



REPORT  
OF THE  
IMPLEMENTATION  
GROUP  
ON  
**SEANAD REFORM**  
2018

# **Report of the Seanad Reform Implementation Group**

December 2018

## Introduction

This Report is presented to the Taoiseach in fulfilment of the Terms of Reference of the Seanad Reform Implementation Group (“the Implementation Group”) which was established by the Taoiseach in February 2018.

This Report is focused on the implementation of the proposals which are set out in the *Report of the Working Group on Seanad Reform* (April 2015) (“the Manning Report”). Accordingly this Report should be read in conjunction with the Manning Report.

This Report is accompanied by a draft Bill which has been drafted in order to provide for the implementation of the recommendations of the Manning Report, varied in a limited number of instances as a result of the deliberations of the Implementation Group.

### *Meetings of the Implementation Group*

The Seanad Reform Implementation Group’s first meeting was held on 9 May 2018 and it met on twelve further occasions, concluding its work on 11 December 2018.

### *Expert Input*

The following persons appeared before the Implementation Group and in so doing, greatly helped the Implementation Group in its deliberations:

Dr. Theresa Reidy, University College Cork

Mr. Martin Groves, Clerk of the Seanad

Mr. Andrew Munro, Assistant Secretary, Department of the Taoiseach

Ms. Fiona Quinn, Mr. Barry Ryan, and Ms. Mairead Ryan, Department of Housing, Planning & Local Government

### *Acknowledgements*

The Implementation Group is thankful to Dr. Maurice Manning and Mr. Joe O’Toole for their input and assistance.

The Secretariat to the Implementation Group, comprising Ms. Síle de Búrca and Ms. Amanda Reilly, was provided by the Department of the Taoiseach. The Implementation Group is grateful to them for their dedication and professionalism in assisting the Implementation Group in its task.

The Implementation Group is extremely thankful to Dr. Brian Hunt who drafted the Bill which accompanies this Report.

## 1. Context

### [1.1] *Mandate*

This Report has been prepared by the Seanad Reform Implementation Group, pursuant to its Terms of Reference, for presentation to the Taoiseach.

### [1.2] The Terms of Reference are as follows:

*“To consider and report on the implementation of the recommendations of the Working Group on Seanad Reform Chaired by Dr Maurice Manning within the present terms of the Constitution on the election of members of Seanad Éireann (the ‘Manning Report’).*

The Implementation Group is tasked with following:

- To consider how to implement the recommendations of the Manning Report (see appendix) In the context of the acceptance of the overall principles of the recommendations of the Manning Report, to consider whether any specific variations on its recommendations are desirable or necessary;
- To consider and prepare any recommended amendments to the legislation as proposed by the Manning Report;
- To provide in its report the complete text of a bill to implement the group’s proposals;
- To consider and make recommendations for any phasing of implementation of the Bill’s provisions;
- To submit the group’s final report by end-October 2018.”

[1.3] It bears emphasis, therefore, that the Implementation Group has not been tasked with devising fresh proposals for Seanad Reform. The central focus of the Implementation Group is of necessity, on the implementation of the Manning reforms. It is for this reason that this Report is, as required by the Implementation Group’s terms of reference, accompanied by a draft Bill which serves as the legislative vehicle for the implementation of the proposed reforms.

[1.4] In the *Programme for Partnership Government*<sup>1</sup>, the Government gave a very clear commitment to implementing the proposals contained in the Manning Report:

“Significant reform of the Seanad itself is now long overdue. We will pursue the implementation of the Manning Report, as a priority.”

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<sup>1</sup> *A Programme for Partnership Government*, (May, 2016) at p.149.

[1.5] On 1 February 2018, the Taoiseach addressed the Seanad and announced his intention to establish a group to implement the recommendations set out in the Manning Report.

[1.6] Having indicated his intention to establish a Seanad Reform Implementation Group, in April 2018, the Taoiseach wrote to leaders of each party or grouping in the Houses of the Oireachtas. A list of the members of the Seanad Reform Implementation Group are set out in Annex 3. The representation by each group is proportionate to their representation in the Dáil and Seanad. The Chair of the Implementation Group, Senator Michael McDowell SC, was elected by the Group Members.

### [1.7] *The Constitution*

Explicit in the mandate of the Seanad Reform Implementation Group (“SRIG”) is the requirement to put forward a series of reforms which are compatible in every respect with the current terms of the Constitution.

[1.8] In this context the most pertinent articles of the Constitution are Articles 18 and 19, the text of which are set out in Annex 1. Amongst the constitutional constraints are a requirement that 11 seats must be appointed by the Taoiseach and 6 must be elected by the graduates of universities or other institutions of higher education.

### [1.9] *Current Legislation*

In addition to the provisions of the Constitution, the election of members of the Seanad are provided for in the Seanad Electoral Panel Members Act 1947, the Seanad Electoral (Panel Members) Act 1954 and also the Seanad Electoral (University Members) Act 1937.

### [1.10] *Past Referenda*

In July 1979 the electorate voted to extend the franchise in Seanad elections to graduates of other universities.

[1.11] In 2009, the electorate voted by 51.7% to retain Seanad Éireann. It has been accepted that implicit in the will of the people to retain the Seanad has been the desire to see the Seanad being reformed. A number of members of the Implementation Group expressed the view that in order to meet the needs of a 21st century Ireland, the Seanad should be reformed through a Constitutional Referendum which is put to the people.

[1.12] While the outcome of the 1979 referendum was never implemented in legislation, in 2014 the General Scheme of the Seanad Electoral (University Members) (Amendment) Bill was published by the Minister for the Environment, Community and Local Government. The draft Bill was intended to be the first step in implementation of 1979 constitutional referendum. However, the government did not subsequently initiate the Bill in the Houses.

### [1.13] *Anticipated Reforms in Other Areas*

In presenting this Report, the Implementation Group recognises that there is a need to take into account the wider reform agenda.

[1.14] The Implementation Group acknowledges that the Government is working at a preliminary stage on plans to establish an Electoral Commission. In time the proposed Seanad Electoral Commission provided for under the draft Bill could, with an expanded remit, serve as the Electoral

Commission. Alternatively, the Seanad Electoral Commission could work alongside any newly constituted electoral commission or have its functions absorbed by such an electoral commission.

[1.15] The Implementation Group also acknowledges that the Government is planning to hold a referendum on a proposal to permit citizens abroad to participate in Presidential elections. This may bear some relevance to the proposal in this Report (and in the Manning Report) to expand the Seanad electorate so as to include Irish passport holders abroad.

## 2. Previous Proposals on Seanad Reform

### [2.1] Reports on Seanad Reform

The Implementation Group has had the benefit of 13 previous reports<sup>2</sup> which have focused on proposals for Seanad reform, as follows:

1. Report of the Joint Committee on the Constitution of Seanad Éireann (1928)
2. Report of the Second House of the Oireachtas Commission (1936)
3. Special Report of the Special Committee on the Seanad Electoral (Panel Members) Bill (1937)
4. Report of the Commission on Vocational Organisation (1943)
5. Report of the Joint Committee on Seanad Panel Elections (1947)
6. Report of the Select Committee on the Seanad Éireann (Panel Members) Bill 1952 (1953)
7. Report of the Seanad Electoral Law Commission (1959)
8. Report of the Committee on the Constitution (December 1967)
9. Report of the Constitution Review Group (May 1996)
10. Second Progress Report of the All-Party Oireachtas Committee on the Constitution (April 1997)
11. Seventh Progress Report of the All-Party Oireachtas Committee on the Constitution (March 2002)
12. Report of the Seanad Committee on Procedure and Privileges Subcommittee on Seanad Reform (April 2004)
13. Report of the Working Group on Seanad Reform (April 2015)

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<sup>2</sup> The All-Party Group on Seanad Reform (2008-2009) did not present a final report and so is not referenced in the listing.

## 3. Bills to Reform the Seanad

[3.1] Since the 2009 referendum on the Seanad, proposals to reform the Seanad have been put forward in a number of Private Members Bills, namely:

- a. Seanad Bill 2013 (Quinn-Zappone Bill),
- b. Seanad Electoral Reform Bill 2013 (Senator John Crown),
- c. Draft Bill that accompanied the Manning Report in 2015, and
- d. Seanad Bill 2016 (Senator Michael McDowell).

## 4. Manning Report Recommendations

[4.1] By virtue of the Terms of Reference provided by the Taoiseach, the remit of the Implementation Group, is by necessity, very much linked to the set of recommendations that have already been put forward in the Manning Report in 2015. The key recommendations of the Manning Report are set out in Annex 2 of this Report.

[4.2] The Seanad has often been criticised as being elitist – a criticism which derives mainly from the fact that its electorate (for 43 seats) is mainly comprised of public representatives, and in respect of six seats, university graduates. A fundamental change proposed by the Manning Report is to open the franchise at Seanad elections to include any of the following who chose to register as voters: (i) Irish citizens in Ireland, (ii) persons in Northern Ireland who are entitled to claim Irish citizenship, and (iii) Irish citizens abroad. The Manning Report also proposed the extension of the franchise to graduates of all institutions of higher education in the State (giving effect to the 1979 referendum on this point). The Manning Report also proposed a system of online registration of voters and downloading of ballot papers.

[4.3] The Manning Report recommended that 36 of the 60 Seanad seats be directly elected from five vocational panels and from the university constituency and that 13 of the 60 seats be directly elected from an electoral college of all TDs, Senators and local authority members. As regards the remit of the Seanad, the Manning Report put forward a series of non-statutory reforms.

### 5. Recommendations of the Implementation Group

[5.1] As already stated, the Implementation Group has *not* been tasked with devising fresh proposals for Seanad reform. Instead, under its Terms of Reference, the Implementation Group has been tasked with focusing on the implementation of the recommendations of the Manning Report.

[5.2] While the Implementation Group has been required to approach this task with the acceptance of the overall principles of the existing recommendations of the Manning Report, the Implementation Group did have some latitude to consider whether any specific variations on its recommendations are desirable or necessary.

[5.3] Within the confines of its remit, the Implementation Group has given detailed consideration to the feasibility of holding Seanad elections on the same day as elections to the Dáil. The Constitution envisages that Seanad elections would take place subsequent to each Dáil election. Specifically the Constitution requires that a Dáil general election should take place within 30 days of the dissolution of the Dáil<sup>3</sup>, and a Seanad election should take place within 90 days of a the dissolution of the Dáil<sup>4</sup>. Typically Dáil elections are held within 23 or 24 days<sup>5</sup> of the dissolution of the Dáil.

[5.4] The Implementation Group's discussions with the Clerk of the Seanad shed considerable light on the period of time which is required in practical terms so as to take the multiple steps that are integral to the Seanad electoral process (such as the time required so as to allow nominating bodies to select and then nominate candidates, the time required to have the eligibility of those candidates confirmed etc). It is normally the case that, even with the most determined effort, the detailed steps required in the Seanad electoral process consume a period of very close to 90 days. It is the Implementation Group's considered view that it does not seem to be practical or desirable to hold elections to the Dáil and the Seanad on the same day.

[5.5] In this context the Implementation Group re-affirms without alteration very many of the principles of the Manning Report. In particular, the Implementation Group endorses the Manning Report proposals to expand the franchise at Seanad elections so as to include Irish citizens in the State, Irish passport holders abroad, as well as persons from Northern Ireland, and also to expand the range of graduates who will be eligible to vote.

[5.6] At the 2013 referendum on the Seanad, a majority of the public voted to retain the Seanad, indicating that they saw it as valuable to Irish democracy and also indicating a preference for reform and a widening of the current narrow franchise. The expansion of the franchise at Seanad elections will enhance its democratic mandate, deepen engagement between the public and Senators and will give the public a far greater say in the make-up of the Seanad. It will also lead to an increased level of interest in Seanad elections and the work of Senators, and indeed the House itself.

[5.7] Expanding the franchise to people in Northern Ireland will give voice to people who have a genuine affinity towards social and political affairs in Ireland. Importantly the expansion of the franchise to Irish citizens abroad will give those abroad a say in the affairs of the country to which many of them aspire to returning to one day.

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<sup>3</sup> Article 16.3.2 of the Constitution.

<sup>4</sup> Article 18.8 of the Constitution.

<sup>5</sup> In 2011, the Dáil was dissolved on 1 February and the general election took place on 25 February. In 2016, the Dáil was dissolved on 3 February and the general election was held on 26 February.



[5.8] The Implementation Group has proposed a departure from some of the recommendations of the Manning Report in a small number of areas, as follows:

[5.9] *Election of Senators by Members of the Public* - The Implementation Group has agreed to depart from the Manning Report recommendation concerning the recommendation that 36 of the 60 seats be directly elected from five vocational panels and from the university constituency; that 13 of the 60 seats be directly elected from an electoral college of all elected county and city councillors, TDs and outgoing Senators.

[5.10] As an alternative to the Manning Report proposal, the Implementation Group has agreed that 34 of the 60 seats be directly elected from five vocational panels and from the institutions of higher education constituency, and that 15 of the seats be elected from an electoral college of TDs and outgoing Senators, and elected county and city councillors.

[5.11] *Downloading of Ballot Papers* - The Implementation Group has agreed to depart from the Manning Report recommendation concerning the downloading of ballot papers by voters. In view of the need to preserve at all costs the integrity of the electoral system, the Implementation Group believes that there is a need to tread very carefully in the harnessing of technology in the context of the electoral process. In this regard the Implementation Group notes the work of the Interdepartmental Group on the Security of Ireland's Electoral Process and Disinformation, particularly its recommendations relating to advancing the modernisation of the voter registration process and recommendations to enhance cyber security measures around the electoral process. The Implementation Group's decision in this regard obviates the need for the development or acquisition of new I.T. systems associated with such a step.

[5.12] Some members of the Implementation Group requested to have recorded in this Report their own or their party's position on Seanad reform. Those positions are contained in Annex 4 of this Report (in the order in which they were received).

## 6. Anticipated Scale of Seanad Electorate

[6.1] At present 43 seats at Seanad elections are filled by the votes of 1,167 people, those being members of the incoming Dáil, the outgoing Seanad and of local authorities. A further 3 seats are filled by the votes of people on the NUI electoral register (in 2016 there were 103,165 people on the NUI electoral register), and a further 3 seats are filled by the votes of people on the University of Dublin electoral register (in 2016 there were 57,752 people on the University of Dublin electoral register).

[6.2] Fundamental to the reforms put forward in the Manning Report was the recommendation to expand the franchise at Seanad elections so as to include Irish citizens in the State, Irish passport holders abroad, as well as persons from Northern Ireland, and also to expand the range of graduates who will be eligible to vote. This will enable members of the public to participate in Seanad elections in a way that has not been permissible before now. It is recognised that conferring more people with a vote will significantly increase the electorate at Seanad elections.

[6.3] A requirement that voters **voluntarily** apply for inclusion on the Seanad electoral register will mean that the register, in so far as is possible, will be populated by members of the electorate who have demonstrated an interest in participating in Seanad elections.

[6.4] It is anticipated that rather than there being a rush for inclusion in the Seanad electoral register, the growth of the Seanad electoral register will take place gradually and over time and pro-active measures may need to be taken by the Seanad Electoral Commission to promote awareness and encourage registration. The implementation group favour a separate opt-in Seanad electoral register in preference to reliance on any register of electors already being used for other elections; however, it is recommended that those joining other registers of electors, such as for Dáil elections, be reminded of their right to register to vote in Seanad elections.

[6.5] The Implementation Group gave some consideration to utilising the existing Dáil electoral register to be used in Seanad elections. This approach was not favoured for two primary reasons:

- (i) the fact that as Seanad elections are conducted through post, unnecessary costs could be incurred by sending ballot papers to large numbers of voters who may not wish to participate in Seanad elections; and
- (ii) unwanted and unused ballot papers sent by post could be vulnerable to voter fraud and could improperly influence the outcome of the election.

[6.6] Therefore it is expected that the resulting Seanad electoral register will comprise interested and engaged voters who have demonstrated a wish to actively participate in Seanad elections.

[6.7] Voter registration will be a straightforward, simple process in the same way as it is currently for graduates of University of Dublin (TCD) and also NUI. When registering to vote in a Seanad election, voters would effectively be required to tick just one more box than they would when registering to vote in a Dáil election so as to indicate the constituency for which they wish to be registered. (Dáil and Seanad electoral registers will be maintained separately). Rather than being restricted to voting for a particular constituency by virtue of their home address, voters will be given a simple choice to register to vote for one constituency over another.

[6.8] In addition, when registering to vote in future Dáil elections and local elections, voters may be asked if they wish to also register to vote in Seanad elections and if so, to merely indicate their preferred constituency. Publicity campaigns for Dáil and local election registration will also remind voters of their right to register for a constituency of their choice in Seanad elections.

### [6.9] *Irish Resident Voters*

At the 2016 Dáil general election there were 3.3m registered voters, yet only 2.1m people opted to cast their vote. At the time of the Referendum on the Eighth Amendment to the Constitution in May 2018, there were approximately 3.2m registered voters. However, only 1.2m ballots were actually cast on the day. At the October 2018 Presidential election, approximately 3.4m people were registered to vote. On election day, only 1.4m votes were cast.

[6.10] It is anticipated that the number of Irish resident voters which will both apply to be registered and vote at a Seanad general election will be far lower than the number of persons who tend to participate in Dáil elections.

### [6.11] *Irish Citizens Abroad*

According to the Institute for Democracy and Electoral Assistance, as of 2012, 138 countries facilitated voting by persons outside their home country – Ireland being one of the countries which does not facilitate such voting at any election (except in the case of the University seats at a Seanad election). The extension of the franchise at Seanad elections presents an opportunity for Ireland to enable emigrants to maintain a meaningful link with their home country.

[6.12] According to records maintained by the Department of Foreign Affairs, there are over 813,000 current passports in circulation, the application for which was initially submitted through Embassies or Honorary Consuls abroad. At any given time, it can be expected that there will also be a cohort of persons who procured their passport in Ireland and then subsequently moved abroad.

[6.13] The Implementation Group believes that, contrary to concerns that the votes of Irish citizens abroad could dominate a Seanad election, in fact it may prove challenging to foster a strong degree of participation from this cohort of voters.

[6.14] The Implementation Group has had the benefit of expert insights on this particular matter from political scientist Dr Theresa Reidy, Department of Government & Politics at University College Cork<sup>6</sup>. According to Dr Reidy, studies in various countries have consistently shown that participation and turnout tends to be much lower among emigrant voters and tends to decline with the length of time spent abroad.

### [6.15] *Northern Ireland Voters*

Northern Ireland has a population of approximately 1.87m. The amount of people in Northern Ireland who will exercise their right to register as Seanad electors is likely to be a small fraction of that number.

### [6.16] *Graduates*

The extension of the franchise to the graduates of other institutions of education is long overdue. Under this reform, for the first time, graduates of the Institutes of Technology, University of Limerick, and many other third level institutions will be eligible to vote in a Seanad election.

[6.17] At the time of the 2016 Seanad election, there were 103,156 people on the electoral register which is maintained by the National University of Ireland. At the 2016 election, 36,293 (or 35%) of them opted to cast their vote. In respect of the Seanad election for the University of Dublin seats, there were 57,752 people on the electoral register, 16,064 (or 27%) of them voted at the 2016 Seanad election.

[6.18] By opening up the franchise to graduates of very many other institutions of higher education the number of graduates who will be eligible to vote for the institutions of higher education seats will increase.

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<sup>6</sup> Presentation to Seanad Reform Implementation Group, “External Voting on Seanad Panels” (12 September 2018).

### 7. Cost

[7.1] For those who wished to see the Seanad being abolished, no amount of expenditure on the Seanad will be viewed as being reasonable. Equally, for those who wish to see the Seanad continuing in its current guise, without meaningful reform, any levels of expenditure above current spending, will be viewed as excessive.

[7.2] In recent years, the electorate voted to retain the Seanad as an integral part of Ireland's democratic framework. Notwithstanding cost having been cited as a reason to abolish the Seanad, the electorate voted to reaffirm the value of the Seanad and retain its constitutional position.

[7.3] While it has been asserted that it is not possible to put a price on democracy, in its deliberations on the implementation of Seanad reform, the Implementation Group has put to the forefront of its collective mind, the need to ensure the prudent use of public monies.

[7.4] The Implementation Group has endorsed the Manning Report's recommendation regarding the extension of the franchise in Seanad elections. The effect of this is to broaden the Seanad electorate so as to include: voters in Ireland; Irish citizens abroad; persons from Northern Ireland who are entitled to claim Irish citizenship; and graduates of a broader range of third level institutions. It is recognised that of necessity this will involve an additional cost.

[7.5] The Constitution requires that the Seanad be elected by postal vote. At Seanad elections of recent times, postal costs have been a significant portion of the overall cost of those elections.

#### [7.6] *Use of Ordinary Post for All Aspects of Seanad Elections*

To mitigate against increased costs which will arise in the context of an expanded electorate in the draft Bill accompanying this Report, the Implementation Group has provided that all aspects of Seanad elections will rely on ordinary post – a safe and effective means of delivery which is very significantly less costly than the use of registered post currently required by statute for the Universities panels. This measure alone will significantly reduce the costs that are normally associated with the conduct of Seanad elections. It is important to note that currently, where a Dáil voter applies for a postal vote, the papers are sent by ordinary post.

[7.7] This shift from the exclusive use of registered post in favour of ordinary post means that the postal costs associated with the issuing of ballot papers will fall from €8.00 per person (for registered post) to €1.00 per person (for ordinary post). The delivery costs associated with the issuing of ballot papers to voters abroad will be €1.50. A requirement on voters in Ireland and elsewhere to affix a postage stamp when returning a completed ballot paper is a further measure which might be considered if necessary to further limit costs.

#### [7.8] *Distribution of Electoral Literature*

Regarding the use of Litir um Thoghchán for the distribution of election literature, the Implementation Group has decided that election literature will be combined into one postal package to each voter, reducing delivery costs associated with separate mailings from many individual candidates. This measure will also help towards reducing to some degree the impact that the increased size of the electorate will have on the cost of the distribution of election literature.

### [7.9] *Financial Benefit to An Post*

We should not dismiss the fact that the postal costs which are associated with each Seanad election will provide a significant financial boost to An Post. In circumstances where the resource of An Post is available to the State, the net cost to the Exchequer may be partially off-set by the social benefit of utilising the services of An Post for Seanad elections.

### [7.10] *Creation of a New Electoral Register*

It is known that a sizeable portion of ballots which are issued by the universities at a Seanad election by registered post are returned un-opened – with voters having not picked up their ballot paper after an attempted registered delivery, or having moved to a new location, or having passed away.

[7.11] The Implementation Group favours the establishment of a new electoral register which is maintained especially for Seanad elections.

[7.12] A major advantage of this approach is that by requiring voters to voluntarily register to be an elector at Seanad elections, we can lessen the risk of the electoral register being populated by large numbers of people who have no interest in participating in Seanad elections. We can have a higher level of confidence that the people named on the register have a genuine interest in, and desire for, participating in Seanad elections. This will ensure that the administration and costs associated with the issuing of ballot papers by post will not have been wasted on electors who do not in any event wish to participate in Seanad elections.

### [7.13] *Updating of the Electoral Register*

Provision has been made in the draft Bill accompanying this Report for the periodic updating and revision of the Seanad Electoral Register. This will help to reduce the incidence of ballot papers being issued to voters who have relocated.

## 8. Non-Statutory Reforms of the Seanad

[8.1] The Manning Report recorded that the Working Group was “strongly of the view that there is space for the Seanad to carve out a more meaningful and substantive role in the political system”. It emphasised that “there was a clear need ... for members to better exploit what powers are already at their disposal.”

[8.2] The Implementation Group endorses that view and recommends that the following reforms are implemented as soon as possible:

### [8.3] *Committees*

It is proposed that the arrangements for the Seanad scrutiny of reports from committees dealing with EU and other matters be strengthened.

[8.4] The Seanad should review the way in which reports of committees are dealt with by the Seanad. For example, one way in which this could be done is by ensuring that debates on committee reports on EU matters are opened and closed by a Chair or rapporteur or by a member of the relevant committee nominated for the purpose.

[8.5] The regular scheduling of committee reports could improve the effectiveness of the House as well as the level of attention given to this work.

[8.6] The Seanad should also seek to hold debates on the progress that is being made on the implementation of recommendations that have been made by committees.

### [8.7] *The European Union*

The Manning Report referred to a right of audience in the Seanad for MEPs. The Standing Orders of the Seanad already provide for MEPs elected to constituencies within the State to attend and be heard in the Seanad. Links with the work of the EU, and in particular the European Parliament, could be enhanced and strengthened by the Seanad using this provision more often. MEPs elected in Northern Ireland could be invited to attend also.

### [8.8] *Vocational panel debates*

The Manning Report adopted as a principled objective the need to develop and strengthen the vocational nature of the Seanad. It also suggested that the Seanad should be in a position to take a “broader and more panoramic view” of national politics.

[8.9] Under the current arrangements, three quarters of Senators are elected on the vocational panel system and the Senators so elected bring to the proceedings of the Seanad considerable knowledge and experience of their vocational areas. However, the vocational panels themselves are not evident in the way debates are structured in the House.

[8.10] Greater prominence could be given to the panels by periodically scheduling special debates on broad themes related to them. Speaking arrangements for vocational panel debates could prioritise Senators elected to the relevant panel. The debate could be preceded by an address by an appropriate distinguished visitor or a person in civic and public life, as currently permitted by Standing Orders.

[8.11] A similar approach could be adopted in respect of the University constituencies.

### [8.12] *Association of European Senates*

The Manning Report referred to the global growth in bicameralism over the last 50 years or so and drew comparisons between the Seanad and some other second chambers. Seanad Éireann has become a member of the Association of European Senates. This gives the Seanad an opportunity to strengthen links with, and learn from, the experience of other second chambers many of which are also dealing with issues such as the need for a distinct role, popular legitimacy and so on.

### [8.13] *Seanad Office Resourcing*

The Implementation Group notes the need for the Seanad Office to be adequately resourced to meet the present needs of the House and also so that it can be in a better position to support the transformation that will come from the reform agenda. The Implementation Group notes that some progress has been made in this regard, but more remains to be done.

[8.14] In addition, given the significantly expanded electorate and public representation responsibilities following the implementation of these reforms, the Implementation Group believes that consideration should be given to an increased resourcing of secretarial and policy support for Senators to ensure that they can recruit and retain suitably qualified support staff.

### **9. Implementation of Reforms**

[9.1] The Manning Report had recommended the establishment of an Interim Implementation Body and had envisaged that the Implementation Body would be subsumed into the wider Electoral Commission which is to be established by the Government.

[9.2] Accordingly the Manning Report did not itself propose the establishment of a Seanad Electoral Commission. However, this Report and the accompanying Bill provides for the creation of a Seanad Electoral Commission, with staff, which will establish and maintain the register of voters and the register of nominating bodies. In addition, it is envisaged that the Seanad Electoral Commission will oversee and administer Seanad elections through a Seanad returning officer to be appointed by the Commission.

### **10. Phased Implementation of the Bill**

[10.1] The practical considerations attaching to the implementation of the proposals contained in the Manning Report have also been a pre-eminent consideration of the Manning Report. To assist the Implementation Group in its considerations of the feasibility of specific aspects of many of the proposed reforms, the Implementation Group has been able to seek guidance from the current Clerk of the Seanad, who, without endorsing any particular approach, has been able to share with us his insights.

[10.2] The Implementation Group has considered the practical need to ensure that there is a sufficient period of time between the passing of the Bill which accompanies this Report and its application to a Seanad election.

[10.3] Accordingly, it is proposed that the measures provided for in the Bill will not apply to the next Seanad election. The draft Bill provides that the new arrangements will apply to the later of either (i) the election of the 27th Seanad, or (ii) a Seanad general election that takes place on a date which is 5 years after the passing of the Bill.

