



An Bille um an Seanad, 2016
Seanad Bill 2016

Meabhrán Míitheach
Explanatory Memorandum



AN BILLE UM AN SEANAD, 2016
SEANAD BILL 2016

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Purpose of the Bill

The purpose of this Bill is to implement the reforms which have been proposed in the Report of the Working Group on Seanad Reform. The background and context in which the reforms have been proposed by the Working Group on Seanad Reform is set out in its Report, a copy of which is available online: <http://www.merriionstreet.ie/en/ImageLibrary/20150413SeanadReformFinal1.pdf>

Current Law

Currently the existence and composition of the Seanad is determined by the provisions of Article 18 of the Constitution. This has been supplemented by a number of pieces of legislation, including the Seanad Electoral Panel Members Act 1947, the Seanad Electoral (Panel Members) Act 1954 and also the Seanad Electoral (University Members) Act 1937.

Provisions of the Bill

Divided into 9 Parts, this Bill runs to 25 sections and contains one Schedule. The Bill principally seeks to effect a series of textual amendments to the Seanad Electoral Panel Members Act 1947. The Bill also proposes the repeal of the Seanad Electoral (University Members) Act 1937 in its entirety.

Part 1 – Preliminary and General

Section 1 sets out the short title of the Bill and provides for the collective citation of the Bill with other related Acts. Significantly, section 1 also provides that the provisions of this Bill will not come into effect until the day after the election of the Twenty-Fifth Seanad – which suggests a likely commencement in 2020.

Section 2 defines a number of terms which are used in the Bill.

Section 3 empowers the proposed new Seanad Electoral Commission (see Part 8 of the Bill) to make regulations with the consent of the Taoiseach.

Section 4 is a standard provision which provides that the expenses incurred in the administration of the Bill will be paid out of moneys provided by the Oireachtas.

Part 2 – Composition of the Seanad

Section 5 inserts a new section 2A into the Seanad Electoral Panel Members Act 1947 (“the 1947 Act”). The new section 2A describes how the Seanad should be comprised, namely:

- eleven persons nominated by the Taoiseach (as provided in the Constitution);
- thirty seats shall be filled by (i) the votes of people entitled to vote in a Dáil election, a European Parliament election or a local election, (ii) people born in Ireland who hold a current and valid Irish passport and who live outside the State, and (iii) people in Northern Ireland who are entitled to Irish citizenship;
- six seats shall be filled by the votes of all graduates of institutions of higher education in the State; and
- 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.

Part 3 - Constituencies

Section 6 of the Bill replaces the existing section 52 of the 1947 Act with a new section 52 as well as an entirely new section 52A. The new section 52 provides that at a Seanad general election there will be five vocational constituencies and one institutions of higher education constituency. It also provides that each vocational constituency must contain two sub panels, namely a nominating bodies sub-panel and an Oireachtas sub-panel. The Table which accompanies the section specifies the number of seats available on each constituency and each sub-panel within those constituencies.

The proposed new section 52A (to be inserted by section 6 of the Bill) provides that there shall be one six-seat constituency comprising universities and other institutions of higher education in the State. This approach is based solely on that which has been proposed by the Government in the General Scheme of the Seanad Electoral (University Members) (Amendment) Bill 2014 which the Government published in February 2014.

The proposed new section 52A also provides a definition of “institutions of higher education”. Lastly, the new section 52A states that the election of persons to the institutions of higher education constituency shall be conducted by the Seanad Electoral Commission pursuant to the 1947 Act. At a later point in the Bill provision is made for the repeal of the Seanad Electoral (University Members) Act 1937.

Section 7 of the Bill substitutes section 4(1) of the 1947 Act by providing that the Seanad Electoral Commission shall appoint a returning officer for each vocational constituency, and also one or more returning officers for the institutions of higher education constituency.

Part 4: Chapter I – The Electorate

Section 8 of the Bill replaces the existing section 44 of the 1947 Act with a new section 44 and also an additional section 44A. The proposed new section 44 provides for the application of the ‘one person, one vote’ principle to every Seanad election. It also provides that when a person is applying for inclusion in the electoral register, he or she may express a preference for the constituency in respect of which he or she plans to cast their vote.

The proposed new section 44A (to be inserted by section 8 of the Bill) details the persons who will be entitled to cast a vote at a Seanad election, namely: (a) all persons entitled to vote in a Dáil election, a European Parliament election or a local election, (b) all persons living in Northern Ireland who qualify for Irish citizenship, (c) all persons holding a current and valid Irish passport and who reside outside the State, (d) all 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.

Part 4: Chapter II – Register of Electors

Section 9 replaces the existing section 45 of the 1947 Act and also inserts a further nine new sections into the 1947 Act (sections 45A to 45I).

The proposed new section 45 provides that the register of persons entitled to vote in every Seanad election will be established and maintained by the Seanad Electoral Commission. The new section 45 also provides that the register be divided into four divisions.

Section 9 inserts a new section 45A into the Bill. It provides that a person will only be eligible to cast a vote for a particular constituency or sub-panel as spelled out in the Table to section 45A.

Section 45B sets out the rules which will apply where a person applies to be included in the register of electors for a Seanad election. Section 45B also provides that an application for entry in the Seanad general election register may be made online or by another method prescribed by the Seanad Electoral Commission.

Section 45C provides that when a person is applying to be included in the register of electors for a Dáil election, a European Parliament election, or a local government election, he or she may also seek to be included in Division 1 of the register of electors for a Seanad election.

Section 45D states that the Seanad Electoral Commission may make regulations governing the requirements to be satisfied by persons living in Northern Ireland who qualify for Irish citizenship and who are seeking to be included in Division 2 of the Seanad general election register.

