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**An Choiste um Choimirce Shóisialach,
Forbairt Pobail agus Tuaithe agus na hOileáin**

Tuarascáil maidir leis an nGrinnscrúdú Réamhreachtach
ar Scéim Ghinearálta an Bhille Carthanas (Leasú), 2022

Samhain 2022

**Joint Committee on Social Protection, Community
and Rural Development and the Islands**

Report on the Pre-Legislative scrutiny of the General
Scheme of the Charities (Amendment) Bill, 2022

November 2022

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- Jackie Cahill T.D., FF
- Joe Carey T.D., FG
- Joan Collins T.D., IND 4 CH
- Paul Donnelly T.D., SF
- Charles Flanagan T.D., FG
- Claire Kerrane T.D., SF
- Denis Naughten T.D., IND, (Cathaoirleach)
- Marc Ó Cathasaigh T.D., GP, (Leas – Cathaoirleach)
- Éamon Ó Cúiv T.D., FF
- Senator Paddy Burke, FG
- Senator Róisín Garvey, GP
- Senator Paul Gavan, SF
- Senator Eugene Murphy, FF
- Senator Mark Wall, LAB

Joint Committee on Social Protection, Community and Rural Development and the Islands



Sen. Paddy Burke
Fine Gael



Jackie Cahill T.D.
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Sen. Róisín Garvey
Green Party



Sen. Paul Gavan
Sinn Féin



Claire Kerrane T.D.
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Sen. Eugene Murphy
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Denis Naughten T.D.
Independent
Cathaoirleach



Marc Ó Cathasaigh T.D.
Green Party



Éamon Ó Cuív T.D.
Fianna Fáil



Sen. Mark Wall
Labour

Cathaoirleachs Foreword



The General Scheme of the Charities (Amendment) Bill is an important piece of legislation which is designed to strengthen the charity sector and ensure greater transparency, clarity and fairness to enhance public confidence in the sector.

The Committee engaged in public consultations with relevant stakeholders to discuss how this bill can improve the operational capacity of the Charities Regulator to conduct its statutory functions, ensuring more proportionate regulation for the sector.

The primary aim of this Bill is to ensure that there is greater transparency, clarity and fairness in terms of regulation of charities, which will serve to enhance the confidence of the public in this sector. This Committee have put forward 9 recommendations in this report, which mainly centre around standardising the regulations that charities have to adhere to. As well as ensuring that the consequences for not adhering to these rules are proportionate.

In its pre-legislative scrutiny of this Bill, the Committee held meetings with officials from the Department of Community and Rural Development (DRCDD). The Committee also engaged with officials from Charities Institute Ireland (CII), The Wheel, Mason, Hayes and Curran LLP, The Charities Regulator and the Irish Council for Civil Liberties (ICCL).

I would like to thank Minister of State with responsibility for Community Development and Charities, Joe O'Brien TD, officials from the Department, and all stakeholders who came before the Committee, for their valuable engagement with the Committee and Members of the Committee for their hard work. I would also like to acknowledge the assistance of the Committee Secretariat in preparing this report.

A handwritten signature in black ink that reads "Denis Naughten". The signature is written in a cursive style and is positioned above a horizontal line.

Denis Naughten TD
Cathaoirleach
9 September 2022

Table of Contents

MEMBERSHIP	1
Cathaoirleachs Foreword	3
Introduction and Witnesses	5
Recommendations	7
Key Issues	9
Key Issue 1 – Changes to the Annual Statement of Accounts	9
Key Issue 2 – Intermediate Sanctions	10
Key Issue 3 – Charitable Purpose	11
Key Issue 4 – Guidelines introduced for the Regulator	12
Key Issue 5 – Definition of ‘significant event’	13
Key Issue 6 – Changes to the Charities Register without prior engagement.....	14
APPENDIX 1 – Orders of Reference	16
APPENDIX 2 – Links to Meeting Transcripts	27
APPENDIX 3 – Links to Opening Statements	27

Introduction and Witnesses

The proposed Bill will amend the Charities Act 2009 ('the Act'). The Act is the principal primary legislation that governs the operation of charities in Ireland. The purpose of this Bill is to ensure there is greater transparency, clarity and fairness which will serve to enhance public confidence in the sector.

The Act provides for a definition of Charities, their operation and reporting requirements and also the establishment of the Charities Regulatory Authority ('the Regulator'). The Regulator drafted Charity Accounting and Reporting Regulations during 2015, which were envisioned to afford a specific format for the submission of Annual Reports and Accounts by charities to the Regulator and were intended to be proportionate to the size of the charity.

