



BUNREACT NA ÉIREANN
CONSTITUTION OF IRELAND



Tithe an
Oireachtas
Houses of the
Oireachtas

**An Comhchoiste um Airgeadas, Caiteachas Poiblí agus Athchóiriú, agus an
Taoiseach**
Tuarascáil maidir leis an nGrinnscrúdú Mionsonraithe ar an mBille um Dhífheistiú as
Lonnaíochtaí Neamhdhleathacha de chuid Iosrael, 2023 [Bille Comhaltaí
Príobháideacha]
Bealtaine 2024

Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach
Report on Detailed Scrutiny of the Illegal Israeli Settlements Divestment Bill, 2023
[Private Members Bill]
May 2024

Membership of the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach

Deputies



John McGuinness
Fianna Fáil



Bernard Durkan
Fine Gael



Richard Boyd Barrett
People Before Profit-Solidarity



Rose Conway-Walsh
Sinn Féin



Pearse Doherty
Sinn Féin



Damien English
Fine Gael



Steven Matthews
Green Party



Jim O'Callaghan
Fianna Fáil



Peadar Tóibín
Aontú

Senators



Maria Byrne
Fine Gael



Pat Casey
Fianna Fáil



Aidan Davitt
Fianna Fáil



Alice-Mary Higgins
Independent



Marie Sherlock
Labour Party

Membership History:

- Mick Barry, Sep 2020 – May 2023
- Michael D'Arcy, Sep 2020 – Sep 2020
- Mairéad Farrell, Sep 2020 – April 2023
- Neale Richmond, Sep 2020 – Jan 2023

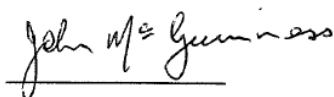
Cathaoirleach's Foreword



The Illegal Israeli Settlements Divestment Bill 2023, a Private Members' Bill sponsored by Deputy John Brady, seeks to provide for an amendment to the National Treasury Management Agency (Amendment) Act 2014, which would instruct the Irish Strategic Investment Fund (ISIF) to divest itself of current assets and prohibit any investment in enterprises involved in certain activities relating to settlements in the Occupied Palestinian Territory. The Bill proposes that such enterprises would be identified by appearing on the UN Database Pursuant to Human Rights Council Resolution 31/36.

The Bill was referred to the Committee on 21 February 2024 and the Committee conducted detailed scrutiny by way of seeking written submissions from relevant stakeholders and holding two public engagements on 20 March and 10 April 2024, to assist in their scrutiny of this Bill. The Committee also received a comprehensive briefing paper from the Oireachtas Library & Research Service, as well as legal advice from the OPLA. The Committee extends its sincere thanks to all who have provided evidence and engaged in this process.

The Committee acknowledges the stated policy of the Irish state in relation to matters related to the conflict in the Middle East, which is a longstanding commitment to a just and sustainable peace in the Middle East based on a two-state solution. The Committee welcomes the policy intention of this Bill but recognises that practical issues arise with its implementation as drafted, and has aimed to provide recommendations which would bring a positive input to the drafting process.

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

John McGuinness T.D.

29 May 2024

Table of Contents

Membership of the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach	1
Cathaoirleach’s Foreword	2
Recommendations	4
Introduction	5
Purpose of the Bill	6
Procedural basis for scrutiny.....	7
Engagement with stakeholders	7
Detailed Scrutiny	9
Ireland’s foreign policy and human rights commitments.....	9
Background to the UN database of business enterprises involved in certain activities relating to settlements in the Occupied Palestinian Territory (“the Database”)	12
Investment and Funds.....	18
International Practice	22
Trade with Israel / EU-Israel Association Agreement	23
Legal Scrutiny of Bill	24
Summary of the Office of Parliamentary Legal Advisors (OPLA) Advice	25
Introduction to legal advice	25
Summary of legal advice.....	26
Recommendation to the Dáil	29
Appendices	30
APPENDIX 1 – Meeting Transcript	30
APPENDIX 2 – Submissions Received	30
APPENDIX 3 – Opening Statements	30
APPENDIX 4 – General Scheme of Illegal Israeli Settlements Divestment Bill (2023)	31
APPENDIX 5 – Terms Of Reference	32

Recommendations

1. The Committee notes with concern the ongoing practice of investment in Israeli settlements in illegally occupied territories and this seems to be contrary to good practice and international law. In this context, the Committee welcomes the policy intention of this Bill as a proposed mechanism strengthen Ireland's compliance with international law.
2. The Committee recommends that the Minister and Bill sponsor work together to progress this timely and important Bill and to develop necessary amendments to ensure its operability, including fair procedures and a right to appeal.
3. The Committee supports the inclusion of reference to the UN Database of enterprises involved in certain activities relating to the settlements in the Occupied Palestinian Territory in the Bill and its use to guide decisions. However, we note that it may be more effective to clarify that the Bill could be strengthened by clearer reference to a national decision-making mechanism. For example, the Bill could be amended to require divestment from companies eligible for inclusion in the UN Database.
4. The Committee notes the importance of an appeal mechanism and where a company no longer believes it qualifies for inclusion on the UN Database it should be able to appeal against divestment whether or not it still remains on the register.
5. The Committee welcomes the announcement by the Minister for Finance regarding the NTMA's divestment decision. The Committee now seeks clarification from the NTMA regarding whether the risk profile of the remaining investments ISIF holds in companies included on the UN Database of enterprises involved in certain activities relating to settlements in

the Occupied Palestinian Territory is still within ISIF's investment parameters, and whether the commercial objectives of these investments can be achieved via other investments.

6. The Committee welcomes the announcement by the Minister for Finance regarding the NTMA's divestment decision. The Committee now seeks clarification from the NTMA regarding whether the risk profile of the remaining investments ISIF holds in companies included on the UN Database of enterprises involved in certain activities relating to settlements in the Occupied Palestinian Territory is still within ISIF's investment parameters, and whether the commercial objectives of these investments can be achieved via other investments.
7. The Committee notes the difference in the use of terms endeavour to ensure and require and believe that this should be reconciled.

Introduction

On 28 March 2023, the Private Members [Illegal Israeli Settlements Divestment Bill 2023](#) (the PMB) was read at first stage by Bill Sponsor, Deputy John Brady, T.D. At the second stage reading of the PMB on 16 May 2023, the Dáil approved a nine-month timed amendment¹ on the PMB which expired on 17 February 2024. The purpose of the amendment was to allow for further consideration of the content of the PMB and consideration of possible alternative solutions to achieve the objectives of the PMB.

