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An Comhchoiste um Thithíocht, Rialtas Áitiúil agus Oidhreach
Tuarascáil maidir leis an nGrinnscrúdú Réamhreachtach
ar Scéim Ghinearálta Bhille Toghcháin an tSeanaid
(Comhaltaí Ollscoile) (Leasú), 2024
Iúil 2024

Joint Committee on Housing, Local Government and Heritage
Report on the Pre-Legislative Scrutiny of the General Scheme of the
Seanad Electoral (University Members) (Amendment) Bill, 2024
July 2024

CATHAOIRLEACH'S FOREWORD



In May 2024, the Minister of State for Nature, Heritage and Electoral Reform referred the General Scheme of the Seanad Electoral (University Members) (Amendment) Bill 2024 to the Joint Committee on Housing, Local Government and Heritage in accordance with Standing Orders for the purpose of pre-legislative scrutiny.

The Committee welcomes the introduction of the General Scheme, and the time and consideration the Department has provided with this Bill.

In undertaking pre-legislative scrutiny, the Committee has sought to scrutinise the proposed legislation and provide recommendations on areas where it believes change or amendments are warranted, including voter registration and engagement, the nomination of candidates and the filling of casual vacancies that may arise. The Committee also recommends further consideration of the 2018 Report of the Seanad Reform Implementation Group.

A copy of this report and recommendations will be sent to the Minister for Housing, Local Government and Heritage and the Minister of State for Nature, Heritage and Electoral Reform. I would like to express my appreciation to all the stakeholders who engaged with the Committee for their contributions and to the Members of the Committee for their work on this subject. Finally, I hope that this report will help to inform the legislative process and make a valuable contribution to the forthcoming legislation.

A handwritten signature in cursive script, reading "Steven Matthews".

Deputy Steven Matthews, T.D.

Cathaoirleach,

Joint Committee on Housing, Local Government and Heritage

July 2024

RECOMMENDATIONS

Recommendations

1. The Committee recommends that consideration should be given to the possibility of automatically registering eligible individuals as electors in the Higher Education constituency, upon their graduation from a designated institution of education.
2. The Committee recommends that there should be regular promotional campaigns to promote registration for the Higher Education constituency. These campaigns should be managed by An Coimisiún Toghcháin.
3. The Committee recommends that further consideration should be given to the number of assentors and the alternative deposit required by a candidate to be nominated for election to the Higher Education panel, to ensure a balance between setting an appropriate threshold for participation, and permitting access.
4. The Committee recommends that consideration should be given to ensuring that all electors are fully and clearly informed of any replacement candidate lists in advance of polling for the Higher Education constituency.
5. The Committee recommends that the Government reexamine the provisions of the 2018 Report of the Seanad Reform Implementation Group, with a view to consideration of broader reform of the Seanad, beyond the university panels.

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INTRODUCTION

In accordance with *Standing Order 173*¹ the General Scheme of the Seanad Electoral (University Members) (Amendment) Bill 2024 (the General Scheme) was referred to the Joint Committee on Housing, Local Government and Heritage (the Committee) on 8 May 2024 by the Minister of State for Nature, Heritage and Electoral Reform (the Minister), Mr. Malcolm Noonan T.D.

The Committee received a briefing on the General Scheme from officials from the Department of Housing, Local Government and Heritage, and subsequently extended an invitation to make a written submission on the General Scheme to:

- Dr Theresa Reidy, Department of Government and Politics, University College Cork
- Professor Jane Suiter, School of Communications, Dublin City University
- Professor David Farrell, School of Politics and International Relations, University College Dublin
- Senator Tom Clonan
- Senator Alice-Mary Higgins
- Senator Michael McDowell
- Senator Rónán Mullen
- Senator Lynn Ruane
- Mr Tomás Heneghan
- Dr Maurice Manning, and
- The Union of Students in Ireland

Submissions were received from:

- Senator Michael McDowell,
- Mr Tomás Heneghan,
- Dr Theresa Reidy, and
- The Union of Students in Ireland.

¹ [Standing Orders 2020 consolidated version as of 26 May 2022 \(oireachtas.ie\)](#)

These submissions can be found on the Committee's website [here](#).

A submission was also made by Senators Alice-Mary Higgins and Lynn Ruane; this submission was received following the Committee's consideration of the General Scheme

BACKGROUND

The election of six University Seanad Éireann seats is provided for under the Seanad Electoral (University Members) Act 1937. These six seats are elected through two three-seat constituencies:

- a University of Dublin constituency, consisting of Trinity College Dublin graduates and certain undergraduate scholars, and
- a National University of Ireland (NUI) constituency, consisting of NUI graduates.

