she shall mark the envelope "rejected".

15 (3) As respects each such envelope which contains a ballot paper, the Seanad returning officer shall place the ballot paper respectively in the appropriate one of the special receptacles provided by him or her for ballot papers.

Preservation of covering envelopes, declarations, ballot papers, etc.

20 21. As soon as the Seanad returning officer has completed the placing of the ballot papers in the special receptacles, he or she shall seal up in separate packets:

(a) any rejected covering envelopes;

(b) the declarations of identity which accompanied any ballot papers duly accepted;

25 (c) any rejected declarations of identity; and

(d) any rejected ballot papers;

in the two latter cases with the envelopes (if any) attached thereto.

Counting the ballot papers.

30 22. When the Seanad returning officer has complied with the foregoing Rules of this Schedule, he or she shall, as respects each of the special receptacles provided by him or her for ballot papers, mix together thoroughly the ballot papers therein and shall, in respect of each constituency, count, in accordance with the Rules contained in *Schedule 7* to this Act, the votes recorded on ballot papers relating
35 to such constituency.

Rejection of invalid ballot papers.

40 23. The Seanad returning officer shall endorse "rejected" on any ballot paper which he or she rejects as invalid and if an objection be made by any candidate or agent to his or her decision rejecting the ballot paper, he or she shall add to the said endorsement "rejection objected to".

Continuity of proceedings.

24. The Seanad returning officer shall, so far as practicable, proceed continuously with the proceedings under these Rules subsequent to the opening of the special post office receptacles and with the counting of the votes but may at any time suspend such proceedings or counting for refreshment, night-time or other reason appearing to him or her to be sufficient for such period as he or she thinks proper, and whenever he or she does so suspend such proceedings or such counting, he or she shall take all proper precautions for the security of the ballot papers, envelopes, votes, and other documents relating to the election.

Declaration of secrecy.

25. The Seanad returning officer and each of his or her assistants taking part in any of the proceedings under these Rules or the counting of the votes and every candidate and agent attending any of the said proceedings or the said counting shall, before so taking part or so attending, sign an undertaking in the prescribed form to preserve the secrecy of the voting.

Certificate of result of the poll.

26. As soon as the counting of the votes is completed, the Seanad returning officer shall prepare in duplicate in respect of each constituency a certificate in the prescribed form setting out the names of the candidates elected from such constituency, the total number of votes given for each candidate (whether elected or not), every transfer of values made under this Act, and the total value credited to each candidate at the end of the count at which each such transfer took place, and such other matters as may be prescribed, and the Seanad returning officer shall then sign the said duplicate certificate and shall send one such duplicate to the Clerk of Dáil Éireann and shall retain the other.

Publication of result of election.

27. The Seanad returning officer shall also prepare and publish in *Iris Oifigiúil* a statement in the prescribed form of the names of the candidates elected from each constituency.

Preservation of ballot papers.

28. Upon the completion of the counting of the votes, the Seanad returning officer shall seal up in separate packets the counted ballot papers and the ballot papers rejected as invalid.

Retention of documents by Seanad returning officer.

29. The Seanad returning officer shall retain for six months from the close of the poll the several sealed packets of the marked copy of the electoral register, the counterfoils of the ballot papers, the outer envelopes returned as undelivered, the accepted declarations of identity, the rejected ballot papers, the counted ballot papers, and the invalid ballot papers, and shall at the end of the said period of six months destroy all the said sealed packets unless an election tribunal has otherwise ordered.

Inspection of sealed packets.

5 30. No person shall be allowed to inspect any of the said sealed packets retained by the Seanad returning officer nor any of the contents thereof save under and in accordance with an order of an election tribunal.

Authority for inspection of sealed packets.

10 31. An election tribunal may authorise the inspection by any person of the contents of any of the said sealed packets as justice may require, but on any such inspection care shall be taken that the mode in which any particular elector has voted shall not be discovered.

Compliance with orders of election tribunal.

32. The Seanad returning officer shall comply with every order made by an election tribunal in relation to the inspection, production, and disposal of the said sealed packets.

15 33. Conclusiveness of production by Seanad returning officer.

20 33. Where an order is made by an election tribunal for the production by the Seanad returning officer of any document or packet of documents in his or her possession under these Rules and relating to a specified election, the production by the Seanad returning officer of such document or packet of documents in pursuance of such order shall be conclusive evidence that such document or packet of documents relates to the said specified election and the endorsement made by the Seanad returning officer in pursuance of these Rules on any such document or packet of documents shall be conclusive evidence that such document or packet is what it is stated in such endorsement to be.

Evidence of voting.