At the moment, no registered charity that is incorporated is required to prepare and submit an annual statement of accounts to the Regulator. These requirements are considered covered by the Companies Act 2014. Because of this, regulations under Section 48 have not been introduced. To address this concern, a number of amendments to the Act have been proposed under the General Scheme which would eradicate the exemption whereby the pertinent accounting and reporting requirements in the 2009 Act do not apply to charities that are companies.

In this context, the General Scheme was submitted to the current Joint Committee on Social Protection, Community and Rural Development and the Islands ('the Committee') in June 2022.

The Committee held four meetings on the General Scheme:

Date	Witnesses
6 July	<p><i>Officials from the Department of Community and Rural Development</i></p> <ul style="list-style-type: none">• Minister Joe O'Brien TD, Minister of State with responsibility for Community Development and Charities;• Ms Bairbre Nic Aongusa, Assistant Secretary;• Mr Kevin Power, Assistant Principal;• Niamh Hoey, Administrative Officer

21 September *Officials from Mason, Hayes and Curran LLP*

- Ms Alice Murphy, Partner
Officials from Charities Institute Ireland (CII)
- Ms Áine Myler, Chief Executive Officer
Officials from The Wheel
- Mr Ivan Cooper, Director of Policy

5 October *Officials from The Charities Regulator*

- Ms Geraldine McCarthy, Head of Communications and Stakeholder engagement;
 - Ms Helen Martin, Chief Executive;
 - Ms Madeleine Delaney, Director of Legal Affairs and Registration;
 - Mr Niall Scanlon, Head of Finance;
 - Mr Thomas Mulholland, Director of Compliance and Enforcement
- Officials from Irish Council for Civil Liberties (ICCL)*
- Mr Liam Herrick, Executive Director;
 - Mr Ronan Kennedy, Policy Officer for the Democratic Freedoms initiative

12 October *Officials from the Department of Community and Rural Development*

- Minister Joe O'Brien TD, Minister of State with responsibility for Community Development and Charities;
- Ms Ciara Bates, Principal Officer;
- Mr Kevin Power, Assistant Principal;
- Ms Niamh Hoey, Administrative Officer

Recommendations

1. The Committee recommends that charities that are also companies are held to the same set of rules as charities who are associations.
2. The Committee recommends that the Department accept the amendment put forward by the Charities Regulator which has sought to increase both the threshold at which registered charities have to produce accounts and the point at which they have to get their accounts audited.
As it stands, charities with expenditure below €10,000 are exempt from having to submit accounts to the Charities Regulator.
 - a. The Committee recommends that this threshold is raised to €25,000. This would benefit 744 charities.
 - b. At the other end of the scale, the Committee recommends that the threshold for having an audit is raised from €100,000 to €250,000, which means 1000 charities would benefit from this.
3. The Committee recommends that more provisions should be linked into the intermediate sanctions. The intermediate sanctions are already in place but are limited in what they can be applied to. The main focus of intermediate sanctions is on financial breaches, for example if a proper book of accounts is not kept, that could lead to an intermediate sanction. Whereas if a charity fails to respond to a direction from the Regulator, the charity would be automatically brought in under the enforcement process. The Committee is of the view that the gap needs to be bridged. Incremental steps that should be brought in in line with the Enforcement Pyramid set out in the Law Reform Commission Report on Regulation 2006 which refers to steps of persuasion, codes of practices, inspections and advice, before enforcement is applied.
4. The Committee recommends that the Regulator revert to the original 2018 wording on political advocacy to provide clarity to the law. This will address an irregularity in the original Act and will provide for greater oversight and transparency in the sector. This change would mean organisations that are

solely set up to promote a political cause would not be considered charities, however organisations should be able to conduct legitimate political advocacy as part of their charitable work. This recommendation is necessary for the progression of human rights to have a meaningful influence on Irish charities law.