The Seanad Electoral (University Members) Act 1937 is underpinned by Article 18.4 of the Constitution. Articles 18.2 and 18.3 of the Constitution were amended through a referendum in 1979.

The General Scheme

The General Scheme is made up of 21 Heads. The main provisions of the General Scheme are set out below.

The General Scheme proposes replacing the existing three-seat NUI and University of Dublin university constituencies of Seanad Éireann with a new six-seat Higher Education constituency for electing university members of Seanad Éireann. It proposes extending the franchise for electing university members of Seanad Éireann to graduates who hold a degree of ordinary level or higher from a designated institution of higher education in Ireland, and are Irish citizens. Designated institutions of higher education are those as defined by section 53 of the Higher Education Authority Act 2022 and include the constituent universities of NUI and the University of Dublin. The Higher Education Authority maintains and publishes a list of higher education institutions² which is included at Appendix One of this report.

The General Scheme proposes setting the eligibility criteria for being an elector of the Higher Education constituency to being:

- (i) aged 18 years or more,

² [Higher Education Institutions](#)

- (ii) an Irish citizen, and
- (iii) a graduate of a designated institution.

Criteria (i) and (ii) relating to age and citizenship would remain the same as is currently provided for with the election of university members. Each elector would be limited to one vote; at present, graduates with qualifications from both University of Dublin and an NUI institution are eligible to vote in both constituencies.

Head Four of the General Scheme provides for the designation of a designated institution of higher education as the Central Registration Authority for the new Seanad constituency. The Head further provides for the appointment of a person as Chief Registration Officer. Head Eight provides for the establishment of an Advisory Committee to advise the Chief Registration Officer in the performance of his or her statutory duties. It further provides that the Committee shall give advice and make recommendations to the Minister.

Head Five of the General Scheme provides for the compilation and maintenance of a single register of electors for the new six-seat Higher Education constituency with appropriate support from the individual institutions. Head Six provides for the use of this register of electors, making clear that it can only be used for electoral or other statutory purposes. Head Eleven provides An Coimisiún Toghcháin with explicit research and reporting functions in relation to oversight of register of electors.

The General Scheme proposes an alternative arrangement for the filling of casual vacancies that might arise in the new constituency. This would replace the existing by-election system for the NUI and University of Dublin constituencies with a 'replacement candidate list' system, similar to the system that is used for the filling of casual vacancies that arise in Ireland's elected members to the European Parliament.

Head Fifteen of the General Scheme sets out arrangements in respect of the nomination of candidates at elections in the new constituency, based on those contained in the Electoral Act 1992 for Dáil elections, the Local Elections Regulations 1995 for local elections and the European Parliament Elections Act

1997 for European Parliament elections. It proposes a deposit of €1800 or 60 assentors, in line with the arrangements in a European Parliament constituency.

KEY ISSUES WITH THE GENERAL SCHEME

A number of key issues with the General Scheme were raised by stakeholders in their written submissions and noted by the Committee.

Issues regarding registration and participation

Submissions from stakeholders made suggestions as to how the General Scheme could be amended to potentially increase registration and participation levels in Seanad Higher Education panel elections. In her submission, Dr Theresa Reidy states that in 2020, 34% of NUI graduates and 23% of University of Dublin graduates. Dr Reidy suggests that the roles of the Registration Authority and the Chief Registration Office should be expanded to include promoting participation. She suggests a voter education programme at each election providing information on when ballots will be circulated, when they must be returned and the voting process. Dr Reidy also suggested that there should be a periodic national campaign associated with registration.

Senator Michael McDowell in his submission highlights that because the General Scheme does not include provisions for automatically re-registering electors, it is probable that many graduates will be unaware of their requirement to register. Senator McDowell highlights that the General Scheme does not include any duty to advertise, nationally or internationally, for registration applications.

Senator McDowell also raises the lack of any duty or function corresponding to that of the Electoral Commission in relation to advertising or encouraging engagement in registration.

The Union of Students in Ireland (USI) in its submission stated that individuals eligible to be electors in the Higher Education constituency should be automatically registered to vote upon their graduation.

Recommendation One

The Committee recommends that consideration should be given to the possibility of automatically registering eligible individuals as electors in the Higher Education constituency, upon their graduation from a designated institution of education.

