

Fianna Fáil

**Submission to the Working
Group on Seanad Reform -
Consultation Process**

**Fianna Fáil
05/01/2015**



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Introduction

Fianna Fáil welcomes this opportunity to contribute to the working group on Seanad Reform's consultation process. Our party has contributed extensively to debate on the future of the Seanad and was the only political party in Dáil Éireann to oppose the 2013 referendum to abolish the upper house. We are concerned about the lack of political action to date on the issue of Seanad Reform in particular the limited Seanad Electoral University members bill announced by the government which continues to languish on the C list of the legislative program. In this light, the Working Group's contribution must be backed with real action by the government based on the final report of the group.

I wish to draw the group's attention to our policy document "*A Seanad for the people*" published in September 2013 which is attached to this document. This outlines the long term vision that Fianna Fáil believes is necessary for the full reform of the Seanad. This must take place in conjunction with broader reform of Dáil Éireann and local government which is covered in our "Real Political Reform" and "Empowering Local Communities" documents both published in 2013. Revitalising our democracy must involve a comprehensive renewal of all the democratic institutions of the state.

In direct relation to the working group's request for submissions reflecting its task to propose changes within the constitution Fianna Fáil published the Seanad Reform Bill 2014. This bill outlines how our objectives for Seanad Reform can be achieved in the short term within the framework of the constitution using ordinary legislation. A copy of the bill has been attached to this document. This bill is in keeping with the explicit remit of the working group.



It is our hope that the working group puts forward clear proposals over the coming months for the Oireachtas to debate, resolve and implement. Further prevarication over the Seanad will only deepen public cynicism and disillusionment with the political system. It is vital for the democratic health of the state that its institutions are fit for purpose and enjoy public support.

What should the Seanad do?

The economic crisis has illustrated the need to make our political system fit for purpose in 21st century Ireland. Political reform must reach from local government to the Cabinet with a reformed Seanad playing an integral role in refreshing political debate, enhancing legislative scrutiny and broadening representation. Disappointingly the government has failed to develop and implement a coherent wide ranging political reform agenda.

Fianna Fáil's believes the Seanad must meet two central objectives:

- 1. Act as a check on government power and scrutinise legislation**
- 2. Broaden representation and provide a voice for groups that would not be heard in Dáil Eireann**

A distinct and strong upper house can achieve these objectives and play an important role in renewing the political system. This can be achieved via ordinary legislative changes.

What specific measures does Fianna Fail propose?

Within the remit of the Working Group to put forward proposals based on the current constitutional constraints Fianna Fáil wishes to outline its Seanad Reform Bill 2014 published in January 2014. The Seanad Reform Bill 2014 details the legislative measures put forward by Fianna Fail to overhaul the Seanad. The bill shares much



common ground with the ideas put forward by the civic society Democracy Matters group. The bill encompasses the following measures:

- Specifically earmarks Taoiseach Nominees seats for minority groups such as the New Irish, Traveller community and disability sector.
- Opens up the University Vote to graduates of all Third Level Universities.
- Opens up the 43 vocational Seanad seats to the entire electorate not just councillors enabling the Irish people to have a strong voice in the Seanad.
- Broadens the electorate to encompass the diaspora and Irish citizens in Northern Ireland.
- Allows all citizens (500 minimum) to nominate a candidate for the Seanad.
- Sets campaign spending limits on Seanad elections.
- Ensures that vacancies are filled by the next unelected candidate in the original count not just selected by the government as is currently the case.
- Establishes a 40 per cent initial Gender Quota for candidates put forward by political parties as a move towards greater gender balance in Irish politics.

Taken together these steps can help fundamentally re-shape the



What is the difference between Fianna Fail Proposals and other groups?

Fianna Fail was the only political party to oppose the abolition of Seanad Eireann and put forward separate proposals for its future. Our party is committed to finding common ground in developing a consensual approach in reforming the upper house. Democracy Matters and Senator Quinn & Zappone as well as Senator Crown have put forward separate bills on how to revamp Seanad Eireann. It is imperative that the working group uses this as the starting point for introducing genuine reform not just the severely restricted bill the government has published on broadening University graduate voting rights.

