

Twenty-sixth Amendment of the Constitution Bill (2002)

Caption: On 27 June 2002, the Irish Government presents the bill for the 26th amendment of the Irish Constitution to Parliament. These amendments to the Constitution are essential to enable Ireland to ratify the Treaty of Nice, in reference to the 1987 decision by the Supreme Court in the Crotty v. An Taoiseach case.

Source: House of the Oireachtas – Legislative info – Full text of the Twenty-sixth Amendment. [ON-LINE]. [Dublin]: Office of the Houses of the Oireachtas, [01.08.2013]. No 32.

<http://www.oireachtas.ie/documents/bills28/bills/2002/3202/b3202d.pdf>.

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URL: http://www.cvce.eu/obj/twenty_sixth_amendment_of_the_constitution_bill_2002-en-85b47999-f171-4ef2-8322-9b243207a303.html

Publication date: 19/12/2013

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Explanatory Memorandum](#)

An Bille um an Séú Leasú is Fíche ar an mBunreacht, 2002

Twenty-sixth Amendment of the Constitution Bill, 2002

*Mar a tionscnaíodh
As initiated*

[No. 32 of 2002]



**TWENTY-SIXTH AMENDMENT OF THE CONSTITUTION
BILL, 2002**

As initiated

ARRANGEMENT OF SECTIONS

Section

1. Amendment of Article 29 of the Constitution.
2. Citation.

SCHEDULE

PART 1

PART 2



**AN BILLE UM AN SÉÚ LEASÚ IS FICHE AR AN
mBUNREACTH, 2002**

Mar a tionscnaíodh

RIAR NA nALT

Alt

1. Airteagal 29 den Bhunrecht a leasú.
2. Lua.

AN SCEIDEAL

CUID 1

CUID 2



**TWENTY-SIXTH AMENDMENT OF THE CONSTITUTION
BILL, 2002**

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 29 of the Constitution: 10

BE IT THEREFORE ENACTED BY THE OIREACHTAS AS FOLLOWS:

Amendment of Article 29 of the Constitution.

1.—Article 29 of the Constitution is hereby amended as follows:

(a) the subsections the texts of which are set out in *Part 1* of the *Schedule* to this Act shall be inserted after subsection 6° of section 4 of the Irish text, 15

(b) the subsections the texts of which are set out in *Part 2* of the *Schedule* to this Act shall be inserted after subsection 6° of section 4 of the English text,

(c) subsection 7° and 8° of section 4 of both texts shall be numbered as subsections 10° and 11°. 20

Citation.

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

(2) This Act may be cited as the Twenty-sixth Amendment of the Constitution Act, 2002. 25



AN BILLE UM AN SÉÚ LEASÚ IS FICHE AR AN
mBUNREACTH, 2002

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 29 den Bhunreacht a leasú:

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

1.—Leasaítear leis seo mar a leanas Airteagal 29 den Bhunreacht: Airteagal 29 den Bhunreacht a leasú.

15 (a) cuirfear na fo-ailt a bhfuil na téacsanna díobh leagtha amach i *gCuid 1* den *Sceideal* a ghabhann leis an Acht seo isteach i ndiaidh fho-alt 6° d'alt 4 den téacs Gaeilge,

(b) cuirfear na fo-ailt a bhfuil na téacsanna díobh leagtha amach i *gCuid 2* den *Sceideal* a ghabhann leis an Acht seo isteach i ndiaidh fho-alt 6° d'alt 4 den téacs Sacs-Bhéarla,

20 (c) déanfar fo-ailt 7° agus 8° d'alt 4 den dá théacs a uimhriú mar fho-ailt 10° agus 11°.

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

25 (2) Féadfar an tAcht um an Séú Leasú is Fiche ar an mBunreacht, 2002, a ghairm den Acht seo.

SCHEDULE

PART 1

- 7° Tig leis an Stát Conradh Nice ag leasú an Chonartha ar an Aontas Eorpach, na gConarthaí ag bunú na gComhphobal Eorpach agus Ionstraimí gaolmhara áirithe, a síníodh in Nice an 26ú lá d’Fheabhra, 2001, a dhaingníú. 5
- 8° Tig leis an Stát na roghnuithe nó na roghanna a fheidhmiú a shocraítear le hAirteagail 1.6, 1.9, 1.11, 1.12, 1.13 agus 2.1 den Chonradh dá dtagraítear i bhfo-alt 7° den alt seo nó fúthu ach beidh aon fheidhmiú den sórt sin faoi réir ceadú a fháil roimh ré ó dhá Theach an Oireachtais. 10
- 9° Ní ghlacfaidh an Stát cinneadh arna dhéanamh ag an gComhairle Eorpach chun comhchosaint a bhunú de bhun Airteagal 1.2 den Chonradh dá dtagraítear i bhfo-alt 7° den alt seo i gcás ina mbeadh an Stát san áireamh sa chomhchosaint sin. 15

PART 2

- 7° The State may ratify the Treaty of Nice amending the Treaty on European Union, the Treaties establishing the European Communities and certain related Acts signed at Nice on the 26th day of February, 2001. 20
- 8° The State may exercise the options or discretions provided by or under articles 1.6, 1.9, 1.11, 1.12, 1.13 and 2.1 of the Treaty referred to in subsection 7° of this section but any such exercise shall be subject to the prior approval of both Houses of the Oireachtas. 25
- 9° The State shall not adopt a decision taken by the European Council to establish a common defence pursuant to Article 1.2 of the Treaty referred to in subsection 7° of this section where that common defence would include the State.

