

# SAORSTÁT EIREANN.

**BILLE POBAL-BHREITHE (DREACTH-BHUNREACTH),**  
1937.

**PLEBISCITE (DRAFT CONSTITUTION) BILL, 1937.**

*Mar do ritheadh ag Dáil Eireann.*

*As passed by Dáil Eireann.*

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# SAORSTÁT EIREANN.

BILLE POBAL-BHREITHE (DREACHT-BHUNREACHT),  
1937.

PLEBISCITE (DRAFT CONSTITUTION) BILL, 1937.

## BILL

5

*entitled*

AN ACT TO PROVIDE FOR THE TAKING OF A PLEBISCITE  
ON A DRAFT CONSTITUTION APPROVED OF BY DAIL  
EIREANN (WHETHER BEFORE OR AFTER THE PAS-  
SING OF THIS ACT) BEFORE THE DISSOLUTION OF 10  
THE OIREACHTAS WHICH SHALL OCCUR NEXT  
AFTER THE PASSING OF THIS ACT.

BE IT ENACTED BY THE OIREACHTAS OF SAORSTAT  
EIREANN AS FOLLOWS:—

### Definitions.

1.—In this Act—

15

the expression “ the Minister ” means the Minister for Local  
Government and Public Health;

the expression “ the general election ” means the general election  
of members of Dáil Eireann consequent on the dissolution of the  
Oireachtas which shall occur next after the passing of this Act; 20

the expression “ the Draft Constitution ” means a Draft Con-  
stitution approved of by Dáil Eireann (whether before or after the  
passing of this Act) before the general election;

the expression “ the plebiscite ” means the plebiscite required by  
this Act to be held in relation to the Draft Constitution. 25

### Obligation to submit the Draft Constitution to a plebiscite.

2.—(1) The Draft Constitution shall be submitted to a plebiscite  
of the people in accordance with this Act.

(2) The plebiscite shall be taken throughout Saorstát Eireann on  
the day which is the polling day at the general election.

(3) The votes at the plebiscite shall be given by secret ballot. 30

### The plebiscite returning officer.

3.—(1) For the purpose of the plebiscite there shall be a  
plebiscite returning officer who shall be appointed by the Minister  
not later than the last day for receiving nominations at the general  
election.

(2) The plebiscite returning officer shall perform such duties as 35  
are imposed on him by or under this Act.



4.—(1) For the purpose of taking the plebiscite, Saorstát Eireann shall be deemed to be divided into the same constituencies as those into which it is divided for the purpose of the general election. Persons entitled to vote at the plebiscite.

5 (2) Every person who is entitled to vote at the general election (and no other persons) shall be entitled to vote at the plebiscite.

(3) Every person voting at the plebiscite shall record his vote in the constituency in which he is entitled to vote at the general election.

10 (4) Where, by reason of the number of candidates nominated in a constituency not exceeding the number of vacancies to be filled, no poll is taken in such constituency at the general election, every person who would have been entitled to vote in such constituency at the general election if a poll had been taken  
15 therein shall be entitled to vote in such constituency at the taking of the plebiscite.

(5) No person shall be entitled to vote more than once at the plebiscite.

20 5.—(1) In every constituency in which a poll is taken at the general election, the plebiscite shall be taken at the same time, in the same places, by the same persons, and in the same manner as such poll is taken. Method of taking the plebiscite.

25 (2) In every constituency in which no poll is taken at the general election owing to the number of candidates nominated not exceeding the number of vacancies to be filled, the plebiscite shall be taken at the time, in the places, by the persons, and in the manner in which such poll (if one had been taken) would have been required by law to be taken.

30 (3) Subject to the provisions of this Act, the law relating to the taking of a poll at a general election of members of Dáil Eireann shall apply, with the necessary modifications, to the taking of the plebiscite as if the plebiscite were a poll at such general election.