Reform must encompass a broader approach to all tiers of the state in order to reshape the structure of Irish politics to make it fit for purpose in 21st century Ireland.

Over what timeframe should changes be implemented?

Given the limited scope of the working group to introduce changes within the current constitutional arrangement for the Seanad it is imperative that changes are introduced as soon as possible. Political Reform was a major feature of the 2011 general election and an integral part of all the political parties' manifestoes. The disappointing lack of reform to date is a significant cause of public disillusionment. Taking firm action to overhaul the system should not be unduly delayed by a lack of political appetite within the government.

On Behalf of Fianna Fáil

Micheál Martin T.D



An Bille um Athchóiriú an tSeanaid, 2014
Seanad Reform Bill 2014

Mar a tionscnaíodh

As initiated



AN BILLE UM ATHCHÓIRIÚ AN tSEANAID, 2014
SEANAD REFORM BILL 2014

Mar a tionscnatódh

As initiated

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Universities Act 1997 (No. 24)



AN BILLE UM ATHCHÓIRIÚ AN tSEANAID. 2014
SEANAD REFORM BILL 2014

Bill

entitled

An Act to reform the method of election of members of Seanad Éireann and to provide for related matters. 5

Whereas Article 15 of the Constitution provides that the Oireachtas shall consist of the President and two Houses, viz.: a House of Representatives to be called Dáil Éireann and a Senate to be called Seanad Éireann;

And Whereas Article 12 of the Constitution provides that the President shall be elected by direct vote of the People; 10

And Whereas Article 16 of the Constitution provides that every citizen and such other persons in the State as may be determined by law who have reached the age of eighteen years shall have the right to vote in elections for Dáil Éireann;

And Whereas Article 18.1 of the Constitution provides that Seanad Éireann shall be composed of sixty members, of whom eleven shall be nominated members and forty-nine shall be elected members; 15

And Whereas Article 18.4.1° of the Constitution provides that the forty-nine elected members of Seanad Éireann shall be elected as follows – three shall be elected by the National University of Ireland, three shall be elected by the University of Dublin and forty-three shall be elected from panels of candidates constituted under the Constitution: 20

And Whereas the People voted in favour of the proposal contained in the Seventh Amendment of the Constitution (Election of Members of Seanad Éireann by Institutions of Higher Education) to extend the right to vote in the election of the six elected members of Seanad Éireann elected by the National University of Ireland and University of Dublin to other institutions of higher education and Article 18.4.2° of the Constitution was amended accordingly; 25

And Whereas Article 18.5 of the Constitution provides that every election of the members of Seanad Éireann shall be held on a system of proportional representation by means of the single transferable vote and by secret postal ballot: 30

And Whereas Article 18.10.1° of the Constitution provides that elections of the elected members of Seanad Éireann shall be regulated by law;

And Whereas the People voted to reject the proposal contained in the Thirty-Second Amendment of the Constitution (Abolition of Seanad Éireann);

And Whereas it is appropriate in our parliamentary democracy that all citizens of voting age should be entitled to vote in elections for the forty-nine elected members of Seanad Éireann;

And Whereas Article 18.3 of the Constitution gives the Taoiseach the power to nominate the eleven nominated members of Seanad Éireann;

And Whereas it is appropriate that the Taoiseach give consideration to appointing representatives of certain groups to Seanad Éireann.

Be it enacted by the Oireachtas as follows:

PART I

PRELIMINARY AND GENERAL

Short title and commencement

1. (1) This Act may be cited as the Seanad Reform Act 2014.
- (2) This Act comes into operation on such day or days as the Minister may appoint by order either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes and different provisions.

Interpretation

2. In this Act—

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

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

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

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

“local authority” means a city council or a county council;

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

Government:

“nominating bodies” means any entity approved of by the clerk of Seanad Éireann as a suitable vocational body entitled to nominate candidates for election to Seanad Éireann;

“prescribe” means prescribe by regulations made by the Minister under this Act; 5

“registration officer” means a registration officer appointed by the governing body of a university or other third-level institution under *section 16(3)*;

“relevant Irish Embassy or Consulate” means the Irish Embassy or Irish Consulate which has been assigned responsibility for the country in which the voter is ordinarily resident; 10

“Seanad election register” means the register which is required to be established and maintained under *section 15*;

“Seanad returning officer” means—

- (i) a person appointed under *section 26*,
- (ii) where the context so permits may include a specified member of the staff of an Irish embassy or consulate abroad to which functions have been delegated under *section 26(6)*, and 15
- (iii) in respect of the registration of electors for the universities constituency, includes a registration officer.