On foot of the approval of the timed amendment, the Minister sought views on the PMB from the NTMA and the Joint Committee on Foreign Affairs and Defence (JCFAD). The JCFAD examined the PMB, at the request of the Minister of Finance, and published a [report](#) on the PMB in January 2024. The report of the JCFAD recommended that the PMB be referred to the JCFPERT *“as the issues to be*

¹ [Illegal Israeli Settlements Divestment Bill 2023: Second Stage \(Resumed\) \[Private Members\] – Dáil Éireann \(33rd Dáil\) – Wednesday, 17 May 2023 – Houses of the Oireachtas](#)

resolved relate to specifics of financial investment decisions and their legal implications rather than to foreign policy.”

On 21 February 2024 the Joint Committee were notified that the PMB had been referred to it for detailed scrutiny. At a private meeting on 28 February, the Committee agreed to request a scrutiny waiver and wrote to the Business Committee to inform of this decision. Following correspondence from the Business Committee on 14 March 2024 advising that a waiver had not been granted, the Joint Committee agreed to conduct detailed scrutiny of the Illegal Israeli Settlements Divestment Bill 2023.

Purpose of the Bill

The explanatory memorandum accompanying the Illegal Israeli Settlements Divestment Bill 2023 sets out:

The primary purpose of this is Bill to refine that mandate of the Irish Strategic Investment Fund by instructing the Fund to divest itself of current assets and prohibiting any investments in companies which operate in illegal Israeli settlements, and which have been included on the UN Database of companies operating in illegal Israeli settlements on Palestinian land² which was published by the United Nations Human Rights Council resolution 31/36 and includes any subsequent amendments to said database.

As such, the main objective of this PMB is to provide for an amendment to the National Treasury Management Agency (Amendment) Act 2014, which is the establishing Act of the Ireland Strategic Investment Fund (ISIF). The PMB proposes that the NTMA/ISIF would not invest directly or indirectly with companies engaged in business in the illegal Israeli settlements in the occupied Palestinian territory (oPt).

The PMB proposes that such businesses would be identified by appearing on the Database Pursuant to Human Rights Council Resolution 31/36³, which is a UN

² [Database Pursuant to Human Rights Council Resolution 31/36 | OHCHR](#)

database produced by the Office of the High Commissioner for Human Rights (OHCHR) at the request of the UN Human Rights Council of all business enterprises engaged in certain Israeli settlement activity in the occupied Palestinian territory, in consultation with the Working Group on the issue of human rights and transnational corporations and other business enterprises.

Procedural basis for scrutiny

Private Members Bills referred to Select Committee are subject to the provisions of Dáil Standing Order 178 and the Memorandum of Understanding, between the Oireachtas and the Government, which was adopted on 15th January 2019.

Dáil Standing Order 178(1) provides that "...the Bill shall be subject to scrutiny by the relevant Committee" and paragraph (2) and (3) respectively state that "Scrutiny, shall be conducted from a policy, legal and financial perspective..." and that "where the relevant Committee has completed scrutiny of a private member's Bill, it shall – lay a report thereon before the Dáil, and ... send a Message to the Dáil – confirming that scrutiny has been completed and reported on, and containing a recommendation on whether or not the Bill may proceed to Committee Stage."

Paragraph (4) of Standing Order 178 permits scrutiny of the Bill in Joint Committee: "Nothing in these Standing Orders shall preclude a Joint Committee from undertaking scrutiny, and reporting thereon, save that only the relevant Committee may decide on the recommendation as to whether or not the Bill may proceed to Committee Stage."

Engagement with stakeholders

On 20 March 2024, the Committee held a public engagement with the meeting split into two sessions, as laid out in the table below. In the first session, the Committee met with officials from the Department of Finance and representatives of the Ireland Strategic Investment Fund (ISIF). In the second session, the Committee met with the Bill's sponsor Deputy John Brady T.D., and representatives from Sadaka and the Irish Palestinian Solidarity Campaign (IPSC). The Committee held a further session

on 10 April 2024, meeting with officials from the Department of Enterprise, Trade and Employment. Links to meeting transcripts are available at Appendix 1.

The Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach also invited written submissions from stakeholders in relation to the Illegal Israeli Settlements Divestment Bill 2023. A list of the stakeholders and links to the submissions can be found at Appendix 2.

Date	Witnesses
20 March 2024	
<u>Session one</u>	<ul style="list-style-type: none"> • Mr Oliver Gilvarry – Assistant Secretary, Department of Finance • Mr Pat Leahy – Principal Officer, Department of Finance • Mr Oisín Fitzgerald – Administrative Officer, Department of Finance • Mr Nick Ashmore - Director, Ireland Strategic Investment Fund (ISIF) • Ms Deborah Meghen - Investment Director, Sustainability and Responsible Investment, ISIF
<u>Session two</u>	<ul style="list-style-type: none"> • Deputy John Brady, T.D. – Bill Sponsor • Mr Brian Ó Éigeartaigh – Director, Ireland-Palestine Solidarity Campaign • Mr Eamonn Meehan – Chair, Sadaka

Date	Witnesses
10 April 2024	<ul style="list-style-type: none"> • Mr Ronnie Downes – Assistant Secretary, Trade Division, Department of Enterprise, Trade and Employment • Mr John Hughes – Principal Officer, Innovation and Investment Division, Department of Enterprise, Trade and Employment

Detailed Scrutiny

Ireland's foreign policy and human rights commitments

Across the evidence received by the Committee, a number of witnesses and submissions drew attention to the stated policy of the Irish state in relation to the Israeli-Palestinian conflict, which is a longstanding commitment to a just and sustainable peace in the Middle East based on a two-state solution.

The Committee heard from Mr Éamonn Meehan of Sadaka, who told the Committee that a key element in the strategy to make permanent Israel's 57-year long occupation of Palestinian territory is the construction of settlements. There are currently more 700,000 Israeli settlers on some 144 settlements in the West Bank and East Jerusalem. The number of settlers has increased sevenfold since the Oslo Accords were signed in 1993. These settlements are illegal under international law, including the Fourth Geneva convention, the statute that established the International Criminal Court and many UN Security Council resolutions.