Recommendation Two

The Committee recommends that there should be regular promotional campaigns to promote registration for the Higher Education constituency. These campaigns should be managed by An Coimisiún Toghcháin.

The franchise of electors

USI's submission raised several concerns regarding the franchise of electors for the Higher Education constituency.

USI calls for the proposed franchise of the new Higher Education constituency to be extended to include individuals who have who have been awarded a degree or qualification at level 6 or higher on the National Framework of Qualifications (NFQ). USI also recommend that the requirement of Irish citizenship in order to be eligible to be an elector should be removed, stating that international students who have graduated and remain ordinarily resident in the state after their graduation must be made eligible to vote in the Higher Education Constituency.

USI state that the provision in Subsection (5) in Head 3 of the General Scheme is “utterly unreasonable”. This provision states that, in the event of a designated institution of higher education ceasing to be an institution or ceasing to have designation status, any person having obtained their degree from that institution shall no longer be entitled to register as an elector.

USI also calls for one of the six seats in the new Higher Education constituency to have a responsibility to represent current students, and for current students to be

eligible to vote for that seat. It recommends that that seat should have a two-year term, and that all current students should be automatically registered to vote.

Nomination of Candidates

Two submissions received by the Committee raised concerns around the proposed process for nominating candidates for election to the new Higher Education constituency. Head Fifteen of the General Scheme provides that in order for candidates to be nominated, they must have the support of 60 assentors who are registered as electors in the Seanad Higher Education constituency, or they or someone on their behalf must lodge a sum of €1,800 euro with the Returning Officer.

Mr Tomás Heneghan in his submission states that the proposed number of 60 assentors is excessive, given that candidates for the existing University of Dublin and NUI constituencies require nine assentors. He also states that the alternative deposit of €1,800 is disproportionate and inappropriate.

Conversely, Dr Reidy in her submission describes the threshold of 60 assentors as being quite low by international standards for participation in a national election with a single constituency. She states that this low threshold may amplify trends towards increasing ballot lengths.

Dr Reidy also highlights that the use of a deposit as a method for inclusion on a ballot is unusual in an EU comparative context, stating that only Ireland, France and the Netherlands require deposits for nomination in European Parliament elections. She recommends that if the deposit method for nomination is to be used, then consideration should be given to raising the amount required, again so as to mitigate against higher levels of candidacy.

Recommendation Three

The Committee recommends that further consideration should be given to the number of assentors and the alternative deposit required by a candidate to be nominated for election to the Higher Education panel, to ensure a balance between setting an appropriate threshold for participation, and permitting access.

Filling of casual vacancies

The USI in its submission favours the retention of a by-election system for the filling of casual vacancies, rather than the replacement candidate list system proposed in the General Scheme. If the replacement candidate list system is to be used, then the USI recommend that candidates should be required to publish their replacement candidate lists (if they have one) with all of their election campaign materials, to ensure that electors are aware of them. Currently, candidates for election to the European Parliament may submit a candidate replacement list to the Returning Officer in their constituency, and these lists are published as part of the Notice of Poll.

Recommendation Four

The Committee recommends that consideration should be given to ensuring that all electors are fully and clearly informed of any replacement candidate lists in advance of polling for the Higher Education constituency.

Equality and wider Seanad reform

Three of the four submissions received by the Committee called for wider reform of the Seanad, beyond the provision of the General Scheme and the two existing university panels.

USI state that its submission is informed by its policy on electoral reform, which calls for all citizens aged 16 and over to be eligible to vote in Seanad elections, and for the nomination of 11 Senators by An Taoiseach to be removed.

Senator McDowell states that enacting the Bill without also enacting the Seanad Bill 2020, which is currently before Seanad Éireann, would lead to discrimination between citizens with a third level degree, and the majority of the population without.

Mr Heneghan calls for legislation to be brought forward in line with that proposed in the 2018 Report of the Seanad Reform Implementation Group³ which made recommendations on implementing the proposals of the Report of the Working Group on Seanad Reform (April 2015)⁴ which included, among others, a recommendation for a new composition of the Seanad with 11 senators be appointed by the Taoiseach, 15 senators be elected by TDs, Senators, County and City Councillors, and 34 senators be directly elected from five vocational panels, and another including graduates of all universities.

