



**Tithe an  
Oireachtais**  
**Houses of the  
Oireachtas**

## **Tithe an Oireachtais**

An Comhchoiste um Thithíocht, Pleanáil agus Rialtas Áitiúil

Tuarascáil maidir le Grinnscrúdú ar an mBille um Athbheochan Uirbeach agus  
Tithe (Leasú) 2018 [BCP]

Deireadh Fómhair 2019

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## **Houses of the Oireachtas**

Joint Committee on Housing, Planning & Local Government

Report on Scrutiny of the Urban Regeneration and Housing (Amendment) Bill  
2018 [PMB]

October 2019

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## **Introduction -**

This is the report of the Joint Committee on Housing, Planning and Local Government's detailed scrutiny of the Urban Regeneration and Housing (Amendment) Bill 2018.

The Bill was referred to the Select Committee on Housing, Planning, Community and Local Government by order of the Dáil of 3<sup>rd</sup> July 2018.

The Minister for Housing, Planning and Local Government was included in the circulation of a draft of this report, in accordance with Standing Order 95, as an *ex officio* Committee Member.

## **Procedural basis for scrutiny -**

At its meeting of 6<sup>th</sup> March 2019, the Committee agreed to undertake scrutiny of the Urban Regeneration and Housing (Amendment) Bill 2018. Private Members Bills referred to Select Committee are subject to the provisions of Standing Order 141 [Dáil], which provides that a Select Committee "*shall undertake detailed scrutiny of the provisions of such Bills ... and shall report thereon to the Dáil prior to Committee Stage consideration ...*" unless the Committee decides in relation to a particular Bill that detailed scrutiny is not necessary.

Paragraph (c) of Standing Order 141 permits scrutiny of the Bill in Joint Committee, viz. "*Nothing in this Standing Order shall preclude a Joint Committee from undertaking detailed scrutiny and reporting thereon to both Houses prior to Committee Stage consideration of the Bill by the Select Committee*".

## Main provisions of the Bill -

According to the explanatory memorandum, the purpose of the Bill is-

*“to disincentivise land banking and land hoarding, with a view to addressing the overall problem of the price of development land in Ireland and the effect it has on the property market.”*

The purpose of the Bill is to amend Part 2 of the **Urban Regeneration and Housing Act 2015**<sup>1</sup> (the Principle Act), which concerns the Vacant Site Levy; to increase the vacant site levy and make changes to some of the provisions of the levy; to allow owners of sites deemed vacant, the opportunity to enter into negotiations with the relevant Local Authority, or State Agency, to sell the site for a percentage of its value; and to provide for related matters.

The provisions of the Urban Regeneration and Housing (Amendment) Bill 2018 would, if enacted:

- add a definition of “vacant or idle” in the case of a site consisting of residential land or regeneration land, to include:
  - a site where no commencement notice has been issued within 12 months of planning permission being received;
  - a site where completion has not occurred within 36 months of a commencement notice being issued;
  - a site where any unauthorised use or unauthorised development is occurring, and
  - a site which is being utilised on an authorised temporary basis for an activity other than development.
- Provide that a planning authority would determine the market value of a vacant site every 2 years (rather than every 3 years, as is currently the case).
- Provide that a planning authority would seek valuations from three suitably qualified persons, as determined by the planning authority, when

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<sup>1</sup> Urban Regeneration and Housing Act, 2015.  
<http://www.irishstatutebook.ie/eli/2015/act/33/enacted/en/html>

determining market value (at present it is one person). The three values will be calculated and an average value produced, which will determine the market value.

- Remove the ability of land owners to appeal market valuations (for the purpose of the vacant site levy) to the Valuation Tribunal.
- Increase the vacant site levy to 25% and make some changes to the application of the levy;
- amend s.15 of the Principal Act to delete subsection 2, which would mean that a site liable to the derelict sites levy could also be subject to the vacant site levy.
- Allow owners of sites deemed vacant to enter into negotiations with the relevant Local Authority, or State Agency, to sell the site for up to 60% of its value; and
- remove appeals under s.18 of the Principal Act (which relates to demand for payment), in relation to the vacant site levy.

### **Policy and legislative context –**

Ireland introduced a nationwide planning system in 1964. Reforms since then have included the introduction of national and regional plans, as well as fast-track planning procedures for important infrastructure projects. There have also been targeted reforms which relate to the governance of land-use, such as the *Urban Regeneration and Housing Act 2015* mentioned above.

