



An Bille um Boird Stáit (Ceapacháin), 2014
State Boards (Appointments) Bill 2014

Mar a tionscnaíodh

As initiated



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SCHEDULE

ACTS REFERRED TO

Companies Acts

Forestry Act 1988 (No. 26)

Harbours Act 1946 (No. 9)

Harbours Act 1996 (No. 11)

Health (Corporate Bodies) Act 1961 (No. 27)

Public Service Management (Recruitment and Appointments) Act 2004 (No. 33)



**AN BILLE UM BOIRD STÁIT (CEAPACHÁIN), 2014
STATE BOARDS (APPOINTMENTS) BILL 2014**

Bill

entitled

An Act to reform the method whereby persons are recruited and selected for appointment to State Boards; and to ensure that persons of the highest quality are recruited and selected for such appointments. 5

Be it enacted by the Oireachtas as follows:

Interpretation

1. (1) In this Act, except where the context otherwise requires— 10

“Act of 2004” means the Public Service Management (Recruitment and Appointments) Act 2004;

“appointment” means the appointment of a person to a position on a State board or such other body as may be prescribed by the Minister for Public Expenditure and Reform under *section 3*; 15

“Board” means the Board of the Public Appointments Service established by section 36 of the Act of 2004 as amended;

“Minister” means the Minister for Public Expenditure and Reform;

“office holder” means a person appointed to a State board;

“State board” means the board of governance of any of the institutions listed in the *Schedule* to this Act. 20

(2) In this Act—

(a) a reference to a section is a reference to a section of this Act,

(b) a reference to the *Schedule* is a reference to the *Schedule* to this Act, and

(c) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision at which the reference occurs, 25

unless it is indicated that a reference to some other provision is intended.

Application of Act

2. This Act applies to appointments to positions on State boards made by the Government 30

and/or a Minister of the Government.

Power of Minister to add to Schedule

3. (1) The Minister may by order add a State board or a statutory entity fully owned by the State to the *Schedule* of State boards to this Act.
- (2) The Minister may by order amend or revoke an order under this section. 5
- (3) Every order made by the Minister under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done under that order. 10

New functions of Board re appointments to State boards

4. (1) In addition to the functions performed by the Board under section 34 of the Act of 2004, the Board shall also perform the following functions:
- (a) to recommend to a Minister or the Government applicants who are suitable for appointment to State boards; 15
- (b) to act as the centralised recruitment and assessment body for State boards;
- (c) to ensure that standards of probity, merit, equity and fairness are followed in the public interest in the recruitment and assessment of applicants for appointments to State boards;
- (d) to carry out all the procedures necessary to undertake the recruitment and assessment of suitable applicants for appointment to State boards; 20
- (e) to undertake to advertise publicly all vacancies for appointment of persons to State boards on www.stateboards.ie;
- (f) where necessary, to organise selection competitions for the selection of applicants to be recruited and assessed as suitable candidates for appointment to State boards; 25
- (g) to ensure that at least 40 per cent of the applicants recommended for appointment to a State board are female.
- (2) Prior to recommending to a Minister or the Government applicants who are suitable for appointment to State boards, the Board must give due consideration to: 30
- (a) the applicant's relevant experience;
- (b) the applicant's educational and other qualifications,
- (c) the applicant's personal attributes, and
- (d) the range of skills of existing Board members.

Independence of Board

5. The Board shall be independent in exercising its functions under this Act and no person shall be appointed to a State board unless he or she has gone through the process 35

provided for under this Act.

Power of Minister to confer further powers on the Board

6. (1) A Minister or the Government shall only appoint to State boards persons recommended by the Board in accordance with the provisions of this Act.
- (2) A Minister or the Government shall be required to ensure that at least 40 per cent of appointments to all State boards are female. 5
- (3) The Minister may, after consulting the Board, by order—
- (a) confer on the Board such additional functions relating to recruitment, assessment and selection conferred by *subsection (1)*, as the Minister considers appropriate;
 - (b) make such provision as he or she considers necessary or expedient in order to facilitate the Board in carrying out its functions under this Act. 10

Exclusion of members of Oireachtas, European Parliament and local authorities from appointment to State boards