[10.4] Therefore, for practical and logistical reasons, the next election to the Seanad will be conducted in accordance with the law as it stands today.

## Annex 1 - Selected Provisions of the Constitution

### ARTICLE 18

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

**2** A person to be eligible for membership of Seanad Éireann must be eligible to become a member of Dáil Éireann.

**3** The nominated members of Seanad Éireann shall be nominated, with their prior consent, by the Taoiseach who is appointed next after the reassembly of Dáil Éireann following the dissolution thereof which occasions the nomination of the said members.

**4 1°** The elected members of Seanad Éireann shall be elected as follows:—

*i* Three shall be elected by the National University of Ireland.

*ii* Three shall be elected by the University of Dublin.

*iii* Forty-three shall be elected from panels of candidates constituted as hereinafter provided.

**2°** Provision may be made by law for the election, on a franchise and in the manner to be provided by law, by one or more of the following institutions, namely:

*i* the universities mentioned in subsection 1° of this section,

*ii* any other institutions of higher education in the State,

of so many members of Seanad Éireann as may be fixed by law in substitution for an equal number of the members to be elected pursuant to paragraphs *i* and *ii* of the said subsection 1°.

A member or members of Seanad Éireann may be elected under this subsection by institutions grouped together or by a single institution.

**3°** Nothing in this Article shall be invoked to prohibit the dissolution by law of a university mentioned in subsection 1° of this section.

**5** Every election of the elected members of Seanad Éireann shall be held on the system of proportional representation by means of the single transferable vote, and by secret postal ballot.

**6** The members of Seanad Éireann to be elected by the Universities shall be elected on a franchise and in the manner to be provided by law.

**7 1°** Before each general election of the members of Seanad Éireann to be elected from panels of candidates, five panels of candidates shall be formed in the manner provided by law containing



respectively the names of persons having knowledge and practical experience of the following interests and services, namely:–

- i National Language and Culture, Literature, Art, Education and such professional interests as may be defined by law for the purpose of this panel;
- ii Agriculture and allied interests, and Fisheries;
- iii Labour, whether organised or unorganised;
- iv Industry and Commerce, including banking, finance, accountancy, engineering and architecture;
- v Public Administration and social services, including voluntary social activities.

2° Not more than eleven and, subject to the provisions of Article 19 hereof, not less than five members of Seanad Éireann shall be elected from any one panel.

**8** A general election for Seanad Éireann shall take place not later than ninety days after a dissolution of Dáil Éireann, and the first meeting of Seanad Éireann after the general election shall take place on a day to be fixed by the Taoiseach on the advice of the Taoiseach.

**9** Every member of Seanad Éireann shall, unless he previously dies, resigns, or becomes disqualified, continue to hold office until the day before the polling day of the general election for Seanad Éireann next held after his election or nomination.

**10** 1° Subject to the foregoing provisions of this Article elections of the elected members of Seanad Éireann shall be regulated by law.

2° Casual vacancies in the number of the nominated members of Seanad Éireann shall be filled by nomination by the Taoiseach with the prior consent of persons so nominated.

3° Casual vacancies in the number of the elected members of Seanad Éireann shall be filled in the manner provided by law.

### **ARTICLE 19**

Provision may be made by law for the direct election by any functional or vocational group or association or council of so many members of Seanad Éireann as may be fixed by such law in substitution for an equal number of the members to be elected from the corresponding panels of candidates constituted under Article 18 of this Constitution.

### Annex 2 - Manning Report Recommendations

By virtue of the Terms of Reference provided by the Taoiseach, the remit of the Implementation Group, is by necessity, very much linked to the set of recommendations that have already been put forward in the Manning Report in 2015.

The key recommendations of the Manning Report are as follows:

- (i) That a majority [thirty] of the Panel seats be elected by popular vote on the principle of one person one vote;
- (ii) On the basis of the principle of one person one vote, the Working Group recommends that citizens who are eligible to vote in the university constituency must opt to vote either in that constituency or on one of the five panels available to all citizens;
- (iii) The Working Group believes that the principle of one person one vote be extended to include Irish citizens in NI and to holders of Irish passports living overseas;
- (iv) The WG believes such a system (of online registration of voters and downloading of ballot papers) to be secure in its confidentiality and integrity and recommends the adoption of such a system in tandem with the existence of the constitutional requirement of secret postal voting. The Working Group recommends that this system be subject to continuing expert monitoring;
- (v) The WG is aware that online skills and usage are not universally available and recommends that voter registration and distribution of votes be made available through county councils and local libraries and other public bodies in the Republic;
- (vi) The WG recommends that 36 of the 60 seats be directly elected from five vocational panels and from the university constituency; that 13 of the 60 seats be directly elected from an electoral college of all elected county and city councillors, TDs and outgoing Senators.
- (vii) The WG is of the view that the concept of vocational representation be retained but modernised. It recommends legislative change with a view to ensuring access to nomination for as wide a range of candidates as is necessary to reflect the complexity and diversity of modern Irish society;
- (viii) The WG recommends that the level of knowledge and practical experience required of candidates in the constitution be defined in legislation.
- (ix) The WG believes that a clear statement of the constitutional role of the Seanad as subordinate to the Dáil but with a very special and distinct role in the legislative and political process is a proper starting point for a redefinition of the role and contribution of the Seanad.
- (x) The WG is clear that the primary function of the Seanad is the scrutiny, amendment and initiation of legislation and recommends that adequate research and back up resources available for this purpose.
- (xi) The WG also recommends that the Seanad give particular attention to
  - North-South Ministerial Council proposals
  - Secondary Legislation of the EU
  - consulting with relevant bodies prior to and during Second Stage debate
  - investigating and report on matters of public policy interest
  - considering reports from regulators and other statutory inspectors

### Annex 3 – Seanad Reform Implementation Group Members

- Senator Michael McDowell S.C., Chair
- Senator Ned O'Sullivan, Vice Chair
- Senator Gabrielle McFadden
- Senator Jerry Buttimer
- Senator Paddy Burke
- Senator Maria Byrne
- Noel Rock TD
- Fergus O'Dowd TD
- Peter Burke TD
- Jack Chambers TD
- Thomas Byrne TD
- Shane Cassells TD
- Fiona O'Loughlin TD
- Mary Butler TD
- Senator Fintan Warfield
- Senator Niall Ó Donnghaile
- John Brady TD
- Senator Ivana Bacik
- Tommy Broughan TD
- Senator Alice Mary Higgins
- Shane Ross TD
- Senator Grace O'Sullivan
- Noel Grealish TD

### Annex 4 – Party or Other Positions on Seanad Reform

#### **Statement of Position on Institutions of Higher Education Constituency by Senator Ivana Bacik, Senator Michael McDowell and Deputy Noel Grealish.**

While we strongly support the long overdue extension of the franchise to other institutions of education apart from the National University of Ireland and Dublin University, we are of the view that the majority recommendation in the SRIG Report for a single six-seat university constituency is flawed, in particular for the following reasons.

#### 1. Administration of Elections

As evidenced in a number of submissions to the SRIG, the proposed single six seater constituency would potentially comprise well over 700,000 citizens/graduates. The size and scale of the constituency would be utterly disproportionate to other Seanad constituencies and would be very difficult and costly to administer elections. Even the length of the ballot paper for such a constituency would become a real consideration; in the 2016 election, there were 26 candidates for the NUI panel and 19 for Dublin University.

#### 2. Representation

A constituency of this size would be very difficult for any candidate to represent effectively. The relationship between those elected and their constituents would inevitably be weaker than is at present the case for University senators. Further, independent candidates or candidates with limited access to resources would find it very difficult to canvass or campaign in such a constituency; it would inevitably favour candidates from big established political parties, or candidates with access to vast resources.

We therefore propose an alternative wording for Section 9 of the Seanad Bill 2018, as set out below.

Proposed Section 9 (to replace section 9 of the Bill as proposed by the majority):

- (1) For the election of the six members of Seanad Éireann referred to in paragraphs I and ii of Article 18.4.1 of the Constitution there shall be one constituency comprising universities and other institutions of higher education in the State, which shall be divided into three sub-panels, each of which shall elect two members, on the following basis:
  - (i) Two shall be elected by the National University of Ireland.
  - (ii) Two shall be elected by the University of Dublin and other Dublin-based universities or institutions of higher education.
  - (iii) Two shall be elected by universities or institutions of higher education outside Dublin not affiliated with the National University of Ireland or University of Dublin.
- (2) The constituency referred to in subsection (1) shall be known as the institutions of higher education constituency.
- (3) Other institutions of higher education may be established through legislation for inclusion in one of the sub-panels.

### **Statement of Position by Sinn Féin**

In October 2013, a referendum to abolish the Seanad was defeated by 52% of the vote. It was agreed across this campaign by both those who advocated for abolition and retention that the Seanad in its current form was unsustainable.

While Sinn Féin supported Seanad abolition, we recognise that the will of the people was for a reformed Seanad.

While the Report of the Working Group on Seanad Reform (2015) proposes substantial reform to the Seanad and the Seanad Reform Implementation Group has further analysed this, these reforms, in Sinn Féin's view, are bound by the provisions of the Seanad laid out in Bunreacht na hÉireann (Art. 18-19).

Sinn Féin believe that further reform could be made to the Seanad by examining current the constitutional provisions and how they can be changed to facilitate a modern, diverse and democratic Seanad.

This examination should be conducted by a continuation of the Seanad Reform Implementation Group who should investigate (but not be limited to):

- The abolition of Taoiseach's nominees
- The calling of Seanad elections the same day as the general elections for the Dáil.
- The abolition of a requirement of postal votes.
- The provision of equal gender representation.
- The provision of representation from traditionally marginalised groups in society.

### **Statement of Position by Thomas P. Broughan T.D..**

From the start of the group's proceedings, I expressed my opposition to the recommendations of the Report on the Working Group on Seanad Reform 2015 (the Manning Report). I believe that reform of the Senate into a fully democratic body within the terms of Articles 18 & 19 of Bunreacht na hÉireann is not possible. I, therefore, submitted the amendment below (and other linked amendments) to the Seanad Reform Implementation Group. After a lengthy discussion, in which I was supported by several other members, the Amendment was ruled out of order by the Chairperson, Senator Michael McDowell SC, who invited me to instead submit this brief Annex and Minority Report.

I supported the proposal for a unicameral Irish legislature which was very narrowly defeated in a referendum, on a turnout of less than 40%, in 2013. I believe that exemplary democracies in unitary states such as those in New Zealand, Denmark, Sweden, Norway, Finland, Greece, Portugal and other countries, function well as unicameral parliaments. In these parliaments, the people are effectively the second house and available resources are rightly applied to very strong local and regional governments. Manning, the Seanad Reform Implementation Group Report and the Seanad Bill 2018 establish five potentially massive and unwieldy Seanad constituencies with unknown registration and election costs and dangers and with the possibility of favouring very wealthy candidates. Even the single six seat University Constituency has potentially many hundreds of thousands of an electorate.

So my preference remains for Dáil Éireann alone (with the Presidency) to constitute the Irish Oireachtas and I hope this will be strongly considered in ongoing discussions about a new Bunreacht na hÉireann. In the meantime, I would like Seanad Éireann's sixty members to be elected by universal suffrage in the manner outlined in the amendment below. (The Senate of the Irish Free State was partially elected by the people for some of its existence).

Because of the huge size of the Irish diaspora (up to a million known passport holders and an unknown number of potential passport holders abroad), I believe that the Seanad and Dáil should be elected on the same day by the same franchise. As another of my amendments indicated, for the present, I also think that (as for Dáil Éireann) the electorate should be composed of residents of the Irish Republic.

#### *Amendment A as Tabled by Thomas P. Broughan T.D.*

Proposed Amendment to the Senate Reform Implementation Group Report on the 11th of December 2018.

On page 2 of the Report, after line 3, delete the rest of page 2 and all of pages 3,4,5,6,7,8,9,10,11, 12,13, 14, 15, 16 and 17 and the Seanad Bill 2018 and Add:

“Notwithstanding these terms of reference, the Report of the Working Group on Seanad Reform 2015 (the Manning Report) and the present government's Programme for Government, the Seanad Reform Implementation Group is of the view that Seanad Éireann cannot be reformed as a truly democratic chamber within the terms of Articles 18 and 19 of Bunreacht na hÉireann.

The Implementation Group consequently recommends to the government to propose amending the Irish constitution to permit the direct election of sixty senators by all Irish citizens resident in Ireland. Such an amendment will stipulate that Senators be elected alongside and on the same franchise as members of Dáil Éireann representing geographical constituencies closely aligned with contemporary Dáil constituencies with approximately one senator elected with each three TD's.

The Implementation Group will assist the government in devising an appropriate amendment and bill defining the above recommendation for submission to the present Oireachtas in a timely manner to permit that amendment's inclusion with other referenda topics now intended to be put to the Irish people on the day of the next Local and European elections in 2019".

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### **Statement of Position by Fine Gael Senators Byrne, Burke, Buttimer and McFadden**

The Fine Gael Seanad membership of SRIG is of the view that real, meaningful, tangible reform leading to a 21st century modern Seanad Éireann can only be achieved through constitutional change through the holding of a referendum. The Fine Gael Seanad memberships of SRIG are of the opinion that the terms of reference and the final outcome of SRIG will not enhance the working of the Seanad. The Fine Gael Seanad memberships of SRIG welcome the widening of the franchise for Seanad elections, but are disappointed at the proposed reduction in the numbers to be elected by public representatives, along with reforming how the Seanad is elected.

We, through our participation in SRIG, reaffirm the Government's commitment to introduce Seanad reform and, accepting the policy position of an Taoiseach Mr. Leo Varadkar T.D. that there will be universal suffrage using the panel system, allowing people to choose which one suits them best.

The final report of SRIG which was to implement Manning Report:

- Fails to allow for real reform of the way in which the Seanad carries out its business;
- Only allows for partial electoral change;
- Has a complicated registration process which will lead to multiple register of electors and will not foster voter registration;
- Does not lend itself to voter participation; there is a concern that turnout in elections to a reformed Seanad , which will give a vote to every citizen, as well as Irish passport holders abroad and in Northern Ireland will not match Dáil election turnout;
- Has no comprehensive cost proposals attached; there is a requirement to outline what and how extra costs will be incurred;
- Takes no cognisance of need for regional representation and variation.

We welcome reform and are committed to the implementation, on a phased basis of Seanad reform.

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# SEANAD BILL 2018

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SCHEDULE 1 - Rules for Conduct of Seanad General Elections.

SCHEDULE 2 - Rules for Counting of Votes.

SCHEDULE 3 - Registration of Electors.

SCHEDULE 4 - Seanad Electoral Commission

SCHEDULE 5 – Limits on Electoral Expenditure and Reimbursement of Expenses.

# SEANAD BILL 2018

An Act to reform Seanad Éireann within the terms of the Constitution and for that purpose to expand the franchise at Seanad elections; to provide for the establishment of the Seanad Electoral Commission; to provide for the repeal of the Seanad Electoral (Panel Members) Act 1947 and the Seanad Electoral (University Members) Act 1937, and to provide for related matters.

BE IT THEREFORE ENACTED BY THE OIREACHTAS AS FOLLOWS:

## PART 1

### Preliminary and General.

- |  |  |
|--|--|
| <b>Short title.</b>                    | 1. This Act may be cited as the Seanad Act 2018.   |
| <b>Modular or phased commencement.</b> | <p>2. (1) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.</p> <p>(2) Notwithstanding the generality of subsection (1), the Minister may by regulation appoint different dates for the purpose of the commencement of provisions relating to the extension of the franchise to –</p> <ul style="list-style-type: none"><li>(a) Irish citizens who are resident in Ireland, as provided for in <u>sections 49 and 53</u>,</li><li>(b) persons entitled to claim Irish citizenship in Northern Ireland and who reside in Northern Ireland or in the State, as provided for in <u>sections 49 and 54</u>,</li><li>(c) Irish citizens who hold a current and valid Irish passport and who reside outside the State, as provided for in <u>sections 49 and 55</u>, and</li><li>(d) Irish citizens holding a requisite qualification and who are graduates of an institution of higher education in the State, as provided for in <u>sections 49 and 56</u>.</li></ul> |
| <b>Application of this Act.</b>        | 3. (1) This Act shall only apply to the later of either-   |

(a) the election of the 27th Seanad , or  
(b) a Seanad general election that takes place on a date which is not less than 5 years from the date of the passing of this Bill,  
and shall then apply to each Seanad general election or Seanad bye-election thereafter.

(2) For the avoidance of doubt, subsection (1) applies notwithstanding the prior commencement of all or any provisions of this Act.

**Definitions.**

4. (1) In this Act-

"*administrative constituency*" has the meaning assigned to it in subsection (2);

"*the agricultural constituency*" has the meaning assigned to it in subsection (2);

"*annual revision*" has the meaning assigned to it in section 19;

"*appeal board*" has the meaning assigned to it in section 15;

"*Association of Irish Local Government*" means the association of local authorities (within the meaning of section 225 of the Local Government Act 2001) known for the time being as the Association of Irish Local Government;

"*casual vacancy*" means a vacancy in the membership of Seanad Éireann occasioned by the death, resignation or disqualification of a member of Seanad Éireann who was elected at the next preceding Seanad general election or was elected at a Seanad bye-election since the next preceding Seanad general election;

"*Chairperson*" means the Chairperson of the Seanad Electoral Commission;

"*Clerk of Dáil Éireann*" includes the Clerk-Assistant of Dáil Éireann;

"*close of the poll*" has (as may be appropriate) the meaning assigned to it in section 26(1)(f) or section 72(2)(d);

"*completion of the panels*" has the meaning assigned to it in section 39;

“constituency” means –

- (a) a vocational constituency which is referred to in Article 18 of the Constitution as being a panel, or
- (b) the institutions of higher education constituency which shall form a single six seat constituency;

“*cultural and educational constituency*” has the meaning assigned to it in subsection (2);

“*Dáil election*” means a general election of members of Dáil Éireann held in consequence of a dissolution of Dáil Éireann;

“Director” means the Director of the Seanad Electoral Commission Office;

“electoral register” means the Seanad electoral register to be established and maintained by the Seanad Electoral Commission for the purpose of conducting a Seanad general election;

“*industrial and commercial constituency*” has the meaning assigned to it in subsection (2);

“*labour constituency*” has the meaning assigned to it in subsection (2);

“*list of candidates*” has the meaning assigned to it in section 78;

“local authority” means—

- (a) a county council,
- (b) a city council, or
- (c) a town council;

“*Local Authority Members’ Association*’ means the association of the members of local authorities (within the meaning of section 2 of the Local Government Act 2001) known as the Local Authority Members’ Association;

“*member of the Oireachtas*” means a member of Dáil Éireann or a member of Seanad Éireann;

“Minister” means the Minister for Housing, Planning and Local Government;

“*nominating bodies*” has the meaning assigned to it in section 11;

"*nominating bodies list*" has the meaning assigned to it in section 34;

"*nominating bodies sub-panel*" has the meaning assigned to it in section 47;

"*notice of a casual vacancy*" has the meaning assigned to it in section 71;

"*Oireachtas sub-panel*" has the meaning assigned to it in section 47;

"preference" shall be interpreted as follows—

(a) "first preference" means any mark which, in the opinion of the Seanad returning officer, clearly indicates a first preference;

"second preference" means any mark which, in the opinion of the Seanad returning officer, clearly indicates a second preference standing in succession to a first preference;

"third preference" means any mark which, in the opinion of the Seanad returning officer, clearly indicates a third preference standing in succession to a second preference and so on;

(b) "next available preference" means a preference which, in the opinion of the Seanad returning officer, is a second or subsequent preference recorded in consecutive order for a continuing candidate, the preferences next in order on the ballot paper for candidates already deemed to be elected or excluded being disregarded;

"*prescribe*" means prescribed by regulations made by the Minister under this Act;

"*prison*" has the meaning assigned to it in section 1 of the Electoral (Amendment) Act 2006;

"*register of nominating bodies*" has the meaning assigned to it in section 11;

"relevant official" has the meaning assigned to it in section 1 of the Electoral (Amendment) Act 2006;

"requisite qualification" means a major award (other than an honorary award) from an institution of higher education in the State which is recognised through the National



Framework of Qualifications to at least level 6 (advanced certificate or higher certificate level) and which has been prescribed as being such by the Minister in consultation with the Minister for Education and Skills;

“Seanad” means Seanad Éireann;

“*Seanad bye-election*” means an election to fill a casual vacancy;

“*Seanad bye-election order*” has the meaning assigned to it in section 72;

“Seanad Electoral Commission” means the Seanad Electoral Commission established under Part 7;

“*Seanad general election*” means a general election of members of Seanad Éireann held under this Act and in accordance with Article 18 of the Constitution;

“*Seanad general election order*” has the meaning assigned to it in section 26;

“*Seanad returning officer*” has the meaning assigned to it in section 25 and where the context so permits may include a deputy returning officer exercising powers that have been duly delegated to him or her;

“*Standards in Public Office Commission*” means the Commission established under section 21 of the Ethics in Public Office Act 1995;

“*sub-panel*” means a sub-panel of a constituency.

(2) In this Act—

“*administrative constituency*” means the panel required by the said subsection 1° to contain the names of persons having knowledge and practical experience of the following interests and services, namely, public administration and social services, including voluntary social activities;

“*agricultural constituency*” means the panel required by the said subsection 1° to contain the names of persons having knowledge and practical experience of the following interests and services, namely, agriculture and allied interests, and fisheries;

“*cultural and educational constituency*” means the

panel required by the said subsection 1° to contain the names of persons having knowledge and practical experience of the following interests and services, namely, the national language and culture, literature, art, education and such professional interests as may be defined by law for the purpose of this panel;

"*labour constituency*" means the panel required by the said subsection 1° to contain the names of persons having knowledge and practical experience of the following interests and services, namely, labour, whether organised or unorganised;

"*industrial and commercial constituency*" means the panel required by the said subsection 1° to contain the names of persons having knowledge and practical experience of the following interests and services, namely, industry and commerce, including banking, finance, accountancy, engineering, and architecture;

"institutions of higher education constituency" means the constituency comprising universities and institutions of higher education in the State which are referred to in section 10;

"nominating bodies sub-panel" means a sub-panel of a vocational constituency which is provided for in section 9;

"Oireachtas sub-panel" means a sub-panel of a vocational constituency which is provided for in section 9 of this Act.

**Regulations.**

5. (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 Seanad Electoral Commission with the Minister to be necessary or expedient for the purposes of the regulations.

(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.

(4) Without prejudice to subsection (3), a regulation may be made under sections 53, 54, 55 and 56 only if—

(a) a draft of the proposed regulation has been laid before the Houses of the Oireachtas, and

(b) a resolution approving the draft has been passed by each House.

**Expenses.**

6. 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 and Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

**Repeals.**

7. (1) Subject to subsection (2), the following Acts are repealed –

(a) Seanad Electoral (Panel Members) Act 1947, and

(b) Seanad Electoral (University Members) Act 1937.

(2) In bringing subsection (1) into operation, the Minister may prescribe that the repeal takes effect on different days for different purposes or different provisions of each of the respective Acts.

## **PART 2**

### **Composition of Seanad Éireann**

**Composition of the Seanad.**

8. At a Seanad general election, in addition to the eleven persons nominated by the Taoiseach to be members of the Seanad -

- (a) twenty-eight seats shall be filled by votes cast by -
- (i) persons resident in Ireland who are ordinarily entitled to vote in a Seanad general election,
  - (ii) persons entitled to claim Irish citizenship in Northern Ireland and who reside in Northern Ireland or in the State, and
  - (iii) Irish citizens who hold a current and valid Irish passport and who reside outside the State;

(b) six seats shall be filled by the votes of graduates of institutions of higher education in the State who hold a requisite qualification;

(c) fifteen seats shall be filled by the votes of serving members of the Dáil, members of the outgoing Seanad and serving members of local authorities.

**Seats allocated to each constituency.**

9. (1) At a Seanad general election –
- (a) there shall be five vocational constituencies and one institutions of higher education constituency;
- (b) each vocational constituency shall contain two sub-panels, namely –
- (i) a nominating bodies sub-panel, and
- (ii) an Oireachtas sub-panel.
- (2) At a Seanad general election the number of seats available on -
- (i) each vocational constituency and the respective sub-panels within those constituencies, and
- (ii) the institutions of higher education constituency,
- shall be as provided in the Table to this section.

**TABLE**

<b>Constituency</b>	<b>Number of Seats on Nominating Bodies Sub-Panel</b>	<b>Number of Seats on Oireachtas Sub-Panel</b>	<b>Total Number of Seats in Constituency</b>
Cultural and education constituency	5	3	8
Agriculture constituency	6	3	9
Labour constituency	6	3	9
Industrial and commercial constituency	6	3	9
Administrative constituency	5	3	8
Institutions of higher education constituency	6	0	6

**Institutions of higher education constituency.**

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

(2) The constituency referred to in subsection (1) shall be known as the institutions of higher education constituency and shall comprise the institutions specified in subsection (3).

(3) For the purposes of this Act, "institutions of higher education in the State" means -

- (a) (i) the constituent universities of the National University of Ireland,  
(ii) University of Dublin,  
(iii) Dublin City University,  
(iv) University of Limerick,  
(v) a college to which the Institutes of Technology Acts 1992 to 2006 apply,  
(vi) Dublin Institute of Technology,  
(vii) Royal College of Surgeons in Ireland,  
(viii) National College of Art and Design,  
(ix) Institute of Public Administration;
- (b) a linked provider of a designated awarding body as defined by the Qualifications and Quality Assurance (Education and Training) Act 2012;
- (c) a relevant provider of the Qualifications and Quality Assurance Authority of Ireland, other than those providers listed in paragraph (a), providing a programme of education and training leading to a requisite qualification;
- (d) such universities as established or may be established under the Technological Universities Act 2018, and
- (e) such other institutions of higher education as may be established in the future under an Act of the Oireachtas.

### **PART 3**

#### **Register of Nominating Bodies.**

**Establishment and maintenance of register of nominating bodies.**

11. (1) A register of bodies (in this Act "register of nominating bodies") entitled to nominate persons to the panels of candidates for the purpose of

every Seanad general election shall be established and maintained by the Seanad Electoral Commission in accordance with this Act.

(2) The register of nominating bodies that had been prepared and maintained pursuant to the Seanad Electoral (Panel Members) Act 1947 shall serve as the basis for the first register of nominating bodies to be established by the Seanad Electoral Commission pursuant to subsection (1).

