

An Bille um an Dóú Leasú is Fiche
ar an mBunreacht, 2001

Twenty-second Amendment of the
Constitution Bill, 2001

Mar a tionscnaíodh
As initiated



**TWENTY-SECOND AMENDMENT OF THE CONSTITUTION
BILL, 2001**

As initiated

ARRANGEMENT OF SECTIONS

Section

1. Amendment of Article 35 of the Constitution.
2. Citation.

SCHEDULE

PART 1

PART 2



**AN BILLE UM AN DÓÚ LEASÚ IS FICHE AR AN
mBUNREACT, 2001**

Mar a tionscnaíodh

RIAR NA nALT

Alt

1. Airteagal 35 den Bhunreacht a leasú.
2. Lua.

AN SCEIDEAL

CUID 1

CUID 2



**TWENTY-SECOND AMENDMENT OF THE CONSTITUTION
BILL, 2001**

BILL

entitled

AN ACT TO AMEND THE CONSTITUTION. 5

WHEREAS by virtue of Article 46 of the Constitution any provision of the Constitution may be amended in the manner provided by that Article:

AND WHEREAS it is proposed to amend Article 35 of the Constitution: 10

BE IT THEREFORE ENACTED BY THE OIREACHTAS AS FOLLOWS:

Amendment of
Article 35 of the
Constitution.

1.—Article 35 of the Constitution is amended as follows:

(a) the sections the texts of which are set out in *Part 1* of the *Schedule* to this Act shall be substituted for section 4 of the Irish text, 15

(b) the sections the texts of which are set out in *Part 2* of the *Schedule* to this Act shall be substituted for section 4 of the English text,

(c) section 5 of both texts shall be numbered as section 6. 20

Citation.

2.—(1) The amendment of the Constitution effected by this Act shall be called the Twenty-second Amendment of the Constitution.

(2) This Act may be cited as the Twenty-second Amendment of the Constitution Act, 2001.



**AN BILLE UM AN DÓÚ LEASÚ IS FICHE AR AN
mBUNREACTH, 2001**

BILLE

dá ngairtear

5 ACHT CHUN AN BUNREACTH A LEASÚ.

DE BHRÍ gur cead, de bhua Airteagal 46 den Bhunreacht, foráil ar bith den Bhunreacht a leasú ar an modh a shocraítear leis an Airteagal sin:

10 AGUS DE BHRÍ go bhfuil beartaithe Airteagal 35 den Bhunreacht a leasú:

ACHTAÍTEAR AG AN OIREACHTAS AR AN ÁBHAR SIN
MAR A LEANAS:

1.—Leasaítear mar a leanas Airteagal 35 den Bhunreacht:

Airteagal 35 den
Bhunreacht a leasú.

15 (a) cuirfear na hailt a bhfuil na téacsanna díobh leagtha amach i *gCuid 1* den *Sceideal* a ghabhann leis an Acht seo in ionad alt 4 den téacs Gaeilge,

(b) cuirfear na hailt a bhfuil na téacsanna díobh leagtha amach i *gCuid 2* den *Sceideal* a ghabhann leis an Acht seo in ionad alt 4 den téacs Sacs-Bhéarla,

20 (c) déanfar alt 5 den dá théacs a uimhriú mar alt 6.

2.—(1) An Dóú Leasú is Fiche ar an mBunreacht a thabharfar ar Lua. an leasú a dhéantar ar an mBunreacht leis an Acht seo.

(2) Féadfar an tAcht um an Dóú Leasú is Fiche ar an mBunreacht, 2001, a ghairm den Acht seo.