According to the Organisation for Economic Co-operation and Development, OECD, between from 2000 - 2012, Ireland experienced the third highest growth rate of developed land of all 28 analysed OECD countries. However, over the same period, per capita use of developed land declined across all regions as population grew faster than the area of developed land over the same period<sup>2</sup>.

The management of development land has been criticised by the National Economic and Social Council<sup>3</sup>, NESCC, and they note that there is a large supply of both vacant and derelict sites in urban areas.

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<sup>2</sup> [OECD. \(2017\). Land use Planning Systems in the OECD: country fact sheets](#)

<sup>3</sup> [NESCC. \(2018\). Urban Development Land, Housing and Infrastructure: Fixing Ireland's Broken System](#)

The Government has noted that –

*"Despite the large reserve of zoned land across all planning authorities, not all of that land would appear to be readily available to the broad range of housing providers. Aside from infrastructural constraints and land ownership issues that can arise, it is often reported that landowners may not sell their lands to housing providers until prices match their expectations, regardless of what may be a realistic land price in terms of the overall price of housing that it is economically viable to provide on those lands<sup>4</sup>".*

This issue of land-hoarding has been identified by the National Asset Management Agency<sup>5</sup>, NAMA, the OECD, and the NESC<sup>6</sup> as an issue in Ireland. While there may be some disagreement on the scale of land hoarding and the solutions to it, various commentators agree that action should be taken to tackle it.

### **Derelict sites register**

Under the **Derelict Sites Act 1990<sup>7</sup>**, local authorities are empowered to: make compulsory purchases of land; carry out necessary works and charge the owners for the cost, or prosecute owners who do not comply with notices served. Each local authority must keep a publicly accessible register of all derelict sites in its area.

Owners of urban land which has been entered on the register are liable to pay a derelict site levy within two months of receiving the notice. The levy is set at 3% of the market value of the land but the Minister for Housing, Planning and Local Government may prescribe a higher percentage, so long as this is no more than 10% of the market value.

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<sup>4</sup> Identifying Planning Measures to Enhance Housing Supply, 2016. [https://www.housing.gov.ie/sites/default/files/publications/files/circular\\_aph2-2016\\_pl8-2016\\_-\\_identifying\\_planning\\_measures\\_to\\_enhance\\_housing\\_supply.pdf](https://www.housing.gov.ie/sites/default/files/publications/files/circular_aph2-2016_pl8-2016_-_identifying_planning_measures_to_enhance_housing_supply.pdf)

<sup>5</sup> [Opening Statement by Mr. Brendan McDonagh, Chief Executive of NAMA, to the Joint Committee on Finance, Public Expenditure and Reform Thursday, 13 July 2017](#)

<sup>6</sup> [Housing Supply and Land: Driving Public Action for the Common Good, NESC, 2015](#)

<sup>7</sup> Derelict Sites Act, 1990. <http://www.irishstatutebook.ie/eli/1990/act/14/enacted/en/html>

## **Vacant site levy**

**The Urban Regeneration and Housing Act 2015** introduced the vacant site levy. Under the Act, planning authorities are required to establish and maintain a Vacant Sites Register. When an authority is of the opinion that a site has been vacant for a minimum of 12 months it may enter the site on the register. Planning authorities must then establish a register of vacant sites in their areas and issue annual notices to owners of vacant sites. The levy has been applied by planning authorities since 1<sup>st</sup> January 2019. Section 64 of the *Planning and Development (Amendment) Act 2018* has increased the levy (from the original 3%) to 7% of market value from 2019.

## **Planning and Development (Amendment) Act 2018**

*The Planning and Development (Amendment) Act 2018*<sup>8</sup> was signed into law on the 19<sup>th</sup> July 2018 and introduced a number of amendments to the existing provisions in relation to the vacant site levy in the Urban Regeneration and Housing Act 2015. The amendments aimed to further strengthen the vacant site levy provisions by –

- Increasing the levy from 3% to 7% for sites on the register for the year 2019 and each consecutive year to ensure the levy is more effective.
- Removing the possibility of applying reduced or zero rates of levy for sites on the register that are subject to a site loan.
- Further clarifying the definition of 'vacant and idle' with reference to vacant sites on residential land, to include sites that are not being used primarily for the purpose for which they have been zoned and where land was purchased after it was zoned residential, irrespective of where it was purchased.
- Providing that the Minister may, by regulations, vary the levy rate within the upper threshold of 7%, to ensure the rate can be varied to respond to property price fluctuations.