(3) The following provisions shall have effect in relation to the register of nominating bodies -

(a) the register shall be in such form as the Seanad Electoral Commission thinks proper;

(b) a body shall not be eligible to be registered in the register in respect of any particular constituency unless it satisfies the Seanad Electoral Commission that either—

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

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

(iii) its activities are primarily concerned with such interests and services, or

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

(c) a body shall not be eligible to be registered in the register in respect of any particular constituency unless it has a geographic remit within the island of Ireland which fulfils the prescribed requirements,

(d) a body which is formed or carried on wholly or substantially for profit or which carries on, as its sole or principal function, any trade or

business for profit shall not be eligible for registration in the register;

- (e) the Seanad Electoral Commission may refuse to register any body (not being an excepted body) in the register unless—
  - (I) its organisation and direction are governed by articles of association, rules or other regulations which—
    - (i) provide for an annual general meeting to which all members are invited by a notice forwarding an agenda including the following items, that is to say, minutes of preceding meeting, presentation of annual report, consideration of statement of accounts as certified by the auditor, election of executive committee, election of auditors,
    - (ii) make adequate provision for the carrying on of the business of the body by an executive committee,
    - (iii) provide for the audit and certification of accounts by a public auditor or other qualified person, and
  - (II) its average annual revenue from subscriptions during the five years immediately preceding the application for registration has been, in the case of a charitable body, not less than the sum prescribed for the purpose of this section,

but subject to the proviso that the requirements set out in this paragraph as to election of auditors, provision for audit and annual revenue shall not apply in the case of such bodies engaged in the promotion of scientific or general knowledge as in the opinion of the Seanad Electoral Commission are of national importance;

- (f) a body which is composed wholly or mainly of persons who are in the employment of the State or of persons who are in the employment of local authorities and the objects of which include the advancement or protection of the interests of such persons in relation to their said employment shall not be eligible for registration in the register;
  - (g) every body which is registered in the register shall be so registered in respect of one, and only one, constituency;
  - (h) except as otherwise provided by this subsection, a body shall not be registered in the register save in pursuance of an application in that behalf made by such body in accordance with this Act;
  - (i)
    - (i) the Association of Irish Local Government and the Local Authority Members' Association shall be registered in the register in respect of the administrative constituency without application, and
    - (ii) no other body shall be registered in the register in respect of that constituency unless its objects and activities consist, wholly or substantially, of voluntary social services of a charitable or eleemosynary character.
- (4) In paragraph (e) of subsection (3) the expression "excepted body" means a body which is—
- (a) a body established under an Act of the Oireachtas for any of the following purposes-
    - (i) the regulation or control of professional qualifications or conduct,
    - (ii) the provision or improvement of cultural or educational facilities; or
  - (b) a cultural, educational or professional organisation in receipt of a grant voted specifically for it by the Oireachtas.



**Applications for registration in register of nominating bodies.**

12. (1) Any body which desires to be registered in the register of nominating bodies in respect of any particular constituency and claims to be eligible for registration in that register in respect of that constituency may apply for that purpose to the Seanad Electoral Commission in accordance with this section.
- (2) The following provisions shall have effect in relation to applications for registration in the register of nominating bodies at the preparation of that register-
- (a) an application shall be made using the prescribed form;
  - (b) the Seanad Electoral Commission shall publish on the internet the application form to be used under paragraph (a);
  - (c) an application shall be delivered or sent to the Seanad Electoral Commission at its office on or before the date specified in that behalf in the notice published under section 13 and any application which is received at that office after that date shall not be considered by the Seanad Electoral Commission;
  - (d) an application shall state the constituency in respect of which the applicant desires to be registered and the grounds on which the applicant claims to be eligible to be registered;
  - (e) an application shall also state all such things in relation to the applicant as are indicated in that behalf in the prescribed form.

**Publication of notice of the preparation of register of nominating bodies.**

13. As soon as practicable after the passing of this Act, the Seanad Electoral Commission shall publish on the internet and in such other form as it determines (if any), a notice in the prescribed form giving public notice that the register of nominating bodies is being prepared, and giving such information (including the latest date for receipt of applications for registration) and instructions in relation to applications for registration.

**Preparation of register of nominating bodies.**

14. (1) As soon as practicable after the day prescribed for this section, and in any event not later than fourteen days thereafter, the Seanad Electoral Commission shall prepare the register of nominating bodies and for that purpose—
- (a) shall examine all applications for registration duly received by it,
  - (b) shall disallow every application which appears to it to be irregular in form and every application as respects which the applicant fails to satisfy it that the applicant is eligible for registration in respect of the constituency to which the application relates,
  - (c) may disallow any applications which it is authorised by the subsequent provisions of this section to disallow, and
  - (d) shall allow all such applications as it does not disallow in pursuance of the foregoing provisions of this subsection.
- (2) The Seanad Electoral Commission may require from any applicant for registration in the register of nominating bodies all such information relevant to the registration of the applicant as he or she reasonably requires for the determination by him or her of the allowance or disallowance of the application, and the Seanad Electoral Commission may disallow the application of any applicant which fails or refuses to give any information required of it under this section.
- (3) It shall be lawful for the Seanad Electoral Commission to disallow an application for registration in the register of nominating bodies made by any body which is a branch of or affiliated or subsidiary to a body which is already registered in the register or whose application for such registration it has allowed.
- (4) Not later than fourteen days after the day prescribed for this section, the Seanad Electoral Commission shall publish on the internet and in such other form as it determines (if any) a copy of the register as prepared by the Seanad Electoral Commission under this section.

- (5) Where the Seanad Electoral Commission has disallowed an application for registration in the register of nominating bodies, it shall, on the request of the body which made the application, furnish to the body a statement of its reasons for the disallowance.
- (6) Where the Seanad Electoral Commission has disallowed under this section an application for registration in the register of nominating bodies because the applicant has failed to satisfy it that the applicant is eligible for registration in respect of the constituency to which the application relates, a statement to that effect by the Seanad Electoral Commission shall, for the purposes of subsection (5), be a sufficient statement of the reasons for the disallowance.
- (7) The allowance or disallowance by the Seanad Electoral Commission of any application for registration in the register of nominating bodies shall be final and conclusive, subject only to such appeal as is provided for by this Act.

**Appeal Board.**

- 15. (1) There shall be a board (in this Act referred to as the appeal board) to hear appeals from decisions of the Seanad returning officer under this Part.
- (2) The appeal board shall consist of five members, namely—
  - (a) a chairman, who shall be a judge of the Supreme Court, the Court of Appeal or the High Court nominated by the Chief Justice,
  - (b) the Chairman of Dáil Éireann,
  - (c) the Deputy-Chairman of Dáil Éireann,
  - (d) the Chairman of Seanad Éireann,
  - (e) the Deputy-Chairman of Seanad Éireann.
- (3) The quorum for a meeting of the appeal board shall be three.
- (4) The chairman of the appeal board shall preside at every meeting thereof and subsection (5) of this section shall accordingly not apply in relation to the

chairman.

- (5) The appeal board may act notwithstanding any vacancy thereon.
- (6) Subject to the express provisions of this Act, the appeal board shall regulate its own procedure.

**Appeals concerning preparation of register of nominating bodies.**

- 16. (1) Any applicant for registration in the register of nominating bodies whose application for registration has been disallowed by the Seanad Electoral Commission on the preparation of the register may appeal in accordance with this section to the appeal board against the disallowance.
- (2) Any applicant for registration in the register of nominating bodies on the preparation thereof in respect of any particular constituency (whether its application for registration has been allowed or has been disallowed by the Seanad Electoral Commission) may appeal in accordance with this section to the appeal board against the allowance by the Seanad Electoral Commission of the application of any other applicant for such registration in respect of the same constituency.
- (3) An appeal under this section to the appeal board shall be made in writing and shall state the grounds on which the appeal is made and shall be delivered or sent to the Clerk of Dáil Éireann on or before the day prescribed for this section, and any such appeal which is received by the Clerk of Dáil Éireann after that day shall not be considered by the appeal board.
- (4) An appeal under this section shall be open to inspection at all convenient times by the Seanad Electoral Commission.

**Decision on appeals.**

- 17. (1) The appeal board shall consider every appeal duly made under section 16 and shall, in respect of each such appeal, either reverse the decision of the Seanad Electoral Commission which is the subject of the appeal or disallow the appeal.
- (2) The appeal board shall, when considering an appeal made under section 16, consider—
  - (a) the grounds for the appeal stated pursuant

to subsection (3) of that section, and no other grounds, and

(b) such information (if any) as was made available to the Seanad Electoral Commission, and no other information.

(3) A decision of the Seanad Electoral Commission shall not be reversed under this section by the appeal board unless a majority of the members present are in favour of the reversal.

(4) The Seanad Electoral Commission shall give to the appeal board such information and assistance in relation to every appeal considered pursuant to this section as the Board may reasonably require of it.

(5) The decision of the appeal board on any appeal considered pursuant to this section shall be final and conclusive.

**Completion and publication of register of nominating bodies.**

18. (1) If no appeal under section 16 is duly made to the appeal board, the Clerk of Dáil Éireann shall, on the day prescribed for this section inform the Seanad Electoral Commission of that fact and the Seanad Electoral Commission shall thereupon sign and publish in the *Iris Oifigiúil* the register of nominating bodies prepared by him or her under the foregoing provisions of this Act.

(2) If any appeal is duly made under section 16 to the appeal board, the board shall communicate to the Seanad Electoral Commission their decision (if any) on every such appeal and the Seanad returning officer shall thereupon make such (if any) amendment in the register of nominating bodies prepared by it under the foregoing provisions of this Part of this Act as may be necessary to give effect to such decision and, when all such appeals have been decided and the decisions (if any) thereon have been communicated to and dealt with by the Seanad Electoral Commission, the Seanad Electoral Commission shall sign the register of nominating bodies as so prepared and amended (if at all) by him or her as aforesaid and shall publish it in the *Iris Oifigiúil* as soon as conveniently may be.

(3) The register of nominating bodies as published in the *Iris Oifigiúil* in pursuance of this section shall be final and conclusive and shall not be open to

review by any court and shall be in force for the first Seanad general election held after it is first published and every subsequent Seanad general election, subject only to such annual revision as is provided by this Act.

**Annual revision of register of nominating bodies.**

19. (1) The Seanad Electoral Commission shall, on or after the 1st, but not later than the 15th day of January in the year after the year of the preparation of the register of nominating bodies and in every subsequent year, publish on the internet and in such other form as it determines (if any), a notice in the prescribed form giving public notice that, on the 15th day of February next following or, if that day is not a working day, the next following working day, the Seanad Electoral Commission will proceed to revise the register of nominating bodies, and giving such information and instructions in relation to applications for insertion, deletion, or amendment of entries in that register as it thinks proper.
- (2) Any body not registered in the register of nominating bodies, which desires to be registered in respect of any particular constituency in that register and claims to be eligible for such registration, and any body registered in that register which desires to be removed therefrom, or desires that the entry in respect of it in that register should be amended in any way, may make application in the prescribed form to the Seanad Electoral Commission by delivering the application to or sending it so as to reach the Seanad Electoral Commission during the period beginning on the 15th day of January and ending at twelve o'clock noon on the 14<sup>th</sup> day or if that day is not a working day then the next preceding working day of February in the year after the year of the preparation of the register of nominating bodies or in any subsequent year, for such registration, deletion, or amendment, as the case may be and any such application which is received by the Seanad Electoral Commission after that period shall not be considered or examined by it.
- (3) On the 15th day of February or, if that day is not a working day, the next following working day in February in every year the Seanad Electoral Commission shall revise (in this Act referred to as an annual revision) the register of nominating bodies and for that purpose—

- (a) shall examine all applications for registration, deletion or amendment received by it during the period specified in subsection (2) of this section;
- (b) shall disallow every application which appears to it to be irregular in form;
- (c) shall disallow every application for registration which appears to it to be an application for a registration prohibited by this Act;
- (d) shall disallow every application for registration as respects which the applicant fails to satisfy it that the applicant is eligible for registration in respect of the constituency to which the application relates;
- (e) shall disallow every application for registration made by a body which appears to it to be a branch of or affiliated or subsidiary to a body which is already registered in the register (not being a body whose registration he or she is deleting) or whose application for such registration it is allowing;
- (f) may disallow any application for registration where the registration is proper to be refused having regard to paragraph (e) of subsection (2) of section 11;
- (g) may disallow any application for registration where the applicant fails or refuses to give any information required of the applicant under this section;
- (h) shall allow all such applications for registration as the Seanad Electoral Commission does not disallow;
- (i) shall delete from the register the registration of every body which has duly applied for such deletion;
- (j) shall delete from the register the registration of every body which appears to it to have ceased to exist;

- (k) shall delete from the register the registration of every body which appears to it to have become a body whose registration is prohibited by this Act;
  - (l) shall delete from the register the registration of every body which appears to it to have ceased to be eligible for registration;
  - (m) shall delete from the register the registration of every body which appears to it to be a branch of or affiliated or subsidiary to a body whose application for registration it is allowing;
  - (n) may make all such amendments in the register as appear to it by virtue of applications under this section or otherwise to be requisite or proper.
- (4) The Seanad Electoral Commission may require, from any applicant under this section for registration or amendment, any information relevant to the application which the Seanad Electoral Commission may reasonably consider necessary.
- (5) The Seanad Electoral Commission may make such inquiries as it thinks proper for the purpose of any annual revision of the register of nominating bodies, but it shall not make any deletion or amendment without giving notice thereof to the body whose entry it proposes to delete or amend or without giving such body a reasonable opportunity of making representations in regard thereto unless the deletion or amendment is made by virtue of an application under this section.
- (6) Every allowance or disallowance by the Seanad Electoral Commission of any application under this section for registration in, deletion from, or amendment of the register of nominating bodies, and every deletion from or amendment of that register made by the Seanad Electoral Commission under this section, shall be final and conclusive, subject only to such appeal as is provided for by this Act.
- (7) Nothing in section 12 or section 14 shall apply in relation to any annual revision of the register of nominating bodies.



(8) In this Act a body shall be regarded as affiliated to another body when the first-mentioned body is a member of or represented on the other body and the objects of the other body include the furtherance of the principal objects of the first-mentioned body.

**Inclusion of Association of Irish Local Government and Local Authority Members' Association on register.**

20.

Notwithstanding sections 18, 19 and 23, the Association of Irish Local Government and the Local Authority Members' Association shall, for the purposes of this Act, be deemed to be registered, in respect of the administrative constituency, without application, in the register of nominating bodies.

**Appeals to appeal board in connection with annual revision.**

21.

(1)

Not later than the 1st day of March in the year after the year of the preparation of the register of nominating bodies and in every subsequent year, the Seanad Electoral Commission shall—

(a) inform every body which applied for registration in, deletion from, or amendment of the register of nominating bodies at the annual revision in that year whether it allowed or disallowed the application and, in the case of disallowance, its reasons therefor,

(b) inform every body which is authorised by paragraph (b) of subsection (2) of this section to appeal against the allowance of an application for registration of his or her decision to allow such application, and

(c) communicate to every body whose entry in the register of nominating bodies has been deleted or amended by it at the annual revision in that year otherwise than on an application by such body the particulars of such deletion or amendment and the reasons therefor.

(2)

Any of the following persons may appeal to the appeal board against such of the decisions of the Seanad Electoral Commission at an annual revision as are hereinafter specified, that is to say—

(a) in the case of a disallowance of an application, the body by which the application was made,

- (b) in the case of an allowance of an application by a body for registration in respect of any particular constituency, any body which applied at the annual revision for registration in respect of the same constituency and any nominating body which is registered in respect of the same constituency,
  - (c) in the case of a deletion from or amendment of the register of nominating bodies made by the Seanad returning officer otherwise than on an application under this Act, the body affected by the deletion or amendment.
- (3) An appeal under this section to the appeal board shall be made in writing and shall state the grounds on which the appeal is made and shall be delivered to or sent so as to reach the Clerk of Dáil Éireann before twelve o'clock noon on the 15<sup>th</sup> day or, if that day is not a working day the next preceding working day of March in the year in which the decision appealed against was given, and any such appeal which is received by the Clerk of Dáil Éireann after that hour on that day shall not be considered by the appeal board.
- (4) An appeal under this section shall be open to inspection at all convenient times by the Seanad returning officer.
- (5) In the case of an appeal referred to in paragraph (a) of subsection (2)—
  - (i) the appellant shall send a copy of the appeal to every body which appears to the Seanad Electoral Commission to be a branch of or affiliated or subsidiary to it and which either is registered in the register of nominating bodies or has applied at the annual revision for registration therein and shall attach evidence of such sending to the appeal before it is delivered or sent to the Clerk of Dáil Éireann,
  - (ii) any body to which a copy of the appeal is required by the foregoing paragraph to be sent may submit comments on the grounds of the appeal and such comments shall be made in writing and shall be delivered to or

sent so as to reach the Clerk of Dáil Éireann not later than twelve o'clock noon on the 22nd day or, if that day is not a working day the next preceding working day of March in the year in which the decision appealed against was given, and any such comments which are received by the Clerk of Dáil Éireann after that hour on that day shall not be considered by the appeal board,

and to facilitate compliance with this subsection, the Seanad Electoral Commission shall, on the request of a body proposing to appeal against the disallowance of an application, furnish the body with a statement specifying every body which appears to him or her to be a branch of or affiliated or subsidiary to the body proposing to appeal and which is registered in the register of nominating bodies or has applied at the annual revision for registration therein.

- (6) In the case of an appeal referred to in paragraph (b) of subsection (2) of this section—
- (i) the appellant shall send a copy of the appeal to the respondent, and shall attach evidence of such sending to the appeal before it is delivered or sent to the Clerk of Dáil Éireann,
  - (ii) the respondent may submit comments on the grounds of the appeal and such comments shall be made in writing and shall be delivered to or sent by post so as to reach the Clerk of Dáil Éireann not later than twelve o'clock noon on the 22nd day or, if that day is not a working day the next preceding working day of March in the year in which the decision appealed against was given, and any such comments which are received by the Clerk of Dáil Éireann after that hour on that day shall not be considered by the appeal board.
- (7) Where the Seanad Electoral Commission has disallowed under section 19 an application for registration in respect of a constituency because the applicant has failed to satisfy it that the applicant is eligible for such registration, a statement to that effect shall, for the purposes of subsection (1) of this section, be a sufficient

statement of the reasons for the disallowance.

- (8) Where the Seanad Electoral Commission has deleted under section 19 the registration of a body on the ground that the body has ceased to be eligible for such registration, a statement to that effect shall, for the purposes of subsection (1) of this section, be a sufficient statement of the grounds for the deletion.

**Decision of appeals in connection with annual revision.**

22. (1) The appeal board shall consider every appeal duly made to it under section 21 and shall, in respect of each such appeal, either reverse the decision of the Seanad Electoral Commission which is the subject of the appeal or disallow the appeal.
- (2) The appeal board shall, when considering an appeal made under section 21, consider—
- (a) the grounds for the appeal stated pursuant to subsection (3) of that section, and no other grounds, and
- (b) such information (if any) as was made available to the Seanad Electoral Commission, and no other information.
- (3) Where, in the case of an appeal made under section 21, comments on the grounds of the appeal have been duly submitted under subsection (5) or (6) of that section, the appeal board shall consider the comments and subsection (2) of this section shall not be construed as preventing or restricting such consideration.
- (4) A decision of the Seanad Electoral Commission shall not be reversed under this section by the appeal board unless a majority of the members present are in favour of the reversal.
- (5) The Seanad Electoral Commission shall give to the appeal board such information and assistance in relation to every appeal considered in pursuance of this section as the board may reasonably require of him or her.
- (6) The decision of the appeal board on any appeal considered in pursuance of this section shall be final and conclusive.

- (7) The decision of the appeal board on any appeal considered in pursuance of this section shall comprise—
- (a) if the decision reverses a decision disallowing an application by a body for registration, a direction to the Seanad Electoral Commission for deletion from the register of any other specified registration which appears to the appeal board to be a registration of a body which is a branch of or affiliated or subsidiary to the first-mentioned body, and
  - (b) if the decision reverses a decision allowing an application by a body for registration, a direction for registration of any other specified body as respects which, on the current annual revision, a deletion of the registration thereof has come into force or a disallowance of an application for registration thereof has been made, such deletion or disallowance having been solely on the ground that the body was a branch of or affiliated or subsidiary to the first-mentioned body.

**Completion of annual revision.**

23. (1) Not later than the 20th day of March in the year after the year of the preparation of the register of nominating bodies and in every subsequent year, the Seanad Electoral Commission shall revise the register of nominating bodies in such manner as may be requisite to give effect to all decisions given by at the annual revision in that year against which no appeal to the board has been made within the time limited in that behalf by this Act, and every revision so made shall come into force on the 21st day of March of the year in which it is made.
- (2) The Clerk of Dáil Éireann shall communicate to the Seanad Electoral Commission every decision by the appeal board on an appeal considered pursuant to section 22, and the Seanad Electoral Commission shall forthwith make such (if any) revision of the register of nominating bodies as is necessary to give effect to such decision, and every such revision shall come into force on the day after the day on which it is made and shall be notified by the Seanad Electoral Commission to every body affected thereby.

- (3) As soon as any annual revision of the register of nominating bodies has been completed in accordance with this Part, the Seanad Electoral Commission shall sign and publish in the *Iris Oifigiúil* the register as revised at the annual revision and the register as so published shall be conclusive evidence of the alterations made in the register at the annual revision.

**Fee on appeal to appeal board.**

24.

- (1) Every body which appeals to the appeal board shall pay to the Clerk of Dáil Éireann a fee which has been prescribed for the purpose of this section, and the payment of the fee before the expiration of the time limited by this Act for sending or delivering the appeal to the Clerk of Dáil Éireann shall be a condition precedent to the consideration of the appeal by the appeal board.
- (2) Every fee paid to the Clerk of Dáil Éireann in pursuance of this section shall be retained by him or her until the appeal in respect of which the fee was paid has been decided by the appeal board and—
- (a) if the appeal board reverses the decision of the Seanad returning officer which is the subject of the appeal, the Clerk of Dáil Éireann shall forthwith repay the fee to the appellant by whom it was paid to him or her, and
- (b) in every other case, the Clerk of Dáil Éireann shall pay the fee into, or dispose of it for the benefit of, the Exchequer in such manner as the Minister for Finance directs.
- (3) The Public Offices (Fees) Act 1879, shall not apply in respect of fees payable under this section.

## PART 4

### Seanad General Election.

#### Chapter 1 - Seanad General Election Order.

- Conduct of elections.** 25. (1) The Director of the Seanad Electoral Commission Office shall serve as the returning officer for each Seanad general election and each Seanad bye-election.
- (2) It shall be the duty of the Seanad returning officer to –
- (a) conduct every Seanad general election and every Seanad bye-election,
  - (b) count the votes cast at every Seanad general election or bye-election, and
  - (c) to ascertain and declare the result of every Seanad general election or bye-election.
- (3) The Seanad Electoral Commission may appoint one or more deputy returning officers for –
- (a) each vocational constituency, and
  - (b) the institutions of higher education constituency,
- to discharge the functions which have been delegated to them in writing by the Seanad returning officer.
- Seanad general election order.** 26. (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 period during which the Seanad returning officer may receive proposals for nominations to the nominating bodies sub-panels;
  - (b) the period during which the Seanad returning officer may receive proposals for nominations to the Oireachtas sub-panels;
  - (c) the period during which the Seanad returning officer may receive proposals for nominations to the institutions of higher education constituency;
  - (d) the day on which and the place at which the Seanad returning officer will sit for the completion of the panels;

- (e) the day on which the ballot papers for the election will be issued;
  - (f) 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;
  - (g) 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;
  - (b) (i) the day appointed by the order for the expiration of the time for the nomination of candidates to the nominating bodies sub-panel 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;  
  
(ii) Notwithstanding subparagraph (i), the Minister may by order appoint a day for the expiration of the time for the nomination of candidates to the nominating bodies sub-panel and such day may prior to the date fixed for the reassembly of Dáil Éireann;
  - (c) the day appointed by the order for the expiration of the time for the nomination of candidates to the Oireachtas sub-panel shall not be less than seven days after the day appointed by the order for the expiration of the time for general constituency nominations and, where practicable, shall be subsequent to the date fixed for the reassembly of Dáil Éireann after such dissolution;
  - (d) the order shall be published in the *Iris Oifigiúil* as soon as may be after it is made.



**Knowledge and  
practical experience.**

27. (1) The knowledge and practical experience requirement referred to in section 7 of Article 18 of the Constitution may only be fulfilled by a person who has been nominated to be a candidate in a vocational constituency of a Seanad election where he or she establishes to the satisfaction of the Seanad returning officer that he or she has-
- (i) (a) attained a formal qualification, or  
(b) has otherwise attained a level of knowledge which can be regarded as being equivalent to a formal qualification, in a field which is of direct relevance to the constituency in respect of which he or she is seeking to become a candidate, and
  - (ii) has a significant level of verifiable practical experience in a field which is of direct relevance to the constituency in respect of which he or she is seeking to become a candidate.
- (2) Notwithstanding the generality of subsection (1), a person who has been nominated to be a candidate in a vocational constituency of a Seanad election shall be required to fulfil to the satisfaction of the Seanad returning officer the requirements contained in the Table to this section which relate to the relevant constituency.
- (3) A person who has previously served as a member of the Seanad shall be deemed to meet the knowledge and practical experience requirements of section 7 of Article 18 of the Constitution relative to a constituency to which he or she was on any occasion previously elected and therefore subsections (1) and (2) of this section shall not apply in respect of the nomination of such persons as a candidate to that particular constituency in any subsequent Seanad election.
- (4) The President of the High Court shall, having received a request pursuant to this section, appoint a serving or former Judge of the Superior Courts to serve as a judicial referee for the purpose of this section.
- (5) The judicial referee shall there and then decide and announce his decision on every question referred to him or her under this section by the Seanad returning officer.

**Table**

<b>Vocational Constituency</b>	<b>Requirements to be Fulfilled</b>
Cultural and educational constituency	Knowledge and practical experience of the following interests and services, namely national language and culture, literature, art, education and professional interests which encompass law, and medicine, including surgery, dentistry, veterinary medicine, and pharmaceutical chemistry
Agricultural constituency	Knowledge and practical experience of the following interests and services, namely, agriculture and allied interests including the natural environment, the food industry, equine sports, greyhound racing and fisheries
Labour constituency	Knowledge and practical experience of the following interests and services, namely, human resource management, labour, whether organised or unorganised
Industrial and commercial constituency	Knowledge and practical experience of the following interests and services, namely, industry and commerce, including banking, finance, accountancy, engineering, and architecture
Administrative constituency	Knowledge and practical experience of the following interests and services, namely, public administration and social services, including voluntary social activities

**Nomination of persons.** 28. At a Seanad general election subject to section 27, a person may be nominated to be a candidate –

(a) in an Oireachtas sub-panel of a vocational constituency by –

(i) four current members of either House of the Oireachtas in the manner provided for in section 29, or

(ii) a resolution passed by four local authorities in the manner provided for in section 36;

(b) in a nominating bodies sub-panel of a vocational constituency by one or more nominating bodies in the manner provided for in section 30;

(c) in an institutions of higher education constituency in the manner provided for in section 31.

## Chapter 2 - Formation of the Panels

- Nomination to panels by members of Oireachtas.**
29. (1) At a Seanad general election, any person may be nominated to an Oireachtas sub-panel constituted for that election in accordance with this Act by not less than four members of the Oireachtas.
- (2) A member of the Oireachtas shall not join in the nomination under this section of more than one person at any particular Seanad general election.
- (3) For the purposes of subsections (1) and (2) with respect to the nominations at a Seanad general election in a case in which a further dissolution of Dáil Éireann has occurred after the dissolution which occasioned that Seanad general election, the further dissolution of Dáil Éireann shall be deemed not to have occurred.
- Proposals for nominations to panel by registered nominating bodies.**
30. (1) At a Seanad general election, a nominating body which is registered in the register of nominating bodies in respect of a particular constituency shall be entitled to propose for nomination to the nominating bodies sub-panel of that constituency such number of persons as is permitted by this section.
- (2) The number of persons which may be proposed for nomination to a particular panel by each nominating body registered in the register of nominating bodies in respect of the panel shall be the number obtained by dividing the appropriate number by the total number of nominating bodies so registered if the number so obtained is a whole number, or, if it is not a whole number, the next higher whole number of persons, provided always that at its discretion each nominating body shall be entitled to nominate a minimum of two persons.
- (3) Where pursuant to this section a nominating body proposes more than one candidate, the number of persons of either gender so nominated shall either

be equal or shall not exceed the number of persons of the other gender by more than one.

- (4) In this section, “appropriate number” means -
- (a) in the case of the cultural and educational constituency – five,
  - (b) in the case of the agricultural constituency – six,
  - (c) in the case of the labour constituency – six,
  - (c) in the case of the industrial and commercial constituency – six,
  - (d) in the case of the administrative constituency – five.

