



# **DÁIL ÉIREANN**

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## **AN BILLE FÁ CHOIMISIÚN UM CHEAPACHÁIN BHREITHIÚNACHA, 2017 JUDICIAL APPOINTMENTS COMMISSION BILL 2017**

### **LEASUITHE COISTE COMMITTEE AMENDMENTS**

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# DÁIL ÉIREANN

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## AN BILLE FÁ CHOIMISIÚN UM CHEAPACHÁIN BHREITHIÚNACHA, 2017 —ROGHCHOISTE

### JUDICIAL APPOINTMENTS COMMISSION BILL 2017 —SELECT COMMITTEE

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#### *Leasuithe Amendments*

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#### SECTION 2

1. In page 8, to delete line 7.

—Jim O'Callaghan, Jack Chambers.

2. In page 8, line 17, after “State” to insert the following:

“(including a member of the Garda Síochána or the Defence Forces and a civil servant in the Civil Service of the Government or the Civil Service of the State),”.

—Sean Sherlock.

3. In page 8, lines 20 and 21, to delete “and includes the chairperson”.

—Sean Sherlock.

4. In page 8, line 23, to delete “, and has never held,”.

—Jim O'Callaghan, Jack Chambers.

5. In page 8, lines 26 and 27, to delete “, and in the relevant period specified by *subsection (2)* for the purposes of this paragraph, was not,”.

—Jim O'Callaghan, Jack Chambers.

6. In page 8, between lines 27 and 28, to insert the following:

“(d) under this Act, the Chief Commissioner of the Irish Human Rights and Equality Commission appointed pursuant to *paragraph (d)* of *section 12(1)* and the nominees of the Free Legal Advice Centres Limited and the Irish Council for Civil Liberties appointed pursuant to *paragraphs (i)* and *(j)\** of *section 12(1)* shall be considered lay persons notwithstanding the provisions of *paragraphs (a)* to *(c)*.”.

—Clare Daly.

[\*This is a reference to the paragraphs proposed to be inserted by amendment 34.]

7. In page 8, to delete line 29.

—Jim O'Callaghan, Jack Chambers.

[SECTION 2]

8. In page 8, to delete line 30.

—Jim O'Callaghan, Jack Chambers.

9. In page 8, to delete line 32.

—Jim O'Callaghan, Jack Chambers.

10. In page 8, between lines 32 and 33, to insert the following:

“ “Secretary” has the meaning assigned to it by *section 33*.”

—Jim O'Callaghan, Jack Chambers.

11. In page 8, to delete lines 34 to 36, and in page 9, to delete lines 1 and 2.

—Jim O'Callaghan, Jack Chambers.

SECTION 3

12. In page 9, to delete lines 13 to 17.

—Jim O'Callaghan, Jack Chambers.

SECTION 5

13. In page 9, line 24, to delete “5 years” and substitute “3 years”.

—Donnchadh Ó Laoghaire.

14. In page 9, line 26, to delete “12 months after the expiration of the said 5 years” and substitute “6 months after the expiration of the said 3 years”.

—Donnchadh Ó Laoghaire.

SECTION 7

15. In page 9, after line 34, to insert the following:

**“Obligation to uphold judicial independence**

7. (1) The Public Appointments Service and the Commission and its members—
- (a) shall, in performing their functions under and in connection with this Act, uphold judicial independence,
  - (b) shall not, in connection with the performance of those functions, take advice or directions from any person otherwise than in accordance with this Act, and
  - (c) shall not perform any of those functions with a view to influencing the interpretation of the law or the Constitution.
- (2) Without prejudice to the generality of *subsection (1)* a person—
- (a) shall not apply for appointment as a lay member of the Commission with a view to influencing the interpretation of the law or the Constitution,
  - (b) who applies for appointment as a lay member of the Commission shall not—
    - (i) provide in connection with that application any information relating to the person’s political opinions or religious or philosophical beliefs, and

[SECTION 7]

- (ii) be asked, and if asked shall not answer, any question relating to—
  - (I) the person’s political opinions or religious or philosophical beliefs, or
  - (II) the merits of any change in the interpretation of the law or the Constitution,

and

- (c) who applies for appointment to a judicial office shall not—
  - (i) provide, in connection with that application, any information relating to the person’s political opinions or religious or philosophical beliefs, and
  - (ii) be asked, and if asked shall not answer, any question relating to—
    - (I) the person’s political opinions or religious or philosophical beliefs, or
    - (II) the merits of any change in the interpretation of the law or the Constitution.”.

—Sean Sherlock.

16. In page 10, between lines 2 and 3, to insert the following:

**“Recommendations to be based on merit**

- 7. (1) No person shall be recommended, under this Act, for appointment to judicial office unless they are of sufficient merit to discharge with distinction the responsibilities of the office to which they are appointed (the “Merit Principle”).
- (2) Subject always to the Merit Principle, described in *subsection (1)*, recommendations of persons for appointment to judicial office under this Act shall have regard to the “Diversity Principle”—
  - (a) the objective that membership of the judiciary should comprise equal numbers of men and women, and
  - (b) the objective that the membership of the judiciary should reflect the diversity within the population as a whole.
- (3) Subject always to the Merit Principle, described in *subsection (1)*, a list of persons recommended for appointment to judicial office under this Act shall include at least one person whose appointment would further the objectives of the Diversity Principle described in *subsection (2)*.”.

—Donnchadh Ó Laoghaire.

[Acceptance of this amendment involves the deletion of section 7 of the Bill.]

17. In page 10, line 6, to delete “Subject to *subsection (1)*, where” and substitute “Where”.

—Clare Daly.

18. In page 10, line 10, to delete “and” where it secondly occurs.

—Jim O’Callaghan, Jack Chambers.

