Submission on the Seanad Electoral (University Members) (Amendment) Bill 2014

by

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Franchise Section,

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Introductory Comments

On 11th March 2014, the Minister for the Environment, Community and Local Government, Mr Phil Hogan, TD., on behalf of the Government introduced the General Scheme of the Seanad Electoral (University Members) (Amendment) Bill 2014, in Seanad Éireann. This Bill had been published the previous month for consultation. The Minister pointed out that, when enacted, this Bill will reform arrangements for the election of six Members of the House by institutions of higher education in the State.

Our position on this Bill and on the larger question of Seanad reform is a matter of clear public record. For the purposes of this submission, we will briefly summarise our views, in particular, with relevance to the General Scheme of the Seanad Electoral (University Members) (Amendment) Bill 2014.
Firstly, we wish to point out that this Bill is, at best, minimalist reform when what is required is fundamental reform of Seanad Éireann. Under the Government’s proposals in the Seanad Electoral (University Members) (Amendment) Bill 2014, 90% of the 60 seat Seanad would be left un-reformed. In this proposed Bill, the Government wants to proceed by only extending the franchise for the 6 university seats to other third level graduates, but is doing nothing in relation to the election of the panel Senators. This Bill should also reform the manner in which panel Senators are elected or the Government should give a firm commitment, with a realistic time-frame, to address this matter.

In Seanad Éireann on 11th March this year, during statements on the Seanad Electoral (University Members) (Amendment) Bill 2014, Feargal Quinn said that “If the Government's Bill is to be its sole response to the people's vote [in the referendum], we will not have fundamental reform. It is fair to say the Bill represents a minimal response. It is lacking in political vision and courage.”
We campaigned in the Seanad referendum, which was held on 4th October 2013 on the basis, not that the Seanad should be retained in its current guise, but that we create a new democratic Seanad in which everyone would have a vote. We believe it is out of sync with the ideals of a 21st century modern republic that we would seek to maintain a system of parliamentary representation that discriminates against some people because they have not had the privilege of attending third level education.

One of the big criticisms of the Seanad prior to and during the referendum campaign was that it is elitist. This criticism is founded on the basis that many citizens do not have a vote in Seanad elections. There is a fundamental need to rethink the Seanad Electoral (University Members) (Amendment) Bill 2014 because, at present, this Bill is trying to maintain a system where third-level graduates have an exclusive vote that is denied to other citizens on the basis of their non-attainment of a third-level degree. We believe this position reflects badly on the democratic credentials of Seanad Éireann, but also ultimately on the third-level institutions who may be viewed as supporting the maintenance of this privilege for their own ends.
This submission suggests that the Seanad Electoral (University Members) (Amendment) Bill 2014 should be broadened to take account of the fundamental democratic principle of one citizen, one vote. There are already a number of Bills on the Order paper of the Seanad, which have proceeded beyond second stage and are informed by this fundamental democratic principle and this principle should also inform the Government’s Bill. As this submission will positively demonstrate, the principle of one citizen, one vote can be applied to the current Seanad without another constitutional referendum for which there is no public appetite.

The achievement of one citizen, one vote could be brought about by the simple amendment of the Seanad Electoral (Panel Members) Act 1947, which would provide for direct elections to all of the 43 Seanad panel seats and would give every citizen a vote.
This would be as simple to do legislatively as it would be to bring forward a Bill solely focused on university seats, as the Seanad Electoral (University Members) (Amendment) Bill 2014 currently aims to do.

