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## **An Comhchoiste um Thalmhaíocht, Bia agus Muir**

Tuarascáil maidir le Grinnscrúdú Réamhreachtach  
ar an mBille um Rialáil Táirgí Íocshláinte Tréidliachta,  
Beathaí Íocleasaithe agus Leasachán, 2022

Samhain 2022

## **Joint Committee on Agriculture, Food and the Marine**

Report on Pre-legislative Scrutiny of the Veterinary Medicinal  
Products, Medicated Feeds and Fertilisers Regulation Bill 2022

November 2022



## Membership

The following Deputies and Senators are members of the Joint Committee on Agriculture, Food and the Marine of the 33<sup>rd</sup> Dáil Éireann and the 26<sup>th</sup> Seanad Éireann.



Sen. Victor Boyhan  
Independent



Sen. Lynn Boylan  
Sinn Féin



Martin Browne T.D.  
Sinn Féin



Jackie Cahill T.D.  
Fianna Fáil  
[Cathaoirleach]



Matt Carthy T.D.  
Sinn Féin



Michael Collins T.D.  
Independent



Sen. Paul Daly  
Fianna Fáil



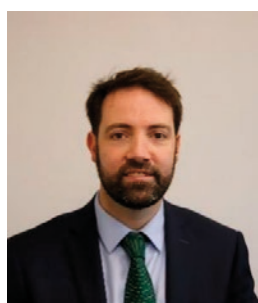
Michael Fitzmaurice  
T.D. Independent



Joe Flaherty T.D.  
Fianna Fáil



Paul Kehoe T.D.  
Fine Gael



Brian Leddin T.D.  
Green Party



Sen. Tim Lombard  
Fine Gael [Leas-  
Chathaoirleach]



Sen. Denis O'Donovan  
Fianna Fáil



Michael Ring T.D.  
Fine Gael



## Foreword



The Agri-Food sector in Ireland plays a vital role in rural employment and contributes significantly to both the national and rural economy. The importance of a secure food supply has been especially highlighted in recent years with the impact of climate change and the ongoing war in Ukraine. One particular challenge facing the sector this year is the decrease of availability of fertiliser and the unprecedented increase of fertiliser costs.

The Veterinary Medicinal Products, Medicated Feeds and Fertilisers Regulation Bill 2022 deals with different key elements of the agriculture sector, in particular veterinary medicine and fertiliser. The Bill implements matters related to EU Regulations and also provides for the online National Veterinary Prescription System and the National Fertiliser Database. From January 2023 onwards the proposed National Fertiliser Database will facilitate Ireland's Eco-Scheme under the Common Agricultural Policy Strategic Plan.

After scrutinising the General Scheme, the Committee is concerned of the potential lack of market competition that this Bill could create with regards to the dispense of veterinary products and the possible impact of cross-border trade under different regulatory regimes. In this Report the Committee makes a number of recommendations and observations in relation to the General Scheme which the Committee requests to be considered in the drafting of Veterinary Medicinal Products, Medicated Feeds and Fertilisers Regulation Bill 2022. It is imperative that farmers are in a position where they can continue to look after the health and welfare of their animals and make a viable living as they move towards more environmentally friendly practices.

As Cathaoirleach of the Committee, I would like to thank Members for their input and their commitment in the pre-legislative scrutiny of this important Bill and in bringing forward this Report. On behalf of the Committee, I would like to express my sincere gratitude to every stakeholder that forwarded a submission to the Committee or

came before the Committee to give evidence. Engagement and discussions with representative organisations and government bodies were critical to the Committee's scrutiny of this Bill and the development of this Report.



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Jackie Cahill T.D.  
Cathaoirleach  
November 2022

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# 1. Introduction

The importance of a sustainable and secure food supply has never been more apparent than it has in recent years with the impact of climate change and the ongoing war in Ukraine. These turbulences and challenges have impacted the agri-food sector in Ireland which is particularly evident in the decrease of supply of fertiliser and the unprecedented increase of fertiliser costs. Ireland needs a secure food production system where farmers can continue to look after the health and welfare of their animals, make a viable living, be adequately supported in moving towards environmentally friendly practices and continue to play a pivotal role in the rural economy.