AN SCEIDEAL

CUID 1

- 5 7° Tig leis an Stát Conradh Nice ag leasú an Chonartha ar an Aontas Eorpach, na gConarthaí ag bunú na gComhphobal Eorpach agus Ionstraimí gaolmhara áirithe, a síníodh in Nice an 26ú lá d’Fheabhra, 2001, a dhaingníú.
- 10 8° Tig leis an Stát na roghnuithe nó na roghanna a fheidhmiú a shocraítear le hAirteagail 1.6, 1.9, 1.11, 1.12, 1.13 agus 2.1 den Chonradh dá dtagraítear i bhfo-alt 7° den alt seo nó fúthu ach beidh aon fheidhmiú den sórt sin faoi réir ceadú a fháil roimh ré ó dhá Theach an Oireachtais.
- 15 9° Ní ghlacfaidh an Stát cinneadh arna dhéanamh ag an gComhairle Eorpach chun comhchosaint a bhunú de bhun Airteagal 1.2 den Chonradh dá dtagraítear i bhfo-alt 7° den alt seo i gcás ina mbeadh an Stát san áireamh sa chomhchosaint sin.

CUID 2

- 20 7° The State may ratify the Treaty of Nice amending the Treaty on European Union, the Treaties establishing the European Communities and certain related Acts signed at Nice on the 26th day of February, 2001.
- 25 8° The State may exercise the options or discretions provided by or under articles 1.6, 1.9, 1.11, 1.12, 1.13 and 2.1 of the Treaty referred to in subsection 7° of this section but any such exercise shall be subject to the prior approval of both Houses of the Oireachtas.
- 9° The State shall not adopt a decision taken by the European Council to establish a common defence pursuant to Article 1.2 of the Treaty referred to in subsection 7° of this section where that common defence would include the State.

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**AN BILLE UM AN SÉÚ LEASÚ IS FICHE AR AN
mBUNREACTH, 2002
TWENTY-SIXTH AMENDMENT OF THE CONSTITUTION
BILL, 2002**

EXPLANATORY MEMORANDUM

Purpose of Bill

The Twenty-sixth Amendment of the Constitution Bill, 2002, is necessary in order to enable the State to ratify the Treaty of Nice, which is intended to complete the process started by the Treaty of Amsterdam of preparing the institutions of the European Union to function in an enlarged Union.

Text of Bill

The Bill provides for—

- (a) the addition of a new subsection 7° to Article 29.4 of the Constitution allowing the State to ratify the Treaty of Nice;
- (b) the addition of a new subsection 8° to Article 29.4 of the Constitution allowing the State to exercise the options or discretions provided by the Treaty of Nice;
- (c) the addition of a new subsection 9° to Article 29.4 of the Constitution preventing the State from adopting a decision of the European Council to enter into a common defence pursuant to Article 1.2 of the Treaty of Nice where that common defence would include the State;
- (d) the consequential renumbering of subsections 7° and 8° of Article 29.4 of the Constitution as subsections 10° and 11°.

Content of Bill

In the new subsection 7°, the wording of the licence given to the State to ratify the Treaty of Nice follows the present wording of the references in the Constitution to ratifying the Treaty on European Union and the Treaty of Amsterdam.

The Treaty of Nice contains provisions relating to enhanced co-operation pursuant to which obligations may be entered into by a number of Member States of the European Union. The new subsection 8° is necessary, in addition to the new subsection 7°, in order to confer on the State sufficient powers for it to exercise the options or discretions provided by the Treaty of Nice should it so decide. It follows the pattern established in respect of Article 29.4.6 by specifically identifying the options and discretions which may be exercised. It is provided that the exercise of any such options or discretions shall be subject to the prior approval of both Houses of the Oireachtas.

Article 17.1 of the Treaty on European Union, as amended by Article 1.2 of the Treaty of Nice, provides that “The common foreign and security policy shall include all questions relating to the security of the Union, including the progressive framing of a common defence policy, which might lead to a common defence, should the European Council so decide. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements”. The new subsection 9° prevents the State from adopting a decision to establish a common defence pursuant to the above Article where that common defence would include Ireland. To adopt such a decision would require a referendum to delete this subsection. This subsection therefore reflects the commitment given in the National Declaration made at Seville on 21 June 2002.

*An Roinn Gnóthaí Eachtracha,
Meitheamh, 2002.*