



**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 Thionóntachtaí Cónaithe
(Ráthaíocht Tionachta Níos Mó agus Cinnteacht Cíosa), 2018 [BCP]

Samhain 2019

Houses of the Oireachtas

Joint Committee on Housing, Planning & Local Government

Report on Scrutiny of the Residential Tenancies (Greater Security of Tenure and
Rent Certainty) Bill 2018 [PMB]

November 2019

32/HPLG/29

Contents

Procedural basis for scrutiny –	1
Purpose of the Bill –	2
Policy and legislative context –	3
Pre-committee stage scrutiny –	6
Observations of the Joint Committee –	13
Conclusion-	15
Appendix 1 – Committee Membership	16
Appendix 2 – Terms of Reference of Committee	17

Introduction –

This is the report of the Joint Committee on Housing, Planning and Local Government's detailed scrutiny of the Residential Tenancies (Greater Security of Tenure and Rent Certainty) Bill 2018 (the Bill).

The Bill was referred to the Select Committee on Housing, Planning and Local Government by order of the Dáil of 30th May 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.

Scrutiny of the Bill was held alongside scrutiny of the *Anti-Evictions Bill 2018* as both Bills are of a similar nature, deal with similar themes, and aim to address similar issues.

Procedural basis for scrutiny –

At its meeting of the 12th February 2019, the Committee agreed to undertake scrutiny of the *Residential Tenancies (Greater Security of Tenure and Rent Certainty) Bill 2018*. Private Member's 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*".

Purpose of the Bill –

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

“to make various amendments to the Residential Tenancies Acts 2004 to 2016 so as to re-balance the landlord/tenant relationship by providing for greater security of tenure and rent certainty for tenants.”

The *Residential Tenancies (Greater Security of Tenure and Rent Certainty) Bill 2018* would, if enacted, make a number of amendments to the Residential Tenancies Act 2004 (the “Principal Act”).

The main provisions of the Bill are as follows:

- to broaden the definition of landlord to include entities such as receivers;
- to provide that a deposit shall not exceed the monthly rent;
- to provide that rent increases in Rent Pressure Zones (RPZs) are linked to the Consumer Price Index;
- to provide for areas, which are not currently RPZs, to be designated as such for a period of 3 years from the day that s.6 of the legislation comes into effect.
- to provide that in cases where there is a Part 4 tenancy, a landlord or receiver would have to sell the property with the tenancy in situ, i.e. sale of the property would no longer be a ground for termination.
- to extend Part 4 tenancies to so that they are of indefinite duration (unless there are grounds for termination);
- to narrow the definition of family member where a landlord seeks to end a tenancy so that they may move a family member into the dwelling;
- that the current register published by the Residential Tenancies Board, RTB, would require the disclosure of the amount of rent paid under a tenancy.

Policy and legislative context –

In 2016, the Government published a Strategy for the Rental Sector¹, which was the first ever strategy for the private rental sector in Ireland.

The strategy contains three core objectives:

1. Moderating rental and purchase price inflation, particularly in urban areas;
2. Maturing the rental sector so that tenants see it as one that offers security, quality and choice of tenure in the right locations and providers see it as one they can invest in with certainty;
3. Ensuring housing's contribution to the national economy is steady and supportive of sustainable economic growth.

Increase in number of households renting

The Census of Population taken in 2016 showed a 113% increase in the numbers of household renting from private landlords, with 309,728 renting in 2016, up from 145,317 in 2006, with the majority of this increase between 2006 and 2011. By comparison, the number of households which are owner occupied increased by 5% from 2006 to 2011, before falling slightly. In 2017 it was estimated that the number of households in the private rented sector represented 18.2% of all households.²

Increasing Rents

Trends in the rental sector over time show that people are renting for longer. Data from the latest census shows that those aged under 35 are more likely to rent than own their own home. As well as increases in the length of time people are renting for, the cost of renting has also increased over recent years, and the Central Statistics Office shows that there was a 166% increase in the number of

