



**AN BILLE UM EITIC IN OIFIGÍ POIBLÍ, 1994**  
**ETHICS IN PUBLIC OFFICE BILL, 1994**

**EXPLANATORY MEMORANDUM**

**Introduction**

The Bill provides for the disclosure of interests by people holding public office or employment, and deals with gifts to office holders and with personal appointments by office holders. It also establishes an independent Commission, and a Select Committee in each House of the Oireachtas, to oversee its key provisions.

**Disclosure of interests**

The Bill provides for the making of annual written statements of certain personal interests of the following:

- Members of the Oireachtas;
- Office holders, i.e. the Taoiseach, Ministers and Ministers of State, Ceann Comhairle and Leas-Cheann Comhairle, Cathaoirleach and Leas-Cathaoirleach.  
(The Oireachtas may also designate chairpersons of Oireachtas committees as office holders for the purposes of the Bill);
- Senior special advisers;
- Senior public and civil servants in designated positions;
- Designated directors of State bodies;
- Senior executives holding designated positions in State bodies.

The statements provided by Oireachtas Members and office holders will be entered in a register and published. Statements of interests of senior special advisers will be laid before the Houses of the Oireachtas and given to the Commission.

The Bill sets out, in respect of each category, to whom statements are to be given.

Apart from ordinary Oireachtas Members, any person making an annual statement must include those interests of a spouse or child which are known to the person making the statement and which could materially influence that person in the performance of his or her public duties.

Statements made by public and civil servants, directors and executives in respect of their personal interests and those of a spouse or

child will be confidential, but will be available to the Commission either directly or on request. Any interests disclosed by an office holder or special adviser in respect of a spouse or child will also be confidential but will be furnished to the Commission and, in the case of Ministers and Ministers of State, also to the Taoiseach.

#### **Ad hoc disclosure of interests**

The annual disclosures are supplemented by provisions in the Bill requiring once off declarations where a potential conflict of interest could arise in the performance of official duties or functions, between the public interest and the interests of the individual concerned or the interests of connected persons, e.g. close relatives or business partners.

Designated public and civil servants, senior executives and board members of State bodies and special advisers are generally prohibited from performing a function where there is a conflict of interest unless there are compelling reasons, which must be given in writing, for such performance.

#### **Interests to be declared**

The *Second Schedule* to the Bill sets out the categories of registrable interests. These comprise:

- outside income,
- shares, etc.,
- directorships,
- land holdings (other than family homes),
- certain gifts of property or services (subject to exclusions e.g. personal gifts),
- certain travel, accommodation, etc. provided free or below cost,
- consultancies etc.,
- public contracts,
- other interests which could materially influence the person in the performance of the functions or duties of their position.

The Bill does not require the disclosure of the value of any such interests. Interests below a threshold value do not have to be disclosed, e.g. gifts worth less than £500, income of less than £2,000 or property or shares worth less than £10,000.

The Committees and the Commission will issue guidelines and provide advice to those required to disclose interests under the Bill.

#### **Gifts to office holders**

The Bill provides that gifts worth over £500 to office holders, their spouses or children, which are given by virtue of that office are to become the property of the State.

#### **Appointments by office holders**

The Bill provides that personal appointments by office holders (e.g. personal assistants, special advisers) will be temporary and will cease

when the office holder leaves office. The Government will be precluded from appointing such persons to permanent positions in the civil service.

Details of personal appointments by office holders are to be laid before the Houses of the Oireachtas, including details of the contract of appointment and whether the appointee is a relative of the office holder. In the case of senior appointees, details of the relevant qualifications of the appointee and of his or her interests are also to be laid before the Houses.

These arrangements apply equally to appointments whether on an employee or on a contract basis.

#### **Overseeing the Bill**

The Bill provides for the making of complaints and for the investigation of possible contraventions of its provisions. Compliance with the terms of the Bill is deemed to be a term of appointment of designated public servants, senior executives and board members of State bodies and of special advisers.

Under the Constitution each House of the Oireachtas regulates its own affairs. The Bill, therefore, provides for separate investigation arrangements in relation to ordinary Members of the Oireachtas. The Bill also provides for resolutions of the relevant House(s), bringing the Bill into effect for the House(s).

#### **Select Committees**

In the case of ordinary Members of the Oireachtas, a Select Committee of each House will investigate complaints in relation to a Member and will report to that House. The Bill provides for a range of possible sanctions by the House arising from such reports.

