



Statement on relevant provisions of the Constitution in relation to Dáil constituencies and on population statistics relating to Dáil and European Parliament constituencies

Introduction

Section 59(2) of the Electoral Reform Act 2022 requires An Coimisiún Toghcháin, the Electoral Commission, to prepare a statement setting out the relevant provisions of the Constitution in relation to Dáil constituencies to which the Commission is required to have regard in preparing its report. Section 59(2) also requires the commission to prepare statements, based on the population in the Census Preliminary Results report, for the Dáil and European Parliament constituencies currently in force. The Commission has prepared this statement in line with the requirements of the 2022 Act. Section 57 of the Electoral Reform Act 2022 detailing the function and terms of reference of An Coimisiún Toghcháin in respect of the review of Dáil constituency boundaries is on page 8 of this statement.

Dáil constituencies

The Dáil constituencies currently in force are set out in the [Electoral \(Amendment\) \(Dáil Constituencies\) Act 2017](#) which was enacted following on from the [Constituency Commission Report 2017](#).

Constitutional provisions in relation to Dáil Constituencies

Article 16.2.2° of the Constitution provides that:

“The number of members shall from time to time be fixed by law, but the total number of members of Dáil Eireann shall not be fixed at less than one member for each thirty thousand of the population, or at more than one member for each twenty thousand of the population.”

Article 16.2.3° of the Constitution provides that:

“The ratio between the number of members to be elected at any time for each constituency and the population of each constituency, as ascertained at the last preceding census, shall, so far as it is practicable, be the same throughout the country.”

Article 16.2.4° of the Constitution provides that:

“The Oireachtas shall revise the constituencies at least once in every twelve years, with due regard to changes in distribution of the population.....”

The text of Article 16.2 of the Constitution is set out in full on page 8 of this statement.

Equality of representation - Court cases

The issue of equality of representation across constituencies has been considered by the courts on a number of occasions.

In *O'Donovan v. The Attorney General* [1961] I.R. 114 the court found that the Electoral (Amendment) Act 1959 was unconstitutional because the ratio of members to population was not, so far as was practicable, the same throughout the country and because due regard had not been had to changes in the distribution of the population. Budd J. held that the dominant principle of Article 16.2.3 is “the achievement of as near an equality of the parliamentary representation of the population as can be attained, paying due regard to practical difficulties.” In *O'Donovan* the highest deviation from the average per constituency was in the order of 25%. The Court did not lay down what variation from the national average would be regarded as permissible but did say that -

“Attention should be paid to one important point. It is not the rise or fall of population in any particular constituency to which ‘due’ regard is to be had. It is something much wider than that. It is the constituencies themselves which have to be revised so as to give effect to the contemplated changes in the distribution of population. They, the constituencies, must be so formed and revised as to give effect to the changes.”

This was followed by the passing by the Oireachtas of the Electoral (Amendment) Bill 1961. The variances from national average representation in the constituencies set out in the Bill were all within a 1,000 population of the average population per member. Pursuant to Article 26 of the Constitution, the President referred the Bill to the Supreme Court for its decision on whether the Bill was repugnant to the

Constitution or to any provision thereof. In its decision, reported at [\[1961\] IR 169](#), the Court said, at p.183:

"The subclause [i.e. Article 16.2.3^o] recognises that exact parity in the ratio between members and the population of each constituency is unlikely to be obtained and is not required. The decision as to what is practicable is within the jurisdiction of the Oireachtas. It may reasonably take into consideration a variety of factors, such as the desirability so far as possible to adhere to well-known boundaries such as those of counties, townlands and electoral divisions. The existence of divisions created by such physical features as rivers, lakes and mountains may also have to be reckoned with. The problem of what is practicable is primarily one for the Oireachtas, whose members have knowledge of the problems and difficulties to be solved which this Court cannot have. Its decision should not be reviewed by this Court unless there is a manifest infringement of the Article. This Court cannot, as is suggested, lay down a figure above or below which a variation from what is called the national average is not permitted."