[SECTION 7]

19. In page 10, lines 11 and 12, to delete “, to the extent feasible and practicable,”.

—Clare Daly.

20. In page 10, line 12, to delete “whole.” and substitute the following:

“whole, and

- (c) the objective that there shall be proficiency in the Irish language amongst the judiciary.”.

—Jim O'Callaghan, Jack Chambers.

21. In page 10, between lines 12 and 13, to insert the following:

“(3) Where the function, under this Act, of selecting and recommending persons for appointment to a judicial office falls to be performed, consideration of a candidate’s political affiliation shall be prohibited.”.

—Clare Daly.

SECTION 9

22. In page 10, lines 19 to 26, to delete all words from and including “established” in line 19 down to and including line 26 and substitute “established a body to be known as An Comisúin um Cheapacháin Breithiúnacha or, in the English language, the Judicial Appointments Commission (in this Act referred to as the “Commission”).”.

—Jim O'Callaghan, Jack Chambers.

23. In page 10, to delete lines 28 and 29.

—Jim O'Callaghan, Jack Chambers.

SECTION 10

*Section opposed.*

—Jim O'Callaghan, Jack Chambers.

SECTION 11

*Section opposed.*

—Jim O'Callaghan, Jack Chambers.

SECTION 12

24. In page 11, line 33, after “Justice,” to insert “who shall be Chairperson of the Commission,”.

—Sean Sherlock.

25. In page 12, between lines 2 and 3, to insert the following:

“(d) the President of the Circuit Court,

(e) the President of the District Court,”.

—Jim O'Callaghan, Jack Chambers.

[SECTION 12]

26. In page 12, to delete line 3 and substitute the following:

“(d) the Chief Commissioner of Irish Human Rights and Equality Commission,”.

—Mick Wallace, Clare Daly.

27. In page 12, line 4, to delete “nominated under *section 16*” and substitute “appointed under *section 15*”.

—Clare Daly.

28. In page 12, line 5, to delete “nominated under *section 16*” and substitute “appointed under *section 15*”.

—Clare Daly.

29. In page 12, lines 5 and 6, to delete all words from and including “*section 16*” in line 5 down to and including line 6 and substitute “*section 16*, and”.

—Sean Sherlock.

30. In page 12, to delete line 6 and substitute the following:

“(g) the President of the Circuit Court, and”.

—Mick Wallace.

31. In page 12, to delete line 7 and substitute the following:

“(h) 3 lay persons appointed under *section 15(3)* (the General Lay Appointments), and  
(i) 3 lay persons appointed under *section 15(3)* (the Diversity and Social Inclusion Appointments).”.

—Donnchadh Ó Laoghaire.

32. In page 12, line 7, to delete “6 lay” and substitute “5 lay”.

—Sean Sherlock.

33. In page 12, line 7, to delete “6 lay” and substitute “4 lay”.

—Clare Daly.

34. In page 12, between lines 7 and 8, to insert the following:

“(i) a person nominated by the Free Legal Advice Centres Limited,  
(j) a person nominated by the Irish Council for Civil Liberties.”.

—Clare Daly.

35. In page 12, to delete lines 18 and 19.

—Jim O'Callaghan, Jack Chambers.

SECTION 13

36. In page 12, line 22, to delete “(g) of” and substitute “(f) of”.

—Sean Sherlock.

[SECTION 13]

37. In page 12, line 24, to delete “5 of the lay” and substitute “3 of the lay”.

—Sean Sherlock.

*Section opposed.*

—Jim O’Callaghan, Jack Chambers.

SECTION 14

38. In page 13, line 37, to delete “determine.” and substitute the following:

“determine, and

- (c) submit to the Director, a Declaration of Interests, within 1 month of appointment, and thereafter, in January of each year.”

—Donnchadh Ó Laoghaire.

39. In page 14, to delete lines 4 to 10.

—Mick Wallace, Clare Daly.

40. In page 14, line 8, to delete “Public Appointments Service” and substitute “nominator”.

—Jim O’Callaghan, Jack Chambers.

41. In page 14, line 11, to delete “*section 16*” and substitute “*section 15*”.

—Clare Daly.

42. In page 14, line 13, to delete “being nominated under *subsection (1)* of that section” and substitute “pursuant to *paragraph (e)* of *section 12(1)*”.

—Clare Daly.

43. In page 14, line 15, to delete “being nominated under *subsection (2)* of that section” and substitute “pursuant to *paragraph (f)* of *section 12(1)*”.

—Clare Daly.

44. In page 14, line 21, to delete “or the functions of any of its committees”.

—Jim O’Callaghan, Jack Chambers.

45. In page 14, lines 25 and 26, to delete “, for the purpose of a relevant committee performing the function referred to in *section 11(2)*,”.

—Jim O’Callaghan, Jack Chambers.

46. In page 14, line 27, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

47. In page 14, line 30, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

48. In page 14, line 33, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.



[SECTION 15]

SECTION 15

49. In page 15, between lines 3 and 4, to insert the following:

**“Recommendation of lay person for appointment as member and chairperson**

15. (1) The 6 lay members of the Commission shall be appointed by the Minister on receipt of the following nominations:

- (i) one shall be nominated for appointment by the Citizens Information Board;
- (ii) one shall be nominated for appointment by An tÚdarás um Árd-Oideachas;
- (iii) one shall be nominated for appointment by the Competition and Consumer Protection Commission;
- (iv) one shall be nominated for appointment by the Irish Human Rights and Equality Commission;
- (v) one shall be nominated for appointment by the Free Legal Advice Centres Limited;
- (vi) one shall be nominated for appointment by the Top Level Appointments Commission.