¹ https://www.housing.gov.ie/sites/default/files/publications/files/strategy_for_the_rental_sector_final.pdf

²

http://www.budget.gov.ie/Budgets/2018/Documents/Report_of_the_Working_Group_on_the_Tax_and_Fiscal_Treatment_of_Landlords.pdf

households that paid private landlords €300 or more a week (from 18,485 in 2011 to 48,993 in 2016), with more than 85% of these households in the Dublin region.³

Legal context and recent initiatives

The main pieces of legislation governing the rights and obligations of landlords and tenants in Ireland are as follows:

- Landlord and Tenant Acts 1967 to 1994;
- Residential Tenancies Act 2004;
- Residential Tenancies (Amendment) Act 2015;
- Planning and Development (Housing) and Residential Tenancies Act 2016: and the
- Residential Tenancies (Amendment) Act 2019

In 2016, the government introduced Rent Pressure Zones (RPZs) in an effort to create more certainty at a time of increasing rents. Rent Pressure Zones are a form of Rent Predictability Measure. RPZs are designated areas where annual rent increases are capped at 4% per year. They apply to both new tenancies and to rent reviews during an ongoing tenancy. RPZs are located in parts of the country where rents are highest and rising, and where households have the greatest difficulty finding accommodation they can afford. They are intended to moderate the rise in rents in these areas. Properties which are new to the rental market or those which have undergone extensive refurbishment are exempt.

At the time of writing there are 5 Local Authority areas and 39 Local Electoral Areas which have been designated as RPZs.

Residential Tenancies (Amendment) Act 2019

The *Residential Tenancies (Amendment) Act 2019*⁴ was signed into law on the 24th May 2019 and contains a number of provisions affecting tenancies in the private rental sector –

³ <https://www.cso.ie/en/releasesandpublications/ep/p-cp1hii/cp1hii/tr/>

⁴ Residential Tenancies (Amendment) Act 2019.
<http://www.irishstatutebook.ie/eli/2019/act/14/enacted/en/html>

- It provides the Residential Tenancies Board (RTB) with enhanced powers of investigation and the power to impose sanctions where contraventions have been confirmed by an authorised officer and decision maker.
- It extends the notice of termination periods required to be given by landlords.
- It also requires a landlord to register a tenancy with the RTB on commencement and annually from the time of commencement.
- It sets out exceptions to rent caps within rent pressure zones on the grounds that a substantial change has been made to the dwelling and sets out the different scenarios which constitute a substantial change.
- It also clarifies that a further Part 4 tenancy is to be considered as an extension of a Part 4 tenancy, rather than as a new tenancy.
- It also revised the rules relating to some of the termination of tenancy grounds including;
 - Termination for reason of sale
 - Termination for reason of occupation by landlord or landlord's family member
 - Termination for reason of substantial refurbishment
 - Termination on grounds of change of use
- It provides for Higher Educational Institutions who provide Student Specific Accommodation to students during the academic year to fall under the remit of the RTB.
- The legislation also clarifies that Student Specific Accommodation provided by the private sector falls within the jurisdiction of the RTB, regardless of whether there is a lease or license agreement in place.

Constitution and rent restrictions

The introduction of rent certainty measures can be regarded as a legislative interference with the exercise of landlords of their private property rights, as guaranteed by Articles 40.3.2^o and 43 of the Constitution. While the Constitution also permits for the regulation by law of the exercise of property rights in the interest of the common good under Article 43.2, it is necessary, in light of the protection afforded to property rights, to ensure that the introduction of rent

certainty measures does not amount to an unjust attack on the exercise of such rights by landlords.

The Constitution affords the dual protection of the right to private property both as a personal right and as an institution. Article 40.3.2° requires the State to protect property rights from unjust attack:

“The State shall, in particular, by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the [...] property rights of every citizen.”

Article 43 guarantees that the institution of private property will not be abolished, while recognising that the exercise of this right should be regulated by the principles of social justice; in other words, that the State may regulate such rights by law according to the requirements of the common good.

