



UCD Constitutional Studies Group  
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# A Guide to the referendum on the 32<sup>nd</sup> Amendment to the Constitution

### ***What is the referendum about?***

On October 4<sup>th</sup>, voters will be asked to approve or reject the 32<sup>nd</sup> amendment to the Constitution which proposes to abolish Seanad Éireann. The Seanad – the Irish Senate – is the upper house of the Oireachtas, the national parliament. If the referendum is passed, it will mean that after the next general election the Oireachtas will consist of a single house, Dáil Éireann.

### ***What is the situation under the Constitution at the moment?***

The Seanad has a number of specific powers under the Constitution. These include:

- 1. The power to amend:** Proposed laws (Bills) may be initiated in either the Dáil or the Seanad. All Bills initiated in Dáil Éireann must be sent to the Seanad to consider. With the exception of a Money Bill, the Seanad is entitled to make amendments and these must be considered by the Dáil. The Dáil is not obliged to accept any amendments made by the Seanad.
- 2. The power to delay:** The Seanad can delay the passage of most Bills by 90 days. This does not apply to a Money Bill or a Bill which is certified by the Taoiseach as urgent and immediately necessary for exceptional reasons.
- 3. The power to refer a proposed law to the People:** Article 27 of the Constitution allows a Bill which contains a proposal of national importance to be referred directly to the People before becoming law. This procedure can be commenced by the combined vote of a majority of the Seanad and one-third of the Dáil. The matter is then referred to the President, who decides whether a referendum should be held.
- 4. The power to remove certain office-holders:** The Seanad has a role, together with the Dáil, in the removal of certain constitutional officers from their position. Judges and the Comptroller and Auditor

General can be removed by a majority vote of both the Dáil and the Seanad.

**5. The power to nominate a Presidential candidate:** Any 20 members of either the Dáil or the Seanad are entitled to nominate a candidate for President.

Individual members of the Seanad also have particular roles under the Constitution. Up to two members of the Seanad may be appointed as Minister of the Government. The Chairman of the Seanad is also a member of a number of constitutional bodies, including the Council of State and the Commission which replaces the President in cases of death, resignation or incapacity.

The Seanad also has specific roles in relation to certain matters, such as EU legislation, but these are based on ordinary laws rather than the Constitution and so can be changed by the Oireachtas at any time.

### ***Who sits in the Seanad?***

The Seanad has 60 members, who are made up of a mixture of indirectly elected members and appointed members.

Elections occur within ninety days of a general election.

The method for selecting members of the Seanad is based on a mixture of constitutional law and ordinary law as follows:

- 11 members are appointed by the Taoiseach. This is stated in the Constitution and so could not be changed with a referendum.
- 6 members are elected by the universities, with three members each from National University of Ireland and of Trinity College Dublin. As a result of a previous referendum in 1979, the Constitution allows this to be extended to include other institutions of higher education but the law to allow this has never been passed by the Oireachtas.

- 43 “panel members” are elected by an electoral college consisting of members of the previous Seanad, members of the incoming Dáil and members of local authorities. The system for electing these 43 members is based on ordinary legislation which can be changed by the Oireachtas at any time.

***What will change if the referendum is passed?***

If passed, the referendum will result in seventy-five separate amendments to the Constitution, as all references to the Seanad will be removed.

Some of the changes will involve the complete removal from the Constitution of powers that the Seanad currently has. These include:

- The removal of any power to amend a Bill passed by the Dáil.
- The removal of any power to delay a Bill passed by the Dáil for 90 days.
- The removal of any power to refer a proposed law involving a matter of national importance to the People by way of referendum.

Some of the changes will involve making alterations to procedures in which the Seanad is currently involved. These include:

- Judges and the Auditor and Comptroller General will be removable by a two-thirds majority of the Dáil.
- The President will be removable by a four-fifths majority of the Dáil.
- 14 nominations will be required to nominate a person as candidate for President.

Some of the changes will be consequential, in that they will involve replacing members of constitutional bodies who are members of the Seanad with other persons. For example, the Chairman of the Seanad will be replaced on the Presidential Commission and Council of State by the Leas-Cheann Comhairle of the Dáil.

**What are the arguments for and against?**

<b>Arguments for a 'Yes' vote</b>	<b>Arguments for a 'No' vote</b>
<p>It is unnecessary to retain the Seanad given the very limited powers which it has under the Constitution.</p>	<p>The Seanad is a potential check on the power of the Government. This is important given the way in which the Constitution permits the Government to exercise significant control over the Dáil.</p>
<p>The Seanad's potential as a check on the power of Government is limited by its composition, especially the power of Taoiseach under the Constitution to appoint 11 members. This makes it unlikely that the Government will not have significant control over the Seanad.</p>	<p>It may be possible to reform the Seanad so that it can act as a more effective check on the power of Government.</p>
<p>Abolishing the Seanad and its powers will streamline the legislative process.</p>	<p>The referendum will remove the power under Article 27 to have a proposal on a matter of national importance referred to the People for their say in a referendum.</p> <p>This removes a check on the powers of the Government and the Dáil and removes an opportunity for allowing the People to vote on a matter of national importance.</p>
<p>Many citizens cannot vote in elections to the Seanad.</p>	<p>The Oireachtas could change the law so that citizens could be given a vote for one of the 43 vocational members of the Seanad. This could be done without a referendum.</p>
<p>It is unnecessary in a small unitary (i.e. non-federal) state such as Ireland to have two houses of Parliament.</p> <p>Many other smaller states have only one house of Parliament.</p>	<p>Ireland is not the only small state to retain two houses of Parliament.</p> <p>It is difficult to make comparisons between different states which may have alternative checks on government or parliamentary power. This is especially the case when Ireland does not have the same checks that many other states, such as those in Scandinavia, have on government or parliamentary power.</p>

