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**AN BILLE UM CHAIGHDEÁIN IN OIFIGÍ POIBLÍ, 2000**  
**STANDARDS IN PUBLIC OFFICE BILL, 2000**

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*Mar a tionscnaíodh*  
*As initiated*

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ARRANGEMENT OF SECTIONS

Section

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2. Establishment and membership of Commission.
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[No. 45 of 2000]

Section

20. Evidence of compliance with Acts by holders of judicial office, and holders of senior office.
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SCHEDULE 1

Amendment of Principal Act

SCHEDULE 2

Repeals

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Acts Referred to

Capital Acquisitions Tax Act, 1976	1976, No. 8
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Civil Service Regulation Act, 1956	1956, No. 46
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Electoral Acts, 1992 to 1997	
Ethics in Public Office Act, 1995	1995, No. 22
Freedom of Information Act, 1997	1997, No. 13
Statutory Declarations Act, 1938	1938, No. 37
Tax Acts	
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AN BILLE UM CHAIGHDEÁIN IN OIFIGÍ POIBLÍ, 2000  
STANDARDS IN PUBLIC OFFICE BILL, 2000

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# BILL

*entitled*

5 AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A  
COMMISSION, TO BE KNOWN AS THE STANDARDS IN  
PUBLIC OFFICE COMMISSION, TO CONFER ON IT THE  
FUNCTIONS OF THE PUBLIC OFFICES COMMISSION  
AND CERTAIN OTHER FUNCTIONS, TO PROVIDE FOR  
10 THE FURNISHING OF TAX CLEARANCE CERTIFI-  
CATES TO THAT COMMISSION BY PERSONS UPON  
ELECTION TO EITHER HOUSE OF THE OIREACHTAS  
OR APPOINTMENT TO JUDICIAL OFFICE OR SENIOR  
OFFICE, TO AMEND THE STATUTORY DECLARA-  
15 TIONS ACT, 1938, THE ETHICS IN PUBLIC OFFICE ACT,  
1995, AND THE ELECTORAL ACT, 1997, AND TO PRO-  
VIDE FOR CONNECTED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

**1.**—(1) In this Act, unless the context otherwise requires— Interpretation.

20 “the Act of 1997” means the Electoral Act, 1997;

“the Acts” means—

(a) the Tax Acts,

(b) the Capital Acquisitions Tax Act, 1976, and the enactments  
amending or extending that Act,

25 (c) the Capital Gains Tax Acts, and

(d) the Value-Added Tax Act, 1972, and the enactments  
amending or extending that Act;

“application statement” means a statement issued under *section*  
*22(5)*;

30 “Collector-General” means the Collector-General appointed under  
section 851 of the Taxes Consolidation Act, 1997;

“the Commission” means the Standards in Public Office Commission  
established by section 21 (as amended by this Act) of the Principal  
Act;

35 “donation” has the meaning assigned to it by Part IV of the Electoral  
Act, 1997;

“head”, in relation to a public body, has the meaning assigned by the Freedom of Information Act, 1997, to head, in relation to a public body (within the meaning of that Act), with any necessary modifications;

“inquiry officer” shall be construed in accordance with *section 5*; 5

“judicial office” means the office of—

- (a) judge of the Supreme Court,
- (b) judge of the High Court,
- (c) judge of the Circuit Court, or
- (d) judge of the District Court; 10

“the Principal Act” means the Ethics in Public Office Act, 1995;

“senior office” means—

- (a) a designated directorship of a public body specified in subparagraphs (8) to (12), or standing prescribed under subparagraph (13), of paragraph 1 of the First Schedule to the Principal Act, or 15
- (b) a designated position in a public body,

in relation to which the remuneration is not less than the lowest remuneration in relation to the position of Deputy Secretary General in the Civil Service (within the meaning of the Civil Service Regulation Act, 1956); 20

“tax clearance certificate” means a certificate issued under *section 22(1)*.

(2) A word or expression that is used in this Act and also in the Principal Act shall, unless the context otherwise requires, have the same meaning in this Act as it has in the Principal Act. 25

(3) In this Act—

- (a) a reference to a section or Schedule is a reference to a section of, or a Schedule to, this Act, unless it is indicated that reference to some other provision is intended, 30
- (b) a reference to a subsection, paragraph or subparagraph is a reference to a subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended, and 35
- (c) a reference to any enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment.

“(1) There is hereby established, in place of the Public Offices Commission, a commission (which shall be known as the Standards in Public Office Commission and is referred to in this Act as ‘the Commission’).

5 (2) The Commission shall consist of 5 members, namely—

(a) a chairperson who shall be a judge, or a former judge, of the Supreme Court or the High Court, and

(b) the following ordinary members:

(i) the Comptroller and Auditor General,

10 (ii) the Ombudsman,

(iii) the Clerk of Dáil Éireann, and

(iv) the Clerk of Seanad Éireann.

15 (2A) The appointment of a person to be the chairperson of the Commission shall be made by the President on the advice of the Government following resolutions passed by each House recommending the appointment.

(2B) A person appointed to be the chairperson of the Commission—

20 (a) may at his or her own request be relieved of office by the President, and

(b) may be removed from office by the President but shall not be removed from office except for stated misbehaviour, incapacity or bankruptcy and then only following resolutions passed by each House calling for his or her removal.

(2C) Subject to the provisions of this section, a person appointed to be the chairperson of the Commission shall hold office for a term of 6 years and may be re-appointed to that office for a second or subsequent term.

30 (2D) The chairperson of the Commission (other than a chairperson who is the holder of a judicial office) shall be paid such remuneration (if any) as may be determined by the Minister.

35 (2E) (a) If the chairperson of the Commission notifies the Minister that he or she is for any reason temporarily unable to act as such chairperson, the Minister shall appoint such person, being a judge, or a former judge, of the Supreme Court or the High Court, as the Chief Justice may nominate for the purpose to act as such chairperson for the duration of such inability.

40 (b) Upon the appointment of a person pursuant to paragraph (a) to be the chairperson of the Commission, the person who is temporarily unable to act as such chairperson shall be deemed for the duration of the inability not to be the chairperson and not to be a member of the Commission.

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(2F) If the person who is the chairperson of the Commission ceases (otherwise than by death or removal from office) during his or her term of office as such chairperson to be a judge of the High Court and is not a judge of the Supreme Court or so ceases to be a judge of the Supreme Court, he or she shall continue to be such chairperson until the expiration of his or her term of office. 5

(2G) If, after the commencement of an investigation under section 23 and before compliance by the Commission with section 24 in relation to the investigation, a person who is an ordinary member of the Commission ceases (otherwise than by death or by removal from office) to hold the office by reference to which he or she was a member of the Commission, the person shall, subject to his or her consent, continue to be a member of the Commission for the purposes of the investigation until section 24 is complied with in relation to the investigation unless the Commission determines otherwise. 10 15

(2H) Notwithstanding anything contained in the *Act of 2000* or this Act, such functions of the Commission as it may determine may be performed in relation to such matter or matters as it may determine by the Commission consisting only of the chairperson of the Commission, and the *Ethics in Public Office Acts, 1995 and 2000*, and the *Electoral Acts, 1992 to 2000*, and regulations made under section 72 of the Act of 1997 shall have effect accordingly in relation to any such determinations with any necessary modifications.”. 20 25

Additional functions of Commission.

**3.**—In addition to the functions conferred on the Commission by the Principal Act and the other sections of this Act, the Commission shall have the functions conferred on the Public Offices Commission by the Act of 1997. 30

Complaints to Commission.

**4.**—(1) Where a person (“the complainant”) considers that—

(a) a specified person or a person who, in relation to a specified person, is a connected person may have done an act or made an omission that is, or the circumstances of which are, such as to be inconsistent with the proper performance by the specified person of the functions of the office or position by reference to which he or she is such a person or with the maintenance of confidence in such performance by the general public, and the matter is one of significant public importance, 35 40

(b) a specified person may have contravened a provision of the Principal Act, or

(c) a specified person may have contravened a provision of the Act of 1997,

the complainant may make a complaint in relation to the matter to the Commission. 45

(2) A complaint under *subsection (1)* shall be in writing or in such other form as may be determined by the Minister.

(3) The Commission may request an inquiry officer to carry out a preliminary investigation of any complaint under *subsection (1)* falling within *paragraph (a)* of that subsection unless it considers the complaint to be frivolous or vexatious. 50

(4) Where the subject matter of a complaint made or referred to the Commission is not, in the opinion of the Commission, of sufficient gravity to warrant investigation by the Commission, the Commission may refer the complaint—

- 5 (a) in case it relates to a person who is or, at the time to which the complaint relates, was a member, to such committee of the House concerned as it considers appropriate,
- 10 (b) in case it relates to a person who is or, at the time aforesaid, was the holder of a designated directorship or any directorship, or the occupier of a designated position or any position, in a public body, to the head of the body,
- (c) in case it relates to a person who is or was at the time aforesaid a special adviser, to the office holder to whom he or she is or was acting as special adviser.
- 15 (5) (a) In *subsection (1)*, “specified person” means a person who—
- (i) is or, at the time to which the complaint concerned relates, was an office holder,
- 20 (ii) is or, at the time aforesaid, was a special adviser or held a designated directorship of, or occupied a designated position, in a public body, or
- (iii) holds or occupies or, at the time aforesaid, held or occupied a directorship or a position of employment in a public body.
- 25 (b) Without prejudice to the generality of the expression “significant public importance” in *subsection (1)*, a matter shall, if the Commission consider it appropriate to do so having regard to all the circumstances, be deemed by it, for the purposes of that subsection, to be of significant public importance if it relates to a benefit alleged to have been received by a specified person or a person who, in relation to a specified person, is a connected person and, in the opinion of the Commission, the value of the benefit was, is or might have been or be expected to be or to become not less than £10,000.
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- 35

5.—(1) The Commission may authorise such and so many persons as it may determine (referred to in this Act as “inquiry officers”) to perform the functions conferred on inquiry officers by this section. Inquiry officers.