The agri-food sector is a significant part of Ireland's economy through its exports and employment. In 2021 there were 15.2 billion total agri-food sector exports, and it is estimated that the sector accounted for over 6% of Ireland's Modified Gross National Income in 2020. This sector plays a crucial role to rural economies as well as the national economy as it accounts for approximately 163,600 jobs or 7.1% of employment in Ireland.

In its work programme the Joint Committee on Agriculture, Food and the Marine ("the Committee") has previously examined technologies in the agriculture sector and notes the importance that targeted use of fertiliser can have in lowering emissions and improving water quality. The Committee has also previously examined in detail Regulation (EU) 2019/6<sup>1</sup> on Veterinary Medicinal Products and in June 2021 it published a Report on 'Proposed Regulation of Veterinary Medicines in Ireland'<sup>2</sup> following a series of meetings with DAFM, State Bodies and stakeholders of this sector. Antibiotics are vital to protect animal health and welfare, however the Committee recognizes the danger of antimicrobial resistance. This Report made a number of recommendations and observations in relation to the dispense of antiparasitic medicines, the role of 'Responsible Persons', the possibility of anti-

<sup>1</sup> EUR-Lex, *Regulation (EU) 2019/6*, Regulation, 11 December 2018. [Link](#) to regulation.

<sup>2</sup> Joint Committee on Agriculture, Food and the Marine, *Proposed Regulation of Veterinary Medicines in Ireland*, Report, 28 June 2021. [Link](#) to report.

competitive practices and the potential increased costs to farmers arising from this Regulation.

## 1.1. Legislative Context

### 1.1.1. - Regulation (EU) 2019/6 on Veterinary Medicinal Products

On 28 January 2022 Regulation (EU) 2019/6<sup>3</sup> came into force and repealed the former EU Directive 2001/82/EC which had provided that all veterinary medicines products (VMPs) for food-producing animals required a veterinary prescription before they could be supplied. However, in 2001/82/EC there were certain exceptions where the VMPs could be supplied without a veterinary prescription. Ireland at the time availed of an available derogation and permitted the supply of antiparasitic veterinary medicine products (AVMPs) without a veterinary prescription. As well as veterinary practitioners, AVMPs were commonly supplied by Responsible Persons employed in Licenced Merchants and veterinary pharmacists across Ireland.

At the time of negotiating the Regulation (EU) 2019/6 the Department of Agriculture, Food and the Marine (DAFM) was satisfied that the same criteria which allowed AVMPs to be supplied without a veterinary prescription was carried across into Regulation (EU) 2019/6. In 2019, the Health Products Regulatory Authority (HPRA) published the 'Report of the Task Force on the method of supply of antiparasitic veterinary medicinal products that are intended for food-producing species'.<sup>4</sup> This Report states that the available scientific evidence shows that antiparasitic veterinary medicines that are intended for use in food-producing species do not comply with the criteria for derogation from veterinary prescription specified in Regulation (EU) 2019/6.

It also states that a consequence of this determination is that any such products that are supplied without veterinary prescription will need to be upregulated to supply under veterinary prescription. In accordance with existing national legislation, antiparasitic veterinary medicinal products for use in food producing species that are

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<sup>3</sup>EUR-Lex, *Regulation (EU) 2019/6*, Regulation, 11 December 2018. [Link](#) to regulation.

<sup>4</sup> Health Products Regulatory Authority, *Report of the Task Force on the method of supply of antiparasitic veterinary medicinal products that are intended for food-producing species*, Report, 6 December 2019. [Link](#) to report.



supplied under prescription may be dispensed by veterinary practitioners, pharmacists and licensed merchants. This means that all current providers that already supply such products will be entitled to stock them in the future, however, as Regulation (EU) 2019/6 came into force on 28 January 2022 a veterinary prescription is required to dispense them. AVMPs which had been previously labelled as licensed merchant products will now be labelled as Prescription-only medicines.

On 27 January 2022, the Minister for Agriculture, Food and the Marine signed S.I. No. 36/2022 – ‘European Union (Veterinary Medicinal Products and Medicated Feed) Regulations 2022’<sup>5</sup> which gives effect to Regulation (EU) 2019/6.

