



**An Bille um an Naoú Leasú is Tríocha ar an
mBunreacht (Toghcháin Uachtaráin), 2019
Thirty-ninth Amendment of
the Constitution (Presidential Elections) Bill 2019**

*Meabhrán Mínitheach
Explanatory Memorandum*



**THIRTY-NINTH AMENDMENT OF THE CONSTITUTION
(PRESIDENTIAL ELECTIONS) BILL 2019**

EXPLANATORY MEMORANDUM

Purpose of the Bill

The Thirty-ninth Amendment of the Constitution (Presidential Elections) Bill 2019 proposes to amend Article 12 of the Constitution in both the Irish and English text with text to provide that all citizens, without distinction of sex who have reached the age of eighteen years who are not disqualified by law and comply with the provisions of the law relating to elections for the office of President, shall have the right to vote at an election for the office of President. In addition, the Bill proposes to increase the timeframe, from 60 to 90 days, in which an election for the office of President must be held. The amendments to Article 12 would take effect for elections held on or after 1 January 2025.

Background

The *Fifth Report of the Convention on the Constitution* (November 2013) supported an extension of the right to vote at presidential elections to citizens resident outside the State, including citizens resident in Northern Ireland, and recommended that a referendum be held to amend the Constitution to provide for an extended franchise.

Having regard to the deliberations of the Convention, the right to vote will not be limited to citizens who have previously resided in the State, or to citizens who were previously registered to vote in the State, or to citizens who have been absent from the State for a specified number of years, or to citizens born in the State, or to citizens born on the island of Ireland. In effect, the Bill does not propose to restrict the franchise to a particular category or categories of citizen; the proposal is to extend the right to vote at an election for the office of President to all citizens who have reached the age of eighteen years.

Provisions of the Bill

The Bill consists of three sections and three schedules. These provide for the replacement of the existing Articles 12.2.2^o and 12.3.3^o of the Constitution as well as for the insertion of a new temporary Article 12A into the Constitution. These amendments would extend the right to vote for the office of President to all citizens, not solely to those who are ordinarily resident in the State as is currently the case, for elections held on or after 1 January 2025.



AN BILLE UM AN NAOÚ LEASÚ IS TRÍOCHA AR AN mBUNREACT (TOGHCHÁIN UACHTARÁIN), 2019

MEABHRÁN MÍNITHEACH

Cuspóir an Bhille

Beartaítear leis an mBille um an Naoú Leasú is Tríocha ar an mBunreacht (Toghcháin Uachtaráin), 2019 Airteagal 12 den Bhunreacht a leasú, sa téacs Gaeilge agus sa téacs Béarla, le téacs lena ndéanfar socrú go mbeidh an ceart ag gach uile shaoránach, gan beann ar a ngnéas, ag a bhfuil ocht mbliana déag d'aois slán agus nach bhfuil dícháilithe le dlí agus a chomhlíonann forálacha an dlí maidir le toghcháin d'oifig an Uachtaráin, chun vóta a chaitheamh i dtoghchán d'oifig an Uachtaráin. Anuas air sin, beartaítear leis an mBille an t-achar ama ar lena linn is gá toghchán d'oifig an Uachtaráin a dhéanamh a fhadú ó 60 lá go dtí 90 lá. Bheadh éifeacht leis na leasuithe ar Airteagal 12 i gcás toghcháin a dhéanfaí an 1 Eanáir 2025 nó dá éis.

Cúlra

Tugadh tacaíocht sa *Chúigiú Tuarascáil ón gCoinbhinsiún ar an mBunreacht* (Samhain 2013) don mholadh go ndéanfaí an ceart chun vóta a chaitheamh i dtoghcháin uachtaráin a leathnú agus é a chur ar fáil do shaoránaigh a bhfuil cónaí orthu lasmuigh den Stát, lena n-áirítear saoránaigh a bhfuil cónaí orthu i dTuaisceart Éireann, agus moladh ann go ndéanfaí reifreann chun an Bunreacht a leasú d'fhonn socrú a dhéanamh maidir le ceart vótála leathnaithe.

Ag féachaint do bhreithniúcháin an Choinbhinsiúin, ní bheidh an ceart chun vóta a chaitheamh teoranta do shaoránaigh a raibh cónaí orthu sa Stát roimhe seo, ná do shaoránaigh a bhí cláraithe roimhe seo chun vóta a chaitheamh sa Stát, ná do shaoránaigh a bhí as láthair ón Stát ar feadh líon sonraithe blianta, ná do shaoránaigh a rugadh sa Stát, ná do shaoránaigh a rugadh ar oileán na hÉireann. I ndáiríre, ní bheartaítear leis an mBille an ceart vótála a theorannú d'aicme nó d'aicmí áirithe saoránach; is é an togra atá á dhéanamh an ceart chun vóta a chaitheamh i dtoghchán d'oifig an Uachtaráin a leathnú chuig gach uile shaoránach ag a bhfuil ocht mbliana déag d'aois slán.

Forálacha an Bhille

Tá trí alt agus trí sceideal sa Bhille. Déantar socrú leo go ndéanfaí Airteagail 12.2.2^o agus 12.3.3^o den Bhunreacht mar atá a ionadú agus go ndéanfaí Airteagal 12A nua sealadach a chur isteach sa Bhunreacht. Leis na leasuithe sin, dhéanfaí an ceart chun vóta a chaitheamh d'oifig an Uachtaráin a leathnú chuig gach uile shaoránach, seachas an ceart sin a bheith ag daoine a bhfuil gnáthchónaí orthu sa Stát agus acu sin amháin, faoi mar atá i gceist faoi láthair, i gcás toghcháin a dhéanfaí an 1 Eanáir 2025 nó dá éis.

