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AN REIFREANN UM SHAORÁNACHT ÉIREANN

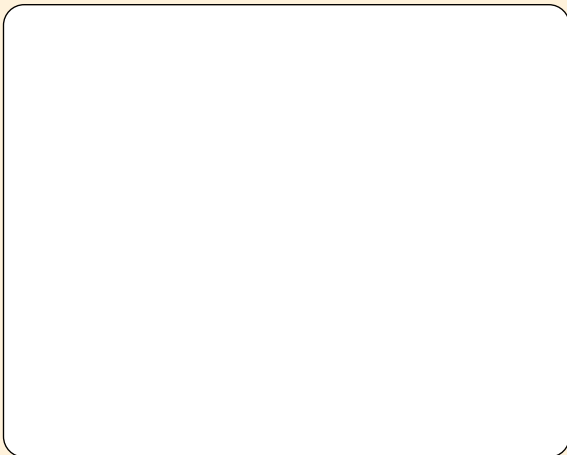
Sa Leabhrán seo faightear Faisnéis Thábhachtach do Vótálaithe



An Coimisiún
Reifrinn

THE REFERENDUM ON IRISH CITIZENSHIP

This Booklet Contains Important Information for Voters



Referendum
Commission

A referendum to change the Constitution will be held on 11 June 2004. On the same date, local elections and European Parliament elections will be held. In the constitutional referendum, you will be asked to vote YES or NO to a proposal to change the Constitution in relation to the constitutional right of people born in the island of Ireland to Irish citizenship.

This booklet, which is published by the Referendum Commission, is designed to help you make your decision by giving you information on the referendum proposal. It does not outline the arguments for and against acceptance of the referendum proposal. The Referendum Commission does not have a role in outlining these arguments. You will need to follow the public debates which take place in order to understand the arguments and then decide how to cast your vote.

WHO IS ENTITLED TO BE A CITIZEN OF IRELAND?

The rules about entitlement to citizenship are contained both in the Constitution of Ireland and in legislation which has been passed by the Oireachtas (the Dáil, Seanad and President). Thus, some people have a constitutional right to be citizens of Ireland while others have a right to be citizens as a result of legislation. The constitutional right to citizenship can be changed only if the people agree to this in a referendum. Legislation, on the other hand, may be changed by the Oireachtas by other legislation as and when the Oireachtas so decides.

CONSTITUTIONAL RIGHT TO CITIZENSHIP

At present, the Constitution sets out two groups who have a constitutional right to be citizens of Ireland. They are

- people who were citizens of Saorstát Éireann when the Constitution of Ireland came into operation in 1937, and
- people born in the island of Ireland.

The Constitution in 1937 provided a constitutional right of citizenship for all people who were citizens of Saorstát Éireann at the time it came into operation. (Another consequence of the introduction of the 1937 Constitution was that the name of the country became Ireland instead of Saorstát Éireann). It also provided that, apart from the specific right of those who already had citizenship, the right to citizenship would be set out in legislation.

The constitutional right of every person born in the island of Ireland to be a citizen of Ireland is contained in Article 2 of the Constitution. This article became part of the Constitution in 1998 and came into operation in 1999. The wording of Article 2 was agreed as part of the Belfast Agreement (also called the Good Friday Agreement). This meant that the Oireachtas no longer had the power to decide whether or not citizenship could be withheld from any person born in the island of Ireland - the Oireachtas could not change this constitutional right.

If the Referendum is passed it will give to the Oireachtas the power to decide the circumstances and conditions under which people, born in the island of Ireland who do not have an Irish citizen parent, are entitled to be Irish citizens.

LEGISLATION ON CITIZENSHIP

Under existing law you may be a citizen of Ireland if

- you were born in the island of Ireland (citizenship by birth)
- you were not born in the island of Ireland but you are the child of an Irish citizen or of a person who is/was entitled to be an Irish citizen (citizenship by descent)
- you married an Irish citizen and you meet other requirements in legislation to become a citizen by marriage or naturalisation (marriage to an Irish citizen)
- you are a citizen by naturalisation - this means you have opted to become an Irish citizen, you have met the legal requirements to do so and you have been granted citizenship (citizenship by naturalisation).

Existing law provides that every person born in the island of Ireland is entitled to be an Irish citizen. Until 1999, however, this was not a constitutional right but was a right provided for in the legislation only.

