

# CABINET HANDBOOK



## AN LÁMHLEABHAR COMH-AIREACHTA

This Handbook has been approved by the Government to provide guidance for Ministers and to facilitate the dispatch of Government business. Ministers and Departments are asked to comply fully with the guidelines which it contains.

The Secretary General to the Government, in consultation as necessary with the Taoiseach, will be pleased to provide Ministers with clarification or resolve any issues of doubt.

Roinn an Taoisigh  
Deireadh Fomhair 1998

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## CHAPTER 1

### GENERAL GUIDELINES FOR MINISTERS

#### **COLLECTIVE RESPONSIBILITY AND ACCESS TO RECORDS**

##### 1.1

##### **Collective Responsibility: Submission of matters to Government.**

The Constitution (Article 28.2) provides that the executive power of the State shall be exercised by or on the authority of the Government. Article 28.4.2o provides that

"the Government shall meet and act as a collective authority, and shall be collectively responsible for the Departments of State administered by the members of the Government".

##### 1.2

Collective responsibility requires that Ministers should inform their colleagues in Government of proposals they, or Ministers of State at their Departments, intend to announce and, if necessary, seek their agreement. This applies, in particular, to proposals for legislation which can be initiated only after formal approval by Government. Ministers must at all times support Government decisions in public debate as a responsibility of office.

##### 1.3

Ministers and Ministers of State should be aware that Government approval is required for significant new or revised policies or strategies and in particular that approval should be sought sufficiently in advance of publication of such initiatives to allow proper consultation and consideration.

##### 1.4

**In order not to prejudice Government discussions, Ministers and Ministers of State should avoid making public statements or commenting on policy proposals which are to be brought to Government or which are under consideration by Government.**

##### 1.5

##### **Confidentiality and Access to Government Records**

##### **(a) Government discussions**

Article 28.4.3o of the Constitution requires the maintenance of strict confidentiality regarding **discussions at meetings** of the Government except where the High Court determines that disclosure should be made on the grounds set out in that Article.

##### **(b) Government documents**

The Courts established (the Ambiorix case) in July, 1991, that no Government (or Cabinet) **documents** were privileged from disclosure in court proceedings merely on account of their origin. Documents which the Government wanted to protect on grounds of executive privilege would have to be inspected by the Judge who would balance the need for secrecy against the interests of the litigant and the public in the administration of justice.



1.6

### **Freedom of Information Act, 1997**

Government records are also subject to the provisions of the Freedom of Information Act, 1997, which provides a general right of access for members of the public to information in the possession of public bodies and to have personal information relating to them in the possession of such bodies corrected where appropriate. Certain exceptions are specifically defined in the Act.

1.7

Section 19 of the Act provides that **Government records** (e.g. memoranda for Government, other records relating to proceedings or decisions of the Government, etc.) other than purely factual information, be withheld from access for 5 years. After the five years such material may, subject to other exemptions, be accessible under Freedom of Information.

*Information concerning actual **discussions** (as distinct from decisions) at Government meetings is exempt from disclosure under the Act.*

1.8

Subject to other exemptions, factual information in relation to a published decision of the Government may be accessed at any time.

*Detailed information texts on the implementation of the Act have been prepared by the Department of Finance.*

1.9

### **Retention by Ministers of Government papers**

Under the Official Secrets Act, 1963, former Ministers and Ministers of State may retain certain official documents. Great care should be taken, however, to prevent the unauthorised release of documents which are retained. In April 1998, the Government, on foot of a recommendation in the Final Report of the Interdepartmental Committee on the Protection of Classified Official Information, agreed to the provision of facilities for the storage in their former Departments of official documents, where requested by former Ministers and Ministers of State.

## **ETHICS AND CONFLICT OF INTEREST**

1.10

### **Declaration of Interests**

In addition to the general provisions relating to the declaration of interests by members of the Oireachtas, the Ethics in Public Office Act, 1995, contains provisions relating specifically to office holders, including members of the Government and Ministers of State.

1.11

### **Registrable Interests of Spouses and Children**

Section 13 of the Act requires office holders to make to the Clerk of the Dáil (Clerk of the Seanad, where appropriate) **an additional statement of the registrable interests of which office holders are aware, of their spouses and of any children, which might reasonably be seen as capable of influencing them in the performance of their office.**

*These interests are not published by the Clerk in the Register laid before the House and are not disclosed by him or her to any person other than the Taoiseach, in the case of Ministers only, and the Public Offices Commission. Ministers requiring interpretation of these legislative provisions should consult the Commission.*

1.12

**Material Interest in Performance of Official Functions**

(a) Section 14 of the Act requires Ministers, where he/she proposes to perform an official function concerning a matter in respect of which he/she, another office holder, or a connected person has, to his/her knowledge, a material interest, to make a declaration of that fact to the Taoiseach and to the Public Offices Commission. The interest must be disclosed only where a material advantage or disadvantage is liable to be conferred on or withheld from a Minister or a connected person and is one which is not shared by people in general or a general class of people

(b) If a Minister, or a person acting on behalf of a Minister, proposes to make a request to another Minister in relation to the performance of a function by the latter, and if the first Minister has actual knowledge that he/she, or a connected person, has a material interest in a matter to which the function relates, the Minister must furnish to the other Minister a statement in writing of those facts and of the nature of the interest, before or at the time of making the request. The other Minister is then required to make a statement in writing of the facts to the Commission and to the Taoiseach.

*Paragraph 1.12 does not apply to functions performed within a Department, at administrative level, with which neither a Minister personally, or an individual acting on his/her personal instructions in relation to the matter, is involved.*

1.13

**Business Interests/Membership of other organisations**

Insofar as business interests or membership of other organisations are concerned, the underlying principle is (as before) that Ministers or Ministers of State should not engage in any activities that could reasonably be regarded as interfering, or being incompatible, with the full and proper discharge by them of the duties of their office.

1.14

**Directorships**

Ministers or Ministers of State should not hold company directorships carrying remuneration. Even if remuneration is not paid, it is regarded as undesirable that a Minister or Minister of State should hold a directorship. A resigning director may, however, enter into an agreement with a company under which the company would agree to his or her re-appointment as director on the termination of public office.

1.15

**Professional Practice**

A Minister or Minister of State should not carry on a professional practice while holding office but there would be no objection to making arrangements for the maintenance of a practice while holding public office and for return to the practice on ceasing to hold office.

1.16

**Membership of Subordinate Bodies or Local Authorities**

Section 13 of the Local Government Act, 1991, disqualifies Ministers and Ministers of State from membership of local authorities. Under this Act, where a person who is a member of a local authority is appointed as a member of the Government or as a Minister of State, he or she, on such appointment, automatically ceases to be a member of the authority.

1.17

**Cases of Doubt**

**In any case of doubt regarding conflict of interest, the Taoiseach should be consulted.**

1.18

**Gifts**

Under the Ethics in Public Office Act, 1995, specific provisions govern the acceptance of gifts by office holders, including Ministers and Ministers of State.

1.19

Section 15 of that Act provides that an office holder shall be prohibited from retaining gifts exceeding £500 in value. Where such a gift is made to an office holder, by virtue of his or her office, it may be retained in the Minister's Department until its future is determined, whereupon it will be vested in the Minister for Finance. Any such gift, or where doubt exists about the value, should be notified to the Secretary General to the Government as soon as possible. Arrangements for valuation are made by the Secretary General to the Government on request.

*A gift is deemed to be made to an office holder "by virtue of his or her office" if it is made to that office holder, his or her spouse or children and is not given:*

- i. by a friend or relative for purely personal reasons or;*
- ii. by virtue of an office other than a Ministerial one.*

*This provision does not apply to gifts made as a contribution to election expenses, which are regulated under the Electoral Act, 1997.*

1.20

**Following consultations with the Public Offices Commission, guidelines relating to notification of certain supplies of property or services in the nature of gifts to office holders have been prepared. The guidelines follow from Section 15(4) of the Act, and are set out in Appendix I.**

**VISITS OUTSIDE THE STATE**

1.21

**Visits to Northern Ireland**

Ministers proposing to visit Northern Ireland should, a reasonable period in advance of the visit, advise the Minister for Foreign Affairs and the Minister for Justice, Equality and Law Reform, who will arrange notification of the Northern Ireland authorities as appropriate.

1.22

**Consultation with Taoiseach and the Minister for Foreign Affairs**

Members of the Government and Ministers of State proposing visits abroad, including visits in connection with European Union business, should inform the Minister for Foreign Affairs at the first moment such visits are mooted. In addition they should consult the Taoiseach as soon as practicable but in any event not less than two weeks before the visit.

1.23

**Protocol and Briefing for Visits**

Ministers concerned should ask the Minister for Foreign Affairs to notify the visit in accordance with international protocol and practice; and to arrange for briefing on issues of particular concern in relations with the country in question.

1.24

**Maximising Benefit from Visits**

Notification in advance of an intended visit affords an opportunity for briefing and helps to ensure that a Minister knows if one of his/her colleagues has planned a visit to the same country at about the same time. It will also make it possible to take account of any concerns that other Departments or State Sponsored Bodies may have which they might wish to have pursued during the visit. In addition, it will enable the effect of such visits to be maximised by arranging to have other Irish promotional activities, of an economic, cultural, or other kind, timed to coincide with them.

1.25

**Arrangements in Host Country**

Sufficient advance notice of Ministerial visits will help Irish diplomatic and consular missions to make any necessary arrangements, including appointments with the authorities of the country concerned, reception facilities on arrival, security, accommodation, transport and so on. Expenditure on these services will, in accordance with established practice, continue to be the responsibility of the Department concerned.

1.26

**Duration of Visits**

Ministers should keep all visits abroad to the minimum time necessary to perform the functions which have occasioned them.

1.27

**Participation by Spouses/Partners**

Where the nature of a visit requires that a Minister be accompanied by his/her spouse/partner, he/she should consult the Taoiseach in advance on the matter. Expenses in respect of a spouse/partner will not be charged to public funds in any particular case unless the Taoiseach is satisfied that, in the circumstances, this is warranted.