Recommendation Five

The Committee recommends that the Government reexamine the provisions of the 2018 Report of the Seanad Reform Implementation Group, with a view to consideration of broader reform of the Seanad, beyond the university panels.

³ [Report of the Seanad Reform Implementation Group 2018](#)

⁴ [Report of the Working Group on Seanad Reform \(April 2015\)](#)

APPENDIX 1: HIGHER EDUCATION INSTITUTIONS

Higher Education Institutions as of June 2024

Atlantic Technological University

Dublin City University

Dun Laoghaire Institute of Art and Design & Technology

Dundalk Institute of Technology

Mary Immaculate College

Maynooth University

Munster Technological University

National College of Art & Design

RCSI University of Medicine and Health Sciences

Royal Irish Academy

South East Technological University

St Angela's College

Technological University Dublin

Technological University Shannon: Midlands Midwest

Trinity College Dublin

University College Cork

University College Dublin

University of Galway

University of Limerick

APPENDIX 2: ORDERS OF REFERENCE

Functions of The Committee – Derived from Standing Orders [Dso 95; Sso 71]

(1) The Dáil may appoint a Departmental Select Committee to consider and, unless otherwise provided for in these Standing Orders or by order, to report to the Dáil on any matter relating to—

- (a) legislation, policy, governance, expenditure and administration of—
 - (i) a Government Department, and
 - (ii) State bodies within the responsibility of such Department, and
- (b) the performance of a non-State body in relation to an agreement for the provision of services that it has entered into with any such Government Department or State body.

(2) A Select Committee appointed pursuant to this Standing Order shall also consider such other matters which—

- (a) stand referred to the Committee by virtue of these Standing Orders or statute law, or
- (b) shall be referred to the Committee by order of the Dáil.

(3) The principal purpose of Committee consideration of matters of policy, governance, expenditure and administration under paragraph (1) shall be—

- (a) for the accountability of the relevant Minister or Minister of State, and
- (b) to assess the performance of the relevant Government Department or of a State body within the responsibility of the relevant Department, in delivering public services while achieving intended outcomes, including value for money.

(4) A Select Committee appointed pursuant to this Standing Order shall not consider any matter relating to accounts audited by, or reports of, the Comptroller and Auditor General unless the Committee of Public Accounts—

- (a) consents to such consideration, or
- (b) has reported on such accounts or reports.

(5) A Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann to be and act as a Joint Committee for the purposes of paragraph (1) and such other purposes as may be specified in these Standing Orders or by order of the Dáil: provided that the Joint Committee shall not consider—

- (a) the Committee Stage of a Bill,
- (b) Estimates for Public Services, or
- (c) a proposal contained in a motion for the approval of an international agreement involving a charge upon public funds referred to the Committee by order of the Dáil.

(6) Any report that the Joint Committee proposes to make shall, on adoption by the Joint Committee, be made to both Houses of the Oireachtas.

(7) The Chairman of the Select Committee appointed pursuant to this Standing Order shall also be Chairman of the Joint Committee.

(8) Where a Select Committee proposes to consider—

- (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 133, including the compliance of such acts with the principle of subsidiarity,
- (b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,
- (c) non-legislative documents published by any EU institution in relation to EU policy matters, or
- (d) matters listed for consideration on the agenda for meetings of the relevant Council (of Ministers) of the European Union and the outcome of such meetings,

the following may be notified accordingly and shall have the right to attend and take part in such consideration without having a right to move motions or amendments or the right to vote:

- (i) members of the European Parliament elected from constituencies in Ireland,

- (ii) members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
- (iii) at the invitation of the Committee, other members of the European Parliament.

(9) A Select Committee appointed pursuant to this Standing Order may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department consider—

- (a) such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and
- (b) such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select: Provided that the provisions of Standing Order 130 apply where the Select Committee has not considered the Ombudsman report, or a portion or portions thereof, within two months (excluding Christmas, Easter or summer recess periods) of the report being laid before either or both Houses of the Oireachtas.

Scope and Context of Activities of Committees (As Derived from Standing Orders) [Dso 94; Sso 70]

1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders;

(2) such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil/Seanad;

(3) it shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under DSO 125(1) and SSO 108(1); and

(4) it shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—

- (a) a member of the Government or a Minister of State, or
- (b) the principal office-holder of a State body within the responsibility of a Government Department or

- (c) the principal office-holder of a non-State body which is partly funded by the State,

Provided that the Committee may appeal any such request made to the Ceann Comhairle, whose decision shall be final.