Sections 1(a) and 1(b) and Schedule 1 amend Article 12.2.2^o of the Constitution to provide that all citizens who have reached the age of eighteen years and are not disqualified by law shall have the right to vote at presidential elections. The new Article 12.2.2^o will separate the right to vote at a presidential election from the right to vote at a Dáil election, as is currently provided for in the Constitution, which will effectively remove the residency requirement that is currently applicable to presidential electors.

Sections 1(c) and 1(d) and Schedule 2 amend Article 12.3.3^o of the Constitution to provide for a lengthening of the period of time to 90 days in which a presidential election must be held from the end of an incumbent's term of office. The Constitution currently provides in Article 12.3.3^o that an election must be held within 60 days of the end of a President's tenure in office. The increased timeframe would allow sufficient time for the holding of elections with an extended franchise.

Section 2 and Schedule 3 provide for the insertion of a new transitional Article 12A into the Constitution. In effect, this is a temporary scaffolding provision which will allow for the preparation and enactment of an Electoral (Amendment) Act to regulate the detail and practical implementation of an extended franchise. The scaffolding provision also aims to clarify and confirm that an extended franchise, if passed in a referendum, would not take effect before 1 January 2025 to allow sufficient time for the development of the necessary implementing legislation. Should an election be required prior to 1 January 2025, it would be held in accordance with the existing Articles 12.2.2^o and 12.3.3^o of the Constitution. Article 12A would take effect upon the Act's enactment but would be omitted from every official text of the Constitution published after 1 January 2025 when the new Articles 12.2.2^o and 12.3.3^o take effect.

Section 3 is a standard provision which provides for the collective citation of the proposed amendments to the Constitution; it also provides for the citation of the Bill itself.

Department of Foreign Affairs and Trade
September, 2019.

Déantar Airteagal 12.2.2° den Bhunreacht a leasú le hait 1(a) agus 1(b) agus le Sceideal 1 chun socrú a dhéanamh go mbeidh an ceart ag gach uile shaoránach, ag a bhfuil ocht mbliana déag d'aois slán agus nach bhfuil dícháilithe le dlí, chun vóta a chaitheamh i dtoghcháin uachtaráin. Déanfar, le hAirteagal nua 12.2.2°, an ceart chun vóta a chaitheamh i dtoghchán uachtaráin a dheighilt ón gceart chun vóta a chaitheamh i dtoghchán Dála, mar a fhoráiltear dó sa Bhunreacht faoi láthair, rud a bhainfidh, i ndáiríre, an ceanglas cónaithe a bhfuil feidhm aige faoi láthair maidir le toghthóirí uachtaráin.

Déantar Airteagal 12.3.3° den Bhunreacht a leasú le hait 1(c) agus 1(d) agus le Sceideal 2 chun socrú a dhéanamh go ndéanfaí an tréimhse ama i ndiaidh dheireadh téarma oifige an tsealbhóra oifige ar lena linn is gá toghchán uachtaráin a dhéanamh a fhadú go dtí 90 lá. Déantar socrú in Airteagal 12.3.3° den Bhunreacht faoi láthair gur gá toghchán a dhéanamh laistigh de 60 lá i ndiaidh deireadh tionachta Uachtaráin in oifig. D'fhágfadh an t-achar ama méadaithe go mbeadh go leor ama ann chun toghcháin a dhéanamh a mbeadh ceart vótála leathnaithe i gceist leo.

Déantar socrú le *halt 2* agus le Sceideal 3 maidir le hAirteagal 12A nua idirthréimhseach a chur isteach sa Bhunreacht. I ndáiríre, is foráil taca shealadach an fhoráil sin a fhágfaidh go mbeifear in ann Acht Toghcháin (Leasú) a ullmhú agus a achtú chun mionsonraí agus cur i bhfeidhm praiticiúil cirt vótála leathnaithe a rialáil. Tá sé de chuspóir ag an bhforáil taca freisin a shoiléiriú agus a dhearbhu, dá nglacfaí le ceart vótála leathnaithe i reifreann, nach dtiocfadh sé in éifeacht roimh an 1 Eanáir 2025 chun go mbeadh go leor ama ann an reachtaíocht riachtanach cur chun feidhme a fhorbairt. Dá mbeadh toghchán ag teastáil roimh an 1 Eanáir 2025, dhéanfaí é de réir Airteagail 12.2.2° agus 12.3.3° den Bhunreacht mar atá. Thiocfadh Airteagal 12A in éifeacht ar achtú an Achta ach d'fhágfaí ar lár é as gach téacs oifigiúil den Bhunreacht a d'fhoilseofaí tar éis an 1 Eanáir 2025 nuair a thiocfadh Airteagal nua 12.2.2° agus 12.3.3° in éifeacht.

Foráil chaighdeánach is ea *Alt 3* lena ndéantar socrú maidir le comhlua na leasuithe beartaithe ar an mBunreacht; déantar socrú leis freisin maidir le lua an Bhille féin.

An Roinn Gnóthaí Eachtracha agus Trádála
Meán Fómhair 2019