While the occupation imposes violence and dispossession on the Palestinian people, the illegal settlements bring enormous economic benefit to Israel. The Committee heard that the 2022 report by the United Nations Conference on Trade and Development⁴ (UNCTAD), noted that the Israeli economy benefitted by \$628 billion

⁴ [Trade and Development Report 2022 | UNCTAD](#)

between 2000 and 2020 from economic activity in the settlements while the Palestinian economy lost more than \$50 billion in the same period.

Attention was drawn to the apparently conflicting positions held whereby while supporting the establishment of an independent Palestinian state, Ireland also invests in businesses that sustain and benefit from the very settlements which render impossible the establishment of a Palestinian state. In the context of Israel's illegal settlement enterprise, the Committee heard from Sadaka that it is unacceptable that Irish taxpayer's money is invested in Israeli banks and other enterprises that support the settlements and benefit from them.

A number of witnesses and submissions also highlighted the advisory issued by the Department of Foreign Affairs (DFA) to Irish citizens and businesses which is called Advice on investment in Israeli settlements in the Occupied Palestinian Territory, which states:

Financial transactions, investments, purchases, procurements as well as other economic activities (including in services like tourism) in Israeli settlements or benefiting Israeli settlements, entail legal and economic risks stemming from the fact that the Israeli settlements, according to international law, are built on occupied land and are not recognised as a legitimate part of Israel's territory.”⁵

The written submission from Trócaire references the UN Guiding Principles on Business and Human Rights (UNGPs)⁶, which make clear that States should take additional steps to prevent against human rights abuses by business enterprises that are controlled or owned by the State. In conflict areas, the UNGPs recognise that the “host State” may not be able to adequately protect human rights because of a lack of effective control or involvement in abuses itself. In such cases, “home States” of transnational corporations have a crucial role to play.

The submission also draws attention to the then-Department of Foreign Affairs and Trade's National Plan on Business and Human Rights (2017-2020)⁷, which states

⁵ [gov - Advice on investment in Israeli settlements in Occupied Palestinian Territory \(www.gov.ie\)](http://www.gov.ie)

⁶ [guidingprinciplesbusinesshr en.pdf \(ohchr.org\)](https://www.ohchr.org/en/guidingprinciplesbusinesshr)

⁷ [gov - National Plan on Business and Human Rights \(2017- 2020\) \(www.gov.ie\)](http://www.gov.ie)

that it “seeks to promote responsible business practices at home and overseas by all Irish business enterprises in line with Ireland’s commitment to the promotion and protection of human rights globally.” The second national plan is currently undergoing joint preparation by the Department of Foreign Affairs and the Department of Enterprise, Trade and Employment.

Further, Trócaire notes that the ISIF Sustainability and Responsible Investment Strategy states that “ISIF investments should be aligned with the UN Guiding Principles on Business and Human Rights” and that “as a public fund it is important that ISIF’s investment decisions are consistent with Government policy.”

The written submission from Oxfam shares the view that investing Irish public money in enterprises which undermine Ireland’s foreign policy goals and human rights commitments points to the need for undertaking human rights due diligence processes. Further, the submission draws attention to the wealth of expertise available to inform and contribute to such due diligence process including the Human Rights Unit in DFA, academia, civil society and the private sector.

It is also worth noting that as a public body, the NTMA is subject to the public sector equality and human rights duty provided for under section 42 of the Irish Human Rights and Equality Commission Act 2014, as amended⁸ (the “public sector duty”). Section 42 places a statutory obligation on public bodies to eliminate discrimination, promote equality of opportunity, and protect the human rights of staff and service users.

Finally, reference was made by a number of witnesses and submissions to the statement of Ireland’s Attorney General, Rossa Fanning S.C.⁹ at the ICJ advisory opinion public hearings on Israeli practices and policies in the occupied Palestinian territory, where he stated that:

“In Ireland’s view, these obligations require all States, as well as international organisations with external trade competence (in Ireland’s case, the EU), to review

⁸ [Irish Human Rights and Equality Commission Act 2014, Section 42 \(irishstatutebook.ie\)](#)

⁹ [Statement of Ireland in the International Court of Justice Advisory Opinion Public Hearings on Israeli Practices and Policies in the Occupied Palestinian Territory](#)

their trading relationships with the settlements in the OPT. It requires them to take steps to prevent trade that assists in the maintenance of the situation created by the settlement activity, or that implicitly recognises or serves to entrench or legitimise Israel's settlement or annexation of that territory.”

Recommendation 1

The Committee notes with concern the ongoing practice of investment in Israeli settlements in illegally occupied territories and this seems to be contrary to good practice and international law. In this context, the Committee welcomes the policy intention of this Bill as a proposed mechanism strengthen Ireland's compliance with international law.

Background to the UN database of business enterprises involved in certain activities relating to settlements in the Occupied Palestinian Territory¹⁰ (“the Database”)

The PMB as drafted proposes that the NTMA/ISIF would not invest directly or indirectly with companies engaged in business in the illegal Israeli settlements in the occupied Palestinian territory and would use the UN database of business enterprises involved in certain activities relating to settlements in the Occupied Palestinian Territory (UN Database) as a means of identifying such enterprises.

The submission from Al-Haq provides background to the Database, referencing the UN Report¹¹ which first identified the activities now detailed in the Database.

Particular attention is drawn to paragraph 96 of that report which outlines:

“Information gathered by the mission showed that business enterprises have, directly and indirectly, enabled, facilitated and profited from the construction and growth of the settlements. In addition to the previously mentioned violations of Palestinian

¹⁰ [Database Pursuant to Human Rights Council Resolution 31/36 | OHCHR](#)

¹¹ [International Fact-Finding Mission on Israeli Settlements in the Occupied Palestinian Territory | OHCHR](#)

worker rights, the mission identified a number of business activities and related issues that raise particular human rights violations concerns.”

The submission also draws attention to the UNHRC resolution 31/36 establishing the UN Database in 2016, which urged all States to “*ensure that they are not taking actions that either recognize or assist the expansion of settlements or the construction of the wall in the Occupied Palestinian Territory, including East Jerusalem, including with regard to the issue of trading with settlements, consistent with their obligations under international law*”.¹²

The submission from Trócaire draws attention to two developments regarding the UN Database that have occurred since the introduction of the PMB to the Dáil in March 2023. The first development concerns the update to the Database which saw the removal of a number of companies on the basis that they were deemed to no longer be involved in one or more of the activities listed in the oPt. This is viewed as a significant development which shows that the Database can act as a live tool. The second development concerns the passing of a resolution¹³ to allocate funding and resources necessary to the OHCHR to ensure that a yearly update of the UN Database is conducted and presented annually to the Human Rights Council.

