Submission to the Joint Committee on Justice, Home Affairs and Migration

General Scheme of the Civil Reform Bill 2025

1. Introduction

1.1 This submission is made in response to the Joint Committee on Justice, Home Affairs and Migration in respect of the General Scheme of the Civil Reform Bill 2025.

1.2 The submitting organisation is a major Irish employer and operator involved in the development, operation and management of large-scale commercial, hospitality and infrastructure assets throughout the State.

1.3 We regularly engage with statutory planning, environmental regulation and judicial review processes. Our interest is confined to the systemic operation of civil justice, rather than any individual case.

1.4 We support the overarching objectives of the Bill and welcome the opportunity to comment on specific Heads.

2. General Observations

2.1 The General Scheme represents the most significant reform of civil procedure and judicial review in decades.

2.2 We particularly welcome the Bill's emphasis on:

- proportionality,
- early issue definition,
- procedural discipline, and
- active judicial case management.

2.3 In our experience, the absence of these features in the current system can permit litigation to operate in a manner that is disproportionate to the issues in dispute, with significant consequences for third parties and the wider public interest.

Part 2 – Production of Documents

Head 4 & Head 5 – Abolition of Traditional Discovery and New Production Regime

3.1 We strongly support the abolition of the existing discovery regime and its replacement with a focused, relevance-based production system.

3.2 Traditional discovery has become:

- overly expansive,
- costly,
- and frequently disconnected from the real issues in dispute.

3.3 The express emphasis in Head 5 on relevance, materiality and necessity for the administration of justice is welcome.

Recommendation:

3.4 We support Head 5(3) and (4) and recommend that proportionality and administrative burden be treated as primary considerations rather than subsidiary ones.

Head 6 – Production of Documents by Non-Parties

4.1 We welcome the explicit safeguards introduced for non-parties.

4.2 In complex litigation, non-party production requests can impose significant burdens on commercial operators who are not parties to the dispute.

Recommendation:

4.3 The Committee should ensure that the proportionality safeguards in Head 6(2) are retained in full and are not diluted at drafting stage.

Part 3 – Judicial Review

Head 8 – Judicial Review Remedies and Thresholds

5.1 We strongly support the codification of judicial review remedies and the introduction of statutory thresholds for relief.

5.2 In particular, Head 8(5) appropriately requires:

- material unlawfulness,
- actual harm or prejudice, and
- a significant benefit to the applicant.

5.3 This represents an important rebalancing of judicial review away from purely technical challenges that have no practical impact on outcomes.

Recommendation:

5.4 The Committee should retain the "significant benefit" test in Head 8(5)(a)(v) and resist any attempt to weaken it.

Head 8(7) – Costs in Judicial Review

6.1 We welcome the principle that costs should only be awarded where proceedings deliver a significant benefit to the applicant.

6.2 Costs rules play a critical role in encouraging responsible litigation and discouraging speculative or tactical proceedings.

Recommendation:

6.3 The Committee should support the retention of Head 8(7) as drafted, subject to constitutionally required exceptions.

Heads 10 & 11 – Leave to Apply for Judicial Review

7.1 We strongly support the tightening of leave requirements and the requirement for:

- arguable grounds,
- reasonable prospect of success, and
- non-trivial issues.

7.2 Early filtering at leave stage is essential to prevent the unnecessary escalation of weak claims.

Recommendation:

7.3 Consideration should be given to reinforcing the Court's discretion to refuse leave where delay or prejudice to third parties is established.

Head 12 – Appeals

8.1 We support the restriction of automatic appeals and the requirement for certification of exceptional public importance

8.2 Endless appellate layers undermine legal certainty and delay final resolution.

Part 4 – Civil Procedure and Case Management

Head 15 – Case Conduct Principles

9.1 We strongly welcome the statutory articulation of case conduct principles.

9.2 These principles align closely with best practice internationally and should materially improve efficiency and predictability.

Head 16 – Presumption Against Adjournments

10.1 The presumption against adjournments is a necessary and overdue reform.

10.2 Delay is one of the most significant contributors to cost escalation and uncertainty.

Recommendation:

10.3 The penalty mechanism in Head 16(3) should be retained as a meaningful deterrent to procedural non-compliance.

Head 17 – Deemed Discontinuance

11.1 We support the introduction of deemed discontinuance where proceedings are allowed to stagnate.

11.2 This provision will incentivise active prosecution of claims and discourage proceedings being used as a holding tactic.

12. Public Interest Considerations

12.1 Civil justice reform must take account of impacts beyond the immediate parties, including:

- housing delivery,
- regional employment,
- infrastructure provision, and
- economic certainty.

12.2 The Bill represents an important step towards a system that protects rights while enabling lawful decisions to be implemented within a reasonable timeframe.

13. Conclusion

13.1 We broadly support the General Scheme of the Civil Reform Bill 2025.

13.2 The Heads addressed above represent a balanced and proportionate response to long-standing structural issues in civil litigation and judicial review.

13.3 We respectfully urge the Committee to support the retention of these provisions as the Bill progresses to drafting stage.