

DÁIL ÉIREANN

AN COMHCHOISTE UM THITHÍOCHT, PLEANÁIL AGUS RIALTAS ÁITIÚIL

JOINT COMMITTEE ON HOUSING, PLANNING AND LOCAL GOVERNMENT

Déardaoin, 12 Deireadh Fómhair 2017

Thursday, 12 October 2017

Tháinig an Comhchoiste le chéile ag 9.30 a.m.

The Joint Committee met at 9.30 a.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Pat Casey,	Grace O'Sullivan.
Ruth Coppinger,	
Barry Cowen,	
Fergus O'Dowd,	
Eoin Ó Broin.	

Teachta / Deputy Maria Bailey sa Chathaoir / in the Chair.

Electoral (Amendment) (No. 3) Bill 2014: Discussion

Chairman: At the request of the broadcasting and recording services, members are asked to ensure that for the duration of the meeting mobile telephones are turned off completely or switched to airplane, safe or flight mode depending on the device. It is not sufficient to put them in silent mode as this will maintain interference with the broadcasting system. In accordance with standard procedures agreed by the Committee on Procedure and Privileges for paperless committees, all documentation for the meeting has been circulated to members on the document database. Senator Boyhan is running a little late and will be with us shortly.

The first item on the agenda is detailed scrutiny of the Electoral (Amendment) (No. 3) Bill 2014. We will have two sessions today and our private session will be held at the end of the two sessions. In the first session we are considering Deputy Ó Cuív's Bill. The Bill was referred to the committee for consideration at today's meeting. Deputy Ó Cuív has indicated that he wishes to present in Irish and translation is available for members if required. I welcome Deputy Ó Cuív.

Before we begin I draw attention to the fact that by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person or entity by name or in such a way as to make him, her or it identifiable. Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official either by name or in such a way as to make him or her identifiable.

Deputy Éamon Ó Cuív: If there are questions from members when I conclude, I will answer the questions in the language in which they are asked. If somebody asks a question in English, I will answer in English, and if the question is asked in Irish, I will reply in Irish.

Ba mhaith liom i dtosach buíochas a ghlacadh leatsa, a Chathaoirligh, agus leis an gCoiste um Thithíocht, Pleanáil agus Rialtas Áitiúil as ucht an cuireadh labhairt libh inniu agus cúlra an Bhille Toghcháin (Leasú) (Uimh. 3) 2014 a chur in bhur láthair. Glacadh le Dara Céim an Bhille seo sa Dáil cheana féin d'aon ghuth agus ta áthas orm go bhfuil sé bogtha ar aghaidh anois go dtí an chéad Chéim eile, sé sin mionscrúdu ar an mBille. Tá thart fá 3,000 duine ag cónaí ar oileáin amach on gcósta i gceithre Dháilcheantar: Corcaigh Thiar Theas, Gaillimh Thiar, Maigh Eo agus Dún na nGall. Tá formhór mór de na hoileánaigh ag cónaí ar oileáin Ghaeltachta.

Faoi láthair tá soláthar i reachtaíocht a thugann cead do na cinn comhairimh tógcháin a reachtáil ar na hoileáin ar laethanta atá níos túisce ná an lá vótála a shocraíonn an tAire trí ordú. An fáth a bhaineann le seo ná de bharr fadhbanna a bhí ann sa sean aimsir ó thaobh rochtain chuig agus ó na hoileáin. Le seirbhísi d'ardchaighdeáin idir bháid agus eitleáin chuig na hoileáin anois, níl aon ghá anois leis an socrú seo, agus mar sin má ghlactar leis an mBille seo, cuirfear an soláthar seo ar ceal. Is fiú a lua freisin go mbíonn an vótáil ar an lá céanna leis an mórthír ar na hoileáin i gCorcaigh le fada an lá.

Tá na hoileáinigh le fada ag déanamh an cás go mba cheart go mbeadh deis acu siúd vótáil ar an lá céanna leis an mórthír ar bhonn cothromais. Sé na hargóinti atá acu ná go gcáilleann siad amach ar chuid de fheachtasaíocht le vótáil luath. Nuair a bhíonn vótáil ar an mórthír ar an Aoine gur mór an míbhuntáiste dóibh nuair a bhíonn sé ar an Déardaoin nó Céadaoin ar na hoileáin mar nach mbíonn go leor scoláiri, iascairí no daoine a bhíonn ag obair ar an mórthír in ann dul abhaile le vótáil ar na laethanta sin. Ní bhíonn an deacracht céanna acu leis an Aoine, ar ndóigh, dul abhaile agus vótáil tráthnóna Dé hAoine. Ní bheidh an costas ag baint leis seo substaintiúil agus teaspánfaidh achtú na reachtaíochta seo go bhfuiltear ag éisteach leis na po-bail is imeallaí sa tír.