### 1.1.2. - EU Directive 91/676/EEC (‘the Nitrates Directive’)

The aim of EU Directive 91/676/EEC<sup>6</sup> is to protect water quality from agricultural pollution and promote good farming practices. All Member States in the European Union are required to prepare national Nitrates Action Programmes (NAP) that outline rules for the management and application of livestock manures and other fertilisers. Ireland current NAP<sup>7</sup>, its 5<sup>th</sup> programme, strengthens a number of existing measures and contains new measures to enhance environmental protection.

## 1.2. Pre-legislative Scrutiny

On 21 July 2022, the Committee received a copy of the General Scheme of the Veterinary Medicinal Products, Medicated Feeds and Fertilisers Regulation Bill 2022<sup>8</sup> and was instructed that it could begin the pre-legislative scrutiny (PLS) process as per Dáil Éireann Standing Order<sup>9</sup> 174A(1).

*174A(1) A member of the Government or a Minister of State shall give the draft heads or general scheme of a proposed Bill (in this*

<sup>5</sup> Irish Statute Book, *European Union (Veterinary Medicinal Products and Medicated Feed) Regulations 2022*, Statutory Instrument No.36/2022, 27 January 2022. [Link](#) to legislation.

<sup>6</sup> EUR-Lex, *Directive 91/676/EEC*, Directive, 12 December 1991. [Link](#) to directive.

<sup>7</sup> Department of Housing, Local Government and Heritage, *Fifth Nitrates Action Programme 2022-2025*, 11 March 2022, Webpage. [Link](#) to webpage.

<sup>8</sup> Department of Agriculture, Food and the Marine, *General Scheme of the Veterinary Medicinal Products, Medicated Feeds and Fertilisers Regulation Bill 2022*, Webpage. [Link](#) to webpage.

<sup>9</sup> Houses of the Oireachtas, *Consolidated Dáil Éireann Standing Orders*, Document, 16 September 2022. [Link](#) to document.

*Standing Order referred to as the “heads/scheme”) to the Committee empowered under Standing Order 95 to consider Bills published by that Minister (the “relevant Committee”) for the purposes of pre-legislative scrutiny (“scrutiny”).*

During the Committee’s pre-legislative scrutiny process, it received six submissions from stakeholders which are available online on the Committee’s webpage.<sup>10</sup>

### 1.3. Stakeholders

In scrutinising the Bill’s General Scheme, the Committee held 5 days of hearings between September 2022 and October 2022. It engaged with the Minister of State with responsibility for Research and Development, Farm Safety, and New Market Development and various stakeholder groups of which the following table provides further details.

*Table 1 - Joint Committee Hearings - Stakeholders / Witnesses*

28 September 2022	
<b>Irish Co-operative Organisation Society (ICOS)</b>	Mr. John Carroll, Fertiliser Manager, Tirlán Co-op Mr. Ray Doyle, Livestock Service Executive
<b>Teagasc</b>	Dr. Edgar Garcia Manzanilla, Head of the Pig Programme Dr. Orla Keane, Senior Research Officer Dr. Pat Dillon, Head of Research Programme Mr. Pat Murphy, Head of Research Department, Environment Specialists

<sup>10</sup> Houses of the Oireachtas, *Joint Committee on Agriculture, Food and the Marine*, Webpage. [Link](#) to webpage.

### 5 October 2022

<b>Independent Licensed Merchant Association (ILMA)</b>	Mr. Barry Larkin, Member Mr. Ollie Ryan, Member Mr. Terence O'Shea, Member
<b>Irish Pharmacy Union (IPU)</b>	Ms. Clare Fitzell, Head of Professional Services Ms. Lara Marin, Professional Services Pharmacist Mr. Daragh Quinn, Member Ms Nicola Cantwell, Member <i>[participated remotely]</i>