(5) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice to the Business Committee by a Chairman of one of the Select Committees concerned, waives this instruction.

Powers of Committees (As Derived from Standing Orders) [Dso 96; Sso 72]

Unless the Dáil/Seanad shall otherwise order, a Committee appointed pursuant to these Standing Orders shall have the following powers:

(1) power to invite and receive oral and written evidence and to print and publish from time to time—

- (a) minutes of such evidence as was heard in public, and
- (b) such evidence in writing as the Committee thinks fit;

(2) power to appoint sub-Committees and to refer to such sub-Committees any matter comprehended by its orders of reference and to delegate any of its powers to such sub-Committees, including power to report directly to the Dáil/Seanad;

(3) power to draft recommendations for legislative change and for new legislation;

(4) in relation to any statutory instrument, including those laid or laid in draft before either or both Houses of the Oireachtas, power to—

(a) require any Government Department or other instrument-making authority concerned to—

- (i) submit a memorandum to the Joint Committee explaining the statutory instrument, or
- (ii) attend a meeting of the Joint Committee to explain any such statutory instrument: Provided that the authority concerned may decline to attend for reasons given in writing to the Joint Committee, which may report thereon to the Dáil, and

(b) recommend, where it considers that such action is warranted, that the instrument should be annulled or amended;

(5) power to require that a member of the Government or Minister of State shall attend before the Joint Committee to discuss—

(a) policy, or

(b) proposed primary or secondary legislation (prior to such legislation being published),

for which he or she is officially responsible: Provided that a member of the Government or Minister of State may decline to attend for stated reasons given in writing to the Joint Committee, which may report thereon to the Dáil: and provided further that a member of the Government or Minister of State may request to attend a meeting of the Joint Committee to enable him or her to discuss such policy or proposed legislation;

(6) power to require that a member of the Government or Minister of State shall attend before the Joint Committee and provide, in private session if so requested by the attendee, oral briefings in advance of meetings of the relevant EC Council (of Ministers) of the European Union to enable the Joint Committee to make known its views: Provided that the Committee may also require such attendance following such meetings;

(7) power to require that the Chairperson designate of a body or agency under the aegis of a Department shall, prior to his or her appointment, attend before the Select Committee to discuss his or her strategic priorities for the role;

(8) power to require that a member of the Government or Minister of State who is officially responsible for the implementation of an Act shall attend before a Joint Committee in relation to the consideration of a report under DSO 197/SSO 168;

(9) subject to any constraints otherwise prescribed by law, power to require that principal office-holders of a—

(a) State body within the responsibility of a Government Department or

(b) non-State body which is partly funded by the State,

shall attend meetings of the Joint Committee, as appropriate, to discuss issues for which they are officially responsible: Provided that such an office-holder may decline to attend for stated reasons given in writing to the Joint Committee, which may report thereon to the Dáil/Seanad; and

(10) power to—

(a) engage the services of persons with specialist or technical knowledge, to assist it or any of its sub-Committees in considering particular matters; and

(b) undertake travel;

Provided that the powers under this paragraph are subject to such recommendations as may be made by the Working Group of Committee Chairmen under DSO 120(4)(a)/SSO 107(4)(a).

APPENDIX 3 COMMITTEE MEMBERSHIP

Deputies



Michael Creed
Fine Gael



Francis Noel Duffy
Green Party



Joe Flaherty
Fianna Fáil



Thomas Gould
Sinn Féin



Steven Matthews
Cathaoirleach
Green Party



Paul McAuliffe
Leas-Cathaoirleach
Fianna Fáil



Cian O'Callaghan
Social Democrats



Richard O'Donoghue
Independent



Eoin Ó Broin
Sinn Féin

Senators



Victor Boyhan
Independent



John Cummins
Fine Gael



Mary Fitzpatrick
Fianna Fáil



Rebecca Moynihan
Labour



Mary Seery Kearney
Fine Gael

Notes:

1. Deputies nominated by the Dáil Committee of Selection and appointed by Order of the Dáil of 30 July 2020.
2. Senators nominated by the Seanad Committee of Selection and appointed by Order of the Seanad on 18 September 2020.
3. The Dáil Committee of Selection nominated Deputy Joe Flaherty to replace Deputy Jennifer Murnane O'Connor on 2 February 2021.
4. The Dáil Committee of Selection nominated Deputy Michael Creed to replace Deputy Emer Higgins on 14 May 2024.

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