

The Constitution of Ireland: Notes for UPSC Polity

The Constitution of Ireland is the fundamental law of the Republic of Ireland. It asserts the national sovereignty of the Irish people. The constitution falls broadly within the tradition of liberal democracy, being based on a system of representative democracy.

Background of the Irish Constitution

The Constitution of the Irish Free State was in effect ever since Ireland achieved dominion status from the United Kingdom on December 6th, 1922. It was replaced with the Constitution of Ireland on December 9th, 1937 following a statewide plebiscite held on 1 July 1937.

There were two main reasons to replace the constitution in 1937:

(1) The Statute of Westminster 1931 granted parliamentary autonomy to the six British Dominions (now known as Commonwealth realms) within a British Commonwealth of Nations.

(2) The Irish Government under Éamon de Valera, the third President of Ireland, sought to establish a national Irish identity by putting Irish stamps on government institutions. This was primarily a symbolic gesture as it showed that Ireland was at last breaking away from English yoke after centuries of rule from Britain.

How was the Constitution of Ireland drafted?

The initial draft of the constitution was prepared by John Hearne, who was the legal advisor to the Department of Foreign Affairs. It was done under the personal supervision of Éamon De Valera. It was translated into the Irish language through a series of drafts by a committee led by Micheál Ó Gríobhtha, who worked for the Department of Education. De Valera also received much input regarding religious, education, family and social welfare issues from Monsignor McQuaid, the Catholic Archbishop of Dublin, Archbishop John Gregg of the Church of Ireland and others.

Due to differences in the language, there are instances when the Irish and the English text clash as the words when translated into the language of the other creates a cause of conflict. This is resolved with the Constitution favoring Irish text over English, despite the use of the latter for official purposes.

The text of the draft constitution, with minor amendments, was approved on 14 June, 1937 by the Irish Parliament.

The draft constitution was then put to a plebiscite on 1 July 1937 when it was passed by a plurality. 56% of voters were in favour, which comprised 38.6% of the whole electorate. The constitution formally came into force on 29 December 1937.

What are the Main Provisions of the Constitution of Ireland?

The official text of the Constitution consists of a Preamble and fifty Articles arranged under sixteen headings. They are as follows:

Provisions of the Articles of Constitution	
Headings	Articles Covered
The Nation	Articles 1-3
The State	Articles 4-11
The presiden	Articles 12-14
The National Parliament	Articles 15-27
The Government	Article 28
Local Government	Article 28A
International Relations	Article 29
The Attorney General	Article 30
The Council of State	Articles 31-32
The Comptroller and Auditor General	Article 33
The Courts	Articles 34-37
Trial of Offences	Articles 38-39
Fundamental Rights	Articles 40-44
Directive Principles of Social policy	Article 45
Amendment of the Constitution	Article 46
The Referendum	Article 47
Repeal of Constitution of	Articles 48-50

Saorstát Éireann and Continuance of Laws	
Establishment of Court of Appeal: Transitional Provision	Article 64

What are some of the Characteristics of the Irish Constitution?

The characteristics of the Irish Constitution is highlighted below:

- **National sovereignty:** The constitution states that the "inalienable, indefeasible, and sovereign right" of the Irish people to self-determination (Article 1).
- **Popular sovereignty:** It is stated that all powers of government "derive, under God, from the people" (Article 6.1). However, it is also stated that those powers "are exercisable only by or on the authority of the organs of State" established by the Constitution.
- **Name of the state:** The Constitution declares that "the name of the State is *Éire*", or, in the English language, "*Ireland*" (Article 4). Under the Republic of Ireland Act 1948 the term "Republic of Ireland" is the official "description" of the state; the Irish Parliament - Oireachtas -, however, has left unaltered "Ireland" as the formal name of the state as defined by the Constitution.
- **United Ireland:** Article 2, asserts that "every person born in the island of Ireland" has the right "to be part of the Irish Nation"; however, Article 9.2 now limits this to persons having at least one parent as an Irish citizen. Article 3 declares that it is the "firm will of the Irish Nation" to bring about a united Ireland, provided that this occurs "only by peaceful means", and only with the express consent of the majority of the people in Northern Ireland.
- **National flag:** The national flag is defined as "the tricolour of green, white and orange" (Article 7).
- **Capital city:** The Houses of the (parliament) must usually meet in or near Dublin (Article 15.1.3°) ("or in such other places as they may from time to time determine"), and the President's official residence must be in or near the city.

Relevant Questions regarding the Constitution of Ireland

What is the Constitution of Ireland called in the Irish language?

In the Irish language the Constitution of Ireland is known as 'Bunreacht na hÉireann' which means 'Basic Law of Ireland'. It is a detailed legal document which declares Ireland (known as Éire in the Irish language) as a sovereign state and sets out to embody characteristics of a republic.

Name one of the well known controversies regarding the Constitution of Ireland.

Article 2 asserted that "the whole island of Ireland, its islands and the territorial seas" formed a single "national territory". Article 3 also asserts that the Irish parliament had the right to exert their "jurisdiction over the whole of that territory". This offended the Unionists in Northern Ireland, who considered such assertions as illegal territorial claims.