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<sup>8</sup> The Planning and Development (Amendment) Act, 2018.  
<https://data.oireachtas.ie/ie/oireachtas/act/2018/16/eng/enacted/a1618.pdf>

Many of the measures in the Bill in question are addressed to some degree by the legislative provisions outlined above, which have the same objective in relation to addressing land hoarding and bringing vacant, underutilized sites into productive use, for the purposes of increasing housing supply.

### **Pre-Committee Stage scrutiny -**

On the 28<sup>th</sup> of March 2019, the Joint Committee held one session scrutinising the Bill. In this session the sponsor of the Bill, Mick Wallace T.D., along with Professor P.J. Drudy, Mr. Mel Reynolds, and Mr. Christopher Oonan briefed the Committee on the main provisions of the Bill.

Deputy Wallace informed the Committee that -

*“the purpose of the Bill is to disincentivise land banking and land hoarding with a view to addressing the overall problem of the price of development land in Ireland and the effect it has on the property market. The main provisions of the Bill provide stricter definitions for what constitutes a vacant or idle site, increase the vacant site levy and remove certain exemptions in relation to the levy, remove three of the four appeals allowed under the 2015 Act and provide an option for the owner of the site deemed vacant to enter into negotiations with the relevant local authority or State agency to sell the site for a percentage of its value”.*

Deputy Wallace informed the Committee that the introduction of the Principle Act was, at the time, encouraging in that it introduced levies and a vacant site register. However, Deputy Wallace explained how he believes that the subsequent legislation to enact the levy was inadequate and “full of loopholes”, and that the purpose of this Bill is to rectify these loopholes.

Deputy Wallace gave the Committee an overview of the sections of the Bill, their purpose, and some examples of the loopholes he spoke of previously. He then noted that, as is a regular occurrence with legislation concerning private property, constitutional issues arise. He spoke of the constitutional issues raised by the Government during Second Stage but notified the Committee that his own legal advice does not consider any of the Bill’s provisions unconstitutional.



Professor P.J. Drudy then gave his opening statement to the Committee, providing a background into the current status of the housing market, outlining the disadvantages of an over-reliance on the private sector supply of housing, and the negative effects this can have on affordability. Professor P.J. Drudy advised the Committee that in order to increase the supply of land and housing –

*"Urgent action on unused land is required. As such, the purpose of this Bill is to bring forward residential development. It seems to me that land is being hoarded. Houses are being drip-fed onto the market to keep prices high. I feel very much that this Bill has the potential to make a dramatic change."*

Mr. Mel Reynolds then addressed the Committee and outlined the current affordability issues in housing options facing citizens in the state. Mr. Reynolds also outlined the extent of State subvention in the construction of private housing whilst noting that more than 90% of additional State social housing is sourced from the private sector. Mr. Reynolds informed the Committee that he questions the current effectiveness of the vacant site levy measures in the current market, with just 21 of 31 local authorities listing sites as vacant on public registers. Dublin City Council, Mr. Reynolds explained, is one of the most proactive local authorities and its register includes approximately 16ha of vacant zoned residential land in the ownership of the Council itself. However, Mr. Reynolds explained, this is a fraction of the 112ha of vacant zoned residential land owned by the Council, and figures for other local authorities that have populated registers are lower again.

Mr. Reynolds noted that despite the best intentions of the Department of Housing, Planning and Local Government (the Department), local authorities appear reluctant to implement the site levy and have cited a number of reasons, from lack of resources to low land values.

He further stated to the Committee –

*"A proper, functioning vacant site levy, implemented in a transparent and consistent manner by all local authorities, should be encouraged. Once changes are signalled in an unambiguous and timely manner, costs will be transferred back into site values. Proceeds from any site levy should be ring-fenced to provide finance for affordable housing".*

Following the witnesses' opening statements, the Members discussed a range of topics relating to how the Bill would operate in practical terms. Members discussed how the Bill might disincentivise developers from "flipping" sites once they had obtained planning permission, and how the 36-month time limit for completion might need to be amended to include the phrase "substantial completion" so as to take into account delays in development. The Committee discussed a report from Dublin City Council which noted that there were 162 sites which would be eligible for the vacant site levy but they were smaller than the size stipulated in the legislation, and noted that there is an argument for bringing the size down from 0.05ha to 0.03ha.

Members questioned whether or not local authorities had sufficient resources to collect the vacant site levy to which they agreed that if resources were made available, it would be worth it in terms of the return for the Government.

