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**An Bille um an Seanad, 2016**  
**Seanad Bill 2016**

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*Mar a tionscnaíodh*

*As initiated*

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**AN BILLE UM AN SEANAD, 2016**  
**SEANAD BILL 2016**

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**AN BILLE UM AN SEANAD, 2016**  
**SEANAD BILL 2016**

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# **Bill**

*entitled*

An Act to implement reforms proposed in the Report of the Working Group on Seanad Reform and for that purpose to effect a range of reforms to the Seanad, to provide for the establishment of a Seanad Electoral Commission and to provide for related matters. 5

**Be it enacted by the Oireachtas as follows:**

## **PART 1**

**PRELIMINARY AND GENERAL** 10

### **Short title, commencement and collective construction**

1. (1) This Act may be cited as the Seanad Act 2016.
- (2) This Act comes into operation on the day following the completion of the election of all members to the Twenty-Fifth Seanad.
- (3) The Seanad Electoral (Panel Members) Act 1947, the Seanad Electoral (Panel Members) Act 1954 and this Act shall be read together as one. 15

### **Interpretation**

2. In this Act—
  - “Act of 1937” means the Seanad Electoral (University Members) Act 1937;
  - “Act of 1947” means the Seanad Electoral (Panel Members) Act 1947; 20
  - “constituency” means a vocational panel or the institutions of higher education panel referred to in Article 18 of the Constitution;
  - “prescribe” means prescribed by regulations made by the Seanad Electoral Commission under this Act;
  - “Seanad Electoral Commission” means the Seanad Electoral Commission established under Part 8 of this Act. 25

## Regulations

3. (1) The Seanad Electoral Commission with the consent of the Taoiseach may make regulations prescribing any matter or thing referred to in this Act as prescribed or to be prescribed.
- (2) Regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Seanad Electoral Commission and the Taoiseach to be necessary or expedient for the purposes of the regulations. 5
- (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. 10

## Expenses

4. The expenses incurred by the Taoiseach in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas. 15

## PART 2

### COMPOSITION OF THE SEANAD

## Composition of Seanad 20

5. The Act of 1947 is amended in Part I by inserting the following for section 3—

### “Composition of Seanad

- 2A. At a Seanad general election, in addition to the eleven persons nominated by the Taoiseach to be members of the Seanad— 25
- (a) thirty seats shall be filled by—
- (i) the votes of persons entitled to vote in other specified elections,
- (ii) persons born in Ireland and who hold a current and valid Irish passport and who reside outside the State, and
- (iii) persons in Northern Ireland who are entitled to Irish citizenship, 30
- (b) six seats shall be filled by the votes of graduates of institutions of higher education in the State,
- (c) thirteen seats shall be filled by the votes of serving members of the Dáil, members of the outgoing Seanad and serving members of local authorities.”. 35

PART 3

CONSTITUENCIES

**Seats allocated to each constituency**

6. The Act of 1947 is amended in Chapter III of Part IV by substituting the following for section 52—

5

**“Seats allocated to each constituency**

**52.** (1) At a Seanad general election—

(a) there shall be five vocational constituencies and one institutions of higher education constituency,

(b) each vocational constituency shall contain two sub panels, namely a nominating bodies sub-panel and an Oireachtas sub-panel.

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(2) At a Seanad general election the number of seats available on—

(a) each vocational constituency and the institutions of higher education constituency, and

(b) the respective sub-panels within those constituencies,

15

shall be as provided in the Table to this section.

TABLE

<b>Constituency</b>	<b>Number of Seats on Nominating Bodies Sub-Panel</b>	<b>Number of Seats Oireachtas on Sub-Panel</b>	<b>Total Number of Seats in Constituency</b>
Cultural and education constituency	6	2	8
Agriculture constituency	6	3	9
Labour constituency	6	3	9
Industrial and commercial constituency	6	3	9
Administrative constituency	6	2	8
Institutions of higher education constituency	6	0	6

20

25

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**Institutions of higher education constituency**

**52A.**(1) For the election of the six members of Seanad Éireann referred to in paragraphs i and ii of Article 18.4.1 of the Constitution there shall be one constituency comprising universities and other institutions of higher education in the State.

40

- (2) The constituency referred to in subsection (1) shall be known as the institutions of higher education constituency and shall comprise the institutions specified in subsection (3).
- (3) For the purposes of this Act, “institutions of higher education in the State” means— 5
- (a) (i) the constituent universities of the National University of Ireland,
  - (ii) University of Dublin,
  - (iii) Dublin City University,
  - (iv) University of Limerick,
  - (v) a college to which the Institutes of Technology Acts 1992 to 10  
2006 apply,
  - (vi) Dublin Institute of Technology,
  - (vii) Royal College of Surgeons in Ireland,
  - (b) a linked provider of a designated awarding body as defined by the Qualifications and Quality Assurance (Education and Training) Act 15  
2012,
  - (c) a relevant provider of the Qualifications and Quality Assurance Authority of Ireland providing a programme of education and training leading to a major award of the Qualifications and Quality Assurance Authority of Ireland which is recognised through the National Framework of Qualifications to at least ordinary bachelor 20  
degree level, and
  - (d) such other institution of higher education as may be established in the future under an Act of the Oireachtas.
- (4) For the avoidance of doubt, all aspects of the election of persons to the 25  
institutions of higher education constituency shall be conducted by the Seanad Electoral Commission pursuant to this Act.”.

