



**Tithe an  
Oireachtais**  
**Houses of the  
Oireachtas**

## **Tithe an Oireachtais**

An Comhchoiste um Dhlí agus Ceart agus Comhionannas

Tuarascáil ar COM (2017) 252 - Teachtaireacht ón gCoimisiún chuig Parlaimint na hEorpa, chuig an gComhairle, chuig Coiste Eacnamaíoch agus Sóisialta na hEorpa agus chuig Coiste na Réigiún - Tionscnamh chun Tacú leis an gCóimheá Oibre agus Saoil do Thuismitheoirí agus Cúramóirí a bhíonn ag Obair

Meitheamh 2017

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## **Houses of the Oireachtas**

Joint Committee on Justice and Equality

Report on COM (2017) 252 - Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions an Initiative to Support Work-Life Balance for Working Parents and Carers

June 2017

**32/JAE/09**



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# **Report under Dáil Standing Order 114 and Seanad Standing Order 101 on COM (2017) 252 - Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions an Initiative to Support Work-Life Balance for Working Parents and Carers**

## **1. Introduction**

1.1 The principle of subsidiarity is defined in Article 5(3) of the Treaty on European Union (TEU) as follows:

*"Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level".*

Article 5(3) also gives specific responsibility to national parliaments to ensure that EU institutions apply the principle in accordance with Protocol 2 on the application of the principles of subsidiarity and proportionality.

1.2 The test established by Article 5(3) TEU is, in effect, a "comparative efficiency" exercise, involving a "necessity" test and a "greater benefits" test:

- (i) *Necessity* - Is action by the EU necessary to achieve the objective of the proposal? Can the objective of the proposal only be achieved, or achieved to a sufficient extent, by EU action?
- (ii) *Greater Benefits* - Would the objective be better achieved at EU level – i.e. would EU action provide greater benefits than action at Member States level?

## **2. Scrutiny by the Joint Committee on Justice and Equality**

2.1 On 24 May 2017, the Committee engaged in initial scrutiny of this proposal. The Committee recognises that parental and carer's leave allowances are of great importance to many citizens. The Committee is aware of the cross-sectional nature of the proposal. Accordingly, the Committee sought submissions on the proposal from the Department of Jobs, Enterprise, and Innovation, the Department of Social Protection, and the Department of Children and Youth Affairs. The Committee also sought submissions from the Irish Congress of Trade Unions (ICTU), the Irish Business and Employers Confederation (IBEC), and Family Carer's Ireland to gain a wider insight into the views of the private sector on the proposal. This enabled the Committee to ascertain how the proposals might affect government departments, employers, and employees.

- 2.2 On 14 June 2017, the Committee held a meeting with officials from the Department of Justice and Equality to further discuss the range of proposals contained in the COM. Following this discussion, the Committee agreed to submit a Political Contribution on the COM.
- 2.3 The Committee heard evidence that the proposal introduces a number of enhanced protections and benefits for parents and carers, including:
- Flexible parental leave paid at sick-pay level for a period of four months;
  - 10 paid days of (sick-pay level) paternity leave when a child is born - the paid element here is important for Ireland;
  - Five paid days of (sick-pay level) carer's leave per year per worker to care for seriously ill relatives; and
  - A right to request flexible working arrangements for those with children under 12.

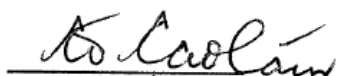
### **3. Opinion of the Joint Committee**

Having considered the proposal in detail, the Committee makes the following observations:

- 3.1 The aims of the proposal - to improve paternity and carers' leave flexibility and allowances, and female participation in the labour market, is broadly welcomed.
- 3.2 The goal of modernising work practices to allow employees to enjoy flexible working arrangements, where possible, is welcomed.
- 3.3 While the Committee welcomes the range of proposals in principle, it has concerns regarding the cost implications for both member states and employers - particularly small and medium enterprises - of the proposals.
- 3.4 The Committee seeks clarity on who will pay for the additional leave allowances proposed - it appears unclear whether employers or Member States are to pay for the leave allowances.
- 3.5 The Committee is aware that this proposal is at a preliminary stage, and while it understands that there are details to be teased out, it wishes for the above concerns to be taken into account as the detailed proposals develop. Accordingly, the Committee is keen to evaluate the details of the costs of the leave allowances when they become known.

### **4. Recommendation of the Joint Committee**

The Committee agreed this Report under Dáil Standing Order 114 and Seanad Standing Order 101 on 21 June 2017.