Mr. Mel Reynolds expanded on this point and stated –

*"There are 298 ha of zoned residential land. The value per hectare is approximately €10 million. That is €3 billion worth of land currently in Dublin city only. If Deputy Wallace's proposal is correct and it brings more land into this, for example, if half of that land was brought under the levy and the levy was raised to 20%, that would be €300 million a year in Dublin City Council alone which could be ring-fenced for affordable housing."*

Members expressed their broad support for the Bill, noting that the Department have introduced some legislative measures since the Bill was referred to the Committee that go some way towards addressing the issues raised by Deputy Mick Wallace.

### **Implications and implementation of the Bill's proposal –**

The Department, in their written submissions to the Committee, outlined a number of implications that may occur as a result of the Bill's provisions. They also noted that the *Planning and Development (Amendment) Act 2018*, mentioned above, introduced a number of amendments to the existing provisions in relation to the

vacant site levy in the Principle Act, which address to some degree the core measures in Deputy Wallace's Bill.

The following paragraphs outline the provisions of the Bill to which the Department have advised may have implications, and these implications are also outlined below.

### **1. Definition of Vacant and Idle**

Section 4 of the Bill amends section 5 of the Principal Act by inserting a new paragraph in subsection (1) to effectively extend the scope of the vacant site levy by further defining the term "vacant and idle" to include circumstances in which –

- (a) planning permission for the development of a site has not been activated within 12 months;
- (b) development on a site is not completed within 36 months of the issuing of a commencement notice
- (c) unauthorised use or development is occurring on a site
- (d) a site is being used on an authorised basis for an activity other than development

It also proposes the insertion of new definitions for the terms "full time", "authorised", "temporary", and "unauthorised" in subsection (2).

### **Implications of proposals**

The Department, in their submissions, maintain that under the existing Act, neither of the circumstances at point (a) or (b) above would prevent a site from being considered a vacant site, and therefore they consider that the proposals weaken the existing provisions, as they would prevent the levy being applied at the earliest possible time.

The Department maintain that the proposals at point (c) and (d) above have been addressed through amendments made in the Planning and Development (Amendment) Act 2018, which clarifies that a vacant site on residentially zoned land should be used for the purposes for which it has been zoned (for housing purposes) in order to avoid liability to the levy, subject to certain exemptions. As such, the Department maintain that these provisions are unnecessary.

### **2. Appeal Provisions**

Sections 5 to 9, and section 13 of the Bill propose to remove the appeals mechanism by which an owner can appeal the market valuation of a vacant site as determined by the planning authority. Instead, the provision would require the planning authority to determine the market value every two years, by obtaining three independent market valuations and establishing an average value. These provisions also remove the requirement for planning authorities to issue a notice to owners of vacant sites by 1<sup>st</sup> June 2018 that their site is entered on the register and to remove the appeal provision to An Bord Pleanála associated with the notice provision. They also remove the provision for an appeal to An Bord Pleanála against a demand for payment of the levy on the basis that the site is no longer vacant or that the levy has been incorrectly calculated.

### **Implications of proposals**

The Department maintain that the vacant site levy is currently framed in such a way as to strike the right balance between achieving the common good objective of securing the development of urban lands for housing and for regeneration, and the concerns and interest of individual property owners and their constitutional rights to private property. The Department maintain that in order to ensure the legislation is reasonable and proportionate to the aims of the levy measure, the levy provisions as enacted contain necessary features such as providing appeals mechanisms at various stages of the levy implementation process.

The Department maintains that the Bill's proposal to remove the opportunity for an independent review of a market valuation of a site, by the Valuation Tribunal, conflicts with the principles of fair administrative procedures and weakens the legislation by leaving it open to legal challenge.

The Department also maintain that the removal of the provision for appeals to An Bord Pleanála conflict with the principles of fair administrative procedures and weakens the legislation by leaving it open to legal challenge.

Separately, the Department maintain the provision in section 6 of the Bill is unnecessary as the appeal mechanism in section 11 of the Principal Act is a once off provision applying in 2018 alone and the provision is now spent.

The Department maintain that the proposal to require planning authorities obtain three separate valuations for each site on the vacant site register would place

additional costs on authorities in obtaining the valuations, with any potential benefit negated without an appeal mechanism for the site owner.

### **3. Double Levy**

Section 10 of the Bill amends section 15 of the Principal Act by deleting subsection (2) which provides that the vacant site levy is not payable on any site on which the derelict site levy is payable.