35 (4) If any doubt, question, or dispute shall arise or, in the opinion of the Minister, be likely to arise in relation to the modifications in the law relating to the taking of the poll at a general election of members of Dáil Eireann which are necessary to enable that law to apply, in pursuance of the next preceding sub-section of this section, to the taking of the plebiscite, such  
40 doubt, question, or dispute shall be decided by the Minister or the Minister may, if he so thinks proper, make by order any modification of the said law which appears to him to be necessary to enable such law to apply as aforesaid.

45 6.—(1) The ballot papers at the plebiscite shall be in the form set out in the Schedule to this Act. Ballot papers at the plebiscite.

(2) The same official mark shall be used for the ballot papers at the plebiscite as is used for the ballot papers at the general election.

50 (3) The following provisions shall apply and have effect in every constituency in which a poll is taken at the general election, that is to say:—

(a) the ballot paper for the plebiscite shall be handed to each voter or, in the case of voters on the postal voters list, sent to each voter at the same time as the ballot paper for the general election is handed or sent to him;



(b) every returning officer may, if he so thinks proper, provide separate ballot boxes for the ballot papers for the plebiscite and for the ballot papers for the general election;

(c) where separate ballot boxes are not provided under the next 5 preceding paragraph of this sub-section, the ballot papers for the plebiscite and the ballot papers for the general election shall be put into the same ballot boxes.

Voting at the plebiscite.

7.—(1) Every voter at the plebiscite shall record his vote by marking his ballot paper in accordance with the instructions for 10 marking which are printed on the ballot paper.

(2) Any ballot paper at the plebiscite which does not bear the official mark, or on which the mark "X" is not placed at all or is not so placed as to indicate either that the voter approves, or that he does not approve, of the Draft Constitution, or on which the mark "X" is placed in the square opposite the word "Yes" and is also placed in the square opposite the word "No", or on which anything by which the voter can be identified (except the number required by law to be printed on the back of the ballot paper) is written or marked shall be invalid 20 and shall not be counted.

Prevention of electoral abuses at the plebiscite.

8.—(1) The plebiscite shall be an election within the meaning and for the purposes of the Prevention of Electoral Abuses Act, 1923 (No. 38 of 1923), and the word "election" wherever it is used without qualification in that Act shall be construed as including the plebiscite and the said Act shall apply and have effect in relation to the plebiscite accordingly. 25

(2) In addition and without prejudice to the provisions of the next preceding sub-section of this section, every statutory provision relating to bribery, personation, or corrupt practices at elections of members of Dáil Eireann or to election petitions in respect of such elections which is in force at the passing of this Act shall apply and have effect in relation to the plebiscite, and for that purpose every reference in any such statutory provision to an election of members of Dáil Eireann shall be construed as referring to the plebiscite. 30 35

(3) For the purpose of calculating the time within which anything is required by law to be done in relation to a petition questioning the return to the plebiscite, the date on which the said return is published in the *Iris Oifigiúil* by the plebiscite returning officer in pursuance of this Act shall be substituted for the date on which the return to the writ for the election of members of Dáil Eireann is made by a returning officer to the Clerk of Dáil Eireann. 40

(4) It shall not be obligatory on a Court hearing a petition questioning the return to the plebiscite to cause a re-count to be made of the votes given or otherwise to investigate the voting or the counting of votes at the plebiscite in any constituency in respect of which the Court is satisfied that the voting in that constituency is not in issue on such petition. 45 50

(5) The agent of a candidate at the general election shall, so far as is not inconsistent with this Act, have the like privileges in relation to the plebiscite as he has in relation to the general election.

(6) Every personation agent appointed under section 22 of the Prevention of Electoral Abuses Act, 1923 (No. 38 of 1923), for the purposes of the general election shall be deemed also to 55



have been appointed as such personation agent for the purposes of the plebiscite and shall accordingly have, in relation to the plebiscite, the like powers and duties as he has in relation to the general election.