Regulations 20

3. (1) The Minister 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 Minister to be necessary or expedient for the purposes of the regulations. 25
- (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. 30

Expenses

4. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. 35

Repeal

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

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

PART 2

COMPOSITION OF SEANAD ÉIREANN

Composition of Seanad 5

6. Seanad Éireann shall be composed of sixty members, of whom eleven shall be nominated members and forty-nine shall be elected members.

Taoiseach nominations

7. The eleven nominated members of Seanad Éireann, shall be nominated, with their prior consent, by the Taoiseach who is appointed next after the re-assembly of Dáil Éireann following the dissolution thereof which occasions the nomination of the said members. 10

Elected members

8. The forty-nine elected members shall be elected as follows:
- (a) six members elected by the Universities and Institutes of Higher Education Constituency; 15
 - (b) forty-three members elected by the Vocational Constituency.

PART 3

THE NOMINATED MEMBERS

Nominated members

9. Prior to nominating persons for appointment to Seanad Éireann in accordance with article 18.3 of Bunreacht na hÉireann, the Taoiseach shall take into consideration the need to ensure representation for the following groups or sectors in this jurisdiction and in Northern Ireland— 20
- (a) the elderly,
 - (b) the young, 25
 - (c) the new Irish community,
 - (d) the Irish diaspora,
 - (e) people with disabilities,
 - (f) sporting organisations,
 - (g) the arts, 30
 - (h) the traveller community.

Consideration of names

10. When considering nominations to Seanad Éireann, the Taoiseach may consider those persons whose names have been recommended for nomination by organisations or persons representing the groups specified in *section 9*.

PART 4

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THE ELECTED MEMBERS

Members elected by Universities and Institutes of Higher Education

11. The six members elected by the Universities and Institutes of Higher Education Constituency shall be elected by the graduates of the following third level institutions—
- (a) the National University, 10
 - (b) the University of Dublin,
 - (c) Dublin City University.
 - (d) the University of Limerick,
 - (e) the National College of Ireland,
 - (f) the National College of Art and Design, 15
 - (g) the Dublin Institute of Technology,
 - (h) an educational institution established under section 3 of the Regional Technical Colleges Act 1992 as a regional and education institution established under *section 3* as a regional technical college to which the Institutes of Technology Acts 1992 to 2006 apply, 20
 - (i) an educational institution to which, pursuant to section 4 of the Universities Act 1997, that Act applies,
 - (j) an educational institution in the State that provides higher education and which stands prescribed by the Minister for Education as an educational institution in the State whose graduates shall be eligible to vote in a Seanad general election. 25

Other elected members

12. The forty-three members elected by the Vocational Constituency shall be elected as follows—
- (a) seven members from a panel to be known as the cultural and educational panel,
 - (b) nine members from a panel to be known as the agricultural panel, 30
 - (c) nine members from a panel to be known as the labour panel,
 - (d) nine members from a panel to be known as the industrial and commercial panel,
 - (e) nine members from a panel to be known as the administrative panel.

PART 5

THE FRANCHISE

One person, one vote

13. (1) Every person referred to in *section 14* and who has attained the age of 18 shall be eligible to cast one vote at a Seanad general election which shall be conducted using proportional representation – single transferable vote. 5
- (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 the voter has opted to cast his or her vote. 10

The electorate

14. At every Seanad general election the electorate shall consist of—
- (a) all persons entitled to vote in a Dáil 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, and 15
 - (d) graduates of universities or other institutions of higher education in the State.