Legal textbooks and the reports of a number of constituency commissions over the years made reference to a standard of 5% variance as having been regarded in the O'Donovan case as being acceptable, having regard to Article 16.2.3 of the Constitution. However, Clarke J., in the joined cases of *Murphy v. The Minister for the Environment* and *Molloy v. Minister for the Environment* [\[2007\] IEHC 185](#) took the view that it was not possible to establish any such universal threshold, and he followed the guidance given by the Supreme Court quoted above. He pointed out that the figures referred to by Budd J. in O'Donovan represented not a variance of 5% but rather a variance of between 1% and 1.66%. He stated -

"That is not to say that, in general terms, a margin of 5% is, or is not, an appropriate consideration. The true answer is that it may depend on the extent to which all of the other relevant factors can properly be met within that or a smaller margin. I merely note these matters for the purpose of identifying that there does not appear to be justification for the assertion that O'Donovan is authority for the acceptability of a 5% margin."

European Parliament Constituencies

The European Parliament constituencies currently in force are set out in the [European Parliament Elections \(Amendment\) Act 2019](#), following the recommendations in the [Report](#) on European Parliament Constituencies 2018

The total number of representatives to be elected in the State to the European Parliament specified pursuant to the Treaty on European Union is 13 in accordance with the decision of the European Council of 28 June 2018.

Population statistics for constituencies

The tables below contain the following details in relation to each Dáil constituency and to each European Parliament constituency, based on the population data taken from [Census 2022 Preliminary Results](#) (published by the Central Statistics Office on 23 June 2022). These show an overall increase in population in the order of 361,671, mostly in the Dublin region.

Dáil constituencies

- the population of the constituency in 2022;
- the number of TDs established for the constituency under the [Electoral \(Amendment\) \(Dáil Constituencies\) Act 2017](#) ;
- the population per TD in 2022; and
- the percentage variance of population per TD in the constituency from the national average population per TD, in 2022.

The Census Preliminary Results show that for 160 TDs the average population per TD is in excess of 30,000. In order to comply with Article 16.2.2° of the constitution the number of TDs will need to be increased. Section 57(2)(a) of the Electoral Reform Act 2022 provides that the total number of members of Dáil Éireann, subject to Article 16.2.2° of the Constitution, shall be not less than 171 and not more than 181.

European Parliament constituencies

- the population of the constituency in 2022;
- the number of MEPs established for the constituency under the [European Parliament Elections \(Amendment\) Act 2019](#)
- the population per MEP in 2022; and
- the percentage variance of population per MEP in the constituency from the national average population per MEP, in 2022.

Existing Dáil Constituencies				
Constituency	2022 Population (preliminary)	Number of TDs	Population per TD	% Variance
Carlow-Kilkenny	165,616	5	33,123	3.44
Cavan-Monaghan	150,238	5	30,048	-6.17
Clare	127,419	4	31,855	-0.52
Cork East	130,930	4	32,733	2.22
Cork North-Central	131,341	4	32,835	2.54
Cork North-West	96,012	3	32,004	-0.06
Cork South-Central	130,716	4	32,679	2.05
Cork South-West	92,232	3	30,744	-3.99
Donegal	156,990	5	31,398	-1.95
Dublin Bay North	155,905	5	31,181	-2.63
Dublin Bay South	126,714	4	31,679	-1.07
Dublin Central	123,165	4	30,791	-3.84
Dublin Fingal	170,690	5	34,138	6.61
Dublin Mid-West	130,415	4	32,604	1.82
Dublin North-West	90,219	3	30,073	-6.09
Dublin Rathdown	101,155	3	33,718	5.30
Dublin South-Central	127,169	4	31,792	-0.72
Dublin South-West	158,636	5	31,727	-0.92
Dublin West	134,331	4	33,583	4.87
Dún Laoghaire	132,302	4	33,076	3.29
Galway East	97,016	3	32,339	0.99
Galway West	154,596	5	30,919	-3.44
Kerry	155,258	5	31,052	-3.03
Kildare North	134,354	4	33,589	4.89
Kildare South	125,703	4	31,426	-1.86
Laois-Offaly	161,245	5	32,249	0.71
Limerick City	120,639	4	30,160	-5.82
Limerick County	89,479	3	29,826	-6.86
Longford-Westmeath	133,056	4	33,264	3.88
Louth	167,012	5	33,402	4.31
Mayo	131,353	4	32,838	2.55
Meath East	98,662	3	32,887	2.70
Meath West	98,935	3	32,978	2.99
Roscommon-Galway	92,189	3	30,730	-4.04
Sligo-Leitrim	122,760	4	30,690	-4.16
Tipperary	162,987	5	32,597	1.80
Waterford	127,085	4	31,771	-0.78
Wexford	163,527	5	32,705	2.13
Wicklow	155,485	5	31,097	-2.89
Total	5,123,536	160	32,022	