#### **Commission**

The Bill provides for a Commission comprising—

The Comptroller and Auditor General,  
The Ombudsman,  
The Ceann Comhairle,  
The Clerk of the Dáil,  
The Clerk of the Seanad.

The Commission will undertake the investigation of complaints in relation to office holders, special advisers, public servants, including civil servants, and senior executives and directors of State bodies.

The Select Committees and the Commission are also entitled to undertake investigations on their own initiative. They both have powers to call witnesses and send for records in pursuing an investigation.

#### **Offences**

The Bill creates a number of offences in respect of failure to comply with directions of the Committees or the Commission in relation to investigations. The unauthorised disclosure of information such as that contained in confidential statements will also be an offence.

The Bill amends the Prevention of Corruption Acts, 1889 to 1916 to ensure these apply fully to office holders, directors of State bodies and to all those employed in the civil service and wider public sector. The penalties are also updated and rationalised.

## **Arrangement of Bill.**

### ***Part I — Preliminary and General***

*Part I* contains provisions for short title, commencement and collective citations and interpretation, and for regulations and expenses.

### ***Part II — Members***

*Part II* provides for statements of interests to be made by Oireachtas Members (including office holders), and a public register of those interests, the appointment of Select Committees in each House to deal with complaints and to investigate possible contraventions of the Act by Oireachtas Members, reports by Committees, the award of costs by Committees, and for guidelines and advice from the Committees.

### ***Part III — Office Holders***

Under this Part, office holders will be required to make certain statements additional to those required of them as Oireachtas Members under *Part II*. Arrangements are also put in place to deal with certain gifts (including gifts of services) made to office holders, or to a spouse or child of an office holder.

### ***Part IV — The Public Service***

This makes provision for statements of interests to be made by designated directors and those holding designated positions of employment in public bodies, and by special advisers to office holders.

It also provides for procedures relating to personal appointments by office holders.

### ***Part V — The Commission***

This contains provisions for the establishment, membership and functions of an independent standing Commission to deal with complaints and to investigate possible contraventions of the Act by office holders, special advisers, and by designated directors and those holding designated positions of employment in public bodies.

Provision is also made for reports of investigations, for guidelines and advice from the Commission, the award of costs, and the making of annual and special reports by the Commission.

### ***Part VI — Miscellaneous***

Provision is made supplementing the annual statements requirements of *Parts II, III and IV*, and for the following: action by the Houses where reports of contraventions are laid before them; the discontinuance of investigations in certain circumstances; the powers of the Select Committees and the Commission in investigations; the independence of the Commission and its members; the period during which statements of interests must be retained and be available to the Commission on request; a prohibition of the disclosure of confidential information; the mandatory nature of determinations of the Committees and the Commission; provisions in relation to offences; and the amendment of the Prevention of Corruption Acts, 1889 to 1916.

## **Detailed Provisions.**

### ***Part I — Preliminary and General***

*Sections 1 to 4* respectively contain provisions for: short title, commencement, partial cesser and collective citations; interpretation; regulations; and expenses.

*Section 1* provides that the Act will be commenced in relation to Ministers, Ministers of State, special advisers, and the holders of

designated directorships or positions of employment in public bodies, by order of the Government. In relation to the Houses of the Oireachtas and the Members of these, including the Chairman and Deputy Chairman and the Clerks and committees, the Act will be commenced by resolutions of the Houses.

Section 2 provides for interpretation. Two definitions are of special importance viz. "material interest" and "connected person".

Simply stated, a "material interest" (or possible conflict of interest) arises where the performance of the duties or functions of an office or employment could so affect the personal interests of the office holder or employee or those of a "connected person" as to confer a significant personal benefit.

"Connected person" includes a spouse or child, other close relatives, certain trustees, partners, and connected or controlled companies.

Both definitions are contained in section 2 (3) and 2 (2) respectively.

Section 3 provides for regulations in which, *inter alia*, the Minister for Finance will be able to designate directorships and positions of employment in the public bodies covered by the *First Schedule*. The holders or occupiers of these directorships or positions will be required to make the disclosures of interests referred to above.

#### Part II — Members

Section 5 provides that Oireachtas Members (including Ministers and Ministers of State) will furnish annually to the Clerk of the Dáil or Seanad, as appropriate, a written statement of their registrable interests (listed in the *Second Schedule*). These statements will be in respect of Members' interests only i.e. the interests of spouses or children will not be given (except in the case of office holders—see *Part III* below).