Register of electors

15. (1) A register of persons entitled to vote in every Seanad election shall be established and maintained in accordance with this Act. 20
- (2) The register shall be maintained by the Seanad returning officer in such form as he or she thinks proper.
- (3) The register shall be divided into four divisions as follows—
- (a) Division 1 – Register of all persons entitled to be registered to vote in other specified elections, 25
 - (b) Division 2 – Register of all persons living in Northern Ireland who qualify for Irish citizenship,
 - (c) Division 3 – Register of persons who hold a current and valid Irish passport and who reside outside the State,
 - (d) Division 4 – Register of persons who are graduates of universities or other institutions of higher education in the State. 30
- (4) The register shall—
- (a) indicate the constituency in respect of which the voter has opted to cast his or her vote, and
 - (b) shall contain the names, addresses and descriptions of the persons constituting 35

the electorate at a Seanad general election.

- (5) A person shall not be eligible for inclusion in any Division of the Seanad electoral register unless they have attained the age of 18 years.
- (6) The Minister may prescribe the evidence and proof which is required to establish eligibility for inclusion in any Division of the Register.

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Sub-registers of graduates of Universities and Institutes of Higher Education

16. (1) The governing body of every university and Institute of Higher Education shall cause a register of electors (in this Act referred to as a university sub-register) to be kept which records the details of the persons who are for the time being entitled to be registered as electors in Division 4 of the Seanad electoral register.
- (2) Every register maintained under this section in respect of the universities and Institutes of Higher Education constituency shall be in such form as the Seanad returning officer, with the consent of the Minister, shall direct.
- (3) There shall be a registration officer for each university or other Institute of Higher Education who shall be appointed by the governing body of the university forming the constituency.
- (4) It shall be the duty of every registration officer to revise annually register of electors for such constituency.
- (5) Upon the request of the Seanad returning officer, a registration officer shall furnish to the Seanad returning officer the most recent version of the university sub-register in respect of that university or other Institutes of Higher Education.

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

17. (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 *subsection (2)* of this section to be entered in the Seanad general election register.
- (2) The following provisions shall apply in relation to persons who are eligible to apply to be entered in the register for other specified elections and who are seeking to be entered in the Seanad general election register—
- (a) the application shall be in the form prescribed by the Minister,
 - (b) the application shall be signed by the applicant and completed in accordance with the instructions provided thereon and shall be accompanied by a certificate or a statutory declaration, as the case may require,
 - (c) the applicant shall indicate the constituency in respect of which he or she has opted to cast his or her vote,

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- (d) the application form, duly completed, and the certificate or declaration shall be delivered or sent by post so as to be received by Seanad returning officer or not later than the last date for making applications for inclusion in the draft register.
- (3) In respect of persons who, at the time of the coming into operation of this Act, are already included in the register of electors for other specified elections and who wish to apply to be entered in the Seanad general election register, the following provisions shall apply:
 - (a) the application shall be in the form prescribed by the Minister;
 - (b) the application shall be signed by the applicant and completed in accordance with the instructions provided thereon and shall be accompanied by a certificate or a statutory declaration, as the case may require;
 - (c) the applicant shall indicate the constituency in respect of which he or she has opted to cast his or her vote;
 - (d) the application form, duly completed, and the certificate or declaration shall be delivered or sent so as to be received by Seanad returning officer or not later than the last date for making applications for inclusion in the draft register.
- (4) In this section "other specified elections" means—
 - (a) a Dáil election,
 - (b) a European Parliament election,
 - (c) a local government election.

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

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

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

19. (1) The following provisions shall apply in relation to persons who can demonstrate that they 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—
- (a) the application shall be in the form prescribed by the Minister, 5
 - (b) the application shall be signed by the applicant and completed in accordance with the instructions provided thereon and shall be accompanied by a certificate or a statutory declaration, as the case may require,
 - (c) the application shall be accompanied by the applicant's current and valid Irish passport, 10
 - (d) the application shall be accompanied by proof of the applicant's ordinary residence,
 - (e) the applicant shall indicate the constituency in respect of which he or she has opted to cast his or her vote,
 - (f) the application form, duly completed, and the certificate or declaration shall be delivered or sent so as to be received not later than the last date for making applications for inclusion in the draft register. 15
- (2) An application under this section shall be submitted to the relevant Irish Embassy or Consulate.