(2) The Minister shall appoint as Chairperson a retired Judge of the High Court or Court of Appeal or Supreme Court.

(3) The Minister shall ensure that a lay person is appointed under this section only if he or she is satisfied that the person—

- (a) is a fit and proper person to be so appointed, and
- (b) is suitable for appointment having regard to—
  - (i) his or her having demonstrated experience of effective board management and corporate governance, and
  - (ii) his or her having such experience, qualifications, training or expertise as is appropriate having regard to the functions of the Commission.

(4) The Minister shall not make an appointment under this section unless a resolution approving the appointment has been passed by each House of the Oireachtas.”.

—Jim O’Callaghan, Jack Chambers.

*[Acceptance of this amendment involves the deletion of section 15 of the Bill.]*

50. In page 15, between lines 3 and 4, to insert the following:

**“Recommendation of lay person for appointment as member and chairperson**

15. (1) The Public Appointments Service shall organise the following selection processes—

- (a) as soon as may be after the commencement of this section, a selection process referred to in each of *subsections (2) and (3)* for the purposes specified in those subsections, and

[SECTION 15]

- (b) thereafter—
  - (i) from time to time when requested to do so by the Minister, a selection process referred to in either *subsection (2)* or *(3)*, or both, for the purposes specified in either or both of those subsections, and
  - (ii) if the request relates to a selection process referred to in *subsection (3)*, for the recommendation of such number of lay persons as is specified in the request.
- (2) The Public Appointments Service shall recommend a lay person for appointment by the Minister as chairperson following a selection process held by the Service for that purpose.
- (3) The Public Appointments Service shall recommend lay persons for appointment by the Minister to the Commission, according to *section 12(1)(h)\** (the General Lay Appointments) following an open selection process held by the Service for that purpose.
- (4) The Public Appointments Service shall recommend lay persons for appointment by the Minister to the Commission, according to *section 12(1)(i)\*\** (the Diversity and Social Inclusion Appointments) according to the process outlined in *subsection (9)*.
- (5) The Public Appointments Service shall ensure that a lay person is recommended under *subsection (2)* for appointment as chairperson only if it is satisfied that the person—
  - (a) is a fit and proper person to be so appointed, and
  - (b) is suitable for appointment having regard to—
    - (i) his or her having demonstrated experience of effective board management and corporate governance,
    - (ii) his or her having such experience, qualifications, training or expertise as is appropriate having regard to the functions of the Commission, and
    - (iii) the desirability that he or she has knowledge of, and experience in, the matters specified in *paragraphs (a) to (e)* and *(g)* of *subsection (8)*.
- (6) Subject to *subsection (7)*, in conducting a selection process under *subsection (3)* for the purpose of recommending lay persons under that subsection for appointment, the Public Appointments Service shall have regard to the desirability that the lay members of the Commission will, amongst them, possess knowledge of, and professional experience in, as many as possible of the matters specified in *subsection (8)*.
- (7) The Public Appointments Service shall ensure that a lay person is recommended under *subsection (3)* for appointment to the Commission only if it is satisfied that the person—
  - (a) is a fit and proper person to be so appointed, and
  - (b) is suitable for appointment by reason of the person's possessing such experience, qualifications, training or expertise as is appropriate having regard to the

[SECTION 15]

functions of the Commission.

- (8) The matters referred to in *subsections (4) and (5)* are matters connected with:
- (a) the operation of the courts;
  - (b) the provision of supports to persons who are victims of crime or to users of the services provided by the courts;
  - (c) human rights, equality or issues concerning diversity amongst members of society;
  - (d) processes and procedures for making appointments to public office or to senior positions in public or private sector organisations;
  - (e) commerce, finance or administration, including public administration;
  - (f) board membership and corporate governance; and
  - (g) professional dispute resolution or mediation activities.
- (9) The Public Appointments Commission, shall for the purposes of this section, seek nominations from a list of named nominating bodies, hereafter to be known as the “Diversity and Inclusion Panel”—
- (a) this Panel of nominating bodies shall be maintained by the Public Appointments Commission, and to qualify for membership, an organisation must demonstrate its relevance to the objectives of diversity outlined in *section 7*, and/or the nine grounds in the Employment Equality Acts,
  - (b) this Panel shall not have a maximum number of organisations entitled to nominate a person for this section, however, each organisation will only be entitled to nominate a single person on each occasion, that there is a vacancy in line with *section 12(1)(i)\*\**,
  - (c) on each occasion that there is a vacancy under *section 12(1)(i)\*\**, the Public Appointments Commission shall seek expressions of interest from the organisations on the Diversity and Inclusion Panel, and
  - (d) the Public Appointments Service shall from these named persons, recommend lay persons for appointment by the Minister to the Commission, in accordance with *subsection (10)*.
- (10) Subject to *subsection (9)*, in conducting a selection process under *subsection (4)* for the purpose of recommending lay persons under that subsection for appointment, the Public Appointments Service shall have regard to the desirability that the lay members of the Commission will, amongst them, possess knowledge of, and professional experience in, as many as possible of the matters specified in *subsection (8)*.”.

—Donnchadh Ó Laoghaire.

[Acceptance of this amendment involves the deletion of section 15 of the Bill.]

[\*This is a reference to a paragraph proposed to be inserted by amendment 31.]

[\*\*This is a reference to a paragraph proposed to be inserted by amendment 31.]