### **Returning officers**

7. The Act of 1947 is amended by substituting the following for subsection (1) of section 4— 30

#### **“Returning officers**

4. (1) The Seanad Electoral Commission shall appoint—
- (a) a returning officer for each vocational constituency, and
  - (b) one or more returning officers for the institutions of higher education constituency.”. 35

## PART 4

### CHAPTER 1 – THE ELECTORATE

#### The Electorate

8. The Act of 1947 is amended in Chapter III of Part IV by substituting the following for section 44— 5

**“One person, one vote**

44. (1) Every person referred to in section 44A and who has attained the age of 18 years shall be eligible to cast one vote at a Seanad general election which shall be conducted using proportional representation – single transferable vote. 10
- (2) A person’s name shall only be entered once in the electoral register for the election and in respect of one constituency.
- (3) When applying for inclusion in the electoral register, a person shall indicate the constituency in respect of which he or she has opted to cast his or her vote. 15

#### The Electorate

- 44A.(1) At every Seanad general election the electorate shall consist of—
- (a) persons entitled to vote in other specified elections, and
  - (b) persons living in Northern Ireland who qualify for Irish citizenship,
  - (c) persons born in Ireland who hold a current and valid Irish passport and who reside outside the State, 20
  - (d) graduates of universities or other institutions of higher education in the State, and
  - (e) serving members of the Dáil, members of the outgoing Seanad and serving members of local authorities. 25
- (2) In this Act, ‘other specified elections’ means an election of persons to—
- (a) the Dáil,
  - (b) the European Parliament, or
  - (c) a local authority.”. 30

### CHAPTER 2 – REGISTER OF ELECTORS

#### Register of electors

9. The Act of 1947 is amended in Chapter III of Part IV by substituting the following for section 45—

**“Register of electors** 35

45. (1) A register of persons entitled to vote in every Seanad election shall be established and maintained by the Seanad Electoral Commission in



2 - All persons living in Northern Ireland who qualify for Irish citizenship	(i) a Nominating Bodies Sub-Panel of a Vocational Constituency, or (ii) Institutions of Higher Education constituency where eligible	
3 - Persons born in Ireland who hold a current and valid Irish passport and who reside outside the State	(i) a Nominating Bodies Sub-Panel of a Vocational Constituency, or (ii) Institutions of Higher Education constituency where eligible	5  10
4 - All persons who are graduates of universities or other institutions of higher education in the State	(i) Institutions of Higher Education constituency, or (ii) a Nominating Bodies Sub-Panel of a Vocational Constituency	15
5 - All serving members of the Dáil, the Seanad and local authorities	An Oireachtas sub-panel of any one of the Vocational constituencies	

**Application for entry in the register – general** 20

- 45B.** (1) Subject to the requirements of section 44I and other eligibility requirements, where a person makes an application for inclusion in the register of electors for a Seanad election he or she shall indicate the constituency in respect of which he or she seeks to be registered.
- (2) A person whose name appears on the register of electors for a Seanad election may subject to the requirements of section 44I and other eligibility requirements, at any time prior to the prescribed deadline apply to have his or her constituency voting preference changed from one constituency to another. 25
- (3) An application for entry in the Seanad general election register may be made— 30
- (a) in electronic form, or
- (b) by any other means prescribed by the Seanad Electoral Commission.
- (4) The Seanad Electoral Commission may prescribe the requirements which shall apply to— 35
- (a) applications for the change of constituency voting preference, and
- (b) the methods of registration mentioned in subsection (3).

**Application for entry in the register – Division 1 (persons entitled to vote in other elections)** 40

- 45C.** (1) When applying for inclusion in the Register of Electors for elections under—
- (a) section 8 of the Electoral Act 1992,

(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 this section to be entered in the Seanad general election register.

- (2) 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 Seanad Electoral Commission may prescribe the requirements which shall be satisfied by such applicants. 5
- (3) In respect of the registration of persons who are eligible to vote in the elections referred to in subsection (1) or subsection (2), the Seanad Electoral Commission may prescribe the requirements which shall be satisfied by such applicants. 10
- (4) In making regulations under subsection (1) the Seanad Electoral Commission may prescribe— 15
- (a) the form in which an application shall be made,
  - (b) the nature and content of certificates or statutory declarations which are to accompany or support the application,
  - (c) the evidence required to establish an applicant's identity,
  - (d) the evidence required to establish an applicant's entitlement to register, 20
  - (e) the deadline for the acceptance of completed applications for inclusion in the draft register.

**Application for entry in the register – Division 2 (persons living in Northern Ireland)** 25

- 45D.** (1) In respect of the registration of persons living in Northern Ireland who are seeking to be entered in the Seanad general election register, the Seanad Electoral Commission may prescribe the requirements which shall be satisfied by such applicants.
- (2) In making regulations under subsection (1) the Seanad Electoral Commission may prescribe— 30
- (a) the form in which an application shall be made,
  - (b) the nature and content of certificates or statutory declarations which are to accompany or support the application,
  - (c) the evidence required to establish an applicant's identity, 35
  - (d) the evidence required to establish an applicant's entitlement to Irish citizenship,
  - (e) the evidence required to establish an applicant's residency status in Northern Ireland,
  - (f) the evidence required to establish an applicant's voter registration 40

status in Northern Ireland,

- (g) the deadline for the acceptance of completed applications for inclusion in the draft register.

**Application for entry in the register – Division 3 (persons holding an Irish passport)**

5

**45E.** (1) In respect of the registration of persons born in Ireland who hold a current and valid Irish passport and who reside outside the State, and who are seeking to be entered in the Seanad general election register, the Seanad Electoral Commission may prescribe the requirements which shall be satisfied by such applicants.

10

(2) In making regulations under subsection (1) the Seanad Electoral Commission may prescribe—

- (a) the form in which an application shall be made,
- (b) the nature and content of certificates or statutory declarations which are to accompany or support the application,
- (c) the evidence required to establish an applicant’s identity,
- (d) the evidence required to establish an applicant’s residency status,
- (e) the deadline for the acceptance of completed applications for inclusion in the draft register.