It is also provided that it will not be necessary to specify in such statements, the amount or value of any interest or the remuneration of any outside occupation.

Section 6 requires each Clerk to enter each statement received, or a copy, in an annual register and to lay that Register before the relevant House within a set time, to publish it in the Irish Oifigiúil, and to provide a copy to the Commission (see *Part V* below). Statements of Ministers and Ministers of State will also be given to the Taoiseach.

The Clerks will be empowered to correct errors in the register and to take account of any statements made under section 28 (e.g. voluntary updating statements — see *Part VI* below). Details of these will be published also.

Section 7 requires that an Oireachtas Member (including a Minister or Minister of State), speaking or voting in Oireachtas proceedings in which that person or a "connected person" has a "material interest", must declare that fact. No such statement need be made if the relevant interest has already been disclosed in the Member's annual statement.

Such declarations will be published in the Order Paper of the relevant House of the Oireachtas.

Sections 8 and 9 provide for the appointment by each House of a Select Committee on Members' Interests to deal with complaints about, and to investigate possible contraventions of the Act by serving

Members (excluding office holders — see under *Part V* below for the position in relation to these).

Complaints by non-Members will be made to the relevant Clerk who will refer these to the relevant Select Committee, unless he or she considers the complaint to be frivolous or vexatious. In such cases the Clerk will report that finding to the complainant, the Member complained of, and the Select Committee.

Members complaining about possible contraventions of the Act by other Members will do so directly to the relevant Select Committee. However, under *section 29* (see *Part VI*), such complaints will not be proceeded with if the committee forms the opinion that the complaint is frivolous or vexatious. In such cases, the complainant and the person complained of will be notified accordingly, in writing.

*Sections 8* and *9* provide also that complaints made or investigations commenced will be taken no further if the Member complained of, or under investigation, ceases to be a Member, unless that Member requests the Committee to carry out, or complete, an investigation.

Under *section 10*, a Committee will prepare a report on each investigation it completes setting out its findings as follows:—

whether there has been a contravention of the Act, whether it is continuing, and, if so, the steps to be taken by the Member to secure compliance with the Act;

whether, where the Committee finds that there has been no contravention, the complaint was frivolous or vexatious or that there were no reasonable grounds for it;

whether any contravention was inadvertent or negligent or reckless or intentional;

whether the contravention was a serious or minor matter;

where there has been a contravention, whether the Member acted in good faith or in the belief that he or she had acted in accordance with guidelines issued or written advice given by a Committee.

Where a report finds that a Member was in contravention of the Act, that report will be laid before the relevant House (see under *section 27, Part VI* for the sanctions that could apply in this situation). Otherwise, reports are made to the Member complained of, and any complainant.

Where a report of a Select Committee on Members' Interests finds that a Member is to take specified steps to secure compliance with the Act, he or she must take those steps as soon as may be or as otherwise directed (see *section 34* in *Part VI*).

*Section 11* provides that where a Committee finds that a complaint is frivolous or vexatious or that there has not been a contravention and that there were no reasonable grounds for the complaint, it may order that a complainant is to pay some or all of the costs and expenses incurred subject to a limit of £1,000 in relation to the investigation. These costs will be measurable by the Committee and will be recoverable as a simple contract debt in the courts.

Under *section 12*, a Select Committee will be obliged, after consultation with the other Select Committee and the Commission, to publish mandatory guidelines concerning the steps to be taken by Members to ensure compliance with the Act. Members will also be

able to seek specific advice on any provision of the Act and, where the relevant Committee gives such advice, the Member must act on it.

Pending a Committee's response to a request for advice e.g. in relation to whether a particular interest is registrable, any requirement to include such an interest in the annual statement will not apply. The Committee will have 21 days to respond to a request. If the advice emerges that the interest is registrable, the Member will be obliged to disclose it in the annual statement, or if that statement has already been made, in a separate amending statement under *section 28* (see *Part VI*).

*Section 12* also provides that a Committee will not recommend certain of the sanctions provided for under *section 27, Part VI*, where it finds that a Member, or where the Commission finds that an office holder, contravened the Act while acting in good faith or in the belief that his or her actions were in accordance with guidelines published, or advice given in writing, by a Committee or the Commission, as appropriate.