1.28

**Expenses - Offers of Payment**

Offers by private commercial organisations - national or international - to pay the expenses of a Ministerial visit outside the State must in all circumstances be declined. Discretion to accept minor hospitality, within the limits prescribed in the [Ethics in Public Office Act, 1995](#), is allowed (see Appendix I). The advice of the Taoiseach, requested through the Secretary General to the Government, should be sought on the propriety of any significant offers or invitations.

1.29

**Use of Ministerial Air Transport Service**

Applications for the use of Ministerial Air Transport Service should be submitted to the Taoiseach in respect of every mission, including the destination, route, timings, passenger details and purpose of travel. The justifying need to use the Government aircraft should be set out in every application. The relative cost of Ministerial Air Transport Service travel to possible alternatives should always be borne in mind in preparing travel plans.

1.30

**Private Visits Abroad**

In the matter of private travel abroad, it is also desirable, for security reasons, that Irish diplomatic and consular missions, the Gardaí and the authorities of the countries concerned should be made aware of the travel plans of Ministers.

## DELEGATION OF FUNCTIONS, RECORD OF MEETINGS, STAFFING OF PRIVATE AND CONSTITUENCY OFFICES

1.31

### **Delegation of Ministerial Functions**

The Ministers and Secretaries (Amendment) (No. 2) Act, 1977, provides for the delegation of a Minister's powers and duties to Minister(s) of State by Order made by the Government at the request of the Minister concerned. It has been the practice for such orders to be made in cases where a Minister of State would be expected to carry out statutory functions on behalf of a Minister. In other circumstances, delegation of non-statutory functions is sometimes made by way of an informal understanding between a Minister and Minister of State. It is the responsibility of the Minister and Department concerned to establish whether or not a formal delegation of functions is required. As the 1977 Act makes clear, the Minister remains responsible to Dáil Éireann for the exercise or performance of any powers or duties delegated to a Minister of State. Delegation arrangements should be regularly reviewed to take account of legislation enacted subsequent to any Delegation of Functions Order being made.

1.32

### **Records of Official Meetings**

In all cases where meetings are held for the purpose of transacting official business (e.g., with Chairs of State Sponsored Bodies, etc.). Ministers should be accompanied by an official who would act as a note-taker in the Minister's own interest. If desired Ministers could conduct such meetings, in part, on a one-to-one basis. However, they should bring in an official or advisor before the conclusion of the meeting to record details of any decisions reached.

1.33

### **Personal Staff: Staff In Private And Constituency Offices**

#### ***Terms and Conditions of Appointment***

Details relating to the appointment of Programme Managers/Special Advisers are set out in Section 11 of the Public Service Management Act, 1997. The terms and conditions which apply to the appointment of Ministers' personal staff, including Programme Managers and Advisors, are determined by the Minister for Finance within parameters set down by the Government. Such staff should not be appointed from outside the civil service without prior consultation with the Taoiseach and the Minister for Finance. Appointments terminate not later than the date on which the relevant Minister/Minister of State ceases to hold the specific office held when the appointment was made.

1.34

### **Numbers**

The guidelines at present are as follows:-

- (a) the number of staff in the Private Office of a Minister or a Minister of State may not exceed 10 and 7 respectively
- (b) the number of staff in the Constituency Office of a Minister or a Minister of State may not exceed 6 and 5 respectively.

Where a Minister is assigned to more than one Department, the total number of staff between all Private Offices may not exceed 9. There should be only one Constituency Office, with a maximum of 5 staff. A Minister or a Minister of State may not have more than one Personal Secretary and one Personal Assistant.

1.35

**Obligations of Personal Staff under the Ethics in Public Office Act, 1995.**

Under the terms of Department of Finance Circular 37/95 and Confidential Circular 2/97, Heads of Departments or Private Secretaries should inform Ministers and Ministers of State, on their appointment, of their annual obligations under the Ethics in Public Office Act, 1995, in relation to the staff personally appointed by them (including Special Advisers, Programme Managers, Press Officers, Personal Assistants and Personal Secretaries). Heads/Private Secretaries will also furnish Ministers and Ministers of State with copies of the following documents published by the **Public Offices Commission**:

- **Guidelines for Office Holders** concerning the steps to be taken to assist compliance with the provisions of the **Ethics in Public Office Act, 1995**.
- **Guidelines for Public Servants** concerning the steps to be taken by them to assist compliance with the provisions of the **Ethics in Public Office Act, 1995**.

1.36

The function of Departments in this area is purely one of providing outline information; the legal obligation to comply with the terms of the Act lies with individual Officer Holders and public servants. In that regard, under the Ethics in Public Office Act 1995, Office Holders and public servants are obliged to act in accordance with advice given and guidelines published by the Public Offices Commission unless to do so would constitute a contravention of another provision of the Act. Accordingly, while Departments will provide the outline information mentioned and copies of the relevant Commission Guidelines, Ministers and Ministers of State and staff personally appointed by them, to whom the relevant provisions of the Act apply, should consult with the Commission in relation to any matter pertaining to their personal obligations under the Act.

## Chapter 2

### **ARRANGEMENTS FOR GOVERNMENT MEETINGS AND CONDUCT OF BUSINESS AT MEETINGS**

#### GOVERNMENT MEETINGS

##### 2.1

##### **Scheduling of Meetings**

Government meetings normally will be held at 10.30 a.m. each Tuesday morning when the Dáil is in session, and each Wednesday morning when it is in recess.

##### 2.2

##### **Agenda**

The Agenda for each Government meeting will be issued by the Government Secretariat in good time to enable Ministers to study the relevant papers before the Government meeting (ordinarily on Thursday afternoon or Friday).

##### 2.3

##### **Absences from meetings**

The Private Secretary should as soon as possible inform the Government Secretariat if a Minister is unable to attend a Government meeting and indicate whether another Minister is being briefed to deal with any item on the Agenda which is of relevance to the absent Minister's Department.

#### **RAISING MATTERS AT GOVERNMENT MEETINGS**

##### 2.4

##### **Memoranda for proposals requiring Government Decisions**

Proposals requiring a Government decision should be the subject of a memorandum from the responsible Minister. At Government, Ministers normally make a short oral presentation, based on the memorandum.

*Where a Minister wishes to use visual aids to supplement an oral presentation, the promoting Department should ensure that the necessary transparencies, charts, videocassettes etc. are forwarded to the Government Secretariat well in advance of the relevant Government meeting.*

##### 2.5

##### **Time Limit for receipt of Memoranda for Government Agenda**

To ensure that Ministers have sufficient time to consider their colleagues' proposals, the Government Secretariat will normally accept memoranda for circulation for a particular Government meeting only if they are received three working days in advance, i.e. usually by 11.00 a.m. on the Thursday preceding the Tuesday meeting (and Friday in respect of a Wednesday meeting).

##### 2.6

##### **Memoranda envisaging Presidential action**

Where a submission envisages action by the President (or by the Presidential Commission), and to allow the necessary administrative arrangements to be made, an interval of at least one week should be provided between the date of the decision of the Government and the date on or by which the action is required. The memorandum should refer to the appropriate constitutional or statutory provision.

2.7

**Delivery of Memoranda to Government Secretariat**

Thirty copies of every memorandum (numbered 1 to 30) and a covering minute should be forwarded by the Minister's Private Secretary to the Secretary General to the Government by hand and under sealed cover, so as to reach the Government Secretariat not later than 11.00 a.m., three working days before the date of the meeting. Two copies should also be sent, by hand, to the Private Secretaries to the Minister for Finance and each other Minister concerned.

**CIRCULATION AND SAFEKEEPING OF MEMORANDA**

2.8

**Circulation of Government Memoranda**

Government memoranda are circulated by the Government Secretariat in special envelopes to Ministers, the Attorney General, the Minister of State at the Department of the Taoiseach with special responsibility as Government Chief Whip and the Minister of State to the Government. The person receiving any such envelope - that is, the Private Secretary or other authorised person - is required to sign and record the date and the time of receipt on the accompanying dispatch sheet

2.9

It is for each Department to ensure that the Minister receives Government papers in order and in good time.

2.10

**Safekeeping of Government Memoranda**

Documents circulated for meetings of the Government must be regarded as strictly confidential and as such receive restricted Departmental circulation. Copies which are not likely to be required subsequently should be disposed of as confidential waste - as should the envelopes in which they are circulated.

2.11

Each Minister should ensure that a system operates which restricts circulation of Government papers in his/her Department to defined persons and, in consultation with management in the Department, that definite procedures and controls, as may be appropriate to the circumstances, are implemented. The written procedures and controls within each Department and Office should include:-

- (1) a protocol setting out circulation arrangements, identifying the official responsible for circulation and control of Government papers, and providing for exceptional circulation of particular papers;
- (2) the circumstances under which copies of any such papers may be made, by whom and on whose authorisation, and the inclusion of its own unique identification mark on each copy;
- (3) the keeping of a written signed record of unique identification marks to which (2) relates and the papers to which each relates; and
- (4) the keeping of a written record of all departures from the written procedures.

2.12

If ever a breach of security occurs a special investigation should be initiated by the Secretary General of the author Department, with the Garda Síochána being called in to assist as necessary. The steps to be taken are set out in Department of Finance Circular 5/96.



## URGENCY

2.13

### **Urgent Business**

Matters which require an urgent decision may be accepted at the Taoiseach's discretion for an imminent Government meeting, without the usual notice, if accompanied by a Certificate of Urgency signed by the sponsoring Minister, or, in his/her absence, by an official of his/her Department of a rank not less than Assistant Secretary. Material to be submitted in this way must relate to matters of genuine urgency. Because this procedure seriously curtails the time for Ministers to consider proposals, the Certificate of Urgency will be accepted only where it is absolutely necessary that the item should be dealt with at that particular meeting. A statement should be included which explains why the submission could not have been previously presented.

2.14

The Private Secretary to the Minister should immediately alert the Government Secretariat and other Departments concerned whenever an urgent submission is proposed and keep them apprised of developments.