- 5     9.—(1) The votes given at the plebiscite in any constituency in which a poll is taken at the general election shall be counted in the same place and, so far as may be practicable, at the same time and in the same manner as the votes given in that constituency at the general election are counted, and every person  
10 who is entitled to be present at the counting of the said votes given at the general election shall be entitled to be present at the counting of the said votes given at the plebiscite.

Counting of the votes given at the plebiscite.

- (2) In every constituency in which no poll is taken at the general election owing to the number of candidates nominated  
15 not exceeding the number of vacancies to be filled, the returning officer for such constituency shall cause the votes given at the plebiscite in such constituency to be counted in the place, at the time and, as nearly as may be practicable, in the same manner as the votes given at the general election in such constituency  
20 (if a poll had been taken therein) would have been required by law to be counted, save that the persons entitled to be present at such counting of the said votes shall (subject to any instructions issued by the Minister under this Act) be determined by the returning officer in his absolute discretion.

- 25     (3) When the returning officer for any constituency has completed the counting of the votes given at the plebiscite in such constituency he shall take the like steps and do the like things in relation to the taking of the plebiscite in such constituency as he is required by law to do in relation to the taking of a poll,  
30 save that, immediately upon the completion of the counting of the said votes, he shall transmit by post to the plebiscite returning officer in an envelope marked "Local Return to Plebiscite" a return stating the number of votes given at the plebiscite in his constituency approving of the Draft Constitution and the number of votes so given not approving of the  
35 Draft Constitution and shall publish a copy of such return in the manner in which he is required by law to publish the result of the taking of a poll.

- 40     (4) Every envelope marked "Local Return to Plebiscite" which is sent by a returning officer by post to the plebiscite returning officer in pursuance of the next preceding sub-section of this section shall be forwarded and delivered by the Minister for Posts and Telegraphs free of charge.

- 45     (5) When the plebiscite returning officer has received from the several returning officers returns of the voting at the plebiscite in all the constituencies, he shall tabulate such results and ascertain therefrom the result of the voting at the plebiscite, and shall publish in the *Irish Oifigiúil* a return declaring the result of the said voting, and stating the total number of votes given at the  
50 plebiscite approving of the Draft Constitution and the total number of votes similarly given not approving of the Draft Constitution, and also stating in respect of every constituency the number of votes given at the plebiscite in such constituency approving of the Draft Constitution and the number of votes similarly given not  
55 approving of the Draft Constitution.

- (6) The publication in the *Irish Oifigiúil* in pursuance of the next preceding sub-section of this section of the return required by that sub-section to be so published shall be conclusive evidence of the several matters declared or stated in such return, save in so  
60 far as such matters or any of them may be varied on or in consequence of an election petition.



Issuing of instructions by the Minister.

10.—(1) The Minister may issue to all or any returning officers such instructions in relation to the conduct of the plebiscite, and in relation, in particular, to compliance with the enactments and the use of forms relating to elections which are made applicable to the plebiscite by this Act, as the Minister shall consider necessary or desirable in order to ensure the smooth and efficient taking of the plebiscite and to secure uniformity of procedure in regard thereto in all constituencies. 5

(2) It shall be the duty of every returning officer to observe and comply with all instructions given to him by the Minister under the next preceding sub-section of this section. 10

(3) If any difficulty shall arise in the taking of the plebiscite in pursuance of this Act, the Minister may by order do any matter or thing which appears to him to be necessary for the proper taking of the plebiscite. 15

(4) No returning officer shall be required or authorised by an instruction given to him or an order made by the Minister under this section to do any act (whether of commission or omission) which is contrary to this Act or which would, directly or indirectly, infringe the secrecy of the ballot at the plebiscite. 20

Returning officers' expenses.