### *Part III — Office holders*

"Office holder" is defined in *section 2, Part I* as including Ministers, Ministers of State, and the Chairman and Deputy Chairman of both Houses of the Oireachtas. There is also scope to designate, by resolution of the relevant House or Houses, the chairpersons of Oireachtas committees as office holders for the purposes of the Act.

In *Part III*, office holders are required to make certain statements additional to those required of them as Oireachtas Members under *Part II*.

*Section 13* requires office holders when making an annual statement under *section 5*, to make a confidential statement of any "additional interests" i.e. certain interests (defined by reference to the *Second Schedule*) of a spouse or child which could materially influence the office holder in the performance of his or her functions.

Such statements of "additional interests" will be made to the relevant Clerk, but will not be published. The Clerk will copy these statements to the Commission and, in the case of office holders who are Ministers and Ministers of State, to the Taoiseach.

As in the case of annual statements made by Oireachtas Members, it will not be necessary to specify the amount or value of any interest or the remuneration of any outside occupation.

*Section 14* provides that where a Minister or Minister of State has a "material interest" (see under *section 2* above) in the personal performance of his or her function as a Minister, he or she will be obliged to furnish a written statement to the Taoiseach setting out the facts and the nature of the interest. Where the Taoiseach has such a material interest, he or she will furnish such a statement to the Chairman of the Commission. Other office holders will furnish such statements to the Commission.

Any such statement not furnished directly to the Commission will, nevertheless, be available to it on request e.g. in the event of an investigation (see under *section 32, Part VI*).

*Section 15* deals with gifts of real and personal property made to an office holder or a spouse or child. It also deals with services offered or supplied free of charge or at a price less than the commercial price

and with property offered or supplied at such a price or loaned (including leased or let) on such a basis.

Gifts the value of which exceed £500 given to an office holder (or to a spouse or child of an office holder) in virtue of his or her office will be deemed to be gifts to the State and will vest in the Minister for Finance.

Gifts given to an office holder or a spouse or child of an office holder by a friend or relative for personal reasons will not be regarded as gifts given in virtue of office. Neither will gifts given by virtue of some other office or position or status held by the recipient, nor will gifts given as a contribution to the election expenses of the office holder (the latter will be a matter for separate legislation).

The *section* also makes general provision for the reporting of gifts made by virtue of office, and for the custody and disposal (including loan, sale, or donation for charitable purposes) of such gifts on behalf of the State.

#### *Part IV — The Public Service*

*Section 16* requires that any person holding a “designated directorship” (see under *section 3* above) in a public body (see the *First Schedule*) will be required to make a confidential annual statement (to the public body and to the Commission) of the person’s interests (and those of a spouse or child) which could materially influence that director in the performance of the functions of the directorship. “Interests” is defined by reference to the *Second Schedule*.

Where a function falls to be performed by the director in respect of which he or she or a “connected person” has a “material interest” (see under *section 2* above), that director will be required to inform the other directors of the relevant facts in writing.

That director will also be obliged not to perform the function unless there are compelling reasons requiring him or her to so do, and in this situation he or she will be required to provide a written statement of those reasons to the other directors and to the Commission.

It will be a term of the office of a designated director that he or she will comply with these disclosure requirements.

*Section 17* provides for similar disclosure arrangements for those holding “designated positions” of employment (see under *section 3* above) in public bodies (see the *First Schedule*).

As in the case of designated directors, these employees will be required to make the same kind of confidential annual statements of interests, but to the “relevant authority”. The “relevant authority” will be determined by the Minister for Finance and normally will be the head of, or a senior person in, the organisation in which the employee works and, in some cases, the Commission.

These employees will also be required to follow the same procedures in respect of situations where a “material interest” arises. In such cases the necessary details of the “material interest” and of the compelling reasons requiring the performance of the particular function will be furnished, in writing, to the “relevant authority”.

As in the case of directors, the requirement to meet these disclosure requirements will be a term of the employment of the holder of the designated position.

*Section 18* deals with "special advisers"; broadly stated advisers and personal assistants. See *section 18 (1)* for the definition.

The period for which persons are special advisers will end not later than the date on which the relevant Minister or Minister of State ceases to hold office and this will be a term of the conditions of appointment. It will not be possible for the Government to appoint special advisers, or former special advisers, to established positions in the civil service.

Ministers will be required to lay details of the contracts or appointments of all special advisers before the Houses and, if the special adviser is a relative, a statement of that fact.