[SECTION 15]

51. In page 15, line 7, to delete “each of *subsections (2)* and” and substitute “*subsection*”.
- Mick Wallace.
52. In page 15, line 11, to delete “either *subsection (2)* or” and substitute “*subsection*”.
- Mick Wallace.
53. In page 15, line 14, to delete “lay”.
- Clare Daly.
54. In page 15, to delete lines 16 to 18.
- Sean Sherlock.
55. In page 15, to delete lines 16 to 18 and substitute the following:
- “(2) As soon as may be after commencement of this section, members of the Commission shall elect a chairperson from the Commission's membership by way of a simple majority vote.”.
- Mick Wallace.
56. In page 15, line 19, to delete “lay”.
- Clare Daly.
57. In page 15, line 20, after “Commission” to insert “, pursuant to *paragraphs (e), (f)* and *(h)* of *section 12(1)*”.
- Clare Daly.
58. In page 15, to delete lines 22 to 32.
- Sean Sherlock, Mick Wallace.
59. In page 15, line 34, to delete “lay”.
- Clare Daly.
60. In page 15, lines 35 to 37, to delete all words from and including “have” in line 35 down to and including line 37 and substitute the following:
- “have regard to:
- (a) the objective that the members of the Commission appointed pursuant to *paragraphs (e), (f)* and *(h)* of *section 12(1)* will, amongst them, possess knowledge of, and experience in, as many as possible of the matters specified in *subsection (7)*;
- (b) the objective that the members of the Commission appointed pursuant to *paragraphs (e), (f)* and *(h)* of *section 12(1)* will comprise an equal number of women and of men;
- (c) the objective that the members of the Commission appointed pursuant to *paragraphs (e), (f)* and *(h)* of *section 12(1)* will reflect the diversity of the population as a whole.”.

[SECTION 15]

—Clare Daly.

61. In page 15, line 35, to delete “lay”.

—Clare Daly.

62. In page 15, line 38, to delete “lay”.

—Clare Daly.

63. In page 16, line 6, after “courts” to insert “and the administration of justice”.

—Clare Daly.

64. In page 16, between lines 10 and 11, to insert the following:

“(d) offending behaviour and/or the rehabilitation of offenders;”.

—Clare Daly.

65. In page 16, to delete lines 11 and 12.

—Mick Wallace.

66. In page 16, to delete lines 11 to 13.

—Clare Daly.

67. In page 16, line 13 to delete “or administration, including public administration” and substitute “, civil society, trade union activity and academia”.

—Mick Wallace.

68. In page 16, to delete line 14.

—Mick Wallace.

69. In page 16, between lines 15 and 16, to insert the following:

“(8) When conducting a selection process for the purpose of recommending lay persons for appointment, the Public Appointments Service shall have regard to—

(a) the objective that the membership should comprise equal numbers of men and women, and

(b) the objective that the membership should reflect the diversity within the population as a whole.”.

—Mick Wallace.

SECTION 16

*Section opposed.*

—Clare Daly.

SECTION 17

70. In page 16, lines 26 to 29, to delete all words from “appoint—” in line 26 down to and including “persons” in line 29 and substitute “appoint lay persons”.

—Sean Sherlock.

[SECTION 17]

71. In page 16, line 29, to delete “lay”.

—Clare Daly.

72. In page 16, after line 34, to insert the following:

“(4) If a motion for a resolution referred to in *subsection (1)* is not passed by either or both Houses of the Oireachtas, the Public Appointments Service shall organise a new selection process in respect of the appointments concerned.”.

—Sean Sherlock.

*Section opposed.*

—Jim O'Callaghan, Jack Chambers.

SECTION 18

73. In page 17, line 2, to delete “and each relevant committee”.

—Jim O'Callaghan, Jack Chambers.

74. In page 17, line 6, to delete “or a relevant committee”.

—Jim O'Callaghan, Jack Chambers.

75. In page 17, line 9, to delete “or the committee”.

—Jim O'Callaghan, Jack Chambers.

76. In page 17, line 10, to delete “lay”.

—Mick Wallace.

77. In page 17, line 12, to delete “and each relevant committee”.

—Jim O'Callaghan, Jack Chambers.

78. In page 17, line 14, to delete “or a relevant committee”.

—Jim O'Callaghan, Jack Chambers.

79. In page 17, line 15, to delete “7 members, 4 of whom” and substitute “6 members, 2 of whom”.

—Sean Sherlock.

80. In page 17, line 15, to delete “, 4 of whom shall be lay members”.

—Mick Wallace.

81. In page 17, lines 16 and 17, to delete “or a relevant committee”.

—Jim O'Callaghan, Jack Chambers.

82. In page 17, line 18, to delete “or committee”.

—Jim O'Callaghan, Jack Chambers.

83. In page 17, line 21, to delete “and each relevant committee”.

—Jim O'Callaghan, Jack Chambers.

SECTION 19

[SECTION 19]

84. In page 17, lines 28 to 30, to delete all words from “, the majority” in line 28 down to and including “determines” in line 30.

—Mick Wallace.

85. In page 17, lines 36 to 38, to delete all words from “, the majority” in line 36 down to and including “determines” in line 38.

—Sean Sherlock, Mick Wallace.

*Section opposed.*

—Jim O’Callaghan, Jack Chambers.

SECTION 20

86. In page 18, line 22, to delete “a relevant committee” and substitute “the Commission”.

—Jim O’Callaghan, Jack Chambers.

87. In page 18, line 24, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

88. In page 18, line 26, to delete “a relevant committee” and substitute “the Commission”.

—Jim O’Callaghan, Jack Chambers.

89. In page 18, lines 27 and 28, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

90. In page 18, lines 29 and 30, to delete “a relevant committee” and substitute “the Commission”.

—Jim O’Callaghan, Jack Chambers.

91. In page 18, line 32, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

92. In page 18, line 33, to delete “a relevant committee” and substitute “the Commission”.

—Jim O’Callaghan, Jack Chambers.

93. In page 18, line 35, to delete “that committee” and substitute “the Commission”.

—Jim O’Callaghan, Jack Chambers.