The Al-Haq submission also highlights that the UN Database is a living database and as such, views it is a critically important tool to encourage companies to comply with their responsibilities under the UN Guiding Principles on Business and Human Rights, and divest from settlements which are maintained and fuelled by corporate interests in contravention of international law. Should a company become compliant with international law and divest from the settlements, the company can then be removed from the UN Database upon the annual update.

During the meeting of 10 April 2024, officials from DETE confirmed that IDA Ireland has regard to the UN Database along with other independent sources when

¹² [Database Pursuant to Human Rights Council Resolution 31/36 | OHCHR](#)

¹³ UN HRC, *Resolution adopted by the Human Rights Council on 24 March 2016 31/36. Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan*, A/HRC/RES/31/36 (20 April 2016), para. 12

conducting due diligence on companies, with a view to ensuring they are not linked to the oPt.

In an answer to a written parliamentary question in July 2023, Minister for Enterprise, Trade and Employment, Simon Coveney T.D., indicated that IDA Ireland was involved in a tender process for a part-time Israel-based Business Development Consultant, whose duties would include identifying target companies with potential for investing in Ireland. He stated that *“importantly, in this work, I can advise the Deputy that IDA Ireland will not target any Israeli company included on the database of enterprises involved in certain activities relating to settlements in the Occupied Palestinian Territory as published by the UN in February 2020.”*¹⁴

While the Committee is aware that the Department has had regard to the UN Database in relation to previous decisions which concern activities in the Occupied Palestinian Territory, the Committee notes that there is a distinction between the administrative use of the Database and its potential inclusion in legislation.

Operational issues identified with use of the UN Database¹⁵

On 20 March 2024, the Committee held two sessions, the first of which was attended by officials from the Department of Finance and representatives of ISIF. In his opening statement, the Committee heard from the Assistant Secretary in the Department of Finance whose remarks focused on the issues surrounding the use of the UN Database to underpin the proposed legislation.

It was outlined that the legal status of the UN Database can be viewed as a non-binding instrument for the guidance of contracting states. The Committee heard that to the knowledge of the Department, no other State has adopted the list into primary law and the adoption of the list in domestic legislation would make Ireland an international outlier.

Further to this, as discussed above the uncertainty around resource allocation to allow for regular updating of the database creates potential concerns around the

¹⁴ [Industrial Development – Tuesday, 25 Jul 2023 – Parliamentary Questions \(33rd Dáil\) – Houses of the Oireachtas](#)

¹⁵ Legal considerations are outlined in the legal scrutiny section

accuracy of the list. Of particular concern, is that the 2023 update only reviewed companies already on the list and did not examine the addition of any new companies to the list. ISIF representatives also raised this issue, telling the Committee that no other sovereign wealth or pension fund which has divested from its exposure to companies operating in the oPt or excluded investments in such companies has done so on foot of a specific legislative requirement.

To this end, the Committee heard that ISIF are aware of concerns in the investor community around certain companies disputing the basis for their inclusion in the Database and the potential implications of excluding a company solely on this basis, when such an exclusion could be the subject of legal challenge.

The Assistant Secretary gave an opinion to the Committee that in order to be operational, the PMB would require amendment so that the reference list to which exclusions are made is a list developed by the State. The State would then have to develop its own investment and divestment list based on its own analysis. The Committee heard that this would result in operational and resourcing implications for the Department of Finance and the NTMA.

The Department also noted that to ensure adherence to fair procedures, such as the right to appeal inclusion on the list, a robust mechanism should exist whereby a business enterprise can challenge its inclusion on the Database and seek to have its name removed should the circumstances that initially gave rise to its inclusion change.

The Department also expressed concerns that placing unconditional reliance on the UN Database may not ensure adequate protection of constitutional rights, including reputational rights, property rights and fair procedures, and may leave the State susceptible to legal challenge.

In its written submission to the Joint Committee, Oxfam suggest that prior to any divestment the state would write to the relevant companies to ascertain their status. In line with the UN database process and best practice in human rights due diligence - where companies are written to in advance - this would make any actions of the

state more robust if challenged and would allay concerns over the updating and resourcing of the database.

Further, the Committee heard that amendments would be required to ensure that the PMB is compatible with EU law, and that other changes may be required in the event they arise as part of the drafting process.

ISIF clarified that the investments in the companies listed on the UN Database arose through the manner in which external investment managers select global investments on behalf of ISIF. In their opening remarks, ISIF asked the Committee to take heed of the practical challenge that could arise from interactions with external investment managers. The ability of ISIF to require investment managers to apply bespoke exclusions is likely limited and so, “this potentially limits our investment universe.”

Further, ISIF representatives shared that learnings from the fossil fuel divestment policy have highlighted the need for high degrees of clarity in defining the basis for exclusion. ISIF cite the inclusion of a 15% *de minimus* threshold in the fossil fuel divestment legislation, as a key feature of that legislation.

Department officials also encouraged considerations around whether this PMB would impact on the free movement of capital. It was explained that this issue also arose in the context of the Fossil Fuel Divestment Act and following advice, the Department has taken the view that there must be some sort of *de minimus*, particularly in respect of pooled investments. The NTMA indicated that, without it, ISIF could find itself forced to divest of an entire investment based on a small exposure. However, it is unclear if and how the inclusion of a *de minimus* threshold would ensure adherence to the State’s obligation not to recognise as lawful the situation created by Israel’s serious breach of its obligations *erga omnes* (towards all) under international law.

Additionally, it was raised that this PMB aims to target a geographical area, rather than a specific activity and so, this presents difficulty in terms of application in comparison to fossil fuel divestment. Where exclusions have been successfully applied - such as in fossil fuel undertakings - the strategies have been activity based

and non-geographic and have been widely adopted by ISIF's peer group. ISIF view this PMB as rendering it potentially unable to avail of the services of some external investment managers to manage global portfolio investments.

In response to this, Members raised questions around the practice of outsourcing investment of public monies to external investment managers and whether this practice inherently exposes public investments to portfolios which may not be compliant with the State's human rights, international law or climate obligations. Members also noted the decisions that had been made with regard to investment and divestment in Russia, which is also a geographical area.