This submission also wishes to emphasise that in order to open up the Seanad and enhance its democratic credentials, there is a real need to modernise the process through which nominating bodies to the Seanad apply and are approved. The current nomination mechanism is antiquated and does not reflect our modern society. In Seanad Éireann on 11th March this year, during statements on the Seanad Electoral (University Members) (Amendment) Bill 2014, Katherine Zappone said "We need to amend the criteria required to become a nominating body so that those organisations which nominate can represent the wide diversity of civil society organisations that have been established since the 1950s. These amendments to the 1947 Act could be incorporated within this Bill which would be a positive move by the Government. In 2014, we need a more open, transparent and modern process for selecting nominating bodies. If such a process were more straightforward, civil society’s interest in the Seanad could be harnessed
to create a more accessible and representative Seanad. I would be happy to discuss these issues further with the Minister’s officials.”

The Government is right in legislating to give effect to the 1979 referendum, as the Seanad Electoral (University Members) (Amendment) Bill 2014 intends, but it would be a mistake to stop there. Ireland has changed substantially since 1979. In the Seanad on 11th March this year, speaking on the Seanad Electoral (University Members) (Amendment) Bill 2014, Katherine Zappone said "It is 2014 and we should be seeking to ensure that we have a better electoral system and a more democratic system of government than we did 35 years ago. In that context, I will be attempting to put forward some amendments to this Bill to open the Seanad up more, given that it seems that this is the only Bill that will come before us. If wider reform, based on the principle of universal suffrage, is not on the agenda then it is really important for the people to be clear that this decision rests with this Government. I have put forward motions, as have some of my colleagues, to widen the electorate for the Seanad but those motions have been defeated. It is very important for people to be aware that if that does not happen, ultimately, then that decision rests with the Government, although the Government may yet consider amendments to the Bill to that effect.”
In this context, it is important to recognise that while the proposal to extend the Seanad franchise to other institutions of higher education has merit, it is democratically unjust and inequitable not to allow for the achievement of universal franchise so every citizen could vote.

On 11th March in Seanad Éireann, on Statements on the General Scheme of the Seanad Electoral (University Members) (Amendment) Bill, 2014, Feargal Quinn said: "The Scheme of this Bill is proposing to extend the franchise to all third-level graduates, in accordance with the outcome of a referendum dating from 1979. It is an indictment on successive governments that the people’s decision in this referendum was never legislated for. This Government’s bill does correct that serious anomaly and it will also increase the number of people entitled to vote in a Seanad election. On both of these counts, this Bill has, at least, some merit. But I sincerely believe that this Bill should go further. Real reform means giving every Irish person a say in the composition of the Seanad.”
It is unfair to ask citizens, who have not attended a third-level institution and so will be denied a vote under the provisions of the Seanad Electoral (University Members) (Amendment) Bill 2014, to pay for the upkeep of Seanad Éireann in their taxes, yet this is what this Bill does.

In the Seanad on 11\textsuperscript{th} March, 2014, Minister Hogan dismissed the appeal that the principles of one citizen, one vote be extended to the entire Seanad in the Seanad Electoral (University Members) (Amendment) Bill 2014. The Minister explained this by saying: “With regard to the contributions of Senators Feargal Quinn and Katherine Zappone, the reason the Government is not implementing the policy decision on universal suffrage is it subscribes to the view that we do not need a replication of the House of Representatives in the Seanad.”

This submission, inter alia, rejects that contention. A later section of this submission specifically and conclusively deals with the myth of the Seanad becoming a rival Dáil. In particular, this section will show that there is no merit to this argument because the Seanad has no constitutional part in electing the Government, holding it accountable on
a day to day basis, or removing the Government. Dáil Éireann has complete supremacy in budgetary matters and money bills. Furthermore, Government and Ministers are not directly accountable to the Seanad, and Senators may not table parliamentary questions to them. The argument that the Seanad will somehow transform into a rival Dáil does not hold water and this fatally undermines Minister Hogan’s stated reason for not introducing universal suffrage in Seanad elections.

Mention should also be made of the fact that the Taoiseach has articulated a different reason for denying the democratic principle of universal suffrage. Again, it is necessary to deal with this matter upfront in this submission to highlight there is no valid or just reason to explain why all citizens are being denied the right to vote in Seanad elections. This goes to the heart of the Seanad Electoral (University Members) (Amendment) Bill 2014.