SECTION 22

94. In page 19, line 19, to delete “nominated by the Law Society of Ireland” and substitute “appointed pursuant to *paragraph (e) section 12(1)*”.

—Clare Daly.

95. In page 19, lines 21 and 22, to delete “nominated by the chairperson of the General Council of the Bar of Ireland” and substitute “appointed pursuant to *paragraph (f) of section 12(1)*”.

—Clare Daly.

[SECTION 24]

SECTION 24

96. In page 20, line 32, to delete “Director” and substitute “Secretary”.

—Jim O’Callaghan, Jack Chambers.

97. In page 21, line 6, to delete “Director” and substitute “Secretary”.

—Jim O’Callaghan, Jack Chambers.

SECTION 27

98. In page 22, between lines 36 and 37, to insert the following:

“(4) The annual report will contain a diversity statement on the success of the Judicial Appointments Commission in furthering the objectives outlined in *section 7(2)*.”.

—Donnchadh Ó Laoghaire.

SECTION 29

99. In page 23, lines 9 and 10, to delete “a relevant committee, the Procedures Committee or any other committee of the Commission,”.

—Jim O’Callaghan, Jack Chambers.

100. In page 23, line 11, to delete “Director, a member of staff of the Office” and substitute “Secretary”.

—Jim O’Callaghan, Jack Chambers.

101. In page 23, lines 21 and 22, to delete from “person;” in line 21 down to and including line 22 and substitute “person.”.

—Jim O’Callaghan, Jack Chambers.

SECTION 30

102. In page 23, lines 25 and 26, to delete “a relevant committee, the Procedures Committee or any other committee of the Commission,”.

—Jim O’Callaghan, Jack Chambers.

103. In page 23, line 27, to delete “Director, a member of staff of the Office” and substitute “Secretary”.

—Jim O’Callaghan, Jack Chambers.

104. In page 23, line 33, to delete “and of its committees”.

—Jim O’Callaghan, Jack Chambers.

105. In page 23, line 34, to delete “and its committees”.

—Jim O’Callaghan, Jack Chambers.

106. In page 23, line 35, to delete “or its committees”.

—Jim O’Callaghan, Jack Chambers.

107. In page 24, to delete lines 3 to 6.

—Jim O’Callaghan, Jack Chambers.



[SECTION 31]

SECTION 31

**108.**In page 24, line 10, to delete “each relevant committee” and substitute “the Commission”.

—Jim O’Callaghan, Jack Chambers.

SECTION 32

*Section opposed.*

—Jim O’Callaghan, Jack Chambers.

SECTION 33

**109.**In page 24, in line 34 to delete “director (in this Act referred to as the “Director”)” and substitute “Secretary (in this Act referred to as the “Secretary”)”.

—Jim O’Callaghan, Jack Chambers.

**110.**In page 25, line 1, to delete “Director” and substitute “Secretary”.

—Jim O’Callaghan, Jack Chambers.

**111.**In page 25, line 3, to delete “Director” and substitute “Secretary”.

—Jim O’Callaghan, Jack Chambers.

**112.**In page 25, line 7, to delete “Director” and substitute “Secretary”.

—Jim O’Callaghan, Jack Chambers.

**113.**In page 25, between lines 10 and 11, to insert the following:

“(6) The Secretary shall be responsible to the Commission for the performance of his or her functions.”.

—Jim O’Callaghan, Jack Chambers.

SECTION 34

*Section opposed.*

—Jim O’Callaghan, Jack Chambers.

SECTION 35

**114.**In page 25, lines 22 to 27, to delete all words from “amended—” in line 22 down to and including “insertion” in line 27 and substitute “amended by the insertion”.

—Sean Sherlock.

**115.**In page 26, to delete lines 15 to 26 and substitute the following:

“(3) Subsection (1) shall only apply to a legal academic who has qualified as a barrister or solicitor and subsequent subsections of this section, in so far as they relate to a person who is referred to in them as a ‘head of a faculty’ or ‘head of another faculty’, shall not be construed as enabling such a person to be the subject of such an appointment unless the person has qualified as a barrister or solicitor.”.

—Donnchadh Ó Laoghaire.

*Section opposed.*

[SECTION 35]

—Sean Sherlock.

SECTION 37

**116.** In page 27, line 34, to delete “a relevant committee” and substitute “the Commission”.

—Jim O’Callaghan, Jack Chambers.

**117.** In page 27, line 38, to delete “a relevant committee” and substitute “the Commission”.

—Jim O’Callaghan, Jack Chambers.

**118.** In page 28, line 5, to delete “a relevant committee” and substitute “the Commission”.

—Jim O’Callaghan, Jack Chambers.

**119.** In page 28, lines 6 to 9, to delete all words from “has—” down to and including “procedure,” and substitute “has an appropriate knowledge of the decisions”.

—Clare Daly.

**120.** In page 28, to delete lines 11 to 21.

—Clare Daly.

**121.** In page 28, to delete lines 16 to 21 and substitute the following:

“(5) In determining whether the requirements of *paragraphs (i) and (ii) of subsection (3)* are satisfied, a relevant committee shall have regard, in particular, to the nature and extent of the practice of the person concerned in the Supreme Court, the Court of Appeal and the High Court, including the extent to which the person concerned has in his or her practice—

- (a) exercised a right of audience or taken a leading role in proceedings in those courts, and
- (b) displayed in those proceedings one or more of the following:
  - (i) a proven capacity for excellence in the practice of advocacy;
  - (ii) a proven capacity for excellence in the practice of specialist litigation; or
  - (iii) specialist knowledge of an area of law.”.

—Sean Sherlock.

**122.** In page 28, line 17, to delete “a relevant committee” and substitute “the Commission”.

—Jim O’Callaghan, Jack Chambers.