2.15

Submissions under Certificate of Urgency will not be accepted later than 4.00 p.m. on the afternoon prior to the next scheduled Government meeting. The Private Secretary to the Minister should alert the Government Secretariat and other Departments concerned immediately an urgent submission is envisaged.

## OTHER METHODS OF RAISING MATTERS

2.16

### **Aides Memoire**

From time to time Ministers may wish to bring to the attention of Government matters which do not require any policy decision, being essentially matters brought before Government for information. In any such circumstance the matter(s) in question may be dealt with by way of an Aide Memoire which should be circulated by the Government Secretariat in advance of the meeting. Aides Memoire will ordinarily be noted by the Government and will not give rise to substantive decisions approving policy proposals.

2.17

### **Acceptance of Memoranda or Aides Memoire**

The Secretary General to the Government, unless directed otherwise by the Taoiseach, may not accept for circulation memoranda or aides memoire which do not comply with the specified requirements

2.18

### **Circulation of Documents at Meetings**

The Secretary General to the Government may not accept or circulate documents at a meeting unless specifically directed to do so by the Taoiseach or member of the Government chairing the meeting.

2.19

### **Matters raised without documents**

For reasons of urgency or confidentiality certain matters may have to be raised orally at Government. Ministers should ensure prior notice is given to the Taoiseach, the Tánaiste, any other Party Leader in Government, any other Minister concerned and the Government Secretariat.

## APPOINTMENTS BY PRESIDENT, GOVERNMENT OR BY MINISTERS

2.20

### **Memoranda concerning Presidential and Government appointments**

Where a vacancy is anticipated in the membership of any body of which the President or the Government is the appointing authority, a memorandum should be submitted to the Government at least a month in advance in order to ensure that the vacancy can be filled on, or as soon as practicable after, the date on which it occurs.

**It is the responsibility of the promoting Minister or Department to ensure that a nominee is eligible for the post in question.**

2.21

### **Appointments by Ministers**

Where an appointment by a Minister to the Board of a State-sponsored Body (or the like) is envisaged, the Minister should mention the matter at Government at least two weeks in advance to allow colleagues the opportunity of making recommendations.

The Taoiseach, the Tánaiste and any other Party Leader in Government should be informed separately, in advance, of such proposals.

2.22

### **Publication of Appointments**

All Government and Ministerial appointments should be published in Iris Oifigiúil as soon as can be arranged following the appointment. The Government Secretariat will arrange for publication of Government appointments. It is the responsibility of individual Departments to publish Ministerial appointments.

2.23

### **Gender Balance on Boards of State-sponsored Bodies**

In making or recommending appointments to boards of State-sponsored Bodies, Ministers should have regard to the objective of achieving a minimum representation of 40 per cent for both men and women on such boards.

2.24

### **Media Briefing after Government Meetings**

The Taoiseach (or a specially designated member of the Government or the Secretary General to the Government) will provide the Government Press Secretary with a briefing after each Government meeting on such matters as the Taoiseach (or person chairing the meeting) may authorise for release to the media. No member of the Government or person attending a meeting should divulge any information about the content of Government discussions (as distinct from decisions).

## Chapter 3

### INSTRUCTIONS FOR THE PREPARATION AND SUBMISSION OF MEMORANDA FOR GOVERNMENT

Departmental Secretaries General and Heads of Office should ensure that the procedural requirements in relation to the submission of matters to Government are brought to the attention of the Minister and any Minister(s) of State assigned to their respective Departments. Memoranda not conforming to the following requirements are liable to be rejected by the Government Secretariat without further reference to the Taoiseach.

#### Memoranda - Layout and Content

##### 3.1

##### **General Requirements**

Memoranda should be drafted bearing in mind that the Government are concerned with strategy and policy - not necessarily with operational detail. Language should not be discursive but should be sharp and clear.

Every memorandum should:

(a) be headed as follows:

**OIFIG An AIRE .....**

(Reference No.)

(Date of submission)

**MEMORANDUM FOR THE GOVERNMENT  
(Subject matter)**

- (b) contain in the first paragraph a clear statement of the decision sought;
- (c) for substantive proposals and where appropriate, incorporate in the decision sought a date or timeframe for implementation;
- (d) incorporate the observations of other Ministers supplied on foot of the circulated draft;
- (e) be not more than ten pages (exclusive of appendices); and if it exceeds 5 pages, have a summary not exceeding two pages describing the proposals, the reasons for them, the views of other Ministers and the response of the sponsoring Minister;
- (f) to the extent possible, present factual information in a manner which will facilitate separate access under the Freedom of Information Act, 1997 (where appropriate);
- (g) during the euro transition period denominate monetary references in euro and punts;
- (h) present detailed material, if this is considered essential, as an appendix or appendices, which should be bound separately from, but tagged to, the main part of the memorandum;
- (i) have attached a draft press release in respect of any decision which it is intended to announce publicly (or if a press release is not envisaged have attached a draft briefing note to assist the Government Press Secretary with potential queries on the item concerned); (If no publicity is intended this should be stated in the memorandum)

(j) indicate clearly, as appropriate, the impact of the proposal for

(i) **relations, co-operation or common action**, North/South in Ireland, or East/West, as between Ireland and Britain

(ii) **employment**

(iii) **women**

(iv) **persons in poverty or at risk of falling into poverty**, in the case of significant policy proposals

(v) **industry costs** (except in the case of measures relating to the Budget) and the cost to small business

(vi) **exchequer costs and staffing** implications, in particular

- the cost, both capital and non-capital, in the current year, the next year and in a full year (whether of central or local government or of State-sponsored Bodies) and the number of years until the full year cost is reached: in consultation with the Department of Finance, how it is proposed that these costs should be financed e.g. by taxation, borrowing, reductions elsewhere on the Vote or charges for services;

- the number and levels of additional staff involved and whether these are to be provided by new recruitment or by redeployment in Departments, State-sponsored Bodies or local authorities etc;

- the staff cost including overheads and the cost to the Exchequer Pay and Pensions Bill (if different) in the current year, the next year and in a full year and the number of years until the full-year cost is reached;

(vii) **quality regulation** by reference to the notes in Appendix VI

(viii) **rural communities** by reference to notes in Appendix VII

### 3.2

#### **Memoranda relating to Appointments**

Any such memorandum should contain the recommendations of the sponsoring Minister, details of the constitutional or statutory requirements, a list of the existing membership of a body with the dates of their first appointment and expiry of their term of office, the full name(s) and relevant biographical data of the person(s) proposed for appointment.

### 3.3

The Irish version(s) of the name(s) - if the individual wishes to use one - supplied by himself/herself or if he/she so wishes by Translation Section, Houses of the Oireachtas - should be furnished where a warrant, or gazetting in Iris Oifigiúil, is involved.

### 3.4

#### **Memoranda concerning international agreements**

Memoranda relating to the signature, ratification etc., of International Agreements, etc. (other than International Labour Organisation Conventions) should be submitted by the Minister for Foreign Affairs, acting on behalf of the Minister primarily concerned.

3.5

**Memoranda concerning Annual Reports and Accounts**

The aim should be to have these submitted to the Government (prior to presentation to the Houses of the Oireachtas) within six months of the end of the year to which they relate, where a shorter period is not specified by statute.

3.6

The submission should indicate the date (if any) by which the Report and/or Accounts must be presented and the title and section of any relevant Act(s) and should set out the salient features of the documents and any related developments e.g. changes in Board membership, anticipated legislation, etc.

3.7

In the case of Reports and/or Accounts to be presented to the Houses of the Oireachtas by the Government, six extra copies should be forwarded to the Government Secretariat. It is unnecessary to await the availability of printed copies of Reports or Accounts if a delay is likely to occur.

**PRIOR CONSULTATION**

Note:

These instructions do not apply to estimates, budgetary policy and financial policy memoranda nor to memoranda on pay submitted by the Minister for Finance.

3.8

**Consultation with Ministers directly concerned**

Any Minister with a functional interest in a proposal being submitted to Government must be given an opportunity to express views on it and where these are not accepted by the promoting Minister, they should be set out (in full, if requested) in the memorandum (or appended, if voluminous) with the promoting Minister's comments.

3.9

**Consultation with Departments of the Taoiseach and Finance and the Office of the Attorney General**

Four copies of every draft memorandum for the Government involving proposals of a policy nature should be furnished, in advance, to the Secretaries General of the Departments of the Taoiseach and of Finance. A copy should also be supplied to the Office of the Attorney General if the proposals involve any substantive constitutional or legal dimension. Copies of draft memoranda should be supplied to the offices of all Party Leaders in a Partnership Government.

3.10

**Circulation to other Ministers**

If a draft memorandum is likely to be of interest to Ministers generally - apart from their purely Departmental responsibilities - copies may be circulated to all other members of the Government. There is no need, however, to delay the submission of a memorandum to Government for the views of Ministers who do not have a Departmental interest in its subject matter.

3.11

**Time-Limit for receipt of observations**

Except in the case of complex issues, Departments might reasonably be requested to provide observations on draft memoranda within two weeks (10 working days) of receipt. Departments should not be asked to provide observations within a shorter time unless it is absolutely essential and, even then, the maximum time possible should be allowed.

3.12

If a Minister is satisfied that unreasonable delay has taken place in the provision of observations by a Department,

- (a) he/she should contact the Minister in charge of that Department,
- (b) if the delay continues, the promoting Department should inform the Secretary General to the Government, and
- (c) the Secretary General to the Government will seek an appropriate direction from the Taoiseach.

3.13

In the case of draft memoranda with **proposals for legislation** a maximum of three weeks (15 working days) should be allowed for the submission of observations, unless the responding Minister obtains the approval of the Government for a longer period. After the three-week period has elapsed, and unless the period has been extended, the sponsoring Minister may submit the final version of the memorandum to Government even if some other Ministers have failed to supply observations.

3.14

**Distinguishing between Ministerial and Departmental views**

If, for any reason, the Minister has not been able to approve Departmental views either specifically, or by way of general directions, in time for their incorporation in the memorandum, the views should be clearly identified as being those of the Department.