11.—(1) The plebiscite returning officer and every returning officer for a constituency shall be entitled to his reasonable charges, not exceeding the sums specified in the appropriate scale of maximum charges framed under this section, in respect of services and expenses of the several kinds mentioned in the said scale which have been properly rendered or incurred by him for the purposes of or in connection with the plebiscite. 25

(2) The amount of any such charge as is mentioned in the foregoing sub-section of this section shall be paid by the Minister for Finance out of the central fund or the growing produce thereof on an account to be submitted to him in accordance with regulations made by him under this section, but the said Minister may, if he thinks fit, before payment of the charges of any returning officer for a constituency apply to the Judge of the Circuit Court having jurisdiction in such constituency for the taxation of such account and thereupon such Judge shall cause such account to be taxed and the amount payable thereunder to be determined by the county registrar. 30 35

(3) The Minister for Finance may, if he so thinks fit, on the application of the plebiscite returning officer or any returning officer for a constituency, make to such officer, on such terms as the said Minister shall think proper, an advance on account of the charges of such officer under this section. 40

(4) The taxation under this section of the account of a returning officer for a constituency shall, if the Judge so directs on the application of such returning officer, include the taxation and determination of the amount of any claim made by any person against such returning officer in respect of any matter charged for in such account. 45

(5) The Minister for Finance shall prescribe for the purposes of this section scales of maximum charges by the plebiscite returning officer and returning officers for constituencies respectively, and shall also make regulations prescribing the time when and manner and form in which accounts are to be rendered to him for the purpose of payment of charges under this section. 50 55

Short title.

12.—This Act may be cited as the Plebiscite (Draft Constitution) Act, 1937.



SCHEDULE.  
FORM OF BALLOT PAPER.  
FORM OF FRONT OF BALLOT PAPER.

Có-úille  
pobalbreite

Plebiscite  
Counterfoil

Uimhir

Number

An aontuionn tú leis an Dhréacht-Dúnreacht is  
abar don pobalbreite seo?

Do you approve of the Draft Constitution which  
is the subject of this Plebiscite?

Aontuim Yes	
Ní aontuim No	

**TRÉORAÍCA I DTAOBH AN PÁIPÉIR SEO  
DO MARGÁIL.**

Má aontuionn tú, cuir an marc "X" sa  
cearnóg is os comne an focail "Aontuim."

Má n-aontuionn tú, cuir an marc "X" sa  
cearnóg is os comne na bfoicail "Ní aontuim."

**INSTRUCTIONS FOR MARKING THIS PAPER.**

If you approve, place the mark "X" in the  
square opposite the word "Yes."

If you do not approve, place the mark "X"  
in the square opposite the word "No."

FORM OF BACK OF BALLOT PAPER.

Uimhir

Number

Dáilcheannr

Constituency of

pobalbreite ar an Dhréacht-Dúnreacht, 1937.

Plebiscite on the Draft Constitution, 1937.

Nóta.—Ní foláir an uimhir ar an gcó-úille do beic ar cúl an  
páipéir ballóire, leis.

NOTE.—The number on the back of the ballot paper is to correspond  
with the number on the counterfoil.



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BILLE POBAL-BHREITHE (DREACHT-  
BHUNREACHT), 1937.

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PLEBISCITE (DRAFT CONSTITUTION)  
BILL, 1937.

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BILLE

*dá ngairmtear*

Acht chun socrúithe do dhéanamh chun Pobal-Bhreithe d'fháil ar Dhréacht-Bhunreacht do cheaduigh no cheadóidh Dáil Éireann (roimh an Acht so do rith no dá éis sin) roimh an Oireachtas do seur den chéad uair tar éis an Achta so do rith.

An Act to provide for the taking of a Plebiscite on a Draft Constitution approved of by Dáil Éireann (whether before or after the passing of this Act) before the dissolution of the Oireachtas which shall occur next after the passing of this Act.

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*Rithte ag Dáil Éireann, 1adh Meitheamh, 1937.*

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*Passed by Dáil Éireann, 1st June, 1937.*

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BAILE ATHA CLIATH:  
FOILLSITHE AG OIFIG AN tSOLATHAIR.

Le ceannach trí aon díoltóir leabhar, no díreach ó Oifig Díolta Foillseacháin Rialtais, 5, Sráid Thobair Phádraig, Baile Atha Cliath, C.2.

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