15

(3) In this Act ‘reside outside the State’ means a person who has continuously resided outside the State for a period not exceeding the period which has been prescribed by the Seanad Electoral Commission.

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**Application for entry in the register – Division 4 (third level graduates)**

**45F.** (1) A person who meets all of the following requirements shall be eligible to apply to be registered as an elector in the register of electors for the institutions of higher education constituency—

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- (a) each person who is a citizen of Ireland,
- (b) who has attained the age of 18 years, and
- (c) who has received from any one of the institutions of higher education referred to in section 52A, a major award (other than on honorary award) which is recognised through the National Framework of Qualifications to be at least of ordinary bachelor degree level.

30

(2) The Seanad Electoral Commission may prescribe the evidential or other requirements which shall be satisfied by persons seeking to be included in the register under subsection (1).

35

(3) In making regulations under subsection (2) the Seanad Electoral Commission may prescribe—

- (a) the form in which an application shall be made,

40

(b) the nature and content of certificates or statutory declarations which are to accompany or support the application,	
(c) the evidence required to establish an applicant's identity,	
(d) the evidence required to establish an applicant's entitlement to register in respect of the university constituency,	5
(e) the deadline for the acceptance of completed applications for inclusion in the draft register.	
(4) Notwithstanding the receipt of more than one of the awards referred to in subsection (1), a person shall only be entitled to be registered once in the register of electors for a Seanad election.	10
<b>Existing register of university graduates</b>	
<b>45G.</b> In respect of the first Seanad general election to be held after the commencement of this Act the register of electors prepared and maintained pursuant to the Seanad Electoral (University Members) Act 1937 shall form the basis of Division 4 of the Seanad electoral register.	15
<b>Application for entry in the register – Division 5 (members of the Dáil, the Seanad and local authorities )</b>	
<b>45H.</b> The Seanad Electoral Commission may prescribe the requirements which shall be satisfied by—	
(a) persons who are members of the Dáil at the time of the Seanad general election,	20
(b) members of the outgoing Seanad, and	
(c) persons who are members of a local authority at the time of the Seanad general election,	
who are seeking to be entered in the Seanad general election register.	25
<b>Registration of voters - balanced constituencies</b>	
<b>45I.</b> (1) A member of—	
(a) the Dáil at the time of the Seanad general election,	
(b) the outgoing Seanad, and	
(c) a local authority at the time of the Seanad general election,	30
may apply for inclusion in the register of electors for a Seanad election only in respect of an Oireachtas sub-panel.	
(2) The number of persons referred to in subsection (1) who may be registered in respect of any single constituency shall be not less than 18 per cent of the electorate and shall be not greater than 22 per cent of the electorate.	35
(3) In order to ensure adherence to the requirements of subsection (2) the Seanad Electoral Commission may re-assign electors to a constituency other than a panel on which they had applied for inclusion.”	

PART 5

NOMINATION OF CANDIDATES

**Nominating bodies**

10. Section 8 of the Act of 1947 is amended by substituting the following for section 8(2)(b)— 5

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

(I) (i) its objects and area of interest primarily relate to or are directly connected with the interests and services mentioned in subsection 1° of section 7 of Article 18 of the Constitution in respect of that particular panel, and 10

(ii) it has in place a set of corporate governance rules which detail the objectives, structure and rules applicable to the organisation, and

(iii) its activities are concerned mainly with such interests and services, 15

or

(II) it has an active body of members who are representative of persons who have knowledge and practical experience of such interests and services;” 20

**Knowledge and practical experience**

11. The Act of 1947 is amended in Chapter II of Part IV by inserting the following before section 25—

**“Knowledge and practical experience**

24A. (1) This section gives further effect to the requirement set out in Article 18.7 of the Constitution which requires a person seeking to be a candidate in a Seanad general election to have knowledge and practical experience of the interests and services pertaining to the constituency in respect of which he or she seeks to be elected. 25

(2) The requirement referred to in subsection (1) may be met by establishing to the satisfaction of a judicial referee that a person seeking to be a candidate has— 30

(a) (i) attained a formal qualification, or

(ii) through several years of work experience, has attained a level of knowledge which can be regarded as being equivalent to a formal qualification, in a field which is of direct relevance to the constituency in respect of which he or she is seeking to become a candidate, 35

and

- (b) has verifiable practical experience which is of direct relevance to the constituency in respect of which he or she is seeking to become a candidate.
- (3) Notwithstanding the generality of subsection (2), persons seeking nomination to the— 5
- (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, 10
- (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, 15
- (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, 20
- (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. 25
- (4) The onus in establishing the existence of the requisite degree of knowledge and practical experience rests with the aspiring candidate. 30
- (5) A person who has previously served as a member of the Seanad shall be deemed to meet the knowledge and practical experience requirements of Article 18.7 of the Constitution and therefore subsections (2), (3) and (4) shall not apply in respect of the nomination of such persons. 35
- (6) The Seanad Electoral Commission, having consulted with the Minister for Justice, shall appoint a serving or former Judge of the Superior Courts to serve as a judicial assessor for the purpose of this section.
- (7) In order to be eligible for inclusion in a replacement candidates list provided for under section 57, a person shall satisfy the requirements of this section. 40

### **Nomination of persons**

**24B.** At a Seanad general election subject to section 24A and any additional prescribed eligibility requirements, a person may be nominated to be a candidate—

- (a) in a vocational constituency in a Seanad general election by one of the following methods—
  - (i) by one or more nominating bodies in the manner provided for in section 26, or
  - (ii) by four current members of either House of the Oireachtas in the manner provided for in section 25,
- (b) in an institutions of higher education constituency in the manner provided for in section 26A.”.

