BRIEFING ON REFORM OF DÁIL PROCEDURES – RECENT DEVELOPMENTS

This document sets out developments that have taken place and that are planned in the area of Dáil reform and places these in the context of the Programme for Government 2011.

Dáil Reform Programme

The Government Chief Whip has informed the Committee on Procedure and Privileges that the Government intends to implement a programme of parliamentary reform, much of which will be effected by way of changes to the Standing Orders of the Dáil. The programme will be implemented in three phases. Phase 1 involved the implementation of Government proposals which were discussed by the Committee and agreed by the Dáil before the end of July, 2011. It is intended to implement Phase 2 by the end of 2011 and Phase 3 by Easter, 2012.

Phase 1 Reforms

Sittings: The Dáil now sits for one hour longer each week. The number of sittings has increased significantly through shorter recess periods: the number of sittings in 2012 will be approximately 125 as against an average of 100 in recent years.

Topical Issues: On each sitting day the Ceann Comhairle (CC) may now select four requests from members for consideration in the House of specified topical issues. Each issue is assigned 12 minutes – initial statements of four minutes each by the requesting member and the responsible minister and supplementary statements by each of two minutes. Topical issues replace matters on the adjournment which were raised at the end of the sitting day and which involved a single statement by the member and a response by a minister and no supplementaries.

Friday sittings: On the first Friday of a month while the Dáil is in session, a bill initiated by a private member may be debated, having been selected by lottery. The sitting is of three hours duration and no other business may be taken. This allows access by backbenchers to private members’ time which is otherwise confined to three hours per week with business being selected by parties/groups on a rota basis.

Standard of information provided in response to parliamentary questions: Until recently the CC has had no control over the replies given by ministers to parliamentary questions (PQs). Ministers are now obliged to address every element of a PQ. If a member who has tabled a question believes that a minister has failed to do this, he/she may write to the CC within two days asking that this be remedied. If the CC agrees, he must write to the Minister. The Minister must, by 12.30 p.m. the following day, furnish a reply to the CC addressing the parts of the PQ that are at issue. The response is published in the Official Report. If the member remains dissatisfied, he/she may ask the CC to select the subject matter for consideration as a Topical Issue.
**Parliamentary Questions:** The Taoiseach now answers PQs for one hour on Tuesdays only instead of 45 minutes on Tuesdays and Wednesdays. PQs to ministers have been extended by 15 minutes to 75 minutes on Tuesdays to align with the time provided for PQs on other days.

**Leaders’ Questions:** Questions from party leaders may now also be asked on Thursdays and they are answered on that day by the Tánaiste (Deputy Prime Minister). Leaders’ questions continue to be answered on Tuesdays and Wednesdays by the Taoiseach.

**Standing Order 32:** Standing Order 32 allows members to seek leave to move a motion for the adjournment of the Dáil on a “specific and important matter of public interest requiring urgent consideration”. The practice has been discontinued whereby members who had sought such leave could state their request in the House before the Order of Business, except where the request is judged by the CC to be contemplated by the Standing Order. It had become commonplace for members to seek leave in relation to matters which were not contemplated by the Standing Order.

**Order of Business:** The daily Order of Business is now time limited to 30 minutes on Tuesdays and Wednesdays and 20 minutes on Thursdays.

**Phases 2 and 3**

The next phases will involve further proposals relating to plenary procedures from the Government Chief Whip and review of proposals made by the CC and members of the Committee on Procedure and Privileges.

The proposals from the Ceann Comhairle place an emphasis on empowering individual backbenchers and streamlining Dáil procedures. The CC’s main proposals, some of which have been reflected in the Phase 1 reforms, are as follows:

**Streamlining the Order of Business:** Streamlining the way in which questions in relation to promised legislation are dealt with and simplifying the way in which proposals for dealing with Government business are disposed of.

**Increasing responsiveness to topical issues:** Provide for an appropriately flexible means of raising topical issues, involving “pop-up” slots whereby members can raise matters without notice and very briefly. Ministers would reply by the next sitting day.

**Reclaiming parliamentary questions:** The main proposals under this heading are (i) increased time for Leaders’ Questions and corresponding reduction in time for notice questions to the Taoiseach, (ii) an appeal procedure in relation to the comprehensiveness of replies to PQs, (iii) extend written questions to State bodies, (iv) the order in which oral questions are to be taken should be decided by lottery in the House.

**Better quality legislation:** The main proposals under this heading are (i) to minimise the impact of guillotine motions by allowing for important amendments to be prioritised, (ii) pre-legislative scrutiny by committees of
Government bills, (iii) extend the rights of backbenchers to have bills published, debated in the Dáil and referred to a committee.

Giving committees and backbenchers a greater voice: Give committee business appropriate consideration on the floor of the Dáil every week and during “committee weeks” every fourth week and extend the time available for private members’ business on a weekly basis.