On 18\textsuperscript{th} December 2013, the Taoiseach said he rejected proposals which would give every Irish citizen a vote in Seanad elections. The Taoiseach did this on the basis that he did not “believe that the framers of the
Constitution intended that you’d have a universal suffrage for the Senate in the same way as the Dáil.”¹

Apart from the apparent contradiction in the Taoiseach wishing to cast in stone what he perceives as the views of the framers of the Constitution – given that, last year, the Taoiseach paid scant regard to the very definite views of the framers of the Constitution that Ireland should have a bicameral parliament when he sought to abolish Seanad Éireann – his insistence that the Constitution must remain rooted in the political conventions of the 1930s and cannot be re-interpreted to fit modern needs is surely archaic.

As significant academic research shows, Irish society and viewpoints have radically shifted since Bunreacht na hÉireann was ratified by the Irish people in a plebiscite in 1937 and, in turn, constitutional interpretations have accordingly also significantly evolved. Dr Conor O’Mahony, in his article “Societal Change and Constitutional Interpretation”, has noted that the “Irish courts have long operated on

¹ http://www.thejournal.ie/seanad-reform-voting-rights-taoiseach-1230397-Dec2013/
the basis that the Constitution is a living document to be interpreted in light of changing standards and conditions in society.\textsuperscript{2}

In Ireland, the principle that the meaning of the Constitution is open to evolution through interpretation was set-out in in the landmark case of \textit{McGee v. Attorney General}.\textsuperscript{3} In this case, Walsh J. noted

"[t]he judges must, therefore, [in light of the Preamble] as best they can from their training and their experience interpret these rights in accordance with their ideas of prudence, justice and charity. It is but natural that from time to time the prevailing ideas of these virtues may be conditioned by the passage of time; no interpretation of the Constitution is intended to final for all time. It is given in the light of prevailing ideas and concepts."\textsuperscript{4} [emphasis ours].

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\textsuperscript{2} http://www.academia.edu/620474/Societal_Change_and_Constitutional_Interpretation_2010_Irish_Journal_of_Legal_Studies_71

\textsuperscript{3} In 1973, by a ruling of four to one, the Irish Supreme Court rules in \textit{McGee v. Attorney General and the Revenue Commissioners} that Irish Customs (Revenue Commissioners), had interfered with plaintiff’s constitutional rights to marital privacy when it seized contraceptives which Mary McGee, a married mother of four, was attempting to import. http://www.academia.edu/620474/Societal_Change_and_Constitutional_Interpretation_2010_Irish_Journal_of_Legal_Studies_71

\textsuperscript{4} [emphasis ours].
The Taoiseach’s claims that the thinking of those who wrote the 1937 Constitution must be cast in stone pays little tribute to that generation. That generation’s struggle for national self-determination was to ensure that Irish people in every generation would be free to chart their own future, according to their times. It was not their objective that Ireland would stand still or that Ireland would forever continue to replicate the political norms and societal views of the 1930s. Recently, in a different context, our President said: “While the past must be respectfully recognised, it must not imperil the potential of the present or the possibilities of the future.”

It is wrong to cite the framers of the Constitution as the reason why today’s generation cannot progress towards a Seanad where everyone can vote. A later section in this document, in any case, points to the fact that the framers of the Constitution did ensure that giving citizens the right to choose their legislators in “general elections” in each House of the Oireachtas is completely compatible with the Constitution.

Bunreacht na hÉireann is a living document which allows us to order our society in accordance to the needs and perspectives of our own time.
Those who authored Bunreacht na hÉireann ensured that our political and legal systems would be flexible enough to adapt as society changed. As Professor Fiona de Londras has observed, "we have a very strong jurisprudence from our Supreme Court suggesting that the Constitution is a living, breathing and dynamic document that must evolve with us as a State." ⁵

The argument that universal suffrage is not possible in the Seanad Electoral (University Members) (Amendment) Bill 2014 or any other form of legislation because of the framers of the Constitution is fundamentally flawed.