Caoimhghín Ó Caoláin, T.D.  
Chairman

## Appendix 1 – Committee Membership

### Joint Committee on Justice and Equality

#### Deputies



Caoimhghín Ó Caoláin TD  
(SF) [Chair]



Colm Brophy TD  
(FG)

Jack Chambers TD  
(FF)

Clare Daly TD  
(I4C)

Alan Farrell TD  
(FG)



Jim O'Callaghan TD

Mick Wallace TD

(FF)

(I4C)

## Senators



Frances Black  
(CEG)



Lorraine Clifford-Lee  
(FF)



Martin Conway  
(FG)



Niall Ó Donnghaile  
(SF)

### Notes:

1. Deputies nominated by the Dáil Committee of Selection and appointed by Order of the Dáil on 16th June 2016.
2. Senators nominated by the Seanad Committee of Selection and appointed by Order of the Seanad on 20<sup>th</sup> July 2016.

## Appendix 2 – Terms of Reference of the Committee

### JOINT COMMITTEE ON JUSTICE AND EQUALITY

#### TERMS OF REFERENCE

##### a. Functions of the Committee – derived from Standing Orders [DSO 84A; SSO 70A]

- (1) The Select Committee shall consider and report to the Dáil on—
  - (a) such aspects of the expenditure, administration and policy of a Government Department or Departments and associated public bodies as the Committee may select, and
  - (b) European Union matters within the remit of the relevant Department or Departments.
- (2) The Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann for the purposes of the functions set out in this Standing Order, other than at paragraph (3), and to report thereon to both Houses of the Oireachtas.
- (3) Without prejudice to the generality of paragraph (1), the Select Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments, such—
  - (a) Bills,
  - (b) proposals contained in any motion, including any motion within the meaning of Standing Order 187,
  - (c) Estimates for Public Services, and
  - (d) other mattersas shall be referred to the Select Committee by the Dáil, and
  - (e) Annual Output Statements including performance, efficiency and effectiveness in the use of public monies, and
  - (f) such Value for Money and Policy Reviews as the Select Committee may select.
- (4) The Joint Committee may consider the following matters in respect of



the relevant Department or Departments and associated public bodies:

- (a) matters of policy and governance for which the Minister is officially responsible,
  - (b) public affairs administered by the Department,
  - (c) policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,
  - (d) Government policy and governance in respect of bodies under the aegis of the Department,
  - (e) policy and governance issues concerning bodies which are partly or wholly funded by the State or which are established or appointed by a member of the Government or the Oireachtas,
  - (f) the general scheme or draft heads of any Bill,
  - (g) any post-enactment report laid before either House or both Houses by a member of the Government or Minister of State on any Bill enacted by the Houses of the Oireachtas,
  - (h) statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,
  - (i) strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,
  - (j) annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas, of the Department or bodies referred to in subparagraphs (d) and (e) and the overall performance and operational results, statements of strategy and corporate plans of such bodies, and
  - (k) such other matters as may be referred to it by the Dáil from time to time.
- (5) Without prejudice to the generality of paragraph (1), the Joint Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments—
- (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 114, including the compliance of such acts with the principle of subsidiarity,
  - (b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,

- (c) non-legislative documents published by any EU institution in relation to EU policy matters, and
  - (d) matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.
- (6) Where a Select Committee appointed pursuant to this Standing Order has been joined with a Select Committee appointed by Seanad Éireann, the Chairman of the Dáil Select Committee shall also be the Chairman of the Joint Committee.
- (7) The following may attend meetings of the Select or Joint Committee appointed pursuant to this Standing Order, for the purposes of the functions set out in paragraph (5) and may take part in proceedings without having a right to vote or to move motions and amendments:
- (a) Members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,
  - (b) Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
  - (c) at the invitation of the Committee, other Members of the European Parliament.

**b. Scope and Context of Activities of Committees (as derived from Standing Orders)  
[DSO 84; SSO 70]**

- (1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders; and
- (2) Such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil and/or Seanad.
- (3) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Standing Order 186 and/or the Comptroller and Auditor General (Amendment) Act 1993; and
- (4) 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 Orders [DSO 111A and SSO 104A].
- (5) The Joint Committee shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—
  - (a) a member of the Government or a Minister of State, or
  - (b) the principal office-holder of a body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the Government or by the Oireachtas:

Provided that the Chairman may appeal any such request made to the Ceann Comhairle / Cathaoirleach whose decision shall be final.

- (6) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice given by the Chairman of the Select Committee, waives this instruction on motion made by the Taoiseach pursuant to Dáil Standing Order 28. The Chairmen of Select Committees shall have responsibility for compliance with this instruction.