(2) Whenever so requested by the Commission, an inquiry officer shall, for the purpose of assisting it in the performance of its functions, carry out a preliminary inquiry into a complaint under section 22 of the Principal Act or *section 4* by—

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- (a) requesting the person who made the complaint, at the option of the person, to—
- 45 (i) provide him or her with a statement in writing of the evidence that the person would give to the Commission in relation to the matter at an investigation of the complaint by the Commission under section 23 of the Principal Act, or

- (ii) make a statement of the evidence aforesaid at a meeting with him or her which the officer shall write down,  
 within such reasonable period as may be specified by the officer, 5
- (b) furnishing the person against whom the complaint is made with particulars of the complaint and copies of the statement or statements under *paragraph (a)* and with copies of any relevant documents and requesting the person, at the option of the person, to— 10
- (i) provide him or her with a statement in writing of the evidence that the person would give to the Commission in relation to the matter at such an investigation as aforesaid in relation to the matter, or
- (ii) make a statement of the evidence aforesaid at a meeting with him or her which the officer shall write down, 15
- within such reasonable period as may be specified by the officer, and
- (c) where appropriate, conducting interviews with the persons referred to in *paragraphs (a)* and *(b)*, and questioning them, for the purpose of the making of the statements aforesaid. 20
- (3) Following an inquiry pursuant to *subsection (2)*, the inquiry officer concerned shall prepare a report in writing of the results of the inquiry and shall furnish the report and the statement or statements under *subsection (2)* and any relevant documents to the Commission; and the report shall not contain any determinations or findings, but shall, if the Commission so requests, include an expression of the opinion of the officer as to whether there is *prima facie* evidence to sustain the complaint concerned. 25 30
- (4) A statement under *subsection (2)* shall be signed (or, where necessary, otherwise identified) by the person by whom it was made and, if the statement was made pursuant to *paragraph (a)(ii)* or *(b)(ii)* of that subsection, the signing shall be effected in the presence of the inquiry officer concerned, who shall then sign the statement. 35
- (5) An inquiry officer may request the production by a person of any document in the possession or control of the person that the officer considers relevant to his or her inquiry.
- (6) Where a document is produced by a person to an inquiry officer pursuant to a request under *subsection (5)*, the officer may, with the consent of the person, retain the document in his or her possession for a reasonable period for the purpose of examining and copying it. 40
- (7) A person being interviewed pursuant to *subsection (2)* may decline to answer any question asked, or refuse a request to produce a document made, by the inquiry officer concerned and may terminate the interview at any time and a person to whom a request is made under *subsection (2)* or *(5)* may refuse to comply with the request. 45 50



(8) An inquiry officer shall be furnished with the authorisation under *subsection (1)* relating to him or her and, when exercising a power under this section, shall, if so requested by a person affected, produce the authorisation or a copy of it to the person.

5 **6.**—Section 23 of the Principal Act is hereby amended by the substitution of the following subsections for subsection (1): Investigations by  
Commission.

10 “(1) (a) Subject to the provisions of this section, where a complaint is made to the Commission under *section 4* of the *Act of 2000* or made or referred to it under *section 22* or the Commission considers it appropriate to do so, the Commission shall carry out an investigation to determine whether, as appropriate—

(i) the person concerned or a connected person has done a specified act, or

15 (ii) the person concerned has contravened Part II, III or IV or the *Act of 1997*.

(b) Subject to the provisions of this section, where the Commission considers in the case of—

20 (i) a person who may have contravened Part II, III or IV or the *Act of 1997* at a time when he or she was an office holder,

(ii) a person who is an office holder and who may have contravened Part II or the *Act of 1997* before becoming an office holder,

25 (iii) a person to whom *section 22(4)(b)(i)* applies and who may have contravened Part IV, or

(iv) a person who may have done a specified act,

30 that it is appropriate to do so, it shall carry out an investigation to determine, whether, as may be appropriate—

(I) the person referred to in subparagraph (i) contravened Part II, III or IV or the *Act of 1997* at a time when he or she was an office holder,

35 (II) the person referred to in subparagraph (ii) contravened Part II or the *Act of 1997* before becoming an office holder,

(III) the person referred to in subparagraph (iii) contravened Part IV, or

40 (IV) the person referred to in subparagraph (iv) did a specified act.

(1A) The Commission shall not carry out an investigation under *subsection (1)* into a complaint under *subsection (1)* of *section (4)* of the *Act of 2000* in relation to a matter referred to in *paragraph (a)* of that subsection unless—

45 (a) the complaint was made or referred to it by a Committee, or

(b) the Commission becomes of opinion, after consideration by it of any report of an inquiry officer in relation to the matter and any statements or documents accompanying the report, that there is sufficient evidence to establish a *prima facie* case in relation to the alleged specified act concerned and that, if it was in fact done, it is an act falling within the said *paragraph (a)*. 5

(1B) The Commission shall not investigate a complaint by a person other than a member or a person referred to in *paragraph (c) or (d) of section 22(4)* if it considers the complaint to be frivolous or vexatious. 10

(1C) Subject to subsection (1A)(b), if the Commission becomes of opinion that evidence sufficient to sustain a complaint referred or made to it under section 22 or *section 4 of the Act of 2000* is not and will not be available, it may decide not to carry out, or to discontinue, an investigation under this section and, if it does so, it shall prepare a record of the decision and subsections (1) and (4) of section 24 shall apply in relation to such a record as it applies to a report under subsection (1) of that section with any necessary modifications.”. 15 20

Codes of conduct.

7.—(1) The Commission shall, after consultation with the Committees, from time to time draw up codes of conduct for the guidance of members (other than office holders).

(2) The Government shall from time to time draw up codes of conduct for the guidance of office holders, and section 15(4)(c) of the Principal Act shall apply to the draft of any such code of conduct as it applies to a draft referred to in the said section 15(4)(c) with any necessary modifications. 25

(3) The Minister shall, after consultation with the Commission, from time to time draw up codes of conduct for the guidance of persons who hold or occupy directorships or positions of employment in public bodies. 30

(4) A code of conduct under *subsection (1), (2) or (3)*—

(a) may be amended by another code of conduct under that subsection, 35

(b) may be revoked by another code of conduct under that subsection replacing the first-mentioned code or amending another code of conduct under that subsection, or

(c) may be revoked by an instrument in writing that neither replaces nor amends another code of conduct under that subsection and is made in the manner in which the code of conduct being revoked was made. 40

(5) A code of conduct under *subsection (1), (2) or (3)* or a code of conduct replacing such a code shall indicate the standards of conduct and integrity for the persons to whom it relates in the performance of their functions and in relation to any matter connected with or affecting or likely or appearing to affect such performance and in relation to such other matters (if any) as may be specified in the code. 45 50

(6) A person to whom a code of conduct under this section relates shall, in so far as it is relevant, have regard to and be guided by the code in the performance of his or her functions and in relation to any other matters with which the code is concerned.

5 (7) A document purporting to be a code of conduct under *subsection (1), (2) or (3)* or an instrument under *subsection (4)(c)* shall be taken, unless the contrary is shown, to be such code or instrument and shall be admissible in any proceedings before a court or other tribunal or a Committee or the Commission, and any provision of  
10 any such code that appears to the tribunal, the Committee or the Commission to be relevant to a question in the proceedings may be taken into account by it in determining the question.

(8) There shall, as respects a person to whom *subsection (3)* applies, be deemed to be included in the terms or conditions upon  
15 which the person holds the directorship or special advisership, or occupies the position, concerned a provision requiring the person to have regard to and be guided in so far as it is relevant by the code of conduct under that subsection in the performance of the functions of that directorship, special advisership or position and in relation to  
20 any other matters specified in the code.

(9) A code of conduct under *subsection (1), (2) or (3)* shall not make provision in relation to any matter in so far as, in the opinion of the Commission, the Government or the Minister, as the case may be, adequate provision in relation to that matter is made in an exist-  
25 ing code of conduct or guidelines.

(10) A code of conduct under *subsection (1), (2) or (3)* or an instrument under *subsection (4)(c)* shall be published by the Commission in such form and manner as it may determine.

30 **8**—An individual to whom a statement in writing is furnished pursuant to section 17 or 18 of the Principal Act—

Provisions in relation to statements under sections 17 and 18 of Principal Act.

(a) may request the person who so furnished it (“the furnisher”) to provide him or her with information in relation to the statement or any matter arising in connection with it,

35 (b) if he or she considers that the furnisher may have contravened Part IV, he or she may make a complaint in writing in relation to the matter to the Commission—

(i) in case the furnisher is a civil servant (within the meaning of the Civil Service Regulation Act, 1956),  
40 under paragraph (d) of section 22(4) of the Principal Act as if the individual was the appropriate authority in relation to the civil servant (within the meaning aforesaid) and the said paragraph (d) and any other relevant provision of the Principal Act shall apply accordingly as if the individual was such an authority with any necessary modifications,

(ii) in any other case, under paragraph (c) of the said section 22(4) as if the individual was the public body concerned and the said paragraph (c) and any other relevant provision of the Principal Act shall apply accordingly as if the individual was such a body with any necessary modifications,  
50

and

- (c) if the Commission carries out an investigation under section 23 of the Principal Act into the matter, shall furnish to the public body concerned a copy of the report in writing of the Commission of the result of the investigation a copy of which is furnished to the individual. 5

Registration date. **9.**—For the purposes of the Principal Act and notwithstanding anything in that Act—

- (a) in relation to Dáil Éireann and its members and Clerk, the registration date immediately following 31 January 2000 shall be 31 December 2000, and each subsequent registration date shall be the date of each anniversary of the latter date or, if on any such date (“the specified date”) Dáil Éireann stands dissolved, the date that is 30 days after the date of the first meeting of Dáil Éireann after the specified date, and 10  
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- (b) in relation to Seanad Éireann and its members and Clerk, the registration date immediately following 31 January 2000 shall be 31 December 2000, and each subsequent registration date shall be the date of each anniversary of the latter date or, if on any such date Dáil Éireann stands dissolved, the date that is 30 days after the date of the first meeting of Seanad Éireann after the first general election for members of Seanad Éireann after that dissolution. 20  
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Exclusion of certain political donations from Principal Act. **10.**—(1) A donation that, but for this section, would be a registrable interest or an additional interest shall not be such an interest—

- (a) during the period between the receipt of the donation and the latest date for compliance with subsection (1) or (2), as may be appropriate, of section 24 of the Act of 1997 in relation to it, or 30

- (b) thereafter, if the said subsection (1) or (2), as may be appropriate, is complied with in relation to the donation, but if the said subsection (1) or (2), as the case may be, is not complied with in relation to the donation, that Act shall, immediately after the latest date for such compliance, cease to apply to the donation. 35

(2) Section 5, 13, 15 or 16, as may be appropriate in any particular case, of the Principal Act shall have effect, in relation to a donation to which *subsection (1)* applies and which becomes a registrable interest or an additional interest by virtue of *paragraph (b)* of that subsection, as if it required compliance with the section by the person concerned not later than 30 days after the latest date for compliance in relation to the donation with subsection (1) or (2), as may be appropriate, of the said section 24. 40  
45

Consequential and minor amendments of Principal Act. **11.**—(1) Subject to *subsection (2)*, each section of the Principal Act mentioned in *column (1)* of *Schedule 1* is amended to the extent specified in *column (2)* of that Schedule opposite such mention.