### 11 October 2022

<b>Department of Agriculture, Food and the Marine (DAFM)</b>	Mr. Martin Heydon T.D. Minister of State with special responsibility for Research and Development, Farm Safety and New Market Development <i>Accompanied by:</i> Dr. June Fanning, Deputy Chief Veterinary Officer Dr. Paul Corkery, Senior Superintending Veterinary Inspector Mr. Ted Massey, Senior Inspector Ms Louise Byrne, Deputy Chief Inspector Mr. Conor O'Mahony, Principal Officer Dr. Sheila Nolan, Principal Officer Mr. Peter Collins, Assistant Principal Officer
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## 19 October 2022

**Irish Cattle and Sheep  
Farmers Association (ICSA)** Mr. Eddie Punch, General Secretary  
Mr. Hugh Farrell, Animal Health Welfare Chair

**Irish Creamery Milk  
Suppliers Association  
(ICMSA)** Mr. Pat McCormack, President  
Mr. John Enright, General Secretary  
Mr. Denis Drennan, Deputy President

**Irish Farmers' Association  
(IFA)** Mr. T J Maher, Animal Health Chair  
Ms Anna Daly, Animal Health Policy Executive  
Mr. Max Potterton, Cereals Policy Executive

**Macra na Feirme** Mr. John Keane, National President  
Mr. Mick Curran, Chief Executive Officer  
Mr. Liam Hanrahan, National Agricultural Affairs  
Chairperson

## 26 October 2022

**Veterinary Ireland** Mr. Finbarr Murphy, Chief Executive Officer  
Ms Kate O'Dwyer, Food Animal Chair  
Mr. Conor Geraghty, Former President

## 1.4. Transcripts

The transcripts of the meetings of 28 September 2022<sup>11</sup>, 5 October 2022<sup>12</sup>, 11 October 2022<sup>13</sup>, 19 October 2022<sup>14</sup> and 26 October 2022<sup>15</sup> are available online on the Committee's webpage.

## 1.5. Presentations and Submissions

The presentations and submissions made to the Committee for the meetings of 28 September 2022, 5 October 2022, 11 October 2022, 19 October 2022 and 26 October 2022 are available online on the Committee's webpage.<sup>16</sup>

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<sup>11</sup> Houses of the Oireachtas, *Joint Committee on Agriculture, Food and the Marine*, Debate, 28 September 2022. [Link](#) to debate.

<sup>12</sup> Houses of the Oireachtas, *Joint Committee on Agriculture, Food and the Marine*, Debate, 5 October 2022. [Link](#) to debate.

<sup>13</sup> Houses of the Oireachtas, *Joint Committee on Agriculture, Food and the Marine*, Debate, 11 October 2022. [Link](#) to debate.

<sup>14</sup> Houses of the Oireachtas, *Joint Committee on Agriculture, Food and the Marine*, Debate, 19 October 2022. [Link](#) to debate.

<sup>15</sup> Houses of the Oireachtas, *Joint Committee on Agriculture, Food and the Marine*, Debate, 26 October 2022. [Link](#) to debate.

<sup>16</sup> Houses of the Oireachtas, *Joint Committee on Agriculture, Food and the Marine*, Webpage. [Link](#) to webpage.



## 2. Veterinary Medicinal Products, Medicated Feeds and Fertilisers Regulation Bill 2022

The General Scheme of the Veterinary Medicinal Products, Medicated Feeds and Fertilisers Regulation Bill 2022<sup>17</sup> is extensive, made up of four parts with 65 heads overall.

- Part 1 – Preliminary (Heads 1 – 3)
- Part 2 - Regulation of veterinary medicinal products and medicated feed (Heads 4 – 35)
- Part 3 – Enforcement (Heads 36 – 57)
- Part 4 - Amendment of Fertilisers Feeding Stuffs and Mineral Mixtures Act 1955 (Heads 58 – 65)

The Veterinary Medicinal Products, Medicated Feeds and Fertilisers Regulation Bill 2022 implements in part matters related to Regulation (EU) 2019/6<sup>18</sup> on veterinary medicinal products and Regulation (EU) 2019/4<sup>19</sup> on the manufacture, placing on the market and use of medicated feed. Both Regulations came into effect on 28 January 2022.

This Bill provides for the making of regulations on:

- retailing of veterinary medicinal products,
- licencing of the importation of certain veterinary medicinal products and medicated feed in circumstances permitted under EU law, and
- possession, administration and storage of veterinary medicinal products and medicated feed and the enforcement powers of authorised officers.