#### **Implications of proposals**

The Department note that the Bill proposes to remove provisions in the existing legislation which prevents a double levy situation arising in the case of any individual site so that the derelict site levy shall not be payable in respect of any land on which the vacant site levy is payable. The Department maintain that the removal of this provision would open up the legislation to legal challenge as a site owner could potentially be levied twice.

### **4. Significant Increase of Levy**

Section 11 of the Bill substitutes section 16 of the Principal Act with a new section to increase the rate of the levy from 3% to 25% and removing the current reduced and zero levy rates that apply when a site is subject to a site loan exceeding 50% of the value of the site.

#### **Implications of proposals**

The Department notes that, under the now amended legislation, the provision enabling the application of reduced or zero rates of levy for sites on the register that are subject to a site loan has been removed, and therefore the proposals to remove these are now unnecessary.

In addition, the Department advises that the 2018 Act provides that the rate of the levy will increase from 3% to 7%, for sites on the register from 2019 onwards, ensuring the levy has a more meaningful impact and is more effective in bringing forward vacant sites for housing development.

The Department note that the Bill proposes that the levy be increased from 3% to 25%, over 8 times the original rate, and having regard to the need for balanced

and proportionate legislation, such an increase could be considered excessive and an unreasonable infringement on property rights by the Courts.

## **5. Local Authority Acquiring Sites**

Section 12 of the Bill inserts a new section 16A into the Principal Act which provides that, prior to paying the 25% rate of the levy in the first year it is due, a site owner may enter negotiations with the relevant local authority or with a State Public Body to sell the site for up to 60% of its value or, after paying the 25% rate of the levy for the first year, to negotiate to sell the site for up to 40% of its value, where the authority or body deem the site to be viable for the supply of housing.

### **Implications of proposals**

The Department note in their submissions to the Committee that a range of state bodies have existing compulsory purchase powers, CPOs, for a variety of functions, including local authorities who have powers under various statutes. They maintain that in the interests of the common good it is essential that the right balance is achieved between the rights of property owners and those of public authorities, when CPOs are being exercised. They advise that the key concern with the use of CPOs is the impact on constitutional property rights, and consequently, where land is acquired under a CPO, landowners have a constitutional right to be appropriately and fairly compensated. The Department does not consider that this particular proposal strikes that balance.

## **Legal Analysis –**

### **Constitutional issues**

The Department, in their submissions to the Committee, outlined their significant concerns about the constitutionality of specific provisions of the Bill, which propose to: increase the levy from 3% to 25% of the market value of a site; remove the appeals provisions in particular circumstances (i.e. to An Bord Pleanála and the Valuation Tribunal), and; facilitate the purchase of vacant sites deemed suitable for housing purposes from site owners for not more than 60% or 40% of their market value in specified circumstances.

The Department considers all these provisions to be excessive, unreasonable and in contravention of the Constitutional provisions relating to individual private property rights and that consequently, it is probable that such proposals, if introduced, would be deemed unconstitutional by the Courts.

### **Observations of the Joint Committee -**

The Committee in its scrutiny of the Bill and pursuant to Standing Orders, agreed to report to the Houses of the Oireachtas that it has undertaken and completed detailed scrutiny of the Bill. The Committee has made the following observations and conclusions: -

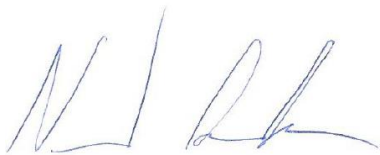
- the Committee notes the broad support expressed for the principle of the Bill and notes also that the Bill passed Second Stage reading;
- that consideration be given to legislative and policy developments, such as those in the Planning and Development (Amendment) Act 2018, since the publication of the Bill in 2018 and the Bill be updated if necessary.
- the Committee notes that the sponsor of the Bill is no longer a Member of the Oireachtas.

The Committee recommends that: -

- consideration be given to the removal of the provisions which dispense with appeals procedures, to avoid weakening the legislation by leaving it open to legal challenge.
- section 10 of the Bill be amended or clarified, so as to avoid the possibility of both a vacant site levy and a derelict site levy being imposed on a landowner, which in turn may open the legislation to legal challenge.
- the possible constitutionality issues raised by the Department are taken into consideration when the Bill is to be amended, and that the Bill be amended accordingly.

## Conclusion –

The Committee concluded that the Bill proceed to Third Stage consideration and that the proposer of the Bill take account of the observations of the Committee in framing their respective amendments to the Bill, in particular the aspects of the Bill which may be open to legal challenge.