(2) The amendment of section 22 of the Principal Act specified in *paragraph (1)(b)* in *column (2)* of *Schedule 1* does not have effect 50

in relation to complaints made before the commencement of this section.

**12.**—(1) Part V of the Principal Act shall, as respects the matters specified in *subsection (2)*, have effect as if this Act had not been enacted. Transitional and saver.

(2) The matters referred to in *subsection (1)* are:

(a) a complaint under section 22 of the Principal Act made to the Clerk, or made or referred to the Public Offices Commission, before the commencement of *section 2*,

(b) an investigation under section 23(1) of that Act begun before such commencement,

(c) a report under section 24 of that Act in relation to such an investigation,

(d) a request under section 25(1)(b) of that Act made before such commencement,

(e) the report under section 27(1) of that Act for the year 1999 and any reports under subsection (2) of that subsection in course of preparation immediately before such commencement, and

(f) any report under section 4 of the Act of 1997 in course of preparation immediately before such commencement.

(3) Guidelines drawn up and published by the Public Offices Commission under section 25 of the Principal Act and in force immediately before the commencement of *section 2* shall continue in force after such commencement as if drawn up and published by the Commission under that section.

**13.**—(1) In the Principal Act, the Act of 1997 and every other Act of the Oireachtas and every instrument made under any of the Acts aforesaid— Adaptation of references in Principal Act and Act of 1997.

(a) references to the Public Offices Commission shall be construed as references to the Commission, and

(b) references to the chairman of the Public Offices Commission shall be construed as references to the chairperson of the Commission.

(2) The Minister may by regulations provide for such (if any) other adaptations and such (if any) modifications of the Principal Act, the Act of 1997 and any other Act of the Oireachtas as appear to him or her to be necessary or expedient for the purpose of the performance by the Commission of its functions under those Acts.

**14.**—(1) Notwithstanding subsection (8) of section 32 of the Principal Act— Admissibility of certain evidence.

(a) a person who gives evidence before a Committee or the Commission or to a person for the purposes of an examination by him or her pursuant to subsection (4A) of that

section shall not be entitled to refuse to answer any question put to him or her, and

(b) a person shall not be entitled to refuse to produce or send a document pursuant to a direction,

on the ground that his or her answer or the document might incriminate him or her. 5

(2) A statement or admission made by a person—

(a) before a Committee or the Commission,

(b) to a person conducting an examination of him or her pursuant to section 32(4A) of the Principal Act, 10

(c) to an inquiry officer, or

(d) in a document prepared for and sent by a person to a person specified in *paragraph (a), (b) or (c)*, or to a member of a Committee or the Commission, or a member of the staff of a Committee or the Commission, for the purposes of the functions of the Committee or the Commission, as the case may be, 15

shall not be admissible as evidence against the person, or any person who may be liable for the acts or omissions of the person, in any criminal proceedings (other than proceedings in relation to an offence under subsection (4) or (5) of section 32 of the Principal Act, or *section 15*), or in any civil proceedings in a court or other tribunal. 20

Obstruction.

**15.**—A person who by act or omission obstructs or hinders a Committee, the Commission, an inquiry officer or a person who is a member of the staff of a Committee or the Commission or is carrying out an examination pursuant to section 32(4A) of the Principal Act in the performance of the functions of the Committee, the Commission or the officer or person shall be guilty of an offence and section 37 of the Principal Act applies to such an offence as it applies to an offence under that Act. 25 30

Discovery of documents.

**16.**—(1) The chairman of a Committee may for the purposes of the functions of the Committee and the chairperson of the Commission may for the purposes of the functions of the Commission direct in writing any person to make discovery on oath of any documents that are or have been in the possession or control of the person relating to any matter relevant to the functions of the Committee or, as the case may be, the Commission and to specify in the affidavit of documents concerned any documents mentioned therein which the person objects to produce to the Committee or, as the case may be, the Commission and the grounds for the objection; and the rules of court relating to the discovery of documents in proceedings in the High Court shall apply in relation to the discovery of documents pursuant to this subsection with any necessary modifications. 35 40

(2) Where a person, in relation to the discovery of documents pursuant to *subsection (1)*, contravenes a rule of court referred to in that subsection, the High Court may, on application to it in that behalf in a summary manner by the chairman of the Committee concerned or, as the case may be, the chairperson of the Commission, order the person to comply with the rule and make such other (if any) order as it considers necessary and just. 45 50

17.—(1) A person who has in his or her possession or control a document or information in any form that he or she knows to be relevant to an investigation, or an intended investigation, of which he or she is aware, of a Committee or the Commission shall preserve the document or information until the investigation and any related proceedings are completed.

Preservation of documents, etc.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence and section 37 of the Principal Act applies to such an offence as it applies to an offence under that Act.

18.—The Commission, the Committees and the Clerks shall consult together from time to time for the purpose of ensuring that the forms referred to in subsection (1) of section 5 of the Principal Act and the forms of donation statements for the purpose of subsection (1)(a) of section 24 of the Act of 1997 are issued to members each year at such time and in such co-ordinated manner as to ensure to members the maximum convenience and ease in complying with the said sections 5 and 24, and the Clerks shall furnish to the Minister a report in writing of the results of consultations under this subsection.

Consultation by Clerks, Committees and Commission.

19.—(1) A person who is elected as a member after the commencement of this section in relation to the House concerned shall, not more than 9 months after the date on which he or she was so elected (“the election date”) furnish to the Commission—

Evidence of compliance with Acts by members.

(a) (i) a tax clearance certificate that was issued to the person not more than 9 months before, and not more than 9 months after, the election date, or

(ii) an application statement that was issued to the person and was made not more than 9 months before, and not more than 9 months after, the election date,

and

(b) a statutory declaration made by the person not more than one month before, and not more than one month after, the election date to the effect that, at the time of the making of the declaration, the person is, to the best of his or her knowledge and belief, in compliance with the obligations specified in *subsection (1) of section 22* and that nothing in *subsection (2) of that section* prevented the issue to him or her of a tax clearance certificate.

(2) For the purposes of this section, a person is elected as a member—

(a) when the appropriate returning officer at an election so declares,

(b) in case the person is deemed by law without any actual election to be elected as a member of Dáil Éireann for a constituency, when the election writ and return of the general election concerned is received by the Clerk from the returning officer for that constituency, or

(c) when he or she is nominated by the Taoiseach as a member of Seanad Éireann.

(3) If a person contravenes *subsection (1)*, the Commission shall investigate the matter and shall draw up a report in writing of the result of its investigation and furnish a copy of it to the Committee, and the Committee shall cause copies of the report to be laid before the House.

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Evidence of compliance with Acts by holders of judicial office, and holders of senior office.

**20.**—(1) A person who is appointed to a judicial office or a senior office after the commencement of this section shall, not more than 9 months after the date on which he or she is so appointed (“the appointment date”), furnish to the Commission—

(a) (i) a tax clearance certificate that is in force and was issued to the person not more than 9 months before, and not more than 9 months after, the appointment date, or

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(ii) an application statement that was issued to the person and was made not more than 9 months before, and not more than 9 months after, the appointment date,

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and

(b) a statutory declaration made by the person not more than one month before, and not more than one month after, the appointment date to the effect that, at the time of the making of the declaration, the person is, to the best of his or her knowledge and belief, in compliance with the obligations specified in *subsection (1)* of *section 22* and that nothing in *subsection (2)* of that section prevents the issue to him or her of a tax clearance certificate.

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(2) If a person contravenes *subsection (1)*, the Commission shall investigate the matter and shall draw up a report in writing of the results of its investigation and furnish a copy of it—

(a) if the person holds a judicial office, to the Minister for Justice, Equality and Law Reform and the Chief Justice, and

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(b) if the person holds a senior office, to the public body concerned.

(3) The Commission shall cause copies of a report under *subsection (2)* to be laid before each House.

Evidence of subsequent compliance with Acts by persons who contravene *section 19* or *20*.

**21.**—(1) If a person contravenes *section 19* or *20* (“the relevant section”), he or she shall as soon as may be furnish to the Commission—

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(a) if the contravention relates to *paragraph (a)* of *subsection (1)(a)* of the relevant section, a tax clearance certificate that was issued to the person not more than one month before being so furnished, and

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(b) if the contravention relates to *paragraph (b)* of the said *subsection (1)(a)*, a statutory declaration made by the person not more than one month before being so furnished to the effect that, at the time of the making of the declaration, the person is, to the best of his or her knowledge and belief, in compliance with the obligations specified in *subsection (1)* of *section 22* and that nothing in *subsection*

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(2) of that section prevents the issue to him or her of a tax clearance certificate.

5 (2) (a) If a person who is a member or the holder of a judicial office and to whom *subsection (1)* applies has not complied with that subsection in the year to which the next report of the Commission under section 27(1)(a) of the Principal Act following the contravention concerned or any later such report relates, the Commission shall specify the non-compliance in the report and—

10 (i) if the person is a member, notify the Committee in writing, or

(ii) if the person holds a judicial office, notify the Minister for Justice, Equality and Law Reform and the Chief Justice in writing,

15 of the non-compliance.

(b) When such a person as aforesaid complies with *subsection (1)*, the Commission shall—

(i) if the person is a member, notify the Committee in writing, or

20 (ii) if the person holds a judicial office, notify the Minister for Justice, Equality and Law Reform and the Chief Justice in writing,

of the compliance and shall cause copies of the notification to be laid before the Houses.

25 (3) (a) If the holder of a senior office to whom *subsection (1)* applies has not complied with that subsection in the year to which the next report of the Commission under section 27(1)(a) of the Principal Act following the non-compliance or any later such report relates, the Commission shall notify the head of the public body concerned in writing of the non-compliance, and

30 (b) when the person complies with *subsection (1)*, notify the head aforesaid in writing of the compliance.

35 (4) In *subsections (2)* and *(3)*, the references to a report under section 27(1)(a) of the Principal Act do not include a report for any year after the year in which the person concerned complies with *subsection (1)*.