Application for entry in the register – Division 4 (graduates of Universities and Institutes of Higher Education) 20

20. (1) Every person who is an Irish citizen and who has received a degree (other than an honorary degree) from a university or other third-level institution (within the meaning of *section 38*) shall be entitled to be entered in the Seanad general election for the purpose of voting for candidates who are contesting the universities constituency. 25
- (2) The following provisions shall apply in relation to persons who can demonstrate that they are a graduate of university or other third-level institution, and who are seeking to be entered in the Seanad general election register—
- (a) the application shall be in the form prescribed by the Minister,
 - (b) the application shall be signed by the applicant and completed in accordance with the instructions provided thereon and shall be accompanied by a certificate or a statutory declaration, as the case may require, 30
 - (c) the application shall be accompanied by evidence of the attainment of a degree from the relevant university or third-level institution,
 - (d) the applicant shall confirm that he or she has opted to cast his or her vote for candidates on the universities constituency. 35
 - (e) the application form, duly completed, and the certificate or declaration shall be delivered or sent by post so as to be received not later than the last date for making applications for inclusion in the draft register.
- (3) An application under this section shall be submitted to the registration officer at the 40

relevant university or other institution of higher education.

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

Existing register of university graduates

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21. The register of electors prepared and maintained pursuant to the Seanad Electoral (University Members) Act 1937 may form the basis of Division 4 of the Seanad electoral register for the first Seanad general election to be held after the passing of this Act.

Revision of register

22. The Seanad Returning Officer shall on an annual basis revise the register in accordance with rules prescribed by the Minister.

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PART 6

NOMINATION OF CANDIDATES

Nomination of persons

23. At a Seanad general election, a person may be nominated to be a candidate in a Seanad general election by one of the following methods—
- (a) by one or more nominating bodies,
 - (b) by a local authority,
 - (c) by the popular nomination of 500 persons whose names are included in the Seanad general election register.

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Qualifications and experience of candidates

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

PART 7

ELECTORAL PROCESS

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Seanad general election order

25. (1) Before every Seanad general election, the Minister shall by order (in this Act referred to as a Seanad general election order) appoint for the purposes of the election—
- (a) the day and hour (in this Act referred to as the expiration of the time for constituency proposed nominations) on and at which the period during which the Seanad returning officer may receive proposals for nominations to the constituencies will expire.

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- (b) the day on which and the place at which the Seanad returning officer will sit for the completion of the constituencies,
 - (c) the day on which the ballot papers for the election will be issued,
 - (d) the day and hour (in this Act referred to as the close of the poll) on and at which the poll at the election will be closed, 5
 - (e) the address of the Seanad returning officer to which nomination papers and other communications may be sent to him or her.
- (2) The following provisions shall have effect in relation to a Seanad general election order—
- (a) the order shall be made within seven days after the dissolution of Dáil Éireann which occasions the election, 10
 - (b) the day appointed by the order for the expiration of the time for proposed nominations shall not be less than four weeks after such dissolution and, where practicable, shall not be prior to the date fixed for the reassembly of Dáil Éireann after such dissolution, 15
 - (c) the order shall be published in the *Iris Oifigiúil* as soon as may be after it is made.
- (3) In making an order under *subsection (1)* the Minister may, in respect of votes to be cast outside the State—
- (a) appoint different dates for the day on which the ballot papers for the election will be issued, 20
 - (b) appoint different dates and time for the day and hour on and at which the poll at the election will be closed,
 - (c) specify the location at which such votes may be counted, including at locations outside the State, and 25
 - (d) specify the means by which the results of the count shall be furnished to the Seanad returning officer.

Seanad returning officer

26. (1) The person who for the time being holds the office of Clerk of Seanad Éireann shall be the Seanad returning officer for the purposes of this Act. 30
- (2) It shall be the duty of the Seanad returning officer to—
- (a) conduct every Seanad general election,
 - (b) to supervise the count of votes cast,
 - (c) to ascertain and declare the result thereof in accordance with this Act,
 - (d) to engage in the filling of casual vacancies which arise, and 35
 - (e) to do such other things in respect of every such election as he or she is required by this Act to do.
- (3) The Minister for Finance shall, with the approval of the Minister for Public

Expenditure and Reform, pay to the Seanad returning officer the amount of his or her reasonable charges, not exceeding such amount as may, with the consent of the Minister for Public Expenditure and Reform, be sanctioned by that Minister, in respect of the performance by the Seanad returning officer of his or her duties under this Act out of the Central Fund or the growing produce thereof. 5

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

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

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

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

Seanad election expenses

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

“Seanad election expenses.