5. The Committee recommends that the Regulator and the Revenue Commissioners agree a 'memorandum of understanding' to ensure consistency between decisions and approaches taken by the Regulator and the Revenue Commissioners when evaluating bodies under the Statutory remit of both organisations.
6. The Committee recommends that a requirement be imposed on the Regulator to share information with the appropriate authorities where a suspected offence has occurred. For example, where the Regulator becomes aware of a potential criminal act then they must be obligated to share such information with An Garda Síochana.
7. The Committee recommends that a clear definition is set out in this Bill as to what is a 'significant event' that must be reported by charity trustees to the Regulator. The General Scheme sets down an obligation for charity trustees to notify the Regulator as soon as possible where there are reasonable grounds to believe a significant event has occurred or is likely to occur. As it stands, the wording is ambiguous and is likely to place a disproportionate burden on charity trustees who must decide in the abstract on whether a potential set of circumstances qualifies as a serious incident
8. The Committee recommends that guidelines are laid down ensuring that the Regulator engage with charity trustees in relation to any proposed changes to the information on the Charities Register and that such trustees are afforded the opportunity to comment on the draft changes. As it stands this Bill does not provide charity trustees with an opportunity to comment on, object to or agree to changes to their entry on the Charities Register.

9. The Committee recommends that more work needs to be done in relation to Crowd Funding in advance of the publication of this Bill.

Key Issues

Key Issue 1 – Changes to the Annual Statement of Accounts

Heads 13 – 18 concern proposed amendments to the Act in relation to the duty to keep proper book of account, annual statements of account, annual returns under the Companies Act 2014, annual reports and the public inspection of annual reports.

The obligation to maintain a proper book of accounts applied to all charities under the Charities Act, however if the charity is a company, the provisions under the Charities Act does not apply. If a situation arises where a charity is a company and has not complied with the duty to keep a proper book of accounts, as it is at the moment the Regulator cannot look to impose intermediate sanctions on that charity. As it is a company, it is not in breach of the Charities Act.

The Committee is of the opinion that the framework to regulate charities, should regulate all charities regardless of their legal form. It would be unfair if a charity that the sanctions available under the Charities Act are not the same as the Sanctions that would come under the Companies Act.

Alongside the amendment above, an amendment was put forward by the Regulator under these heads, was for the increase of both thresholds under which a charity is required to submit its accounts. This amendment ensures that there is an enhancement in the transparency and accountability and an increase in the public's trust and confidence.

These changes would ensure fairness both in terms of the ability of the Regulator to impose sanctions on all charities, as well as ensuring all charities regardless of form, are obligated to produce a detailed set of accounts at the same threshold.

RECOMMENDATIONS

The Committee recommends

1. That charities that are also companies are held to the same set of rules as charities who are associations.
2. The Department accept the amendment put forward by the Charities Regulator which has sought to increase both the threshold at which registered charities have to produce accounts and the point at which they have to get their accounts audited. As it stands, charities with expenditure below €10,000 are exempt from having to submit accounts to the Charities Regulator.
 - a. The Committee recommends that this threshold is raised to €25,000. This would benefit 744 charities.
 - b. At the other end of the scale, the Committee recommends that the threshold for having an audit is raised from €100,000 to €250,000, which means 1000 charities would benefit from this.

Key Issue 2 – Intermediate Sanctions

Head 26 allows for the expansion of offences under the Act to incur intermediate sanctions, including failure to comply with a condition of registration and failure to notify the regulator of a significant event.

Intermediate sanctions can only be imposed on a charity with their agreement. The charity has to agree or the next option available would be the prosecution of the offence, there is no in-between. What is needed in this Act is a middle ground between these intermediate sanctions and the prosecution of the offence.

The Regulator also conveyed to the Committee the need for more options between these two extremes. In the case of charity trustees being non – compliant, most of the time the only option available to the Regulator is the prosecution of the individual concerned, whether they are willingly non – compliant or not. In a lot of cases, it is not that the trustees are ill intentioned, it is that they are ill informed. The Regulator

need to have more options available to them that are more proportionate and balanced.

RECOMMENDATION

3. The Committee recommends that more provisions should be linked into the intermediate sanctions. The intermediate sanctions are already in place but are limited in what they can be applied to. The main focus of intermediate sanctions is on financial breaches, for example if a proper book of accounts is not kept, that could lead to an intermediate sanction. Whereas if a charity fails to respond to a direction from the Regulator, the charity would be automatically brought in under the enforcement process. The Committee is of the view that the gap needs to be bridged. Incremental steps that should be brought in in line with the Enforcement Pyramid set out in the Law Reform Commission Report on Regulation 2006 which refers to steps of persuasion, codes of practices, inspections and advice, before

Key Issue 3 – Charitable Purpose

Head 4 of the Act regards the charitable purpose of a Charity, and it clarifies and defines those charitable purposes under which an organisation can seek charitable status. It also establishes 'Human Rights' as a defined charitable purpose.