40 **22.—**(1) Subject to the provisions of this section, if a person who is in compliance with the obligations imposed on the person by the Acts in relation to—

Tax clearance certificates for purposes of *sections 19* and *20*.

(a) the payment or remittance of any taxes, interest or penalties required to be paid or remitted under the Acts to the Revenue Commissioners, and

45 (b) the delivery of any returns required to be made under the Acts,

applies to the Collector-General in such form as may be determined by the Revenue Commissioners in that behalf for the purposes of

section 19 or 20, the Collector-General shall issue to the person a certificate (in this Act referred to as “a tax clearance certificate”) stating that, at the time of the issue of the certificate, the person is in compliance with those obligations.

(2) A tax clearance certificate shall not be issued to a person unless— 5

(a) the person, and

(b) if the person is or was a member of a partnership, in respect of the period of the person’s membership, the partnership, 10

is in compliance with the obligations imposed on the person and the partnership by the Acts in relation to the matters specified in paragraphs (a) and (b) of subsection (1).

(3) Subsections (6) and (7) of section 1094 of the Taxes Consolidation Act, 1997, shall, with any necessary modifications, apply to an application for a tax clearance certificate under this section as they apply to an application for a tax clearance certificate under that section. 15

(4) Where a person applies, pursuant to subsection (1), for the issue of a tax clearance certificate and, either— 20

(a) the Collector-General has not decided whether to issue or to refuse to issue such a certificate, or

(b) the Collector-General has refused to issue such a certificate and the refusal is the subject of an appeal or further appeal under section 1094(7) of the Taxes Consolidation Act, 1997 (as applied by subsection (4)), that has not been determined, 25

the Collector-General shall, on application to him or her in that behalf by the person, furnish to the person a statement in writing (in this Act referred to as “an application statement”) to the effect that the person has applied to him or her for the issue of a tax clearance certificate and that a decision on the application has not been made. 30

(5) Where the Collector-General—

(a) furnishes an application statement to a person under this section, and 35

(b) having considered the application referred to in that statement, refuses to issue a tax clearance certificate to the person and notifies the person in writing of the refusal, and

(i) the time for bringing an appeal or further appeal against the refusal has expired, 40

(ii) any such appeal or further appeal has been withdrawn, or

(iii) on any such appeal or further appeal, the refusal has been upheld, 45

the Collector-General shall notify the Commission in writing of the refusal.

5 (6) If, immediately before a refusal pursuant to *subsection (6)*, the person concerned was a member, the Commission shall, upon receipt of the notification under that subsection in relation to the refusal, draw up a report in writing in relation to the matter and furnish a copy thereof together with a copy of the notification to the Committee and the Committee shall cause a copy of the report and the notification to be laid before the House.

10 (7) Where the Collector-General issues an application statement to a person, the person shall be deemed not to contravene *section 19* or *20*, as may be appropriate (“the relevant section”), at any time—

(a) after the expiration of the period specified in the relevant section for the furnishing to the Commission by the person of a tax clearance certificate, and

15 (b) before the issue to the person by the Collector-General of a tax clearance certificate for the purposes of the relevant section or the notification of the person by the Collector-General of his or her refusal to do so, but if such a notification is given to the Commission, the person shall thereafter be deemed to contravene the relevant section.

20 **23.**—(1) Section 6 (penalty for false declarations) of the Statutory Declarations Act, 1938, is hereby amended by— Amendment of  
Statutory  
Declarations Act,  
1938.

(a) the substitution of “£2,000” for “fifty pounds”, and

(b) the substitution of “6 months” for “three months”.

25 (2) The amendment effected by *subsection (1)* applies to statutory declarations made after the commencement of this section.

30 **24.**—If in any respect any difficulty arises during the period of 2 years after the commencement of this section in bringing this Act into operation, the Minister may, by regulations, do anything which appears to be necessary or expedient for bringing this Act into operation. Removal of  
difficulties.

**25.**—(1) Subject to *subsection (2)*, the Principal Act is hereby repealed to the extent specified in *column (2)* of Schedule 2. Repeals and  
revocations.

35 (2) The repeal of section 22(2) of the Principal Act specified in *Schedule 2* does not have effect in relation to complaints made before the commencement of this section.

(3) The following regulations are hereby revoked—

(a) Regulation 5 of the Ethics in Public Office (Designated Positions in Public Bodies) Regulations, 1996 (S.I. No. 57 of 1996),

40 (b) Regulation 6 of the Ethics in Public Office (Prescribed Public Body, Designated Directorships and Designated Positions in Public Bodies) Regulations, 1997 (S.I. No. 32 of 1997), and

45 (c) The Ethics in Public Office Act, 1995 (Section 3(1)(b)) Regulations, 1997 (S.I. No. 320 of 1997).

**26.**—(1) This Act may be cited as the Standards in Public Office Act, 2000.

- (2) (a) Subject to *paragraph (b)*, this Act shall come into operation on such day as the Government appoint by order.
- (b) *Paragraph (a)* does not apply to this Act in so far as it relates to either House, or members, or the Clerk, of either House, or committees of either House or joint committees of both Houses, or subcommittees of any of the committees aforesaid, or their members or clerks. 5
- (c) If either House by resolution so declares, this Act, in so far as it relates to that House, its members, Clerk and committees, and subcommittees of such committees, and their members and clerks, shall come into operation on such day as may be specified in the resolution. 10
- (d) If each House by resolution so declares, this Act shall come into operation, in so far as it relates to joint committees of both Houses, and their members and clerks, and subcommittees of such committees, on such day as may be specified in the resolution. 15
- (e) If either House by resolution so declares, this Act, in so far as it relates to that House, its members and Clerk and its committees, and subcommittees of such committees, and their members and clerks, shall cease to be in operation as on and from such day as may be specified in the resolution. 20 25
- (f) If either House by resolution so declares, this Act shall cease to be in operation, in so far as it relates to joint committees of both Houses, and subcommittees of such committees, and their members and clerks, as on and from such day as may be specified in the resolution. 30
- (3) The Principal Act and this Act (except in so far as it relates to functions of the Commission under the Act of 1997) may be cited together as the Ethics in Public Office Acts, 1995 and 2000, and shall be construed together as one.
- (4) The Electoral Acts, 1992 to 1997, and this Act in so far as it relates to functions of the Commission under the Act of 1997 may be cited together as the Electoral Acts, 1992 to 2000. 35

SCHEDULE 1

Section 11.

Amendment of Principal Act

Section (1)	Extent of Amendment (2)
5  10  15  20	<p>2</p> <p>(1) In subsection (2), the following definitions shall be inserted:                      “‘Act of 1997’ means the Electoral Act, 1997;                      ‘Act of 2000’ means the <i>Standards in Public Office Act, 2000</i>;                      ‘specified act’ means an act or omission referred to in <i>section 4(1)(a)</i> of the <i>Act of 2000</i> and references to the doing of a specified act include references to the making of such an omission and cognate words shall be construed accordingly, but references, in relation to a member, to a specified act shall be construed as if the references in the said section 4(1)(a) to the performance by the specified person of the functions of the office or position by reference to which he or she is such a person were references to the performance by the member of the functions of the office of member.”.</p> <p>(2) In subsection (3), “or impose on the person a significant loss, liability, penalty, forfeiture, punishment or other disadvantage without also conferring it on, withholding it from or imposing it on” shall be substituted for “without also conferring it on or withholding it from”.</p>
5  25  30  35  40  45	<p>5</p> <p>(1) In subsections (1) and (2), “not later than the following 31 January” shall be substituted for “not later than 30 days after that date”.</p> <p>(2) The following subsection shall be inserted after subsection (3):</p> <p>“(3A) (a) Where either House is dissolved during the period of 30 days from a registration date, a person who was a member on that date may request the first Committee appointed after the general election for members of that House following that dissolution to give him or her advice under section 12 in relation to this section and, if a member does so—</p> <p>(i) he or she shall furnish to the Clerk, with his or her statement under subsection (1) or (2) in relation to that registration date, a statement in writing to the effect that he or she has made the request aforesaid,</p> <p>(ii) the member may, not later than 21 days after the receipt of the advice from the Committee, prepare and furnish to the Clerk a statement in writing of any alterations to his or her statement under subsection (1) or (2) falling to be made by virtue of the advice, and</p> <p>(iii) section 6(4) shall apply to a statement under this subsection as it applies to a statement furnished to the Clerk under paragraph (a), (b) or (c) of section 29(1).”.</p>
6	<p>In subsection (4)(a), “paragraphs (a), (b) and (c) of” shall be inserted before “section 29(1)”.</p>
50  55	<p>7</p> <p>(1) The following subsection shall be inserted after subsection (2):</p> <p>“(2A) A member referred to in subsection (2) who requests the Committee to give him or her advice under section 12(1)(b) in relation to this section and who does not receive the advice before the speech or vote concerned shall—</p> <p>(a) if it is a case to which paragraph (a) of subsection (2) applies, make a declaration of the fact of the request in the proceedings concerned before or during that speech and, upon receipt of the advice, as soon as may be, make a declaration in writing of the advice and furnish it to the Clerk, or the clerk to the committee, concerned, as may be appropriate, and</p>