30 34. The production by the Seanad returning officer of a ballot paper purporting to have been used at any election conducted under these Rules and of a counterfoil marked with the same printed number and having a number marked thereon in writing shall be *prima facie* evidence that the person who voted by such ballot paper was the person whose number on the electoral register relating to such election was the same as the number so marked on such counterfoil.

Election tribunal.

35 35. In these Rules, the expression "election tribunal" means a court lawfully having cognisance of petitions complaining of undue return or undue election at the relevant election.

SCHEDULE 7

RULES FOR COUNTING OF VOTES

Sequence of the count.

1. The Seanad returning officer shall cause votes to be counted on each constituency by reference to the following sequence— 5

(1) *Vocational Constituency*,

(a) cultural and educational constituency,

(b) agricultural constituency,

(c) labour constituency,

(d) industrial and commercial constituency, 10

(e) administrative constituency.

(2) *Universities Constituency*.

Filling of the seats.

2. (1) Seats shall be filled in accordance with the requirements of section 7 and also *subparagraphs* (2) and (3) of this paragraph. 15

(2) In respect of each vocational constituency, the seats on each gender sub-panels shall be filled in accordance with the following:

(a) in the case of the cultural and educational constituency — the four males with the highest number of votes shall be deemed to be elected and the four females with the highest number of votes shall be deemed to be elected; 20

(b) in the case of the agricultural constituency — the four males with the highest number of votes shall be deemed to be elected and the four females with the highest number of votes shall be deemed to be elected. In respect of the ninth seat one additional person of either gender who has secured the next highest number of votes shall also be deemed to be elected; 25

(c) in the case of the or the labour constituency — the five males with the highest number of votes shall be deemed to be elected and the five females with the highest number of votes shall be deemed to be elected; 30

(d) in the case of the industrial and commercial constituency — the four males with the highest number of votes shall be deemed to be elected and the four females with the highest number of votes shall be deemed to be elected; 35

(e) in the case of the administrative constituency — the four males with the highest number of votes shall be deemed to be elected and the four females with the highest number of votes shall be deemed to be elected. 40

(3) In respect of universities constituency, the three males with the highest number of votes shall be deemed to be elected and three females with the highest number of votes shall be deemed to be elected.

Rejection of invalid ballot papers.

3. The Seanad returning officer shall reject any ballot papers that are invalid.

The order of preferences.

5 4. The Seanad returning officer shall then ascertain the number of first preferences recorded on the ballot papers for each candidate on each constituency.

Arrangement of ballot papers in parcels.

10 5. The Seanad returning officer shall then arrange the valid ballot papers in parcels, according to the first preferences recorded for each candidate.

Counting of first preference votes.

15 6. The Seanad 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 he or she shall ascertain the full total number of all valid papers.

Ascertainment of quota.

20 7. The Seanad returning officer shall then divide the full total number of all valid papers by a number exceeding by one the number of vacancies to be filled. The result increased by one, any fractional remainder being disregarded, shall be the number of votes sufficient to secure the return of a candidate. This number is herein called the "quota".

25 Candidates with quota deemed elected.

8. Subject to the requirements of *section 7* and *paragraph 2*, 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 shall be deemed to be elected.

30 Transfer of surplus.

35 9. (1) If at the end of any count the number of votes credited to a candidate is greater than the quota, the surplus shall be transferred in accordance with the provisions of this Rule to the continuing candidate or candidates indicated on the ballot papers in the parcel or sub-parcel of the elected candidate, according to the next available preferences recorded thereon.

40 (2) (a) If the votes credited to an elected candidate consist of original votes only, the Seanad returning officer shall examine all the papers in the parcel of the elected candidate whose surplus is to be transferred, and shall arrange the transferable papers in sub-parcels according to the next available preferences recorded thereon.

45 (b) If the votes credited to an elected candidate consist of original and transferred votes, or of transferred votes only, the Seanad returning officer shall examine the papers contained in the sub-parcel last received by the

elected candidate, and shall arrange the transferable papers therein in further sub-parcels according to the next available preferences recorded thereon.