The Committee are concerned that there is no difference set out in the Act between charities solely set up to promote a political agenda and charities who conduct legitimate political advocacy as part of their charitable work.

The Regulator told the Committee about a charity test that is provided for in the Act. This test has several elements, one of which is that a charity may only have a charitable purpose. This means that if a charity has other purposes that are not deemed charitable under the Charities Act, alongside a charitable purpose, it is not entitled to be registered as a Charitable Organisation under the 2009 Act.

The ICCL conveyed their concerns to the Committee around the political advocacy of a charity. In order for the advancement of Human Rights, the Regulator should revert

to the 2018 wording on political advocacy¹. This would mean that a charity may participate in activities to promote a political cause provided that the promotion of the cause relates directly to the development of the charity's charitable purpose. It cannot promote a political party or candidate and it is not conflicting to the charity's governing document. The advancement of Human Rights was originally listed as one of the charitable purposes in the original heads of the Charities Bill in 2006 but it was omitted from the final Act.

RECOMMENDATION

4. The Committee recommends that the Regulator revert to the original 2018 wording on political advocacy to provide clarity to the law. This will address an irregularity in the original Act and will provide for greater oversight and transparency in the sector. This change would mean organisations that are solely set up to promote a political cause would not be considered charities, however organisations should be able to conduct legitimate political advocacy as part of their charitable work. This recommendation is necessary for the progression of human rights to have a meaningful influence on Irish charities law.
5. The Committee recommends that the Regulator and the Revenue Commissioners agree a 'memorandum of understanding' to ensure consistency between decisions and approaches taken by the Regulator and the Revenue Commissioners when evaluating bodies under the Statutory remit of both organisations.

Key Issue 4 – Guidelines introduced for the Regulator

Heads 5 and 6 both concern the Regulator. Head 5 relates to the disclosure of information by the Regulator, and it clarifies the Regulator's capacity to disclose information to other Regulators or listed organisations as appropriate.

Head 6 relates to administrative cooperation on regulatory matters, and this provides an up-to-date definition of 'public body' so that the Regulator can enter into administrative cooperation arrangements with public bodies on matters relating to

¹ [Guidance on Charities and the Promotion of Political Causes, February 2018](#)

the regulation of charities. This would include, for example, the Revenue Commissioners.

It is possible that a problem may arise if the regulator is not obliged to share information with An Garda Síochána indicating a criminal act or breach of law. Where a suspected offence has occurred, there should be a positive obligation imposed on the Regulator to share the information with the relevant authority.

RECOMMENDATION

6. The Committee recommends that a requirement be imposed on the Regulator to share information with the appropriate authorities where a suspected offence has occurred. For example, where the Regulator becomes aware of a potential criminal act then they must be obligated to share such information with An Garda Síochána.

Key Issue 5 – Definition of ‘significant event’

Head 23 inserts a new section which establishes the requirement for charity trustees to notify the Regulator, ‘as soon as is practicable’ where there are reasonable grounds to believe a significant event is likely to occur or has already occurred, in respect of that charitable organisation.

The Committee are concerned by the vague connotations of the ‘significant event’ that charity trustees will have a duty to report on and are of the opinion that people will be overly cautious in what they will report on and what is meant by a ‘significant event’. This could lead to a lot of unnecessary additional work for the Regulator and may overburden the charity sector.

Through the Committee's engagement with the Regulator, the Committee expressed the above concerns and were assured that the term ‘significant events’ only concern events that have a catastrophic effect on a charity whether it be reputational or financial. Despite their reassurance, the Committee have recommended that this

amendment be refined so as to remove any ambiguity on what a 'significant event' encompasses.

RECOMMENDATION

7. The Committee recommends that a clear definition is set out in this Bill as to what is a 'significant event' that must be reported by charity trustees to the Regulator. The General Scheme sets down an obligation for charity trustees to notify the Regulator as soon as possible where there are reasonable grounds to believe a significant event has occurred or is likely to occur. As it stands, the wording is ambiguous and is likely to place a disproportionate burden on charity trustees who must decide in the abstract on whether a potential set of circumstances qualifies as a serious incident.

Key Issue 6 – Changes to the Charities Register without prior engagement

Heads 8 and 9 both relate to changes to the Charities Register without any consultation with the charity in question. Head 8 concerns the registered charitable organisation and establishes the requirement of trustees of 'deemed registered' charities to alert the Regulator to significant changes in the charity.