### **Nomination by members of the Oireachtas**

**12.** Section 25 of the Act of 1947 is amended by substituting the following for subsection (1)—

“(1) At a Seanad general election, any person may be nominated in accordance with this Act by not less than four members of the Oireachtas to an Oireachtas sub-panel constituted for that election.”.

### **Nomination by nominating body**

**13.** Section 26 of the Act of 1947 is amended by substituting the following for subsection (1)—

“(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 for nomination to the nominating bodies sub-panel of that constituency such number of persons as is provided in that behalf by this section, provided that each candidate fulfils the requirements of section 24A.”.

### **Nomination of candidates - Institutions of Higher Education constituency**

**14.** The Act of 1947 is amended in Chapter II of Part IV by inserting the following section after section 26—

#### **“Nomination of candidates - Institutions of Higher Education constituency**

**26A.** (1) A person shall not be entitled to have his or her name included on a ballot paper at a Seanad election as being a candidate for the institutions of higher education constituency unless—

- (a) the person has been nominated in the manner provided for by this section, and
- (b) the person’s nomination paper has been ruled as valid by the returning officer.

- (2) At a Seanad election a person may—
- (a) nominate himself or herself as a candidate, or
  - (b) be nominated by another person (being a person registered as an elector in the Seanad institutions of higher education constituency) as proposer. 5
- (3) (a) Each candidate shall be nominated by a separate nomination paper in the form prescribed by regulations made by the Seanad Electoral Commission.
- (b) In making regulations under paragraph (a), the Seanad Electoral Commission may provide that the form of nomination paper include— 10
- (i) a note of the qualifications, disqualifications and incapacities as regards election to and membership of the Seanad,
  - (ii) a note of the provisions that apply under this Act to the nomination of a candidate, including— 15
    - (I) the fact that a candidate may either follow the procedure for assenting under subsection (5)(a) or make a deposit under subsection (5)(b),
    - (II) the procedure for assenting under subsection (6), and
    - (III) the procedure for making a deposit under subsection (7), 20
  - (iii) a form of declaration, to be signed by the candidate or his or her proposer, that he or she has read the note referred to in paragraph (a) and believes the candidate to be eligible for election and that the candidate has consented to the nomination.
- (4) Each nomination paper shall state the names (the surname being stated first) and the address of the candidate and the occupation (if any) or shall provide a description in such manner as in the opinion of the returning officer to sufficiently identify the candidate. 25
- (5) Before the time appointed by this Act for receiving nominations one of the following requirements shall be complied with— 30
- (a) the candidate's nomination shall have been assented to by 40 persons (excluding the candidate and any proposer) who are registered as electors in the Seanad institutions of higher education constituency (each of whom in this Act is referred to as an 'assentor'), 35
  - (b) the candidate, or someone on his or her behalf, shall have made a deposit in accordance with this section.
- (6) The following provisions apply in respect of the assents required by subsection (5)(a) to the nomination of a candidate referred to in that subsection— 40
- (a) to assent to the nomination, an assentor shall make a statutory

- declaration in the prescribed form stating the following:
- (i) his or her number on the register of Seanad electors in force on the date of the making of the statutory declaration;
  - (ii) his or her contact details, including telephone numbers (if any);
  - (iii) the name and address of the candidate; 5
  - (iv) the form of identification produced by him or her in accordance with paragraph (b), including any number on it that distinguishes it from similar forms held by others;
  - (v) that he or she assents to the nomination of the candidate;
  - (vi) that he or she has not assented to the nomination of any other candidate in respect of that Seanad election, 10
- (b) when making the statutory declaration referred to in paragraph (a), the assentor shall produce to the person taking and receiving the declaration a prescribed photographic Identification and shall, on so doing, be deemed, for the purposes of the Statutory Declarations Act 1938, to be personally known to the person taking and receiving the declaration, 15
- (c) the assent shall have effect as respects, and only as respects, the Seanad election held next after the making of the statutory declaration. 20
- (7) (a) This subsection applies to a candidate referred to in subsection (5) (b) unless the candidate concerned has opted to have his or her nomination assented to by the means specified in subsection (6).
- (b) A candidate at a Seanad election referred to in subsection (5), or someone on his or her behalf, may, at or before the latest relevant time specified for the receipt of that candidate's nomination, deposit with the returning officer the sum of €900, and if he or she fails to do so, his or her candidature shall be deemed to have been withdrawn. 25
- (c) The deposit that may be made by or on behalf of a candidate pursuant to this section may be made by means of legal tender or, with the consent of the returning officer, in any other manner. 30
- (8) (a) The deposit referred to in subsection (7) shall be returned where the candidate—
- (i) withdraws his or her candidature, or whose candidature is deemed to have been withdrawn, 35
  - (ii) dies before the poll is closed,
  - (iii) has not, at or before the latest relevant time specified for the receipt of that candidate's nomination, been validly nominated as a candidate, 40
  - (iv) is elected, or

- (v) is not elected but the greatest number of votes credited to him or her at any stage of the counting of the votes at the Seanad election exceeds one quarter of the quota.
  - (b) Any deposit which is not returned under the foregoing subhead shall be forfeited. 5
  - (c) Where a deposit is to be returned under this subsection it shall be returned to the person by whom it was made, provided that a deposit made by a person who dies before the deposit is returned shall be returned to the personal representative of that person.
  - (d) A deposit forfeited under this section shall be disposed of by the Seanad Electoral Commission in such manner as may be directed by the Minister for Public Expenditure and Reform. 10
  - (9) In this section “personal representative” has the meaning assigned to it by section 3 of the Succession Act 1965.”.
- Verification of nomination process - Institutions of Higher Education constituency** 15
15. The Act of 1947 is amended in Chapter II of Part IV by inserting the following section after section 27—
- “Verification of nomination process**
- 27A. (1) Upon receiving notice of the nomination of a candidate the Seanad Electoral Commission shall satisfy itself that the requirements of this Act and any regulations made thereunder have been complied with. 20
- (2) A decision of the Seanad Electoral Commission under subsection (1) shall be communicated to the nominating body and also to the prospective candidate.
  - (3) In the event of the Seanad Electoral Commission rejecting the nomination of a candidate, the candidate may appeal that decision to the appeals committee convened for that purpose. 25
  - (4) The Appeals Committee convened under this section shall comprise three persons, as follows—
    - (a) a current or retired judge of the Superior Courts, 30
    - (b) a serving officer of the Standards in Public Offices Commission, and
    - (c) a serving officer of the Office of the Ombudsman.
  - (5) The Seanad Electoral Commission may by regulations prescribe the rules and procedures which shall be applicable to the receipt of and adjudication of appeals made under this section.”. 35