The only thing preventing the Government ensuring that every citizen has a vote in Seanad elections is lack of political will.

⁵ http://humanrights.ie/constitution-of-ireland/constitutional-renewal/
Context for Meaningful Seanad Reform

The proposals in this submission seek to develop the role of the Seanad within the existing constitutional framework.

The context for this submission is that just over 187 days ago, on 4th October 2013, the Irish people rejected the Government’s proposal to abolish Seanad Éireann.

The referendum vote gave the Government an unequivocal message that people wanted to see the Seanad not just retained, but also reformed.

The outcome of the referendum provides the Government with a strong mandate to begin that process. The voters have made clear that they want a future Seanad that is more efficient, democratic and representative.
The Government’s proposals to date fall far short of the sweeping democratic reform that is needed.

90% of the 60 seat Seanad would be left un-reformed if the Government only proceeds to extend the franchise for the 6 university seats to other third level graduates and does nothing more in relation to the election of the panel Senators.
No Need for a Further Referendum

It is a total misnomer to suggest another costly referendum would be necessary before every citizen could vote in a Seanad election.

By means of simple legislative amendment to the Seanad Electoral (Panel Members) Act 1947, the Government could provide for direct elections to all of the 43 Seanad panel seats and extend the franchise to all citizens.

The outcome of the Seanad referendum gives the Taoiseach an opportunity to do something that every Taoiseach has talked about, but none has delivered – that is to bring about comprehensive, democratic reform of Seanad Éireann.

It would be just as easy for the Government to legislate for a vote for every citizen in Seanad elections as it would be to implement their current proposed Bill to widen the franchise solely for university
graduates. But surely one person, one vote would be far more democratic.

The Constitution does not require the present elitist and undemocratic system for electing the Seanad. The necessary reforms can be effected by a single Seanad Reform Bill.
Government’s Reaction to the Outcome of the Referendum

On 5th October, the evening the Seanad referendum result was announced, the Taoiseach acknowledged that the result had brought “clarity” on the issue of the future of Seanad Éireann and that the people had now undoubtedly, in the Taoiseach’s own words, “decided and confirmed that the Senate is retained as part of our constitutional institutions.”

The Taoiseach went on to say that there is “a continuous need for change and reform in politics” and that the Government would reflect on “the best way” that the Seanad “can be made an effective contributor to the change in politics.”

On 6th October 2013, Minister for Communications Pat Rabbitte stated that the Government had an “obligation” to reform the Seanad and to consider “how that could be done within the constraints of the Constitution and without another referendum.”
On the same day, Minister for Public Expenditure and Reform Brendan Howlin stated that the Government “should move fairly speedily” to alter the Seanad to make it more effective.

At the Fine Gael Party Conference on Saturday, October 12th, the Taoiseach promised to extend voting to all third-level graduates, which is the essential provision of this Bill, the Seanad Electoral (University Members) (Amendment) Bill. He described the measure as “a small first step.”

On 23 October 2013, the Taoiseach asked Seanad Éireann for ideas and proposals to make Seanad Éireann “work as effectively as possible within the process of change in politics we are trying to bring to the country.”

On 18th December, the Taoiseach ruled out giving voting rights to all citizens in Seanad elections. Specifically he said he did not “believe that the framers of the Constitution intended that you’d have a universal suffrage for the Senate in the same way as the Dáil”
Worryingly, the Government’s commitment to reforming the Seanad has appeared to wane as more time passes since the referendum defeat. In 2014, meaningful reform should mean giving every Irish person a say in the composition of the Seanad.