3.15

**RECONCILIATION OF DIFFERENCES**

**Need to seek prior agreement**

To avoid wasting the time of Government in seeking to establish facts or reconcile differences, Departments should evaluate arguments as comprehensively as possible and the maximum degree of agreement between Ministers and Departments should be established prior to submission of memoranda. In particular Ministers and Secretaries General of Departments should involve themselves personally in sorting out, as far as possible, not only differences as regards to policy, but differences as to administration, staffing etc. before memoranda are submitted to the Government.

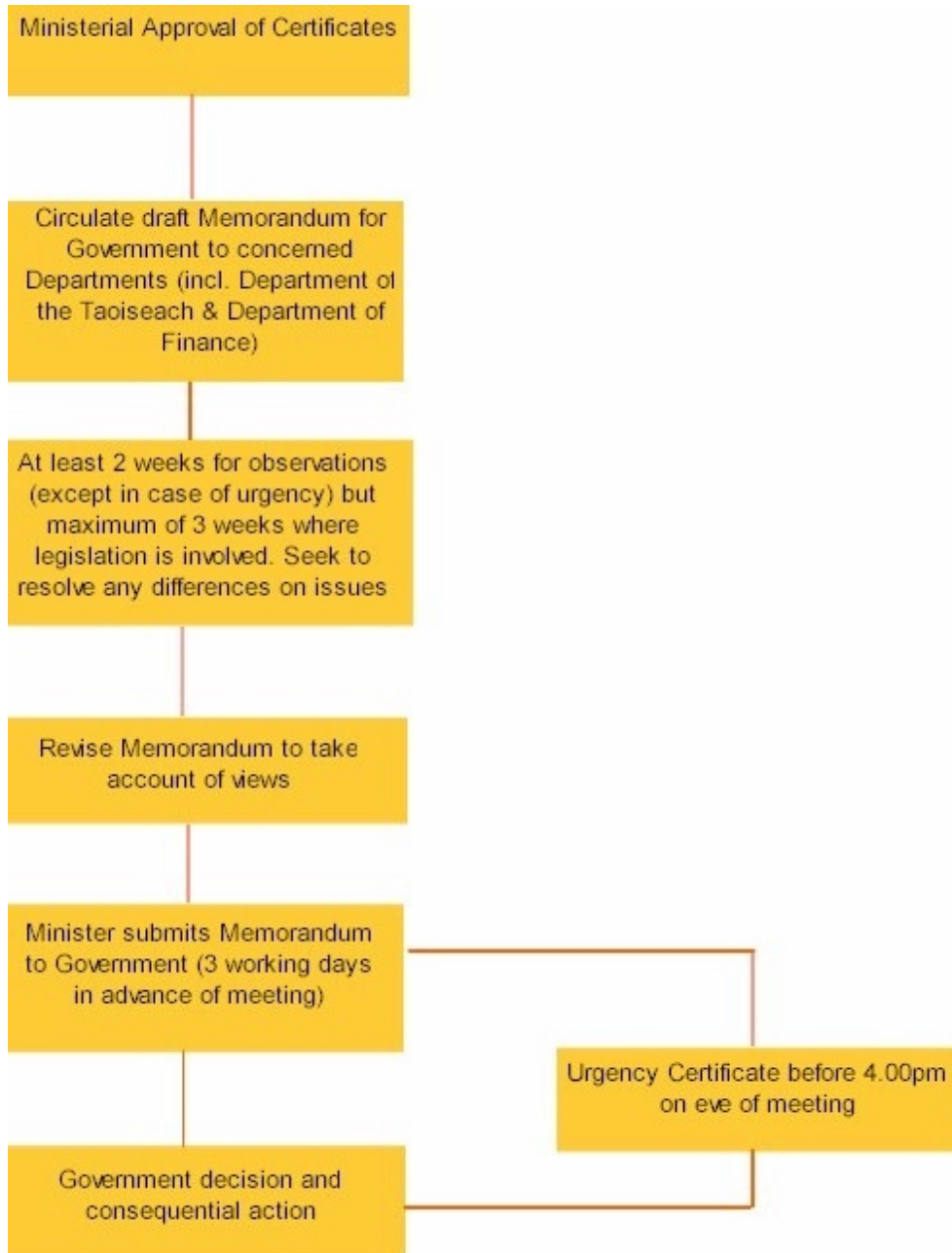
3.16

**Differences of opinion between Departments after circulation**

Should points of difference between Departments arise after the circulation of a memorandum to the Government, the Secretary General to the Government should be informed at once with a view to consulting the Taoiseach.

## PREPARATION AND SUBMISSION OF A MEMORANDUM TO GOVERNMENT

Detailed requirements are set out in Chapters 2 and 3



## Chapter 4

### PROPOSALS FOR LEGISLATION

*A flowchart is included at the end of the Chapter to assist in the preparation of legislation.*

#### 4.1

##### **Approval for policy**

Where proposals for legislation relate to matters on which Government policy has not already been laid down or where they involve a new development or a material departure from existing policy, they should first be submitted to the Government by way of a memorandum for a decision in principle.

#### 4.2

##### **General Scheme**

Following such a decision in principle, or where proposed legislation is in accordance with the general lines of policy, Government authority is sought for the drafting of the legislation in accordance with a general scheme.

#### 4.3

The promoting Department should prepare a general scheme of the proposed Bill in numbered heads. Each head should comprise

- (i) instructions for drafting, and
- (ii) explanatory notes, unless the heads are self-explanatory.

(See Appendix II for guidelines provided by the Office of the Attorney General)

#### 4.4

Where a constitutional issue, or a substantial issue involving legal policy, is likely to be involved, the Office of the Attorney General should be consulted on the issue (see Appendix III for guidelines on seeking legal advice from the Office of the Attorney General).

#### 4.5

The draft scheme should be forwarded to the Department of Finance (four copies), and every other Department which may be concerned (three copies each) and the Office of the Attorney General (three copies). Any scheme which relates to the preparation or auditing of Accounts or which contains a reference to the Comptroller and Auditor General should be referred to his/her Office for observations.

#### 4.6

##### **Submission of Legislative proposals to Oireachtas Committees**

Where legislative proposals are to be submitted to Oireachtas Committees for consideration in accordance with their terms of reference, such proposals should be based on a general scheme. In no case should such proposals be submitted without Government approval.

*The foregoing instructions do not apply to*

- (i) Appropriation Bills;*
- (ii) Finance Bills;*
- (iii) Bills to implement Budget proposals;*
- (iv) Expiring Law Bills;*
- (v) Restrictive Practices (Confirmation of Orders) Bills;*
- (vi) Provisional Order Confirmation Bills; and*
- (vii) Consolidation Bills.*



4.7

**Drafting of Text**

When the Government have approved the general scheme of a Bill, the Attorney General should be requested by the promoting Department to arrange for its drafting. Any subsequent instructions from the promoting Department should be addressed directly to the Parliamentary Draftsman.

4.8

**Consultations with outside persons/bodies**

During this stage consultations may take place with outside organisations if necessary but the text should not be disclosed to third parties prior to approval by Government and presentation to the Houses of the Oireachtas.

4.9

**Policy changes with substantial drafting implications**

Where any substantial drafting changes are contemplated as a result of policy changes, the policy changes in question should be specifically referred to Government for approval in advance of redrafting (to avoid extensive drafting of proposals which have not been approved at Government). The normal consultation procedures set out in Chapter 3 apply in the event that the proposed further provisions are to be submitted to Government

4.10

**Priority Drafting**

Applications to Government for priority in the programme of legislation being drafted should include a statement of the justification for such consideration and indicate the relative priority of the proposed Bill in the legislative programme.

4.11

**Text**

When the Parliamentary Draftsman has completed the draft Bill, the promoting Department may arrange to have the Bill printed on White Paper. Immediately the text becomes available, four copies should be sent to the Department of Finance, and three copies to any other Department concerned.

4.12

The accompanying memorandum for Government should seek approval of the text and authority to present the Bill to the Dáil (or Seanad) and to circulate it to Deputies (or Senators).

4.13

**Procedure following approval of text**

After approval by the Government of the final text of the Bill the promoting Department should arrange for its initiation in one of the Houses of the Oireachtas.

4.14

Most Government Bills will be initiated in either House by the method of 'presentation' which enables the publication of a Bill without the prior approval of the House.

4.15

Bills may also be initiated by the method of 'introduction' which requires the prior approval of the House, on motion made, before publication.

4.16

**In no case should a Bill be presented or introduced without specific Government authority**

4.17

In the case of a Bill other than Money Bills or Bills to amend the Constitution (both of which must be initiated in Dáil Éireann) the advice of the Office of the Government Chief Whip should be sought as to whether it should be initiated in the Dáil or the Seanad. (Guidance in relation to Money Bills is contained in the Outline of Public Financial Procedures published by the Department of Finance.)

4.18

**Introducing a Bill in the Dáil by long and short titles**

If the Government decide that a Bill should be introduced in the Dáil before the final text is available, three copies, duly certified, of the long and short titles of the Bill should be supplied to the Clerk of the Dáil - three certified copies of the final text of the Bill and explanatory memorandum being provided as soon as possible thereafter.

4.19

**Presentation of a Bill in the Dáil**

In the case of a Bill to be presented to the Dáil, the promoting Department will send to the Clerk of the Dáil three copies of the text and of any explanatory memorandum, certified by the Minister or by his/her Private Secretary, or, in their absence, by an officer of the Department not below the rank of Principal, with an indication of the date on which it is desired to have the Bill circulated.

(Note: Certification involves writing the words "Arna dheimhniú dom" or the word "Certified" followed by the signature of the certifying officer and the date, at the foot of the front page of the document concerned).

4.20

**Presentation of a Bill in the Seanad**

Similar arrangements will apply to a Bill to be initiated in the Seanad except for the substitution of the "Clerk of the Seanad" for the "Clerk of the Dáil", who will then arrange with a member of that House to present or introduce the Bill. The taking of the remaining stages of the Bill in the Seanad will be the responsibility of the Minister promoting the Bill.