There is some reluctance towards legislating in this area, with the argument put forward that doing so would make Ireland an outlier. However, of note is that when Ireland first introduced legislation to provide for cluster and anti-personnel munition exclusions, *"it was not the standard and doing that was challenging, but there is zero tolerance now."*¹⁶

Recommendation 2

The Committee recommends that the Minister and Bill sponsor work together to progress this timely and important Bill and to develop necessary amendments to ensure its operability, including fair procedures and a right to appeal.

Recommendation 3

The Committee supports the inclusion of reference to the UN Database of enterprises involved in certain activities relating to the settlements in the Occupied Palestinian Territory in the Bill and its use to guide decisions. However, we note that it may be more effective to clarify that the Bill could be strengthened by clearer reference to a national decision-making mechanism. For example, the Bill could be

¹⁶ Ms Deborah Meghan, ISIF, JCFPERT Transcript 20.03.24 p.23

amended to require divestment from companies eligible for inclusion in the UN Database.

Recommendation 4

The Committee notes the importance of an appeal mechanism and where a company no longer believes it qualifies for inclusion on the UN Database it should be able to appeal against divestment whether or not it still remains on the register.

Investment and Funds

During the session of 20 March the Committee heard from representatives of ISIF who provided background to the investment portfolios held by ISIF and explained the distinguishing features between the Irish and global portfolios.

The Committee heard that as part of its overall investment activities ISIF has direct investments in 11 companies on the UN Database of approximately €4.2 million, exclusive of exposures that may arise through pooled investment vehicles.

Investments in these companies are held through ISIF's global portfolio. Later in the meeting it was clarified that across pooled investments and the segregated direct investments the total financial investment amounts to €13.2 million.

Following the meeting of 20 March, the NTMA provided the following list to the Joint Committee outlining ISIF's direct investments in companies included in the UN Database and the amount of each holding, as of 31 December 2023:

Security Description	Segregated (Direct)
Airbnb INC	€ 313,968
Alstom SA	€ 214,587
Altice	€ 669,765
Bank Hapoalim	€ 16,602
Bank Leumi LE-Israel	€ 13,167
Booking Holdings	€ 920,169
Expedia Group	€ 255,616
Israel Discount Bank	€ 12,210
Mizrahi Tefahot Bank	€ 24,143
Motorola Solutions	€ 702,203
Tripadvisor	€ 1,066,217
Total	€ 4,208,647

The NTMA also provided the Committee with a list detailing the amount of ISIF's exposures to each of the eight companies to which ISIF had exposure via pooled investment vehicles as of 31 December 2023, and confirmation of the total amount of ISIF's overall exposure to companies in the UN Database via pooled investment:

Security Description	Pooled (Indirect)
Alstom SA	€ 74,907
Altice	€ 862,418
Booking Holdings	€ 691,768
Delek Group	€ 214,731
Expedia Group	€ 985,200
First International Bank	€ 2,184,379
Motorola Solutions	€ 3,924,354
Rami Levi CN Stores	€ 454,779
Total	€ 9,392,536

The Committee notes that a number of the businesses listed above are commercially active in Ireland.

ISIF explained that the global portfolio is "a reserve portfolio" which is used to fund investments in the Irish portfolio and is managed with a view to ensuring that its investments are appropriately risk controlled and highly liquid. The global portfolio

has a much larger number of individual investments than the Irish portfolio, however the investments can be of a smaller size. This level of diversification is intended to mitigate from potential risk.

ISIF told the Committee that they follow what they consider to be industry best practice and that multiple external investment firms have been engaged to manage different parts of the global portfolio on the behalf of ISIF. It was explained that the use of external investment firms allows expertise to specific areas of the market. However, an implication of this decision is that ISIF and other individual investors may not generally select the specific investments made on their behalf.

With regard to decision-making around ISIF and its investment, the Committee heard that responsibility for this resides with the NTMA board and its investment subcommittee on a statutory basis. Investment decisions and setting an investment strategy is conducted on an independent basis.

To ensure that investments were made on a commercial basis and generated a financial return on investment, it had to be fully independent of Government. As such, the Committee heard that the Minister does not have the *vires* to direct ISIF outside of the directed portfolio, which contains the banks. However, it was later clarified that the overall guiding principle of the strategy is developed in consultation with the Minister.

On 5 April 2024, Minister for Finance, Michael McGrath T.D., announced that the NTMA had decided to divest from certain ISIF global portfolio investments in six companies that have certain activities in the oPt. The divestment decision relates to shareholdings with a total value of €2.95 million. On 19 April the NTMA confirmed that “the divestment decision refers to both direct and pooled investments in the six companies and as such, at the point of divestment, ISIF will have no remaining exposure to those companies.”¹⁷

¹⁷ Information provided by the NTMA to the Committee on 19 April

Recommendation 5

The Committee welcomes the announcement by the Minister for Finance regarding the NTMA's divestment decision. The Committee now seeks clarification from the NTMA regarding whether the risk profile of the remaining investments ISIF holds in companies included on the UN Database of enterprises involved in certain activities relating to settlements in the Occupied Palestinian Territory is still within ISIF's investment parameters, and whether the commercial objectives of these investments can be achieved via other investments.

The Committee notes the Future Ireland Fund and Infrastructure, Climate and Nature Fund Bill, which has been introduced since the publication of this Bill. The Bill provides for the establishment of two new funds, the Future Ireland Fund and the Infrastructure, Climate and Nature Fund, which will be owned by the Minister for Finance and managed and invested by the NTMA.

The Illegal Israeli Settlement Divestment Bill proposes an amendment to the National Treasury Management Agency (Amendment) Act 2014, which is the establishing Act of the Ireland Strategic Investment Fund (ISIF) and would impose certain prohibitions and restrictions with respect to the investment by the NTMA of the assets of the ISIF. As the PMB under consideration was published prior to the Future Ireland Fund and Infrastructure, Climate and Nature Fund Bill being introduced, it would need to be clarified if the PMB would apply to the new funds.

Recommendation 6

The Committee recommends ensuring that any effect of this Bill, if enacted, would also be applicable to the new investment funds created by Future Ireland Fund and Infrastructure, Climate and Nature Fund Bill.