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Noel Rock T.D.  
Chair

11 October 2019



## **Appendix 1 – Committee Membership**

### **Joint Committee on Housing, Planning & Local Government**

#### **Committee Membership:**

*Chairperson:* Noel Rock (Fine Gael)

#### **Deputies<sup>1</sup>**

Pat Casey (Fianna Fáil) (Vice Chair)<sup>3</sup>

Mick Barry (Solidarity-PBP)

Mattie McGrath (Rural Independent Group)

Darragh O'Brien (Fianna Fáil)

Eoin O Broin (Sinn Féin)

Fergus O'Dowd (Fine Gael)

#### **Senators<sup>2</sup>**

Victor Boyhan (Independent)

Martin Conway (Fine Gael)

Jennifer Murnane O'Connor (Fianna Fáil)

Collette Kelleher (Independent)

#### Notes:

1. Deputies nominated by the Dáil Committee of Selection and appointed by Order of the Dáil of 16 June 2016.
2. Senators nominated by the Seanad Committee of Selection and appointed by Order of the Seanad on 21 July 2016.
3. Elected Vice Chair on 24 May 2017

## Appendix 2 – Terms of Reference of Committee

### COMMITTEE ON HOUSING, PLANNING AND LOCAL GOVERNMENT

#### TERMS OF REFERENCE

##### **a. Functions of the Committee – derived from Standing Orders [DSO 84A; SSO 70A]**

(1) The Select Committee shall consider and report to the Dáil on—

(a) such aspects of the expenditure, administration and policy of a Government Department or Departments and associated public bodies as the Committee may select, and

(b) European Union matters within the remit of the relevant Department or Departments.

(2) The Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann for the purposes of the functions set out in this Standing Order, other than at paragraph (3), and to report thereon to both Houses of the Oireachtas.

(3) Without prejudice to the generality of paragraph (1), the Select Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments, such—

(a) Bills,

(b) proposals contained in any motion, including any motion within the meaning of Standing Order 187,

(c) Estimates for Public Services, and

(d) other matters

as shall be referred to the Select Committee by the Dáil,  
and

(e) Annual Output Statements including performance, efficiency and effectiveness in the use of public monies, and

(f) such Value for Money and Policy Reviews as the Select Committee may select.

(4) The Joint Committee may consider the following matters in respect of the relevant Department or Departments and associated public bodies:

(a) matters of policy and governance for which the Minister is officially responsible,

(b) public affairs administered by the Department,

(c) policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,

(d) Government policy and governance in respect of bodies under the aegis of the Department,

(e) policy and governance issues concerning bodies which are partly or wholly funded by the State or which are established

or appointed by a member of the Government or the Oireachtas,

(f) the general scheme or draft heads of any Bill,

(g) any post-enactment report laid before either House or both Houses by a member of the Government or Minister of State on any Bill enacted by the Houses of the Oireachtas,

(h) statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,

(i) strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,

(j) annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas, of the Department or bodies referred to in subparagraphs (d) and (e) and the overall performance and operational results, statements of strategy and corporate plans of such bodies, and

(k) such other matters as may be referred to it by the Dáil from time to time.

(5) Without prejudice to the generality of paragraph (1), the Joint Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments—

(a) EU draft legislative acts standing referred to the Select Committee under Standing Order 114, 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, and

(d) matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.

(6) The Chairman of the Joint Committee appointed pursuant to this Standing Order, who shall be a member of Dáil Éireann, shall also be the Chairman of the Select Committee.

(7) The following may attend meetings of the Select or Joint Committee appointed pursuant to this Standing Order, for the purposes of the functions set out in paragraph (5) and may take part in proceedings without having a right to vote or to move motions and amendments:

(a) Members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,

(b) Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and

(c) at the invitation of the Committee, other Members of the European Parliament.

**b. Scope and Context of Activities of Committees (as derived from Standing Orders) [DSO 84; 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 and/or Seanad.
- (3) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Standing Order 186 and/or the Comptroller and Auditor General (Amendment) Act 1993.
- (4) The Joint Committee 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 body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the Government or by the Oireachtas:

Provided that the Chairman may appeal any such request made to the Ceann Comhairle / Cathaoirleach 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 given by the Chairman of the Select Committee, waives this instruction on motion made by the Taoiseach pursuant to Dáil Standing Order 28. The Chairmen of Select Committees shall have responsibility for compliance with this instruction.