Tá i gceist agam ag Céim an Choiste dhá leasú a mholadh ar an mBille: leasú ag déanamh an socrú céanna i dtaobh toghcháin áitiúla agus Eorpacha agus leasú a cheadódh do bhoscaí ó na hoileáin a bheith ag na hionaid combhairimh níos déanaí ná 9 a.m. lá an chomhairimh. Mar tharla gur luaigh an tAire an gá leis an dá leasú seo sa Dáil, tá i gceist agam dul i gcomhairle leis an Roinn Tithíochta, Pleanála agus Rialtais Áitiúil faoi na leasuithe seo.

Is Bille an-ghearr é seo. Níl ann ach sé alt ar fad agus tá mé thar a bheith sásta glacadh le haon cheist a bheidh ag na baill, i mBéarla nó i nGaeilge. Freagróidh mé na ceisteanna sa teanga a chuirfear orm iad. Gabhaim mo mhíle buíochas leis an gCathaoirleach agus leis na baill.

Chairman: Go raibh míle maith agat, Teachta Ó Cuív. Do members have any questions for the Deputy?

Senator Grace O’Sullivan: I thank Deputy Ó Cuív for his presentation. I am generally very supportive of the Bill. However, I have a few questions. There are facilities in place in terms of boating, the Coast Guard service and other services, as the Deputy said, but in the event of extremely bad weather conditions, would it be possible for the counts to be done on the islands and the results of them to be transferred by way of telephone or other means to the mainland?

Deputy Éamon Ó Cuív: That is a fair question and it is one that has been raised previously. I referred to what has been happening in Cork for many years and that there has been no mishap. All the islands off Cork are very near the mainland, except Cape Clear, but it is as far from the mainland as many other islands. That island would not have the quality of boats that some of the Aran Islands would have. Cork has done this successfully and there has been no mishap. If we consider the Donegal islands, the last time there was an election, voting took place on the day prior to polling day. On islands such as Gola and Inishfree, which have very small populations, there is a provision in the legislation, which I am not proposing should be removed, to have a short day of voting, where one could only vote for three or four hours. On the bigger islands, the timing on the day of voting is the same as on the mainland. The ballot boxes were ferried to the mainland by helicopter. It was the Air Corps that did the needful. If weather conditions got so bad that the Air Corps could not fly, and a similar problem could arise in the event of very bad snow with some ballot boxes in County Wicklow in Deputy Casey’s constituency, there would be more disruption in the country than with respect to ballot boxes. It is extraordinary the way in which services to the islands have improved. There is also the backup of a helicopter in the event of very extreme weather conditions.

Senator Grace O’Sullivan: Is there an option to do a count on an island?

Deputy Éamon Ó Cuív: That would involve much more legislation.

Deputy Pat Casey: I thank the Deputy for bringing this Bill before us. He said that what it proposes would not involve any substantial extra cost. I cannot see why there should be any extra cost involved. The Bill proposes that voting on the islands would take place on the same day as on the mainland. Has it been identified where this proposal might involve potential costs?

Deputy Éamon Ó Cuív: Obviously, in Cork, there would be no extra costs involved and based on what was done on the last occasion in Donegal, there would be no extra costs involved. If a provision that ballot boxes would not have to be in place at 9 a.m. were included, effectively, that would potentially involve no extra cost. The ballot boxes are brought to the Aran Island either by plane or by boat. The boat leaves at 8 a.m. and the ballot boxes would be in the count centres at 9.30 a.m. or 10 a.m. There would be no logistical issue involved. Provided that the ballot boxes were not required to be in the count centres prior to 9 a.m., there should be no extra cost involved. Therefore, that amendment is crucial if we want to keep costs to a minimum. In the worst case scenario, we are talking about arranging an early morning or very late night sailing of a boat. We are talking about a cost of a few hundred euro. I do not believe it would be measurable in the cost of an election when all would be said and done, or that it would involve any significant cost. If an amendment was included to allow for the ballot boxes to be brought to the count centres up to 11 a.m. to cover ourselves and allow plenty of time, I believe that would avoid any cost implications.