International Practice

Witnesses conceded that the NTMA is likely correct in its assertion that no other country has introduced primary legislation to divest from Israeli enterprises. However, this is not viewed as a reason to prohibit action in this area, rather it provides impetus with the Committee hearing that:

“We need to be consistent. On the one hand we claim to want a two-state solution. We claim to believe that settlements are illegal under international law. The Government has advised citizens and enterprises not to invest because there could be legal consequences. How, having said all that and continuing to say all that, does it drag its feet when it comes to divesting taxpayer’s money from those enterprises?”¹⁸

Oxfam view this PMB as part of a wider suite of domestic legislation which would put human rights at the forefront of investment decisions by the State and in the context of corporate accountability laws which would oblige companies to fulfil human rights and environmental obligations. Oxfam also refer to the National Plan on Business and Human Rights¹⁹, and the commitments made in therein with regard to a human rights due diligence approach on all legislation.

To this end, Oxfam reference the submission by the Irish Coalition for Business and Human Rights to the Public Consultation for the new National Plan on Business and Human rights, which notes the emerging paradigm shift away from voluntary principles towards mandatory requirements for business related to human rights and the environment. Indeed, some European states have begun to develop mandatory human rights and environmental due diligence legislation with France the first to introduce such legislation in 2017²⁰ and Germany²¹ and Norway²² also introducing legislation of that kind in 2021.

¹⁸ Mr Éamonn Meehan, JCFPERT Transcript 20.03.24 p.35

¹⁹ [Business and Human Rights | Ireland - this is Ireland](#)

²⁰ [LAW No. 2017-399 of 27 March 2017 on the duty of vigilance of parent companies and contracting companies \(1\) - Légifrance \(legifrance.gouv.fr\)](#)

²¹ [The German Act on Corporate Due Diligence Obligations in Supply Chains \(bmz.de\)](#)

²² [Norway: Law on mandatory due diligence & right to information about corporate impacts enters into force - Business & Human Rights Resource Centre \(business-humanrights.org\)](#)

The Norwegian case was raised during the meeting of 20 March with Department officials and ISIF. In June 2021, KLP and KLP Funds (KLP), Norway's largest pension company, decided to exclude 16 companies from their investment portfolios as part of a due diligence-based divestment.²³ The explanation of its due diligence process includes information concerning its use of the UN Database.²⁴

Trade with Israel / EU-Israel Association Agreement

Officials from the Department of Enterprise and Trade outlined that Israel is the EU's 25th biggest trading partner representing 0.8% of the EU's total trade in goods in 2022. In turn, the EU is Israel's number one trade partner, accounting for 28.8% of its trade in goods in 2022; a total of 31.9% of Israel's imports came from the EU and 25.6% of the country's exports went to the EU.

The value of Ireland's trade with Israel in 2022²⁵ was €13 billion. Ireland exported nearly €6 billion in 2022 and imported approximately €7 billion. Some 83% of Ireland's exports to Israel were services and 17% were physical goods exports. There are seven Israeli companies in IDA's portfolio, covering a diverse range of industries and employing approximately 2,400 people. IDA Ireland is not currently targeting investment from Israel and IDA Ireland does not support companies linked to the occupied Palestinian territories.

Department officials told the Committee that exports from occupied Palestinian territories do not benefit from preferential treatment under the association agreement and are not included in trade statistics in respect of Israel. For the purposes of trade, products from occupied territories are to be appropriately labelled, and they must be appropriately labelled if entering the EU Single Market.

The Committee heard that given the value of Ireland's global trade, which was €1 trillion in 2022, Ireland's trading relationship with Israel could be considered "modest but not insignificant."

²³ [Why KLP is excluding 16 companies following UN report - KLP - English](#)

²⁴ [Decision to exclude companies with links to Israeli settlements in the West Bank.pdf \(klp.no\)](#)

²⁵ 2022 is the latest year for which trade data is available for both good and services

Ireland's trade relationship with Israel operates through the framework of the EU-Israel Association Agreement²⁶, which entered into force in June 2000. On 14 February 2024, the then-Taoiseach Leo Varadkar T.D., and the Spanish Prime Minister requested that the European Commission undertake an urgent review of the EU-Israel Association agreement in order to consider whether Israel's actions in Gaza have breached essential elements of the agreement. The matter is currently under consideration within the EU institutions and the European Commission have responded that actions regarding the Association Agreement are a political issue and require a decision of the European Council.

Legal Scrutiny of Bill

A private meeting of the Joint Committee took place on 15 May 2024, following the Committee's public engagement of the PMB, for the purpose of obtaining a legal briefing from the Office of the Parliamentary Legal Advisors (OPLA) on its analysis of the Illegal Israeli Settlements Divestment Bill 2023.

This analysis was undertaken in accordance with the Memorandum of Understanding between the Government and Dáil Éireann on Private Member's Bills adopted on 5 December 2018 and required that the Bill be examined, primarily taking account of the following questions:

- Is the PMB compatible with the Constitution?
- Is the PMB compatible with EU legislation and human rights legislation (ECHR)?
- Is there ambiguity in the drafting which could lead to the legislation not achieving its objectives and/or to case law down the line?
- Review for serious drafting deficiencies or technical drafting errors

The OPLA's legal assessment of the PMB and the various positions presented in written submissions to the Committee and the arguments that were expressed in favour of and against the proposed Bill were noted by the Committee.

²⁶ [asso_agree_en.pdf \(europa.eu\)](#)

Summary of the Office of Parliamentary Legal Advisors (OPLA) Advice

Introduction to legal advice

The Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach is undertaking pre-Committee Stage Scrutiny on the *Illegal Israeli Settlements Divestment Bill 2023* ('the PMB'). The Committee has asked the OPLA to conduct a legal analysis of the Bill in accordance with the Memorandum of Understanding between the Government and Dáil Éireann on Private Members' Bills adopted by the sub-Committee on Dáil Reform on 5 December 2018.

The PMB places an obligation on the National Treasury Management Agency ('the NTMA') to "endeavour to ensure" that the assets of the Ireland Strategic Investment Fund ('the ISIF') are not directly or indirectly invested in any company which is listed in the "UN Database of companies operating in illegal settlements on Palestinian land"²⁷ ('the Database').

The PMB provides further that where the NTMA becomes aware that a company in which the ISIF has already invested, is listed on the Database, the NTMA shall divest itself of such investment "as soon as practicable".

The Database was first produced for the UN Human Rights Council,²⁸ by the Office of the High Commissioner for Human Rights (OHCHR) on the 12th February 2020. The PMB also provides that the requirement to divest from investment in companies on the Database extends to any subsequent amendments made to the list. It is therefore relevant to any consideration of this PMB that the Database has been updated once, on the 30th June 2023.