Strengthening consideration of EU matters: Enhance the performance of the Dáil in considering EU matters and exercising its key role under the Lisbon Treaty. A formal agreement should be concluded between the Government and the Oireachtas in relation to co-operation in EU affairs.

More effective committees: (i) Ensure accountability of committees to the Houses through substantive policy reports which are guaranteed a response from the Government and time for debate on the floor of the House; (ii) pre-legislative scrutiny by committees of Government bills; (iii) more effective financial scrutiny; (iv) introduce a range of initiatives for improving administrative support for committees.

Better public engagement: A dedicated parliamentary television channel should be in place for the autumn 2011 session in order to give the Houses their appropriate profile in Irish society. As it happens, a cable parliamentary channel will be launched on a pilot basis on 15th November, 2011, the day the Committee visits Dublin.

Committees

Reduction and restructuring: The number of committees has been reduced from 24 to 16 in the 31st Dáil. In particular, there are now fewer sectoral committees shadowing Government departments (seven committees to cover 15 departments). Each committee has dedicated select sub-committees to consider bills, estimates and motions emanating from each Government department.

Membership: There has been a significant reduction in the number of members on each committee.

Mainstreaming of EU matters: Draft EU legislation is now considered by the sectoral committees instead of by a specialist EU scrutiny committee as previously.

Investigations, Oversight and Petitions: A Joint Committee on Investigations, Oversight and Petitions has been established to consider the design of a petitions system for the Houses of the Oireachtas and to consider its role and remit having regard to the Programme for Government. The Programme envisages that the Committee would be the formal channel of consultation and collaboration between the Oireachtas and the Ombudsman and that it would receive parliamentary petitions from individuals and groups in the community. The Committee visited the Scottish Parliament in October, 2011 to examine the public petitions system. The Committee’s role in developing the process for parliamentary investigations will have been affected by the recent rejection of a referendum in this respect.
**Administrative support:** Administrative support is a particular focus for reform within the committees system. Measures currently being implemented include –

- Increased support from the Oireachtas Library and Research Service by way of production of policy papers and questions in context to aid members in their scrutiny of Government departments;
- Improvement of capacity to support the financial scrutiny capacity of committees, including exploring the development of a Budget Scrutiny Office;
- Supporting committees in striking an appropriate balance between implementing annual work programmes, prioritising policy matters for scrutiny and responding to current matters as they arise.

**Programme for Government**

On taking office in March this year, the parties (Fine Gael and Labour) which comprise the coalition Government agreed a Programme for Government which dealt with parliamentary reform in the extracts set out below.

Under the “Constitutional Reform” heading, the Programme includes commitments on parliamentary reform:

“**Parliamentary reform issues**

We will prioritise putting to the people by referendum a number of urgent parliamentary reform issues:

- Abolition of the Seanad;
- A referendum to amend the Constitution to reverse the effects of the Abbeylara judgment to enable Oireachtas committees to carry out full investigations;
- A referendum to protect the right of citizens to communicate in confidence with public representatives."

A referendum in relation to investigations by Oireachtas committees was held in November, 2011, but was rejected.

In more detailed proposals on political reform, the following was stated:

“**Change must start at the top**

The political system cannot ask others to change and make sacrifices if it is not prepared to do the same. We will significantly reduce the size of the Oireachtas by abolishing the Seanad, if the public approve in constitutional referendum, and we will reduce the number of TDs following the publication of the results of the 2011 Census of Population. In addition ministers’ salaries will be reduced, political expenses vouched for and severance payments for ministers axed. No political pensions will be paid to sitting TDs and in future no retired politician will get a political pension until the national retirement age.
Politics must be about service to the public, not financial gain for politicians.

We will ensure our Government is seen to be held to account

We believe that in recent years an over-powerful Executive has turned the Dáil into an observer of the political process rather than a central player and that this must be changed. We will:

- Amend the Constitution to give Dáil committees Full Powers of Investigation: The Abbeylara Supreme Court decision currently limits the ability of the Dáil committees to hold investigations into crucial issues of public concern, such as the banking crisis.
- Reduce the number of committees and give key committees constitutional standing: The Dáil needs fewer but stronger committees, resourced properly.
- We will introduce a role for the Ceann Comhairle in deciding whether a Minister has failed to provide reasonable information in response to a question.
- We propose a radical extension of the parliamentary question system, so that it will be a statutory duty on any body established by or under statute, or with a majority ownership or funding by the State, to submit to the same parliamentary questions regime as applies to Government departments. This will involve a liability to provide answers to written questions within a specified number of Dáil sitting days. (We will however recognise the special position of bodies with a commercial mandate operating at arm’s length from Government.).
- In addition we propose a new procedure for answering oral questions by state bodies. The chief executive of every state funded body will be required to attend the relevant Oireachtas committee on a regular basis to answer oral parliamentary questions that can be submitted by any member, on a similar basis to the attendance of Ministers before the full Dáil.
- We will amend Dáil standing orders to ensure that replies to written questions are furnished within a specified number of days, even during Dáil recess.
- To make the oral question process more effective, we propose to increase the time allocated to oral questions. To provide balance there will be a reduction in the number of oral questions being submitted to one per member. A member must be present in the chamber when his or her question is reached, although they may defer to another member the right to ask a supplementary question.”