Pre-committee stage scrutiny –

The Joint Committee held three sessions to scrutinise the Bill – with all three sittings taking place on the 20th February 2019.

In the first session, the sponsor of the Bill, Jan O’ Sullivan T.D. briefed the Committee on the main provisions of the Bill. The Committee resumed scrutiny of the Bill in the second session with Ms. Margaret McCormick and Mr. Tom O’ Brien from the Irish Property Owners Association (IPOA), Ms. Michelle Byrne and Ms. Megan Reilly from the Union of Students in Ireland (USI), and Mr. John-Mark McCafferty and Ms. Ann-Marie O’ Reilly from Threshold. In the third session, the Committee heard from Ms. Rosalind Carroll, Ms. Caren Gallaher, and Ms. Catriona Walsh from the Residential Tenancies Board.

Deputy O’ Sullivan outlined to the Committee the main provisions of the Bill and informed the Committee that provisions of the Bill are an attempt to address some of the difficulties and insecurities facing tenants.

Members agreed that there is a need to protect the rights of tenants significantly, and highlighted the disadvantages around schools, family and friendships when families have to vacate a premises. Members acknowledged the importance of striking a balance between increasing the security of tenure for tenants and

avoiding pushing investors and landlords out of the rental market. In this regard, the Committee questioned whether excluding grandparents from the definition of family members would be excessive, and also whether the requirement that a landlord sell a property with tenants *in situ* would be unconstitutional.

The Committee noted the positive effects that the introduction of Rent Pressure Zones have had on areas, but it was noted by Deputy O' Sullivan that they are not completely successful in those areas as there isn't a rent register by which a new tenant can check whether or not they are being charged more than the 4% increase allowed by current legislation. Deputy O' Sullivan advised that this register would have to be dwelling specific, and not limited to the rent on a particular road. Members discussed the merit in linking the rent increases in Rent Pressure Zones (RPZs) to the Consumer Price Index, with it being noted that landlords can now increase rent by 4% annually without the inflation or the cost of living for tenants being considered. However, it was also pointed out that there is a possibility that the Consumer Price Index could go higher than 4% within a time period so in some cases it could be disadvantageous for tenants.

The Deputy also addressed concerns raised by the Committee with regards the selling of a property with tenants *in situ* and advised the Committee that other European countries have legislation requiring that tenants have the right to stay in their homes.

The Joint Committee resumed scrutiny of the Bill, along with invited stakeholders Ms. Margaret McCormick and Mr. Tom O' Brien from the Irish Property Owners Association, Ms. Michelle Byrne and Ms. Megan Reilly from the Union of Students in Ireland, and Mr. John-Mark McCafferty and Ms. Ann-Marie O' Reilly from Threshold.

Ms. Margaret McCormick addressed the Committee and outlined the IPOA's view of Deputy O' Sullivan's Bill. In their opening statement, Ms. McCormick stated that the IPOA is of the view that if passed, the Bill "*will have a significant detrimental impact on the sector and will lead people with capital to invest their money in an alternative asset class*".

Ms. McCormick advised the Committee that a move to selling with a tenant *in situ* will limit the selling market to investors, and together with rent pressure zone restrictions, would substantially devalue a property. She stated that investment

values are based on yield, and investors are less likely to purchase properties with restricted income as a result of restricted rent levels.

Ms. McCormick stated that indefinite tenancies are not workable and that the existing six-year tenancy cycle allows for a no-fault method to get a property back and that it is essential that this remains in legislation. The IPOA also stated that restricting the deposit to one month's rent is inadequate as there may be substantial damage to a property and the rent may not be paid. They informed the Committee that this proposal is inconsistent with the Residential Tenancies Act, which requires a minimum of six weeks to terminate for rent arrears and a minimum of four months to get a determination order.

The IPOA advised the Committee that RPZs that cover the whole country would be entirely inappropriate as properties would not be built in rental areas with low rent as the return would not justify investment, and this would have the effect of driving landlords out of those areas, resulting in a severe shortage of rental property in rural areas.