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

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

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

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

(2) Where a political party authenticates the candidature of a candidate at a Seanad election, the party may incur such proportion not exceeding fifty per cent. of the amount of the election expenses which that candidate is entitled to incur at that election under subsection (1), as may be agreed in writing between the party and the candidate concerned. 30

(3) The aggregate of election expenses which may be incurred by the national agent of a political party on behalf of that party at a Seanad election shall be the sum of the amounts of election expenses agreed in writing between the party and candidates whose candidatures were authenticated by the party at the election. 35

(4) The Minister may by regulation, having regard to the Consumer Price Index and also the level of expenses ordinarily incurred in contesting 40

elections, revise the monetary amounts specified in subsection (1).”.

Publication of copy of constituencies

28. As soon as practicable after the completion of the electoral register in respect of a Seanad general election, the Seanad returning officer shall publish on the internet and in at least one national newspaper in the State, a copy of the notice by which publication of the constituencies was effected. 5

The ballot papers for Seanad general election

29. (1) The following provisions shall apply and have effect in relation to the ballot papers at a Seanad general election—
- (a) there shall be different ballot papers for each vocational constituency, 10
 - (b) there shall be one ballot paper for the universities constituency,
 - (c) a ballot paper shall contain the names, addresses, and descriptions of all the candidates named in the constituency to which it relates arranged in the alphabetical order of their surnames and, in cases of identity of surname, of their other names, and either in one continuous column or in two or more columns as the Seanad returning officer, with the consent of the Minister, considers to be most convenient, 15
 - (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. 20 25
- (2) Subject to the provisions of *subsection (1)* of this section, the ballot papers shall be in the prescribed form and each ballot paper shall have a number printed on the back thereof and shall have attached thereto a counterfoil with the same number printed on the face of such counterfoil, and every ballot paper shall, at the time of issue thereof, be marked on both sides thereof with an official mark either stamped or perforated. 30

Method of marking votes on ballot paper at Seanad general election

30. (1) An elector in marking a ballot paper at a Seanad general election must place on the ballot paper the figure 1 opposite the name of the candidate for whom he or she votes, and he or she may in addition place on the ballot paper the figures 2 and 3, or 2, 3 and 4, and so on, opposite the names of other candidates in the order of his or her preference. 35
- (2) Any ballot paper—
- (a) which does not bear the official mark, or 40

- (b) on which the figure 1 standing alone is not placed at all or is not so placed as to indicate a first preference for some candidate, or
 - (c) on which the figure 1 standing alone indicating a first preference is set opposite the name of more than one candidate, or
 - (d) on which the figure 1 standing alone indicating a first preference and some other number is set opposite the name of the same candidate, or 5
 - (e) on which anything except the number on the back is written or marked by which the voter can be identified,
- shall be invalid and shall not be counted.

Sending of ballot papers to electors at Seanad general election 10

31. (1) On the day appointed for the issue of ballot papers at a Seanad general election the Seanad returning officer shall send to each person whose name is on the electoral register for that election at the address stated on such electoral register a ballot paper for the constituency in respect of which the voter has opted to cast his or her vote.
- (2) Where the Seanad returning officer is satisfied that a registered voter has not received a ballot paper, the Seanad returning officer may at his or her sole discretion arrange for the issuing of a duplicate ballot paper which by being printed on paper of a special colour or otherwise, is clearly distinguished as a duplicate of the ballot paper originally sent to such person. 15

Issue of ballot papers 20

32. The Seanad returning officer shall issue the ballot papers at a Seanad general election on the day appointed in that behalf by the relevant Seanad (general election) order.