Section (1)	Extent of Amendment (2)	
7 - <i>contd.</i>	<p>(b) if it is a case to which paragraph (b) of subsection (2) applies, make the first-mentioned declaration aforesaid in writing and furnish it before voting to the Clerk, or the clerk to the committee, concerned, as may be appropriate and, upon receipt of the advice, as soon as may be, make a declaration in writing of the advice and furnish it to the Clerk, or the clerk to the committee concerned, as may be appropriate,</p> <p>and subsection (5) shall apply to a declaration under this subsection as it applies to a declaration under subsection (2) with the modification that paragraph (b) shall be construed as providing for the laying of a copy of a declaration under this subsection before the House in lieu of publishing it in accordance with that paragraph.”.</p> <p>(2) In subsection (3), “or impose on the person a significant loss, liability, penalty, forfeiture, punishment or other disadvantage without also conferring it on, withholding it from or imposing it on” shall be substituted for “without also conferring it or withholding it from”.</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p>
8	<p>(1) In subsection (2), “or done a specified act” shall be inserted after “section 5 or 7”.</p> <p>(2) In subsection (3), “or that there is not sufficient evidence to establish a <i>prima facie</i> case in relation to the complaint” shall be inserted after “frivolous or vexatious”.</p> <p>(3) In subsection (4)—</p> <p>(a) “or done a specified act” shall be inserted after “section 5 or 7”, and</p> <p>(b) “of that House” shall be deleted.</p>	<p>25</p>
9	<p>(1) In subsection (1), “or done a specified act” shall be inserted after “section 5 or 7” and “or section 4 of the <i>Act of 2000</i>” shall be inserted after “section 8”.</p> <p>(2) The following subsection shall be substituted for subsection (2):</p> <p>“(2) Where a Committee, either during or at the conclusion of an investigation under this section in relation to section 5 or 7, becomes of opinion that the member the subject of the investigation has not contravened that section but may have contravened the other section or done a specified act, it may carry out an investigation under this section to determine whether the person has contravened that other section or done the specified act.”.</p> <p>(3) The following subsections shall be inserted after subsection (2):</p> <p>“(2A) Where a Committee, either during or at the conclusion of an investigation under this section in relation to a specified act, becomes of opinion that the member the subject of the investigation has not done that specified act but may have done another such act or contravened section 5 or 7, it may carry out an investigation under this section to determine whether the person has done that other specified act or contravened section 5 or 7.</p> <p>(2B) If a Committee becomes of opinion that evidence sufficient to sustain a complaint referred or made to it under section 8 is not and will not be available, it may decide not to carry out, or to discontinue an investigation under this section.”.</p> <p>(4) In subsection (3)(a), “section 4 of the <i>Act of 2000</i> or section 8” shall be substituted for “section 8”.</p>	<p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p>

Section (1)	Extent of Amendment (2)
<p>10</p> <p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p>	<p>(1) In subsection (1)(b), “or done a specified act” shall be inserted after “section 5 or 7”.</p> <p>(2) The following subsection shall be inserted after subsection (1):</p> <p>“(1A) If, either during or at the conclusion of an investigation under section 9, a Committee is of opinion that the person the subject of the investigation may have committed an offence—</p> <p>(a) it shall prepare a report in writing in relation to the matter and furnish it together with any relevant document or other thing in its possession to the Director of Public Prosecutions who shall notify the Committee whether, following the receipt of the report, he or she has initiated, or caused to be initiated, proceedings for an offence in respect of any matter mentioned therein or has decided not to initiate, or cause to be initiated, any such proceedings and of the final outcome of any such proceedings (including any appeal, whether by way of case stated or otherwise, rehearing or retrial), and</p> <p>(b) it shall add to its report under subsection (1) a copy of its report under <i>paragraph (a)</i> and a statement of the notification or notifications aforesaid.”.</p> <p>(3) In subsection (2)—</p> <p>(a) in paragraph (a), “or, as the case may be, whether a specified act has been done and whether the act is continuing” shall be inserted after “continuing”,</p> <p>(b) in paragraph (b), “and that a specified act has not been done” shall be inserted after “section 5 or 7”, and</p> <p>(c) the following paragraph shall be substituted for paragraph (c):</p> <p>“(c) in case the determination is that there has been a contravention of section 5 or 7, or that a specified act has been done, by the member—</p> <p>(i) if the determination is that the contravention or act is continuing, the steps required to be taken by him or her to secure compliance by him or her with section 5 or 7 or the cesser of the act,</p> <p>(ii) whether the contravention or act was committed or done inadvertently, negligently, recklessly or intentionally,</p> <p>(iii) whether the contravention was, in all the circumstances, a serious or minor contravention, and</p> <p>(iv) whether the member acted in good faith and in the belief that his or her action was in accordance with guidelines published or advice given in writing by a Committee under section 12,</p> <p>and may refer to such matters, if any, as the Committee considers appropriate.”.</p>
<p>50</p>	<p>In subsection (1)(a), “and that a specified act was not done” shall be inserted after “section 5 or 7”.</p>

Section (1)	Extent of Amendment (2)	
12	<p>The following subsections shall be inserted after subsection (1):</p> <p>“(1A) Guidelines drawn up and published under subsection (1) by a Committee of either House—</p> <p>(a) subject to paragraph (b), shall remain in force until revoked, by guidelines drawn up and published under that subsection by that Committee or by a Committee appointed by the members of that House under section 8 after a subsequent general election for members of that House replacing the first-mentioned guidelines or amending other guidelines under that section, and</p> <p>(b) may be amended by guidelines under that subsection drawn up and published by a Committee specified in paragraph (a).</p> <p>(1B) A document purporting to be guidelines under subsection (1) shall be taken, unless the contrary is shown, to be such guidelines and shall be admissible in any proceedings before a court or other tribunal or a Committee or the Commission, and any provision of any such guidelines that appears to the tribunal, the Committee or the Commission to be relevant to a question in the proceedings may be taken into account by it in determining the question.”.</p>	5  10  15  20
13	<p>(1) In subsection (1)—</p> <p>(a) “or ceases to be an office holder before a registration date” shall be inserted after “office holder on a registration date”, and</p> <p>(b) the following paragraph shall be substituted for paragraph (b):</p> <p>“(b) if the person is an office holder on a subsequent registration date or ceased to be an office holder before such a date but after the last previous registration date, at any time when he was an office holder during the period between the first-mentioned date and the last previous registration date or, as the case may be, between the first-mentioned date and the date of the cesser.”.</p> <p>(2) In subsection (4), “not later than the following 31 January” shall be substituted for “not later than 30 days after that date”.</p>	25  30  35
14	In subsection (3) (b), “office holder” shall be substituted for “officer”.	40
16	<p>The following paragraph shall be substituted for paragraph (a) of subsection (2):</p> <p>“(a) Section 20 shall apply to a statement under subsection (1) (a) with the modifications that the references in that section to section 19(3) (a) (i) shall be construed as references to subsection (1) (a), the references to the special advisers shall be construed as references to the office of Attorney General and with any other necessary adaptations.”.</p>	45
19	<p>The following subsection shall be inserted after subsection (6):</p> <p>“(7) Subsection (4) shall be complied with not later than 60 days after the person concerned was appointed to act as a special adviser and, in case a document referred to in paragraph (b) of that subsection is furnished to the office holder concerned at any time after the expiration of the period aforesaid, not later than 60 days after that time, and such compliance shall, in a case where the office holder concerned dies or becomes incapacitated, be effected by the Taoiseach.”.</p>	50  55



Section (1)	Extent of Amendment (2)
<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p> <p>55</p> <p>60</p> <p>65</p>	<p>(1) The following subsections shall be substituted for subsection (1):</p> <p>“(1) A statement furnished by a person under section 17(1)(a) or 18(2)(a) shall—</p> <p>(a) in case, as may be appropriate, the person was appointed to the directorship or position concerned before the date of the commencement of this Part and the statement is the first such statement so furnished by the person since that date, be in respect of the period from that date or, if it is later, the date on which, as may be appropriate, the directorship or position became a designated directorship or a designated position to the date of the statement,</p> <p>(b) in case the person was so appointed on or after the date of such commencement and the statement is the first such statement so furnished by the person since such appointment, be in respect of the period from the date of such appointment or, if it is later, the date on which, as may be appropriate, the directorship or position became a designated directorship or a designated position to the following 31 December,</p> <p>(c) in any other case, be in respect of the period beginning on the day immediately following the date of the expiration of the period to which the last previous such statement so furnished by the person related to the following 31 December or, if it is earlier, the date on which the appointment concerned ended.</p> <p>(1A) A statement furnished by a person under section 19(3)(a)(i) shall—</p> <p>(a) in case the person was appointed to the special advisership concerned before the date of the commencement of this Part and the statement is the first such statement so furnished by the person since that date, be in respect of the period from that date to the date of the statement,</p> <p>(b) in case the person was so appointed on or after the date of such commencement and the statement is the first such statement so furnished by the person since such appointment, be in respect of the period from the date of such appointment to the following 31 December, and</p> <p>(c) in any other case, be in respect of the period beginning on the day immediately following the date of the expiration of the period to which the last previous such statement so furnished by the person related to the following 31 December or, if it is earlier, the date on which, in relation to the person, the period referred to in section 19(2) ends.”.</p> <p>(2) The following subsections shall be substituted for subsection (3):</p> <p>“(3) A statement by a person under section 17(1)(a), 18(2)(a) or 19(3)(a)(i) in respect of a period specified in paragraph (a) of subsection (1) or paragraph (a) of subsection (1A) shall be furnished by the person to the person or persons concerned not later than such time in the year concerned as the Minister may determine.</p> <p>(3A) A statement by a person under section 17(1)(a), 18(2)(a) or 19(3)(a)(i) in respect of a period specified in paragraph (b) or (c) of subsection (1) or paragraph (b) or (c) of subsection (1A) shall be furnished by the person to the person or persons concerned not later than 31 January in the year following the year in which the period fell.</p> <p>(3B) Notwithstanding subsection (3A), where, in relation to a person who is a special adviser, within the meaning of section 19, the period referred to in subsection (2) of that section ends, a statement under subsection (3)(a)(i) of that section in relation to that period shall be furnished by the person to the persons concerned not later than 28 days from such ending.”.</p>

Section (1)	Extent of Amendment (2)	
21	In subsections (3) and (4), “an ordinary member of the Commission” shall be substituted for “a member of the Commission” in each place where it occurs.	5
22	<p>(1) In subsection (1)—</p> <p>(a) in paragraph (b), “that” shall be deleted, and</p> <p>(b) “to the Commission” shall be substituted for “to the Clerk and, subject to subsection (2), the Clerk shall refer the matter to the Commission and shall furnish a copy of the complaint to the Commission”.</p> <p>(2) The following subsection shall be inserted after subsection (4):</p> <p>“(5) If a Committee by resolution determines—</p> <p>(a) that a complaint under section 8(2) made or referred to it should be investigated by the Commission, or</p> <p>(b) in the case of a member (other than a member who is or, at the relevant time, was an office holder), that an investigation should be carried out by the Commission to determine whether the member has contravened section 5, 7 or 12 or has done a specified act,</p> <p>the chairman of the Committee shall—</p> <p>(i) in a case to which <i>paragraph (a)</i> relates, refer the matter to the Commission and furnish a copy of the complaint concerned to the Commission, and</p> <p>(ii) in a case to which <i>paragraph (b)</i> relates, make a complaint in writing in relation to the matter to the Commission.”.</p>	10 15 20 25
23	In subsection (3), “the provision of this Act or the Act of 1997 to which the investigation relates or has not done a specified act, but, as may be appropriate, may have contravened another provision of Part II, III or IV or the Act of 1997 or may have done a specified act, it may carry out an investigation under this section to determine, as appropriate, whether the person has contravened that other provision or that Act or has done a specified act” shall be substituted for the words from and including “the provision of this Act” to the end of the subsection.	30 35
24	<p>(1) In subsection (1)—</p> <p>(a) the following paragraph shall be substituted for paragraph (b):</p> <p>“(b) if the investigation followed a complaint under section 22 or section 4 of the Act of 2000, the person who made the complaint and, if the complaint was referred or made to the Commission under section 22 (5), the Committee concerned, and”</p> <p>(b) in paragraph (c)(i), or the Act of 1997 or has done a specified act” shall be inserted after “Part II, III or IV”.</p> <p>(2) In subsection (2)—</p> <p>(a) “or member” shall be inserted after “as an office holder”,</p> <p>(b) “or that the person may have contravened Part II before becoming an office holder” shall be deleted, and</p> <p>(c) in paragraph (a), “whether following the receipt of the report,” shall be substituted for “as to whether”.</p> <p>(3) In subsection (3)—</p> <p>(a) the following paragraph shall be substituted for paragraph (a):</p> <p>“(a) whether there has been a contravention of Part II, III or IV or the Act of 1997 by the person concerned or that person has done a specified act and whether the contravention or act is continuing.”,</p> <p>(b) in paragraph (b), “or the Act of 1997, by the person and the person has not done a specified act,” shall be substituted for “, by the person,” and</p>	40 45 50 55