²⁷ This is a list of companies doing business in the illegal Israeli settlements in the occupied Palestinian territory (oPt) set out in a UN Database first produced by the UN's Human Rights Council on 12th February 2020.

²⁸ The UN Human Rights Council (HRC) was established in 2006 and is responsible for strengthening the promotion and protection of human rights worldwide within the UN system. The Council meets three times a year in Geneva and is composed of 47 States. Members are elected for staggered three-year terms by the UN General Assembly.

Summary of legal advice

The OPLA opinion has considered in turn each of the questions required to be answered pursuant to the Memorandum of Understanding. These questions can be answered as follows:

Is the PMB compatible with the Constitution?

Article 15.2.1° of the Constitution provides that the ‘*sole and exclusive power of making laws for the State is (hereby) vested in the Oireachtas: no other legislative authority has power to make laws for the State.*’ This notwithstanding, it is constitutionally permissible for the Oireachtas to delegate the making of legislation to another body where clear principles and policies are set out. Alternatively, it can incorporate an instrument by reference into legislation, in order to give it the force of law in the State. It is this latter procedure which the PMB adopts, by incorporating the Database into the PMB. From a constitutional perspective, it is this aspect of the PMB which requires the most consideration.

According to Keane CJ giving the judgment of the Supreme Court in *Leontjava v. DPP*²⁹ the constitutional validity of incorporation by reference in this jurisdiction has never been questioned. However, when one considers the nature of the documents which are ordinarily incorporated into legislation in this way, they tend to be documents such as Conventions, to which Ireland has signed up. In such cases, the body of the Act refers to the Convention and provides that it is to have the force of law in the State, and the Convention is then scheduled to the Act for ease of reference. In contrast the Database which the PMB looks to incorporate by reference was prepared by the OHCHR in response to a request from the UN Human Rights Council with no Irish involvement. Given the objectives of the PMB, it should also be noted that the Database is not expressed to have been drafted with investment or divestment in mind.

The 2016 request from the UN Human Rights Council for the production of the Database set out in UN Resolution 31/36 provided that it was to be updated annually. This has not been done. The Database was updated once in 2023; however according to that review there is no budget to carry out the annual updating

²⁹ [2004] 1 IR 591 at p. 633.

of the Database. So, although the reference to the Database in the PMB is worded to include “any subsequent amendments” that may be made to the Database, these updates are not being carried out as requested. This could mean that business enterprises which are legitimately entitled to have their names removed from the Database may not have their position reviewed on an annual basis as requested in UN Resolution 31/36. If that were to occur, the NTMA would nonetheless continue to be obliged under this legislation to divest from those companies, with no discretion available to it.

Moreover, the PMB provides that the obligations it seeks to impose by inserting a section 49B of the [National Treasury Management Agency \(Amendment\) Act 2014](#) (the “2014 Act”)³⁰ would be defined by the Database “and any subsequent amendments that are made to said database”. There are some precedents for incorporating in legislation an instrument “as amended from time to time”. However this term is usually used in connection with instruments such as Conventions, Ministerial directions, and matters provided for in EU regulations to which the State has given either explicit or implicit consent. That is not the case here, and given that the State did not have any involvement in drawing up the Database as originally set out, the consequence of this wording will be that changes may be made to the PMB in the future without any input from the Oireachtas. This aspect of the PMB whereby the future decisions of the OHCHR are given automatic force in the State without further intervention by the Oireachtas, seems to stray beyond the limits of permissible delegation. It is this combination of non-involvement in the Database as originally drafted and acceptance of all subsequent amendments into the PMB which raises particular constitutional concerns.

Is the PMB compatible with EU legislation and human rights legislation (ECHR)?

In relation to the free movement of capital under the Treaty on the Functioning of the European Union, while it is clear that the PMB is a restriction on the free movement of capital, it is not possible to determine definitively whether the Court of Justice of the European Union would permit it as a justified restriction, as each case will be decided on its merits.

³⁰ Section 1(b) of the PMB.

No issues arise in relation to non-compatibility of the PMB with human rights legislation.

Is there ambiguity in the drafting which could lead to the legislation not achieving its objectives and/or to case law down the line?

There are some ambiguities in the PMB as follows:

- a. In section 49B(2)(a) and (b), the provision that the Agency shall “endeavour to ensure” that the assets of the Fund are not directly or indirectly invested in any company listed on the Database, does not seem to be consistent with the more onerous obligation in section 49B(3) that where the Agency becomes aware that a company in which the assets of the Fund are directly or indirectly invested is listed on the Database, the Agency shall divest the assets of the Fund from such investment as soon as practicable.
- b. There is possible ambiguity in the use of the term "Palestinian land" since the term is not used in either the Database of 2020 or the updated Database of 2023.
- c. There is ambiguity as between the PMB and the Explanatory Memorandum. The Explanatory Memorandum states that subsections (2)(a) and (b) of section 49B “oblige” the NTMA to ensure that the assets of the ISIF are not invested in the Database, whereas the PMB provides for a lesser obligation, setting out that the NTMA shall “endeavour to ensure” that the assets of the ISIF are not directly or indirectly invested in any company which is listed in the Database.

Review for serious drafting deficiencies or technical drafting errors

There are some technical drafting issues in relation to the PMB as follows:

- a. The Database was not produced by the UN Human Rights Council as set out in section 49B(1) of the PMB, but by the OHCHR on foot of a *request from* the Human Rights Council.
- b. The Database is not a database of “companies” as set out in the PMB, rather it is a database of "business enterprises".

- c. Reliance on any subsequent amendments made to the Database, will be problematic for the PMB, in that at present there is no budget to carry out the annual update of the Database.
- d. Finally the standard (though not invariable) practice when incorporating a document into legislation by reference, is to set out the text of the document as a schedule to the legislation for convenience.

Recommendation 7

The Committee notes the difference in the use of terms endeavour to ensure and require and believe that this should be reconciled.

Recommendation to the Dáil

In accordance with Standing Order 178(3), the Select Committee on Finance, Public Expenditure and Reform, and Taoiseach has met and determined that the Illegal Israeli Settlements Divestment Bill 2023 may proceed to Committee Stage. A message to the Dáil has been issued in this regard.

Appendices

APPENDIX 1 – Meeting Transcript

The transcript of the meeting of 20 March 2024 is available [here](#).