- (c) In either of the cases referred to in *paragraphs (a) and (b)* the Seanad returning officer shall make a separate sub-
parcel of the non-transferable papers, and shall ascertain
the number of papers in each sub-parcel of transferable
papers, and in the sub-parcel of non-transferable papers. 5

(3) If the surplus is equal to or greater than the total number of
papers in the sub-parcels of transferable papers, the Seanad
returning officer shall transfer each sub-parcel of transferable papers
to the continuing candidate indicated thereon as the voters' next
available preference: 10

Provided that where the surplus is greater than such total number
a sub-parcel shall be made of a number of non-transferable papers
equal to the difference between the said total number and the surplus
and the papers in such sub-parcel shall be set aside and not further
taken into account and for the purposes of the results of the election
shall be described as non-transferable papers not effective and the
remaining non-transferable papers also arranged as a sub-parcel shall
be placed with the papers of the candidate deemed to be elected. 15
20

- (4) (a) If the surplus is less than the total number of transferable
papers, the Seanad returning officer shall transfer from
each sub-parcel of transferable papers to the continuing
candidate indicated thereon as the voters' next available
preference that number of papers which bears the same
proportion to the number of papers in the sub-parcel as
the surplus bears to the total number of transferable
papers. 25

- (b) The number of papers to be transferred from each sub-
parcel shall be ascertained by multiplying the number of
papers in the sub-parcel by the surplus and dividing the
result by the total number of transferable papers. A note
shall be made of the fractions, if any, in each quotient
ascertained in respect of each candidate. 30
35

- (c) If, owing to the existence of such fractions, the number of
papers to be transferred is less than the surplus, so many
of these fractions taken in the order of their magnitude,
beginning with the largest, as are necessary to make the
total number of papers to be transferred equal to the sur-
plus, shall be reckoned as of the value of unity, and the
remaining fractions shall be ignored. 40

If two or more fractions are of equal magnitude, that frac-
tion shall be deemed to be the largest which arises from
the largest sub-parcel, and if such sub-parcels are equal
in size, preference shall be given to the candidate who
obtained the largest number of original votes. Where the
numbers of such original votes are equal regard shall be
had to the total number of votes credited to such candi-
dates, at the first count at which they had an unequal
number of votes, and the fraction credited to the candi-
date with the greatest number of votes at that count shall
be deemed to be the largest. Where the numbers of votes
credited to such candidates were equal at all counts the
Seanad returning officer shall determine by lot which
fraction shall be deemed to be the largest. 45
50
55

5 (d) The particular papers to be transferred from each sub-parcel shall be those last filed in the sub-parcel, and each paper so transferred shall be marked stamped or perforated so as to indicate the number of the count at which the transfer took place.

(5) A surplus which arises at the end of any count shall be transferred before a surplus which may arise at a subsequent count: Provided that:

10 (a) the Seanad returning officer need not necessarily transfer the surplus of an elected candidate when that surplus, together with any other surplus not transferred is less than the difference between the numbers of the votes credited to the two lowest continuing candidates;

15 (b) a surplus which is equal to or greater than the difference between the numbers of votes credited to the two lowest candidates shall be transferred before any surplus which is less than such difference;

20 (c) if there are two or more surpluses, each of which is less than the difference between the numbers of votes credited to the two lowest candidates, the greatest of such surpluses shall be first transferred without regard to the count at which it arose.

25 (6) When two or more surpluses arise from the same count the largest shall be first dealt with and the others shall be dealt with in the order of their magnitude.

(7) If two or more candidates have each an equal surplus arising from the same count, regard shall be had to the number of original votes obtained by each candidate, and the surplus of the candidate credited with the largest number of original votes shall be first dealt with.

35 Where the numbers of such original votes are equal, regard shall be had to the total number of votes credited to such candidates at the first count at which they had an unequal number of votes, and the surplus of the candidate with the greatest number of votes at that count shall be first dealt with.

Where the numbers of votes credited to such candidates were equal at all counts, the Seanad returning officer shall determine by lot which surplus he or she will first deal with.

Exclusion of candidates.

40 10. (1) If at any time no candidate has a surplus (or when under the preceding Rule an existing surplus need not be and is not transferred), and one or more vacancies remain unfilled, the Seanad returning officer shall exclude the candidate credited with the lowest number of votes, and shall examine all the papers of that candidate, 45 and shall arrange the transferable papers in sub-parcels according to the next available preferences recorded thereon for continuing candidates, and shall transfer each sub-parcel to the candidate for whom that preference is recorded, and shall make a separate sub-parcel of the non-transferable papers. The non-transferable papers 50 shall be set aside as finally dealt with and shall for the purposes of the election results be described as non-transferable papers not effective.

(2) If the total of the votes of the two or more lowest candidates together with any surplus not transferred, is less than the number of votes credited to the next highest candidate, the Seanad returning officer may in one operation exclude those candidates and transfer their votes in accordance with *subparagraph (1)*. 5

(3) If, when a candidate has to be excluded under this Rule, two 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 smallest number of original votes shall be excluded, and where the numbers of the 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 Seanad returning officer shall determine by lot which shall be excluded. 10 15

(4) A candidate may be excluded or may be reintroduced so as to facilitate compliance with the requirements of *section 7* and *paragraph 2* of this Schedule. 20

Treatment of sub-parcel of papers in event of transfer.