On 11th March, 2014, the Seanad heard statements on the General Scheme of the Seanad Electoral (University Members) (Amendment) Bill, which the Government has indicated it will bring forward. The Government’s Bill proposes to extend the franchise to all third-level graduates, in accordance with the outcome of a referendum dating from 1979. It is an indictment on successive governments that the people’s decision in this referendum was never legislated for.

This Government’s bill corrects that serious anomaly as well as increasing the number of people entitled to vote in a Seanad election. On both of these counts this Bill has, at least, some merit. But this Bill does not go far enough. This Bill will maintain a Seanad electoral system whose underlying principle seems to be “one councillor, seven
votes,” when the majority of citizens have no vote whatsoever. This is truly undemocratic.

While significantly extending the number of people entitled to vote in a Seanad referendum, the Government’s proposed Bill will do so on the basis of educational attainment. Put simply, the Government’s proposal is a divisive one based on the dubious and elitist notion of “one degree, one vote.” This too is undemocratic.

The most meaningful reform of the Seanad is the extension of the right to vote. But this must be done in accordance with the principles of ‘universal suffrage’ and ‘one person, one vote,’ which are the essence of democracy. What is needed is reform that will extend the right to vote in Seanad elections to every person in the country as well as to Irish citizens in Northern Ireland and those who are overseas. No person should have more than one vote in a Seanad election and no person should be disbarred from voting because he or she has not attended a third-level education institution.
The Government has also put together a paper in which it sets out procedural proposals which are aimed at changing some aspects of how the Seanad conducts its business. Whilst these proposals are to be broadly welcomed, again they do not go far enough. In fact, in several areas the proposals reflect the work that the Seanad is already performing. The Government’s proposals do not go to the heart of the matter – they do not contain a commitment to give every person a vote in Seanad elections.
Scope for Real Reform

As already noted, the Taoiseach has stated he personally was not persuaded that there should be reform of the franchise in Seanad elections on a one person one vote basis because he did not “believe that the framers of the Constitution intended that you’d have a universal suffrage for the Senate in the same way as the Dáil.”

Firstly, it should be noted that the Constitution makes it clear that the Seanad is not to be elected “in the same way as the Dáil” – i.e. by geographic constituencies.

That said, the articles of the Constitution dealing with the Seanad, Articles 18 and 19, clearly do not exclude universal citizen suffrage in Seanad elections. They do the direct opposite.

The Constitution simply provides that general elections to the Seanad shall be held on the system of proportional representation by means of a
single transferrable vote by secret postal ballot (Article 18.5) and that those elections shall be regulated by law (Article 18.10.1).

The Constitution merely prescribes the system of panels of candidates for election to 43 seats, requiring them to be formed in a manner to be provided by law, of persons having knowledge and practical experience in five broad areas of national life –

- National Language and Culture Literature Art Education and certain professions determined by law
- Agriculture and allied interests including fisheries
- Labour, organised or unorganised, Industry and Commerce, including banking, finance, accountancy, engineering and architecture
- Public Administration and social service, including voluntary social services.

The Constitution gives the Oireachtas wide legislative discretion in deciding the number of seats ascribed to each panel (not less than 5 or more than 11 each).
The Constitution refers to the election of the elected Senators as a “general election”, and states that “subject to the foregoing provisions ... elections of the elected members of Seanad Éireann shall be regulated by law.”

How then can a Constitution which gives the Oireachtas a wide discretion to legislate to organise the franchise for Seanad elections be construed as impliedly excluding universal citizen suffrage? The answer is simple. It can’t.

The “spirit and letter” of Bunreacht na h-Éireann, as clearly stated in Article 6, is that the legislative power derives from the people “whose right it is to designate the rulers of the State”.

Giving citizens that right to choose their legislators in “general elections” in each House of the Oireachtas is completely compatible with the Constitution.