This Bill also provides for:

- the repeal of the Animal Remedies Act 1993,

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<sup>17</sup> Department of Agriculture, Food and the Marine, *General Scheme of the Veterinary Medicinal Products, Medicated Feeds and Fertilisers Regulation Bill 2022*, Webpage. [Link](#) to webpage.

<sup>18</sup> EUR-Lex, *Regulation (EU) 2019/6*, Regulation, 11 December 2018. [Link](#) to regulation.

<sup>19</sup> EUR-Lex, *Regulation (EU) 2019/4*, Regulation, 11 December 2018. [Link](#) to regulation

- the creation of a national database (a digital online system) which will facilitate the recording of veterinary prescriptions by veterinarians and the dispensing of the veterinary medicinal product/medicated feed by a registered dispensing outlet, Co-Op (Licenced Merchant), Pharmacy or Feed Mill, and
- the establishment of a National Fertiliser Database which will encompass the registration of fertiliser economic operators and end users. Information can be captured on the import, manufacture, sale, supply and use of fertiliser in the State.

### 2.1. National Veterinary Prescription System (NVPS)

This Bill provides a statutory basis for the National Veterinary Prescription System (NVPS) which is currently voluntary. NVPS will facilitate the electronic generation and dispensing of prescriptions of veterinary medicines for food producing animals. This Bill will make it mandatory for all veterinary prescriptions to be generated electronically using the NVPS.

### 2.2. National Fertiliser Database

One of the new measures contained in Ireland's 5<sup>th</sup> Nitrates Action Programme (NAP)<sup>20</sup> is the development of the National Fertiliser Database which aims to provide a more realistic picture of where and how much fertiliser is applied to land in Ireland. The National Fertiliser Database will come into effect on 1 January 2023. Professional Fertiliser End Users will upload their opening fertiliser stock figures at the beginning of the year and input their closing stock at the end of the year to account for the total fertiliser used during the calendar year. Any purchases made during the year will be recorded at the point of sale and will feed into the fertiliser database.

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<sup>20</sup> Department of Housing, Local Government and Heritage, Fifth Nitrates Action Programme 2022-2025, 11 March 2022, Webpage. [Link](#) to webpage.

### 3. Recommendations & Observations

After scrutinising the General Scheme of the Veterinary Medicinal Products, Medicated Feeds and Fertilisers Regulation Bill 2022 the Committee has made the following recommendations and observations: -

1. The Committee was informed by several stakeholders that since January 2022 there has been a significant decrease of up to 90% in sales of intramammary antimicrobials and veterinary vaccines in co-ops, licensed merchants and pharmacies which dispense veterinary products. It should be noted that Veterinary Ireland subsequently provided data to the Committee which showed that there has been a significant decrease in sales of intramammary antimicrobials, however, the figure of this decrease is substantially lower than 90%. The prescription length for antibiotics has been shortened to 5 days and the Committee heard that this has had a negative impact on a farmer's choice on where to purchase their veterinary medicines. Many farmers will feel obliged to purchase their veterinary medicines from their veterinary practitioners. The Committee is concerned that this has created a monopoly in the sector which will reduce availability of the medicines and have a costly impact on farmers as their choice is limited. Notwithstanding this it would be a detriment to the rural economy and communities if these businesses are no longer in a position to operate. HPRA recommended an impact assessment be undertaken in advance of implementation of this legislation, DAFM have committed to this, but it has not been undertaken. The Committee recommends that this impact assessment is undertaken.
2. Implementation of this Regulation in its proposed format will have a myriad of effects. However, the impact on antiparasitic veterinary medicines will be quite the opposite of that intended as stated in Objective 5 of EU Regulation 2019/6 whereby:  
*'This Regulation aims to reduce the administrative burden, enhance the internal market, and increase the availability of veterinary medicinal*

*products, whilst guaranteeing the highest level of public and animal health and environmental protection.'*