Section 45E states that the Seanad Electoral Commission may make regulations governing the voter registration requirements (Division 3) to be satisfied by persons born in the State but currently reside outside the State whilst also holding a valid Irish passport.

Section 45F sets out the voter registration requirements which apply to graduates of the institutions of higher education who are seeking to be included in Division 4 of the Seanad electoral register.

Section 45G provides that the existing registers of electors maintained by the universities should form the basis of Division 4 of the electoral register.

Section 45H states that the Seanad Electoral Commission may make regulations governing the requirements applicable to members of the Dáil, members of the outgoing Seanad and members of local authorities who are seeking to be included in Division 5 of the Seanad electoral register.

Section 45I states that the elected representatives mentioned in section 45H may only be eligible to be included in the register of electors in respect of an Oireachtas sub-panel. Section 45I sets out the limits which will apply to the number of elected representatives who may be registered in respect of any single constituency. The purpose of this requirement is to ensure that the registration of elected representatives are distributed in a balanced way.

Part 5 – Nomination of Candidates

Section 10 of the Bill amends section 8 of the 1947 Act by specifying additional eligibility requirements which must be satisfied by a nominating body before it can be formally recognised as a nominating body.

Section 11 of the Bill inserts two new sections - 24A and 24B - into the 1947 Act. The proposed section 24A, for the first time, sets down a

statutory definition of the “knowledge and practical experience” test which aspiring candidates must satisfy.

Section 24B (inserted by section 11 of the Bill) outlines the means by which a person may be nominated as a candidate at a Seanad election.

Section 12 of the Bill provides for the substitution of section 25(1) of the 1947 Act so as to reflect the proposal that members of the Oireachtas may nominate a person to be a candidate on the Oireachtas sub-panel only.

Section 13 of the Bill provides for the substitution of section 26(1) of the 1947 Act. The revised subsection (1) provides that a nominating body may nominate a person to be a candidate in respect of the nominating bodies sub-panel of a constituency.

Section 14 of the Bill inserts a new section 26A into the 1947 Act. Section 26A sets out the rules applicable to the nomination of a candidate for the institutions of higher education constituency.

Section 15 of the Bill inserts a new section 27A into the 1947 Act. Section 27A sets out the requirements which the Seanad Electoral Commission will adhere to for the purpose of verifying the correctness of the nomination of each candidate.

Part 6 - Ballots

Section 16 of the Bill substitutes six new sections for section 46 to 51 of the 1947 Act. The proposed new section 46 states that a ballot paper for a Seanad general election will be issued to each registered voter in electronic form for printing and once sent the ballot paper will only be accessible to a registered voter using a unique identifier. Section 16 also provides that order to be counted as a valid ballot, each voter-printed ballot paper shall have a unique QR code printed on it.

Section 47 provides that there will be a different ballot paper for each constituency and a different ballot paper for each sub-panel within a constituency.

Section 48 describes how a ballot paper is to be sent to each voter.

Section 49 requires each voter to print their ballot paper, indicate his or her voting preference and then return the ballot paper by post to the Seanad returning officer.

Section 50 requires that ballot papers which have been completed outside the State must be returned by post to the relevant returning officer.

Section 51 provides for the application of various provisions of the Electoral Act 1992 (relating to electoral offences) to a Seanad general election.

Part 7 – Casual Vacancies

Section 17 of the Bill repeals sections 61 to 75 of the 1947 Act and it also substitutes five new sections for sections 56 to 60 of the 1947 Act. The purpose of these provisions is to replace the existing Seanad bye-election provisions with an approach which mirrors that used in European Parliament elections. The proposed new provisions require each Seanad election candidate to submit a substitute candidate list which will be used to find a replacement in the event that the elected member resigns or dies.

Section 56 of the 1947 Act defines the term ‘casual vacancy’. The proposed new section 57 states that where a casual vacancy arises, that vacancy is to be filled by reference to the replacement candidate list, and sections 57 and 58 outline the steps to be followed in filling that vacancy.

Section 59 states that the replacement candidate will hold the seat for the remainder of the unexpired term of the Seanad. *Section 60* provides that a person will not be regarded as having been elected to fill a casual vacancy if that person is either not eligible for election under the 1947 Act or is unwilling to serve.

Part 8 – Seanad Electoral Commission

This Part of the Bill, along with the Schedule, provides for the establishment of a Seanad Electoral Commission and sets out details on its functions, membership, etc.

Section 18 of the Bill states that it is the responsibility of the Taoiseach to determine the date on which the Seanad Electoral Commission is to be established.

Section 19 of the Bill provides for the establishment of the Seanad Electoral Commission and this section is supplemented by the additional details which are set out in the Schedule.

Section 20 of the Bill sets out the functions of the Seanad Electoral Commission which in general shall be to organise and oversee all aspects of a Seanad general election. It is intended that the Seanad Electoral Commission will take over the roles previously discharged by the non-statutory Interim Seanad Electoral Commission whose establishment is expected to occur prior to the passing of this Bill.

Section 21 provides that the membership of the Seanad Electoral Commission shall consist of 7 people, one of whom will be the Clerk of the Seanad.

Section 22 states that the membership of the first Seanad Electoral Commission shall be drawn from the membership of the Interim Seanad Electoral Commission to be established by the Taoiseach before the Bill is passed.

Part 9 – Amendments and Repeals

Section 23 of the Bill provides for the repeal of the Seanad Electoral (University Members) Act 1937.

Section 24 of the Bill inserts a number of new definitions into the 1947 Act.

Section 25 makes a number of consequential amendments to section 2, 3 and 4 of the 1947 Act.

Lastly, the Schedule sets out additional details in respect of the staffing and financial aspects of the Seanad Electoral Commission and also in respect of its membership and meetings.

Senator Michael McDowell,
Meitheamh, 2016.