

Submission to the Working Group on Seanad Reform established by An Taoiseach Enda Kenny TD

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Introduction

- 1.1 This Submission is furnished in response to the request for submissions published by the Working Group on Seanad Reform.
- 1.2 We note that the principal focus of the Working Group is on possible reform of the Seanad Electoral system within existing constitutional parameters. We also note that the Working Group intends to explore ways of reforming Seanad Éireann generally and the manner in which it carries out its business. We also note that the Working Group intends to consider the role of a reformed Seanad in the political process, the powers and functions of a reformed Seanad and any such matter as the Working Group may consider relevant.
- 1.3 There have been twelve separate reports published on the reform of Seanad Éireann. These have focused mainly on the composition and electoral system of the second chamber. The most recent report was published by the Seanad Éireann Committee on Procedure and Privileges Sub-Committee on Seanad Reform in 2004. There was a more recent attempt to prepare a report on

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Seanad Reform in 2008/2009 by the All-Party Group on Seanad Reform, established by the then Minister for the Environment, John Gormley. However, that group stopped meeting before reaching any consensus on reform.

1.4 In the run up to the Referendum on Seanad Abolition a number of proposals for Seanad Reform were published by individual senators and political parties. These were Senator John Crown's Seanad Electoral Reform Bill 2013, Senator Katherine Zappone and Senator Fergal Quinn's, Seanad Bill 2013. Policy documents entitled 'A Seanad for the People' and 'Seanad Reform Policy' were published by Fianna Fail and the Green Party respectively. Fianna Fail subsequently published its own bill, the Seanad Reform Bill 2014. The Bills published by Senators Crown, Zappone & Quinn, and Fianna Fail are all aimed at introducing reform of the second chamber without the necessity for an amendment of the Constitution. In addition, the Government published the Seanad Electoral (University Members) (Amendment) Bill 2014 which is aimed at reforming the electoral system for the university seats.

1.5 In our submission, the complexity of these proposals is a testament to the vigorous debate which took place during the Referendum campaign and provides a wealth of material for the Working Group to consider in the context of its deliberations.

The Constitutional Framework

1.6 As the review being conducted by the Working Group is being carried out within the existing constitutional framework, it is essential that this framework be set out clearly.

1.7 The relevant provisions of the Constitution are as follows:

- Article 15.1 – The National Parliament
- Article 18 – Seanad Éireann
- Article 19 - Seanad Éireann
- Article 20 – Legislation
- Article 21 – Money Bills
- Article 22 – Money Bills
- Article 23 – Time for Consideration of Bills by the Seanad
- Article 24 – Time for Consideration of Bills by the Seanad
- Article 27 – Reference of Bills to the People
- Article 28.7-8 – Appointment of Senators as Government Ministers
- Article 31.2.i – The Council of State
- Article 33.5 – The role of Seanad Éireann in the removal of the Comptroller and Auditor General

- Article 35.4 – The role of Seanad Éireann in the removal of members of the judiciary

Submissions

1.8 In terms of the specific issues raised by the Working Group, our submissions may be summarised as follows:

- a. In relation to the general reform of the Seanad Electoral System, it is our submission that legislation should be introduced to provide that every person who is entitled to vote in elections to Dáil Éireann should also be entitled to one vote in elections to Seanad Éireann.
 - i. New legislation should be introduced along the lines of the Government's Seanad Electoral (University Members) (Amendment) Bill 2014 extending the franchise in elections to the 6 'university' seats to all graduates of third level education;
 - ii. New legislation should be introduced removing the special position of councillors and members of the Oireachtas in elections to the 43 'panel' seats and providing that every citizen shall be entitled to one vote in elections to the 43 'panel' seats provided that they have not chosen to be part of the electorate for the 6 'university' seats. The Quinn/Zappone Seanad Bill 2013 and Crown Seanad Electoral Reform Bill provide a template for how the electoral process to the 43 panel seats could operate.
 - iii. New legislation should be introduced to ensure that political parties have to field the same percentage of female candidates in

elections to the 43 panel seats as they have to in Dáil elections to obtain State funding. We favour this system rather than a system of reserving a certain percentage of seats to female candidates as we feel it is more democratic and simpler to effect.

- b. In relation to the nomination of members of Seanad Éireann by An Taoiseach, it is our submission that legislation be enacted providing for the establishment of a Seanad Appointments Commission which would, following a transparent public appointment process, make recommendations for appointment to An Taoiseach. In making such recommendations, it is our submission that the Commission would have to ensure a gender balance and also ensure adequate representation on the list of proposed nominees for representatives from Northern Ireland, the diaspora, the elderly, the disabled and other groups. We believe that a template for such a system already exists in the legislation providing for the Judicial Appointments Board.
- c. In relation to the role of a reformed Seanad in the political process, we submit that:
 - i. The ability of the Seanad to act as a serious check on the activities of the Government depends, as does the similar ability of the Dáil, largely on the nature and quality of the individuals elected to the upper chamber operating within the framework of the constitutional powers of the Seanad. Ultimately, the nature and quality of those senators will depend on the will and choice of the electorate.

- ii. The Seanad should be given enhanced role in the scrutiny of draft EU proposals in the context of the powers given to National Parliaments under the Lisbon Treaty.
 - iii. The Seanad should be given an enhanced role in the scrutiny of secondary legislation.
 - iv. The Seanad should be given an enhanced role in the appointment of individuals by Ministers to State boards.
- d. In relation to the role of a reformed Seanad in the political process, we also submit that greater use be made by An Taoiseach of his ability to appoint up to two members of the Seanad as members of the Government. This combined with the ability of the Taoiseach to nominate 11 individuals to the Seanad provides a valuable, yet wholly underutilised ability, to bring in outside expertise to bear at Government level.

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