Senior special advisers (the level will be prescribed by regulations) will be subject to similar disclosure requirements as will apply to designated directors and the holders of designated positions under *sections 16* and *17* respectively. Their annual statements and the statements required in respect of a "material interest" will be made to the Minister to whom the adviser is assigned, and to the Commission.

Senior special advisers will also be required to undertake not to engage in any other employment which might reasonably be seen as capable of interfering with, or being incompatible with, the advisership.

Ministers will be required to lay the annual statements of their senior special advisers (except for any interests of a spouse or child) before both Houses of the Oireachtas, together with details of the qualifications of the adviser relevant to the functions of the position.

As in the case of directors and the holders of designated positions of employment, the requirement to meet these disclosure requirements, and to give the undertaking, will be a term of the special advisership.

*Section 19* contains technical provisions relating to the annual statements to be made by designated directors, the holders of designated positions of employment and special advisers and the period to be covered by the first and subsequent such statements. It also provides that the Minister for Finance will specify the dates on which statements will be required, and the form of, and the specific information which will be required to be given in, such statements.

It also provides that, as in the case of annual statements made by Oireachtas Members and office holders, it will not be necessary to specify the amount or value of any interest or the remuneration of any outside occupation.

#### *Part V — The Commission.*

*Section 20* establishes a Commission with the following membership:—

- the Comptroller and Auditor General,
- the Ombudsman,
- the Chairman of Dáil Éireann,
- the Clerk of Dáil Éireann,
- the Clerk of Seanad Éireann.

The section also makes provision for the temporary appointment of persons to act in place of members in the event of vacancy or inability

to act, a prohibition on members acting in respect of a matter affecting themselves or an employee, quorum for meetings, the appointment of a Chairman, permitting decisions by majority vote and casting vote for Chairman. Provision is also made for allowing the Commission to act in event of vacancies — except in relation to investigations, the delegation of functions to staff of Commission, allowing the Commission to determine its business and procedure by standing orders or otherwise, and, finally, there is provision for the staffing and expenses of the Commission.

*Section 21* sets out the complaints mechanism in respect of alleged contraventions of the Act by office holders, special advisers, designated directors and the holders of designated positions of employment, while *section 22* provides for the investigation by the Commission of such complaints, and for related matters.

*Section 22* provides also for investigations by the Commission of possible contraventions of the Act, acting on its own initiative i.e. in the absence of a formal complaint. Where such an investigation concerns a designated director or holder of a designated position, the Commission must first consult the relevant Minister and public body explaining why an investigation is warranted and giving them an opportunity to make representations. Having considered any such representations, the Commission will not investigate unless it considers it appropriate so to do and where an adequate investigation will otherwise not be carried out.

Complaints can be made about, and investigations conducted in respect of possible contraventions of the Act by, persons in respect of any time when they were office holders, special advisers, or designated directors or holders of designated positions in public bodies.

This applies even if the person concerned are no longer serving, unlike the position relating to Oireachtas Members.

*Section 23* requires the Commission, in respect of every investigation it completes to provide a written report to the person the subject of the investigation, the person who made the complaint (if any), and to the relevant Minister where appropriate.

The contents of these reports will be similar to those provided for in respect of reports of the Committees (see under *section 10, Part II*).

If the Commission's report finds that an office holder was in contravention of the Act, the report will be furnished to the relevant Select Committee and the Committee will cause a copy of that report to be laid before the relevant House (see under *section 27, Part VI* for the sanctions that could apply in this situation).

Where a Minister receives a report from the Commission of a contravention of the Act by a special adviser, or by a designated director or the holder of a designated position in a public body, he or she can lay that report before both Houses of the Oireachtas.

*Section 23* also provides that where, during or after an investigation of a contravention, the Commission suspects that an offence has been committed (under the Act or otherwise) it will refer the matter to the DPP. The DPP will advise whether or not proceedings have been taken and, if so, the outcome of these. These details will be included in the Commission's report of the investigation of the contravention.

Provision is also made to allow the Commission to adjourn or

postpone an investigation and to issue an interim written report in such cases or in a case where the DPP has indicated that a prosecution has been undertaken following a referral from the Commission.

Under *section 24* the Commission will be obliged, after consultation with the Select Committees, to publish mandatory guidelines concerning the steps to be taken by office holders, special advisers, designated directors and the occupiers of designated positions in public bodies, to ensure compliance with the Act. Such persons will also be able to seek specific advice on any provision of the Act and, where the Commission gives such advice, they must act on it.