SCHEDULE

PART 1

- 4 1° Féadfar socrú a dhéanamh le dlí chun go mbunófar comhlacht le scrúdú a dhéanamh, nó le scrúdú a chur á dhéanamh, i dtaobh an amhlaidh go raibh daoine, le linn dóibh oifig breithimh a shealbhú, ag gabháil d'iompar ar mhí-iompar é nó faoi mhíthreoir agus le cinntí agus moltaí a dhéanamh agus a fhoilsiú. 5
- 2° Déanfar gach cumhacht riachtanach a bhronnadh le dlí ar an gcomhlacht, ar an duine nó ar na daoine a sheolfaidh scrúdú faoin alt seo. 10
- 3° Ar chomhaltas an chomhlachta beidh breithiúna agus duine nach breitheamh ná iarbhreitheamh nó daoine nach breithiúna ná iarbhreithiúna.
- 4° Breitheamh, nó daoine ar breithiúna tromlach díobh, a sheolfaidh scrúdú faoin alt seo. 15
- 5 1° Ní cead breitheamh a chur as oifig ach amháin de réir an ailt seo.
- 2° Féadfar breitheamh a tháinseamh de dheasca mí-iompair nó míthreorach a luafar. 20
- 3° Ceachtar de Thithe an Oireachtais a dhéanfaidh an cúiseamh agus is faoi chuimsiú agus de réir fhorálacha an ailt seo a dhéanfar é.
- 4° Má thairgtear do cheachtar de Thithe an Oireachtais cúis a thabhairt in aghaidh breithimh faoin alt seo ní cead aird a thabhairt ar an tairiscint sin ach amháin de bharr fógra tairisceana i scríbhinn faoi láimh tríocha comhalta ar a laghad den Teach sin. 25
- 5° Ní cead do cheachtar de Thithe an Oireachtais glacadh le haon tairiscint den sórt sin ach amháin de bharr rúin ón Teach sin lena mbeidh tacaíocht dhá thrían ar a laghad dá lánchomhaltas. 30
- 6° Má dhéanann ceachtar de Thithe an Oireachtais cúiseamh, ansin, má chinneann an Teach sin amhlaidh le rún lena mbeidh tacaíocht dhá thrían ar a laghad dá lánchomhaltas, ní cead don bhreitheamh áirithe feidhmeanna breithimh a oibriú go dtí cibé tráth a chinnfidh an Teach sin le rún eile den sórt sin. Más é toradh an scrúdaithe faoi fho-alt 7° den alt seo nach suitear an chúis, féadfaidh an breitheamh dul i mbun na feidhmeanna sin a oibriú athuair. 35 40
- 7° Má dhéanann ceachtar de Thithe an Oireachtais cúiseamh, ní foláir don Teach eile an chúis a scrúdú nó an chúis a chur á scrúdú ag aon chúirt, binse nó comhlacht a cheapfar nó a ainmneofar ag an Teach eile sin chuige sin.
- 8° Beidh de cheart ag an mbreitheamh áirithe bheith i láthair agus lucht tagartha a bheith aige ar an scrúdú sin. 45

AN SCEIDEAL

CUID 1

- 4 1° Féadfar socrú a dhéanamh le dlí chun go mbunófar comhlacht le scrúdú a dhéanamh, nó le scrúdú a chur á dhéanamh, i dtaobh an amhlaidh go raibh daoine, le linn dóibh oifig breithimh a shealbhú, ag gabháil d'iompar ar mhí-iompar é nó faoi mhíthreoir agus le cinntí agus moltaí a dhéanamh agus a fhoilsiú.
- 10 2° Déanfar gach cumhacht riachtanach a bhronnadh le dlí ar an gcomhlacht, ar an duine nó ar na daoine a sheolfaidh scrúdú faoin alt seo.
- 3° Ar chomhaltas an chomhlachta beidh breithiúna agus duine nach breitheamh ná iarbhreitheamh nó daoine nach breithiúna ná iarbhreithiúna.
- 15 4° Breitheamh, nó daoine ar breithiúna tromlach díobh, a sheolfaidh scrúdú faoin alt seo.
- 5 1° Ní cead breitheamh a chur as oifig ach amháin de réir an ailt seo.
- 20 2° Féadfar breitheamh a tháinseamh de dheasca mí-iompair nó míthreorach a luafar.
- 3° Ceachtar de Thithe an Oireachtais a dhéanfaidh an cúiseamh agus is faoi chuimsiú agus de réir fhorálacha an ailt seo a dhéanfar é.
- 25 4° Má thairgtear do cheachtar de Thithe an Oireachtais cúis a thabhairt in aghaidh breithimh faoin alt seo ní cead aird a thabhairt ar an tairiscint sin ach amháin de bharr fógra tairisceana i scríbhinn faoi láimh tríocha comhalta ar a laghad den Teach sin.
- 30 5° Ní cead do cheachtar de Thithe an Oireachtais glacadh le haon tairiscint den sórt sin ach amháin de bharr rúin ón Teach sin lena mbeidh tacaíocht dhá thríon ar a laghad dá lánchomhaltas.
- 35 6° Má dhéanann ceachtar de Thithe an Oireachtais cúiseamh, ansin, má chinneann an Teach sin amhlaidh le rún lena mbeidh tacaíocht dhá thríon ar a laghad dá lánchomhaltas, ní cead don bhreitheamh áirithe feidhmeanna breithimh a oibriú go dtí cibé tráth a chinnfidh an Teach sin le rún eile den sórt sin. Más é toradh an scrúdaithe faoi fho-alt 7° den alt seo nach suitear an chúis, féadfaidh an breitheamh dul i mbun na feidhmeanna sin a oibriú athuair.
- 40 7° Má dhéanann ceachtar de Thithe an Oireachtais cúiseamh, ní foláir don Teach eile an chúis a scrúdú nó an chúis a chur á scrúdú ag aon chúirt, binse nó comhlacht a cheapfar nó a ainmneofar ag an Teach eile sin chuige sin.
- 45 8° Beidh de cheart ag an mbreitheamh áirithe bheith i láthair agus lucht tagartha a bheith aige ar an scrúdú sin.