The IPOA agreed with the proposal of including receivers in the definition of landlords, and noted that, as the receiver collects the rent, they should comply with the obligations of landlords in their entirety, including upgrading, repairs, and refund of deposit. It was also noted by the IPOA that the Consumer Price Index, CPI, would not function in the context of the rental market as the CPI does not reflect the significant costs associated with the provision of private rental accommodation, including taxation and increased labour costs for plumbers, electricians and painters.

The IPOA also noted that placing the rent payable for a tenancy on the rent register might amount to a fundamental breach of existing data protection rights of the landlord and the tenant. They noted that it may be the landlord's sole income, in which case his or her personal information is not protected under GDPR. They advised that in the case of new tenancies, the landlord must provide the information to the tenant and the information is featured on registration of the RTB, which will be in a position to investigate where it is concerned that there may be a breach of the rent pressure zone regulations.

The IPOA told the Committee that the most important issue affecting the rental sector is the lack of supply and the supply issue must guide legislation. The IPOA

expressed frustration that *“all of the provisions that have been directed at the rental sector in the past ten years have been anti-landlord and anti-investment.”*

They expressed concern that the provisions in the Bill would, if enacted, lead to the unintended consequence of a reduction in the existing stock of rental properties.

Ms. Michelle Byrne of the Union of Students in Ireland, USI, addressed the Committee noting three areas of concern with purpose-built student accommodation, PBSA, namely the lack of affordability, rent pressure zones and the lack of tenants’ rights. The USI informed the Committee that the Bill addresses significant problems for students, including but not limited to deposits exceeding one month’s rent and a residential tenancies register. Ms. Byrne explained that due to the nature of students staying in accommodation for approximately nine months and because landlords of PBSA often don’t publish the amounts that have previously been charged, this would help to provide clarity. The USI described to the Committee the significant increases in rental costs in PBSAs seen in Galway, Dublin, and Cork, citing increases in some developments of 19%, 27%, and 10% respectively. Ms. Megan Reilly of the USI noted that these rent increases can come with large deposits, often of two months rent or more to be paid upfront, and the USI welcome the proposal to limit the deposit in the Bill. They also welcomed the Bill’s provision of a residential tenancies register, as quite frequently the USI are left trying to gather data on what happened year on year because currently the PBSAs do not have to disclose previous rents and the USI must rely on students bringing forward information. The USI expressed concern that the issues they are dealing with in Galway, Dublin and Cork are spilling out of these cities and can now be seen throughout the country with problems mounting in relation to students’ access to education and academic performance.

Mr. John-Mark McCafferty of Threshold informed the Committee that the organisation has long called for the recognition of banks and receivers as landlords to ensure that tenants’ rights are respected and as such welcomed this proposal in the Bill. Mr Mc Cafferty said the establishment of such security is essential if private rental is to exist as a legitimate tenure alternative to owner occupation and social housing.

Threshold welcomed the provisions in the Bill to provide a definition of a deposit limited to one month's rent and the provision providing for a rent register, which Threshold advise should be dwelling-specific. Threshold also informed the Committee that they support the Bills proposal to link rent increases to the CPI, however they advised that rent increases should be subject to an overall limit of 20% over the course of five years. Threshold informed the Committee that they support the provision in the Bill to extend RPZs to the entire State and recommended that this designation be extended beyond the 3 years, as provided for in the Bill. Threshold highlighted that the enforcement of such measures is key. Mr. McCafferty stated he fully supports the creation of indefinite tenancies through the removal of section 34(b) in the Residential Tenancies Act 2004 and described this as "*an essential step in making the private rented sector a viable, sustainable tenure choice*".

Mr. McCafferty advised that sale as a ground for termination has no place in a modern rental sector and that this was the number one reason for tenants to contact Threshold in 2016, 2017, and 2018. He stated that "*continuing to permit sale as a ground for termination prevents the establishment of a sustainable private rented sector and undercuts the effectiveness of housing assistance payment, HAP, as a social housing support*".