3. The Committee heard concerns from stakeholders of the ability to access veterinary medicines if the role of the Responsible Person and Pharmacist is terminated or restricted. The witnesses felt that the level of coverage and support provided by veterinary practitioners was restricted or limited in certain rural areas. The purchase of Irish veterinary practices by multinational corporations who will not provide the same level of service to farmers is a concern. The level of coverage and support is also impacted by the need for veterinary practitioners to build a relationship with clients which can involve being on site and interacting with the client and their animals. Witnesses felt that the Responsible Person and Pharmacist, because of their presence in the locality, addressed these concerns that in some instances cannot be wholly met by veterinary practitioners who may be otherwise committed to farm calls, TB testing, factory work, etc, thereby putting the practice receptionist in a prescribing and dispensing role. The Responsible Person or Pharmacist must be present in their retail outlet when supplying medicines. The Committee is cognisant of this situation and recommends that all efforts should be examined and reviewed with the objective of allowing the continued operation of the Responsible Person and Pharmacist role. Their expertise and experience should not be dismissed. The Committee recommends that a Responsible Person is allowed to be able to prescribe as well as dispense antiparasitic drugs.
4. The Committee was informed that the retrospective recognition of the prescribing practice of the Responsible Person and Pharmacist as indicated by the legal opinion recently supplied to DAFM would facilitate the derogation provided for in Article 105.4 of EU Regulation 2019/6. De facto or counter prescribing by the Responsible Person and Pharmacist must be enshrined in law to avail of the derogation.

5. At a Committee meeting several stakeholders alluded to the risk that by restricting the prescribing of antiparasitic products to veterinary practitioners only could result in various brands of products available for selection being restricted. The Committee heard that this restriction in turn could lead to reduced choice and increased costs to farmers. This would also impact the Veterinary Pharmaceutical manufacturing industry in Ireland which employs a significant number of people and contributes significantly to the Irish economy. It should be noted that other witnesses who gave evidence before the Committee felt that the risk did not exist. The Department stated that they are in the process of producing a list where those who are given the prescription can dispense a comparable bioequivalent product from this list.
6. The Committee believes that separation of prescribing and dispensing of veterinary medicines will eliminate the commercial conflict of interest which may undermine the prescribing of veterinary medicines. This is practiced in the Scandinavian countries achieving significantly lower levels of resistance to medicines. The Committee recommends that this should be examined extensively.
7. The Committee recommends that Head 7(4)(iii) should read '*the Veterinary Council for purposes associated with its regulatory functions*' in line with the wording of 7(4)(i) as the Committee was informed that the VCI has additional statutory functions for which this information will be required such as its power to investigate (via Authorised Officers) and prosecute for various offences under Part 10 of the Veterinary Practice Act 2005. IFA highlighted that many of the proposed penalties for offences are significant and may be excessive particularly when inadvertent errors have been prosecuted in the recent past. The Committee recommends that these should be reviewed.
8. At a meeting stakeholders expressed their concerns with regards to the sharing of data provided on the National Veterinary Prescription System (NVPS) and if third parties will have access to this information. It was highlighted to the Committee that in the Bill Bord Bia are listed as one of the



bodies where information from the database can be shared with, however, not every farmer is a member of Bord Bia's Quality Assurance scheme. The Committee recommends that clarity is brought on these concerns by ensuring in the Bill that the use and storage of data provided by users of the NVPS is in line with the General Data Protection Regulation (GDPR) and that safeguards are in place to ensure that data isn't shared with third parties unless it is necessary and appropriate.

9. During its series of meetings, the Committee heard from stakeholders that there are concerns that in its current format the NVPS requires an excessive number of data inputs for a veterinary medicine prescription, and it is not user friendly. These concerns were raised at the Committee's meeting with the Minister of State and his Departmental Officials. The Committee recommends that the Department continues its engagement with users of the NVPS to ensure that the system is easily accessible and is of an assistance rather than an administrative burden to the user.
10. The Committee recommends that the term 'veterinarian' is replaced with the term 'veterinary practitioner' throughout the Bill. Under Head 10 of the Bill the following definition should be included to be in line with the Bill's provided definition of a 'veterinary nurse': *'Veterinary practitioner' means a veterinary practitioner registered under Part 4 of the Veterinary Practice Act 2005.'*
11. The Committee notes a typographical error in Head 17(1)(d) where it should read *'under section 109 of the Veterinary Practice Act 2005'* rather than section 19.
12. Head 20(4) states that *'Where, in the opinion of the Minister, a person, has successfully completed a training course under subsection (1) the Minister shall issue the person with a certificate of suitability for the retail or veterinary medicinal products and the person is referred to in this Chapter as a retail responsible person.'* The Committee was informed that the term 'certificate of suitability' has specific meaning under the Veterinary Practice Act 2005 as it