There is simply no legal or logical basis for a claim that either the spirit or the letter of the Constitution excludes enfranchising citizens in general elections for Seanad Éireann.
The Myth of the Seanad Becoming a Rival Dáil

It has been suggested that election of the 43 Seanad Panel seats by citizen franchise would transform the Seanad into a rival Dáil. It has also been suggested that a differently elected Seanad could give rise to bicameral deadlock as often happens in the US.

This concern is plainly misconceived.

Seanad Éireann has many very important constitutional and legislative functions and powers.

But the Seanad was specifically designed in a manner that it could not rival the Dáil or consistently obstruct the will of the people expressed though the Dáil.

The Seanad has no constitutional part in electing the Government, holding it accountable on a day-to-day basis, or removing the
Government. Dáil Éireann has complete supremacy in budgetary matters and money bills.

Government and Ministers are not directly accountable to the Seanad, and Senators may not table parliamentary questions to them.

The power of the Seanad to delay legislation is limited to 90 days and even that period can be further reduced in the procedure laid down in Article 24.

It is highly likely that a considerable number of Senators who are Government supporters will always be elected by the citizens. In addition, the Taoiseach has the right to appoint 11 members of the Seanad and to nominate two members of the Seanad to be members of the Government.

The Seanad will always have to have a substantial working relationship with the Dáil if it is to function and if Joint Oireachtas Committees are to work well.
The Seanad simply cannot make the State ungovernable. Experience with the university Senators suggests that Senators directly elected on broad franchises are responsible and constructive parliamentarians.

The limitations on the Seanad’s powers under the Constitution, and the constitutional mechanisms for the Dáil to over-rule the will of the Seanad in the area of legislation, subject to the power of the President to refer such measures to the People, under Article 27 demonstrate that the Seanad was never intended as a chamber that had to be under day-to-day Government control in the way that the Dáil majority is.
A Consensus on the Substance of Reform

A frequent criticism made by those who argued in favour of abolishing the Seanad during the referendum campaign and of those who are reluctant to reform it now is that there is no agreement or consensus on what a reformed Seanad would look like.

There will never be absolute unanimity on issues such as Seanad reform. In a democracy there will be a variety of views on such issues.

Absence of unanimity is not, however, a reason not to reform.

This submission sets out in 6 basic principles a consensus approach to what can be done now by ordinary legislation to reform Seanad Éireann within the parameters of the present Constitution and as part of a real and meaningful reform of our political system.

These principles have been formulated having considered the most recent proposals for reforming the Seanad, including the Seanad Bill 2013 (the Zappone/Quinn Bill), the Seanad Electoral Reform Bill 2013
(Senator John Crown Bill), the Fianna Fail document ‘A Seanad for the
People’ (2013), the Seanad Reform Bill 2014 (Fianna Fáil Bill), the views
of the Sinn Fein party expressed in Dáil Éireann and Seanad Éireann on
the issue, the Green Party document ‘Seanad Reform Policy (2013),
and the All Party Seanad Committee on Procedures and Privileges, Sub-
Committee Report on Seanad Reform (2004), and submissions and
proposals made by the Fine Gael and Labour parties to that process, and
afterwards up until the recent referendum process, as well as the debate
on reform since the referendum.

The 6 Basic Principles seek to establish points of consensus between the
various party positions, reports and arguments raised for and against
the Seanad’s retention during the course of the referendum campaign.
Six Basic Consensus Principles

The six basic consensus principles with widespread political support are as follows:

- Universal Citizen Suffrage
- One Person One Vote
- Gender Equality
- A Vote for Citizens in Northern Ireland
- A Vote For Citizens in The Diaspora
- A Role For Seanad Éireann in EU Legislation and Scrutiny
1. **Universal Citizen Suffrage**

The principle of universal suffrage is the most basic principle in any election process. In a democracy every citizen should be entitled to vote for those who govern them.

In Ireland, where the Constitution expressly states (in Article 6) that it is the right of the People to “designate their rulers”, the vast majority of citizens can vote for the President and members of Dáil Éireann but cannot vote for members of the Seanad. That this was a major flaw in our electoral system was recognised by all of the recent proposals on Seanad Reform.