Deputy Eoin Ó Broin: I thank the Deputy for coming before the committee today. I reiterate Sinn Féin's strong support for the Bill. It makes eminent sense. As we all know from fighting elections, often an election is won or lost in the last two days of the campaign, whether as a result of the big public debates between party leaders or other issues. Therefore, denying islanders the right to participate in those crucial final days of the campaign is something we need to avoid. I am also less worried about the costs that would be involved. It would be great if we could do this in a way that would reduce costs or involve no additional costs, but giving islanders the right to participate in an election campaign right up to the end is far more important than adding what would ultimately be a very small additional cost to the electoral process. The proposal for an amendment to allow the delivery of the boxes later is a sensible one. If there are severe weather conditions in those very isolated cases, it would give a little more latitude in terms of the delivery of the boxes. For me, the proposed amendment would be more important for that reason than any consideration of the costs involved.

Is there anybody outside these Houses seriously arguing against this move at this stage, given the changes in technology, the improvements in transportation and the ability to predict weather forecasting over three or four days? Is there any opposition to this move at this stage? I cannot see from where it would come but I would be interested to hear the Deputy's view on that.

Deputy Éamon Ó Cuív: The islanders being part of an election campaign to the very end of it is very important, particularly given that the media moratorium does not kick in until midday on the day prior to polling, whereas in the past it was a full day before polling. What is much more important to the islanders is the reality that many elections now take place on a Friday. They do not have to, but they do. That is the case with most general elections and particularly local elections. Given that, we would be considerably increasing the voter turnout on the islands because many people such as students, fishermen and so on miss out on voting. If the Deputy checks voter turnouts in the past, he will find that the voter turnout on the islands tends to be a little bit lower than on the mainland for that obvious reason. Anybody who travels by boat to an island on a Friday evening knows the number of islanders who go home every

weekend, as in the case of people who return home anywhere else in the country. If one gets a weekend bus to the country, one will see people travelling home from this city who are registered to vote in their home area, for example, a student who is in college in Dublin who wants to vote in their home constituency and who does not want to register to vote in Dublin. In the case of many islanders, they are working within the constituency but they have to go to the mainland during the week. That answers the Deputy's first question. His second question was-----

Deputy Eoin Ó Broin: Is there anybody outside Leinster House who is making an argument as to why this legislation should not pass?

Deputy Éamon Ó Cuív: That is a fair point. The reality is that it has been totally down to the discretion of the returning officer in each constituency. Cork has opted for years to have voting on the same day as polling day but Galway, Mayo and Donegal have opted to have voting one day prior to polling day and up to very recently in the case of Mayo and Donegal two days prior to polling day. They have not been availing of their right to vote on the same day as polling day. Therefore, that has not been happening. An argument was put to me with respect to when Mary McAleese was elected in the presidential election when the ballot boxes from the Aran Islands were held up. I have always thought that was a case of bad organisation rather than a transport difficulty. The returning officer had booked a plane from Aran, which is a ten-minute journey to the mainland, and then the boxes would have been transported by a vehicle. One condition that prevents a plane flying on a very calm day is fog. That was an extremely calm day but there was fog and instead of asking for the ballot boxes to be transported by boat - the sea was like glass that day and the boat was sailing - they sat there all day wondering if the fog would lift. That was bad planning, to be blunt about it. Most people would say it was farcical that boxes could not be taken off an island on one of the calmest days.

Deputy Eoin Ó Broin: In that instance did those boxes eventually arrive and were they counted and included in the vote?

Deputy Éamon Ó Cuív: Of course. They had to be. The mess delayed matters a little at the count in Galway and it delayed the result nationally. However, that was foreseeable and avoidable. Anybody who is familiar with the air service will confirm that it is absolutely fantastic, but its one problem is fog. If one thinks about it, however, by definition a day with fog is a day of a calm sea. Once the wind gets up to more than five or ten knots the fog will dissipate.

Deputy Fergus O'Dowd: Tacaím leis an moladh atá déanta ag an Teachta. Agus mé ar na hoileáin le déanaí, tá sé soiléir dom agus níl aon dabht faoi ach go bhfuil vóta mór aige ansin go háirithe. Bhí mé ag an dump, an áit a cuirtear rudaí a bhíonn deireadh leo, agus bhí póstaer an Teachta Éamon Ó Cuív i gceartlár na háite. Tá a fhios agam go bhfuil ardmheas ag muintir na n-oileán air. Molaim an méid atá ráite aige inniu.

Chairman: As there are no further questions I wish to thank Deputy Ó Cuív for attending the meeting and engaging with the committee on the Bill. The committee will meet the Department's officials at a later date to scrutinise the Bill further and a report will then be compiled by the committee.

We will suspend for a few minutes to await our next witness. Deputy Sherlock will be here shortly.

Sitting suspended at 9.52 a.m. and resumed at 10.04 a.m.

