



**Tithe an
Oireachtais**
Houses of the
Oireachtas

Tithe an Oireachtais

An Comhchoiste um Thithíocht, Pleanáil, Pobal agus Rialtas Áitiúil

Tuarascáil maidir le Grinnscrúdú ar an mBille um an gCeathrú Leasú is Tríocha ar an mBunreacht (Vótáil Uachtaráin), 2014 [BCP]

Iúil 2017

Houses of the Oireachtas

Joint Committee on Housing, Planning, Community & Local Government

Report on Scrutiny of the Thirty-fourth Amendment of the Constitution
(Presidential Voting) Bill 2014 [PMB]

July 2017

32/HPCLG/02

Contents

Introduction.....	2
Procedural basis for scrutiny.....	2
Main provisions of the Bill.....	2
Pre-Committee scrutiny.....	3
Observations and conclusions of the Joint Committee.....	5
Conclusion.....	5
Appendix 1 – Committee Membership.....	6
Appendix 2 – Terms of Reference of Committee	7
Appendix 3 – Link to Meeting Transcript.....	11

Introduction

This is the report of the Joint Committee on Housing, Planning, Community and Local Government's detailed scrutiny of the Thirty-fourth Amendment of the Constitution (Presidential Voting) Bill 2014.

The Bill was referred to the Select Committee on Housing, Planning, Community and Local Government by order of the Dáil of 5th July 2016.

The Minister for Housing, Planning, Community and Local Government was included in the circulation of a draft of this report, in accordance with Standing Order 141(2), as an *ex officio* Committee Member.

Procedural basis for scrutiny

At its meeting of 24th May, the Committee agreed to undertake scrutiny of the Thirty-fourth Amendment of the Constitution (Presidential Voting) Bill 2014 prior to formal consideration of the Bill at Committee Stage. Private Members Bills referred to Select Committee are subject to the provisions of Standing Order 141(2) [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 (3) 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 as set out in paragraph (2) and reporting thereon to both Houses prior to Committee Stage consideration of the Bill by the Select Committee*".

Main provisions of the Bill

The main features of the Bill are to provide for –

- amendment to the Constitution to allow for the voting franchise in Presidential elections to be extended to citizens in the North of Ireland and to the Irish diaspora;
- amendment to the Constitution to provide that the voting age for Presidential elections be lowered to sixteen years of age.

Pre-Committee scrutiny

On the 1st of June 2017, Deputy Gerry Adams and Deputy Sean Crowe briefed the Joint Committee on the main provisions of the Bill. Deputy Adams informed the Committee that the motivation for the Bill stemmed from the decision of the Constitutional Convention in September 2013 to endorse the proposal to extend voting rights in Presidential elections to citizens in Northern Ireland and the diaspora.

Deputy Adams referenced the Good Friday Agreement, stating that it “...enshrined in law the rights and entitlements of Irish citizens in all of the Thirty-two Counties on this island”. Deputy Adams also outlined to the Committee how Irish citizens in Northern Ireland are unable to vote in Presidential elections and how this is an issue of people right’s.

Deputy Crowe spoke about lowering the age at presidential elections to 16. Deputy Crowe outlined to the Committee that “*I believe our society will reap the rewards and profit from the inclusion of young people in the electoral process*”. Deputy Crowe cited other international examples of countries with a younger voting age, such as Norway, Austria and Scotland and addressed the issue of how young people continue to use the vote once granted.

Both Deputy Adams and Deputy Crowe referenced how the scale of the diaspora vote is hard to quantify and it is unknown how many will actually register and place a vote. However, they outlined to the Committee that the issue is not the numbers of eligible voters but providing people with the right to vote.

The Committee also heard evidence from the Department of Housing, Planning, Community and Local Government officials. The Department detailed how the Government did not oppose the Bill at Second Stage in the Dáil but that “...*it was made clear that a full and considered analysis of the policy and practical issues which might arise from its implementation should be undertaken before it progressed through further stages of the legislative process*”.

On 7th March 2017 the Government accepted in principle the main recommendations in the fifth report of the Constitutional Convention, that Irish citizens outside the State should have the right to vote in presidential elections. On 12th March 2017 the Taoiseach announced that a referendum would be held on the issue.

In March of this year the Government published an options paper on extending the franchise at Presidential elections. The Department outlined how the policy *"...statement equally acknowledged that there was a broad range of policy, legal and practical issues that needed analysis before the matter could be considered further by Government"*. The options paper published in March of this year sets out seven possible options on the question of which citizens outside the State should be given the right to vote and on how such a change might be implemented if approved in a referendum.

However, the Department outlined to the Committee some concerns they have in relation to the Bill, specifically that;

- the text of any amendment would need to be explicit as to which citizens would have the right to vote;
- an amendment to Article 12.3.3 of the Constitution, which sets a 60-day timescale for the holding of a presidential election, may be necessary;
- best practice would also suggest that an electoral amendment Bill or at the very least heads of a Bill should be published before holding a referendum and
- other fundamental issues addressed in the options paper such as modernising the register of electors and the establishment of an electoral commission, the method of voting for an extended franchise and the costs arising would also need to be considered.

The Department outlined to the Committee that the question of reducing the voting age is to be considered a fundamental question in its own right, which should be considered separately in the context of all elections rather than for presidential elections only.

A key issue for the Department is the modernisation of the register of electors. The officials stated that *"it is important that we are all able to stand over the integrity and security of that register at national level and, if the people so decide in a referendum, in respect of those outside of the State"*.

The Department informed the Committee of how in most cases members of the diaspora could attach themselves to a constituency in the State where they would have a connection. However, this system would have many difficulties, particularly for citizens based in Northern Ireland.

The Department also stated that they see the process as complex and challenging. They are examining the best method for delivering the modernisation of the electoral register and of extending the franchise to all citizens, however this process will take a number of years.

Observations and conclusions 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 pre-Committee Stage scrutiny of the Bill and have made the following observations and conclusions:-

- the Committee is broadly supportive of the Bill;
- the Committee considers that the Bill should be progressed however suggests that in view of the concerns raised by the Department, it is recommended that the Minister for Housing, Planning, Community & Local Government engage with the sponsors of the Bill with a view to bringing forward any necessary amendments.

Conclusion

The Committee concluded that the Bill should move to formal Committee Stage.



Maria Bailey T.D.
Chair
13 July 2017

Appendix 1 – Committee Membership

Joint Committee on Housing, Planning, Community & Local Government

Deputies

Committee Membership:

Chairperson: Maria Bailey (Fine Gael)

Deputies

Pat Casey (Fianna Fáil) (Vice Chair)

Ruth Coppinger (Solidarity-PBP)

Barry Cowen (Fianna Fáil)

Mattie McGrath (Rural Independent Group)

Eoin O Broin (Sinn Féin)

Fergus O’Dowd (Fine Gael)

Senators

Victor Boyhan (Independent)

Paudie Coffey (Fine Gael)

Jennifer Murnane O'Connor (Fianna Fáil)

Grace O'Sullivan (Green Party)

Appendix 2 – Terms of Reference of Committee

COMMITTEE ON HOUSING, PLANNING, COMMUNITY 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.

Appendix 3 – Link to Meeting Transcript

Meeting of 1st June 2017 –

➤ [Meeting Transcript](#)