SECTION 38

**123.** In page 29, line 2, to delete “A relevant committee” and substitute “The Commission”.

—Jim O’Callaghan, Jack Chambers.

**124.** In page 29, between lines 17 and 18, to insert the following:

“(2) In determining which persons should be recommended based on merit the Commission shall—

[SECTION 38]

- (a) ascertain which persons best demonstrate the following qualities or characteristics or a combination thereof:
  - (i) integrity;
  - (ii) independence of mind and moral courage;
  - (iii) intellectual skills of a high quality, including the ability to marshal facts and competing arguments, to reason logically, and to reach firm, sustainable conclusions;
  - (iv) sound temperament and common sense;
  - (v) an ability to exercise sound judgment and to exercise discretion appropriately;
  - (vi) impartiality, objectivity and fairness;
  - (vii) equanimity and composure;
  - (viii) sensibility and cultural sensitivity and an ability to understand and deal fairly with all persons and communities served by the courts;
  - (ix) an ability to interact with people in a courteous and considerate manner;
  - (x) strong oral and written communication skills;
  - (xi) a strong work ethic;
  - (xiii) efficiency and organisational skills conducive to effective case management; and
  - (xiv) an ability to command respect,
- (b) have regard to the necessity for persons to possess the following legal skills or competencies:
  - (i) a reasonable level of knowledge and understanding of the substantive law in the main area of the person's practice;
  - (ii) a reasonable level of knowledge and understanding of the law of evidence;
  - (iii) a reasonable level of knowledge and understanding of the procedural law appropriate to the Court to which appointment is sought;
  - (iv) a reasonable level of knowledge and understanding of Bunreacht na hÉireann;
  - (v) a reasonable level of knowledge and understanding of the interaction between domestic law, the law of the European Union and the European Convention of Human Rights;
  - (vi) an ability to analyse and explore legal problems in a broad-minded and creative manner;
  - (vii) an ability to interpret and analyse case law and statute law; and
  - (viii) a recognition of the requirement to master new and unfamiliar areas of the

[SECTION 38]

law that emerge during the period of his or her service as a judge.”.

—Jim O’Callaghan, Jack Chambers.

SECTION 39

*Section opposed.*

—Mick Wallace.

SECTION 40

**125.**In page 29, line 31, to delete “may” and substitute “shall publicly”.

—Clare Daly.

**126.**In page 30, lines 3 and 4, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

**127.**In page 30, between lines 5 and 6, to insert the following:

“(2) Without prejudice to the generality of *subsection (1)(c)\**, the Commission may, as the occasion requires, directly invite a particular person (including a person who is for the time being a serving judge or a relevant office holder within the meaning of *section 41(5)*) to make an application to be considered for selection; such an invitation shall not constitute or give rise to preferential consideration by the Commission of an application made in response to such an invitation.”.

—Sean Sherlock.

[\**This is the correct reference if this amendment is accepted.*]

SECTION 41

**128.**In page 30, to delete lines 7 to 11 and substitute the following:

“(1) Subject to *subsection (2)* a person who—

- (a) wishes to be considered for appointment to judicial office shall make an application to the Commission in that behalf (specifying the judicial office concerned); that application shall be in writing or in such other format as may be specified in the selection procedures, or
- (b) is for the time being a serving judge or a relevant office holder shall not, directly or indirectly, apply to the Commission for consideration for appointment to any judicial office unless he or she is first invited by the Commission under *section 40(2)* to apply for consideration for that appointment.”.

—Sean Sherlock.

**129.**In page 30, to delete lines 15 and 16.

—Jim O’Callaghan, Jack Chambers.

**130.**In page 30, line 18, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

[SECTION 42]

SECTION 42

**131.**In page 30, line 32, to delete “relevant committee has received from the Commission” and substitute “Commission has received”.

—Jim O’Callaghan, Jack Chambers.

**132.**In page 30, line 36, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

**133.**In page 30, line 38, after “persons” to insert “, ranked in the order of the relevant committee’s preference”.

—Clare Daly.

**134.**In page 30, after line 38, to insert the following:

“(3) The Government shall nominate for appointment one of the three persons recommended by the relevant committee in accordance with *subsection (2)*.”.

—Mick Wallace.

SECTION 43

**135.**In page 31, line 8, to delete “relevant committee has received from the Commission” and substitute “Commission has received”.

—Jim O’Callaghan, Jack Chambers.

**136.**In page 31, line 12, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

**137.**In page 31, between lines 16 and 17, to insert the following:

“(4) The Government shall nominate for appointment one of the persons recommended by the relevant committee in accordance with *subsection (2)*.”.

—Mick Wallace.

SECTION 44

**138.**In page 31, line 18, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

**139.**In page 31, between lines 28 and 29, to insert the following:

“(3) If the Commission cannot, in accordance with this Act, recommend to the Minister any names of persons to fill a judicial vacancy, it shall invite, through means of advertisement, the making of applications by persons to be considered for selection, that is for their being selected to be the subject of a recommendation for appointment to judicial office, at three-monthly intervals until such time as the Commission is satisfied, subject to *section 37* and *section 38*, to recommend at least one person to the Minister to fill the judicial vacancy concerned.”.

—Clare Daly.

[SECTION 44]

140. In page 31, to delete lines 29 to 40.

—Clare Daly.

141. In page 31, line 29, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

142. In page 31, line 33, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

143. In page 31, line 37, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

144. In page 32, line 1, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

SECTION 45

145. In page 32, line 5, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

146. In page 32, lines 6 to 10, to delete all words from and including “Minister”, where it secondly occurs, in line 6 down to and including line 10 and substitute “Minister particulars of the person’s education, professional, qualifications, experience and character.”.

