



BUNREACHT NA hÉIREANN
CONSTITUTION OF IRELAND

THE IRISH CONSTITUTION

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CONSTITUTIONS - OVERVIEW

- ❖ No set of golden rules when dealing with Constitutions
 - ❖ Constitutions around the world are similar in certain ways but different in other ways
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WHAT IS THE CONSTITUTION?

- ❖ The Irish Constitution (Bunreacht na hÉireann) was ratified by the Irish people in 1937.
 - ❖ It is the fundamental law of the State and establishes the institutions of the State.
 - ❖ All laws must be constitutional which means they must not conflict with the Constitution.
 - ❖ This means that the Constitution is superior to all other law.
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THE IRISH CONSTITUTION

- ❖ The Irish Constitution contains 50 articles.
- ❖ Articles 1-37 set out the institutions (or organs) of the State and how they should be run, namely:
 - The President
 - The Government/Cabinet (the Executive)
 - The Oireachtas - Dáil and Seanad (the Legislature)
 - The Courts (the Judiciary)
- ❖ Articles 40-44 provide for the fundamental rights of Irish citizens.


WHAT IS THE CONSTITUTION FOR?

- ❖ Establishing the institutions of State outlined in Article 1-37
 - ❖ Establishing their powers and functions
 - ❖ How they operate procedurally
 - ❖ As well as the limits on their powers
 - These institutions cannot enact legislation or exercise power in ways that breach the rights of citizens in the Constitution.
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HOW RIGHTS PROVISIONS OF CONSTITUTIONS ARE DRAFTED

- ❖ Tend to avoid detail
 - ❖ Tend to avoid being prescriptive with respect to particular matters, particularly political controversies or social matters
 - ❖ For these reasons;
 - They tend to be general, not specific, prescriptive or rigid
 - ❖ Instead they tend to contain broad statements of moral principles
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WHY RIGHTS PROVISIONS OF CONSTITUTIONS ARE GENERAL AND BROAD

- ❖ The ideal of democratic legitimacy
 - Constitutions are difficult to amend
 - Amendments or an insertion into a Constitution is a long term change
 - Amendments are binding
 - Political views, social attitudes, etc. evolve over time
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WHY RIGHTS PROVISIONS OF CONSTITUTIONS ARE GENERAL AND BROAD

- ❖ Difficult to anticipate future cases before a court
 - Constitutional provisions can have a bearing on particular cases
 - How it is interpreted by the courts will influence later interpretations
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AMENDING THE CONSTITUTION

- ❖ Amendments to the Constitution can only be made by way of a constitutional referendum.
 - ❖ To date there have been 32 amendments to the Irish Constitution.
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AMENDING THE CONSTITUTION

- ❖ The amendment could be to repeal a word, which is removing a word from the text of the Constitution
 - For example, the referendum on blasphemy
- ❖ Repeal and replace
 - This can involve repealing lots of words or a few clauses
 - Replacing them with new text (this is a matter for the Oireachtas)
 - For example, the referendum on abortion

AMENDING THE CONSTITUTION - ARTICLE 41

- ❖ In terms of the 'Woman in the home' clause, you could:
 - Repeal = delete the clause

OR

- Repeal and replace