PART 6

BALLOTS

**Ballots at Seanad general election**

16. The Act of 1947 is amended in Chapter II of Part IV by substituting the following sections for sections 46 to 51 (inclusive)— 5

**“Issuing of ballots for Seanad general election**

46. (1) A ballot paper for the casting of a vote in a Seanad general election shall be issued to each registered voter in electronic form for printing and shall be accessible only to a registered voter using a unique identifier. 10
- (2) In order to be counted as a valid ballot, each voter-printed ballot paper shall contain on its face a unique QR code.
- (3) The Seanad Electoral Commission may make regulations prescribing the requirements which shall be applicable to— 15
- (a) the design of voter-printed ballot papers,
- (b) the procedures and requirements applicable to the development and issuing of unique identifiers to each registered voter,
- (c) the procedures and requirements applicable to the issuing of a ballot paper in electronic form to each registered voter,
- (d) measures to be taken in order to protect the security, integrity and secrecy of the ballot, 20
- (e) validation and authenticity checks to be carried out before a voter-printed ballot paper can be accepted for counting.
- (4) In this Act, a ‘ballot paper’ means a ballot which is issued in electronic form and is then printed by the voter and which contains a list of the candidates described by their names, addresses, and descriptions as stated in their respective nomination papers and arranged alphabetically in the order of their surnames and, in the case of the identity of surnames, of their other names and may also include a photograph of the candidate. 25 30

**Distinct ballot papers for each constituency**

47. (1) The following provisions shall apply and have effect in relation to the issuing of ballots at a Seanad general election—
- (a) there shall be different ballot papers for— 35
- (i) each vocational constituency, and
- (ii) each sub-panel of each vocational constituency,
- (b) there shall be one ballot paper for the institutions of higher education constituency,

- (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 Seanad Electoral Commission, considers to be most convenient, 5
- (d) a ballot paper shall include a photograph of each candidate in accordance with such requirements as may be prescribed,
- (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. 10 15
- (2) Subject to the provisions of subsection (1) of this section, the voter-printed ballot paper shall be in the prescribed form and each ballot paper shall have a unique QR code printed on its face. 20

**Sending of ballot papers to electors at Seanad general election**

- 48. On the day or days appointed for the issue of ballot papers at a Seanad general election the Seanad returning officer shall make available to each person who has followed the prescribed procedure and whose name is on the electoral register for that election at the email address stated on such electoral register a link to a ballot paper for the constituency in respect of which the voter has opted to, and has been deemed eligible to, cast his or her vote. 25

**Method of voting at Seanad general election** 30

- 49. (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 printing the ballot paper sent to him or her under this Act and then marking the ballot paper sent to him or her and returning the ballot paper by post to the Seanad returning officer. 35
- (2) 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 in respect of an elector situate in the State or situate outside the State be that specified in the rules prescribed by the Seanad Electoral Commission. 40

**Voting outside the State**

- 50. Ballot papers which have been completed outside the State shall be returned by means of post to the relevant Returning Officer.

### **Application of Electoral Act 1992**

- 51.** (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— 5
- (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, 10
  - (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,
  - (d) every reference to ‘constituency’ shall be construed and have effect as a reference to a vocational constituency or universities constituency, 15
  - (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. 20
- (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 elections in Seanad general election as if these elections were elections of members of Dáil Éireann.”. 25

## **PART 7**

### **CASUAL VACANCIES**

#### **Casual vacancies**

- 17.** (1) Sections 61 to 75 (inclusive) of the Act of 1947 are hereby repealed. 30
- (2) The Act of 1947 is amended in Chapter I of Part V by substituting the following sections for sections 56 to 60 (inclusive)—
- “Filling of casual vacancies**
- 56.** (1) Where a casual vacancy occurs amongst the persons elected to the Seanad, the vacancy shall be filled in accordance with the provisions of this Part. 35
- (2) In this Part ‘a casual vacancy’ means a vacancy occasioned by a person who, though elected or regarded as having been elected to the Seanad pursuant to this Act, dies, resigns, becomes disqualified for

election under this Act to the Seanad, is removed from office or otherwise ceases to be a representative in the Seanad or is not entitled to assume the office of Member of the Seanad.