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

31. (1) (a) In order to be eligible to be nominated as a candidate for the institutions of higher education constituency, the person shall be required to hold a requisite qualification.

- (b) At a Seanad election a person who seeks to be a candidate for the institutions of higher education constituency may –
- (i) nominate himself or herself as a candidate, or
  - (ii) be nominated by another person (being a person registered as an elector in Division 4 of the electoral register) as proposer.

- (2) (a) Each candidate referred to in subsection (1) shall be nominated by a separate nomination paper in the form prescribed by the Minister.

(b) In making regulations under paragraph (a), the Minister may provide that the form of nomination paper include –

- (i) a note of the qualifications, disqualifications and incapacities as regards election to and membership of the Seanad,
- (ii) a note of the provisions that apply under this Act to the nomination of a candidate, including –
  - (I) the fact that a candidate may either follow the procedure for assenting under subsection (4)(a) or make a deposit under subsection (4)(b),
  - (II) the procedure for assenting under subsection (5), and
  - (III) the procedure for making a deposit under subsection (6),

(iii) a form of declaration, to be signed by the

candidate or his or her proposer, that he or she has read the note referred to in paragraph (a) and believes the candidate to be eligible for election and that the candidate has consented to the nomination.

(3) Each nomination paper shall state the names (the surname being stated first) and the address of the candidate and the occupation (if any) or shall provide a description in such manner as in the opinion of the returning officer to sufficiently identify the candidate.

(4) Before the time appointed by this Act for receiving nominations one of the following requirements shall be complied with -

(a) the candidate's nomination shall have been assented to by 20 persons (excluding the candidate and any proposer) who are registered as electors in the Seanad institutions of higher education constituency (each of whom in this Act is referred to as an "assentor");

(b) the candidate, or someone on his or her behalf, shall have made a deposit in accordance with this section.

(5) The following provisions apply in respect of the assents required by subsection (4)(a) to the nomination of a candidate referred to in that subsection -

(a) to assent to the nomination, an assentor shall make a statutory declaration in the prescribed form stating the following -

(i) his or her number on the register of Seanad electors in force on the date of the making of the statutory declaration;

(ii) his or her contact details, including telephone numbers (if any);

(iii) the name and address of the candidate;

(iv) the form of identification produced by him or her in accordance with paragraph (b), including any number on it that distinguishes it from similar forms held by others;

(v) that he or she assents to the nomination of the candidate;

(vi) that he or she has not assented to the nomination of any other candidate in respect of that Seanad election;

(b) when making the statutory declaration referred to in paragraph (a), the assentor shall produce to the person taking and receiving the declaration a prescribed photographic identification and shall, on so doing, be deemed, for the purposes of the Statutory Declarations Act 1938, to be personally known to the person taking and receiving the declaration;

(c) the assent shall have effect as respects, and only as respects, the Seanad election held next after the making of the statutory declaration.

- (6) (a) This subsection applies to a candidate referred to in subsection (4)(b) unless the candidate concerned has opted to have his or her nomination assented to by the means specified in subsection (5).

(b) A candidate at a Seanad election referred to in subsection (4), or someone on his or her behalf, may, at or before the latest relevant time specified for the receipt of that candidate's nomination, deposit with the returning officer the sum prescribed for the purpose of this section, and if he or she fails to do so, his or her candidature shall be deemed to have been withdrawn.

(c) The deposit that may be made by or on behalf of a candidate pursuant to this section may be made by means of legal tender or, with the consent of the returning officer, in any other manner.

- (7) (a) The deposit referred to in subsection (6) shall be returned where the candidate –

(i) withdraws his or her candidature, or whose candidature is deemed to have been withdrawn,

(ii) dies before the poll is closed,

(iii) has not, at or before the latest relevant time specified for the receipt of that candidate's nomination, been validly nominated as a candidate,

(iv) is elected, or

(v) is not elected but the greatest number of votes credited to him or her at any stage of the counting of the votes at the Seanad election exceeds one quarter of the quota.

(b) Any deposit which is not returned under the foregoing subparagraph shall be forfeited.

(c) Where a deposit is to be returned under this subsection it shall be returned to the person by

whom it was made, provided that a deposit made by a person who dies before the deposit is returned shall be returned to the personal representative of that person.

(d) A deposit forfeited under this section shall be disposed of by the Seanad Electoral Commission in such manner as may be directed by the Minister for Public Expenditure and Reform.

- (8) In this section “personal representative” has the meaning assigned to it by section 3 of the Land and Conveyancing Law Reform Act 2009.

**Method of proposal for nomination by nominating body.**

32. (1) Within ten days after a dissolution of Dáil Éireann, the Seanad Electoral Commission shall send to every nominating body registered in the register of nominating bodies a form of proposal for nomination paper and also a notice in the prescribed form informing the body of its right to propose persons for nomination to a specified constituency and of the number of persons which it is entitled so to propose and giving to the body such information and instructions in relation to the making of the proposals for nomination as the Minister thinks proper to prescribe.
- (2) A proposal for nomination to a constituency by a nominating body shall be made in accordance with the following provisions—
- (a) the proposal shall be made in writing on a proposal for nomination paper in the prescribed form;
  - (b) the nominating body shall propose by one and the same proposal for nomination paper all the persons which it proposes for nomination;
  - (c) the proposal for nomination paper shall contain the particulars required by the prescribed form of proposal for nomination paper to be stated therein (including a statement of the qualifications of every person thereby proposed for the panel to which he or she is proposed) and shall be signed by the nominating body;
  - (d) where the nominating body is a body corporate, the proposal for nomination paper shall be signed by the body by affixing to such paper the seal of the body in the

manner and with the counter signatures required by the constitution, articles of association, or other regulations of the body;

- (e) where the nominating body is not a body corporate, the proposal for nomination paper shall be signed in the name of the body by some person having authority to sign in that name.
- (3) In the case of the Association of Irish Local Government and the Local Authority Members' Association, the persons to be proposed for nomination to the administrative constituency by those bodies respectively shall be chosen by the members of the body voting on the system of proportional representation by means of the single transferable vote.
  - (4) A proposal for nomination paper which purports to be sealed with the seal of a body corporate which is a nominating body and to be countersigned shall, until the contrary is proved, be deemed to have been so sealed in the manner and with the counter-signatures required by the constitution, articles of association, or other regulations of the body.
  - (5) A proposal for nomination paper which purports to be signed in the name of an unincorporated body which is a nominating body shall, until the contrary is proved, be deemed to have been so signed by a person having authority to sign in that name.
  - (6) Where a nominating body purports to propose for nomination by a proposal for nomination paper more persons to a constituency than the body is entitled so to propose, the proposal for nomination paper shall be wholly void.
  - (7) The Seanad Returning Officer shall make available on the internet a copy of the nomination form to be used by nominating bodies.

**Verification of nomination process.**

- 33. Upon receiving notice of the nomination of a candidate the Seanad returning officer shall satisfy himself or herself that the requirements of this Act and any regulations made hereunder have been complied with.



**Preparation of nominating bodies lists.**

34. (1) A proposal for nomination paper by which a person or persons is or are proposed for nomination at a Seanad general election by a nominating body shall be delivered or sent to the Seanad returning officer.
- (2) Immediately after the expiration of the time for general panel proposal nominations, the Seanad returning officer shall prepare, in respect of each constituency, a list (in this Act referred to as a provisional nominating bodies sub-panel) in the prescribed form of the persons in respect of whom he or she has received, before the expiration of the said time, proposals for nominations to such constituency by nominating bodies.
- (3) In preparing the provisional nominating bodies sub-panels, the Seanad returning officer shall not—
- (a) include the name of a person whose proposal for nomination has been received after the expiration of the time for general panel proposed nominations,
  - (b) include the name of a person whose proposal for nomination is declared by this Act to be wholly void, or
  - (c) include the name of a person more than once in the same sub-panel.

**Method of nomination by members of Oireachtas.**

35. (1) A nomination at a Seanad general election by members of the Oireachtas shall be made in accordance with the following provisions-
- (a) the nomination shall be made in writing on a nomination paper in the prescribed form;
  - (b) the nomination paper shall contain the particulars required by the prescribed form of nomination paper to be stated therein, including a statement of the qualifications of the person thereby nominated for the constituency to which he or she is so nominated;
  - (c) the nomination paper shall be signed by each of the members of the Oireachtas making a nomination thereby;
  - (d) the nomination paper shall be delivered or

sent to the Seanad returning officer.

- (2) If a member of the Oireachtas signs as a nominator two or more nomination papers, both or all of the nomination papers shall be wholly void.

**Nomination by local authorities.**

36. (1) A local authority may, by resolution (of the intention to propose which not less than 3 clear days' notice has been given in writing to every person who, at the time when such notice is given, is a member of the local authority) resolve to nominate one named person to be a candidate on an Oireachtas sub-panel at a Seanad general election.
- (2) A resolution under this section shall not be passed before the date of the making of the Seanad general election order in respect of the Seanad general election to which the resolution relates and, subject to the withdrawal of the candidate or the death of the candidate, such a resolution shall not be rescinded.
- (3) A resolution passed under this section shall be given effect to by means of a nomination paper in the form prescribed for this purpose sealed with the seal of the local authority concerned.
- (4) A nomination paper referred to in this section shall state the names (the surname being stated first), address and occupation (if any) of the person thereby nominated to be a candidate and shall also state all such matters as are required by the nomination paper to be stated therein.
- (5) A nomination paper referred to in this section which is delivered to the Seanad returning officer in accordance with this section and which is regular and valid on its face shall (unless the contrary is shown) be conclusive evidence that the resolution mentioned therein was duly proposed and passed in accordance with this section on the date stated in that behalf in the nomination paper at a meeting properly convened and held of the local authority whose seal is affixed to the nomination paper.
- (6) The Seanad returning officer shall make available on the internet the nomination papers to be used by local authorities.
- (7) Where the Seanad returning officer receives from

the local authority 2 or more nomination papers which are regular and valid on their face and which purport to nominate different persons to be candidates at the said election, the following provisions shall have effect -

(a) any 2 or more of such nomination papers which purport to give effect to resolutions passed on the same day shall be invalid, and all (if any) of such nomination papers which purport to give effect to a resolution passed on a subsequent day shall also be invalid,

(b) subject and without prejudice to paragraph (a), that one (if any) of such nomination papers which purports to give effect to a resolution passed on a day earlier than that on which any of the resolutions to which the others of such nomination papers purport to give effect was passed, shall alone be regarded and the others of such nomination papers shall be invalid.

- (8) Four valid nomination papers each nominating the same person to be a candidate in pursuance of a resolution passed in accordance with this section by the local authority of a different county borough shall be necessary to constitute a nomination of the person by local authorities.
- (9) A nomination paper referred to in subsection (8) which is delivered to the Seanad returning officer and which is regular and valid on its face shall (unless the contrary is shown) be conclusive evidence that the resolution mentioned therein was duly proposed and passed on the date stated in that behalf in the nomination paper at a meeting properly convened and held of the local authority whose seal is affixed to the nomination paper.
- (10) The exercise of the powers conferred by this section shall be a reserved function for the purposes of the Local Government Act 2001.

**Preparation of  
provisional Oireachtas  
sub-panels.**

37. (1) Immediately after the expiration of the time for Oireachtas sub-panel nominations, the Seanad returning officer shall prepare, in respect of each panel, a list (in this Act referred to as a provisional Oireachtas sub-panel) in the prescribed form of the persons in respect of whom he or she has received, before the expiration of the said time, nominations

to such panel by members of the Oireachtas.

- (2) In preparing the provisional Oireachtas sub-panels, the Seanad returning officer shall not—
- (a) include the name of a person whose nomination has been received after the expiration of the time for Oireachtas panel nominations,
  - (b) include the name of a person whose nomination is declared by this Act to be wholly void, or
  - (c) include the name of a person more than once in the same sub-panel.

**Publication and inspection of proposal for nomination papers and nomination papers.**

38. Where the Seanad returning officer receives a proposal for nomination paper or a nomination paper at a Seanad general election (other than a paper declared by this Act to be wholly void or a paper so received after the time limited by this Act for such receipt)—
- (a) the Seanad returning officer shall forthwith publish on the internet, a notice stating the fact of the receipt by him or her of the paper and the name, address and description (as stated in the paper) of the person purported to be proposed or nominated by the paper and the constituency or panel to which such person purports to be so proposed or nominated,
  - (b) the Seanad returning officer shall hold the paper available for inspection by candidates between the hours of 10 a.m. and 1 p.m. on week-days during the period beginning on the day after the day of the receipt of the paper and ending on the day before the day of the completion or resumption of the completion (as may be appropriate) of the panels.

**The completion of the panels.**

39. (1) At eleven o'clock in the morning on the day and at the place appointed in that behalf by a Seanad general election order, the Seanad returning officer shall attend and hold a sitting (in this Act referred to as the completion of the panels) at which he or she shall do all such things as he or she is required by the subsequent provisions of this Act to do at such sitting.

- (2) At the completion of the panels, the Seanad returning officer shall proceed as follows—
- (a) he shall group the provisional Oireachtas sub-panels and the provisional nominating bodies sub-panels into five groups, each group consisting of a provisional Oireachtas sub-panel and a provisional nominating bodies sub-panel in respect of the same panel;
  - (b) as respects each of the groups of sub-panels—
    - (i) he shall examine each nomination paper in pursuance of which a person was entered in either sub-panel, shall rule upon the validity or invalidity of each nomination paper and the validity or invalidity of the nomination purported to be made thereby and shall delete from the sub-panels every entry made therein in pursuance of a nomination paper or a nomination which he or she decides to be invalid,
    - (ii) he shall examine the qualifications of each person whose name remains on the sub-panels after the said deletions and shall delete from the sub-panels the name of every person in respect of whom he or she is not satisfied that such person is qualified under subsection 1° of section 7 of Article 18 of the Constitution to be on the panel to which the sub-panels relate,
    - (iii) he shall, in respect of every person whom he or she determines to be qualified to be on such panel, enter in the relevant sub-panel a statement, in such form as he or she thinks proper, of the qualifications which he or she determines to be in fact the qualification of such person to be on such panel,
    - (iv) he shall then delete all duplicate entries remaining on the sub-panels and shall for that purpose give preference to a nomination by a

nominating body;

- (c) if, when the provisions of paragraph (b) of this subsection have been complied with, any person is found to be entered in two or more groups of sub-panels—
  - (i) the Seanad returning officer shall retain the name of such person on such one of the groups as such person or his or her agent elects,
  - (ii) if such person or his or her agent (as the case may be) refuses or fails to elect or neither such person nor his or her agent is present or reasonably available, the Seanad returning officer shall retain the name of such person in such one of the groups of sub-panels as the Seanad returning officer determines by lot,
  - (iii) the Seanad returning officer shall delete the name of such person from all the groups of sub-panels except that on which he or she is required, by whichever of the foregoing subparagraphs of this paragraph is applicable, to retain the name of such person.
- (3) Having completed the procedures referenced in subsection (2), the Seanad returning officer shall, in respect of the Institutions of Higher Education constituency, examine each nomination paper in pursuance of which a person was entered into the constituency, and shall rule upon the validity or invalidity of each nomination paper and the validity or invalidity of the nomination purported to be made thereby and shall delete from the constituency every entry made therein in pursuance of a nomination paper or a nomination which he decides to be invalid.
- (4) In carrying out the provisions of this Act in relation to the proceedings at the completion of the panels, the Seanad returning officer shall have due regard to all decisions of the judicial referee on questions referred to him or her under this Act by the Seanad returning officer.

**Nominations by the  
Taoiseach to complete  
provisional sub-panels.**

(5) A decision by the Seanad returning officer at the completion of the panels shall be final and conclusive subject only to such reference to the judicial referee as is provided for by this Act.

40. (1) If, when the provisions of section 39 have been complied with, the number of persons whose names are entered in any provisional sub-panel does not exceed by at least two the maximum number of members of Seanad Éireann permitted by this Act to be elected therefrom, the Seanad returning officer shall adjourn to a convenient day and hour the further proceedings at the completion of the panels and shall report to the Taoiseach the deficiency in the said provisional sub-panel and furnish to the Taoiseach a copy of the provisional sub-panels as settled immediately before the adjournment.

(2) Upon receiving a report under subsection (1), the Taoiseach shall nominate to every provisional sub-panel in respect of which he or she receives the report such number of persons as will be sufficient to bring the number of persons on the provisional sub-panel up to a number exceeding by two (and no more) the maximum number of members of Seanad Éireann permitted by this Act to be elected therefrom.

(3) Where the Taoiseach is required by subsection (2) of this section to make nominations to a provisional sub-panel, it shall be lawful for him or her to make additional nominations to such provisional sub-panel in excess of the number of nominations required by that subsection, but the additional nominations shall be substitutional only and shall be operative only if and so far as is requisite by reason of the invalidity of one or more of the other nominations made by the Taoiseach under this section to such provisional sub-panel.

(4) A nomination made by the Taoiseach under this section shall be made in accordance with the following provisions—

(a) the nomination shall be made in writing on a nomination paper in the prescribed form;

(b) the nomination shall be made by a separate nomination paper;

- (c) the nomination paper shall state the sub-panel in respect of which the nomination is made and shall also contain the particulars required by the said prescribed form of nomination paper to be stated therein (including a statement of the qualifications of the person thereby nominated for the panel to which he or she is so nominated) and shall be signed by the Taoiseach;
  - (d) the nomination paper shall be delivered or sent to the Seanad returning officer and shall be so sent or delivered that it is received by the Seanad returning officer before the time to which the completion of the panels was adjourned under subsection (1).
- (5) On the resumption of the completion of the panels after the adjournment thereof under subsection (1), the Seanad returning officer shall consider and rule upon the nominations made by the Taoiseach under this section (including examining and ruling upon the qualifications of every person so nominated for the panel to which he or she is so nominated) and shall enter in the proper place in the proper provisional sub-panel the name, address, and description of every person whom he or she finds to be validly so nominated, together with a statement, in such form as he or she thinks proper, of the qualifications which he or she determines to be in fact the qualifications of such person to be on such panel.

- Factors to be considered by Taoiseach.**
41. (1) Prior to nominating candidates pursuant to section 1 of Article 18 of the Constitution, the Taoiseach may have regard to considerations which include but are not limited to the need to –
- (a) improve the gender balance in Seanad Éireann,
  - (b) improve diversity in Seanad Éireann, and
  - (c) ensure a sufficient level of representation of persons who are concerned with the rights of minorities in Irish society.
- (2) Nothing in this section shall be construed as purporting to fetter the absolute discretion of the Taoiseach in nominating a person to be a member of Seanad Éireann under section 1 of Article 18 of the Constitution.



- (3) In this section "diversity" includes diversity of –
- (a) gender
  - (b) civil status,
  - (c) family status,
  - (d) sexual orientation,
  - (e) religion,
  - (f) age,
  - (g) disability,
  - (h) race, and
  - (i) membership of the Traveller community.

**The judicial referee at completion of panels.**

42. (1) The President of the High Court or some other judge of the High Court nominated by him or her shall attend at–
- (a) the completion of the panels,
  - (b) every ruling upon nomination held under Part 5 of this Act,
- and there sit and act as judicial referee.
- (2) (a) The Seanad returning officer may, on his or her own motion, and shall, if so requested by any person whose name is on a provisional sub-panel for the time being under consideration or by the agent of any such person, refer to the judicial referee any question arising during the completion of the panels in relation to any nomination paper, the nomination of any person to a constituency, the qualifications of any person for a constituency, the statement by the Seanad returning officer of such qualification, or any other matter connected with the provisional panels.
- (b) The Seanad returning officer may, on his or her own motion, and shall, if so requested by the person who is named in the relevant certificate of provisional election or whose nomination is required to be ruled upon at the ruling upon nomination or by the agent of any such person, refer to the judicial referee any question arising during the ruling upon nomination in relation to any nomination paper, the nomination of any person, the qualifications of any person for the relevant constituency, the statement by the Seanad returning officer of such qualifications, or any other matter connected with the nomination of any person.
- (3) The judicial referee shall there and then decide and

announce his or her decision on every question referred to him or her under this section by the Seanad returning officer.

- (4) The decision of the judicial referee on any question referred to him or her under this section by the Seanad returning officer shall be final and conclusive and shall not be open to review by any court.
- (5) A question may be referred to the judicial referee under this section whether the Seanad returning officer has or has not himself or herself given a decision thereon.

**Questions which may be raised at completion of panels.**

- 43. (1) (a) Subject to compliance (where appropriate) with subsection (2), at the completion of the panels every question relevant to the nomination of a person to a constituency, including the validity of nomination papers, the sufficiency or the correctness of any statement in a nomination paper, the validity or the disqualification of any nomination and the qualifications of any person for any constituency, may be raised by the Seanad returning officer or by any person whose name is on a provisional sub-panel for the time being under consideration or by the agent of any such person.

(b) Subject to compliance (where appropriate) with subsection (2), at any ruling upon nomination held under Part 5 of this Act every question relevant to the nomination of any person, including the validity of nomination papers, the sufficiency or the correctness of any statement in a nomination paper, the validity of any nomination, and the qualifications or disqualification of any person for the relevant constituency, may be raised by the Seanad returning officer or by the person who is named in the relevant certificate of provisional election or whose nomination is required by Part 5 of this Act to be ruled upon at such ruling upon, nomination or by the agent of any such person.

- (2) Where a person other than the Seanad returning officer proposes to raise a question –
  - (a) at the completion of the panels he or she shall deliver a statement of the question and of the grounds therefor to the Seanad returning officer at least two days before the day of the completion of the panels;

(b) at any ruling upon nomination held under Part 5 of this Act, he or she shall deliver a statement of the question and of the grounds therefor to the Seanad returning officer at least two days before the day of the ruling upon nomination

(3) Where the identity of the person purported to be nominated by a nomination paper is free from doubt, the nomination paper shall not be rejected or declared invalid merely because of an error in, or the incompleteness of, the statement therein of the name, address or description of such person.

(4) The Seanad returning officer may, for the purpose of deciding any question at issue during –  
(a) the completion of the panels, or  
(b) a ruling upon nomination held under Part 5 of this Act,

receive and act upon evidence, whether oral or written, tendered to him or her by or on behalf of any person affected by such question, and may, if he or she so thinks proper, require such evidence to be given on oath and may for that purpose administer an oath.

(5) The judicial referee may, for the purpose of deciding any question referred to him or her during –

(a) the completion of the panels, or  
(b) a ruling upon nomination held under Part 5,

receive and act upon evidence, whether oral or written, tendered to him or her by or on behalf of any person affected by such question (being, save where the judicial referee otherwise allows, evidence which was made available to the Seanad returning officer), and may, if he or she so thinks proper, require such evidence to be given on oath and may for that purpose administer an oath.

**Persons permitted to attend completion of panels.**

44. (1) (a) Any person whose name is on a provisional sub-panel, and one agent of each person whose name is on a provisional sub-panel shall be entitled to be present at the completion of the panels.  
(b) The person who is named in the relevant certificate of provisional election or any person whose nomination is required by Part 5 to be ruled upon at the ruling upon nomination, and one agent of each of the persons referred to in this paragraph, may attend a ruling upon nomination held under

Part 5.

- (2) The following persons shall also be entitled to be present at –
- (a) the completion of the panels, or
  - (b) a ruling upon nomination held under Part 5 —
    - (i) the Seanad returning officer, his or her assistants, and other representatives of the Seanad Electoral Commission;
    - (ii) the judicial referee and one person brought by him or her to attend on him or her;
    - (iii) witnesses giving oral evidence, but only while giving such evidence;
    - (iv) such other persons as the Seanad returning officer thinks proper to admit.

**Continuity of proceedings at completion of panels.**

45. (1) The proceedings at the completion of the panels shall, so far as practicable, be proceeded with continuously, but may at any time be suspended by the Seanad returning officer, with the consent of the judicial referee, for such period as the Seanad returning officer thinks proper for refreshment, night-time or other reason appearing to him or her to be sufficient.
- (2) Whenever the proceedings at the completion of the panels are suspended under this section, the Seanad returning officer shall take all proper precautions for the security of the nomination papers, provisional sub-panels and other relevant documents.

**Death or disqualification of a candidate.**

46. (1) Where, before the expiration of the time for proposed nominations a nominating party satisfies the Seanad returning officer that a person proposed for nomination to a constituency by the nominating party has died or become disqualified for membership of Seanad Éireann, the Seanad returning officer shall forthwith cancel the proposal for nomination of such person, and thereupon such proposal for nomination shall be deemed for the purposes of this Act never to have been received by the Seanad returning officer and it shall be lawful for a fresh proposal of a person for nomination in accordance with this Act to be made in the place of the person who has died or become disqualified.
- (2) Where, before the latest time for receiving nominations at a Seanad bye-election, a

nominating party satisfies the Seanad returning officer is satisfied that a person nominated by the nominating party has died or become disqualified for membership of Seanad Éireann, the Seanad returning officer shall forthwith cancel such nomination and thereupon it shall be deemed never to have been made.

- (3) In the counting of the votes cast at a Seanad general election or Seanad bye-election, all the preferences recorded for a candidate named in a panel of whose death the Seanad returning officer is satisfied before the close of the poll shall be disregarded and regard shall be had in lieu thereof to the next available preferences.
- (4) Subject to the foregoing provisions of this section, the fact that a candidate has (whether before or after the close of the poll) died or become disqualified for membership of Seanad Éireann shall not invalidate or prejudice the nomination of the candidate or any preferences recorded for him or her, and, if he or she is elected, his or her election shall not be invalidated by reason of his or her having so died or become disqualified but he or she shall be deemed to have vacated his or her membership of Seanad Éireann immediately after his or her said election thereto.
- (5) In this section “nominating party” means –
  - (a) a nominating body, or
  - (b) members of the Oireachtas who have nominated a candidate, or
  - (c) a local authority which has nominated a candidate, or
  - (d) a proposer or assentor of a candidate to the institutions of higher education constituency.

**Preparation and publication of the panels.**

47. (1) When, at the completion of the panels, the proceedings provided for in the foregoing sections of this Act have been completed, the Seanad returning officer shall prepare the five panels, each of which shall consist of a list (arranged in accordance with the subsequent provisions of this section) of the persons who have been found to be validly nominated thereto.
- (2) Each of the panels shall be divided into two parts

(in this Act referred to as sub-panels) one of which (in this Act referred to as the nominating bodies sub-panel) shall consist of a list of the persons nominated thereto by nominating bodies, and the other of which (in this Act referred to as the Oireachtas sub-panel) shall consist of a list of the persons nominated thereto by members of the Oireachtas.

- (3) The persons named in a panel shall be described therein by their names, addresses and descriptions as stated in their respective nomination papers, and there shall be added to the description of every such person a statement of his or her qualifications for such panel as entered in the relevant provisional sub-panel in pursuance of the foregoing provisions of this Act.
- (4) The persons named in a part of a panel shall be arranged in such part in the alphabetical order of their surnames and, in the case of identity of surnames, of their other names.
- (5) When the Seanad returning officer has prepared the five panels he or she shall publish them in the *Iris Oifigiúil* and also on the internet by notice containing a copy of the panels with the addition of a statement in respect of every person on any panel of the body or persons on whose nomination he or she was put on such panel.
- (6) The several panels as prepared and published by the Seanad returning officer in pursuance of this section shall be final and conclusive and not open to review by any Court.

### **Chapter 3 – Seanad Electoral Register**

**Right to vote.**

48. (1) A person referred to in paragraphs (a) to (d) of section 49 and who has attained the age of eighteen shall only be entered once in the electoral register for the election and in respect of one constituency.
- (2) When applying for inclusion in the electoral register, a person shall indicate the constituency in respect of which he or she has opted to cast his or her vote.
- (3) Notwithstanding subsection (1), a person referred to in paragraph (e) of subsection (1) of section 49 shall

be eligible to be entered in the electoral register in respect of more than one constituency.