—Jim O’Callaghan, Jack Chambers.

147. In page 32, to delete lines 11 to 14.

—Clare Daly.

148. In page 32, line 11, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

SECTION 46

149. In page 32, between lines 16 and 17, to insert the following:

**“Appointment as Chief Justice, President of the Court of Appeal, and President of the High Court**

46. (1) Where—

(a) the judicial office of Chief Justice, President of the Court of Appeal or President of the High Court stands vacant, or

(b) the Minister reasonably apprehends that any of those offices will stand vacant,

the Minister shall request the Commission to seek expressions of interest on the part of eligible persons who wish to be considered for appointment to such office.

(2) Upon receiving the expressions of interest referred to in *subsection (1)* the Commission shall consider the suitability of all eligible persons expressing such interest and recommend, based on merit, to the Government, ranked in the order of the

[SECTION 46]

Commission's preference, the 3 most suitable candidates for appointment to the judicial office referred to in *subsection (1)*.

- (3) The Commission may accept expressions of interest from eligible members of the Commission.
- (4) In deliberating or making a recommendation to the Government pursuant to this section, the eligible members of the Commission who have expressed the interest referred to in *subsection (1)* shall not sit as members of the Commission.
- (5) If the President of the Court of Appeal has expressed, in relation to the judicial office, the interest referred to in *subsection (1)*, the next most senior judge available shall sit in substitution on the Commission, that is to say whoever of the judges specified in paragraphs (b) to (k) of section 9 (substituted by section 28 of the Court of Appeal Act 2014) of the Courts of Justice Act 1924 ranks first in precedence (after the President of the Court of Appeal) in accordance with said section 9 and who is available to serve on the Commission (excepting for this purpose any such judge who, in relation to the foregoing judicial office, has expressed the interest referred to in *subsection (1)*).
- (6) If the President of the High Court has expressed, in relation to the judicial office, the interest referred to in *subsection (1)*, the next most senior judge available shall sit in substitution on the Commission, that is to say whoever of the judges specified in paragraphs (c) to (k) of section 9 (substituted by section 28 of the Court of Appeal Act 2014) of the Courts of Justice Act 1924 ranks first in precedence (after the President of the High Court) in accordance with said section 9 and who is available to serve on the Commission (excepting for this purpose any such judge who, in relation to the foregoing judicial office, has expressed the interest referred to in *subsection (1)*).
- (7) If the Commission, having considered the suitability of all of those persons who have expressed the interest referred to in *subsection (1)* decides that it cannot recommend to the Government the names of 3 persons for appointment to the judicial office referred to in *subsection (1)* but can recommend the names of a lesser number of persons for that purpose, then it shall recommend to the Government the names of that lesser number of persons for appointment to the judicial office so referred to.
- (8) The cases to which *subsection (7)* applies include a case in which the number of eligible persons who, in relation to the judicial office concerned, have expressed the interest referred to in *subsection (1)* is less than 3.
- (9) If the Commission cannot, in accordance with this Act, recommend to the Minister any names of persons to fill a judicial vacancy referred to in *subsection (1)*, the Minister shall request the Commission to seek expressions of interest on the part of eligible persons who wish to be considered for appointment to such office at three-monthly intervals until such time as the Commission is satisfied, subject to *subsection (2)*, to recommend at least one person to the Minister to fill the judicial vacancy concerned.
- (10) In this section "eligible person" means a person who the Commission is satisfied is qualified for appointment to the judicial office concerned by virtue of section 5 or 45A of the Act of 1961.

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(11) In this section “eligible member” means a member of the Commission who the Commission is satisfied is qualified for appointment to the judicial office concerned by virtue of section 5 or 45A of the Act of 1961.”.

—Clare Daly.

[*Acceptance of this amendment involves the deletion of section 46 of this Bill.*]

*Section opposed.*

—Mick Wallace, Clare Daly.

SECTION 48

150. In page 34, lines 12 to 14, to delete all words from “shall” in line 12 down to and including “Act” in line 14 and substitute “shall consider for appointment only those persons whose names have been recommended to the Minister”.

—Mick Wallace.

151. In page 34, line 12, to delete “firstly” and substitute “only”.

—Clare Daly.

SECTION 49

152. In page 34, lines 16 and 17, to delete “a relevant committee” and substitute “the Commission”.

—Jim O’Callaghan, Jack Chambers.

153. In page 34, lines 17 and 18, to delete “a relevant committee” and substitute “the Commission”.

—Jim O’Callaghan, Jack Chambers.

154. In page 34, lines 19 to 25, to delete all words from and including “*Subsection (3)*” in line 19 down to and including “office” in line 25 and substitute “*Subsection (3)* has effect where a person, who is a member of the Commission, has made an application under *section 41* as respects a particular judicial office.”.

—Jim O’Callaghan, Jack Chambers.

155. In page 34, line 20, to delete “a relevant committee” and substitute “the Commission”.

—Jim O’Callaghan, Jack Chambers.

156. In page 34, line 26, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

SECTION 50

157. In page 34, between lines 29 and 30, to insert the following:

**“Notice of appointment to be published**

50. (1) Notice of an appointment to judicial office shall be published in *Iris Oifigiúil* and the notice shall, if it be the case, include a statement that the name of the person was—

- (a) recommended by the relevant committee to the Minister in accordance with the provisions of this Act, or



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- (b) recommended to the Government under *section 46*,  
as the case may be.
- (2) In the event that a person appointed to judicial office has not been recommended by the Commission under this Act, the notice of that appointment published in *Iris Oifigiúil* shall include a reasoned written explanation of the decision of the Government not to nominate a candidate recommended by the Commission.
- (3) In publishing the reasoned written decision in accordance with *subsection (2)*, the persons recommended by the Commission shall not be identified.”.