Pending the Commission's response to a request for advice e.g. in relation to whether a particular interest need be disclosed in an annual statement, any requirement to include such an interest in the annual statement will not apply. The Commission will have 21 days to respond to such requests. If the advice emerges that the interest is to be disclosed, the person will be obliged to make that disclosure in the annual statement, or if that statement has already been made, in a separate amending statement under *section 28, Part VI*.

*Section 25* provides that where the Commission finds that a complaint was frivolous or vexatious or that there has not been a contravention and that there are no reasonable grounds for the complaint, it will be able to order that a complainant is to pay some or all of the costs and expenses (subject to a limit of £1,000) incurred in the investigation. These costs and expenses will be measurable by the Commission and will be recoverable as a simple contract debt in the courts.

*Section 26* provides for the making by the Commission of annual and special reports (other than reports under *section 23* in respect of investigations) to the Minister for Finance and for the laying of such reports before the Houses of the Oireachtas.

#### *Part VI — Miscellaneous.*

*Section 27* provides that where reports of a Committee, or reports of the Commission furnished to a Committee, are laid before a House (i.e. reports that a Member or office holder had been found in contravention of the Act), the Committee may cause a motion to be moved for a resolution that the House take any of the following actions i.e. the noting of the report, the censuring of the Member or office holder, and, or, his or her suspension from the House with or without pay for a specified period.

By virtue of *section 12* (see *Part II*), a Committee will not recommend anything other than the noting of the report where the report finds that a person contravened the Act while acting in good faith or in the belief that his or her actions were in accordance with guidelines published, or advice given in writing, by the Committees or the Commission.

*Section 28* provides for the making of statements outside the periods specified in respect of annual statements under *section 5, 13 and 19*.

Provision is made for the voluntary amendment of statements where the interests of the person change between the making of one annual statement and the next. For example, if a person's interests change before the next annual statement is due, he or she may update voluntarily the annual statement already made.

Annual statements which are submitted late are also provided for, as are statements made on foot of guidelines issued or advice given

by the Commission or by a Select Committee under *sections 24 or 12* respectively. Statements furnished on foot of a report of a contravention by a Select Committee or the Commission under *section 10 or 23* respectively are provided for also.

Such statements will be processed and published in the same way as the annual statements to which they relate.

*Section 29* provides for the discontinuance of an investigation by the Commission or by a Select Committee where it is of the opinion that the relevant complaint was frivolous or vexatious. The complainant and the person complained of will be notified accordingly, in writing.

*Section 30* sets out the powers of the Commission and the Select Committees in relation to investigations. It provides for the following; requiring the attendance of the person who is the subject of the complaint, requiring the attendance and giving of evidence by witnesses and the production of documents and things, the giving of directions, and the payment of witnesses' expenses.

The section also creates a number of offences in respect of investigations. Failure to attend before a Committee or the Commission, or failure to take an oath or answer certain questions or comply with certain directions, or actions similar to contempt of court or perjury, will be offences which will be prosecuted summarily or on indictment.

Detailed provision is made in respect of the procedures to be followed by the Commission and by Select Committees.

Provision is also made for the following: majority decisions by the Commission or a Select Committee; privileges and immunities of witnesses similar to those to which witnesses in a court are entitled; allowing the Commission and the Select Committees to sit in private; and allowing the Commission and the Committees to adjourn or postpone proceedings in relation to an investigation.

*Section 31* provides for the independence of the Commission and its members in the performance of their functions under the Act.

*Section 32* requires that all statements of interests (other than those published in the Registers of Members' Interests) be retained for a period of 15 years to be available to the Commission, on request during that period.

*Section 33* makes it an offence for a person to disclose information obtained by him or her under the Act or by being present at a sitting of the Commission or a Select Committee on Members' Interests. The purpose is to protect the confidentiality of certain statements of interests and certain Commission and Select Committee proceedings.

Certain disclosures within public bodies are allowed in respect of statements of interests where such disclosure is for the purposes of identifying a possible conflict between the interests of the person who made the statement and the public interest.

Disclosure of information by a person in the performance of his or her functions is also allowed, as are certain disclosures in the public interest or pursuant to an order of a court. Finally, disclosure of information contained in a report of the Commission or a Select Committee not laid before either House is allowed by or with the consent of the person to whom the report relates.