The Seanad Bill 2013 (Zappone/Quinn Bill), the Seanad Electoral Reform Bill 2013 (Crown Bill), the Fianna Fáil document ‘A Seanad for the People’ (2013), the Seanad Reform Bill 2014 (Fianna Fáil Bill), the Green Party document ‘Seanad Reform Policy (2013) and the Seanad Sub-Committee Report on Seanad Reform (2004) all recommended Universal Suffrage. Sinn Féin supported the principle during recent Oireachtas debates on a reformed Seanad. Fine Gael and Labour have also argued
for universal citizen suffrage in the context of proposals made by them for Constitutional reforms in relation to the Seanad.
2. **One Person One Vote**

During the course of the Referendum Campaign, frequent reference was made by advocates of Seanad abolition to the fact that a politician who is a graduate of TCD or the NUI can have 6 or even 7 votes in elections to the Seanad whereas the vast majority of citizens have no vote.

This is unjustifiable in a modern parliamentary democracy. Nor should the introduction of universal citizen suffrage take away from the need to ensure that all voters are treated equally by having just one vote.

Graduates would be obliged to choose between casting a vote on the Higher Education panel or on one of the other panels.
3. Gender Equality

There is an increasing recognition in Irish society of the need to promote gender equality in our democratic institutions.

Currently only 26 TDs are women. This represents just 16% of the 166 TDs yet it is the highest percentage of women we have ever had in Dáil Éireann. Since 1992, the number of women in the Dáil has increased by only 6. The current Seanad does marginally better with 18 of the 60 current Senators being women. However, Ireland is currently ranked 90th place in the world rankings of women’s participation in Parliament.

The present Government’s Electoral (Amendment) (Political Funding) Act 2012 seeks to change this by ensuring that parties must commit to having 30% women candidates in the next Dáil election in order to retain their State financing. The Seanad Bill 2013 (Zappone/Quinn Bill) goes further than the 2012 Act by providing for the election of equal numbers of men and women.
The Fianna Fáil document ‘A Seanad for the People’ (2013) and the Fianna Fail Bill (Seanad Reform Bill 2014) includes a similar provision. It advocates the introduction of 50% Gender Quotas for parties in Seanad elections which would help ensure that the Seanad leads the way in breaking the glass ceiling for women in politics.
4. A Vote for Citizens in Northern Ireland

The Good Friday Agreement recognises the right of people in Northern Ireland to enjoy Irish or British citizenship. The Seanad has traditionally been used to bring Northern voices such as Seamus Mallon, Gordon Wilson, John Robb and Bríd Rogers into the National Parliament.

Graduates of TCD and NUI (whether or not they are citizens) living in Northern Ireland already have a Seanad vote. But Irish citizens in the North have no vote.

By allowing persons in Northern Ireland who are entitled to be recognised as Irish citizens apply to be registered to vote in one of the five panels in the same way as Irish citizens living in the State would be able to do as part of the reform, would give substance to the status of citizenship for its citizens residing in Northern Ireland.

A reformed Seanad would also give a voice to residents of Northern Ireland from all backgrounds, nationalist, unionist and other. The Seanad Bill 2013 (Zappone/Quinn Bill) would allow people who reside in
Northern Ireland and who qualify for Irish citizenship to apply for a vote in the Seanad.

Crucially, that means that those who apply to vote for the Seanad would not have to apply for citizenship, thereby allowing those from a unionist background a voice.

Since the Constitution requires that Seanad General Elections are conducted by postal vote, this proposal presents no major new administrative difficulties. University graduates in Northern Ireland already vote by post in the same way as graduates living in the State.

The Seanad should also have a role in developing relationships with and reviewing the work of North South Ministerial Councils, the British-Irish Council and the North South Implementation Bodies.