Section (1)	Extent of Amendment (2)
<p>24-<i>contd.</i></p> <p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p>	<p>(c) in paragraph (c)—</p> <p>(i) “Part II, III or IV or the Act of 1997 by the person or that the person has done a specified act” shall be substituted for “Part II, III or IV by the person”, and</p> <p>(ii) the following subparagraphs shall be substituted for subparagraphs (i), (ii) and (iii):</p> <p>“(i) if the determination is that the contravention is continuing or, as the case may be, that the specified act is continuing, the steps required to be taken by him or her to secure compliance by him or her with Part II, III or IV or the Act of 1997 or to secure the discontinuance of the specified act, as the case may be, and the period of time within which such steps should be taken,</p> <p>(ii) whether the contravention or act was committed or done inadvertently, negligently, recklessly or intentionally,</p> <p>(iii) whether the contravention or act was, in all the circumstances, a serious or a minor matter, and”.</p> <p>(4) The following subsection shall be inserted after subsection (5):</p> <p>“(5A) A public body to which a report under subsection (1) or subsection (2)(c) of section 20 of the Act of 2000 is furnished may, having considered the report and invited submissions from the person concerned in relation to the matter and considered any such submissions, take such action in relation to the person to whom the report relates as it considers appropriate including suspension without payment of remuneration from the office or position held or occupied by the person for such period as it may determine, being, in the case of a person to whom a report under the said subsection (2)(c) relates, a period ending not later than the date on which the documents concerned specified in subsection (1)(a) of the said section 20 are furnished to the Commission.”.</p>
<p>25</p> <p>40</p> <p>45</p> <p>50</p>	<p>(1) In subsection (1)—</p> <p>(a) in paragraph (a), “(other than members who are not office holders)” shall be deleted and “Part II, III or IV or the Act of 1997 applies concerning the steps to be taken by them to ensure compliance by them with this Act, and that Act, generally and, in particular, with the provisions of those Parts and that Act that apply to them,” shall be substituted for the words from “Part II, III or IV” to the end of the paragraph, and</p> <p>(b) in paragraph (b), “and may, at the request of a person, give advice to the person, if section 4(1)(a) of the Act of 2000 applies to the person, in relation to that section or in relation to any provision of the Act of 1997 with which that person is required to comply or as to the application, in any particular case, of that section or any such provision” shall be inserted after “any such provision”.</p>



Section (1)	Extent of Amendment (2)
29	<p>In subsection (1), the following paragraph shall be substituted for paragraph (e):</p> <p>“(e) When the Clerk receives a statement under paragraph (a), (b), (c) or (d) or section 30 or corrects an error in or amends a register established by him or her under section 6, he or she shall—</p> <p>(i) in the case of a statement under paragraph (a), (b), (c) or (d) relating to an additional interest, furnish a copy of it to the Commission and (if it is a statement of a Minister of the Government or a Minister of State) the Taoiseach,</p> <p>(ii) in the case of a statement under section 30, furnish a copy of it to the Commission,</p> <p>(iii) in the case of a correction or amendment, notify the Commission of it.”.</p>
31	<p>In subsection (2), “or made to it under <i>section 4</i> of the <i>Act of 2000</i>” shall be inserted after “(other than <i>subsection (4)</i> thereof)”.</p>
32	<p>(1) The following subsections shall be inserted after subsection (4):</p> <p>“(4A) A Committee or the Commission may, for sufficient reason if it considers it appropriate to do so, arrange for the examination of a person at any place in or outside the State by, in the case of a Committee, a member of the Committee, a member of the staff of the Committee or any other person and, in the case of the Commission, by a member of the Commission, a member of the staff of the Commission or any other person and may receive, in such form as it may determine, the evidence of the person taken at the examination, and the relevant rules of court relating to evidence in proceedings in the High Court shall apply in relation to the matters aforesaid with any necessary modifications.</p> <p>(4B) In relation to the matters specified in subsections (1) and (2) and, in so far as they relate to a Committee or the Commission, subsection (4A), a Committee or the Commission shall have all such powers, rights and privileges as are vested in the High Court on the occasion of an action and, in relation to the matters specified in subsection (4A), in so far as they relate to a person conducting an examination pursuant to that subsection, that person shall have all the powers, rights and privileges aforesaid.”.</p> <p>(2) In subsection (6)(b), “or the Act of 1997 or the specified act” shall be inserted after “this Act”.</p> <p>(3) The following subsection shall be substituted for subsection (8):</p> <p>“(8) A person whose evidence has been, is being or is to be given before—</p> <p>(a) a Committee or the Commission,</p> <p>(b) an inquiry officer, or</p> <p>(c) a person for the purposes of an examination by him or her pursuant to subsection (4A),</p>

Section (1)	Extent of Amendment (2)	
32- <i>contd.</i>	<p>or who produces or sends a document to a person referred to in paragraph (a), (b) or (c) or who is directed by the chairman of a Committee or the chairperson of the Commission or requested by a person referred to in paragraph (b) or (c), for the purposes referred to in that paragraph, to give evidence or produce a document to the Committee or the Commission or to the person referred to in paragraph (b) or (c) or to attend before the Committee or the Commission or the person and there to give evidence or produce a document shall be entitled to the same privileges and immunities in respect of those matters as a witness before the High Court in respect of evidence.”.</p> <p>(4) In subsection (11)(c), “, advisers, agents” shall be inserted after “members”.</p> <p>(5) The following subsections shall be inserted after subsection (11):</p> <p>“(11A) Utterances made by a person conducting an examination pursuant to subsection (4A), or an inquiry officer, for the purpose of the performance of his or her functions under this Act, shall be absolutely privileged and such utterances and documents prepared by those persons for the purposes of such performance shall be absolutely privileged wherever published subsequently.</p> <p>(11B) Utterances made otherwise than at meetings of a Committee or the Commission of members, advisers, officials or agents of the Committee or the Commission for the purposes of the performance of their functions under this Act or the <i>Act of 2000</i> shall be absolutely privileged and those utterances and documents of such advisers, officials and agents connected with a Committee or the Commission or its functions shall be absolutely privileged wherever published subsequently.”.</p>	5 10 15 20 25 30
35	In subsection (1)(b)(i), “section 29(1)” shall be substituted for “section 29(2)”.	
36	“or to secure the cesser of a specified act” shall be inserted after “this Act”.	

Section 25.

## SCHEDULE 2

35

### Repeals

Short Title (1)	Extent of Repeal (2)	
Ethics in Public Office Act, 1995	<p>In section 21—</p> <p style="padding-left: 40px;">in subsection (3)(a), subparagraph (iii),</p> <p style="padding-left: 40px;">in subsection (4)(c), the words “The Chairman of Dáil Éireann, the Deputy Chairman of Dáil Éireann,”,</p> <p style="padding-left: 40px;">subsection (6).</p> <p>In section 22, subsection (2).</p>	40 45



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**AN BILLE UM CHAIGHDEÁIN IN OIFIGÍ POIBLÍ, 2000  
STANDARDS IN PUBLIC OFFICE BILL, 2000**

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**EXPLANATORY MEMORANDUM**

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The Standards in Public Office Bill (“the Bill”) provides for the establishment of a new Standards in Public Office Commission (“the Commission”) with wide investigative powers in relation to complaints about acts or omissions of persons in public life. Such complaints would concern matters which would be inconsistent with the proper performance by such persons of the functions of the office concerned or with the maintenance of confidence in such performance by the general public, where the matter is of significant public importance. The Commission will be chaired by a judge or former judge and will have four other *ex officio* members, viz. the Clerks of the Dáil and Seanad, the Comptroller and Auditor General and the Ombudsman. The Commission will also take on the current functions of the Public Offices Commission, under the Ethics in Public Office Act, 1995 (the Act of 1995) and the Electoral Act, 1997 (the Act of 1997).

The Bill also provides for the development by the Government, the Commission or the Minister for Finance, of codes of conduct which will apply to Ministers and other office holders, members of the Oireachtas and employees of public bodies respectively. These codes of conduct will deal with the standards of conduct and integrity appropriate to the persons to whom they relate in the performance of their public duties. The codes will form part of the terms and conditions of public service employees, and will provide guidance for them in the performance of their functions. The Bill provides that codes of conduct (and other provisions of the Bill) will be applied to Oireachtas members by resolution passed in each House.

The Bill will also provide for tax clearance requirements for members of the Oireachtas, senior public servants and judges. These categories of persons will be required to provide a tax clearance certificate within 9 months of election or appointment and will also have to make a statutory declaration within one month of appointment or election stating that their tax affairs are in order. Where a person fails to produce a tax clearance certificate or declaration, the Commission will draw up a report on the matter and furnish it to the relevant Committee of the Houses, Minister, or public body, or to the Chief Justice, as appropriate. Where a public servant contravenes the tax compliance requirements of the Bill, the appropriate public body can take such action as it considers appropriate, including suspension without pay. Committees will be empowered to recommend to the relevant House that penalties be imposed on members of the Oireachtas who do not comply with tax clearance certificate or declaration requirements. In addition, the Statutory Declarations Act,

1938, is being amended to increase the penalties for false declarations.