**The electorate.**

49. (1) At every Seanad general election the electorate shall consist of—
- (a) Irish citizens who are resident in Ireland,
  - (b) persons entitled to claim Irish citizenship in Northern Ireland and who reside in Northern Ireland or in the State,
  - (c) Irish citizens who hold a current and valid Irish passport and who reside outside the State,
  - (d) Irish citizens holding a requisite qualification and who are graduates of an institution of higher education in the State, and
  - (e) serving members of the Dáil, members of the outgoing Seanad, and serving members of local authorities.
- (2) For the purposes of paragraph (e) of subsection (1) with respect to the electorate at a Seanad general election in any case in which a further dissolution of Dáil Éireann has occurred after the dissolution which occasioned that Seanad general election, the further dissolution shall be deemed not to have occurred.

**Electoral register.**

50. (1) A register of persons for the time being entitled to vote in every Seanad general election shall be established and maintained by the Seanad Electoral Commission in accordance with this Act.
- (2) The electoral register shall be maintained in accordance with Schedule 3 and in such form as prescribed by the Minister.
- (3) In respect of the persons who are registered to vote in a Seanad general election, the electoral register shall record the details mentioned in subsection (4) and shall be divided into four divisions as follows –
- (a) Division 1 – Register of Irish citizens who are resident in Ireland,
  - (b) Division 2 – Register of persons entitled to claim Irish citizenship in Northern Ireland and who reside in Northern Ireland or in the State,
  - (c) Division 3 – Register of Irish citizens who hold a current and valid Irish passport and who reside outside the State,
  - (d) Division 4 – Register of Irish citizens holding

a requisite qualification and who are graduates of an institution of higher education in the State, and

(e) Division 5 – Register of –

- (i) serving members of the Dáil,
- (ii) members of the outgoing Seanad, and
- (iii) serving members of local authorities.

- (4) The electoral register shall contain the name, geographical address and postcode of each of the persons constituting the electorate at a Seanad election and shall indicate the constituency and sub-panel in respect of which the voter is eligible to cast his or her vote.
- (5) A person shall not be eligible for inclusion in any Division of the electoral register unless they have attained the age of eighteen years.
- (6) The Minister may prescribe the evidence which is required to establish eligibility for inclusion in any Division of the electoral register.
- (7) An elector whose name is included in the electoral register for a Seanad election shall notify the Seanad Electoral Commission in the prescribed form of a change to the address at which he or she ordinarily resides.
- (8) (a) The Seanad Electoral Commission shall at intervals prescribed by the Minister revise the electoral register in accordance with the rules contained in Schedule 3.  
(b) Notwithstanding the generality of paragraph (a), the Seanad Electoral Commission may remove a voter from the register where it has been established that he or she has not returned a ballot paper in a Seanad general election within the preceding 12 years.
- (9) The Seanad Electoral Commission shall in advance of each Seanad general election prepare a supplemental electoral register in accordance with the rules contained in Schedule 3.
- (10) A person who uses information in the register prepared under this section, being information which is excluded from the edited register, for a purpose, other than an electoral or other statutory



purpose, shall be guilty of an offence.

- (11) A person who is convicted of an offence under subsection (10) shall be liable on summary conviction thereof to a Class A fine, or to imprisonment for any term not exceeding six months, or to both a fine and imprisonment.

**Voting rights in respect of each Division.**

51. (1) A person whose name appears in Division 1, 2, 3 or 4 of the electoral register for a Seanad election shall only be eligible to cast his or her vote at a Seanad general election for candidates on either -
- (a) a nominating bodies sub-panel of a vocational constituency, or
  - (b) where eligible, the institutions of higher education constituency.
- (2) A person whose name appears in Division 5 of the electoral register for a Seanad election shall be eligible to cast his or her votes at a Seanad General election on each Oireachtas sub-panel of each of the vocational constituencies.
- (3) Irrespective of the constituency or sub-panel in which a casual vacancy arises, only the following persons shall be eligible to cast a vote at a Seanad bye-election -
- (a) serving members of the Dáil, and
  - (b) serving members of the Seanad.

**Application for entry in the electoral register - general.**

52. (1) Subject to the requirements of section 48 and other eligibility requirements, where a person makes an application for inclusion in the electoral register he or she shall indicate the constituency in respect of which he or she seeks to be registered.
- (2) A person whose name appears on the electoral register may subject to the requirements of section 48 and other eligibility requirements, at any time prior to the prescribed deadline apply to have his or her constituency voting preference changed from one constituency to another.
- (3) An application for entry in the electoral register may be made in the manner prescribed by the Minister, and the Minister may, having consulted with the Seanad Electoral Commission, make provision for registration by electronic means.

- (4) The Minister may prescribe the evidential requirements which shall be fulfilled by an applicant seeking to be registered in any Division of the electoral register.
- (5) The Minister may prescribe the requirements which shall apply to -
  - (a) applications by persons who wish to request a change to his or her constituency voting preference under subsection (2), and
  - (b) the method of registration under subsection (3).

**Application for entry in the electoral register – Division 1 (Irish citizens resident in Ireland).**

- 53. (1) A person shall be entitled to be registered as a Seanad elector under Division 1 of the electoral register if he or she -
  - (a) is an Irish citizen, and
  - (b) is resident in Ireland.
- (2) In making regulations under section 52(4) in respect of the registration of a voter under subsection (1) the Minister may prescribe –
  - (a) the form in which an application shall made;
  - (b) the nature and content of certificates or statutory declarations which are to accompany or support the application;
  - (c) the evidence required to establish an applicant's identity;
  - (d) the evidence required to establish an applicant's entitlement to register.

**Application for entry in the electoral register – Division 2 (persons resident in Northern Ireland).**

- 54. (1) A person shall be entitled to be registered as a Seanad elector under Division 2 of the electoral register if he or she -
  - (a) establishes that he or she is entitled to claim Irish citizenship in Northern Ireland, and
  - (b) is resident in Northern Ireland or in the State.
- (2) In making regulations under section 52(4) in respect of the registration of a voter under subsection (1) the Minister may prescribe –
  - (a) the form in which an application shall made;

- (b) the nature and content of certificates or statutory declarations which are to accompany or support the application;
- (c) the evidence required to establish an applicant's identity;
- (d) the evidence required to establish an applicant's entitlement to Irish citizenship;
- (e) the evidence required to establish an applicant's residency status in Northern Ireland or in the State.

**Application for entry in the electoral register – Division 3 (Irish passport holders resident abroad).**

55. (1) A person shall be entitled to be registered as a Seanad elector under Division 3 of the electoral register if he or she-
- (a) holds a current and valid Irish passport, and
  - (b) is resident outside the State.
- (2) In making regulations under section 52(4) in respect of the registration of a voter under subsection (1) the Minister may prescribe –
- (a) the form in which an application shall made;
  - (b) the nature and content of certificates or statutory declarations which are to accompany or support the application;
  - (c) the evidence required to establish an applicant's identity;
  - (d) the evidence required to establish an applicant's residency status.
- (3) In this Act "resident outside the State" means a person who has continuously been resident outside the State for a period not exceeding the period which has been prescribed by the Minister.

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

56. (1) A person shall be entitled to be registered as a Seanad elector under Division 4 of the electoral register if he or she-
- (a) is an Irish citizen, and
  - (c) has received a requisite qualification.
- (2) A person who is registered to vote as a Seanad elector under Division 5 of the electoral register shall not be entitled to be registered to vote as a Seanad elector under Division 4 of the electoral register notwithstanding the fact that he or she holds a

requisite qualification.

(3) In making regulations under section 52(4) in respect of the registration of a voter under subsection (1) the Minister may prescribe –

(a) the form in which an application shall made;

(b) the nature and content of certificates or statutory declarations which are to accompany or support the application;

(c) the evidence required to establish an applicant's identity;

(d) the evidence required to establish that the applicant holds a requisite qualification.

(4) Notwithstanding the number of requisite qualifications held by a person, he or she shall only be entitled to be registered once in Division 4 of the electoral register.

**Transitional provision - existing register of university graduates.**

57. (1) The electoral registers that had been prepared and maintained pursuant to the Seanad Electoral (University Members) Act 1937 shall serve as the basis of Division 4 of the electoral register which is provided for under section 56.

(2) The governing bodies of each university to which the Seanad Electoral (University Members) Act 1937 applied shall provide all such cooperation and assistance to the Seanad Electoral Commission as is required by it in order to fulfil the requirements of subsection (1).

**Application for entry in the electoral register – Division 5 (members of the Dáil, the Seanad and local authorities).**

58. (1) A person shall be entitled to be registered as an elector for a Seanad general election under Division 5 of the electoral register in respect of one or more Oireachtas sub-panels if he or she-

(a) is deemed to have been elected to be a member of the incoming Dáil,

(b) is a member of the outgoing Seanad, or

(c) is a member of a local authority at the time of the Seanad general election.

(2) A person shall be entitled to be registered as a Seanad elector for a Seanad bye-election under Division 5 of the electoral register in respect of a casual vacancy in any constituency or sub-panel if he or she is –

- (a) a serving member of the Dáil, or
- (b) a serving member of the Seanad.

- (3) The Seanad Electoral Commission shall make provision for the automatic registration without application of the persons referenced in subsections (1) and (2) for inclusion in Division 5 of the electoral register in respect of one or more Oireachtas sub-panels.
- (4) A person who has been automatically registered pursuant to subsection (3) may apply to the Seanad Electoral Commission to have his or her name removed from any part of the electoral register.

**Appeals.**

- 59. (1) An appeal shall lie to the Circuit Court from any decision on any application, claim or objection which has been considered under Schedule 3.
- (2) Subsection (1) shall be subject to the proviso that an appeal shall not lie where a claimant or objector or applicant has not availed himself or herself of an opportunity provided in Schedule 3 of having his or her claim or objection or application decided in the first instance by the authority specified in that behalf in the said Schedule.
- (3) An appeal to the High Court shall lie on any point of law from a decision of the Circuit Court on any such appeal, but, save as aforesaid, there shall be no appeal from any such decision.
- (4) The right of voting of any person whose name is for the time being on the electoral register shall not be prejudiced by an appeal pending under this section, and any vote given in pursuance of that right shall be as good as if no such appeal were pending, and shall not be affected by the subsequent decision on the appeal.
- (5) Notice shall be sent to the registration authority in manner provided by rules of court of the decision of the Circuit Court or the High Court on any appeal under this section, and the registration authority shall make such alterations in the electoral register as may be required to give effect to the decision.

## Chapter 4 – Ballot Papers

issuing of ballots (and duplicate ballot papers) for a Seanad election.

60. (1) On the day or days appointed for the issue of ballot papers at a Seanad general election or Seanad bye-election the Seanad returning officer shall send by ordinary post to each person whose name is on the electoral register for that election -
- (a) a ballot paper for the constituency in respect of which the voter has opted to, and has been deemed eligible to, cast his or her vote, and
  - (b) a form of declaration of identity.
- (2) Whenever a person to whom ballot papers for a Seanad general election or Seanad bye-election should be sent under subsection (1)–
- (a) states in a letter to the Seanad returning officer signed by him or her, and
  - (b) that letter is accompanied by a sworn statement, signed by him or her in the State in the presence of a solicitor, or signed in a place other than the State in the presence of a Notary Public stating that,
    - (i) more than twenty-four hours have elapsed since such ballot papers should have been delivered to him or her in the ordinary course of post, and
    - (ii) that he or she has not received such ballot papers and that he or she desires duplicate ballot papers 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 by ordinary post to such person at the address mentioned in subsection (1) of this section 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.
- (3) The Seanad returning officer shall, when sending out a duplicate ballot papers in pursuance of this section, shall observe the rules contained in Schedule 1.
- (4) Notwithstanding the requirements of this section, the Minister may, at his or her sole discretion, by

Regulation make provision for the issuing of ballot papers by electronic means for printing by each voter.

**Distinct ballot papers for each constituency.**

61. (1) The following provisions shall apply and have effect in relation to the issuing of ballots at a Seanad general election –
- (a) there shall be separate ballot papers for each sub-panel of each vocational constituency;
  - (b) there shall be one ballot paper for the institutions of higher education constituency.
- (2) At a Seanad bye-election there shall be one ballot paper in respect of each of the constituencies in which a vacancy has arisen.
- (3) The following provisions shall apply and have effect in relation to the issuing of ballots at a Seanad general election and a Seanad bye-election –
- (a) a ballot paper shall contain the name, address and description of each of the candidates named in the constituency to which it relates arranged in the alphabetical order of the surnames of the candidates and, in cases of identical surname, of their other names, and set out either in one continuous column or in two or more columns as the Seanad Electoral Commission considers to be most convenient;
  - (b) a ballot paper shall include a photograph of each candidate in accordance with such requirements as may be prescribed;
  - (c) 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 smaller 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 Electoral Commission, effectively distinguish such candidate;
  - (d) 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;

(e) a ballot paper shall not contain the emblem or logo of any political party or the name of any other organisation.

**Method of voting at Seanad election.**

62. (1) Every person entitled to vote at a Seanad general election or Seanad bye-election shall be entitled to vote in the following and no other manner, that is to say, by -
- (a) indicating his or her voting preference by marking the ballot paper sent to him or her,
  - (c) complying with any prescribed identification requirements, and
  - (d) by returning the ballot paper and any other prescribed documents in accordance with section 63.
- (2) An elector in marking a ballot paper at a Seanad general election or Seanad bye-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.
- (3) Any ballot paper—
- (a) which does not bear the official mark, or
  - (b) on which the figure 1 standing alone, or the word “one” or any other mark which, in the opinion of the returning officer, clearly indicates a first preference, 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, or the word “one” or any other mark which, in the opinion of the returning officer, clearly indicates a first preference, is set opposite the name of more than one candidate, or
  - (d) on which anything is written or marked which, in



the opinion of the returning officer, is calculated to identify the elector,

shall be invalid and not counted, but the ballot paper shall not be invalid by reason only of carrying the words "one", "two", "three" (and so on) or any other mark which, in the opinion of the returning officer, clearly indicates a preference or preferences.

**Return of completed ballot papers.**

63. (1) Where a person has indicated his or her preferences on the ballot paper, the completed ballot paper together with the form of declaration of identity duly completed by him or her, and any other prescribed documents shall be sent by ordinary post to the Seanad returning officer.
- (2) Whenever a person entitled to vote at a Seanad general election or Seanad bye-election states in writing to the Seanad returning officer that he or she duly returned by ordinary post to the Seanad returning officer the ballot papers 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 duplicate ballot papers 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 by ordinary post to such person at his or her address as stated in the electoral register an appropriate 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.
- (3) In this section the expression "by ordinary post" includes, 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.

**Regulations in respect of ballot papers.**

64. The Minister may make regulations prescribing the requirements which shall be applicable to -
- (a) the design of ballot papers,
  - (b) the procedures and requirements applicable to the

- issuing of ballot papers to each registered voter,
- (c) the identity related requirements to be fulfilled by each voter,
- (d) measures to be taken in order to protect the security, integrity and secrecy of the ballot,
- (e) validation and authenticity checks to be carried out before a ballot paper can be accepted for counting.

**Application of Electoral Act 1992.**

65. (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 Seanad bye-election and for that purpose, in the said sections of that Act—
- (a) every reference to “Dáil election” and “election” shall be construed and have effect as a reference to a Seanad general election and Seanad bye-election;
  - (b) every reference to the “register of Dáil electors” shall be construed and have effect as a reference to the electoral register in respect of a Seanad general election and Seanad bye-election;
  - (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 and Seanad bye-election;
  - (d) every reference to “constituency” shall be construed and have effect as a reference to a vocational constituency or institutions of higher education constituency;
  - (e) the reference in sections 139 and 151 of the Electoral Act 1992 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 or Seanad bye-election and ending at the close of the poll at such election.
- (2) In addition and without prejudice to the provisions of subsection (1), 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 a Seanad general election and Seanad bye-election as if these elections were elections of members of Dáil Éireann, and each such provision shall also apply to acts or omissions committed outside the State.

## Chapter 5 – Counting of Votes

### Ascertainment of result of Seanad general election or bye-election.

66. (1) The Seanad returning officer shall, in the presence of such candidates as may be in attendance, ascertain separately, in accordance with this Act and, in particular, the rules contained in Schedule 1 and Schedule 2, the result of a Seanad general election, or a Seanad bye-election, in respect of each constituency and sub-panel and shall declare to be elected from such constituency and sub-panel 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 or Seanad bye-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.

### Preservation of the secrecy of the voting.

67. (1) The returning officer and every one of his or her assistants concerned in the issue, receipt, or counting of ballot papers at a Seanad general election or Seanad bye-election and every candidate and agent present at such issue, receipt, or counting shall maintain and aid in maintaining the secrecy of the voting at such 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 such 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 or has not voted or as to the number on the back of the ballot paper sent to any elector.
- (2) No person shall interfere with or attempt to interfere with the receipt, marking, or return of his or her ballot paper by any elector at a Seanad general election or Seanad bye-election.

- (3) No person shall directly or indirectly induce any elector at a Seanad general election or a Seanad bye-election to display his or her ballot paper after he or she shall have marked the same so as to make known to such person or to any other person the name of any candidate for whom he has marked his vote on such ballot paper.
- (4) Every person who acts in contravention of this section shall be guilty of an offence under this section and shall be liable on summary conviction to imprisonment for a term not exceeding six months.

**Election to more than one sub-panel or constituency.**

68.

(1) If at a Seanad general election or Seanad bye-election any person is returned as a member of the Seanad for two or more constituencies or sub-panels, such person shall within 2 days of the making of a declaration of the election results in respect of that candidate under section 66, deliver to the Clerk of the Seanad a declaration in writing signed by him or her stating which one of those constituencies or sub-panels he or she elects to represent in the Seanad.

(2) If a candidate referred to in subsection (1) does not so deliver to the Clerk of the Seanad such declaration, he or she shall be deemed to have elected to represent the constituency or sub-panel in which he or she received the greatest number of first preference votes.

(3) So soon as a person returned for two or more constituencies or sub-panels elects or is under the foregoing subsection deemed to have elected which of such constituencies or sub-panels he or she will represent, he or she shall be deemed to have resigned his or her seat or seats in each of the other constituencies or sub-panels for which he or she shall have been so returned.

**Election petitions in relation to Seanad general elections.**

69.

(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 a Seanad general election or Seanad bye-election 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;
  - (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 panel in relation to which the said court is satisfied that the voting in respect of the candidates on such panel is not in issue on the petition;
  - (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.

## PART 5

### Casual Vacancies

70. (1) Where a casual vacancy occurs amongst the persons elected to any constituency of the Seanad, the vacancy shall be filled in accordance with the provisions of this Part.
- Filling of casual vacancies.**
- (2) In this Part “casual vacancy” means a vacancy occasioned by a person who, though elected or regarded as having been elected to the Seanad pursuant to this Act, dies, resigns, becomes disqualified for election under this Act to the Seanad, is removed from office or otherwise ceases to be a member of the Seanad or is not entitled to assume the office of Member of the Seanad.
71. (1) Where a casual vacancy occurs in the membership of the Seanad, the Clerk of the Seanad shall, on the direction of the Seanad, send to the Seanad Electoral Commission notice (in this Act referred to as notice of a casual vacancy) in writing of the vacancy.
- Notice of casual vacancy.**
- (2) A notice of a casual vacancy shall state, in respect of the member whose death, resignation, or disqualification occasioned the vacancy, the constituency and sub-panel from which the member was elected at the next preceding Seanad general election or Seanad bye-election.
72. (1) Where the Seanad Electoral Commission receives from the Clerk of Seanad Éireann a notice of a casual vacancy, the Seanad Electoral Commission shall, as soon as conveniently may be and in any case not more than one hundred and eighty days after receiving the notice, make an order (in this Act referred to as a Seanad bye-election order) directing an election to be held in accordance with this Part of this Act to fill the vacancy and stating the constituency and sub-panel in respect of which the vacancy occurred and appointing for the deadline for the receipt of nominations, and the purposes of the election the matters referred to in subsection (2).
- Seanad Bye-election order.**

- (2) The order shall appoint—
- (a) the day which will be the last day for receiving nominations, and
  - (b) the day on which and the place at which the Seanad returning officer will rule upon nomination, and
  - (c) the day which will be the day of issue of ballot papers, and
  - (d) the day and hour (in this Act referred to as the close of the poll) on and at which the poll will be closed, and
  - (e) the address at which the Seanad returning officer may be contacted.

**Effect of a dissolution of Dáil Éireann.**

- (3) A Seanad bye-election order shall be published in the *Iris Oifigiúil* as soon as may be after it is made.

73. (1) Where a dissolution of Dáil Éireann takes place after a notice of a casual vacancy has been received by the Seanad Electoral Commission and before a Seanad bye-election order has been made in respect of the vacancy, the notice shall become and be annulled by the dissolution and, notwithstanding anything contained in this Part of this Act, a Seanad bye-election order shall not be made in respect of the vacancy.

**Provision applicable where more than one casual vacancy.**

- (2) Where a dissolution of Dáil Éireann takes place after a bye-election order has been made and before the election in pursuance of the order has been completed, the order shall become and be annulled by the dissolution and no further steps shall be taken in respect of the order.

74. If at any time the Seanad Electoral Commission has received two or more notices of a casual vacancy which have not been annulled by a dissolution of Dáil Éireann and in respect of which it has not made a Seanad bye-election order, separate Seanad bye-election orders shall be made and separate elections shall be held in respect of each of the vacancies to which the notices relate.

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

75. Where, pursuant to this Part a person is regarded as having been elected under this Act to the Seanad the person shall, unless he or she sooner dies, resigns, becomes disqualified for election under this

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

Act to the Seanad, is removed from office or otherwise ceases to be a member of the Seanad, hold office as such a member for the residue of the term for which the member whom the person replaces would have held office had the member not ceased to hold office.

**Nomination of candidates at a bye-election.**

76. A person shall not be regarded as having been elected to the Seanad pursuant to this Part if the person is, for the time being—
- (a) not eligible for election under this Act to the Seanad, or
  - (b) not willing to assume such office.
77. (1) At a Seanad bye-election, any person may be nominated by not less than four members of the Oireachtas.
- (2) A member of the Oireachtas shall not join in the nomination under this section of more than one person at any particular Seanad bye-election.
- (3) The following provisions shall have effect in relation to the nomination of candidates at a Seanad bye-election -
- (a) a nomination shall be made in writing on a nomination paper in the prescribed form;
  - (b) a nomination paper shall contain the particulars required by the prescribed form of nomination paper to be stated therein, and in particular, a statement of the qualifications of the person thereby nominated for the constituency mentioned in the relevant Seanad bye-election order;
  - (c) a nomination paper shall be signed by four current members of either House of the Oireachtas;
  - (d) a nomination paper shall be delivered or sent by post to the Seanad returning officer.
- (4) Where the Seanad returning officer receives a nomination paper before four o'clock in the afternoon on the day before the day which is appointed by the relevant Seanad bye-election order to be the last day for receiving nominations, the Seanad returning officer shall forthwith communicate in writing to the Clerk of Dáil Éireann the fact of the nomination paper having been so received and the name, address, and description,



as stated in the nomination paper, of the candidate and the name, as similarly stated, of the proposer of the candidate.

- (5) As soon as may be after twelve o'clock noon on the day which is appointed by the relevant Seanad bye-election order to be the last day for receiving nominations, the Seanad returning officer shall publish on the internet, a list stating (in the alphabetical order of their surnames and, in case of identity of surname, their other names) the names, addresses, and descriptions, as stated in their respective nomination papers, of the candidates in respect of whom he or she had received nomination papers before twelve o'clock noon aforesaid and also stating, in respect of every such candidate, the name, as similarly stated, of his or her proposer.
- (6) Any nomination paper received by the Seanad returning officer after twelve o'clock noon on the day which is appointed by the relevant Seanad bye-election order to be the last day for receiving nominations shall be void.
- (7) If a member of the Oireachtas signs two or more nomination papers as proposer or as assenting (whether he or she signs both or all of the nomination papers in the same or in different capacities), both or all of the nomination papers shall be wholly void.
- (8) Where the Seanad returning officer receives a nomination paper at an election to fill a casual vacancy (other than a nomination paper declared by this Act to be wholly void or a nomination paper so received after the time limited by this Act for such receipt), he or she shall hold the nomination paper available for inspection by candidates between the hours of 10 a.m. and 1 p.m. on week-days during the period beginning on the day after the day of receipt of the nomination paper and ending on the day of the ruling upon nomination.

**The ruling upon nomination for bye-election.**

78. (1) In preparation for a Seanad bye-election the Seanad returning officer shall, at eleven o'clock in the morning on the day appointed by the order for the ruling upon nomination, attend at the place similarly appointed and then and there hold a sitting (in this Act referred to as the ruling upon

nomination) at which he or she shall rule upon the nominations in respect of which nomination papers were received by him or her before twelve o'clock noon on the day appointed by the order to be the last day for receiving nominations.

(2) The following provisions shall have effect in relation to every ruling upon nomination held in pursuance of this section -

(a) the Seanad returning officer shall produce the several nomination papers received by him or her before twelve o'clock noon on the last day for receiving nominations and shall consider and rule upon the validity of each such nomination paper and of the nomination purported to be made thereby;

(b) the Seanad returning officer shall reject as invalid the nomination of any person in respect of whom he or she rules that the nomination paper of such person or the nomination thereby made is invalid or in respect of whom he or she is not satisfied that such person possesses the qualifications required under subsection 1° of section 7 of Article 18 of the Constitution and section 27 of this Act in respect of the relevant constituency;

(c) the Seanad returning officer shall rule as valid every nomination which he or she does not reject in pursuance of paragraph (b) of this subsection;

(d) the Seanad returning officer shall have due regard to all decisions of the judicial referee on questions referred to him or her by the Seanad returning officer,

(e) when the Seanad returning officer rules as valid the nomination of any person, he or she shall forthwith enter in a list (in this Act referred to as the list of candidates) the name, address, and description of such person as stated in his or her nomination paper and the name of his or her proposer as similarly stated and a statement, in such form as the Seanad returning officer thinks proper, of the qualifications which he or she determines to be in fact the qualifications of such person to be on the constituency mentioned in the relevant Seanad bye-election order;

(f) when the Seanad returning officer has

considered and ruled upon all the said nomination papers and the nominations made thereby, if only one person stands validly nominated the Seanad returning officer shall declare that person to be elected, but if two or more persons stand validly nominated, the Seanad returning officer shall adjourn the election and take a poll in accordance with the subsequent provisions of this Part.

**Continuity of proceedings at ruling upon nomination.**

- (3) (a) Immediately upon the completion of the ruling upon nomination, the Seanad returning officer shall sign the list of candidates and that list as so signed shall be conclusive evidence as to the persons who stand, or person who stands, validly nominated.  
(b) Having signed the list of candidates referred to in paragraph (a), the Seanad returning officer shall as soon as possible thereafter publish that list of candidates on the internet.

**Absence of valid nominations.**

- 79. (1) The proceedings at a ruling upon nomination held under this Part of this Act shall, so far as practicable, be proceeded with continuously, but may at any time be suspended by the Seanad returning officer, with the consent of the judicial referee, for such period as the Seanad returning officer thinks proper for refreshment, night-time or other reason appearing to him or her to be sufficient.  
(2) Whenever the proceedings at a ruling upon nomination are suspended under this section, the Seanad returning officer shall take all proper precautions for the security of the nomination papers and other relevant documents.
- 80. (1) If on the expiration of the time for receiving nomination papers the Seanad returning officer has not received a nomination paper, or if, following the ruling upon nominations, no candidate stands validly nominated, the Seanad returning officer shall so report to the Seanad Electoral Commission and the relevant Seanad bye-election order shall thereupon become and be annulled, and the Seanad Electoral Commission shall make a new Seanad bye-election order in lieu thereof.  
(2) A new Seanad bye-election order made under subsection (1) of this section shall be a Seanad bye-election order within the meaning and for the

**Electoral register for Seanad bye-election.**

purposes of this Act and this Act (including this section) shall apply and have effect in relation thereto, save that the time within which the Seanad Electoral Commission shall make such new Seanad bye-election order shall be whichever of the following periods later expires, that is to say, one hundred and eighty days after it receives the relevant notice of a casual vacancy from the Clerk of Seanad Éireann or sixty days after it receives the report mentioned in the said subsection (1) from the Seanad returning officer.