4.21

**Publication of Bills**

**In arranging for the publication of Bills, the procedures laid down by the Office of the Houses of the Oireachtas and outlined in Appendix IV regarding Publication of Bills and Amendments in the Houses of the Oireachtas should be noted.** In particular, attention is directed to the requirements of the Standing Orders of each House in relation to notice.

4.22

**Explanatory and financial memoranda to accompany Bills on initiation**

Any Bill introduced or presented by or on behalf of a member of the Government, other than a Bill dealing with Budgetary or Estimates matters, should be accompanied by an Explanatory and Financial Memorandum to explain in simple, non-technical language, the provisions of the Bill, setting out the existing law and the changes therein proposed by the Bill and providing information about the estimated Exchequer costs and staffing implications for Departments, State Bodies, Local Authorities, etc. as follows:-

	Non-Capital Cost
	Capital Cost
	Paybill Cost
	Staffing Implications
(i) current year	?
	?
	?
	?
(ii) next year	?
	?
	?
	?
(iii) full year	?
	?
	?
	?
(iv) number of years before full cost/staffing reached	?
	?
	?
	?

unless the promoting Department consider that it is not practicable in the time available or not in the public interest to publish such information.

*This is a mandatory requirement in the case of Government Bills (other than Consolidation Bills).*

4.23

**Amendment of legislation following initiation in Dáil/Seanad**

Any communication regarding the drafting of amendments after the initiation of a Bill in either House, should be addressed to the Parliamentary Draftsman. Where proposed Government amendments to Bills going through either House have financial or economic implications or contain significant changes to policy not previously approved by Government, they should first be referred to Government or, in the case of urgent legislation, to the Taoiseach, the Minister for Finance and any other Minister concerned.

4.24

In arranging for the tabling and publication of amendments, the procedures outlined in Appendix IV regarding Publication of Bills and Amendments should be followed. In particular the requirements of the Standing Orders of each House in relation to notice must be observed.

4.25

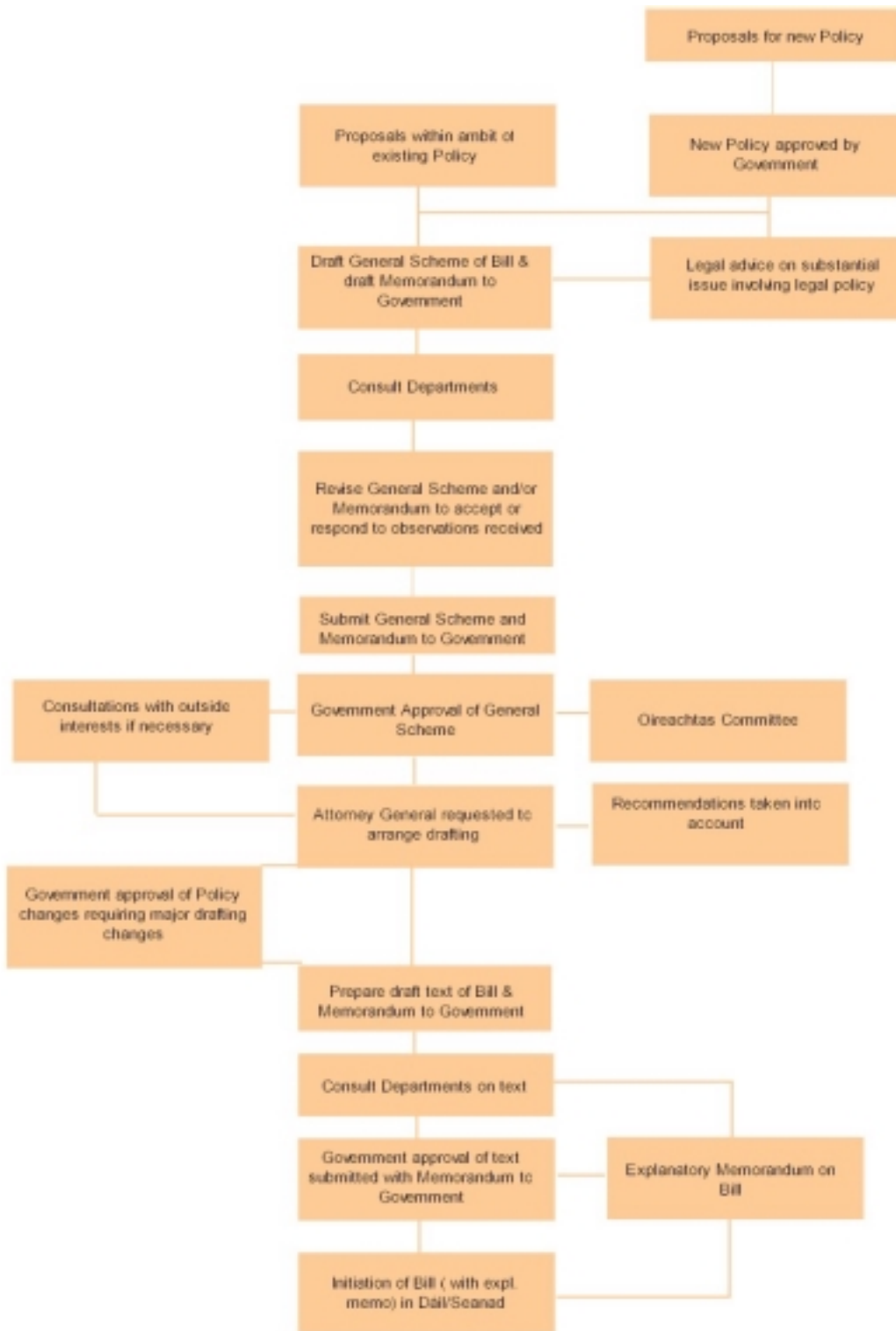
**Early signature of Bill by President**

Where it is imperative that a Bill should become law as soon as possible after it has been passed by both Houses of the Oireachtas and that the Government should, for that reason, invoke Article 25.2.2° of the Constitution, the Department promoting the Bill should submit a short memorandum, explaining the urgency and requesting the approval of the Government to invoke the terms of the Article. If time does not permit, an oral request should be made through the Secretary General to the Government for such approval.

4.26

If the Government accept the necessity for early signature, the Secretary General to the Government will issue a request to the Clerk of the Seanad to arrange to have the necessary motion moved in the Seanad.

**PREPARATION OF LEGISLATION**



## Chapter 5

### ORDERS

*The term "Orders" covers all statutory instruments e.g. Orders, Regulations, Rules, Schemes, Bye-Laws and Proclamations to be made or approved by the Government.*

#### MINISTERIAL AND DEPARTMENTAL ORDERS

##### 5.1

The draft of a Ministerial or Departmental Order should be submitted to the Government where Government approval is required by statute, where the Government have so directed, where the Minister concerned thinks fit or where the Attorney General so advises the Minister concerned. Presentation, gazetting, translation, printing, etc. of such Orders, following Government approval, is the responsibility of the promoting Department.

#### GOVERNMENT ORDERS

##### 5.2

##### **Drafting Approval for Government Orders**

Except for Orders of an urgent or recurring nature or where the terms of an Order are clearly within what is envisaged in the enabling legislation, the approval of the Government should be sought for the general principles before the Order is drafted.

Where any proposed statutory instrument, not required otherwise in this document to be drafted in the Parliamentary Draftsman's Office, amends any Act, the Attorney General should be requested by the Department concerned to arrange for its drafting or settling, as the case may be. Subsequent communications regarding the drafting or settling should be addressed to the Parliamentary Draftsman.

##### 5.3

##### **Covering Memorandum for Government**

The draft Order to be made by the Government should be submitted with a covering memorandum which should

- (i) give the background to the Order,
- (ii) state that the draft has been approved by the Parliamentary Draftsman,
- (iii) indicate clearly any departure from the decision authorising drafting that may have been found necessary,
- (iv) set out the full title of the Order in English and Irish - the Irish version to be obtained from Translation Section, Houses of the Oireachtas (the title in which the Order is not being made to be in brackets), and
- (v) state any statutory requirement concerning approval by the Houses of the Oireachtas.

##### 5.4

##### **Number of copies required**

Thirty copies of the draft Order and of the covering memorandum should be submitted for circulation to the members of the Government, together with 6 copies of the Order for subsequent presentation to the Houses of the Oireachtas.

Each of the six presentation copies of the Order should be accompanied by an explanatory note which should refer in particular to any European Union implications.

5.5

**Special sealing copy**

The Order to which the Seal of the Government will be affixed should

(a) be in double spacing (with inserts in single spacing) in the same, clear typeface and on vellum or linen-backed paper,

(b) have neither a separate title-page nor the testatum/seal isolated on a separate page,

(c) have each page (except the first) numbered - the pages should be loose,

(d) be checked, and initialled at the bottom left-hand corner of each page, by an officer not below the rank of Assistant Principal (or equivalent),

(e) have the testatum set out, as follows, at the right-hand side immediately below the text of the Order (or of the final Schedule or Appendix thereto):-

"GIVEN UNDER THE OFFICIAL

SEAL OF THE GOVERNMENT,

THIS                 day of

,                         ."

*The title of the signatory - Taoiseach, Tánaiste or Secretary General to the Government - should not be included*

(f) have space for application of the Government Seal i.e. a minimum space of 4 "(11 centimetres) below the testatum at the end of the last page.

5.6

**Presentation to the Houses of the Oireachtas and gazetting**

The Secretary General to the Government will notify the promoting Department and other Departments concerned (as mentioned in the memorandum) of the making of the Order and will arrange, where necessary or desirable, for the laying of the Order before the Houses of the Oireachtas and for a notice in the Iris Oifigiúil. In the case of an Order to be published in full in Iris Oifigiúil, the promoting Department should supply the full texts in both Irish and English.

5.7

**Other consequential action**

Responsibility is on the promoting Minister or Department to make arrangements, as necessary, for all other consequential action e.g. press notices, supply of sale copies to the Government Supplies Agency, advertisements, translation and printing, etc.