The transcript of the meeting of 10 April 2024 is available [here](#).

APPENDIX 2 – Submissions Received

Submissions received	
Al-Haq	Available here
Oxfam	Available here
Trócaire	Available here

APPENDIX 3 – Opening Statements

Opening Statements		
20 March 2024	Mr Oliver Gilvarry, Assistant Secretary, Banking and Financial Stability Division, Department of Finance	Available here
	Mr Nick Ashmore, Director, Ireland Strategic Investment Fund	Available here
	John Brady. T.D., Bill Sponsor	Available here

Mr Brian Ó Éigartaigh, Director, Ireland-Palestine
Solidarity Campaign

Available [here](#)

Mr Eamon Meehan, Chair, Sadaka

Available [here](#)

10 April 2024 Mr Ronnie Downes, Head of Trade Division,
Department of Enterprise, Trade and Employment

Available [here](#)

APPENDIX 4 – General Scheme of Illegal Israeli Settlements Divestment Bill (2023)

The Illegal Israeli Settlements Divestment Bill 2023 is available [here](#).

APPENDIX 5 – Terms Of Reference

Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach

Terms Of Reference – Standing Orders 94, 95 and 96 (as amended) July 2020

Standing Orders 94, 95 and 96 – scope of activity and powers of Select Committees and functions of Departmental Select Committees

Scope and context of activities of Select Committees.

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 office-holder of a non-State body which is partly funded by the State,

Provided that the Committee may appeal any such request made to the Ceann Comhairle, whose decision shall be final.

(3) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice to the Business Committee by a Chairman of one of the Select Committees concerned, waives this instruction.

Functions of Departmental Select Committees.

95. (1) The Dáil may appoint a Departmental Select Committee to consider and, unless otherwise provided for in these Standing Orders or by order, to report to the Dáil on any matter relating to—

(a) legislation, policy, governance, expenditure and administration of—

(i) a Government Department, and

(ii) State bodies within the responsibility of such Department, and

(b) the performance of a non-State body in relation to an agreement for the provision of services that it has entered into with any such Government Department or State body.

(2) A Select Committee appointed pursuant to this Standing Order shall also consider such other matters which—

(a) stand referred to the Committee by virtue of these Standing Orders or statute law, or

(b) shall be referred to the Committee by order of the Dáil.

(3) The principal purpose of Committee consideration of matters of policy, governance, expenditure and administration under paragraph (1) shall be—

(a) for the accountability of the relevant Minister or Minister of State, and

(b) to assess the performance of the relevant Government Department or of a State body within the responsibility of the relevant Department, in delivering public services while achieving intended outcomes, including value for money.

(4) A Select Committee appointed pursuant to this Standing Order shall not consider any matter relating to accounts audited by, or reports of, the Comptroller and Auditor General unless the Committee of Public Accounts—

(a) consents to such consideration, or

(b) has reported on such accounts or reports.

(5) A Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann to be and act as a Joint Committee for the purposes of paragraph (1) and such other purposes as may be

specified in these Standing Orders or by order of the Dáil: provided that the Joint Committee shall not consider—

(a) the Committee Stage of a Bill,

(b) Estimates for Public Services, or

(c) a proposal contained in a motion for the approval of an international agreement involving a charge upon public funds referred to the Committee by order of the Dáil.

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

(7) The 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 or both Houses of the Oireachtas.

Powers of Select Committees.

96. Unless the Dáil shall otherwise order, a Committee appointed pursuant to these Standing Orders shall have the following powers:

(1) power to invite and receive oral and written evidence and to print and publish from time to time—

(a) minutes of such evidence as was heard in public, and

(b) such evidence in writing as the Committee thinks fit;

(2) power to appoint sub-Committees and to refer to such sub-Committees any matter comprehended by its orders of reference and to delegate any of its powers to such sub-Committees, including power to report directly to the Dáil;

(3) power to draft recommendations for legislative change and for new legislation;

(4) in relation to any statutory instrument, including those laid or laid in draft before either or both Houses of the Oireachtas, power to—

(a) require any Government Department or other instrument-making authority concerned to—

(i) submit a memorandum to the Select Committee explaining the statutory instrument, or

(ii) attend a meeting of the Select Committee to explain any such statutory instrument: Provided that the authority concerned may decline to attend for reasons given in writing to the Select Committee, which may report thereon to the Dáil, and

(b) recommend, where it considers that such action is warranted, that the instrument should be annulled or amended;

(5) power to require that a member of the Government or Minister of State shall attend before the Select Committee to discuss—

(a) policy, or

(b) proposed primary or secondary legislation (prior to such legislation being published),

for which he or she is officially responsible: Provided that a member of the Government or Minister of State may decline to attend for stated reasons given in writing to the Select Committee, which may report thereon to the Dáil: and provided further that a member of the Government or Minister of State may request to attend a meeting of the Select Committee to enable him or her to discuss such policy or proposed legislation;

(6) power to require that a member of the Government or Minister of State shall attend before the Select Committee and provide, in private session if so requested by the attendee, oral briefings in advance of meetings of the relevant EC Council (of Ministers) of the European Union to enable the Select Committee to make known its views: Provided that the Committee may also require such attendance following such meetings;

(7) power to require that the Chairperson designate of a body or agency under the aegis of a Department shall, prior to his or her appointment, attend before the Select Committee to discuss his or her strategic priorities for the role;

(8) power to require that a member of the Government or Minister of State who is officially responsible for the implementation of an Act shall attend before a Select Committee in relation to the consideration of a report under Standing Order 197;

(9) subject to any constraints otherwise prescribed by law, power to require that principal office-holders of a—

(a) State body within the responsibility of a Government Department or

(b) non-State body which is partly funded by the State,

shall attend meetings of the Select Committee, as appropriate, to discuss issues for which they are officially responsible: Provided that such an office-holder may decline to attend for stated reasons given in writing to the Select Committee, which may report thereon to the Dáil; and

(10) power to—

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

(b) undertake travel;

Provided that the powers under this paragraph are subject to such recommendations as may be made by the Working Group of Committee Chairmen under Standing Order 120(4)(a).

Houses of the Oireachtas

Leinster House
Kildare Street
Dublin 2
D02 XR20

www.oireachtas.ie

Tel: +353 (0)1 6183000

Twitter: @OireachtasNews

Connect with us



Download our App