—Donnchadh Ó Laoghaire.

[*Acceptance of this amendment involves the deletion of section 50 of the Bill.*]

**158.**In page 34, to delete all words from “and” in line 31, down to and including “be” in line 36.

—Mick Wallace.

**159.**In page 34, line 33, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

SECTION 51

**160.**In page 34, after line 36, to insert the following:

**“Statement to Houses of the Oireachtas**

- 51.** (1) Within 30 days after the end of each year, the Minister shall cause to be laid before the Houses of the Oireachtas a statement of appointments to judicial office made by the President during the previous year (not being appointments made before the commencement of this section) and that statement shall include—
- (a) the name of each appointee and the judicial office to which he or she was appointed,
- (b) particulars of the education, professional qualifications and experience of each appointee, and
- (c) if it be the case in relation to a particular appointee, a statement that the appointee’s name was—
- (i) recommended by the relevant committee to the Minister in accordance with the provisions of this Act, or
- (ii) recommended to the Government under *section 46*,  
as the case may be.
- (2) In the event that a person appointed to judicial office has not been recommended by the Commission under this Act, the Minister shall within 30 days of that appointment cause to be laid before the Houses of the Oireachtas a statement containing a reasoned written explanation of the decision of the Government not to nominate a candidate recommended by the Commission.

[SECTION 51]

- (3) In publishing the reasoned written decision in accordance with *subsection (2)*, the persons recommended by the Commission shall not be identified.”.

—Donnchadh Ó Laoghaire.

[*Acceptance of this amendment involves the deletion of section 51 of the Bill.*]

- 161.**In page 35, line 12, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

SECTION 53

- 162.**In page 36 to delete lines 2 to 5.

—Jim O’Callaghan, Jack Chambers.

- 163.**In page 36, line 6, to delete “Procedures Committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

- 164.**In page 36, line 8, to delete “Committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

- 165.**In page 36, line 10, to delete “Procedures Committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

SECTION 55

- 166.**In page 36, line 30, to delete “Procedures Committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

- 167.**In page 36, to delete all words from “attributes,” in line 34 down to and including “*section 56.*” in line 36 and substitute “attributes.”.

—Jim O’Callaghan, Jack Chambers.

- 168.**In page 36, to delete lines 37 to 39.

—Jim O’Callaghan, Jack Chambers.

- 169.**In page 37, to delete lines 1 to 3.

—Jim O’Callaghan, Jack Chambers.

- 170.**In page 37, lines 4 and 5, to delete “Procedures Committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

- 171.**In page 37, line 6, to delete “by the Commission”.

—Jim O’Callaghan, Jack Chambers.

- 172.**In page 37, lines 8 and 9, to delete “Procedures Committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

- 173.**In page 37, line 16, to delete “, to the extent feasible and practicable,”.

—Clare Daly.

[SECTION 55]

174. In page 37, between lines 21 and 22, to insert the following:

“(f) the need for each Court to have members of the judiciary who are proficient in the Irish language,”.

—Jim O’Callaghan, Jack Chambers.

175. In page 37, line 29, to delete “Committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

176. In page 37, lines 31 and 32, to delete “Procedures Committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

177. In page 38, line 11, to delete “Committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

SECTION 56

*Section opposed.*

—Jim O’Callaghan, Jack Chambers.

SECTION 57

178. In page 39, to delete lines 15 and 16.

—Jim O’Callaghan, Jack Chambers.

SECTION 58

179. In page 39, line 18, to delete “Procedures Committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

180. In page 39, to delete lines 25 and 26.

—Jim O’Callaghan, Jack Chambers.

181. In page 39, line 32, to delete “Procedures Committee may, or shall at the request of the Commission,” and substitute “Commission may”.

—Jim O’Callaghan, Jack Chambers.

182. In page 39, line 38, to delete “Procedures Committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

183. In page 39, line 39, to delete “to the Commission”.

—Jim O’Callaghan, Jack Chambers.

184. In page 40, lines 8 to 10, to delete all words from “appointment,” in line 8 down to and including line 10 and substitute “appointment, and”.

—Jim O’Callaghan, Jack Chambers.

[SECTION 60]

SECTION 60

**185.**In page 40, line 29, to delete “A relevant committee (within the meaning of the *Act of 2017*) of the” and substitute “The”.

—Jim O’Callaghan, Jack Chambers.

**186.**In page 40, line 33, to delete “Senior Judicial Appointments Advisory Committee” and substitute “Commission”.

—Clare Daly.

**187.**In page 41, lines 12 and 13, to delete “Senior Judicial Appointments Advisory Committee” and substitute “Commission”.

—Clare Daly.

SECTION 63

**188.**In page 42, line 8, to delete “relevant committee” and substitute “Commission”.

—Jim O’Callaghan, Jack Chambers.

SECTION 64

**189.**In page 43, between lines 4 and 5, to insert the following:

“(4) In the performance of its functions under this Act, a relevant committee shall be prohibited from any consideration of an applicant’s political affiliation.

(5) In the performance of its functions under this Act, the Government shall be prohibited from any consideration of an applicant’s political affiliation.

(6) An Applicant for judicial office shall not have been a member of, or a representative of, or a donor to any political party in the State in the three years immediately preceding the date of application for judicial office.”.

—Mick Wallace.

TITLE

**190.**In page 7, lines 10 to 12, to delete all words from “and” in line 10 down to and including “relates” in line 12.

—Jim O’Callaghan, Jack Chambers.

**191.**In page 7, lines 15 and 16, to delete “to establish a Judicial Appointments Commission Office;”.

—Jim O’Callaghan, Jack Chambers.