5.8

**Requirements for printed copies of Orders**

Printed copies of Orders which have been made by the Government should have the letters "L.S." placed in a circle at the left-hand side of the last page on a level with the testatum. Underneath the testatum should be printed the name and title of the person (Taoiseach, Tánaiste or Secretary General to the Government) who has authenticated the seal of the Government affixed to the Order.

5.9

**Other relevant instructions**

The following are relevant:

(a) Department of Finance memorandum on the Laying of Documents before the Houses of the Oireachtas (Appendix V) and

(b) the Printing and Publication of Statutory Instruments (Department of Finance Circulars Nos. 4/59 and 40/73).



## Chapter 6 Post-Meeting Procedures

### 6.1

#### **Notification of Decisions**

Government decisions are notified by the Secretary General to the Government to the Private Secretaries to concerned Ministers. Any consequential action which the Secretary General to the Government is taking (e.g. the presentation of papers to the Houses of the Oireachtas or the gazetting of a notice in Iris Oifigiúil) will be referred to in the minute conveying the decision. The agreement of the sponsoring Department will be sought in advance of such action. Any other action (e.g. the notification of appointees) will be the responsibility of the promoting Department.

### 6.2

#### **Decisions involving Constitutional or Statutory Action by the President or Government**

Where constitutional or statutory action by the President or by the Government is required on foot of a decision, the Secretary to the President or the Secretary General to the Government, as appropriate, will arrange for that action to be taken.

### 6.3

#### **Responsibility for Implementation of Decisions**

Where appropriate after action by the President or the Government, and in all other instances, it is the responsibility of the Ministers concerned to ensure that Government decisions, whether formal or informal, are implemented at the earliest practicable date (see also paragraph 2.22 regarding publication of appointments in Iris Oifigiúil).

### 6.4

#### **Ceremonies**

Ceremonies such as the swearing-in of Judges, the commissioning of officers of the Defence Forces, presentation of Full Powers and Letters of Accreditation/Recall, etc. should not be arranged until the availability of the President (or the Presidential Commission) to sign the appropriate document has been confirmed through the Government Secretariat.

### 6.5

#### **Sanction for Expenditure**

Approval of a proposal by the Government does not absolve the promoting Department from the need to obtain the specific sanction of the Minister for Finance, (where this is required) before expenditure is incurred, or for staff or organisational (including computerisation) changes.

### 6.6

#### **Summary Advice Note**

The Government Secretariat will supply, on a monthly basis, all Departmental Secretaries General with a schedule of the decisions issued to each Minister's Office in that period. This special notice will be advisory - for the purpose of a Secretary General's Departmental management only - and does not detract from the sole responsibility outlined in paragraph 6.3.

## Appendix I

### Government Guidelines for Office Holders Issued Pursuant to Section 15(4) of the Ethics in Public Office Act, 1995.

*The following guidelines have been issued by Government regarding the steps to be taken by office holders in respect of offers/gifts of goods or services provided within the State, or abroad.*

#### **1. General**

All office holders are expected to adhere to the fundamental principle that an offer of gifts, hospitality or services should not be accepted where it would, or might appear to, place him or her under an obligation.

The Public Offices Commission has issued guidelines to office holders on compliance with the Ethics in Public Office Act, 1995. These address, inter alia, the requirements on office holders to disclose certain gifts (in their capacity as Members of either House of the Oireachtas) and to surrender valuable gifts to the State where these are given by virtue of office.

However, certain supplies of property and services which are in the nature of gifts cannot be readily surrendered to the State, e.g. below cost loans, free services etc. Recognising this, Section 15(4) of the Act, 1995, provides that the Government will issue guidelines to office holders regarding the steps to be taken if an office holder, his/her spouse or a child, is offered or supplied with property or services, (e.g. travel), at below the commercial price, or with a loan of property free or below the commercial price, or a service free.

These guidelines provide accordingly. **It should be noted that office holders must comply with these guidelines which are applicable to such property and services provided either within the State, or abroad.**

#### **2. Who is covered by the guidelines?**

- An office holder: Under the Act, this means Ministers (including Taoiseach, Tánaiste and an AG who is a Member), Ministers of State, the Chairman and Deputy Chairman of each House of the Oireachtas. (A Chairperson of an Oireachtas Committee may also be designated by resolution of the House(s) as an office holder)
- The spouse of an office holder
- The child of an office holder or of his or her spouse

Different reporting arrangements apply as between Ministers/Ministers of State on the one hand, and office holders attached to either House of the Oireachtas on the other, in relation to matters under section 15(4). Where such differences arise, these are reflected in the guidelines.

#### **3. What is covered?**

The following come within the guidelines:-

- property or a service at below commercial price
- a loan of property free of charge, or for less than the commercial value of the loan
- a service free of charge

offered or supplied to an office holder, a spouse or child, by virtue of his/her office, where the net benefit of the lower price, free or cheaper loan or free service exceeds £500. A sample list of possible property and services is set out at the end of these guidelines.

#### 4. What does not come within the guidelines?

These guidelines do not apply where the benefit of the lower price, loan, or free service is less than £500. In addition, the guidelines do not apply to any offer or supply of property/services made:-

- as a donation for political purposes,
- for personal reasons only by a friend or relative,
- available also to members of the public, either generally (e.g. property arising from super-club points) or in particular circumstances (e.g. travel arrangements following family bereavement, missing a flight etc.)
- by virtue of a position other than that as office holder (i.e. by virtue of being a Member of the Houses of the Oireachtas, officer of a local club, or by being the holder of another position),
- in the course of and for the purpose of performance of duties of office holder, (e.g. hotel facilities for attendance at EU Council meetings), including representational role by spouse where this is in accordance with established practice,
- where there is no intention to and it does not, confer any benefit, directly or indirectly on the office holder.

#### 5. Steps to be taken...

Where an office holder, his/her spouse or child is offered or supplied with property or services at below the commercial price, or a loan of property free of charge, or for less than the commercial price, or is offered or supplied with a service free of charge, and, the net benefit of the lower price, free or cheaper loan or free service exceeds £500.....

##### 5.1 If offered

Where an office holder, or his/her spouse or child, is offered such property/services by virtue of his/her office, the offer must be refused.

##### 5.2 If supplied

(a)

(i) Where such property/services are supplied to a Minister\*/Minister of State by virtue of ministerial office, or s/he becomes aware that such are supplied to a spouse or child, s/he must notify the Secretary General to the Government in writing, and s/he must make an appropriate refund to the person supplying the benefit. The Secretary General to the Government will in turn inform the Taoiseach, Tánaiste and such other Minister as may be specified by Government, on the matter.

(ii) In the event of a refund to the donor not being practicable, the Taoiseach, Tánaiste and specified Minister shall determine alternative appropriate action, such as donation of an equivalent amount to a particular voluntary body or charity. A Minister\*\*/Minister of State must act in accordance with such a determination.

(iii) In all cases where such property/services are supplied, the Secretary General to the Government will notify the Public Offices Commission on the matter and on the action taken. Ministers/Ministers of the State must provide any information required by the Secretary General to the Government so as to enable him/her to discharge this function.

(b) An office holder who is not a Minister/Minister of State must notify the Public Offices Commission on the matter, and make a refund, or if this is not practicable, a donation, to be determined by the Commission, on the basis of (ii) above.

**\* Reference to Minister includes Taoiseach, Tánaiste and an AG who is a Member.**

**\*\* In the event of the Taoiseach, Tánaiste or specified Minister being the Minister by whom such property/services are received, s/he shall not participate in a determination under (ii) in relation to that particular matter.**

### 5.3 If unsure...

(a) If an office holder is unsure as to whether the net benefit involved exceeds £500, or whether or not the offer or supply of property or service comes within these guidelines, s/he should consult with the Secretary General to the Government, who will make a determination on the matter.

(b)

(i) The Secretary General to the Government will make such a determination in accordance with these guidelines and the general directions of Government relating to Section 15(3) of the Act.

(ii) Subsequently the Secretary General to the Government will advise the office holder, and the Taoiseach, Tánaiste and specified Minister, or the Public Offices Commission, as appropriate, on the matter. Where it is found that the matter comes within these guidelines, the office holder must act in accordance with 5.1 or 5.2 preceeding.

## 6. General

All office holders are reminded, that under the Second Schedule to the Ethics Act, they must also make appropriate disclosures in relation to gifts and related property/services to the Clerk of the Dáil or Seanad in their annual statements. This information will be entered in the Register of Members' Interests and laid before the appropriate House.

***Examples of property and services which could be offered, or supplied below cost, on loan or free.***

### Property

Examples would include:

- land
- offices or other buildings
- living or other accommodation, fixtures, fittings or furnishings
- machinery and equipment, including computers and photographic equipment
- modes of transport, including motor vehicles, boats, aircraft etc.
- bonds, shares, options or other similar instruments
- intellectual property such as computer software, patents, licences etc.
- artworks and precious objects
- livestock or other animals

### Services

Examples would include:

- Travel facilities e.g. free or subsidies
  - use of a car or other modes of transport,
  - chauffeur service,
  - aircraft flights or aircraft flights upgrades,
- Hospitality or entertainment e.g. free or subsidised
  - hotel or other accommodation,
  - meals, drinks,
  - use of accommodation, conference, function or other facilities, memberships of clubs, societies or other such memberships
- Secretarial and related services
- Financial or other professional advice/agency services e.g. free or subsidised
  - investment, banking, insurance or other business brokerage.

Guidelines approved by the Government on 8 May, 1996.

## **Appendix II**

### **GUIDELINES FOR DEPARTMENTS IN RESPECT OF THE PREPARATION OF GENERAL SCHEME OF BILL**

**Note:**

*The purpose of the following guidelines is to remind Departments sponsoring legislation of matters they should have regard to when drawing up Schemes of Bills for the approval of the Government. Failure by a Department to observe these requirements is likely to result in the preparation of the legislation in the Office of the Attorney General taking longer than would otherwise be the case. A Department which has failed to observe the guidelines cannot expect the drafting of its legislation to receive priority over the drafting of legislation for Departments which have observed the guidelines.*

**Preliminary**

1.