The Seanad should provide a regular forum for all those involved in the work of peace and reconciliation in Ireland.
5. A Vote for Citizens in the Diaspora

Unlike almost all other European countries Ireland does not allow its migrant or emigrant citizens to vote in any elections/referendums. Only three other Council of Europe members (out of 33) do not allow emigrants a vote. In the past four years, over 300,000 people have emigrated from Ireland; 40% were aged between 15 and 24.

A reformed Seanad could allow these 300,000 mainly young disenfranchised people some voice in the democratic governance of Ireland. The Seanad Bill 2013 (Zappone/Quinn Bill), the Seanad Electoral Reform Bill 2013 (Crown Bill) and the Fianna Fáil proposals would give a vote to the Diaspora. Sinn Féin has supported this principle in Oireachtas debates. All political parties have given support to the principle of participation by citizens abroad in the Irish democratic process.

To identify eligible citizen voters in the Irish diaspora, it is suggested they should be Irish passport holders. Any such passport-holding voters would be required to apply to be registered to vote in one of the Panel elections or, at their option, if qualified, to vote in the Universities panel.
Provision can be made for postal voting by Irish citizens to be counted at certain Irish embassies so as to avoid problems arising in delays in surface postage.

According non-graduate Irish passport-holding voters the right to apply to vote on one of the Panel elections for the Seanad would achieve equality between graduate and non-graduate citizens residing overseas.

The Seanad should engage with emigrant groups from right across Ireland’s widespread diaspora, including inviting leaders of emigrant organisations to address it.
6. **EU Scrutiny and Legislation**

The sixth Consensus Principle relates to an enhanced role for the Seanad in the areas of EU and Secondary legislation.

There has been a consistent All Party and public consensus that the Oireachtas is failing to undertake its role in scrutinising EU legislative proposals and in engaging in the new role for National Parliaments in EU Member States in the post Lisbon EU legislation process.

Likewise, there is general agreement that the Seanad is well placed to take a leading role in these areas in the Irish parliamentary system.

Scrutiny of domestic secondary legislation is also a neglected area in the Irish parliamentary system.

These areas need urgent attention. Reform can be addressed in the form of legislation and the reform of the Standing Orders of the two Houses of the Oireachtas.
But essentially, the most obvious ways to enhance the functions of the Seanad are to expand its role in scrutinizing European legislation and reviewing the statutory instruments of secondary legislation.

The Seanad should also review reports of Joint Committees on EU policy proposals.

The Lisbon Treaty ensures that the European Commission’s decision to legislate on any particular matter can be challenged. National parliaments can submit a ‘reasoned opinion’ to the Commission within eight weeks of the proposal of the relevant legislation, outlining why it conflicts with the principle of subsidiarity. The Seanad should play a role in this regard.

The Seanad should debate the European Commission’s annual work programme. In this context, the Irish EU Commissioner should be invited to address the Seanad and take questions from Senators on an annual basis. In 2013, EU Commissioner Maire Geoghegan-Quinn engaged in a wide-ranging and informative discussion with the Senators.
Some Other Reforms

In the first full week of March 2014, the Seanad considered only one piece of legislation and the following week just one piece of draft legislation was considered. The Government should initiate more Bills in the Seanad.

The Seanad should also have a role in reviewing pre-legislation stage reports from Committees and in making recommendations.

The Seanad should have a role in filling a significant gap in the Irish parliamentary landscape, which is the failure to review laws once they have been in operation for a number of years. The Seanad should play a significant role here in post-legislative scrutiny designed to examine whether legislation has achieved its original policy objectives after the passage of time; whether the legislation ought to continue in force in its current form; whether the legislation requires amendment in some way; or whether in fact the legislation ought to be repealed or revoked in its entirety. Post-legislative scrutiny is an extremely rare feature in Ireland and the Seanad should serve as a forum to manage a process for
reviewing existing legislation in cooperation with the relevant Government departments.