81. The electoral register to be used at a Seanad bye-election shall consist only of the current members of—

- (a) Dáil Éireann, and
- (b) the Seanad,

**Ballot paper at a Seanad bye-election.**

being persons who are registered as Seanad electors under Division 5 of the electoral register maintained under section 58 and no other person, shall be entitled to vote at the poll at a bye-election.

82. (1) At a Seanad bye-election there shall be one ballot paper in respect of each constituency in which a vacancy has arisen.

**Restriction on candidature at Seanad bye-election.**

(2) The Seanad returning officer in receiving and otherwise dealing with the ballot papers at a Seanad bye-election shall observe the rules contained in Schedule 2.

83. No member of Seanad Éireann shall, while retaining his or her membership thereof, be a candidate at a Seanad bye-election.

**Ascertainment of the result of bye-election.**

84. (1) As soon as conveniently may be after the poll at an election under this Part has been closed, the Seanad returning officer shall, in the presence of such candidates as may be in attendance, ascertain separately, in accordance with this Act and in particular the rules contained in Schedule 2, the result of the election and shall declare to be elected the candidate who is so ascertained to be elected.

(2) The decision of the Seanad returning officer as to any question arising at an election under this Part

on the ballot papers, the declarations of identity, or the envelopes containing the same 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.

**Election petitions in relation to bye-election.**

85. (1) The enactments for the time being in force relating to the presentation and trial of election petitions in relation to election of members of Dáil Éireann shall apply to elections under this Part with the following modifications -
- (a) the court trying an election petition in relation to an election under this Part shall not have power to declare the whole election to be void but may declare the election of the candidate returned as elected at the election to be void or to be valid as justice may require;
  - (b) where the said 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;
  - (d) 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.

## PART 6

### Postal Services

**Postal services.**

86. (1) All postal services wholly within the State in relation to the –
- (a) issuing, and
  - (b) return within the State,
- of ballot papers at an election under this Act shall be performed by An Post with prepayment of the charges therefor.

(2) All charges connected with the issuing of ballot papers at a Seanad election shall be deemed to be part of the Seanad Electoral Commission's expenses and shall be defrayed accordingly.

**Distribution of election literature at Seanad general election and bye-election.**

87. (1) Each candidate at a Seanad general election and Seanad bye-election shall, subject to section 61 of the Communications Regulation (Postal Services) Act 2011, be entitled to have included in a combined postal communication, free of any charge for postage, to each person whose name is on the electoral register for the sub-panel or to any combination of such persons, one piece of election literature, provided that the item –

- (a) does not exceed 50 grammes in weight, and
- (b) does not exceed the maximum dimensions that have been prescribed by the Minister.

- (2) (a) Where at a Seanad general election or Seanad bye-election, any person is a candidate in more than one sub-panel he or she shall not be entitled to have his or her election literature included in a combined postal communication in respect of more than one constituency.

(b) A candidate to whom paragraph (a) applies shall indicate in writing to the relevant postal service provider the sub-panel in respect of which he or she wishes to exercise his or her right to have his or her election literature included in a combined postal communication.

- (3) A candidate shall not be entitled to exercise the right of having his or her election literature included in a combined postal communication conferred by this section before he or she is validly nominated, unless he or she has given such security as may be

required by the relevant postal service provider for the payment of the postage on all communications sent by him or her under this section in case he or she does not eventually become nominated.

- (4) In this section, "combined postal communication" means an envelope or package which is intended for delivery by post to a person whose name appears on the Seanad election register, and which contains election literature pertaining to more than one candidate at a Seanad general election or Seanad bye-election.

## **PART 7**

### **SEANAD ELECTORAL COMMISSION**

- |  |     |   |
|--|-----|---|
| <b>Establishment day.</b>                            | 88. | The Minister shall by order appoint a day to be the establishment day for the purposes of this Part.  |
| <b>Establishment of Seanad Electoral Commission.</b> | 89. | <p>(1) There shall stand established on the establishment day a body which shall be known as An Coimisiún Toghcháin Seanad or in the English language as the Seanad Electoral Seanad Electoral Commission to perform the functions conferred on it by this Act.</p> <p>(2) The Seanad Electoral Commission shall be a body corporate with perpetual succession and power to sue and be sued in its corporate name.</p> <p>(3) <u>Schedule 4</u> shall apply to the Commission.</p>  |
| <b>Functions of the Commission.</b>                  | 90. | <p>(1) The functions of the Seanad Electoral Commission shall be to organise and oversee all aspects of each Seanad general election and Seanad bye-election.</p> <p>(2) Without prejudice to the generality of subsection (1) the functions of the Seanad Electoral Commission shall be to -</p> <ul style="list-style-type: none"><li>(a) implement the provisions of this Act;</li><li>(b) establish and maintain the electoral register for each Seanad general election and Seanad bye-election;</li><li>(c) assess the eligibility of nominating bodies under this Act;</li></ul> |

(d) from time to time to review the continuing eligibility of certain nominating bodies, and where appropriate remove a nominating body from the register of nominating bodies;

(e) to devise and implement public awareness and information campaigns which from time to time -

(i) promote public awareness of the arrangements for each Seanad general election,

(ii) provide information about the rights of persons to register as an elector,

(iii) provide information about the means of registration as an elector, and

(iv) perform such other functions as may be prescribed by the Minister;

(f) establish and maintain a website which in accordance with requirements prescribed by the Minister under subsection (3), may contain the following information pertaining to each candidate—

(i) a candidate profile,

(ii) an information section to include policy-related or other manifesto-type information, and

(iii) a video or other form of communication, which has been provided by the candidate, provided always that the Minister may prescribe the size, extent and duration of the content, and may require that the content exclusively concern the candidate and his or her political party or organization (if any),

(g) prepare or commission a report on each Seanad general election or by-election indicating turnout by reference to each constituency.

(3) (a) The form and content of matters referred to in subparagraphs (i), (ii) and (iii) of paragraph (f) of subsection (2) shall be subject to requirements prescribed by the Minister in consultation with the Seanad Electoral Commission and at the Minister's sole discretion any other public body.

(b) Regulations made under this subsection shall -

(i) apply equally to all candidates, and

(ii) be subject to periodic review by the Minister.



aspects of the administration of a Seanad general election or Seanad bye-election, the Seanad returning officer shall be free from interference from any source and may only be accountable to the Seanad Electoral Commission.

**Membership of Commission.**

92. (1) The Commission shall consist of 6 members, namely—
- (a) a judge, or a former judge, of the Supreme Court, Court of Appeal, or the High Court,
  - (b) the Ombudsman,
  - (c) the Clerk of Dáil Éireann,
  - (d) the Clerk of Seanad Éireann, and
  - (e) a person who is appointed to be such a member by the Government, provided that the person is a former member of one of the Houses and is not a representative in the European Parliament or a member of a local authority.
- (2) The Government shall appoint from among the membership referenced in subsection (1), a person to be the chairperson of the Commission.
- (3) Each person appointed under paragraphs (a) and (e) of subsection (1) –
- (a) shall hold office for a term of 7 years and may be re-appointed for a second term,
  - (b) may at his or her own request be relieved of office by the Government,
  - (c) may be removed from office by the Government for stated misbehaviour, incapacity or bankruptcy and then only following resolutions passed by each House calling for his or her removal, and
  - (d) may resign from office by notice in writing given to the Minister and the resignation shall take effect on the date on which the Minister receives the notice.
- (4) The chairperson of the Commission (other than a chairperson who is the holder of a judicial office) shall be paid such remuneration (if any) as may be determined by the Minister.
- (5) (a) If the chairperson of the Commission notifies the Government that he or she is for any reason temporarily unable to act as such chairperson, the

Government shall appoint another member of the Commission to act as such chairperson for the duration of such inability.

(b) Upon the appointment of a person pursuant to paragraph (a) to be the chairperson of the Commission, the person who is temporarily unable to act as such chairperson shall be deemed for the duration of the inability not to be the chairperson and not to be a member of the Commission.

(6) A member of the Commission appointed to be such member under subsection (1)(e)—

(a) shall cease to hold office if he or she—

(i) is nominated as a member of Seanad Éireann,

(ii) is nominated for election as a member of either House or to be a representative in the European Parliament,

(iii) is regarded pursuant to Part XIII of the Schedule 2 to the European Parliament Elections Act 1997, as having been elected to that Parliament, or

(iv) is elected as a member of a local authority, and

(b) shall hold office upon such terms and conditions (including terms and conditions relating to remuneration (if any) and allowances (if any) for expenses) as may be determined by the Minister.

**Seanad Electoral  
Commission Office.**

93. (1) There shall be attached to the Commission an office to be known as the Seanad Electoral Commission Office (in this Act referred to as the "Office") which shall assist the Commission in the performance of its functions.

(2) The Office shall be funded by moneys provided by the Minister with the consent of the Minister for Public Expenditure and Reform.

(3) The Office shall be under the management and control of the Commission and subject to the direction of the Director of the Office.

(4) The Commission may, with the consent of the Minister given with the approval of the Minister for Public Expenditure and Reform, appoint such and so many persons to be members of the staff of

the Office as it may determine.

- (5) The terms and conditions of service of a member of staff of the Office shall be determined by the Commission with the consent of the Minister and the Minister for Public Expenditure and Reform.
- (6) A member of staff of the Office shall be a civil servant in the Civil Service of the State.

**Appointment of Director of Seanad Electoral Commission Office.**

- 94. (1) The Commission shall, following a selection process held by the Public Appointments Service, appoint a person to be the Director of the Office.
- (2) The Director shall hold office for such period not exceeding 5 years from the date of his or her appointment as the Commission shall determine.
- (3) Subject to subsection (4), a Director whose term of office expires by the efflux of time shall be eligible for reappointment by the Commission.
- (4) A person who is reappointed by the Commission in accordance with subsection (3) shall not hold office for periods the aggregate of which exceeds 10 years.
- (5) The Director shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration, allowances and superannuation) as may be determined by the Commission with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform.

**Functions of Director.**

- 95. (1) The Director shall manage and control generally the staff, administration and business of the Office.
- (2) The Director shall be responsible to the Commission for the performance of his or her functions.

## **PART 8**

## Miscellaneous

### Limits on spending at Seanad elections.

96. The level 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 be subject to the provisions of Schedule 5.

### Offences and penalties.

97. (1) A person shall be guilty of an offence if, at a Seanad election or bye election, he or she incurs election expenses, or makes any payment, advance or deposit in respect of such expenses on behalf of a candidate.
- (2) A candidate shall be guilty of an offence if at a Seanad election he or she—
- (a) directly or through any other person incurs election expenses in excess of the prescribed amount, or
  - (b) fails to furnish to the Standards in Public Office Commission, within the period specified for this purpose, a statement of election expenses or a statutory declaration pursuant to paragraph 5 of Schedule 5, or
  - (c) furnishes to the Standards Public Office Commission a statement of election expenses which, to his or her knowledge, is false or misleading in a material respect, or
  - (d) fails otherwise to comply with the provisions of paragraph 5 of Schedule 5.

### Reimbursement of election expenses of candidates.

98. The election expenses of candidates at a Seanad general election or Seanad bye-election may be reimbursed pursuant to the provisions of Part 2 of Schedule 5.

### Resignation of membership of Seanad Éireann.

99. Any member of Seanad Éireann may voluntarily resign his or her membership thereof by notice in writing to the Chairman of Seanad Éireann and such resignation shall take effect upon receipt of the notice by the Chairman who shall as soon as may be inform the Seanad Éireann.

**Non-compliance with rules.**

100. 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.

## **SCHEDULE 1**

### **Rules for Conduct of Seanad General Elections.**

- Issue of ballot papers. 1. On the day appointed for the issue of ballot papers at a Seanad general election or Seanad bye-election the Seanad returning officer shall issue, in the manner directed in this Schedule, ballot papers to every elector named on the electoral register for the election.
- Persons present at issue of ballot papers. 2. The Seanad returning officer and his or her assistants, any candidate and any agent appointed by a candidate, and no other person, except with the permission of the Seanad returning officer, may be present at the issue of ballot papers.
- One ballot paper for each elector in Divisions 1, 2, 3 & 4 3. At a Seanad general election, in respect of voters registered in Divisions, 1, 2, 3 and 4 of the electoral register the Seanad returning officer shall issue to each elector one ballot paper pertaining to the constituency or sub-panel for which the elector has opted to cast his or her vote.
- At a general election  
Ballot papers for each elector in Division 5 4. (a) At a Seanad general election the Seanad returning officer shall issue to each elector registered in Division 5 of the electoral register, a ballot paper pertaining to each of the Oireachtas sub-panels of each Vocational constituency.
- (b) At a Seanad bye-election the Seanad returning officer shall issue to each of the current members of –  
(a) Dáil Éireann, and  
(b) Seanad Éireann,  
whose names are included in Division 5 of the electoral register, one ballot paper pertaining to the constituency or sub-panel to which the Seanad bye-election relates.

Method of issuing ballot

papers

5. When issuing a ballot paper to each of the electors referred to in paragraphs 3 and 4, the Seanad returning officer shall ensure that -
- (a) a mark is placed on the electoral register opposite the elector's name thereon to indicate that a ballot paper pertaining to the constituency or sub-panel for which the elector has opted to cast his or her vote has been issued to such elector;
  - (b) each ballot paper is marked on both sides with the official mark;
  - (c) there shall be placed in an envelope (hereinafter referred to as the outer envelope) in the prescribed form addressed to the elector at his or her address stated in the electoral register, the following documents, that is to say—
    - (i) one ballot paper pertaining to the constituency or sub-panel for which the elector has opted to cast his or her vote,
    - (ii) a form of declaration of identity,
    - (iii) a smaller envelope (hereinafter referred to as the ballot paper envelope) in the prescribed form, and
    - (iv) an envelope (hereinafter referred to as the covering envelope) in the prescribed form addressed to the Seanad returning officer;
  - (d) the outer envelope shall be effectually closed;
  - (e) when the foregoing provisions of this paragraph have been complied with in respect of all the electors whose names are on Divisions 1, 2, 3 and 4 of the electoral register, all the said closed outer envelopes shall be posted.

Issue of duplicate ballot papers.

6. Every request for the issue of duplicate ballot papers shall, when received by the Seanad returning officer, be endorsed by him or her with the day and hour of the receipt thereof by him or her and with a consecutive number, and any duplicate ballot paper issued in pursuance of any such request shall be issued in accordance with the provisions of the foregoing paragraphs so far as the same are applicable and when such ballot papers have been issued the said request shall

be disposed of in like manner as the marked copy of the electoral register is required by this Schedule to be disposed of.

- Posting of ballot papers. 7. The Seanad returning officer shall post the said closed outer envelopes by delivering them to the nearest head post office, or such other office as may be arranged with the head postmaster, and the postmaster at such office shall stamp with the date stamp of An Post a form of receipt to be presented by the Seanad returning officer and shall immediately forward such envelopes by ordinary post for delivery to the persons to whom they are addressed.
- Preservation of electoral register and counterfoils. 8. The Seanad returning officer, as soon as practicable after the completion of the issue of the ballot papers and in the presence of such candidates and agents as are in attendance, shall make up in separate packets, sealed with his or her own seal and sealed by such of the said candidates or agents as desire to affix their seals, the electoral register and the counterfoils of the ballot papers.
- Procedure in connection with marking of ballot papers. 9. (a) The procedure set out in paragraph (b) shall be followed in connection with the marking of ballot papers.
- (b) The elector in the presence of a person known to him or her shall do the following things in the following order—
- (i) he or she shall produce the following documents sent to him or her under this Schedule—
    - (I) the outer envelope,
    - (II) the unmarked ballot paper,
    - (III) the form of declaration of identity,
    - (IV) the covering envelope,
    - (V) the ballot paper envelope,
  - (ii) the elector shall make and complete the said form of declaration of identity,
  - (iii) the elector shall hand the declaration of identity together with the outer envelope produced to the person known to him or her who, if he or she is satisfied that the person who made

the declaration of identity is the person to whom the outer envelope is addressed, shall sign the declaration of identity, return it to the elector, and then destroy the outer envelope,

- (iv) the elector shall mark the ballot paper,
- (v) the elector shall place the ballot paper, whether marked or unmarked, in the ballot paper envelope,
- (vi) the elector shall place the ballot paper envelope and the declaration of identity in the covering envelope and shall effectually close the covering envelope,
- (vii) the elector shall seal the covering envelope, and
- (viii) the elector shall then send the covering envelope or cause it to be sent by ordinary post to the Seanad returning officer.

Disposal of covering envelopes on receipt.

10. The Seanad returning officer shall forthwith place unopened in the Seanad ballot box every covering envelope received by him or her before the close of the poll and shall seal up unopened in a separate package all covering envelopes received by him or her after the close of the poll and shall also seal up unopened in a separate package all outer envelopes returned to him or her as undelivered.

Notice of counting of votes.

11. Not less than three days before the close of the poll, the Seanad returning officer shall send by post to every candidate at his or her address as stated in the panels of candidates notice in writing of the time and place at which he or she will open the Seanad ballot box and count the votes.

Opening of Seanad ballot box.

12. As soon as conveniently may be after the close of the poll, the Seanad returning officer shall open the Seanad ballot box and count the votes.

Persons present at counting of votes.

13. The Seanad returning officer and any representatives of the Seanad Electoral Commission, any candidate and any agent appointed by a candidate, and no other person,



except with the permission of the Seanad returning officer, may be present at the opening of the Seanad ballot box or the counting of the votes.

Procedure on opening of Seanad ballot box.

14. When the Seanad ballot box has been opened the Seanad returning officer shall do the following things—
  - (a) take all the covering envelopes out of the Seanad ballot box and count and note the number thereof;
  - (b) examine separately each such covering envelope and mark with the word “rejected” any such covering envelope—
    - (i) which is open, or
    - (ii) which in his or her opinion has been opened after it was first closed, or has been attempted to be opened after it was closed or has otherwise been tampered with;
  - (c) open each such covering envelope not marked as aforesaid and segregate any of those envelopes containing a declaration of identity marked “duplicate”;
  - (d) take up separately each of the said covering envelopes not so segregated and examine the declaration of identity therein;
  - (e) if the said declaration of identity is found to be duly completed and made, he or she shall place the declaration of identity and the ballot paper envelope in separate receptacles;
  - (f) where a declaration of identity does not appear to accompany the ballot paper envelope, he or she shall open the ballot paper envelope, and if it is found to contain the declaration of identity, he or she shall deal with such declaration and ballot paper envelope in accordance with the foregoing provisions of this paragraph;
  - (g) he shall mark with the word ‘rejected’ every declaration of identity which is not accompanied by a ballot paper and every ballot paper which is not accompanied by a declaration of identity;
  - (h) when all the said covering envelopes not so segregated have been dealt with under the

foregoing provisions of this paragraph, he or she shall take up separately each of the said covering envelopes segregated as containing, a declaration of identity marked '*duplicate*', examine the declaration of identity therein and ascertain whether a declaration of identity in respect of the same person has or has not been previously examined under this paragraph;

- (i) if a declaration of identity in respect of the same person has been previously examined under this paragraph, he or she shall mark the declaration marked '*duplicate*' with the words '*vote rejected*' and shall attach thereto the ballot paper envelope, without opening such envelope, or, if there is no such envelope, the ballot papers or paper;
- (j) if a declaration of identity in respect of the same person has not been previously examined under this paragraph, he or she shall deal with the declaration marked '*duplicate*' and the ballot paper envelope and ballot papers or paper accompanying the same in accordance with the foregoing provisions of this paragraph other than the two last preceding paragraphs thereof.

Ballot papers or declaration not in proper envelope.

15. Where ballot papers and a declaration of identity are received together, such ballot papers shall not be rejected solely on the ground that such ballot papers are not in the ballot paper envelope, such declaration is in the ballot paper envelope or the ballot paper envelope is not closed.

Rejection of covering envelope.

16. The Seanad returning officer shall show any covering envelope which he or she proposes to reject to the candidates and agents (if any) present, and if an objection is made by any such candidate or agent to his or her decision shall add to the endorsement the words "*rejection objected to*".

Separation of rejected covering envelopes.

17. The Seanad returning officer shall keep all rejected covering envelopes separate from all other documents.

Rejection of declarations of identity.

18. The Seanad returning officer shall show any declaration of identity which he or she proposes to reject on the ground that it has not been properly completed and made to the candidates and, agents (if any) present, and if an objection is made by any such candidate or agent to his or her decision shall add to the endorsement the words "*rejection objected to*".

- Separation of rejected declarations. 19. The Seanad returning officer shall keep all rejected declarations, with the attached envelopes or ballot papers as the case may be, separate from other documents.
- Opening of ballot paper envelopes. 20. When all the covering envelopes (other than covering envelopes rejected) in the Seanad ballot box have been opened and their contents dealt with under the preceding paragraphs, the Seanad returning officer shall open each unopened ballot paper envelope.
- Preservation of covering envelopes, declarations, ballot papers, etc. 21. As soon as the Seanad returning officer has completed the placing of the ballot papers in the special receptacles, he or she shall seal up in separate packets (1) any rejected covering envelopes; (2) the declarations of identity which accompanied any ballot papers duly accepted; (3) any rejected declarations of identity; and (4) any rejected ballot papers; in the two latter cases with the envelopes (if any) attached thereto.
- Counting the ballot papers. 22. When the Seanad returning officer has complied with the foregoing paragraphs of this Schedule, he or she shall, in respect of each constituency sub-panel, count, in accordance with the Rules contained in Schedule 2, the votes recorded on ballot papers relating to such sub-panel.
- Rejection of invalid ballot papers. 23. The Seanad returning officer shall endorse "rejected" on any ballot paper which he or she rejects as invalid and if an objection be made by any candidate or agent to his or her decision rejecting the ballot paper, he or she shall add to the said endorsement "rejection objected to".
- Continuity of proceedings. 24. The Seanad returning officer shall, so far as practicable, proceed continuously with the proceedings under these Rules subsequent to the opening of the special post office receptacles and with the counting of the votes but may at any time suspend such proceedings or counting for refreshment, night-time or other reason appearing to him or her to be sufficient for such period as he or she thinks proper, and whenever he or she does so suspend such proceedings or such counting, he or she shall take all proper precautions for the security of the ballot papers, envelopes, votes, and other documents relating to the election.
- Declaration of secrecy. 25. The Seanad returning officer and each of his or her assistants taking part in any of the proceedings under these Rules or the counting of the votes and every candidate and agent attending any of the said

proceedings or the said counting shall, before so taking part or so attending, sign an undertaking in the prescribed form to preserve the secrecy of the voting.

- |   |     |  |
|---|-----|--|
| Certificate of result of the poll.                  | 26. | As soon as the counting of the votes is completed, the Seanad returning officer shall prepare in duplicate in respect of each constituency and sub-panel a certificate in the prescribed form setting out the names of the candidates elected from such constituency or sub-panel, the total number of votes given for each candidate (whether elected or not), every transfer of values made under this Act, and the total value credited to each candidate at the end of the count at which each such transfer took place, and such other matters as may be prescribed, and the Seanad returning officer shall then sign the said duplicate certificate and shall send one such duplicate to the Clerk of Dáil Éireann and shall retain the other. |
| Publication of result of election.                  | 27. | The Seanad returning officer shall also prepare and publish in the <i>Iris Oifigiúil</i> a statement in the prescribed form of the names of the candidates elected from each constituency and sub-panel.   |
| Preservation of ballot papers                       | 28. | Upon the completion of the counting of the votes, the Seanad returning officer shall seal up in separate packets the counted ballot papers and the ballot papers rejected as invalid.  |
| Retention of documents by Seanad returning officer. | 29. | The Seanad returning officer shall retain for six months from the close of the poll the several sealed packets of the marked copy of the electoral register, the counterfoils of the ballot papers, the outer envelopes returned as undelivered, the accepted declarations of identity, the rejected ballot papers, the counted ballot papers, and the invalid ballot papers, and shall at the end of the said period of six months destroy all the said sealed packets unless an election tribunal has otherwise ordered.   |
| Inspection of sealed packets.                       | 30. | No person shall be allowed to inspect any of the said sealed packets retained by the Seanad returning officer nor any of the contents thereof save under and in accordance with an order of an election tribunal.  |
| Authority for inspection of sealed packets.         | 31. | An election tribunal may authorise the inspection by any person of the contents of any of the said sealed packets as justice may require, but on any such inspection care shall be taken that the mode in which any particular elector has voted shall not be discovered.  |
| Compliance with orders of election tribunal.        | 32. | The Seanad returning officer shall comply with every order   |

made by an election tribunal in relation to the inspection, production, and disposal of the said sealed packets.

Conclusiveness of production by Seanad returning officer.

33. Where an order is made by an election tribunal for the production by the Seanad returning officer of any document or packet of documents in his or her possession under these Rules and relating to a specified election, the production by the Seanad returning officer of such document or packet of documents in pursuance of such order shall be conclusive evidence that such document or packet of documents relates to the said specified election and the endorsement made by the Seanad returning officer in pursuance of these Rules on any such document or packet of documents shall be conclusive evidence that such document or packet is what it is stated in such endorsement to be.

Endorsement of packets by Seanad returning officer.

34. Whenever the Seanad returning officer is required by these Rules to seal up any documents in a separate packet, he or she shall endorse on such packet a statement of the number and character of such documents and the election to which they relate.

Election tribunal.

35. In these Rules, the expression "*election tribunal*" means a court lawfully having cognisance of petitions complaining of undue return or undue election at the relevant election.

## SCHEDULE 2

### Rules for Counting of Votes

#### Part 1

#### Rules for Counting of Votes in Oireachtas Sub-Panel and at a Seanad bye-election.

Application of schedule to each constituency.

1. The rules in this Part apply in respect of the counting of votes in –  
(a) respect of an Oireachtas sub-panel, and  
(b) a Seanad bye-election,  
and shall be construed accordingly in each such context.

Rejection of invalid ballot papers.

2. The Seanad returning officer shall reject any ballot papers that are invalid.

- Oireachtas sub-panel - the order of preferences.
3. (a) Distinguishing between each constituency, and where appropriate distinguishing between each sub-panel within the said constituencies, the Seanad returning officer shall ascertain the number of first preferences recorded on the ballot papers for each candidate, and shall then arrange the candidates on a list (hereinafter called "*the order of preferences*") in the order of the number of first preferences recorded for each candidate, beginning with the candidate for whom the greatest number of first preferences is recorded.
- (b) If the number of first preferences recorded for any two or more candidates (hereinafter called "*equal candidates*") is equal, the Seanad returning officer shall ascertain the number of second preferences recorded on all the ballot papers for each of the equal candidates, and shall arrange the equal candidates as amongst themselves on the order of preferences in the order of the second preferences recorded for each such candidate, beginning with the candidate for whom the greatest number of second preferences is recorded. If the number of first and second preferences recorded for any two or more equal candidates is equal, the Seanad returning officer shall, in like manner, ascertain the number of third preferences recorded on all the ballot papers for each of such last-mentioned equal candidates, and arrange such candidates on the order of preferences accordingly, and so on until all the candidates are arranged in order on the order of preferences. If the number of first, second, third, and all other preferences recorded for any two or more equal candidates is equal the Seanad returning officer shall determine by lot the order in which such candidates are to be arranged on the order of preferences.
- Arrangement of ballot papers in parcels.
4. The Seanad returning officer shall then arrange the valid ballot papers in parcels, according to the first preferences recorded for each candidate.
- Value of each ballot paper for Oireachtas sub-panel.
5. In counting votes cast for the election of candidates –  
 (a) to an Oireachtas sub-panel, or  
 (b) at a Seanad bye-election,  
 each valid ballot paper shall be deemed to be of the value of one thousand.
- Crediting values of first preferences.
6. The Seanad returning officer shall then count the number of ballot papers in each parcel, and where appropriate, in accordance with the preceding paragraph credit each candidate with the value of the valid ballot papers on which a first preference has been recorded for such candidate.