The Bill will make provision for streamlining of current requirements for declarations of interests and donations under the Act of 1997 and the Act of 1995. The dates for the making of these statements will be brought into line, and the current overlap in reporting requirements, which require certain amounts to be declared both as political donations under the Act of 1997 and as gifts under the Act of 1995, will be removed.

The Bill also makes a considerable number of technical amendments to the existing legislation. *Schedule 1*, in particular, provides for various technical and consequential adjustments to the Act of 1995 and also aims to address issues in relation to the operation of the Act of 1995 which have arisen since its enactment.

The contents of the Bill are described in greater detail below.

*Section 1* of the Bill defines terms.

*Section 2* establishes the Commission and sets out its membership. The Commission is to consist of a judge or former judge of the High Court or the Supreme Court, who will act as chairperson, while the Clerks of the Dáil and Seanad, the Comptroller and Auditor General and the Ombudsman will act as *ex officio* members of the Commission. The Chairperson will be appointed by the President, on the advice of the Government, following resolutions in each House of the Oireachtas. Appointment will be for a period of 6 years.

*Section 3* provides that the Commission will have all the functions previously conferred on the Public Offices Commission by the Act of 1997.

*Section 4* deals with complaints to the Commission. Complaints, which should be in writing or such other form as may be determined, should relate to matters of significant public importance in relation to an act or omission of an office holder, or other public servant, which is inconsistent with the proper performance of the duties of the relevant position, or which would be inconsistent with the maintenance of public confidence in that performance. It will be a matter for the Commission to decide what constitutes a matter of significant public importance in this regard but, where it considers it appropriate to do so, the Commission may deem a matter to be of significant public importance if it relates to a benefit or potential benefit allegedly received by a specified person or connected person, where the value of the benefit exceeds £10,000.

The Commission may also receive complaints in relation to contraventions of the Act of 1995 or the Act of 1997. The Commission may request an inquiry officer to make a preliminary investigation of the complaint. If the complaint is not of sufficient gravity to warrant investigation by the Commission, it may be referred to a committee of the relevant House of the Oireachtas, or to the Minister or public body concerned, as appropriate.

*Section 5* sets out in greater detail the role and powers of the inquiry officer. Where a complaint is received under section 4, or under section 22 of the Act of 1995, the inquiry officer will seek statements from the complainant and the person about whom the complaint is made, and may conduct interviews with them, and will report back to the Commission. The inquiry officer may request the production of documents, but there will be no compulsion on the



person concerned to answer questions or produce documents at this stage.

*Section 6* amends the Act of 1995 by substituting new provisions for the existing section 23. The effect of this amendment is to ensure that the Commission can investigate complaints made under section 22 of the Act of 1995 or under *section 4* of the Bill. This might include complaints concerning Oireachtas members which the relevant Oireachtas committee decides to refer to the Commission.

*Section 7* deals with codes of conduct. This section will require that codes of conduct be drawn up, in consultation with the Commission, by—

- the Government, in the case of office holders, and
- the Minister for Finance in the case of public servants generally.

In the case of Oireachtas members, a code of conduct will be drawn up by the Commission, in consultation with the relevant House of the Oireachtas, but can only be applied to members by resolution of the House.

A code may be amended or revoked from time to time by the person who drew it up. A code of conduct will deal with standards of conduct and integrity and the persons to whom it relates will have regard to the codes in the course of the performance of their duties. A code of conduct will be admissible, and can be taken into account, in court proceedings, or before a Committee, tribunal or the Commission, where it is considered by them to be relevant to a question they are considering.

*Section 8* deals with statements in writing furnished under section 17 or 18 of the Act of 1995. These statements are declarations of interests made by holders of designated directorships or designated positions, furnished to appropriate persons set out in the legislation or by regulation, (for example, the Secretary-General of a Department, in the case of a civil servant). This section of the Bill will allow the person receiving such a statement to make a complaint to the Commission where some matter arising from the statement leads them to the view that this is appropriate. This does not apply to statements of interests made by members of the Oireachtas or office holders or special advisers, whose statements are already available for public scrutiny.

*Section 9* deals with the “registration date” which applies to members of the Oireachtas under the Act of 1995. The registration date marks the end of the period to which a statement of interests under that Act relates. The effect of this provision is to bring the registration date for statements of interests under the Act of 1995 into line with the date for donation statements under the Act of 1997. This is intended to reduce the confusion that can arise in relation to declarations under the Act of 1997 and the Act of 1995.

*Section 10* will provide that a member of the Oireachtas or office holder will not be required to declare, in a statement of interests under the Act of 1995, a donation which is declared in a statement of donations under the Act of 1997. This will reduce duplication. However, should an item which should have been in a declaration under the Act of 1997 not have been declared, it will become subject to inclusion in a statement of interests under the Act of 1995.

*Section 11* provides for consequential and minor amendments of the Act of 1995. The section provides that amendments set out in *Schedule 1* to the Bill will take effect. It also provides that complaints

made to the Clerk of the Dáil, under section 22 of the Act of 1995, before commencement of the Bill, will not be affected by the changes to that section of the Act of 1995 which are provided for in the Schedule.

*Section 12* is a transitional provision which provides that Part V of the Act of 1995 (which deals with the Public Offices Commission and its functions, including complaints, investigations and reports) shall have effect in relation to certain specified matters as if this Bill had not been enacted. The specified matters relate to functions which the Public Offices Commission was in the course of performing at the time of the establishment of the new Commission, and allows the functions concerned to be completed by the Public Offices Commission under existing procedures.

*Section 13* ensures that references to the Public Offices Commission and to the Chairman of that body in either the Act of 1995 or the Act of 1997 will henceforth be read as references to the Commission, thus allowing for the Commission to take on the role and functions of the Public Offices Commission. This section also provides that the Minister for Finance (“the Minister”) may make regulations where necessary or expedient to allow the performance by the Commission of its statutory functions.

*Section 14* deals with self-incrimination and admissibility of certain evidence. A person giving evidence before the Commission or a Committee may not refuse to produce documents or refuse to answer questions put to him or her on the grounds that they might be self-incriminating. However, provision is made to provide that statements or admissions made to a Committee or the Commission, or persons acting for them, will not generally be admissible in evidence in criminal or civil proceedings.

*Section 15* provides that it shall be an offence for a person to obstruct the Commission or a Committee or person acting for them. Penalties will be as provided under section 37 of the Act of 1995—

- on summary conviction, a fine not exceeding £1,000 or imprisonment for a term not exceeding 6 months or both, or—
- on conviction on indictment, a fine not exceeding £20,000 or imprisonment for a term not exceeding 3 years or both.

*Section 16* deals with discovery of documents. Any person may be required to make discovery of any documents relevant to the functions of a Committee or the Commission, in accordance with High Court discovery rules.

*Section 17* creates an offence where a person fails to preserve a document or information relevant to an investigation of a Committee or Commission.

*Section 18* requires the Clerks of the Dáil and Seanad to consult with the Commission from time to time to ensure that the various forms issued to members of the Oireachtas under the Act of 1995 and the Act of 1997 are issued in a timely and co-ordinated manner, and for the purposes of making compliance with sections 5 and 13 of the Act of 1995 as simple and straightforward as possible.

*Sections 19 to 22* deal with tax clearance certificates and statutory declarations in relation to tax compliance by persons elected to the Oireachtas and by persons appointed to judicial office or senior public service positions.

*Section 19* requires that persons elected to the Oireachtas (or nominated to the Seanad) will provide, within 9 months of the election, a tax clearance certificate and a statutory declaration stating that the person is, to the best of his or her knowledge, in compliance with the Tax Acts. A tax clearance certificate must have been issued within a period of 9 months before or after the election. Where a tax clearance certificate has been applied for, but not yet issued, an 'application statement' can be submitted as proof that the certificate has been sought. Where a person contravenes the requirement to submit the certificate and declaration, the Commission is required to investigate the matter and report its findings to the relevant Committee, and the report will be laid before the House. Penalties for non-compliance are not specified here, but section 28 of the Act of 1995, deals with actions by the Houses where reports are laid before them, and that section will be applied, by Schedule 1 of the Bill, to reports laid before the Committees under the current Bill. Under that section, the Committee may initiate a motion for a resolution that one of the following actions be taken on foot of it—

- noting of the report,
- censure of office holder or member involved,
- suspension of the office holder or member for not more than 30 days, or in certain cases until the contravention concerned is discontinued.

*Section 20* deals with tax compliance by holders of judicial office and senior public service posts. In similar terms to section 19, it requires that persons appointed to judicial office or to senior posts in public bodies must provide a tax clearance certificate or application statement within 9 months of taking up their position, together with a statutory declaration. Where a person is in contravention of this requirement, the Commission shall investigate the matter and draw up a report which will be furnished to the Chief Justice and Minister for Justice, Equality and Law Reform (in the case of judges) or to the relevant public body, as appropriate. Where a report is submitted to a public body, it may take appropriate action, including suspension of the person concerned.

*Section 21* deals with the situation where persons have not complied with the requirements of *section 19* or *20*. In such cases, the person continues to be required to furnish to the Commission a tax clearance certificate and/or statutory declaration. Where a person is a member of the Oireachtas or holds a judicial post, and has not produced a certificate and/or statutory declaration in a given year, the Commission will note that failure in its annual report, and notify the relevant Committee or the Minister for Justice, Equality and Law Reform and the Chief Justice of the position. These will also be informed by the Commission when the person does subsequently comply with the requirements. Similar procedures will apply where the holder of a senior public service office is not in compliance with the requirements, except that, in such a case, it will be the head of the public body concerned who will be informed.

*Section 22* deals in greater detail with the tax clearance certificates themselves. A person who is in compliance with the obligations of the Tax Acts in relation to the payment of taxes, interest or penalties, and with the making of tax returns, will be eligible to receive a tax clearance certificate from the Collector-General. The certificate will state that at the time of issue the person is in compliance with those obligations. Where a person, or a partnership of which the person is a member, is not in compliance, the certificate will not be issued.

Where a person has sought a tax clearance certificate and the Collector-General has not yet granted it, or where the Collector-General has refused a tax clearance certificate but the matter is the subject of an appeal, the person shall be furnished with an 'application statement' to the effect that the person has applied for a tax clearance certificate and a final decision has not yet been made. Where the Collector-General ultimately refuses a tax clearance certificate, he shall inform the Commission of his refusal.