Prohibition of Micro-Plastics Bill 2016: Discussion

Deputy Pat Casey took the Chair at 10.04 a.m.

Vice Chairman: We are now in public session and will engage in detailed scrutiny of the Prohibition of Micro-Plastics Bill 2016. Our second session today involves consideration of Deputy Sherlock's Bill on the prohibition of microplastics. This session will involve detailed scrutiny of the Bill. On behalf of the committee I welcome Deputy Sherlock to the meeting.

Before we proceed, I will give the notice on privilege again. Before we begin I draw attention to the fact that by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person or entity by name or in such a way as to make him, her or it identifiable. Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official either by name or in such a way as to make him or her identifiable.

I now call on Deputy Sherlock to make his opening statement.

Deputy Sean Sherlock: I thank the Vice Chairman and members of the committee for giving me a hearing today. The Bill is self-explanatory. Microbeads and other microplastics are used in a variety of cosmetic and personal care products such as scrubs, soaps, lotions and toothpastes. They are added to these products to make the product more abrasive or for decoration. The Bill is a follow-on Bill based on a Green Party Bill put forward by Senator Grace O'Sullivan. I acknowledge the role of the Green Party in bringing forward the issue in the first instance. Our Bill seeks to follow on from that and to strengthen the Bill to allow for us to legislate.

Section 2 provides for the prohibition of microplastics. It provides that a person who manufactures, sells, exposes, offers, advertises, keeps for sale, imports or attempts to import into the State for sale any cosmetic containing microplastics is guilty of an offence. A cosmetic is defined as meaning any cosmetic or personal care product, including but not limited to facial scrubs, soap, lotion, shower gel, sunscreen, make-up, deodorant or toothpaste. Microplastic is defined as meaning plastic particles less than 5 mm in diameter. The section provides that a person guilty of an offence is liable, on summary conviction, to a class A fine or imprisonment of 12 months or both and, on conviction on indictment, to a fine or imprisonment for five years or both. Provision is made for the liability of directors, managers, secretaries etc. of corporate bodies where they consent to or connive in the commission of an offence by the corporate body. The section provides that it is a defence for an accused person to prove he or she did not know and had no reason to suspect the cosmetic in respect of which the offence is alleged to have been committed contained microplastics.

That is it in a nutshell. I have brought forward my Bill on the basis that I believe the State should move to legislate. I understand the Government stated its intention to legislate on an earlier Stage. On Second Stage of the Bill such a commitment was made. I have not had sight

of any Government proposal to legislate for the prohibition of microplastics yet. I am hopeful we can keep this issue on the agenda. If the Government is to legislate for this and if we see the heads of a Bill coming from Government, I would be very happy to withdraw or amend my legislation. Until such time as that happens, I hope to keep the Bill on the agenda. If the Second Stage debate is anything to go by, it is something on which there is a willingness across party political lines to legislate for and to be seen as taking leadership on globally, given we are a maritime nation. The scourge of microplastics is something that is having untold health consequences for sea life. We now have evidence that it is finding its way into the food chain. It is quite an important issue. I am hopeful the committee will retain the legislation or allow for safe passage of the legislation.

Senator Grace O’Sullivan: I am delighted to see this legislation on the agenda. As Deputy Sherlock knows, last year I brought similar legislation before the Seanad. I had a guarantee from the then Minister that he would inform the European Commission that Ireland wanted a prohibition on the manufacture and sale of microbeads and microplastics in Ireland. The first question is whether we can find out from the Minister what is the situation regarding his informing of the Commission. At the time, the then Minister spoke about bringing in an oceans Bill, which is not on the legislative programme, so I would like the Department to tell me whether there has been any progress in that regard, particularly because of what Deputy Sherlock said. We are a maritime nation and have over 7,000 km of beautiful coastline. We pride ourselves on the Wild Atlantic Way and maritime tourism. We are seeing evidence of microplastics and macroplastics on our shorelines. Coastwatch Ireland has done huge work in building up the evidence, which involves actually finding the pieces. These microplastics and microbeads are going into the food chain. As scientists at NUI Galway have the evidence to show in shrimps and prawns that these little pieces of plastic are in the stomachs of marine life that we in turn eat, a big health problem is coming down the line in this regard. I am fully in support of pursuing this legislation, as is the Green Party, and supporting Deputy Sherlock.