Head 9 concerns the removal of a charitable organisation from the Register. This head streamlines this process and establishes the Charities Appeals Tribunal as the first court of appeal as opposed to the High Court.

The Committee are concerned about the ability to delist a charity without any consultation with the Charity. It seems as if there is no graduated response here. The Charity in question has no opportunity to comment on or object to these changes to the Register. These concerns were mirrored by CII when they conveyed to the Committee that there needs to be further legislative scrutiny before the introduction of this Act, as the sequence of events that may unfold following the delisting of a charity have not been thought through it seems.

Once a charity is delisted, it cannot carry out any business whatsoever, which means all assets are completely frozen, employees are terminated, and the services provided are terminated. In some situations, there may already be a large amount of public funding provided to the charity and individuals who are relying on those services. Whether the Regulator go about delisting a charity in this way or not, the Act in the format proposed, would give the Regulator the power to do this.

RECOMMENDATION

8. The Committee recommends that guidelines are laid down ensuring that the Regulator engage with charity trustees in relation to any proposed changes to the information on the Charities Register and that such trustees are afforded the opportunity to comment on the draft changes. As it stands this Bill does not provide charity trustees with an opportunity to comment on, object to or agree to changes to their entry on the Charities Register.

APPENDIX 1 – Orders of Reference

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); 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 officer – 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 Chairman of one of the Select Committees concerned, waives this instruction.

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); 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 officeholder of a State body within the responsibility of a Government Department, or
 - iii. The principal officeholder 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.

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) That performance of a non – State body in relation to an agreement for the provision of services that it has entered into with any such Government Department or State body.
- 2) A Select Committee appointed pursuant to this Standing Order shall also consider such other matters which –
 - a) Stand referred to the Committee by virtue of these Standing Orders or statute law, or
 - b) Shall be referred to the Committee by order of the Dáil.

- 3) The principal purpose of Committee consideration of matters of policy, governance, expenditure and administration under paragraph (1) shall be –
 - a) For the accountability of the relevant Minister or Minister of State, and
 - b) To assess the performance of the relevant Government Department or of a State body within the responsibility of the relevant Department, in delivering public services while achieving intended outcomes, including value for money.

- 4) A Select Committee appointed pursuant to this Standing Order shall not consider any matter relating to accounts audited by, or reports of, the Comptroller and Auditor General unless the Committee of Public Accounts –
 - a) Consents to such consideration, or
 - b) Has reported on such accounts or reports.

- 5) A Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann to be and act as a Joint Committee for the purposes of paragraph (1) and such other purposes as may be specified in these Standing Orders or by order of the Dáil: provided that the Joint Committee shall not consider –
 - a) The Committee Stage of a Bill,
 - b) Estimates for Public Services, or
 - c) A proposal contained in a motion for the approval of an international agreement involving a charge upon public funds referred to the Committee by order of the Dáil.

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

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

8) Where a Select Committee proposes to consider –

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

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

- i. Members of the European Parliament elected from constituencies in Ireland,
- ii. Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
- iii. At the invitation of the Committee, other members of the European Parliament.

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

- a) Such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and
- b) Such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select: Provided that the provisions of Standing Order 130 apply where the Select Committee has not

considered the Ombudsman report, or a portion or portions thereof, within two months (excluding Christmas, Easter, or summer recess periods) of the report being laid before either of both Houses of the Oireachtas.

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

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

- 7) The Chairman of a Joint Committee 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,

- 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 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 reported 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.

Powers of Select Committees (DSO 96 and SSO 72)

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/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 Dáil/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 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 DSO 197/SSO 168;

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 officeholder may decline to attend for stated reasons given in writing to the Select Committee, which may report thereon to the Dáil/Seanad; and

10) Power to –

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

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

APPENDIX 2 – Links to Meeting Transcripts

[6th July 2022](#)

[21st September 2022](#)

[5th October 2022](#)

[12th October 2022](#)

APPENDIX 3 – Links to Opening Statements

Wednesday 6 July 2022

[Minister of State, Department of Community and Rural Development](#)

- Joe O'Brien T.D

Wednesday 21 September 2022

[Charities Institute Ireland and The Wheel](#) with legal input from Mason Hayes & Curran LLP

- Áine Myler
- Ivan Cooper
- Alice Murphy

Wednesday 5 October 2022

[Irish Council for Civil Liberties](#)

- Liam Herrick

[The Charities Regulator](#)

- Helen Martin

Wednesday 12 October 2022

[Minister of State, Department of Community and Rural Development](#)

- Joe O'Brien

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