The Committee resumed scrutiny on the Bill later the same day along with invited stakeholders Ms. Rosalind Carroll, Ms. Caren Gallagher, and Ms. Catriona Walsh of the Residential Tenancies Board (RTB).

Ms. Walsh notified the Committee of the series of legislative changes introduced over recent years and advised that the regulatory framework established in 2004 has grown increasingly complex to the point where most landlords and tenants do not understand their rights and responsibilities. The RTB told the Committee that they believe this is the biggest threat to successful implementation of any further regulatory change.

The RTB further stated that given the amount of regulatory change introduced in recent times, there is a need to allow legislation to become established to allow them to exercise the new regulatory powers to ensure they do not worsen the situation, even with the best intentions. The RTB also noted that a number of areas in Deputy O' Sullivan's Bill were under consideration as amendments within

the context of the *Residential Tenancies (Amendment) No. 2 Bill 2018* [since enacted as the Residential Tenancies (Amendment) Act 2019].

The RTB advised the Committee that the powers in the Residential Tenancies Act will enable them to build on the protections in current legislation but they cannot rely on regulation alone and existing supply must be protected while future investment also needs to be encouraged. In that context, The RTB noted that since 2017, the number of private rental tenancies has fallen from 313,000 to just over 307,000 at the end of 2018 and that “this is a significant reduction given the extreme demand pressures in the current market at this time.”

Ms. Walsh informed the Committee that the RTB supports the further strengthening of security of tenure but notes that there are legal considerations and that given the data that exists relating to supply in the sector and notices of termination, there is a need for a careful balance and a strong evidence base to support further regulatory change.

In terms of the proposal in the Bill to limit the amount of a deposit to one month’s rent, the RTB stated that in 2017 92% of deposits were partially or fully refunded to tenants that took a case to the RTB, and the RTB does not see evidence in their data of a trend whereby landlords are seeking deposits of more than one month’s rent.

The RTB informed the Committee that the proposed new powers under the *Residential Tenancies (Amendment) (No. 2) Bill 2018* (now enacted as the Residential Tenancies [Amendment] Act 2019) are a significant change for the RTB as an organisation and for the rental sector. They hope that many of the measures will address the issues in the sector and that the legislation will enable more effective, proportionate and smarter regulation. They stated that they are focused on the successful and smooth implementation of the proposed legislation for both landlords and tenants in what is an extremely complex and bureaucratic regulatory framework and that this will take time. They informed the Committee that the RTB is committed to supporting all those involved in the sector, whether they are landlords or tenants, on pathways to compliance.

Ms. Rosalind Carroll informed the Committee that with regards notices of termination, statistics from 2017 show that for those notices that were served for rent arrears, 78% were found to be valid. For those served for sale, only 50%

were found to be valid, and for those served for the property to be used for family members 48% were found to be valid. For those served for substantial refurbishment, 74% were found to be invalid. However, Ms. Carroll advised that where these cases come before the RTB the current legal framework is effective.

Ms Carroll also noted to the Committee that the RTB feel one of the biggest issues with regulating the rental sector is that people simply do not know what they should be doing. She advised that every time a new law is brought in, there is more non-compliance, and that there people out there who knowingly do not comply but also people who are "*just not getting it right*" and the RTB are trying to support the people trying to get it right.

The RTB acknowledged that there has been a decrease in the amount of rental properties in the market over the last two or three years and told the Committee that, as with any body, there comes a saturation point in terms of regulation. They advised that the sector can only be regulated so much before it reaches saturation point and people say they are not bothered anymore and that it is too much for them. She advised of the need to support both landlords and tenants in the sector, and the more successful their relationship, the more successful the sector.

Ms. Rosalind Carroll advised that while the RTB supports further security of tenure measures, they would like to see them coupled up with reforms on the supply side. With regards the proposal in the Bill to allow the selling of a property with the tenants "*in situ*", Ms. Carroll informed the Committee that institutional investors wouldn't have an issue with this, however this would impact the more vulnerable landlords.

