

Submission on Seanad Reform

I do not believe there is any compelling case for reform of the existing arrangements surrounding the Seanad in terms of policy or legislation. Indeed, I believe that any significant changes should be avoided. As a small unitary state, with no major minorities or failures of public representationⁱ, there is limited reasoning for bicameralism in the Irish context. Therefore, if the Seanad is to perform any useful role it is not to act as a counterweight to the Dáil, but rather to complement it by being a forum for greater consideration of matters. The Seanad should not be a policy making forum: rather a forum that delves deeper into legislation and administration than the Dáil can. A reviewing rather than a decision making body.

The Seanad already has the existing tools to perform such a role. It has however largely refused to use them. For example, it is undoubtedly true that Statutory Instrumentsⁱⁱ do not get the appropriate level of consideration by the Oireachtas. It is largely forgotten now, but the Seanad previously took a strong role in this area. In 1947, the Labour Party Senator, Luke Duffy proposed the establishment of a Seanad Committee on Statutory Rules. While his motion was defeated at the time, an amended version was approved in 1948 which resulted in the establishment of a Seanad Select Committee on Statutory Rules. This committee continued to operate across the various Seanads until it was not re-established in 1981.

The Seanad Select Committee on Statutory Rules was given the power to consider every statutory instrument laid or laid in draft before Seanad Éireann in pursuance of a statutory requirement with a view to determining whether the special attention of Seanad Éireann should be drawn to it. Despite achieving relatively little public credit, the committee achieved success. Through its activities, the committee threw greater light on the practices surrounding secondary legislation, highlighted questionable and unusual practices, questioned those public servants involved in drafting statutory instruments and made recommendations on such matters which were taken on board. At the very least, this committee meant that those Ministers and state agencies engaged in secondary legislation knew that their action would come under some form of legislative scrutiny. This scrutiny has been absent for the last thirty years.

Since the demise of this committee, there has been no specific body tasked with oversight in this area, and it has been largely non-existent. The Seanad could take back this role by a simple decision to establish such a Select Committee. It would require nothing more than a resolution of the Seanad. Given the volume of Statutory Instruments that are laid before the Oireachtas – and the fact that in the vast majority of cases, the Seanad has the authority to annul them if it so chooses – this would be a welcome strengthening of the legislative process. It could decide to do the same in respect of European legislation, although the case for that is much weaker as there is a Joint Committee in situ that is operating appropriately.

Work in this area would significantly improve the legislative process and would improve accountability. It would be in keeping with the Seanad's purpose and would not create any tension between the two Houses of the Oireachtas.

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ⁱ The undoubted failure to have adequate female representation in the Oireachtas is being tackled through candidate quotas that are being introduced.

ⁱⁱ Also known as Delegated Legislation or Secondary Legislation.