“We will overhaul the way politics and Government work

We will radically overhaul the way Irish politics and Government work……………………
Restrictions on the nature and extent of evidence by civil servants to Oireachtas committees will be scrapped and replaced with new guidelines for civil servants that reflect the reality of the authority delegated to them and their personal accountability for the way in which it is exercised.

We propose an Investigations, Oversight and Petitions Committee of the Oireachtas. It would be a powerful committee, constructed on the lines of the Public Accounts Committee, bipartisan in structure and chaired by a senior member of the opposition.

The Committee would be the formal channel of consultation and collaboration between the Oireachtas and the Ombudsman, responsible for receiving and debating her annual and special reports and for ensuring that her criticisms and recommendations are acted upon. For that purpose, she would attend as a regular witness before the Committee.

The Committee would receive parliamentary petitions from individuals and groups in the community seeking the redress of grievances connected with the public services of the State and with the public administration generally. Its functions would be to act as a ‘clearing house’, directing complaints to those bodies most competent to act on them: the Ombudsman, the Data Protection Commissioner, the Local Government Auditor, the Oireachtas committee that has oversight of the relevant Department, and so on."

Specific provisions in relation to Dáil reform are as follows:

“Dáil Reform

We are proposing radical reform of the way the Dáil operates. Our objective is to make Dáil Éireann fit for purpose in the 21st century. To carry out this task we must identify the fundamental goals of a properly functioning Dáil. These include:

- to legislate,
- to represent the people on issues of national concern,
- more effective financial scrutiny, and
- to hold the executive to account.

On each of these headings the Dáil falls short, sometimes far short, of what is required. We will institute a programme of short-term and urgent Dáil reform, within the existing Constitution, to make the Dáil fit for purpose.

- We will give committees the power to introduce legislation, while a new 10 Minute Rule will allow backbench TDs to introduce their own Bills. We will also tackle the huge over-use of guillotines to ram through non-emergency legislation.
- We will introduce a package of changes that will bring about a 50 per cent increase in Dáil sitting days. Dáil Éireann will in future meet four days a week. There will be a summer recess of just six weeks and significantly reduced breaks at Christmas and Easter.
We will abandon the practice of providing a “mid-term break”, a full week off at St Patrick’s Day and Hallowe’en. When the Dáil is not in session the Committees shall agree by roster that a particular Committee shall meet in the Dáil Chamber.

- We propose to break the Government monopoly on legislation and the stranglehold over the business of the Dáil, by providing that the new Friday sittings will be given over exclusively to committee reports and private members business except where urgent government business must be taken.
- We will enhance the democratic process by involving public representatives at an earlier stage of the legislative process, particularly before Bills are published. We will amend cabinet procedure instructions so as to allow government to publish the general scheme of a Bill so that Oireachtas Committees can debate and hold hearings at an early stage.
- While recognising that there may be exceptional circumstances in which debate may need to be concluded by a given deadline, we will restrict the use of guillotine motions and other procedural devices that prevent Bills from being fully debated, so that guillotining is not a matter of routine as it has become at present, particularly at the end of a session.
- We will also deal with the related problem of legislation being shunted through at high speed and will ensure that Dáil standing orders provide a minimum of two weeks between each stage of a Bill, except in exceptional circumstances.
- In order to enhance the role of the legislative committees, we will organise a committee week every fourth sitting week. The Dáil plenary will sit only for questions, including Leaders’ Questions and the order of business and the remainder of the day will be taken up in committee.
- We will establish a petition system to the Dáil, similar to that operating in the European Parliament, to be managed by a specific Dáil committee that will investigate and report on petitions which raise issues warranting attention.
- We will enhance the parliamentary relationship with the European Parliament in conjunction with Ireland’s MEPs. These arrangements will include regular attendance by MEPs at relevant Dáil committees.
- We will legislate and change Dáil standing orders to ensure the absolute confidentiality of information entrusted to members of the Dáil by their constituents or informants, and ensure that such information cannot be compulsorily disclosed through the legal process except with the consent of the informant.
- We will significantly revamp the adjournment debate format. It will be renamed the topical issue debate. There will be a minimum of 5 topical issues. These will be taken in the middle of the day and there will be provision for questions at the end. A Minister or Minister of State from the relevant Department will be present and there will be an end to the practice of one junior Minister reading out scripts on behalf of a number of Departments about a range of
issues of which he or she knows nothing. The standing orders on urgent issues are used regularly to attempt to raise issues that are not urgent and such requests are almost invariably refused. We will make the Dáil rules for raising urgent issues more meaningful by requiring a minimum number of signatories for such a request.

- In future standing order 32 requests will not be read out.”