Method of voting at Seanad general election

33. (1) Every person entitled to vote at a Seanad general election shall be entitled to vote at that election in the following and no other manner, that is to say, by marking the ballot paper sent to him or her under this Act and returning by ordinary prepaid post to the Seanad returning officer the ballot paper together with the form of declaration of identity, furnished to him or her. 25
- (2) Whenever a person entitled to vote at a Seanad general election states in writing to the Seanad returning officer that he or she duly returned by ordinary prepaid post to the Seanad returning officer the ballot paper and a form of declaration of identity and that the same does not appear to have been delivered to the Seanad returning officer and that he or she desires a duplicate ballot paper to be issued to him or her, the Seanad returning officer, if such statement is received by him or her not less than forty-eight hours before the close of the poll at the election, shall forthwith or, if such statement is received by him or her less than forty-eight hours before the close of the poll at the election, may send to such person at his or her address as stated in the electoral register a ballot paper for the constituency in respect of which the voter has opted to cast his or her vote which, by being printed on paper of a special colour or otherwise, is clearly distinguished as a duplicate of the ballot paper originally sent to such person. 30 35 40

- (3) In this section the expression “returning by ordinary prepaid post” includes—
- (a) in the case of an elector who is detained in prison pursuant to an order of a court, the return by the relevant official, or by a person acting under the relevant official’s direction, of the documents referred to in *subsection (1)* on behalf of the elector concerned, and
 - (b) in the case of an elector who is outside the State, the return by ordinary prepaid post to the relevant Irish Embassy or Consulate.

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Voting outside the State

34. (1) Ballot papers which have been completed outside the State, together with the form of declaration of identity duly made and completed by him or her, shall be returned by means of ordinary prepaid post to the relevant Irish Embassy or Consulate.
- (2) An Embassy or Consulate which is in receipt of ballot papers submitted to it under *subsection (1)* shall arrange for the counting of votes and shall furnish to the Seanad returning officer, the results of the count.

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Ascertainment of result of Seanad general election

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35. (1) The Seanad returning officer shall, in the presence of such candidates as may be in attendance, ascertain separately, in accordance with this Act the result of a Seanad general election in respect of each constituency and shall declare to be elected from such constituency the candidates who are so ascertained to be elected.
- (2) The decision of the Seanad returning officer as to any question arising at a Seanad general election on the ballot papers, the envelopes containing the ballot papers, the declarations of identity or any other matter arising on the issue or the receipt of the ballot papers or on the counting of the votes shall be final, but subject, where an objection in writing to the decision has been delivered to the Seanad returning officer before the declaration of the result of the election, to review by a court trying an election petition in relation to the election.

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Election petitions in relation to Seanad general elections

36. (1) The enactments for the time being in force relating to the presentation and trial of election petitions in relation to elections of members of Dáil Éireann shall apply to Seanad general elections with the following modifications:
- (a) the court trying an election petition in relation to a Seanad general election shall not have power to declare the whole election to be void but may declare the election of any one or more of the candidates returned as elected at the election to be void or to be valid as justice may require;
 - (b) where the court so declares the election of a candidate to be void, the court shall declare that such one as justice may require of the candidates not returned as elected was elected;
 - (c) the said court shall have power to make such amendments as may be necessary to give effect to its decisions in the certificate of the Seanad returning officer of the result of the election:

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- (d) it shall not be obligatory on the said court to cause a recount to be made of the votes given for, or to investigate the voting or the counting of the votes in respect of, the candidates on a constituency in relation to which the said court is satisfied that the voting in respect of the candidates on such constituency is not in issue on the petition: 5
- (e) references (including references by adaptation) to Dáil Éireann shall be construed as references to Seanad Éireann, and references (including references by adaptation) to the Chairman or the Ceann Comhairle of Dáil Éireann shall be construed as references to the Chairman of Seanad Éireann.
- (2) A person who has voted at a Seanad general election shall not, in any legal proceedings to question the election or return of any candidate at the election, be required to state for whom he or she has voted. 10

PART 8

CASUAL VACANCIES

Notice of casual vacancy 15

- 37. (1) Where a casual vacancy occurs in the membership of Seanad Éireann, the Clerk of Seanad Éireann shall, on the direction of Seanad Éireann, send to the Minister notice (in this Act referred to as notice of a casual vacancy) in writing of the vacancy.
- (2) A notice of a casual vacancy shall state, in respect of the member whose death, resignation, or disqualification occasioned the vacancy, the gender of the person and the constituency from which the member was elected at the next preceding Seanad general election. 20
- (3) A notice of a casual vacancy shall be accompanied by a copy of the final results of the next preceding Seanad general election in respect of the constituency in which the vacancy has arisen. 25