**Filling of vacancy from replacement candidates list**

57. (1) Where a casual vacancy occurs amongst the persons who by virtue of this Act are elected to the Seanad and the relevant Member elected under this Act at the last preceding Seanad election presented a replacement candidates list, the Seanad Electoral Commission shall, as soon as may be after the casual vacancy occurs, by letter request the person (if any) whose name stands first or, as may be appropriate, alone on that list to make and deliver to the Seanad Electoral Commission, within 20 days from the day on which the request is made, a statutory declaration, in such form as the Seanad Electoral Commission may direct, that—
- (a) the person is the person whose name stands (whether alone or otherwise) on the list, and
  - (b) the person is eligible and willing to assume the office of Senator.
- (2) If the person of whom a request was made under subsection (1) fails or refuses to comply with the request, the Seanad Electoral Commission, shall, as soon as may be after the refusal or failure concerned, by letter request the person (if any) whose name stands next on the relevant list to make and deliver to the said Seanad Electoral Commission a statutory declaration in accordance with the said subsection (1) and if such person fails or refuses to comply with the request, the Seanad Electoral Commission shall, as soon as may be after the refusal or failure concerned, make such a request by letter, in turn, of each of the other persons (if any) whose names appear on the relevant list, in the order in which they so appear, until—
- (a) one such person complies with the request, or
  - (b) the list is exhausted, whichever is the sooner.
- (3) Where, pursuant to a request under subsection (1), the Seanad Electoral Commission receives a statutory declaration in compliance with the said paragraph, the Seanad Electoral Commission shall, as soon as may be, cause a statement of the declarant's name and address together with a copy of the statutory declaration to be—
- (a) laid before each House of the Oireachtas,
  - (b) published in *Iris Oifigiúil*,
  - (c) delivered to—
    - (i) each person on the relevant replacement candidates list, and
    - (ii) in case the list was presented by a registered political party, that party.
- (4) Where a statement of the declarant's name and address and a copy of

the statutory declaration are laid, published and delivered in accordance with subsection (3) the person named therein shall, upon the expiration of the period of 7 days beginning on the day on which the statement and copy of the statutory declaration are so published in *Iris Oifigiúil*, be regarded as having been elected under this Act to the Seanad. 5

**Seanad to select person in certain cases**

**58.** (1) In case—

- (a) the persons of whom a request was made under the said rule fail or refuse to comply with the request, 10
- (b) the person is otherwise deemed ineligible, or
- (c) the relevant replacement candidates list is exhausted,

the Seanad Electoral Commission shall cause a statement to the effect set out in paragraph (a), (b) or (c), as may be appropriate, to be laid before each House of the Oireachtas, and the Seanad may select a person whose name is on any replacement candidates list in respect of the constituency concerned, being a list of which public notice was given, the sole such list presented at the last preceding Seanad election in respect of the constituency and, in case the Seanad makes a selection under this rule, it shall by resolution specify the person so selected. 15 20

(2) Where, pursuant to subsection (1) a resolution is passed by the Seanad, the person specified in the resolution shall thereupon be regarded as having been so elected under this Act to the Seanad.

**Term of office of person regarded as having been elected** 25

**59.** Where, pursuant to this Part a person is regarded as having been elected under this Act to the Seanad the person shall, unless he or she sooner dies, resigns, becomes disqualified for election under this Act to the Seanad, is removed from office or otherwise ceases to be a representative in the Seanad, hold office as such a representative for the residue of the term for which the representative whom the person replaces would have held office had the representative not ceased to hold office. 30

**Certain persons not to be regarded as having been elected**

**60.** A person shall not be regarded as having been elected to the Seanad pursuant to this Part if the person is, for the time being— 35

- (a) not eligible for election under this Act to the Seanad, or
- (b) not willing to assume such office.”.

## PART 8

### SEANAD ELECTORAL COMMISSION

#### Establishment day

18. The Taoiseach shall by order appoint a day to be the establishment day for the purposes of this Part. 5

#### Establishment of Seanad Electoral Commission

19. (1) There shall stand established on the establishment day a body which shall be known as *An Coimisiún Toghcháin Seanad* or in the English language as the Seanad Electoral Commission to perform the functions conferred on it by this Act.
- (2) The Seanad Electoral Commission shall be a body corporate with perpetual succession and power to sue and be sued in its corporate name. 10
- (3) The *Schedule* shall apply to the Commission.

#### Functions of the Commission

20. (1) The functions of the Seanad Electoral Commission shall be to organise and oversee all aspects of a Seanad general election. 15
- (2) Without prejudice to the generality of *subsection (1)* the functions of the Seanad Electoral Commission shall be to—
- (a) assume the roles previously discharged by the Interim Seanad Electoral Commission,
  - (b) implement the provisions of this Act, 20
  - (c) establish and maintain the register of electors for each Seanad general election;
  - (d) assess the eligibility of nominating bodies under this Act,
  - (e) assess the eligibility of prospective candidates,
  - (f) to oversee the distribution, receipt and counting of ballots in a Seanad general election, 25
  - (g) to devise and implement public awareness and information campaigns which bring about a high degree of awareness of the arrangements for Seanad general election including, but not limited to, information about the right of persons to register as an elector, and
  - (h) perform such other functions as may be prescribed by the Taoiseach. 30
- (3) The Seanad Electoral Commission shall from time to time to appoint a panel of experts to monitor and periodically review the integrity of the processes and technology used for the electronic registration of voters and the distribution and validation of ballot papers.

### **Membership of Commission**

21. (1) Subject to *section 22* the Taoiseach shall appoint 7 persons to be members of the Seanad Electoral Commission.
- (2) Each member of the Seanad Electoral Commission shall be a person who, in the Taoiseach's opinion, has experience in a field of expertise relevant to the Commission's functions. 5
- (3) The Clerk of the Seanad shall be an *ex officio* member of the Seanad Electoral Commission.