*Section 23* provides for an amendment of the Statutory Declarations Act, 1938, to update the penalties applying for breach of that Act. The maximum fine for a false declaration becomes £2,000 (set at £50 in the Statutory Declarations Act, 1938) and the maximum prison sentence becomes 6 months, as opposed to the current 3 months. As far as this Bill is concerned, the amendment to the Statutory Declarations Act, 1938, will ensure that appropriate penalties can be imposed by the courts in the event of a deliberately false declaration being made in relation to tax compliance, under *section 19* or *20*.

*Section 24* provides a regulation making power for the Minister, so that difficulties arising in the first two years of operation of the Bill, when enacted, can be addressed.

*Section 25* provides for repeals on foot of this Bill, as set out in *Schedule 2* in particular.

*Section 26* provides for commencement and citations. The Bill as enacted will generally come into operation on such day as the Government appoints by order. However, the Bill as enacted will have effect in relation to the Houses of the Oireachtas only after each House has passed appropriate resolutions bringing it into operation.

*Schedule 1* provides for various technical and consequential adjustments to the Act of 1995. The section of the Act of 1995 being amended is indicated in *column (1)* of the Schedule, and the extent of the amendment is indicated in *column (2)*.

Section 2 of the Act of 1995 is amended so as to ensure that the definitions set out in that section take into account the new Bill. Of particular interest in understanding the Bill is the definition of "specified act". A specified act is an act or omission of the type set out in *section 4(1)(a)* of the Bill, viz., an act or omission inconsistent with the proper performance by the person concerned of the office or position which he or she holds, or with the maintenance of public confidence in such performance by the general public. The act or omission must be of significant public importance, to be a specified act.

An amendment to subsection (3) of section 2 of the Act of 1995 will ensure that, in considering whether a person has a material interest in a matter, the avoidance of a loss or penalty can be taken into account.

Section 5 of the Act of 1995 is amended in subsection (1) to reflect the bringing into line of declaration dates under the Act of 1995 and the Act of 1997. Members will continue to have one month from the end of the relevant period to make their Ethics in Public Office Act declarations.

The addition to subsection (3) of this section is intended to cover a "gap" in the Act of 1995. At present, a member, who is due to

furnish a statement of interests to the Clerk of the Dáil or Seanad as appropriate, may seek advice from the relevant Committee, under section 12 of the Act, about the statement. This addition makes provision for the possibility that the House may have been dissolved, before a member had a chance to get this advice. Now, the member will be able to seek advice from the next such Committee, may complete his statement in the meantime, but must inform the Clerk of the Dáil or Seanad as appropriate, that he or she has made a request for advice. If, following the receipt of the advice from the Committee, the member makes a correction to the original interests statement, the Clerk of the Dáil or Seanad as appropriate, will amend the register accordingly.

Section 6 of the Act of 1995 is amended to tidy up referencing in the Act.

A new subsection is inserted by this Bill, after subsection (2) of section 7 of the Act of 1995. The new subsection deals with the giving of advice to a member on interpretation of the Act of 1995, by a Committee, where the member intends to participate in a debate or a vote of the relevant House. It provides that where a person intends to speak or vote on a matter in which he or she might have a material interest, and where the person seeks advice from the Committee about how he/she stands as regards the Act of 1995 the person must now declare that he/she has sought such advice, and when the advice is received later it must be laid before the Houses. Until now, once a person had sought advice on the application of the Act in his or her case, it was possible for him or her to proceed to participate in a debate or vote (and this will continue to be the case), but there had been no requirement for any follow-up after the advice had been received. In subsection (3) of section 7, the definition of material interest is being extended to ensure that, in considering whether a person has a material interest in a matter, the avoidance of a loss or penalty can be taken into account (rather than simply the conferring or withholding of a “benefit”).

Section 8 of the Act of 1995 deals with the making to the Clerk of complaints in relation to breaches of the Act. This is being amended to ensure that similar procedures apply to specified acts. This provision, and similar amendments to a number of other sections of the Act of 1995 will ensure that structures and procedures established under the Act of 1995 are extended to deal with issues arising under the new Bill, also. An amendment to subsection (2) of section 8 will provide that, as well as considering whether a complaint is frivolous or vexatious, the Clerk will consider whether there is evidence to establish a *prima facie* case. This deals with the current difficulty that a complaint may be received where it is neither frivolous nor vexatious, but where there is no evidence to support it.

Amendments to section 9 of the Act of 1995 again deal with the issue of applying the Act’s structures and procedures to complaints arising under the new Bill. A Committee can now investigate a specified act in the same way as it may currently investigate breaches of the Act of 1995. Moreover, the existing provisions provide that where a contravention, other than the contravention being investigated, comes to the notice of a Committee carrying out the investigation, that other contravention may also be investigated. This is extended to allow for the investigation of specified acts in the same way.

Section 10 of the Act of 1995, which deals with the manner in which Committees will report back to the relevant House, is again extended to deal with specified acts. A new subsection is being

inserted to provide that where a Committee, in the course of its investigations, finds that an offence may have been committed, it shall report the matter to the DPP. This arises because of the new wider remit of the Committee.

Section 11 of the Act of 1995, dealing with award of costs is, again, being amended to include investigations of specified acts.

Section 12 of the Act of 1995, which deals with the issue of guidelines and advice by a Committee, is being amended by the insertion of a new subsection (1A) to provide that, where a Committee has drawn up guidelines, they will continue in force even after a dissolution of the relevant House, and until a new Committee amends or replaces them. This ensures continuity over the period following a dissolution and pending the establishment of a new Committee and drafting by the new Committee of new guidelines, if necessary. A new subsection (1B) provides that guidelines issued by the Committee can be taken into account by a court, tribunal, Committee or the Commission, in any proceedings.

Amendments to subsection (1) of section 13 of the Act of 1995, deal with the situation that, at present, where a person becomes an office holder after a registration date, but then ceases to hold the office before the next registration date, that person does not have to submit a statement of additional interests in the same way as persons in office on the registration date. The amendment proposed here will ensure that, even where a person is an office holder for a short time only, a statement of additional interests will have to be made in respect of the period for which the person held office. Provision is also being made to adjust the date by which a statement must be made, in line with similar such adjustments elsewhere.

The amendment proposed in relation to section 14 of the Act of 1995 corrects a minor error in the Act.

The amendment proposed in relation to section 16 of the Act of 1995 is a technical amendment consequent on changes to section 20 of the Act. It provides that similar deadlines for submission of statements of interests will apply for Attorneys General as apply to special advisers.

Section 19 of the Act of 1995 is being amended to provide that the obligation in subsection (4) of that section (which deals with the laying before the Oireachtas of documents in relation to persons appointed as special advisers) will be met within 60 days of a registration date.

The Bill provides that subsection (1) of section 20 of the Act of 1995 will be replaced by new subsections (1) and (1A). The existing subsection provides that persons holding designated positions, directorships or special adviser posts before the passing of the Act would make their first statements of interests in relation to the period from the passing of the Act to the first statement date, that persons appointed to one of these positions after passing of the Act would make their first statement in respect of the period from the date of their appointment to the next statement date, and that in any other case a person would make a statement in relation to the period from the date of one statement to the next statement date, or to the date on which the person ceased to hold the position, whichever was earlier. The effect of the amendment is threefold—

- provision is made for the situation where a person is already holding a position which becomes a designated position:

these will make a statement in respect of the period from their designation to the next statement date;

- the statement date is set at 31 December of each year, in line with similar adjustments elsewhere;
- the reference to the date of passing of the Act, is adjusted to the more appropriate “date of the commencement of this Part of the Act”.

A second amendment to this section of the Act of 1995 provides for situations where a special adviser loses his or her position on foot of the loss of office of the office holder for whom he or she has been acting as special adviser. In such a case, the special adviser must make a statement of interests within a short period of leaving his or her post.

The amendment to section 21 of the Act of 1995 is a minor consequential change on foot of differences in the composition of the Standards in Public Office Commission, established under this Bill, from that of the Public Offices Commission established under that Act.

Section 22 of the Act of 1995 is also amended by the Bill. Provision is made that certain complaints in relation to an office holder will be made to the Commission (rather than the Clerk).

Section 23 of the Act of 1995 is amended to include a reference to specified acts in subsection (3). This gives the Commission freedom to investigate a specified act which was not the subject of a complaint, but where the possibility that a person had done a specified act arose in the course of a Commission investigation on another matter, in relation to that person.

Amendments to section 24 of the Act of 1995 extend the provisions of section 24, in relation to reports of the Commission, to specified acts. It is also provided that where the Commission makes a report to a public body in relation to a member of its staff, the public body may, after due process, take such disciplinary action as it considers appropriate (including suspension).

As far as section 25 of the Act of 1995 is concerned, the role of the Commission in giving certain advice in relation to the Ethics Act is extended to include issues that arise under the Act of 1997, so that persons will be able to seek advice from the Commission in that regard also. It is also provided that guidelines issued under this section of the Act of 1995, as amended, will be admissible in proceedings.

In line with other amendments, section 26 of the Act of 1995 in relation to awards of costs is altered to take account of investigations of complaints in relation to specified acts.

Section 28 of the Act of 1995, which deals with the laying of reports before the Houses, extends the power to lay reports received from the Commission, by a Committee, to reports in relation to tax compliance sections of this Bill. Moreover, the existing power to continue a suspension of a member, until such time as specified steps are taken to ensure compliance with the Act, is extended so as to deal with specified acts and breaches of the tax compliance requirements of the Bill in similar fashion.

Amendments proposed to section 30 of the Act of 1995 are minor technical provisions intended to ensure that the Commission is informed of changes and corrections to the register of interests.

The power of the Commission to suspend ongoing investigations, set out in section 31 of the Act of 1995, is being extended to investigations arising under section 4 of the Bill.

A new subsection (4A) is being added to section 32 of the Act of 1995 to provide that, where there is sufficient reason to do so, a Committee or the Commission can arrange for the examination of a person at any place, in or outside the State, by a person appointed for the purpose, subject to High Court powers and rules of evidence. Provision is also made for privileges and immunities of witnesses, and of inquiry officers and persons conducting examinations on behalf of the Commission, and certain privileges in relation to statements made by members of the Commission, at its meetings, are extended to its advisers and agents.

A minor correction to an error in section 35 of the Act of 1995 is proposed, while section 36 of that Act is being amended to cater for specified acts.

*Schedule 2* makes some minor consequential repeals in relation to provisions of the Act of 1995.

*An Roinn Airgeadais,  
Meitheamh, 2000.*