Filling of casual vacancy

- 38. (1) Where the Minister receives a notification under *section 37* he or she shall proceed to fill the vacancy by examining the results of the next preceding Seanad general election in respect of the constituency in which the vacancy has arisen, and of the candidates who contested the relevant constituency but were unelected and deem the candidate, with the highest number of votes to be elected. 30
- (2) The Minister shall by notice in writing inform the Seanad returning officer of the name of the person who has been deemed to be elected along with the name of the constituency.
- (3) Where pursuant to the procedures set out in *subsection (1)* it does not provide possible to fill the vacancy by a person of the same gender as person in respect of whom the casual vacancy has been occasioned, the requirement in *subsection (1)* to fill the vacancy with a person of the same gender shall be disregarded in that instance. 35

Publication of result of election

39. Upon receipt of a notice from the Minister under *section 38* the Seanad returning officer shall prepare and publish on the internet and also in the *Iris Oifigiúil* a statement in the prescribed form of the name of the candidate deemed to be elected to fill a casual vacancy which has arisen on a specified constituency.

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PART 9

MISCELLANEOUS

Resignation of membership of Seanad Éireann

40. (1) A member of Seanad Éireann elected under this Act may voluntarily resign his or her membership of Seanad Éireann by notice in writing to the Chairman of Seanad Éireann who shall announce the resignation to Seanad Éireann at the next meeting thereof. 10
- (2) The resignation under this section of a member of Seanad Éireann shall take effect immediately upon the announcement thereof by the Chairman of Seanad Éireann in pursuance of this section. 15

Preservation of the secrecy of the voting

41. (1) The Seanad returning officer and every officer and clerk concerned in the issue or the receipt of ballot papers or the counting of votes under this Act and every candidate or other person present at such issue, receipt, or counting shall maintain and aid in maintaining the secrecy of the voting at the election and shall not, before the completion of the election, communicate, except for some purpose authorised by law, any information as to whether any elector has or has not voted at the election or as to the official mark, and shall not at any time communicate to any person any information obtained at or in connection with such issue, receipt, or counting as to the candidate for whom any elector has voted or as to whether any elector has or has not voted or as to the number on the back of any ballot paper. 20 25
- (2) A person shall not interfere with or attempt to interfere with the receipt, marking, or return of the ballot paper of any elector at an election under this Act.
- (3) A person shall not directly or indirectly induce any elector at an election under this Act to display his or her ballot paper after he or she has marked it so as to make known to such person or to any other person the name of any candidate for whom he or she has marked his or her vote on such ballot paper. 30
- (4) A person who acts in contravention of this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to imprisonment for any term not exceeding six months. 35

Non-compliance with rules

42. An election of a candidate at an election under this Act shall not be declared void by reason only of a non-compliance with the rules contained in any Schedule to this Act, or any mistake in the use of the forms prescribed under this Act, if it appears to the tribunal

having cognisance of the question that the election was conducted in accordance with the principles laid down in the body of this Act and that the non-compliance or mistake did not affect the result of the election.

Application of Electoral Act 1992

43. (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

Gender Balance

44. (1) At least 2 of the 6 candidates elected to Seanad Éireann on the Universities and Institutes of Higher Education Constituency, as provided for in *section 11*, shall be women and at least 2 shall be men.
- (2) At least 3 of the 7 candidates elected to Seanad Éireann on the Cultural and Educational panel in the Vocational Constituency, as provided for in *section 12*, shall be women and 3 shall be men. 30
- (3) At least 4 of the 9 candidates elected to Seanad Éireann on each of the Agricultural, Labour, Industrial/Commercial and Administrative panels in the Vocational Constituency, as provided for in *section 12*, shall be women and 4 shall be men. 35
- (4) In considering nominations to Seanad Éireann in accordance with *section 9*, the Taoiseach shall give consideration to ensuring that the 11 nominated Senators shall have sufficient gender balance.