Ms. Carroll advised the Committee of the concerns of the RTB that landlords may start to pick what they think are short-term tenants, for example students or people without families, and that landlords might discriminate against certain elements of the market to give themselves room to be able to sell openly on the market. Ms. Carroll stated that at the moment there is a significant valuation issue and noted that the RTB have been provided with evidence of a 28% fall in the value of a home when sold with a tenant *in situ*. The RTB advised the Committee that they have liaised with some of the financial institutions to get an idea of the current situations with valuations within that framework and found that it ranges from between 20% and 30% in terms of the impact of selling with a tenant *in situ*.

The RTB said they would like to normalise this, so they can get to a point where there can be security of tenure with a sale with a tenant *in situ*.

The RTB agreed in principle with the proposal in the Bill to narrow the definition of a family member and stated this is something they could explore. They stated their support for the public register for rent transparency as proposed in the Bill and expressed hope that this aspect might be implemented in the Government's *Residential Tenancies (Amendment) (No. 2) Bill 2018* (now enacted as the *Residential Tenancies [Amendment] Act 2019*). It should be noted that the Residential Tenancies (Amendment) Act 2019 does not include a provision for the publishing of a public rent register for rent transparency.

The members acknowledged the need for greater security of tenure for tenants in the rental market, yet they expressed the need for striking a fair balance with the rights of the landlords and cautioned against implementing legislation which may drive landlords out of the market and reduce further the supply of rental properties.

The Committee also noted that some of the issues the Bill proposes to address have been dealt with to some degree by the Government's *Residential Tenancies (Amendment) No. 2 Bill 2018* [since enacted as the Residential Tenancies (Amendment) Act 2019].

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 support expressed for the principle of the Bill, however the Committee are aware of the need to strike a fair balance in terms of the rights of both tenants and landlords
- the Committee would like to emphasise the need to exercise caution when passing legislation that might affect the regulatory environment surrounding the rental market;
- the Committee notes also that the Bill passed Second Stage reading;

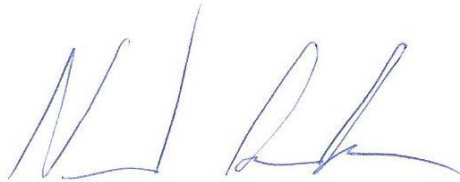
- since the publication of the Bill in 2018, the *Residential Tenancies (Amendment) Act 2019* has come into operation and the Committee notes that some of the issues intended to be addressed by the Bill have now been addressed to some degree by this Act.
- the Committee acknowledges the actions currently in motion at Government level to enact similar legislation and recommend that the sponsor of the Bill and the Department engage further, with a view to ensuring a more robust Bill.

The Committee recommends that: -

- consideration be given to legislative and policy developments, such as those in the Residential Tenancies (Amendment) Act 2019, since the publication of the Bill in 2018 and the Bill be updated to reflect these developments.
- in light of the recent legislative developments, the sponsor engage with the Department when amending the Bill, and the Bill be amended taking these legislative developments into account.
- the sponsor take into account the possible constitutionality issues raised by the Committee when seeking to amend the Bill, and that the Bill be amended accordingly.
- the sponsor take into account concerns raised by the witnesses with regards the potential data protection issues surrounding the establishment of a published dwelling-specific rent register.

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 in relation to recent policy and legislative developments, such as those contained in the *Residential Tenancies (Amendment) Act 2019*.



Noel Rock T.D.
Chair

October 2019

Appendix 1 – Committee Membership

Joint Committee on Housing, Planning and Local Government

Committee Membership:

Chairperson: Noel Rock (Fine Gael)

Deputies¹

Pat Casey (Fianna Fáil) (Vice Chair)³

Mick D. Barry (Solidarity-PBP)

Mattie McGrath (Rural Independent Group)

Darragh O'Brien (Fianna Fáil)

Eoin Ó Broin (Sinn Féin)

Fergus O'Dowd (Fine Gael)

Senators²

Victor Boyhan (Independent)

Martin Conway (Fine Gael)

Colette Kelleher (Independent)

Jennifer Murnane O'Connor (Fianna Fáil)

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.