Existing European Parliament Constituencies				
Constituency	2022 Population (preliminary)	No. of MEPs	Population per MEP	% Variance from national average population per MEP
Dublin	1,450,701	4	362,675	-7.98
Midlands-North-West	1,649,784	4	412,446	+4.65
South	2,023,051	5	404,610	+2.66
Total	5,123,536	13		

CONSTITUTION OF IRELAND

Article 16 - THE NATIONAL PARLIAMENT

16. 2. 1° Dáil Éireann shall be composed of members who represent constituencies determined by law.
- 2° The number of members shall from time to time be fixed by law, but the total number of members of Dáil Éireann shall not be fixed at less than one member for each thirty thousand of the population, or at more than one member for each twenty thousand of the population.
- 3° The ratio between the number of members to be elected at any time for each constituency and the population of each constituency, as ascertained at the last preceding census, shall, so far as it is practicable, be the same throughout the country.
- 4° The Oireachtas shall revise the constituencies at least once in every twelve years, with due regard to changes in distribution of the population, but any alterations in the constituencies shall not take effect during the life of Dáil Éireann sitting when such revision is made.
- 5° The members shall be elected on the system of proportional representation by means of the single transferable vote.
- 6° No law shall be enacted whereby the number of members to be returned for any constituency shall be less than three.

Electoral Reform Act, 2022 - Part II - Constituency review reports

57. (1) (a) Where the Commission has conducted constituency reviews under section 56(1)(a) it shall prepare reports containing the recommendations of the Commission in relation to:

- (i) the constituencies for the election of members to Dáil Éireann;
- (ii) the constituencies for the election of members of the European Parliament.

(b) Where the Commission has conducted constituency reviews under section 56(1)(b) it shall prepare a report containing the recommendations of the Commission in relation to the constituencies for the election of members of the European Parliament.

(c) A report under paragraphs (a) or (b) may include such recommendations as the Commission considers appropriate in relation to the alteration of constituencies referred to in those paragraphs.

(2) When preparing a report under subsection (1)(a)(i), the Commission shall, in observing the relevant provisions of the Constitution in relation to Dáil constituencies, have regard to the following:

- (a) the total number of members of Dáil Éireann, subject to Article 16.2.2 of the Constitution, shall be not less than 171 and not more than 181;
- (b) each constituency shall return 3, 4 or 5 members;
- (c) the breaching of county boundaries shall be avoided as far as practicable;
- (d) each constituency shall be composed of contiguous areas;
- (e) there shall be regard to geographic considerations including significant physical features and the extent of and the density of population in each constituency;
- (f) subject to this section, the Commission shall endeavour to maintain continuity in relation to the arrangement of constituencies.

(3) When preparing a report under subsection (1)(a)(ii) or (1)(b), the Commission shall have regard to the following:

- (a) the total number of members of the European Parliament to be elected in the State, which shall be such number as may be specified for the time being pursuant to the treaties governing the European Union;
- (b) the need for reasonable equality of representation as between constituencies;
- (c) the matters specified in paragraphs (b) to (f) of subsection (2).

(4) The reference in subsection (2)(c) to county boundaries shall be deemed not to include a reference to the boundary of a city or any boundary between any 2 of the counties of Dún Laoghaire-Rathdown, Fingal and South Dublin.

(5) A report of the Commission under this section may indicate that, in the opinion of the Commission having regard to subsection (2) or (3), no alteration is required to be made in the constituencies to which the report relates.