

5th June, 2020

Dear Taoiseach,

We the undersigned are elected members of Seánad Éireann following the recent general election.

A significant issue has arisen as to whether Seánad Éireann can, in present circumstances, meet on a day fixed by the President on the advice of the Taoiseach, as provided for by Article 18, section 8, there having been no nomination yet of eleven members by a *“Taoiseach who is appointed next after the re-assembly of Dáil Éireann following the dissolution thereof”*, as provided for in Article 18, section 3.

It is our understanding and belief that in the present situation the elected members of the Seánad can meet and legislate, and that the Oireachtas, as our national parliament, exists as a whole and is not debarred from functioning constitutionally as a legislature by the delay in the Dáil’s nomination of a Taoiseach or the delay in nomination of a further eleven senators.

We note that it has widely been reported that you have been advised to the contrary.

We intend to apply to the High Court for a speedy, authoritative and binding determination by way of declaration on this important issue of constitutional interpretation unless it is clarified that you share our understanding on this issue and consider yourself constitutionally free to advise the President to fix a day for the first meeting of the newly elected Seánad in early course.

Unless we receive this clarification, it would be our intention to issue and serve a plenary summons and deliver a short statement of claim seeking the appropriate declaration, naming you as defendant and making the Attorney General a notice party.

If it is intended to contest our claim for such a declaration, we would anticipate that an application would be made to the President of the High Court for directions as to the hearing of the action, including the filing of any defence and the making of written submissions. We do not see that evidence would be admissible or relevant to determine an issue of this kind and we would envisage a short hearing in the context of a comprehensive submission setting out the position of each of the parties.

In any event, we would request your prompt confirmation of the receipt of this letter and, in the absence of the clarification of your position as we ask, confirmation also that the Chief State Solicitor has authority to accept service of the proposed proceedings on your behalf.

Yours Sincerely,

Senators Ivana Bacik, Victor Boyhan, Gerard Craughwell, Annie Hoey, Sharon Keogan, Michael McDowell, Rebecca Moynihan, Ronan Mullen, Marie Sherlock, Mark Wall