relates to a premises at or from which a registered veterinary practitioner can practice veterinary medicine. As the use of this term in Head 20(4) of this Bill may cause confusion the Committee recommends that an alternative term is used.

13. The Committee believes that alignment of the prescribing and dispensing regimes on both sides of the border is essential. The All-Ireland Animal Health strategy advocated by DAFM and all farming bodies will otherwise be undermined due to the inevitable, unnecessary and damaging black market for veterinary medicines that will evolve. Differing regimes will threaten our food quality standards. In excess of 50% of Northern Irish milk and meat are processed in the Republic, are labelled as 'Irish', but will be compliant with differing standards. This will not satisfy our major customers, jeopardising employment in this sector.
14. Several stakeholders expressed their concerns to the Committee on how information submitted by users to the proposed National Fertiliser Database could be used, in particular, in deciding to carry out inspections undertaken by DAFM with regards to other schemes and the possibility of the provision of this data to third parties. The Committee recommends that clarity is brought on these concerns by ensuring in the Bill that the use and storage of data provided by users on the National Fertiliser Database is in line with the General Data Protection Regulation (GDPR).
15. The Committee heard from several stakeholders of their concern that the creation of the proposed National Fertiliser Database could increase administrative burden to fertiliser users. Witnesses stated that some users may not be technologically literate and are already reliant on consultants to fill out applications for other agriculture payments and schemes on [agfood.ie](http://agfood.ie). This assistance will likely extend to the National Fertiliser Database as well and increase administrative requirements on these services. To assist in compliance of the Database, the Committee recommends that the Department ensures that the database's design is accessible and user-

friendly and that there is continuous engagement between the Department and users as it is rolled out.

16. The National Fertiliser Database is set to come into effect on 1 January 2023 with 2023 as its first accounting year. Due to global circumstances, this year there has been an unprecedented increase in fertiliser prices and witnesses informed the Committee that there are widespread predictions of more restricted fertiliser use and availability in 2023. Stakeholders expressed their concern that the data provided for 2023 will be used as baseline to inform future policy decision making. The Committee recommends that these conditions are taken into account when the Department are using data from the National Fertiliser Database in future policy decisions.
17. During the Committee's meetings the issue of the ability to purchase fertiliser in Northern Ireland and being able to move it unrecorded throughout the Island was raised as a risk to the completeness and validity of the National Fertiliser Database. It was revealed that the Database will be dependent on fertiliser users in the Republic of Ireland who have purchased fertiliser in Northern Ireland to record the purchase of the product on the Database. The Committee recommends that in order to draw assurance and to ensure compliance with the National Fertiliser Database that the Department consider incorporating onsite inspection of fertiliser stocks as part of its farm inspection of other schemes. If this isn't possible the Committee requests the Department outlines what regulatory regime will be in place to ensure compliance with the proposed National Fertiliser Database and the achievement of the Bill's objectives.
18. The Committee heard that those purchasing fertiliser for commercial use must register with the National Fertiliser Database and those purchasing small amounts for non-commercial use, such as home gardening, are not required to register as a user on the Database. In its meeting with Minister Heydon, it was unclear where entities such as local community sport clubs who maintain grounds fall. The Committee requests clarification on whether these clubs are

required to register as a professional user in the National Fertiliser Database as they purchase fertiliser to maintain their pitches.

19. The Committee recommends that the Department uses a simplified system for small suppliers of fertiliser and to give a login number that is compatible with all its systems so that additional costs are not incurred by small suppliers of fertilisers.