In the preparation of the Heads of a Bill, it is necessary for the civil servants in a Department promoting legislation to be knowledgeable in the subject matter concerned and with the requirements and procedures of the process for proposed legislation; for that reason they should have thoroughly familiarised themselves with the existing body of legislation and administrative practices to which the Heads will relate to enable adequate Heads to be prepared by them on -

(a) the substantive matter,

(b) the administrative requirements or consequences resulting from the substantive matter, and

(c) the consequential provisions (e.g. amendments and repeals, transitional provisions, etc.) necessary in the context of points (a) and (b).

**General**

2.

The Heads and notes should contain sufficient background information to enable the draftsman to see in perspective and in context the facts and the problems which the legislative proposals intend to meet.

3.

The principal objects of the legislation have to be clearly and fully stated and the heads and notes have to be sufficient to enable the draftsman to see what is the intended result.

4.

The Heads and notes should refer to all known implications and difficulties, whether legal, social or administrative.

5.

Although certain supplementary policy implications may only become apparent after discussions with (or a draft has been supplied by) the draftsman concerned, all policy matters that may have a bearing on the draft should be resolved by the Department (including inter-departmental matters) before the Heads are sent for drafting and supplementary policy implications should be resolved as quickly as possible.

## **Jargon and Technical Language**

6.

The Heads and notes should be expressed in language that will be comprehensible to the draftsman concerned, accordingly-

- (a) the use of jargon (administrative or otherwise) ought to be avoided;
- (b) where possible, technical language ought to be avoided and where it cannot be avoided it should be explained.

## **Use of Precedents**

7.

- a) Where Heads are based on a precedent, that fact should be referred to in the notes to the Head.
- (b) Where more than one appropriate precedent for a provision is known, each should be referred to and the reason given for the choice of one precedent over the other.
- (c) Care should be taken to check whether the precedent has been amended for any reason and, if it could be of relevance, drawn to the attention of the draftsman.
- (d) Where a precedent is taken from another jurisdiction copies of it will have to be supplied to the draftsman (unless he or she indicates otherwise) together with other relevant provisions (e.g., where appropriate, the definition or interpretation section).

## **Conventions and EU Directives, etc.**

8.

Where the proposed legislation is for the purpose of implementing international conventions or acts of the European Union, a copy of each relevant Convention or act to be implemented must be supplied to the draftsman together with-

- (a) either in the notes to the Heads or in a comparative table, sufficient information to identify where it is proposed in the Heads to implement each provision of the Convention or EU act;
- (b) where a provision is not proposed to be implemented, that fact should be drawn to the attention of the draftsman and the reason for the exclusion should be given;
- (c) where a convention or EU act is amending an earlier one which has already been implemented into Irish Law, copies of all the earlier Conventions and EU acts must be supplied to the draftsman (unless he or she indicates to the contrary) together with sufficient information to identify all the earlier implementing provisions.

## **Priority**

9.

Where priority over other Bills is sought for the drafting of a Bill, the request will be communicated by the Government Chief Whip to the Attorney General who will issue instructions to the draftsman concerned.

### **Provision of Facilities**

10.

Where a Department considers it appropriate (e.g. urgency or size of proposed Bill) it should discuss with the draftsman concerned whether any facilities could be offered by it which would assist in shortening the timescale for drafting, e.g. the Department holding the material on a word processor for the draftsman, the supplying of the Heads or other material on disk or electronically or the provision of other secretarial facilities.

### **Other and Special Cases**

11.

The above guidelines are guidelines for general application, in certain cases they may not all be direct relevance or applicability because of the nature of the proposed legislation (e.g. the annual Finance and Social Welfare Bills); in such cases direct consultation is necessary on this matter with the draftsman concerned.

12.

While these guidelines primarily deal with Bills, they are also generally of relevance to the drafting of statutory instruments, in particular, the drafting of Regulations to give effect to acts of the European Union.

Office of the Attorney General,  
May 1998.

## Appendix III

### GUIDELINES FOR GOVERNMENT DEPARTMENTS OR OFFICES SEEKING LEGAL ADVICE FROM THE OFFICE OF THE ATTORNEY GENERAL

*These guidelines are intended to assist officers of Government Departments or Offices who have occasion to seek legal advice from the Office of the Attorney General. The aim is to ensure that requests for advice are accompanied by all necessary information so as to eliminate unnecessary requests for further information from the Office of the Attorney General which may delay the provision of the advice sought.*

1. When advice is being sought on a particular matter, previous relevant advices should be consulted by the Department in advance and should be referred to in the request for advice.
2. A request for advice about a law or statutory instrument which the Department is responsible for administering should, where appropriate, include relevant information about the Department's experience in such administration and the Department's views on the point raised and its reasons for those views.
3. A request for advice should include details of all relevant legislation, primary or secondary, domestic or E.U. and Treaties or Conventions of which the Department is aware. A copy of the relevant legislation or Treaty, etc., with the exception of Acts of the Oireachtas and E.U. Treaties, should be attached. The Department should also refer to any relevant court judgements or decisions of which they are aware particularly if these are unreported or unlikely to be contained in any legal databases.
4. Requests should be as specific and precise as possible. The more specific a request is, the faster it can be dealt with.

Office of the Attorney General  
9 October, 1996.



## Appendix IV

### PUBLICATION OF BILLS AND AMENDMENTS IN THE HOUSES OF THE OIREACHTAS

*Oireachtas Procedures re: Publication of Bills and Amendments (see par. 4.21).*

#### **1. Introduction**

The Bills Office in the Office of the Houses of the Oireachtas is responsible for the printing and circulation of all Bills and proposed amendments thereto and the formal provisions governing the initiation of Bills and the tabling of amendments are contained in the Standing Orders of Dáil and Seanad Éireann. It should be noted that the procedures set out in this memorandum complement Government procedures in relation to the initiation of Bills.

As requests continue to be made by Departments for special arrangements to be made in the publication of Bills and amendments, prepared by them, the purpose of this memorandum is to bring to your attention the practical requirements involved in the printing and circulation of Bills and amendments, as their non-observance from time to time has given rise to some difficulties in the past.

In particular, attention must be drawn to the dangers in "rush printing" Bills. In one notable case, the text of a Bill which was circulated without due regard to the provisions of this memorandum was later found to be seriously defective. In other cases, it has been necessary to table formal amendments in the House in order to remedy relatively minor errors arising in Bills. Considering the undesirable consequences which can arise, it must be stressed that the Bills Office cannot accede to any requests for urgent publication where there is a reasonable risk of errors being made in the text of the Bill when published.

#### **2. Notice and Printing of Bills**

The earliest time by which a Bill can be published is the second working day after it is presented to the Bills Office. This allows for-

- (a) examination of certified copies of the text in the Bills Office on the day of presentation (Bills should be presented to the Bills Office before 3p.m.),
- (b) overnight proof-printing on the first night following presentation,
- (c) proof-reading by the Bills Office and the sponsoring Department on the following day,
- (d) final printing on the second night, and
- (e) circulation of the Bill to Members on the morning of the second day.

This is the minimum time required to publish a Bill and may be increased by factors such as-

- (i) the need for revised (overnight) proof-printing (particularly if the Bill, on presentation, has not already been typeset on white paper - "white printing"\*)
- (ii) the time required by the printer (in the case of large Bills or when other parliamentary printing work takes precedence) to physically print the full supply of the Bill.

Similar timescales and constraints apply in the case of re-printing Bills which have been amended at committee or report stage.

Requests to deviate from the procedures outlined above cannot be accommodated, because to allow such concessions would restrict the ability of all concerned to ensure the accuracy and quality of the final publication and may give rise to minor drafting amendments at committee or report stage which could be a source of embarrassment to the Minister concerned, and would afford less than due attention to the initiation of the legislative process.

In general, it is considerable benefit to all concerned if Departments give as many days' advance notice as possible to the Bills Office of their intention to publish a Bill.

\* **White Printing:** When (and only when) a Department has refined the text of a Bill into its final form, but before the text has been submitted for final Government approval prior to publication, the Department may, if time permits, arrange directly with the parliamentary contract printer to have the text typeset and to have proofs (or a few printed copies) supplied to it on white (cream) paper for checking against the original draft. This procedure has the advantages of resolving the Bill (and especially large Bills) into a more compact and presentable standard format for consideration by the Government and it can be also expedite and smoothen the printing processes outlined in this memorandum, partly by putting them in train earlier. Any changes made at Government may be incorporated in manuscript on the white copy before presentation of the Bill to the Bills Office for publication on green (Dáil) or yellow (Seanad) paper.

The Stationery Office arranges the placing of a parliamentary printing contract with a private company on behalf of the Bills Office. Once a Bill has been presented, the Bills Office thereafter assumes sole responsibility for its proofing, printing, circulation to Members and publication in accordance with a timeframe agreed with the Department concerned. During this period, a confidential and exclusive working relationship exists between the Bills Office and the contract printers.

Departments should thus note clearly that they are prohibited from becoming involved in querying, altering or countermanding any instructions given to the printer by the Bills Office as doing so can have the most detrimental and unforeseen consequences and may, in certain circumstances, give rise to a result directly contrary to that sought to be achieved.

### 3. Notice and Printing of Amendments

The Standing Orders of both Houses of the Oireachtas provide a deadline for the giving of notice of amendments to the Bills Office:

in the case of Dáil Éireann, the deadline is 11a.m. on the day preceding that on which the Committee or Report stage of the Bill is to be taken;

in the case of Seanad Éireann, the deadline is 11a.m. on the second preceding day before the Committee or Report stage is to be taken.

However, the Chair in each House (or Select Committee) has the discretion to allow amendments to be moved on shorter notice (in both Houses) or without notice (exceptionally, and in the Dáil only).