- 9° Más é toradh an scrúdaithe go rithfear rún, lena mbeidh tac-
aíocht dhá thrian ar a laghad de lánchomhaltas an Tí den
Oireachtas a scrúdaigh an chúis nó a chuir an chúis á scrúdú,
á dhearbhu gur suíodh an chúis a tugadh in aghaidh an
bhreithimh áirithe agus, an mí-iompar nó an mhíthreoir ba
shiocair don chúiseamh, gur mí-iompar é nó gur míthreoir í
a bhfuil an breitheamh neamhoiriúnach dá dheasca nó dá
deasca chun fanacht i seilbh oifige, ní foláir don Taoiseach
scéala a thabhairt go cuí don Uachtarán i dtaobh an rúin,
agus cóip den rún, faoi theastas Chathaoirleach an Tí sin, a
sheoladh chuig an Uachtarán.
- 10° Láithreach d'éis na scéala sin agus cóip den rún sin a fháil
don Uachtarán ní foláir dó, le hordú faoi láimh is faoi Shéala
an Uachtaráin, an breitheamh lena mbaineann an rún a chur
as oifig.

PART 2

- 4 1° Provision may be made by law for the establishment of a
body to investigate, or cause to be investigated, whether per-
sons, while holding the office of judge, engaged in conduct
constituting misbehaviour or were affected by incapacity and
to make and publish findings and recommendations.
- 2° All necessary powers shall be conferred by law on the body,
person or persons conducting an investigation under this
section.
- 3° The membership of the body shall include judges and one or
more persons who are not judges or former judges.
- 4° An investigation under this section shall be conducted by a
judge or by persons a majority of whom are judges.
- 5 1° A judge shall not be removed from office except in accord-
ance with this section.
- 2° A judge may be impeached for stated misbehaviour or
incapacity.
- 3° The charge shall be preferred by either of the Houses of the
Oireachtas, subject to and in accordance with the provisions
of this section.
- 4° A proposal to either House of the Oireachtas to prefer a
charge against a judge under this section shall not be enter-
tained unless upon a notice of motion in writing signed by
not less than thirty members of that House.
- 5° No such proposal shall be adopted by either of the Houses
of the Oireachtas save upon a resolution of that House sup-
ported by not less than two-thirds of the total membership
thereof.
- 6° When a charge has been preferred by either House of the
Oireachtas, then, if that House so determines by a resolution
supported by not less than two-thirds of the total member-
ship thereof, the judge concerned shall not exercise judicial
functions until such time as that House may determine by
another such resolution. If, as a result of the investigation
under subsection 7° of this section, the charge is not sus-
tained, the judge may resume the exercise of such functions.