### **Interim Commission**

22. The Membership of the first Seanad Electoral Commission shall be drawn from the membership of the Interim Seanad Electoral Commission which was established by the Taoiseach prior to the passing of this Act, and whose membership is provided for in a motion of each House of the Oireachtas. 10

## **PART 9**

### **AMENDMENTS AND REPEALS**

15

### **Repeal of Act of 1937**

23. The Act of 1937 is hereby repealed.

### **New definition in Act of 1947**

24. The Act of 1947 is amended in section 3(1) by inserting the following definitions—
- “the expression ‘institutions of higher education constituency’ means the constituency comprising universities and institutions of higher education in the State which is referred to in section 52A; 20
- the expression ‘nominating bodies sub-panel’ means a sub-panel of a vocational constituency which is provided for in section 52;
- the expression ‘Oireachtas sub-panel’ means a sub-panel of a vocational constituency which is provided for in section 52;” 25

### **Consequential amendments**

25. The Act of 1947 is amended—
- (a) in section 2 by substituting the following for the definition of “casual vacancy”—
- “the expression ‘casual vacancy’ means a vacancy in the membership of Seanad Eireann occasioned by the death, resignation or disqualification of a member of Seanad Eireann who was elected at the next preceding Seanad general election or was deemed elected pursuant to Part V;” 30
- (b) in section 2 by substituting the following for the definition of “close of the poll”— 35

- “the expression ‘close of the poll’ has (as may be appropriate) the meaning assigned to it in section 24;”,
- (c) in section 2 by substituting the following for the definition of “nominating bodies sub-panel casual vacancy”—
- “the expression ‘nominating bodies sub-panel casual vacancy’ means a casual vacancy occasioned by the death, resignation or disqualification of a member of Seanad Eireann who was elected at the next preceding Seanad general election from a nominating bodies sub-panel or who was deemed elected pursuant to Part V;”,
- (d) in section 2 by substituting the following for the definition of “Oireachtas sub-panel casual vacancy”—
- “the expression ‘Oireachtas sub-panel casual vacancy’ means a casual vacancy occasioned by the death, resignation or disqualification of a member of Seanad Eireann who was elected at the next preceding Seanad general election from an Oireachtas sub-panel or who was deemed elected pursuant to Part V;”,
- (e) in section 2 by deleting the following definitions:
- (i) “certificate of provisional election”;
  - (ii) “the list of candidates”;
  - (iii) “nomination committee (bye-election) meeting”;
  - (iv) “the ruling upon nomination”;
  - (v) “Seanad bye-election”;
  - (vi) “Seanad bye-election order”;
- (f) in section 3(1) by substituting the following for the definition of “panel”—
- “the word ‘panel’ when used without qualification means a panel of candidates formed in pursuance of (a) subsection 1 of section 7 of Article 18 of the Constitution, and (b) subsection 2 of section 4 of Article 18 of the Constitution;”,
- (g) in section 4(2) by deleting the words “and every Seanad bye-election”.

## SCHEDULE

### PART 1 – STAFFING AND FINANCIAL ASPECTS OF THE COMMISSION

Staff of Commission	5
1. (1) Subject to the consent of the Minister for Public Expenditure and Reform, the Seanad Electoral Commission may, from time to time, appoint such and so many persons to be employees of the Seanad Electoral Commission as the Seanad Electoral Commission may determine.	
(2) Except as otherwise provided by this Act, an employee of the Seanad Electoral Commission shall be employed on such terms and conditions as the Seanad Electoral Commission, with the consent of the Minister for Public Expenditure and Reform, may from time to time determine.	10
(3) Except as otherwise provided by this Act, the Seanad Electoral Commission shall pay to its employees such remuneration, fees and allowances for expenses as the Seanad Electoral Commission, with the consent of the Minister for Public Expenditure and Reform, may from time to time determine.	15
Accounts	
2. (1) The Seanad Electoral Commission shall keep all proper and usual accounts and records of—	20
(a) all moneys received or expended by it and the sources of such income and the subject matter of such expenditure, and	
(b) all property, assets and liabilities of the Seanad Electoral Commission.	
(2) Accounts kept in accordance with <i>subparagraph (1)</i> shall be audited at least once in each year by an auditor appointed for that purpose by the Minister for Public Expenditure and Reform and the auditor's fees and the expenses generally of the audit shall be paid by the Seanad Electoral Commission as soon as practicable after the audit.	25
(3) As soon as practicable after each audit the Seanad Electoral Commission shall provide a copy of the accounts and the auditor's certificate and report thereon to the Minister for Public Expenditure and Reform and shall cause copies of same to be printed, published and offered for sale, and immediately after publication a copy of the accounts and the auditor's certificate and report thereon shall be laid before each House of the Oireachtas.	30
Advances	35
3. The Minister for Public Expenditure and Reform may, with the consent of the Taoiseach, advance to the Seanad Electoral Commission out of moneys provided by the Oireachtas, such sums as the Minister for Public Expenditure and Reform may determine for the purpose of expenditure by the Seanad Electoral Commission in the performance of its functions.	40
Expenses	
4. (1) All expenses incurred by the Seanad Electoral Commission shall be defrayed by the Commission out of funds at its disposal.	
(2) The expenses incurred by the Taoiseach in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.	45

## Fees

5. (1) The Seanad Electoral Commission may charge, receive and recover such fees as the Commission may from time to time prescribe, subject to the consent of the Taoiseach, in relation to the performance by the Seanad Electoral Commission of its functions, the provision by it of services (other than a service consisting of the provision of advice to the Taoiseach or another Minister of the Government) and the carrying on by it of activities. 5
- (2) Without prejudice to the generality of *subparagraph (1)*, the Seanad Electoral Commission may charge fees in respect of all or any of the following: 10
- (a) the assessment of the eligibility of prospective candidates seeking nomination;
  - (b) registration of candidates for a Seanad election;
  - (c) the making of an appeal under *section 27A(3)*;
  - (d) any other service which the Seanad Electoral Commission may, from time to time, provide. 15
- (3) The Seanad Electoral Commission may recover as a simple contract debt in any court of competent jurisdiction, from any person by whom it is payable, any amount due and owing to it under this section.

## PART 2 - MEMBERSHIP AND MEETINGS OF SEANAD ELECTORAL COMMISSION 20

### Interpretation

6. In this Part of the Schedule, except where the context otherwise requires, “member” means a member of the Seanad Electoral Commission, including the chairperson.