Notwithstanding that the actual deadlines outlined above may be shorter, the constraints which affect the printing and circulation of amendments are basically the same as those outlined above in relation to the printing of Bills, namely, that, in order to ensure textual accuracy and proper ordering of amendments, an overall two-day processing time is required before printing a numbered, ordered list of all proposed amendments for a committee or report stage. Up to this point, amendments are circulated unnumbered and in typed form as soon as possible after, and in whatever order, they are received by the Bills Office. The final numbered, ordered list of amendments is printed and circulated on the day the relevant stage of the Bill concerned is scheduled to be debated.

While it is accepted that the legislative process cannot be unreasonably constrained by the rigid enforcement of these deadlines for the receipt of proposed amendments, it must be borne in mind that, in order to maintain the requisite standards of accuracy and quality of printing of the legislation as amended, the processing times outlined above must be observed in so far as possible.

To this end, Departments and Members are required to give notice of proposed amendments as soon as possible after a particular item of legislation has been scheduled for consideration in committee or on report stage and as far as possible in advance of the actual deadline set down in Standing Orders.

As the schedule of business for each week is usually known in the Government Whips' Office on the preceding Thursday, this means that written notice of proposed amendments for a committee or report stage should be submitted in due time - ideally two preceding working days before the Bill is due to be taken.

For the Bills Office to accept amendments from a Government Department at any time later than this means that the same latitude has to be afforded to opposition Members. As a result, considerable difficulties can be experienced by all concerned in terms of the revision of briefing material for Ministers, the Ceann Comhairle and the Cathaoirleach, as the case may be.

#### 4. Circulation and Publication of Bills and Amendments

Bills are, first and foremost, parliamentary documents and, as such, must be circulated in the first instance to Members of the Oireachtas. This is usually achieved-

- (a) by delivering copies by post to Members at their chosen business addresses (usually Leinster House), or
- (b) on days when the Houses are not in session, by posting copies to Members at their chosen alternative addresses (usually their home or constituency office).

Notwithstanding any postal delays which may arise, a Bill is considered to have been circulated to Members when a reasonable assumption can be made that the Members would have received the Bill either in Leinster House when circulation takes place on a sitting day or at their alternative addresses or Leinster House on a non-sitting day.

This process of circulation is the accepted, long-standing practice in this matter and has enabled Members to become aware of the publication of new proposals for legislation at the earliest possible time. Accordingly, the Bills Office cannot deviate in any way from this practice in anything other than the most extenuating circumstances.

The Bills Office, therefore, is not prepared to become involved in delaying the circulation of Bills or circulating them manually at a given hour so as to coincide with the holding of a press conference or the issue of a press release or for any other reason that is not directly related to the business of the Houses, as this would represent an infringement of the rights of Members to gain access to parliamentary documents at the earliest possible date, and could potentially constitute a breach of privilege if the contents of the Bill were disclosed at a press conference or otherwise before the Bill could have reasonably been received by Members.

#### 5. Further Information

Any enquiries in connection with these matters or seeking further details as regards the publication and processing of Bills may be directed to the Bills Office in writing or by telephone at (01) 6183374, 6183456 and by fax at (01) 6184108.

Public Bills Office,  
Office of the Houses of the Oireachtas,  
Leinster House,  
Kildare St.,  
Dublin 2.

27 April, 1998.

## Appendix V

### Laying Of Documents Before the Houses of the Oireachtas

Department of Finance Circular, 3/78.

#### **Classification**

1. Documents to be laid may be classified generally as follows:-

- (1) documents laid in obedience to a statute or in pursuance of an order of both Houses or of either House of the Oireachtas.
- (2) (a) documents relating to matters likely to be the subject of subsequent legislation; and  
(b) documents which are regarded for other reasons as necessary or of advantage to members of the Dáil/Seanad in connection with the discharge of their duties as such members.

#### **Procedure for laying documents**

2. Documents are laid before both Houses of the Oireachtas except where a statute provides for the laying before the Dáil only, or where by order of one House a document is required to be laid before that House, in which cases the document is laid before one House only. The laying of a document before both Houses of the Oireachtas is effected by the Department concerned forwarding to the Clerk of each House (for the attention of the Librarian) three copies of the document accompanied by a form - obtainable from the Stationery Office - requesting that the document be laid before the House; details on this form should be carefully filled in. If the document is to be laid before one House only, six copies, with the form mentioned, should be sent to the Clerk of that House. This procedure should be followed even though the Houses are not sitting.

#### **Delivery of Supplies to the Oireachtas**

3. Where a document is likely to be the subject of subsequent legislation, or where it is considered necessary for other reasons to do so, copies should be distributed to each member of the Houses of the Oireachtas. The Department from which the document emanates will be responsible for supplying the General Office, Leinster House, with 325 copies of the document for this purpose together with appropriate instructions. In the case of every other document which is not being distributed to each member of the Houses of the Oireachtas, but which is of more than passing interest, 25 copies should be sent by the Department concerned to each of the following

- (a) The General Office, Leinster House - to be available for members who may ask for a copy; and
- (b) the Office(s)/Leader(s) of the Opposition Party/Parties in Leinster House.

These procedures should be carried out simultaneously with the formal laying of the document before the Houses of the Oireachtas but they do not dispense with the necessity for formal laying as required by paragraph 2.

#### **Premature publication and placing on sale**

4. It should be especially noted that documents to be laid before the Houses of Oireachtas must not be published before being so laid. A breach of this direction is a serious infringement of parliamentary privilege. Accordingly no issue to the public (and issue to the public includes the issue of complimentary or other copies to the news media but not advance copies or summaries which are given to the news media and carry on their face an embargo on publication before the day of laying) shall be made until it is known that the document has been laid and is available, therefore, in the Library at Leinster House for members of the Houses of the Oireachtas. The Librarian will notify the Stationery Office and the Department laying the document, immediately the document has been placed in the Library. It is desirable, however, that once parliamentary requirements have been satisfied there should

be no delay in issue to the public. Information can be obtained from the Librarian by telephone as to whether a particular document has been laid or not. In the case of a document which it is desired to issue to the public as a matter of exceptional urgency, the despatch of the document with the appropriate form (by hand if Leinster House is open, by post if not) to the Clerk of each House or of one House, as the case may be, will be deemed to be sufficient compliance with these instructions should the Librarian not be available at the time.

#### **Numbering of documents**

5. Every document laid before the Houses of the Oireachtas should receive a number in the parliamentary series even though it may not be regarded as of sufficient importance to be printed. The parliamentary number (PrI.---) will be allotted by the Stationery Office and should be inserted at the bottom left hand corner. In the case of a document which is being published and is intended for laying, a parliamentary number should, where practicable, be got - by telephone if necessary - from the Stationery Office and inserted at the duplicating stage so that it will appear on the published document; care should be taken to ensure, that even in such a case, the document is not placed on sale before laying. Should the document be printed subsequently, the Stationery Office should forward six copies to the Librarian.

#### **Government Instruments**

6. In the case of instruments executed by the Government, the Department of the Taoiseach will arrange, where necessary, for laying.

#### **Size of documents**

7. To facilitate filing, binding, etc., all printed documents should be produced in a standard size. The Government Supplies Agency should be consulted about current practice.

#### **Requisitions for printing of documents**

8. The Department responsible for a document will usually be aware, at the outset, whether or not it is intended to lay it before the Houses of the Oireachtas, and the form of requisition on the Stationery Office for printing should be completed accordingly. The full number of copies required by the Department (including those to be laid) should be stated on the requisition, as the subsequent ordering of extra copies involves additional expense. If it is impossible at the time to state the exact number, the figure should be supplied to the Stationery Office before the document is finally printed. It is within the province of the Stationery Office to question (a) the necessity of printing or duplicating any document and (b) the number of copies requisitioned. In the event of disagreement, the Department concerned should consult the Department of Finance whose decision will be final.

#### **Signing of requisitions**

9. Requisitions for printing of Statutory Instrument, annual reports and accounts and statistical publications (i.e. documents issued annually or periodically where the format has been agreed with the Stationery Office) may continue to bear the signature of the officer hitherto authorised to sign them. In order to ensure, however, that full consideration will be given to the question of issue in the correct form no new document which is to be laid before the Houses of the Oireachtas should be put forward for printing without the signature of a Principal Officer or officer of equivalent rank.

#### **Laying of reports, etc., of Statutory Bodies**

10. Departments responsible for laying documents on behalf of State Sponsored Bodies should ensure that the terms of this Memorandum are brought to the notice of such bodies so as to ensure uniformity of practice. To the same purpose other bodies, statutorily empowered to lay documents before the Houses of the Oireachtas, should be notified of the terms of this Memorandum by the appropriate Departments.

**Officer responsible within a Department**

11. Each Head of a Department should nominate an Officer to be responsible for the observance within his Department of the instructions contained in this Memorandum.

Department of Finance  
June, 1978.

## Appendix VI

### Quality Regulation Checklist

1. Is the proposed legislation and/or regulation absolutely necessary? Is the problem correctly defined and can the objective be achieved by other means (i.e. improved information, voluntary schemes, codes of practice, self-regulation, procedural instructions)?
2. Will the legislation affect market entry, result in any restrictions on competition or increase the administrative burden?
3. Is the legislation compatible with developments in the Information Society, particularly as regards electronic Government and electronic commerce?
4. Outline the consideration which has been given to exemptions or simplified procedures for particular economic or social sectors which may be disproportionately burdened by the proposal, including the small business sector.
5. Outline the consideration which has been given to application of the following principles:
  - (a) Sunsetting i.e. establishing a date by which the measure will expire unless renewed
  - (b) Review date i.e. a predetermined date on which the efficacy and impact of the proposed new measure will be reviewed
  - (c) the "Replacement" principle i.e. where the body of regulations/legislation in a particular area will not be added to without a corresponding reduction through repeal of an existing measure.
6. Outline the extent to which interested or affected parties have been consulted, including interest groups or representative bodies where such exist. A summary of the views of such parties should be provided.

## **Appendix VII**

### **Rural Communities**

Indicate the impact of the proposed measure, if any, on the physical, economic and social conditions of people living in the open countryside, in coastal areas, towns and villages and in smaller urban centres outside of the five major urban areas (i.e. Cork, Dublin, Galway, Limerick and Waterford).