*Section 34* provides that, where a report of the Commission or a Select Committee on Members' Interests contains a determination that a person is to take specified steps to secure compliance with the Act, he or she must take those steps as soon as may be or as otherwise directed.

*Section 35* makes provision in relation to the offences created under *sections 30* and *33* (see above). Persons summarily convicted will be liable to a maximum fine of £1,000 and, or, a maximum of six months imprisonment, while those convicted on indictment will be liable to a maximum fine of £20,000 and, or, a maximum of three years imprisonment.

*Section 36* amends the Prevention of Corruption Acts 1889, to 1916 to ensure that the Acts apply not only to all public sector employees but to office holders, special advisers and directors of public bodies as defined in the Act.

The penalties are also updated and rationalised. Specific provision is made on summary conviction for a maximum fine of £1,000 and, or, a maximum term of imprisonment of 12 months. On conviction on indictment, the fine and term of imprisonment is set at a maximum of £50,000 and, or, a maximum of seven years imprisonment.

#### *First Schedule — Public Bodies.*

This Schedule (read with *sections 2* and *3*) specifies the public bodies in which directorships or positions of employment may be designated by the Minister for Finance, the holders of which will be obliged to make statements of interest under, and otherwise meet the requirements of, *sections 16* or *17*.

The Schedule is designed to cover all public sector bodies, including civil service departments and offices, local authorities, health boards, the commercial and non-commercial State bodies, and bodies or organisations financed wholly or partly out of monies provided by the Oireachtas.

#### *Second Schedule — Registrable Interests.*

The Second Schedule sets out what is meant by "registrable interest" or "interests" for the purposes of the statements to be made by Oireachtas Members under *section 5* or *7*, by office holders under *sections 13* and *14*, by designated directors and the holders of designated positions of employment under *section 16* or *17* respectively, and by special advisers under *section 18*.

Members, office holders, directors, employees, and special advisers will identify, by reference to these categories, the interests to be disclosed in statements.

*Subparagraphs (1) to (9)* of the Schedule cover the following:—

(1) Income in excess of £2,000 from another trade, profession or employment etc. in the period covered by the statement (referred to hereafter as the "relevant period").

(2) Any holding of shares, bonds, debentures and similar investments with a value in excess of £10,000 in a company or enterprise etc. at any time during the relevant period.

(3) Any directorship, or shadow directorship of any company in the relevant period.

(4) Any interest in land the value of which exceeded £10,000, in the

relevant period but excluding any private home (and land subsidiary or ancillary to that home) of the person making the statement or of his or her spouse.

(5) Certain gifts worth over £500, or gifts from any one person the aggregate value of which exceeded £500, in the relevant period.

This requirement applies equally to gifts of property or services. It also applies where property or services were provided at below commercial prices and where the resulting saving from any one source exceeded £500 in the relevant period.

Gifts given by relatives and friends for purely personal reasons need not be disclosed, unless they could have materially influenced a person in the performance of his or her functions.

(6) Travel facilities, living accommodation, meals or entertainment supplied free of charge or at a price less than the commercial price.

Such facilities etc. provided within the State or in the course of the recipient's work e.g. as an Oireachtas Member or under (1) above are excluded, as are facilities provided by a relative or friend as a personal gift (unless the acceptance of these might reasonably be seen as capable of influence).

Also excluded are facilities etc. provided free of charge or at a price(s) less than the commercial price(s) where the difference or aggregate difference in value did not exceed £500 in the relevant period.

(7) Any paid position held as political or public affairs lobbyist, consultant or adviser.

(8) Any contract in the relevant period with a public body worth over £5,000 (or where the aggregate of such contracts exceeded this amount) in which the person making the statement had a direct or indirect interest.

(9) Any other interests held by a person which could have materially influenced him or her in the performance of his or her functions.

It will not be necessary to specify in any statement of interests the amount or monetary value of any interest or the remuneration of any outside occupation.

In the case of Oireachtas Members, the format of annual statements and the information which will be required therein in respect of the interests listed above will be determined by the Clerks after consultation with the Select Committees and the Commission. In all other cases, these will be matters for the Minister for Finance.

*Oifig an Tánaiste,  
Bealtaine, 1994.*

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relevant period but excluding any private home (and land subsidiary or ancillary to that home) of the person making the statement or of his or her spouse.

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*Office on Taxation,  
Dublin, 1994.*

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