THE REFERENDUM PROPOSAL

On 11 June 2004, you are being asked to vote on a proposal to change the rules about the constitutional entitlement to citizenship by birth. No other right to citizenship is affected by this proposal. This proposal, if it is passed by the people, will affect only people born after the constitutional amendment takes effect.

If a majority vote YES to this proposal, the Constitution will be changed.

The change will mean that:

- People born in the island of Ireland after the constitutional amendment takes effect will not have a constitutional right to be Irish citizens, unless, at the time of their birth, one of their parents is an Irish citizen or is entitled to be an Irish citizen.
- The Oireachtas will then be in a position to pass legislation which governs how other people born in Ireland may become Irish citizens. At present, legislation provides that every person born in the island of Ireland is entitled to citizenship. If the proposal is passed the Oireachtas will have the power to change the existing legislation if it so wishes but it could not make a change that would affect the constitutional right of citizenship of the child of an Irish citizen parent where that child is born in the island of Ireland.

If a majority vote NO to this proposal, the Constitution will not be changed. This will mean that any person born in the island of Ireland will continue to have a constitutional right to be an Irish citizen. The Oireachtas will remain unable to pass legislation restricting that right.

You are being asked to vote only on the proposed change to the Constitution. While the Government has proposed new legislation to regulate citizenship if the referendum is passed you are not being asked to vote on this issue. Neither the Government nor the Oireachtas is bound by this proposed legislation which could be changed in any way. Details of the proposed legislation, the draft Irish Nationality and Citizenship (Amendment) Bill, 2004, can be found on the website www.justice.ie

THE PRESENT CONSTITUTION AND THE PROPOSED CHANGE

The Constitution of Ireland currently has the following provisions dealing with citizenship:

Article 2

It is the entitlement and birthright of every person born in the island of Ireland, which includes its islands and seas, to be part of the Irish nation. That is also the entitlement of all persons otherwise qualified in accordance with law to be citizens of Ireland. Furthermore, the Irish nation cherishes its special affinity with people of Irish ancestry living abroad who share its cultural identity and heritage.

Article 9

1. 1° On the coming into operation of this Constitution any person who was a citizen of Saorstát Éireann immediately before the coming into operation of this Constitution shall become and be a citizen of Ireland.

2° The future acquisition and loss of Irish nationality and citizenship shall be determined in accordance with law.

3° No person shall be excluded from Irish nationality and citizenship by reason of the sex of such person.
2. Fidelity to the nation and loyalty to the State are fundamental political duties of all citizens.

PROPOSAL IN THE REFERENDUM

You are being asked to vote on whether or not the following new wording should be put into Article 9 of the Constitution:

2. 1° Notwithstanding any other provision of this Constitution, a person born in the island of Ireland, which includes its islands and seas, who does not have, at the time of the birth of that person, at least one parent who is an Irish citizen or entitled to be an Irish citizen is not entitled to Irish citizenship or nationality, unless provided for by law.

- 2° This section shall not apply to persons born before the date of the enactment of this section.

CURRENT LEGISLATION ON CITIZENSHIP

The Irish Nationality and Citizenship Act, 1956, is the main piece of legislation. It has been amended by

- the Irish Nationality and Citizenship Act, 1986,
- the Irish Nationality and Citizenship Act, 1994 and
- the Irish Nationality and Citizenship Act, 2001.

THE REFERENDUM COMMISSION

The Referendum Commission is an independent body, set up by the Referendum Act 1998, as amended. The Chairman of the present Commission is Mr Justice Nicholas Kearns, Judge of the High Court and the other members are the Clerk of the Dáil, the Clerk of the Seanad, the Ombudsman and the Comptroller and Auditor General. The Referendum Commission is independent in its actions, has its own budget and is supported by a secretariat from the Office of the Ombudsman.

FURTHER INFORMATION

More detailed information is being made available on the Referendum Commission's website at www.refcom.ie.

Access to the Internet is available free of charge at public libraries.

The current legislation on citizenship is available at www.irishstatutebook.ie.

A restatement of the citizenship legislation is available at www.justice.ie.

A restatement means that the legislation as amended has been restated with the amendments included.

ARNA FHOILSIÚ AG

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Láithreán gréasáin: **www.refcom.ie**

Tá an foilseachán seo á chur ar fáil, trí Chomhairle Náisiúnta na hÉireann do na Dail, i mBraille agus ar chlostéip do dhaoine faoi mhíchumas amhairc.

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