Yesterday, we received information that the European Commission has issued a draft release on plastics strategy as part of its circular economy package that has been in development for the past number of years. I agree with Deputy Sherlock that we as a maritime nation should be taking a lead on this. The Commission is talking about having a new plastics strategy, which includes recommendations for tackling microplastics under the registration, evaluation, authorisation and restriction of chemicals regulation. This is where we see that the Commission is starting to take action. I would like to see this legislation proceed through the Houses and to have more information back from the Department to tell us exactly where we are. We know a letter was sent but what is the outcome? We need the outcome, we need to support this legislation and we need to take a lead as a maritime nation and to be seen as a nation that recognises the value of our marine environment from an economic, social and tourism perspective. Deputy Sherlock has our full support with regard to this legislation.

Vice Chairman: Does Deputy Sherlock wish to come back in?

Deputy Sean Sherlock: There may be a defence by the Government on this to the effect that there are Single Market implications for the introduction of legislation of this nature. I appreciate that the then Minister communicated with Commissioner Vella. I am not sure what the status of that interaction is at present but there is a precedent when the former Minister for Health, Deputy Micheál Martin, introduced the smoking ban. It could have been argued at that time that it could have run contrary to some of the treaty provisions relating to the Single Market but as it was subsequently deemed successful as a measure, the same could apply here.

The important point is that a number of countries have signed up to the principle of banning microplastics. This goes as far back as December 2014 in respect of the Netherlands, Austria, Luxembourg, Belgium and Sweden. A joint press statement was released by these countries calling for the ban and the political willingness is there. Regarding the communication from the Commission, I have not seen a legislative proposal or Commission proposal as of yet regarding this issue. It may be there; I may have missed it. However, I believe, as Senator Grace O'Sullivan said, that there is a strong willingness within the community for Ireland to take a lead on that and that is the main purpose of the legislation.

Vice Chairman: The secretariat will follow up on the questions to the Department.

Deputy Eoin Ó Broin: I thank Deputy Sherlock for presenting to the committee. The Bill has Sinn Féin's full support and Deputy Quinlivan outlined that during the Second Stage debate but I also want to acknowledge Senator O'Sullivan's work in the Seanad in proposing the earlier Bill, which, unfortunately, was not supported by the Government. It shows that there is quite a lot of cross-party support for this in both Houses. It is also important to state that when the Government chose to vote against Senator O'Sullivan's Bill, there were already precedents in three EU member states - Great Britain, France and Sweden - where legislation was either passing or the Commission had indicated that it had no objection to legislation passing. In fact, the Commission made it clear earlier last year that the banning of certain types of microplastics in cosmetics could be very consistent with the EU Internal Market rules so there was no automatic assumption. The Government knew that at the time but still chose the position it took.

Does Deputy Sherlock have any more information he can share with the committee either about the progress of those legislative bans in those three EU member states or other jurisdictions? I understand that a report was made available to the Commission about the environmental impact of these kinds of cosmetic products early last year. At that stage, Commissioner Vella indicated that the Commission was possibly looking at an EU-wide piece of work to reduce the negative environmental impacts. I am not suggesting that we should wait for that to happen - we should proceed with legislation here - but is Deputy Sherlock aware of the status of this initiative? If either he or Senator O'Sullivan have any information they can share, the committee would benefit from it.

Deputy Sean Sherlock: I do not have any specific information about what is happening in other countries throughout the EU. I am basing my legislation very much on policy and principles and am seeking to find a mechanism through the Irish Legislature as to how we can design robust legislation for this issue. I have a very open mind about this. I would be quite happy were the Government to decide to take my legislation and to amend it significantly to allow for legislative passage of the Bill. I would very much welcome a further deliberation, if necessary, by this committee on some of those questions. If the committee decided that it was necessary to have further deliberations with outside persons such as experts in the field, I would be very happy to take part in that.

This Bill seeks to strengthen the Green Party Bill because the rebuttal by Government of that Bill was on the basis that it could run contrary to Single Market or treaty provisions. We have built into the legislation what we hope is a strengthening of that. A research report commissioned by the Commission in January 2016 stated it was unclear as to whether any of the existing directives or regulations that had been identified would be suitable. The EU is in a space at present where it has not come to a definitive position on this. It seems to be an iterative process. There is a school of thought that says that the Canadian and US legislation may not necessarily be transferable to an EU scenario. I have no doubt that there are challenges to

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passing this legislation but if we can move to the principle of the legislation and if this House decides that it wants to legislate for this, we can find ways of doing so.

Vice Chairman: I thank Deputy Sean Sherlock for attending and engaging with the committee. The committee will meet officials from the Department at a later date to discuss the Bill. Following those discussions a report will be compiled by the committee.

The joint committee adjourned at 10.20 a.m. until 9 a.m. on Wednesday, 18 October 2017.