- Ascertainment of quota. 7. Distinguishing between each constituency, and where appropriate distinguishing between each sub-panel within the said constituencies, the Seanad returning officer shall then add together the values in all the parcels and divide the full total value by a number exceeding by one the number of vacancies to be filled. The result increased by one, any fractional remainder being disregarded, shall be the value sufficient to secure the return of a candidate. This value is in this Part of this Schedule called the "quota".
- Candidates with quota deemed elected. 8. If, at the end of any count or at the end of the transfer of any parcel or sub-parcel of an excluded candidate or of a candidate deemed not to be a continuing candidate, the value credited to a candidate is equal to or greater than the quota, that candidate shall, subject to the provisions of the subsequent paragraphs, be deemed to be elected.
- Transfer of surplus. 9. (1) If at the end of any count the value credited to a candidate (in this paragraph referred to as the elected candidate) is greater than the quota, the surplus shall be transferred to the continuing candidate or candidates indicated on the voting papers in the parcel or sub-parcel of the elected candidate according to the next available preferences recorded thereon, and the following provisions shall apply to the making of such transfer:
- (a) if the value credited to the elected candidate arises out of original votes only, the Seanad returning officer shall examine all the ballot papers in the parcel of the elected candidate and shall arrange the transferable papers therein in sub-parcels according to the next available preferences recorded thereon and shall make a separate sub-parcel of the non-transferable papers;
  - (b) if the value credited to the elected candidate arises partly out of original and partly out of transferred votes or out of transferred votes only, the Seanad returning officer shall examine the ballot papers contained in the sub-parcel last received by the elected candidate and shall arrange the transferable papers therein in further sub-parcels according to the next available preferences recorded thereon and shall make a separate sub-parcel of the non-transferable papers;

- (c) in either of the cases referred to in the foregoing subparagraphs (a) and (b) the Seanad returning officer shall ascertain the number of ballot papers and their total value in each sub-parcel of transferable papers and in the sub-parcel of non-transferable papers;
- (d) if the total value of the papers in all the sub-parcels of transferable papers is equal to or less than the said surplus, the Seanad returning officer shall transfer each sub-parcel of transferable papers to the continuing candidate indicated thereon as the voter's next available preference, each paper being transferred at the value at which it was received by the elected candidate, and (where the said total value is less than the said surplus) the non-transferable papers shall be set aside as not effective, at a value which is equal to the difference between the said surplus and the said total value;
- (e) if the total value of the papers in all the sub-parcels of transferable papers is greater than the said surplus, the Seanad returning officer shall transfer each paper in such sub-parcel of transferable papers to the continuing candidate indicated thereon as the voter's next available preference, and the value at which each paper shall be transferred shall be ascertained by dividing the surplus by the total number of transferable papers, fractional remainders being disregarded except that the consequential loss of value shall be noted on the result sheet;
- (f) a surplus which arises on the completion of any count shall be dealt with before a surplus which arises at a subsequent count;
- (g) when two or more surpluses arise out of the same count, the largest shall be first dealt with and the others shall be dealt with in the order of their magnitude,
- (h) if two or more candidates have an equal surplus arising out of the same count, the surplus of the candidate credited with the



greatest value at the earliest count at which the values credited to those candidates were unequal shall be first dealt with, and where the values credited to such candidates were equal at all counts, the Seanad returning officer shall deal first with the surplus of the candidate who is highest in the order of preferences.

- (2) If two or more candidates are each credited with a value of votes equal to or greater than the quota, the candidate credited with the greatest value of votes shall be deemed to have been elected before a candidate credited with a lesser value of votes.
- (3) Whenever the number of candidates on a sub-panel who have been deemed to be elected is equal to the maximum number of candidates that could at that time be elected in respect of such sub-panel, no further candidate shall be deemed to be elected in respect of that sub-panel and any count in progress at the time having been completed, such one of the remaining candidates on that sub-panel as is credited with the greatest value of votes shall be deemed not to be a continuing candidate and, before any other transfer is made, the value of his or her votes shall be transferred in the same manner as in the case of a transfer on the exclusion of a candidate. If the values of the votes credited to two or more such candidates are equal, the candidate first to be deemed not to be a continuing candidate shall be the candidate credited with the greatest value of votes at the earliest count, beginning with the first, at which the values of votes credited to such candidates were unequal, and if the values of votes were equal at all counts, the candidate highest in the order of preferences.
- (4) If the values of votes credited to two or more candidates on a sub-panel are equal and all such candidates may not by reason of paragraph (3) of this paragraph be deemed to be elected, the first of such candidates to be deemed to be elected shall be the candidate credited with the greatest value of votes at the earliest count, beginning with the first, at which the values of votes credited to such candidates were unequal. If the values of votes are equal at all counts, the candidate highest in order of preferences shall be deemed to be

credited with the greatest value of votes.

- Exclusion of candidates. 10. (1) If at the end of any count no candidate has a surplus and one or more vacancies remain unfilled, the Seanad returning officer shall exclude the candidate (in this paragraph referred to as the excluded candidate) then credited with the lowest value and shall transfer his or her papers to the continuing candidates respectively indicated on the ballot papers in the parcel or sub-parcels of the excluded candidate as the voter's next available preference, and shall credit such continuing candidates with the value of the papers so transferred, and the following provisions shall apply to the making of such transfer:
- (a) the parcel containing original votes shall first be transferred, the transfer value of each paper being one thousand;
  - (b) the sub-parcels containing transferred votes shall then be transferred in the order in which and at the value of which the excluded candidate obtained them;
  - (c) for the purpose of determining whether a candidate is a continuing candidate the transfer of each parcel or sub-parcel shall be regarded as a separate count;
  - (d) in the transfer of each parcel or sub-parcel, a separate sub-parcel shall be made of the non-transferable papers which shall be set aside at the value at which the excluded candidate obtained them;
  - (e) if, when a candidate has to be excluded under this paragraph, two or more candidates are each then credited with the same value and are lowest regard shall be had to the total value of original votes credited to each of those candidates and the candidate with the smallest such total value shall be excluded, and where such total values are equal regard shall be had to the total value of votes credited to each of those candidates at the earliest count at which they had unequal values, and the candidates with the smallest such total value at that count shall be excluded, and if those

candidates were each credited with the same total value of votes at all counts that one of those candidates who is lowest in the order of preferences shall be excluded.

- (2) A candidate on a sub-panel shall not be excluded under this paragraph if the number of candidates deemed to be elected to the sub-panel plus the number of continuing candidates thereon, if such candidate were excluded, would be less than the minimum number required to be elected from the sub-panel.
- (3) If the value of votes credited to two or more candidates is equal, the candidate first to be excluded shall be the candidate credited with the smallest value of votes at the earliest count, beginning with the first, at which the values of votes were unequal, and if the values of votes were equal at all counts, the candidate lowest in the order of preferences shall be first excluded.

Disposal of papers on transfer.

11. On every transfer made under this Schedule, each sub-paragraph of papers transferred shall be placed together with the paragraph or sub-paragraph (if any) of papers of the candidate to whom the transfer is made and that candidate shall be credited with the value ascertained in accordance with this Schedule of the papers so transferred to him or her.

Filling the last vacancies.

12.
  - (1) If at the end of any count the number of candidates deemed to be elected is equal to the number of vacancies to be filled, no further transfer shall be made.
  - (2) When at the end of any count the number of continuing candidates is equal to the number of vacancies remaining unfilled, the continuing candidates shall thereupon be deemed to be elected.
  - (3) When only one vacancy remains unfilled and the value credited to some one continuing candidate exceeds the total of the values credited to the other continuing candidates together with any surplus not transferred, that candidate shall thereupon be deemed to be elected.
  - (4) When the last vacancies can be filled under this paragraph, no further transfer shall be made.

- Result sheet.
13. At the end of every count the Seanad returning officer shall record on a result sheet in the prescribed form the total of the values credited to each candidate at the end of that count and also the value of the non-transferable papers not effective on that count and the loss of value on that count owing to disregard of fractions.

**Part 2**  
**Rules for Counting of Votes in Nominating Bodies Sub-Panel and Institutions of Higher Education Constituency.**

- Application of schedule to each constituency.
14. The rules in this Part apply to the counting of votes in respect of –  
(a) a nominating bodies sub-panel, and  
(b) Institutions of higher education constituency, and shall be construed accordingly in each such context.
- Rejection of invalid ballot papers.
15. The Seanad returning officer shall reject any ballot papers that are invalid.
- Frist count.
16. (1) Having rejected any ballot papers that are invalid, the Seanad returning officer shall arrange them in parcels according to the first preferences recorded for each candidate.  
  
(2) The Seanad returning officer shall then count the number of papers in each parcel and credit each candidate with a number of votes equal to the number of valid papers on which a first preference has been recorded for such candidate and he shall ascertain the number of all valid papers.
- The quota.
17. (1) The Seanad returning officer shall then divide the number of all valid papers by a number exceeding by one the number of vacancies to be filled; the result increased by one, any fractional remainder being disregarded, shall be the number of votes sufficient to secure the election of a candidate and this number is referred to in this Part of this Schedule as "the quota".  
  
(2) Where at the end of any count the number of votes credited to a candidate is equal to or greater than the quota, that candidate shall be deemed to be elected.
- Transfer of surplus.
18. (1) Where at the end of any count the number of votes credited to a candidate is greater than the quota, the surplus shall be transferred in accordance with and subject to the provisions of this paragraph to the continuing

candidate or candidates indicated on the ballot papers in the parcel or sub-parcel of the candidate deemed to be elected according to the next available preferences recorded thereon.

(2) Where the votes credited to a candidate deemed to be elected whose surplus is to be transferred consist of original votes only, the Seanad returning officer shall examine all the papers in the parcel of that candidate and shall arrange the transferable papers in sub-parcels according to the next available preferences recorded thereon.

(3) Where the votes credited to a candidate deemed to be elected whose surplus is to be transferred consist of original and transferred votes, or of transferred votes only, the Seanad returning officer shall examine the papers contained in the sub-parcel last received by that candidate and shall arrange the transferable papers therein in further sub-parcels according to the next available preferences recorded thereon.

(4) In either of the cases referred to in paragraph (2) and (3) of this paragraph the Seanad returning officer shall make a separate sub-parcel of the non-transferable papers and shall ascertain the number of papers in each sub-parcel of transferable papers and in the sub-parcel of non-transferable papers.

(5) Where—

(a) the surplus is equal to the total number of papers in the sub-parcels of transferable papers, the Seanad returning officer shall transfer each sub-parcel of transferable papers to the continuing candidate indicated thereon as the voters' next available preference,

(b) the surplus is greater than the total number of papers in the sub-parcels of transferable papers, the Seanad returning officer shall proceed as specified in paragraph (a) and shall in addition make a sub-parcel of a number of non-transferable papers equal to the difference between such total number and the surplus and set the papers therein aside as finally dealt with, such papers being described as non-transferable papers not effective,

and the non-transferable papers or the remaining non-transferable papers, as the case may be, also arranged as a sub-parcel shall be placed with the papers of the

candidate deemed to be elected.

(6) Where the surplus is less than the total number of transferable papers the following provisions shall apply:

(a) the Seanad returning officer shall transfer from each sub-parcel of transferable papers to the continuing candidate indicated thereon as the voters' next available preference that number of papers which bears the same proportion to the number of papers in the sub-parcel as the surplus bears to the total number of transferable papers,

(b) the number of papers to be transferred from each sub-parcel shall be ascertained by multiplying the number of papers in the sub-parcel by the surplus and dividing the result by the total number of transferable papers,

(c) a note shall be made of the fractions (which may be expressed in decimal form), if any, in each quotient ascertained in respect of each candidate in accordance with paragraph (b) of this paragraph and if, owing to the existence of such fractions, the number of papers to be transferred is less than the surplus, so many of these fractions taken in the order of their magnitude (beginning with the largest) as are necessary to make the total number of papers to be transferred equal to the surplus shall be reckoned as of the value of unity and the remaining fractions shall be disregarded,

(d) where two or more fractions are of equal magnitude, and it is not possible for the purposes of subparagraph (c) to reckon all of the said fractions as of the value of unity, that fraction shall be deemed to be the largest which arises from the largest sub-parcel, and if such sub-parcels are equal in size, that fraction shall be deemed to be the largest which relates to the candidate credited with the largest number of original votes. Where the numbers of such original votes are equal, regard shall be had to the total number of votes credited to such candidates at the first count at which they were credited with an unequal number of votes, and the fraction relating to the candidate credited with the greatest number of votes at that count shall be deemed to be the largest. Where the numbers of votes credited to such candidates were equal at all counts the Seanad returning officer shall determine by lot which fraction shall be deemed to be the largest.

(7) The papers to be transferred from each sub-parcel shall

be those last filed in the sub-parcel, and each paper so transferred shall be marked to indicate the number of the count at which the transfer took place.

(8) The Seanad returning officer need not necessarily transfer the surplus of a candidate deemed to be elected whenever that surplus, together with any other surplus not transferred, is less than both the difference between the quota and the number of votes credited to the highest continuing candidate and the difference between the numbers of the votes credited to the two lowest continuing candidates and either—

(a) the number of votes credited to the lowest candidate is greater than one quarter of the quota, or

(b) the sum of the number of votes credited to the lowest candidate together with that surplus and any other surplus not transferred is not greater than one quarter of the quota.

(9) Where at any time there are two or more surpluses which are to be transferred, the greater or greatest of such surpluses shall first be transferred and the remaining surplus or surpluses shall then, subject to subparagraph (8), be transferred in the order of their descending magnitude.

(10) Where two or more candidates have each an equal surplus arising from the same count regard shall be had to the number of original votes credited to each candidate and the surplus of the candidate credited with the largest number of original votes shall be first dealt with. Where the numbers of such original votes are equal regard shall be had to the total number of votes credited to such candidates at the first count at which they had an unequal number of votes and the surplus of the candidate with the greatest number of votes at that count shall be first dealt with. Where the numbers of votes credited to such candidates were equal at all counts the Seanad returning officer shall determine by lot which surplus he will first deal with.

(11) Subject to subparagraphs (8) and (9), where two or more candidates have a surplus arising from different counts, a surplus which arises at the end of any count shall be transferred before a surplus which arises at a subsequent count.

Exclusion of candidate.

19. (1) If at any time no candidate has a surplus (or when an existing surplus is not transferred) and one or more vacancies remain unfilled, the Seanad returning officer

shall—

(a) exclude the candidate credited with the lowest number of votes and examine all the papers of that candidate;

(b) arrange the transferable papers in sub-parcels according to the next available preferences recorded thereon for continuing candidates and transfer each sub-parcel to the candidate for whom the preference is recorded;

(c) make a separate sub-parcel of the non-transferable papers and set them aside as finally dealt with, such papers being described as non-transferable papers not effective.

(2) Where the total of the votes of the two or more lowest candidates together with any surplus not transferred is less than the number of votes credited to the next highest candidate, the Seanad returning officer shall in one operation exclude such two or more lowest candidates provided that—

(a) the number of votes credited to the second lowest candidate is greater than one quarter of the quota, or

(b) where the number of votes credited to any one of such two or more lowest candidates does not exceed one quarter of the quota, it is clear that the exclusion of the candidates separately in accordance with subparagraph (1) and the transfer of any untransferred surplus could not result in a number of votes exceeding one quarter of the quota being credited to any such candidate.

(3) If, when a candidate has to be excluded under this paragraph, two or more candidates have each the same number of votes and are lowest, regard shall be had to the number of original votes credited to each of those candidates, and the candidate with the lowest number of original votes shall be excluded and where the numbers of the original votes are equal, regard shall be had to the total numbers of votes credited to those candidates at the first count at which they had an unequal number of votes and the candidate with the lowest number of votes at that count shall be excluded and, where the numbers of votes credited to those candidates were equal at all counts, the Seanad returning officer shall determine by lot which shall be excluded.

Transfer of votes.



20. (1) Where a transfer of votes is made under paragraphs 18 of 19 of this Schedule, each sub-parcel of papers transferred shall be placed together with the parcel, if any, of papers of the candidate to whom the transfer is made, and that candidate shall be credited with a number of votes equal to the number of papers transferred to him or her.
- (2) If after any transfer a candidate has a surplus, that surplus shall be dealt with in accordance with and subject to the provisions of paragraph 18 of this Schedule before any other candidate is excluded.

Filling of last vacancies.

21. (1) When the number of continuing candidates is equal to the number of vacancies remaining unfilled, the continuing candidates shall thereupon be deemed to be elected.
- (2) When only one vacancy remains unfilled, and the votes of some one continuing candidate exceed the total of all the votes of the other continuing candidates together with any surplus not transferred, that candidate shall thereupon be deemed to be elected.
- (3) When the last vacancies can be filled under this paragraph no further transfer of votes shall be made unless any of the continuing candidates has not been credited with a number of votes exceeding one quarter of the quota and it is necessary to make such transfer in order to establish whether such a number of votes could be credited to him or her.

### **Part 3 Miscellaneous**

Recount.

22. (1) Any candidate or his or her agent may, at the conclusion of any count, request the Seanad returning officer to re-examine and recount all or any of the ballot papers dealt with during that count.
- (2) Having received a request under subparagraph (1), the Seanad returning officer may decline to accede to a request for a recount in circumstances where he or she reasonably believes that a recount would not materially alter the result.
- (3) Having received a request under subparagraph (1), where the Seanad returning officer accedes to a request for a recount he or she shall re-examine and recount accordingly the ballot papers indicated.

- (4) The Seanad returning officer may at his or her discretion recount ballot papers either once or more often in any case in which he or she is not satisfied as to the accuracy of any count.
- (5) Nothing in this paragraph shall make it obligatory on the Seanad returning officer to recount the same parcel of ballot papers more than once.

Definitions.

23. In this Schedule—

- (1) the expression "*continuing candidate*" means any candidate not deemed to be elected and not excluded;
- (2) the expression "*transferable paper*" means a ballot paper on which, following a first preference, a second or subsequent preference is recorded in numerical order for a continuing candidate:
- (3) the expression "*non-transferable paper*" means a ballot paper—
  - (a) on which no second or subsequent preference is recorded for a continuing candidate; or
  - (b) on which the names of two or more candidates (whether continuing or not) are marked with the same number, and are next in order of preference; or
  - (c) on which the name of the candidate next in order of preference (whether continuing or not) is marked by a number not following consecutively after some other number on the voting paper or by two or more numbers; or
  - (d) which is void for uncertainty;
- (4) the expression "*original vote*" in regard to any candidate means a vote derived from a ballot paper on which a first preference is recorded for that candidate:
- (5) the expression "*transferred vote*" in regard to any candidate means a vote derived from a ballot paper on which a second or subsequent preference is recorded for that candidate;

- (6) the expression "*surplus*" means the number by which the total value of the votes, original and transferred, credited to any candidate exceeds the quota;
- (7) the expression "*count*" means (as the context may require) either—
- (a) all the operations involved in the counting of the first preferences recorded for candidates; or
  - (b) all the operations involved in the transfer of the surplus of an elected candidate; or
  - (c) all the operations involved in the transfer of the votes of an excluded candidate; or
  - (d) the transfer in pursuance of this Schedule of the papers of a candidate deemed not to be a continuing candidate;
- (8) the expression "*deemed to be elected*" means deemed to be elected for the purpose of counting, but without prejudice to the declaration of the result of the election;
- (9) the expression "*determine by lot*" means determine in accordance with the following directions, that is to say—

the names of the candidates concerned having been written on similar slips of paper, and the slips having been folded so as to prevent identification and mixed and drawn at random, the candidates concerned shall as amongst themselves be arranged on the order of preferences in the order in which the slips containing their names are drawn, beginning with the candidate whose name is on the slip drawn first.

## **Schedule 3**

### **Registration of Electors**

#### **Part 1 - The Electoral Register**

Specified dates and periods.

1. (1) The qualifying date for a register shall be the 1<sup>st</sup> day of September in the year preceding the year in which the register comes into force.
- (2) Each register shall come into force on the fourteenth day after its publication.
- (3) The 15<sup>th</sup> day of February in the year in which a register comes into force shall be the date by reference to which a person's age shall be taken for the purposes of sections 48(1) and 50(5).
- (4) The date on or by reference to which any act or thing is required by this Schedule to be performed or done shall be the date specified for that purpose in the Table to this paragraph.

TABLE

Specified Dates

<b>Purpose</b>	<b>Relevant Paragraph</b>	<b>Date</b>
Qualifying date	Para. 1	1 <sup>st</sup> September in the year preceding the year in which the register comes into force.
Publication of draft register	Para. 5	1 <sup>st</sup> November.
Last date for making claims	Para. 5	25 <sup>th</sup> November.
Publication of list of claims	Para. 5	30 <sup>th</sup> November.
Completion of return by county registrar of endorsed list of claims	Para. 10	23 <sup>rd</sup> December.
Publication of register	Para. 11	1 <sup>st</sup> February.
Coming into force of register	Para. 1	Fourteenth day after publication of the register.

- (5) Where the date on or by reference to which any act or thing is required by this Schedule to be performed or done falls on an excluded day that act or thing shall be done on or by reference to the next following day which is not an excluded day.
- Form and contents of register.      2.      (1) The register shall be divided into five distinct Divisions in accordance with section 50 and shall be in such form as may be directed by the Seanad Electoral Commission.
- (2) The register shall contain the names of all persons who are entitled to be registered as electors on the qualifying date for the register.
- (3) The names in the register for a registration area shall be arranged under administrative counties, and alphabetically in townland order unless the Seanad Electoral Commission consider that, having regard to the general character of any part of the area, arrangement in street order or in any other order is possible and convenient.
- Preparation of draft register.      3.      (1) For the purpose of preparing the register, the Seanad Electoral Commission may cause house to house or other sufficient inquiry to be conducted in the State.
- (2) For the purpose of discharging its functions under the preceding paragraph, the Seanad Electoral Commission may seek the assistance of local authorities.
- (3) The Seanad Electoral Commission shall include in any registration form delivered to each house or building for the purposes of this paragraph, or in their other enquiries, a question which will enable an elector who completes the form on his or her own behalf or on behalf of other electors resident in the house or building or responds to the question by a representative of the registration or other authority to state that the elector or other person included on the form to whom the enquiry relates does not wish his or her name and address to be used for a purpose other than an electoral or other statutory purpose.
- (4) The Seanad Electoral Commission may for the purposes of their duties in relation to the preparation of a register require a person—

- (a) to give any information in his or her possession which the Seanad Electoral Commission may require;
  - (b) to produce a certificate of birth, or, if that is not practicable or convenient, to make a statutory declaration as to his or her age;
  - (c) to provide documentary evidence or to make a statutory declaration that he or she is a person entitled to be registered as a Seanad elector under sections 49 and 50;
  - (d) to produce a certificate of naturalisation or to make a statutory declaration confirming his or her entitlement to vote in a Seanad general election.
- (5) The Seanad Electoral Commission shall, during office hours, allow any person to inspect and take a copy of any declaration furnished under paragraph (4).
- (6) The Seanad Electoral Commission may require the superintendent registrar of births and deaths to furnish lists or other information in connection with deaths of persons in the district of the superintendent registrar. Where the superintendent registrar is an individual, payment for such lists or information shall be made by the Seanad electoral Commission at a rate approved from time to time by the Minister and in any other case no payment shall be made.
- (7) From the information obtained under this paragraph the Seanad Electoral Commission shall prepare and publish on the internet a draft register on or before the specified date in each year.
- Persons to whom draft register is to be sent. 4. (1) The Seanad Electoral Commission shall, as soon as may be after the publication of the draft register, make the register available on the internet.
- (2) The Seanad Electoral Commission shall publish on the internet the form(s) to be used for the making of claims for corrections in the draft register.
- Claims for corrections in draft register. 5. (1) Any person may claim to have a correction made in a draft register, including in particular a claim to

have the name of a person added to or deleted from the draft.

- (2) A claim under this paragraph shall be sent to the Seanad Electoral Commission on or before the specified date.
- (3) The Seanad Electoral Commission shall prepare and publish on or before the specified date a list of claims in such form as may be directed by the Minister.
- (4) The Seanad Electoral Commission shall, not later than the date specified for the publication of the list of claims, send copies of the said list to the county registrar together with the original claims.
- (5) The Seanad Electoral Commission or the county registrar, as may be appropriate, shall allow any person during office hours to inspect and take extracts from a claim or may supply copies of a claim.

Consideration of claims  
by the county registrar.

6. (1) The county registrar shall consider all claims of which notice has been given to him or her in accordance with paragraph 5 and all objections to corrections referred to him or her under paragraph 9.
- (2) Before considering a claim for the deletion of a person's name from the draft register the county registrar shall, except where he or she is satisfied that the person is dead, give not less than five clear days notice to the claimant (if he or she is not the Seanad Electoral Commission or a person whose duty it is to make the house to house or other inquiry on which the draft register is based) and to the person in respect of whom the claim is made of the time and place at which the claim will be considered by him or her.
- (3) If the county registrar is satisfied that a claim, other than a claim for the deletion of a person's name from the draft register, should not be allowed without inquiry he or she shall give not less than five clear days notice to the claimant (if he or she is not the Seanad electoral Commission or a person whose duty it is to make the house to house or other inquiry on which the draft register is based) and to any other person appearing to him or her to be interested of the time and place at which the claim

will be considered by him or her.

- (4) The county registrar may require any officer of the Seanad Electoral Commission and any person whose duty it is to make the house to house or other inquiry on which the draft register is based to attend at such times and at such places as he or she may consider necessary for the purpose of enabling him or her to decide any claim or other matter arising out of his or her consideration of the draft register.
- (5) The county registrar may, on consideration of any claim or other matter, require that the evidence tendered by any person should be given on oath and may administer an oath for that purpose.
- (6) On the consideration of any claim or other matter by the county registrar, any person interested may appear and be heard either in person or by any other person on his or her behalf.

Inquiries and claims by  
county registrar.

7. (1) The county registrar may require any person to give any information in his or her possession which the county registrar may require for the purposes of his or her duties under this Schedule.
- (2) The county registrar, if it appears to him or her that the draft register should be corrected in any respect, may himself or herself make a claim for the correction, and any such claim may be made notwithstanding the fact that the time for sending a claim under paragraph 5 may have expired.
- (3) Any such claim need not be published but otherwise shall be considered in the same manner and on the same conditions as a claim under paragraph 5.

Correction of draft  
register.

8. The Seanad Electoral Commission shall, not later than ten days before the date specified for the completion of the return by the county registrar of the endorsed list of claims, make any corrections by way of the removal of duplicate entries (subject to any expression of choice by the persons affected by those entries), the deletion of the names of persons who are dead, or the placing of marks or the correction of marks placed against the name of an elector, or otherwise as may be necessary in order to secure that—
  - (a) save for persons whose name appears in Division 5 of the electoral register, a person is not registered



more than once as an elector, and

(b) the draft register is complete and accurate.

Objections to corrections.

9. Where the Seanad Electoral Commission propose to make any correction in the draft register under paragraph 8 otherwise than for the purpose of correcting an inaccuracy not involving a change of substance or deleting the name of a person who is dead, they shall give notice to any persons affected by the correction of their right of objection to the correction, and, if necessary, of being heard by the county registrar with respect thereto.