## Appendix 1: Terms of Reference of the Committee

### Scope and context of activities of Select Committees (DSO 94 and SSO 70)

#### **DSO 94**

- (1) The Dáil may appoint a Select Committee to consider and, if so permitted, to take evidence upon any Bill, Estimate or matter, and to report its opinion for the information and assistance of the Dáil. Such motion shall specifically state the orders of reference of the Committee, define the powers devolved upon it, fix the number of members to serve on it, state the quorum, and may appoint a date upon which the Committee shall report back to the Dáil.
- (2) It shall be an instruction to each Select Committee that—
  - (a) it 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;
  - (b) 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;
  - (c) 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 Standing Order 125(1) <sup>1</sup>; and
  - (d) 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—
    - (i) a member of the Government or a Minister of State, or
    - (ii) the principal office-holder of a State body within the responsibility of a Government Department or
    - (iii) 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.

- (3) 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 Cathaoirleach of one of the Select Committees concerned, waives this instruction.



<sup>1</sup> Retained pending review of the Joint Committee on Public Petitions.

## **SSO 70**

- (1) The Seanad may appoint a Select Committee to consider any Bill or matter and to report its opinion for the information and assistance of the Seanad and, in the case of a Bill, whether or not it has amended the Bill. Such motion shall specifically state the orders of reference of the Committee, define the powers devolved upon it, fix the number of members to serve on it, state the quorum thereof, and may appoint a date upon which the Committee shall report back to the Seanad.
- (2) It shall be an instruction to each Select Committee that—
- (a) it 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;
  - (b) 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 Seanad;
  - (c) 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 Standing Order 108 (1) <sup>1</sup>; and
  - (d) 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—
    - (i) a member of the Government or a Minister of State, or
    - (ii) the principal office-holder of a State body within the responsibility of a Government Department, or
    - (iii) 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 Cathaoirleach, whose decision shall be final.

<sup>1</sup> Retained pending review of the Joint Committee on Public Petitions

## Functions of Departmental Select Committees (DSO 95 and SSO 71)

### DSO 95

- (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 Cathaoirleach of the Select Committee appointed pursuant to this Standing Order shall also be Cathaoirleach 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.<sup>2</sup>

<sup>2</sup> Retained pending review of the Joint Committee on Public Petitions.

## SSO 71

- (1) The Seanad may appoint a Departmental Select Committee to consider and, unless otherwise provided for in these Standing Orders or by order, to report to the Seanad 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 Seanad.
- (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 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 Dáil 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 Seanad: 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 Cathaoirleach of a Joint Committee appointed pursuant to this Standing Order shall be a member of Dáil Éireann.
- (8) Where a Select Committee proposes to consider—
  - (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 116, 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, 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 EC 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 113 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.<sup>2</sup>

<sup>2</sup> Retained pending review of the Joint Committee on Public Petitions.



## Powers of Select Committees (DSO 96 and SSO 72)

### DSO 96

Unless the Dáil 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;
- (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 Select Committee explaining the statutory instrument, or
    - (ii) attend a meeting of the Select Committee to explain any such statutory instrument: Provided that the authority concerned may decline to attend for reasons given in writing to the Select 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 Select 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 Select 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 Select 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 Select 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 Select 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 Select Committee in relation to the consideration of a report under Standing Order 197;
- (9) subject to any constraints otherwise prescribed by law, power to require that principal officeholders 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 Select 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 Select Committee, which may report thereon to the Dáil; 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 Standing Order 120(4)(a).

## **SSO 72**

Unless the 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 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 Select Committee explaining the statutory instrument, or
    - (ii) attend a meeting of the Select Committee to explain any such statutory instrument: provided that the authority concerned may decline to attend for reasons given in writing to the Select Committee, which may report thereon to the Seanad, 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 Select 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 Select Committee, which may report thereon to the Seanad: and provided further that a member of the Government or Minister of State may request to attend a meeting of the Select 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 Select 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 Select 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 Select Committee in relation to the consideration of a report under Standing Order 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 Select 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 Select Committee, which may report thereon to the 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 Standing Order 107(4)(a).



### **Houses of the Oireachtas**

Leinster House

Kildare Street

Dublin 2

Do2 XR2o

[www.oireachtas.ie](http://www.oireachtas.ie)

Tel: +353 (0)1 6183000 or 076 1001700

Twitter: @OireachtasNews

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