7. (1) No person shall be recommended for appointment to a State board if that person—
- (a) is a member of the Houses of the Oireachtas or the European Parliament or a local authority, 15
 - (b) is nominated to stand as a candidate for election as a member of either House of the Oireachtas, the European Parliament or a local authority.
- (2) Any person appointed to a State board must make himself or herself available when formally requested to attend before any committee and/or joint committee of the Oireachtas that is lawfully inquiring into any issue that is relevant to the State board upon which that person serves. 20

Offences

8. In respect of a competition for a position on a State board, a person shall not—
- (a) knowingly or recklessly make an application that is false or misleading in a material respect for the position, 25
 - (b) knowingly or recklessly provide any information or documentation that is false or misleading in a material respect,
 - (c) canvass, directly or indirectly, any person, with or without inducements, on his or her own behalf or on behalf of a candidate for the position, 30
 - (d) personate a candidate at any stage of the recruitment and selection process concerned;
 - (e) knowingly or maliciously obstruct a person engaged in the conduct of the competition or otherwise interfere with the general conduct of that competition;
 - (f) knowingly and without lawful authority take any action that would result in the compromising of any test material or of any evaluation of it; 35
 - (g) interfere improperly with the competition process or competition records so as to

confer an advantage or disadvantage on any candidate.

Penalties

9. (1) In respect of *paragraphs (a) to (g) of section 8*, a person who contravenes any of those paragraphs is guilty of an offence.
- (2) A person who knowingly aids, abets, counsels or procures another person to commit any offence under *subsection (1)* or conspires with another person for the commission of any such offence is guilty of an offence. 5
- (3) A person who is guilty of an offence under this section is liable—
- (a) on summary conviction to a fine not exceeding €3,000 or to imprisonment for a term not exceeding six months, or to both, or 10
- (b) on conviction of indictment to a fine not exceeding €10,000 or to imprisonment for a term not exceeding two years, or to both.

Short title and commencement

10. (1) This Act may be cited as the State Boards (Appointments) Act 2014.
- (2) The Minister shall by order appoint a day to be the commencement day for the provisions of this Act. 15

SCHEDULE

1. Any body corporate established by Act of Parliament before 6 December 1922 that, upon its establishment, was of a commercial character.
2. Any body established under the Health (Corporate Bodies) Act 1961.
3. Ervia. 5
4. Bord na gCon.
5. Bord na Móna.
6. Córas Iompair Éireann.
7. Coillte Teoranta (being a company formed and registered under the Companies Acts as provided for by section 9 of the Forestry Act 1988). 10
8. Cork Airport Authority, public limited company.
9. Dublin Airport Authority, public limited company.
10. Electricity Supply Board.
11. EirGrid.
12. A harbour authority within the meaning of the Harbours Act 1946 or company to which section 7 of the Harbours Act 1996 relates. 15
13. Horse Racing Ireland.
14. Irish National Stud Company Limited.
15. Irish Aviation Authority.
16. An Post. 20
17. Raidió Teilifís Éireann.
18. Shannon Airport Authority, public limited company.
19. Teilifís na Gaeilge.
20. Railway Procurement Agency.
21. Voluntary Health Insurance Board. 25
22. An Ombudsman or any position which includes the word Ombudsman in its title.
23. A member of Labour Court.
24. A member of An Bord Pleanála.
25. A member of the Competition Authority.
26. A Director of the Environment Protection Agency. 30
27. A Revenue Commissioner.
28. A Revenue Appeals Commissioner.
29. Commercial State companies, non-commercial State companies and non-commercial State organisations.
30. Any position with the word Regulator in its title. 35

31. A subsidiary of a body to which this Schedule relates, including a subsidiary of such a subsidiary.
32. Any other body (other than a body specified or referred to in the Schedule) that is wholly or partly funded directly or indirectly out of monies provided by the Oireachtas or from the Central Fund or the growing produce of that Fund.

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An Bille um Boird Stáit (Ceapacháin), 2014

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht d'athchóiriú an mhodha ar a ndéantar daoine a earcú agus a roghnú lena gceapadh ar bhoird Stáit; agus dá chinntiú go ndéanfar daoine den chaighdeán is airde a earcú agus a roghnú le haghaidh ceapacháin den sórt sin.

*An Teachta Seán Ó Pléamoinn a thug isteach,
26 Samhain, 2014*

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An Act to reform the method whereby persons are recruited and selected for appointment to State boards; and to ensure that persons of the highest quality are recruited and selected for such appointments.

*Introduced by Deputy Seán Fleming,
26th November, 2014*

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