### Seal 25

7. (1) The Seanad Electoral Commission shall, as soon as practicable after its establishment, provide itself with and retain in its possession a seal.
- (2) The seal of the Seanad Electoral Commission shall be authenticated by the signature of the chairperson of the Seanad Electoral Commission or other member of the Commission authorised by the Commission to act in that behalf. 30
- (3) Judicial notice shall be taken of the seal of the Seanad Electoral Commission.

### Removal of Commission member

8. (1) The Taoiseach may at any time, for stated reasons, remove from office a member who was appointed to the Seanad Electoral Commission.
- (2) A member (other than the chairperson) may at any time resign from office as a member by notice in writing to the chairperson and the resignation shall take effect on the date of the meeting of the Seanad Electoral Commission next held after receipt by the Seanad Electoral Commission of the notice. 35
- (3) A member (including the chairperson) who is absent from all meetings of the Seanad Electoral Commission for 6 consecutive months, unless the absence was due to illness or was approved of by the Commission, shall cease to be a member at the expiration of that period. 40

### Term of office

9. (1) Subject to *paragraph 5*, the Taoiseach, when appointing members, shall specify each member’s term of office which shall not exceed 5 years. 45

- (2) A member shall not serve more than 2 consecutive terms of office.
- (3) The terms of office referred to in *subparagraph (2)* shall include any term of office as chairperson.

#### Casual vacancies

10. Where a casual vacancy occurs among the members (other than the chairperson) the Seanad Electoral Commission shall, as soon as practicable, notify the Taoiseach who shall, as soon as practicable, following consultation with such body or organisation as he or she considers appropriate, appoint a person to fill such a casual vacancy and a person so appointed shall, subject to this Schedule, hold office for the remainder of the term of office of the member whose death, resignation, removal from office or ceasing for any other reason to hold office occasioned the casual vacancy. 5 10

#### First meeting of Commission

11. (1) The Taoiseach shall fix the date, time and place of the first meeting of the Seanad Electoral Commission.
- (2) The Seanad Electoral Commission shall hold at least 3 meetings in each year and such and so many other meetings and at such times as the chairperson may determine. 15

#### Quorum

12. The quorum for a meeting of the Seanad Electoral Commission shall be 3.

#### Notice of meeting

13. (1) At least 3 days before a meeting of the Seanad Electoral Commission notice of the time and place of the meeting shall be sent to each member of the Commission signed—
  - (a) by the Director or chairperson, or
  - (b) if the meeting is convened by members, by those members. 25
- (2) If the meeting is convened by members, the notice convening the meeting shall specify the business to be transacted at that meeting.

#### Chairing of meetings

14. At a meeting of the Seanad Electoral Commission the chairperson shall, if present, be the chairperson of the meeting, or if and so long as the chairperson is not present, the members who are present shall choose one of their number to preside at that meeting. 30

#### Minutes

15. (1) Minutes of the proceedings of all meetings of the Seanad Electoral Commission shall be drawn up and entered in a book kept for that purpose and such minutes shall be signed by the chairperson of the next subsequent meeting. 35
- (2) The names of all members present at a meeting of the Seanad Electoral Commission shall be recorded in the minutes of the proceedings of the meeting.

#### Determination of issues

16. (1) At a meeting of the Seanad Electoral Commission every act of the Seanad Electoral Commission and every question coming before the Commission shall be determined by a majority of the votes of members (including the chairperson) present and voting in relation to the act or question. 40

- (2) In the case of an equal division of votes on any question arising at a meeting of the Seanad Electoral Commission (other than the election of the chairperson or deputy chairperson) the chairperson or other person presiding at that meeting shall have a second or casting vote.

Vacancies

5

17. Subject to paragraph 12, the Seanad Electoral Commission may act notwithstanding one or more than one vacancy among its members or any deficiency in the appointment of a member which may subsequently be discovered.

Standing orders

18. Save as is otherwise provided by any enactment, including this Act, the Seanad Electoral Commission may make, from time to time, such standing orders as it thinks fit for the regulation of its proceedings and may amend or revoke such standing orders.

10



An Bille um an Seanad, 2016

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# BILLE

*(mar a tionscnaíodh)*

*dá ngairtear*

Acht chun athchóirithe a mholtar sa Tuarascáil ón nGasra Oibre um Athchóiriú an tSeanad a chur i ngníomh agus chun na críche sin do dhéanamh réimse athchóirithe ar an Seanad, do dhéanamh socrú maidir le Coimisiún um Thoghcháin an tSeanad a bhunú agus do dhéanamh socrú i dtaobh nithe gaolmhara.

---

*Na Seanadóirí Michael McDowell, Alice Mary Higgins, John Dolan, Prionsios Ní Dhuibhe, Victor Boyhan, Gearóid Ó Creachmhaoil, Lynn Ruane, Rónán Mullen, Grace O'Sullivan, Joan Freeman, Colette Kelleher agus Pádraig Ó Céidigh a thug isteach,*

15 Meitheamh, 2016

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Seanad Bill 2016

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# BILL

*(as initiated)*

*entitled*

An Act to implement reforms proposed in the Report of the Working Group on Seanad Reform and for that purpose to effect a range of reforms to the Seanad, to provide for the establishment of a Seanad Electoral Commission and to provide for related matters.

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*Introduced by Senators Michael McDowell, Alice Mary Higgins, John Dolan, Frances Black, Victor Boyhan, Gerard Craughwell, Lynn Ruane, Rónán Mullen, Grace O'Sullivan, Joan Freeman, Colette Kelleher and Pádraig Ó Céidigh,*

15th June, 2016

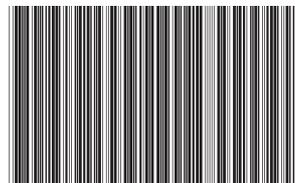
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