11. (1) Whenever any transfer is made under any of the preceding Rules each sub-parcel of papers transferred shall be placed on top of the parcel, if any, of papers of the candidate to whom the transfer is made, and that candidate shall be credited with a number of votes equal to the number of papers transferred to him or her. 25

(2) If after any transfer a candidate has a surplus, that surplus shall be dealt with in accordance with, and subject to the provisions contained in *Rule 9* before any other candidate is excluded.

Filling the last vacancies. 30

12. (1) When the number of continuing candidates is equal to the number of vacancies remaining unfilled, subject always to the requirements of *section 7* and *paragraph 2* of this Schedule, the continuing candidates shall thereupon be deemed to be elected.

(2) When only one vacancy remains unfilled, and the votes of some one continuing candidate exceed the total of all the votes of the other continuing candidates, together with any surplus not transferred, that candidate shall thereupon be deemed to be elected. 35

(3) When the last vacancies can be filled under this Rule, no further transfer of votes need be made. 40

Recount.

13. (1) Any candidate or his or her agent may, at the conclusion of any count, request the Seanad returning officer to re-examine and recount all or any of the papers dealt with during that count, and the Seanad returning officer shall forthwith re-examine and recount accordingly the papers indicated 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. The Seanad returning officer may also at his or her discretion recount papers either once or more often in any case in which he or she is not satisfied as to the accuracy of any count: Provided that nothing herein shall make it obligatory on the 45 50

Seanad returning officer to recount the same parcel of papers more than once.

5 (2) The powers of the Court upon an election petition shall include power to direct the whole or any part of the ballot papers to be recounted, and the result of the election to be ascertained in accordance with these Rules.

(3) On any such recount, subject to such modifications as may be necessary by reason of any order of the Court, each paper shall take the same course as at the original counting of the votes.

10 Decisions of the Seanad returning officer.

14. (1) If any question shall arise in relation to the exclusion of any candidate under *Rule 10* or to any transfer of votes, the decision of the Seanad returning officer, whether expressed or implied by his or her acts, shall be final, unless an objection in writing stating the
15 grounds thereof is made to the Seanad returning officer by any candidate or his or her agent before the declaration of the poll, and in that event the decision of the Seanad returning officer may be reversed upon an election petition.

20 (2) If any decision of the Seanad returning officer is so reversed, the transfer in question and all operations subsequent thereto shall be void, and the court may direct what transfer is to be made in place of the transfer in question, and may cause the subsequent operations to be carried out, and the result of the election to be ascertained in accordance with these Rules.

25 Definitions.

15. In these Rules—

(1) The expression “continuing candidate” means any candidate not deemed to be elected and not excluded.

30 (2) The expression “first preference” means the figure “1” standing alone; the expression “second preference” means the figure “2” standing alone in succession to the figure “1” and the expression “third preference” means the figure “3” standing alone in succession to the figures “1” and “2” set opposite the name of any candidate, and so on.

35 (3) The expression “next available preference” means a second or subsequent preference recorded in consecutive numerical order for a continuing candidate, the preference next in order on the ballot paper for candidates already deemed to be elected or excluded being ignored.

40 (4) The expression “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.

45 (5) The expression “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 two or more candidates (whether continuing or not) are marked with the same number and are next in order of preference, or
- (b) the name of the candidate next in order of preference (whether continuing or not) is marked— 5
 - (i) by a number not following consecutively after some other number on the ballot paper, or
 - (ii) by two or more numbers,
 or
- (c) it is void for uncertainty. 10

(6) The expression “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.

(7) The expression “transferred vote” in regard to any candidate, means a vote derived from a ballot paper on which a second or subsequent preference is recorded for that candidate. 15

(8) The expression “surplus” means the number of votes by which the total number of votes, original and transferred credited to any candidate exceeds the quota.

(9) The expression “count” means— 20

- (a) all the operations involved in the counting of the first preferences recorded for candidates, or
- (b) all the operations involved in the transfer of the surplus of an elected candidate, or
- (c) all the operations involved in the transfer of the votes of an excluded candidate. 25

(10) The expression “deemed to be elected” means deemed to be elected for the purpose of counting of the votes, but without prejudice to the declaration of the poll.

(11) The expression “determine by lot” means determine in accordance with the following direction: 30

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, in cases of exclusion be excluded in the order in which their names are drawn, and, in cases of surpluses, the surpluses shall be transferred in the order in which the names are drawn. 35