- 5 9° Más é toradh an scrúdaithe go rithfear rún, lena mbeidh tacaíocht dhá thríán ar a laghad de lánchomhaltas an Tí den Oireachtas a scrúdaigh an chúis nó a chuir an chúis á scrúdú, á dhearbhu gur suíodh an chúis a tugadh in aghaidh an bhreithimh áirithe agus, an mí-iompar nó an mhíthreoir ba shiocair don chúiseamh, gur mí-iompar é nó gur míthreoir í a bhfuil an breitheamh neamhoiriúnach dá dheasca nó dá deasca chun fanacht i seilbh oifige, ní foláir don Taoiseach scéala a thabhairt go cuí don Uachtarán i dtaobh an rúin, agus cóip den rún, faoi theastas Chathaoirleach an Tí sin, a sheoladh chuig an Uachtarán.
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- 15 10° Láithreach d'éis na scéala sin agus cóip den rún sin a fháil don Uachtarán ní foláir dó, le hordú faoi láimh is faoi Shéala an Uachtaráin, an breitheamh lena mbaineann an rún a chur as oifig.

CUID 2

- 4 1° Provision may be made by law for the establishment of a body to investigate, or cause to be investigated, whether persons, while holding the office of judge, engaged in conduct constituting misbehaviour or were affected by incapacity and to make and publish findings and recommendations.
- 20
- 2° All necessary powers shall be conferred by law on the body, person or persons conducting an investigation under this section.
- 25 3° The membership of the body shall include judges and one or more persons who are not judges or former judges.
- 4° An investigation under this section shall be conducted by a judge or by persons a majority of whom are judges.
- 5 1° A judge shall not be removed from office except in accordance with this section.
- 30
- 2° A judge may be impeached for stated misbehaviour or incapacity.
- 35 3° The charge shall be preferred by either of the Houses of the Oireachtas, subject to and in accordance with the provisions of this section.
- 4° A proposal to either House of the Oireachtas to prefer a charge against a judge under this section shall not be entertained unless upon a notice of motion in writing signed by not less than thirty members of that House.
- 40 5° No such proposal shall be adopted by either of the Houses of the Oireachtas save upon a resolution of that House supported by not less than two-thirds of the total membership thereof.
- 45 6° When a charge has been preferred by either House of the Oireachtas, then, if that House so determines by a resolution supported by not less than two-thirds of the total membership thereof, the judge concerned shall not exercise judicial functions until such time as that House may determine by another such resolution. If, as a result of the investigation under subsection 7° of this section, the charge is not sustained, the judge may resume the exercise of such functions.
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- 7° When a charge has been preferred by either House of the Oireachtas, the other House shall investigate the charge, or cause the charge to be investigated by any court, tribunal or body appointed or designated by that other House for that purpose. 5
- 8° The judge concerned shall have the right to appear and be represented at the investigation of the charge.
- 9° If, as a result of the investigation, a resolution be passed supported by not less than two-thirds of the total membership of the House of the Oireachtas by which the charge was investigated, or caused to be investigated, declaring that the charge preferred against the judge concerned has been sustained and that the misbehaviour or incapacity, the subject of the charge, was such as to render the judge unfit to continue in office, the Taoiseach shall duly notify the President of the resolution, and shall send the President a copy of the resolution certified by the Chairman of that House. 10 15
- 10° Upon receipt of such notification and of a copy of such resolution, the President shall forthwith, by an order under the hand and Seal of the President, remove from office the judge to whom the resolution relates. 20

- 5 7° When a charge has been preferred by either House of the Oireachtas, the other House shall investigate the charge, or cause the charge to be investigated by any court, tribunal or body appointed or designated by that other House for that purpose.
- 8° The judge concerned shall have the right to appear and be represented at the investigation of the charge.
- 10 9° If, as a result of the investigation, a resolution be passed supported by not less than two-thirds of the total membership of the House of the Oireachtas by which the charge was investigated, or caused to be investigated, declaring that the charge preferred against the judge concerned has been sustained and that the misbehaviour or incapacity, the subject of the charge, was such as to render the judge unfit to continue in office, the Taoiseach shall duly notify the President of the resolution, and shall send the President a copy of the resolution certified by the Chairman of that House.
- 15 20 10° Upon receipt of such notification and of a copy of such resolution, the President shall forthwith, by an order under the hand and Seal of the President, remove from office the judge to whom the resolution relates.