Return of corrected list of claims.

10. (1) Immediately on completing his or her decisions on claims and on any objections under paragraph 9, relating to the part of the list of claims for a local electoral area or such smaller area as may be found convenient, the county registrar shall send to the Seanad Electoral Commission a certified copy of that part of the list endorsed to show the effect of his or her decisions.

(2) The county registrar shall send all the parts of the list of claims making up the complete list of claims for the registration area, endorsed as aforesaid, to the Seanad Electoral Commission not later than the specified date.

(3) The Seanad Electoral Commission shall, on receiving part of the list of claims from the county registrar, forthwith make any corrections in the draft register necessary to give effect to his or her decisions and shall send notice of the decision on each claim to the claimant (other than the county registrar or a claimant who is a person whose duty it is to make the house to house or other inquiry on which the register is based) and to any other person appearing to them to be interested, together with an intimation of the right of appeal against the decision to the Circuit Court under section 59 of this Act.

Publication of register.

11. (1) The draft register corrected in accordance with paragraphs 8 and 10 shall form the register.

(2) The Seanad Electoral Commission shall publish the register on the specified date in each year.

(3) The Seanad Electoral Commission shall publish the register by making a copy of it available on the internet.

- Inspection and fees for copies of registers.
12. (1) The Seanad Electoral Commission and the county registrar shall allow any person during office hours to inspect for purposes connected with the registration of electors, a copy of the register or of the draft register.
- (2) The fee for a copy of the register, edited register or draft register or any part thereof shall be prescribed by the Minister.
- (3) The Seanad Electoral Commission shall, on payment of the said fee, supply to any person a copy of the register, edited register or draft register or the appropriate part thereof in printed form or in electronic format.
- (4) No fee shall be charged by the Seanad Electoral Commission for supplying on request one copy of the register to each candidate duly nominated at a Seanad general election or one copy of Division 5 of the register in respect of Seanad bye-election.

## **PART 2 - Edited version of the Electoral Register**

- Publication of edited version of register
13. (1) Following publication of the electoral register in accordance with Part 1 of this Schedule, the Seanad Electoral Commission shall prepare and publish a version of the register by omitting therefrom the names and addresses of registered electors or electors on whose behalf requests have been made that their details should not be used for a purpose other than an electoral or other statutory purpose.
- (2) Where an elector whose details are included in an edited register or edited supplement or edited electors list requests the Seanad Electoral Commission to delete the elector's details from the edited register, edited supplement or edited electors list, the Seanad Electoral Commission shall note the request and notify any person who received a copy of the edited register, edited supplement or edited electors list of the request.
- Copies of edited version of register
14. The Seanad Electoral Commission may supply on request to any person a copy of the edited register or edited supplement or of an edited electors list or part of such a register or list in printed form or in electronic format on

payment of a fee which fee shall be calculated in accordance with paragraph 12.

### **PART 3 - Supplement to the Electoral Register**

- Supplemental register 15. (1) Subject to paragraphs (2) and (3), an application to be entered on the supplement to the electoral register shall be made by the applicant directly to the Seanad Electoral Commission and the declaration on the application shall –
- (a) before the application is submitted to the registration authority, be signed by the applicant in the presence of a member of the Garda Síochána from the applicant's local Garda station who, on being satisfied of the applicant's identity, including if necessary, by the production of photographic identification and any other identification that may be requested by that member, shall sign, date and stamp the application form, or
  - (b) where the applicant establishes in writing that he or she is unable to comply with subparagraph (a), be signed by the applicant in the presence of an official of the registration authority who, on being satisfied of the applicant's identity, including if necessary, by the production of photographic identification and any other identification that may be requested by that officer, shall sign, date and stamp the application form.
- (2) Where the applicant is unable, due to a physical illness or physical disability, to comply with paragraph (1), the application shall be accompanied by a certificate in the form directed by the Seanad Electoral Commission from a medical practitioner certifying –
- (a) the nature and extent of the applicant's physical illness or physical disability, and
  - (b) an indication of the expected duration of that illness or disability.
- (3) The following provisions shall apply in relation to an

application to be entered in the supplement to the electoral register by an elector who is detained in prison pursuant to an order of a court:

- (a) the application shall be in the form directed by the Seanad Electoral Commission;
- (b) the application shall be signed by the applicant or, if the applicant is unable to write, he or she shall place his or her mark on the application form and, in either case, the form shall be completed in accordance with the instructions provided thereon;
- (c) the application form, duly completed and accompanied by the certificate referred to in paragraph (4), shall be conveyed to the prison governor who shall send it or cause it to be sent by post to the Seanad Electoral Commission.

(4) The certificate referred to in subparagraph (c) of paragraph (3) is a certificate, in the form directed by the Seanad Electoral Commission, under the hand of the relevant official of the prison concerned stating that he or she is satisfied as to the identity of the applicant.

(5) Nothing in this paragraph limits the powers that are given to the Seanad Electoral Commission in relation to the consideration of an application to be entered on the supplement to the electoral register.

Consideration by Seanad Electoral Commission of applications to be entered in the supplement to the register.

16. (1) On receipt of an application to be entered in the supplement to the electoral register under section 50, the Seanad Electoral Commission shall make such inquiries as they think fit for the purpose of considering such application.

(2) The Seanad Electoral Commission shall, as soon as practicable, consider and rule on the application and shall notify the applicant of the ruling and, where the application is refused, of his or her right to appeal against the ruling to the county registrar.

Appeal against ruling of registration authority.

17. In case the application for entry in the supplement to the register is refused, an appeal, in writing, may be made to the county registrar against the ruling of the Seanad

Electoral Commission.

Ruling on appeal by county registrar.

18. (1) The county registrar shall consider and rule on an appeal made to him or her under paragraph 17 and shall notify the Seanad Electoral Commission of the ruling and the Seanad Electoral Commission shall send notice in writing of the ruling to the applicant and shall take such steps as may be necessary to give effect to the ruling.
- (2) Before ruling on an appeal made to him or her under paragraph 17 the county registrar may make such further inquiry as he or she may consider necessary and may require any person to give any information in his or her possession which the county registrar considers necessary for the purpose of his or her duties under this paragraph.

Preparation and publication of supplement to the register.

19. (1) As soon as may be after the fourteenth day (disregarding any excluded day) before polling day at an Seanad general election or Seanad bye-election, the Seanad Electoral Commission shall prepare and publish a list of the names of persons (if any) whose applications to be entered in the supplement to the register were received before said fourteenth day (disregarding any excluded day) before polling day and allowed by the registration authority, or on appeal by the county registrar.
- (2) The list prepared under paragraph (1) shall form the supplement to the register.
- (3) The supplement to the register shall be in such form as may be directed by the Minister.

**PART 4 - Revision of the Register**

Revision of the register.

20. The Seanad Electoral Commission shall, at intervals of not less than 5 years, revise the register so as to remove the names of –
- (a) electors who are have not voted in two or more successive Seanad General Elections,
  - (b) electors whom the Seanad Electoral Commission believe have moved address and no alternative address has been provided in respect of such persons,
  - (c) electors whom the Seanad Electoral Commission believe to be deceased,

(d) electors whom the Seanad Electoral Commission believe to be ineligible for inclusion in the electoral register.

### **Part 5 - General**

- |   |     |  |
|---|-----|--|
| Absence, incapacity or vacancy in office of county registrar. | 21. | If the office of county registrar is vacant or the county registrar is prevented by illness or other reasonable cause from carrying out his or her functions under this Schedule the said functions shall be performed during the period of the prevention by a person appointed by the county registrar with the approval of the Minister or, if no such appointment is made, or in the event of a vacancy in the office, by a person designated for the purpose by the Minister. |
| Publication of documents.                                     | 22. | Where any document is required by this Schedule to be published the document may be published in such manner as the authority responsible for publishing consider desirable for the purpose of bringing the contents of the document to the notice of persons interested.  |
| Method of sending notices etc.                                | 23. | Any copy of a claim, objection, notice or other document which is required under this Schedule to be sent to any person shall be sufficiently sent if sent by post to the address of that person as appearing on the draft register or register, or if there is no such address, to his or her last known address or place of abode.   |

## **SCHEDULE 4**

### **Seanad Electoral Commission**

#### **PART 1 – FINANCIAL ASPECTS OF THE COMMISSION**

- |           |       |  |
|-----------|-------|--|
| Accounts. | 1.(1) | The Seanad Electoral Commission shall keep all proper and usual accounts and records of—<br>(a) all moneys received or expended by it and the sources of such income and the subject matter of such expenditure, and<br>(b) all property, assets and liabilities of the Seanad Electoral Commission. |
|           | (2)   | Accounts kept in accordance with subparagraph (1) shall be audited at least once in each year by an auditor appointed for that purpose by the Minister for Public  |

Expenditure and Reform and the auditor's fees and the expenses generally of the audit shall be paid by the Seanad Electoral Commission as soon as practicable after the audit.

(3) As soon as practicable after each audit the Seanad Electoral Commission shall provide a copy of the accounts and the auditor's certificate and report thereon to the Minister for Public Expenditure and Reform and shall cause copies of same to be printed, published and offered for sale, and immediately after publication a copy of the accounts and the auditor's certificate and report thereon shall be laid before each House of the Oireachtas.

Advances.

2. The Minister for Public Expenditure and Reform may, with the consent of the Minister, advance to the Seanad Electoral Commission out of moneys provided by the Oireachtas, such sums as the Minister for Public Expenditure and Reform may determine for the purpose of expenditure by the Seanad Electoral Commission in the performance of its functions.

Expenses.

3.(1) All expenses incurred by the Seanad Electoral Commission shall be defrayed by the Commission out of funds at its disposal.

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

Fees.

4.(1) The Seanad Electoral Commission may charge, receive and recover such fees as the Minister may from time to time prescribe, subject to the consent of the Minister, in relation to the performance by the Seanad Electoral Commission of its functions, the provision by it of services (other than a service consisting of the provision of advice to the Minister or another Minister of the Government) and the carrying on by it of activities.

(2) Without prejudice to the generality of subparagraph (1), the Seanad Electoral Commission may charge fees in respect of all or any of the following -

- (a) the assessment of the eligibility of prospective candidates seeking nomination;
- (b) registration of candidates for a Seanad election;
- (c) any other service which the Seanad Electoral Commission may, from time to time, provide.

(3) The Seanad Electoral Commission may recover as a simple contract debt in any court of competent jurisdiction, from any person by whom it is payable, any amount due and owing to it under this paragraph.

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

Interpretation.	5. In this Part of the Schedule, except where the context otherwise requires, "member" means a member of the Seanad Electoral Commission, including the chairperson.
Seal.	6. (1) The Seanad Electoral Commission shall, as soon as practicable after its establishment, provide itself with and retain in its possession a seal. (2) The seal of the Seanad Electoral Commission shall be authenticated by the signature of the chairperson of the Seanad Electoral Commission or other member of the Commission authorised by the Commission to act in that behalf. (3) Judicial notice shall be taken of the seal of the Seanad Electoral Commission.
First meeting of Commission.	7. (1) The Minister shall fix the date, time and place of the first meeting of the Seanad Electoral Commission. (2) The Seanad Electoral Commission shall hold at least 3 meetings in each year and such and so many other meetings and at such times as the Chairperson may determine.
Quorum.	8. The quorum for a meeting of the Seanad Electoral Commission shall be 3.
Notice of meeting.	9. (1) At least 3 days before a meeting of the Seanad Electoral Commission notice of the time and place of the meeting shall be sent to each member of the Commission signed— (a) by the Director or Chairperson, or (b) if the meeting is convened by members, by those members. (2) If the meeting is convened by members, the notice convening the meeting shall specify the business to be transacted at that meeting.
Chairing of meetings.	10. At a meeting of the Seanad Electoral Commission the Chairperson shall, if present, be the chairperson of the meeting, or if and so long as the Chairperson is not



present, the members who are present shall choose one of their number to preside at that meeting.

Minutes.

11. (1) Minutes of the proceedings of all meetings of the Seanad Electoral Commission shall be drawn up and entered in a book kept for that purpose and such minutes shall be signed by the chairperson of the next subsequent meeting.

(2). The names of all members present at a meeting of the Seanad Electoral Commission shall be recorded in the minutes of the proceedings of the meeting.

Determination of issues.

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

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

Vacancies.

13. Subject to *paragraph 8*, the Seanad Electoral Commission may act notwithstanding one or more than one vacancy among its members or any deficiency in the appointment of a member which may subsequently be discovered.

Standing orders.

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

## **SCHEDULE 5**

### **Limits on electoral Expenditure and Reimbursement of Expenses**

#### **PART 1 – LIMITS ON ELECTORAL EXPENDITURE**

Expenses and payments at election.

1.(1) (a) In this Act "election expenses" means all expenses falling within subparagraph (b) incurred in the provision of property, goods or services for use at an election during the period referred to subparagraph (3) in order –

(i) to promote or oppose, directly or indirectly, the interests of a political party or a political group whose member or members are contesting a Seanad election, or to present the policies or a particular policy of a political party or a political group or the comments of a political party or a political group on the policy or policies of another political party or political group or of a candidate at a Seanad election; or

(ii) to promote or oppose, directly or indirectly, the election of a candidate at a Seanad election or to solicit votes for or against a candidate or to present the policies or a particular policy of a candidate or the views of a candidate on any matter connected with the election or the comments of a candidate on the policy or policies of a political party or a political group or of another candidate at a Seanad election; or

(iii) otherwise to influence the outcome of a Seanad election.

(b) The expenses mentioned in the foregoing definition of "election expenses" shall be only those, as follows -

(i) *Advertising (whatever the medium used).*  
Expenses in respect of such advertising include agency fees, design costs and other costs incurred in connection with preparing, producing, distributing or otherwise disseminating such advertising.

(ii) *Publicity.*  
Expenses in respect of that matter include expenses incurred in respect of party political broadcasts, the provision of any services or facilities in connection with press conferences or other dealings with the media, media advice and training and photography.

(iii) *Election posters.*  
Expenses in respect of such material include the costs of the design, production, printing, erection and removal of election posters.

(iv) *Other election material.*  
Expenses in respect of such material include the design, production, printing and disseminating of such material (other than posters) including canvass cards, election leaflets, election manifestos, newsletters and any other promotional election material.

(v) *Office and stationery.*  
Expenses in respect of those matters include costs incurred

in the rental or use of an office premises or meeting rooms for election purposes (other than for the purposes of annual or other party conferences) and the costs of heating, electricity, insurance, purchase or rental of office equipment, telephones, stationery and postage.

(vi) *Transport and travel* .

Expenses in respect of those matters include expenses incurred on transport and travel (by any means), petrol and diesel, rental or use of campaign vehicles, rental or use of vehicles for transport of voters on polling day, accommodation costs, taxi and hackney services and courier services.

(vii) *Market Research*.

Expenses in respect of that matter include expenses incurred in the taking of an opinion poll or other similar survey relating to an election within the period of 60 days before polling day at the election by or on behalf of a political party, a political group or a candidate at the election.

(viii) *Campaign workers*.

Expenses in respect of that matter include payments to campaign workers, insurance and other costs.

(c) For the avoidance of doubt, nothing in subparagraph (b) extends to -

(i) expenses incurred in the provision of property, goods or services used at an election where such property, goods or services was or were provided in respect of a previous Seanad, Dáil, Presidential, European or local election and the cost of providing such property, goods or services was included in the statement of election expenses furnished to the Standards in Public Office Commission or to a local authority in relation to the said previous election by the candidate,

(ii) the payment by or on behalf of a candidate of a deposit under this Act,

(iii) expenditure on the purchase of copies of the register of electors or parts thereof,

(iv) the reasonable living expenses (including accommodation) of a candidate or any person or persons working on behalf of the candidate on a voluntary basis, or

(v) any sum disbursed by any individual out of the individual's own resources for any minor expenses (not exceeding €100 in any one payment) lawfully incurred in relation to the election if the said sum is not repaid to the person.

(2) Where property, goods or services are provided to a candidate at a Seanad election without payment or other consideration therefor or at a price which is less than the commercial price, the provision of the property, goods or services shall be deemed to be an election expense and the property, goods or services shall be deemed to have been provided at the commercial price and shall be accounted for accordingly by the candidate.

(3) The following shall be reckoned for the purposes of this Schedule and shall be included in the statement to be furnished to the Standards in Public Office Commission –

(a) all election expenses incurred by or on behalf of a candidate at any time during the period commencing –  
(i) in the case of a Seanad general election, on the date of the dissolution of the Dáil which occasioned the election,  
(ii) in the case of a Seanad bye-election, on the date of the making of a bye-election order under section 72,

and ending on polling day at the election;

(b) all election expenses incurred by or on behalf of a candidate at any time before the commencement of the relevant period referred to in subparagraph (a) for the provision of property, goods or services for use at the election during the period referred to in subparagraph (a);

(c) all payments made in respect of the election expenses referred to in paragraphs (a) and (b).

(4) Where any election expenses (within the meaning of this Schedule) are incurred at an election by a body which -

(a) was established by or on behalf of a political party or a candidate for the purposes of incurring election expenses or making payments in respect of such expenses or for any of the purposes referred to in subparagraph (1)(a), or

(b) is a member of or is a branch or subsidiary organisation, or

(c) is effectively controlled by a political party or by a candidate or is or appears to be so connected with or associated with a political party or candidate that a reasonable person would believe that it is controlled or substantially influenced by that political party or candidate,

such expenses shall be deemed to have been incurred on behalf of the candidate concerned and shall be accounted for accordingly by the relevant agent and the provisions of this Schedule shall apply in relation thereto.

(5) Before incurring any expenses at a Seanad election a person shall furnish to the Standards in Public Office Commission in writing—

- (a) the name, address and description of the person proposing to incur the expenses,
- (b) a statement of the nature, purpose and estimated amount of such expenses, and
- (c) an indication of the person's connection, if any, with any party or candidate at the Seanad election.

(6) Every payment of election expenses made pursuant to this Schedule shall, where the said payment exceeds €125, be supported by a voucher stating the particulars of the transaction to which it relates.

(7) The owner of an internet website or publisher of a newspaper, magazine or other periodical publication which is accessible or available in the State shall not publish any advertisement or notice in relation to a Seanad election purporting to promote or oppose, directly or indirectly, the interests of a political party or a candidate at that election at the request of any person other than the candidate at the election or a person authorised in writing by such candidate, unless the person produces to the said publisher a certificate from the Standards Public Office Commission that that person has complied with the provisions of subparagraph (5) in relation to that election.

(8) This Schedule shall not be construed to prevent or restrict the lawful publication of any matter in relation to an election in a newspaper or other publication or the broadcast of such matter by radio or television or the lawful expression of opinion on any matter of public interest by any person.

Limitation of election expenses at Seanad election.

2. (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 the sum which has been prescribed by the Minister in respect of that Constituency.

(2) In prescribing expenditure levels for the purpose of subparagraph (1), the Minister shall have regard to –

- (i) the scale of the electorate for each constituency and each sub-panel within that constituency,
- (ii) the options available for candidates to potentially secure exposure to the electorate, and
- (iii) the current level of expenditure limits applicable at a Dáil election.

(3) In making the regulations referred to in subparagraph (3), the Minister may prescribe different expenditure limits for –

- (i) Seanad general elections and Seanad bye-elections,

- (ii) different constituencies, and
- (iii) different sub-panels within constituencies.

(4) Regulations made under subparagraph (1) may be revised from time to time by the Minister.

Period for making claims relating to election expenses.

3. Notwithstanding anything contained in any other enactment, every claim in respect of election expenses against a Seanad election candidate which is not delivered to the agent or person concerned on or before the forty fifth day after the polling day at the election, shall not be paid and shall not be enforceable against the said person.

Dispute claims relating to election expenses.

4. If the candidate at a Seanad election disputes any claim delivered to him or her within the period allowed for delivery of such claims under paragraph 3, the person by whom the claim is made may apply to a court of competent jurisdiction for an order for payment of the claim and the court may, on being satisfied that the claim should be paid, make an order for payment and specify the amount which is payable.

Statement in relation to election expenses.

5. (1) (a) The candidate at a Seanad election and every person who incurs election expenses shall, within the fifty six days next following the polling day at an election, furnish to the Standards in Public Office Commission a statement in writing of all election expenses (whether paid or not) incurred by or on behalf of the candidate in relation to the Seanad election and the several matters to which such expenses relate, together with all relevant vouchers.

(b) Each statement furnished under this paragraph shall include particulars of all disputed claims, if any, and all claims, if any, received after the day referred to in paragraph 3.

(2) (a) Each statement of election expenses furnished under subparagraph (1) shall be in the form directed by the Standards in Public Office Commission and shall be accompanied by a statutory declaration made by the candidate that, to the best of his or her the knowledge and belief, the statement is correct in every material respect and that he or she has taken all reasonable action in order to be satisfied as to the accuracy of the statement.

(b) Where the Standards in Public Office Commission requests additional or supplemental information in relation to a statement of election expenses under this paragraph, such information shall be provided by the candidate and shall be in a form, directed by the Standards in Public Office Commission, accompanied, if the Standards in Public Office Commission so requests, by a statutory declaration made by the candidate that, to the best of his or her knowledge and belief, the information is correct in every material respect and that he or she has taken all reasonable action in order to be satisfied as to the accuracy of the information.

(3) Where, after the statement of election expenses is furnished under subparagraph (1), an order for payment of a

claim is made by a court under paragraph 4 the candidate shall, not later than 7 days after the date of the order of the court, furnish to the Standards in Public Office Commission a copy of the said order together with a statement of the sum payable under the order.

(4) It shall be the duty of every person who is required by this paragraph to furnish a statement of election expenses and make a declaration to make such enquiries and maintain such records as are necessary for the purpose of furnishing the statement and making the declaration.

(5) Where a candidate standing nominated at a Seanad election dies before a statement of election expenses has been furnished to the Public Office Commission in respect of that candidate, the personal representative of the said candidate shall, notwithstanding the death of the candidate, furnish a statement of the election expenses of the candidate in accordance with this paragraph.

Publication of statement of election expenses.

6. (1) Subject to subparagraph (2), as soon as may be after the receipt of a statement of election expenses and a statutory declaration furnished pursuant to paragraph 5, the Standards in Public Office Commission shall cause a copy of the said statement and declaration together with a copy of any relevant court orders to be laid before each House of the Oireachtas.

(2) Where an error or omission in a statement of election expenses is corrected or made good, the Standards in Public Office Commission shall cause a copy of the said statement as so corrected to be laid before each House of the Oireachtas.

Laying of copy of statement of election expenses before each House of Oireachtas.

7. (1) In any legal proceedings arising from the provisions of this Part, where in the case of—

(a) a candidate at a Seanad election fails to furnish to the Standards in Public Office Commission a statement of election expenses or any part of such statement or a statutory declaration which he or she was required to furnish or there is an error, omission or false or misleading statement therein, or

(b) a person referred to in subparagraph (5) of paragraph 1, the person fails to furnish to the Public Office Commission a statement of election expenses or any part of such statement or a statutory declaration which the person was required to furnish under paragraph 5 or there is an error, omission or false or misleading statement therein,

the provisions of this paragraph shall apply.

(2) In the circumstances to which this paragraph applies, where it is shown to the court that the failure, error, omission or false or misleading statement arose—

- (a) due to the illness of a party to the proceedings,
- (b) where a party to the proceedings is a person referred to in subparagraph (5) of paragraph 1, due to the death, illness, absence or misconduct of any employee of such person, or
- (c) due to inadvertence or other reasonable cause not involving negligence on the part of such party to the proceedings, or the contravention, knowingly, by such party of the provisions of this Part,

and was not due to any lack of bona fides on the part of such party to the proceedings and where the proceedings are based wholly or partly on the grounds of misconduct on the part of any person, such misconduct was without the approval or knowledge of such party to the proceedings and such party took all reasonable action to prevent such misconduct, the court may, on application to it by such party, on being satisfied that it is appropriate so to do, make such order granting relief for the failure, error, omission or false or misleading statement the subject of the proceedings as it considers reasonable.

(3) Without prejudice to the generality of subparagraph (2), where it is proved to the court by a candidate that the candidate took all reasonable action to prevent an omission from the statement of election expenses.

(4) An order under subparagraph (2)—

(a) shall relieve the candidate or person, as the case may be, the subject of the proceedings from any liability or consequences under this Act,

(b) may make the granting of the relief conditional on the furnishing of a statement of election expenses in a modified form or within an extended period of time and subject to compliance with such other conditions as seem proper to the court in order to give effect to the provisions of this Schedule.

Excess expenditure.

8. Without prejudice to the operation of section 97, where the aggregate of election expenses incurred or deemed to have been incurred by or on behalf of a candidate at a Seanad election exceeds the amount prescribed in regulations made under paragraph 2 the Minister for Finance shall, on the recommendation of the Standards in Public Office Commission, deduct an amount equal to such excess from any amount which may be payable as a reimbursement of election expenses under paragraph 9.



## Part 2 - Reimbursement of election expenses

Reimbursement of election expenses.

9. (a) Subject to subparagraphs (b), (c) and (d), election expenses shall be reimbursed to a candidate at a Seanad general election or Seanad bye-election who—

- (i) is elected at the election; or
- (ii) is not so elected but the greatest number of votes credited to him or her at any stage of the counting of votes at the election exceeds, in the case of a Seanad general election, one quarter of the quota, or, in the case of a Seanad bye-election, one quarter of what would have been the quota in that constituency were the full number of members of the Seanad for the existing constituency to be elected.

(b) (i) The amount of election expenses which may be reimbursed to a candidate under this paragraph shall be the actual expenses incurred by the candidate or five thousand Euro, whichever is the less.

(ii) Election expenses deemed to have been incurred by a candidate of a political party under this Schedule shall be reckoned for the purposes of this paragraph.

(iii) The monetary amount referenced in subparagraph (i) may be varied by regulations made the Minister at his or her sole discretion.

(c) Subject to subparagraph (d), payments in respect of the reimbursement of election expenses under this paragraph shall be made by the Minister for Finance shall be made by the Minister for Finance, with the approval of the Minister for Public Expenditure and Reform, out of the Central Fund or the growing produce thereof to each candidate referred to in subparagraph (a) who applies therefor to the Standards in Public Office Commission in a form directed by the Standards in Public Office Commission.

(d) No payment in respect of the reimbursement of election expenses of a candidate shall be made under this paragraph unless and until the Standards in Public Office Commission has—

(i) certified to the Minister for Finance that the relevant statement of election expenses and statutory declaration have been furnished by the election agent of the candidate to the Standards in Public Office Commission under paragraph 5,

(ii) certified to the said Minister that the said statement was completed in accordance with relevant guidelines issued by the Standards in Public Office Commission,

(iii) furnished to the Minister for Finance details of the amount of the actual expenses incurred by the candidate.

(e) The Standards in Public Office Commission shall furnish to the Minister for Finance, as soon as may be after consideration by it of an application for reimbursement of election expenses under subparagraph (c) and the statement of election expenses furnished to it in respect of the candidate under paragraph 5, the details referred to in paragraph (d) in respect of each candidate who is eligible for reimbursement of election expenses at an election.

(f) (i) Where a candidate referred to in subparagraph (a) dies after the close of the poll at a Seanad election and has not made an application for the reimbursement of election expenses under this paragraph, an application for the reimbursement of the said candidate's election expenses may be made by, and where appropriate, the payment may be made to, the personal representative of the candidate.

(ii) Where a candidate referred to in subparagraph (a) dies after making an application for the reimbursement of election expenses under this paragraph and before payment is made to the candidate, payment in respect of the reimbursement of the said candidate's expenses may be made to the personal representative of the candidate.

(g) Every payment made to a candidate, or the personal representative of a candidate, as the case may be, under this paragraph shall not be liable to income tax.