



**Bille na dTeangacha Oifigiúla
(Comhionannas), 2002**

**Official Languages (Equality) Bill,
2002**



OFFICIAL LANGUAGES (EQUALITY) BILL, 2002

EXPLANATORY AND FINANCIAL MEMORANDUM

1. Purpose of Bill

The general purpose of the Bill is to promote equality for the Irish and English languages as the official languages of the State and to provide for language rights of the citizen in his or her relationship with the State.

2. Financial Implications

Financial implications will arise in connection with the establishment of the Office of the Official Languages Commissioner and the establishment of a new division in the Department of Arts, Heritage, Gaeltacht and the Islands. Additional expenditure is also envisaged arising from costs associated with training needs, bilingual services and translation requirements.

3. Staffing Implications

Staffing implications will arise in the context of providing the appropriate staffing complement for the Office of the Official Languages Commissioner. Staffing costs for the Department of Arts, Heritage, Gaeltacht and the Islands will arise from the establishment of a new division with responsibility for implementation of the legislation.

4. Section 1 sets out the short title and commencement of the Bill. It also sets out that the entire Act is deemed to be in force no later than three years after its passing.

5. Section 2 is the interpretative provision. It includes the definition of “the official languages” as “the Irish language (being the national language and the first official language) and the English language (being the second official language) as specified in Article 8 of the Constitution”.

6. Section 3 provides that the expenses incurred by Ministers in the administration of the Act shall be paid out of moneys provided by the Oireachtas, with the consent of the Minister for Finance.

7. Section 4 provides that the Minister may, with the consent of the Minister for Finance, make Regulations in relation to the provisions of the Act. It provides that Regulations made under the Act may be annulled by either House of the Oireachtas within 21 sitting days but in certain defined circumstances a resolution of the Houses of the Oireachtas will be required to proceed.

8. Section 5 provides for the use of the official languages in the Houses of the Oireachtas.



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MEABHRÁN MÍNIÚCHÁIN AGUS AIRGEADAIS

1. Cuspóir an Bhille

Is é cuspóir ginearálta an Bhille comhionannas a chothú don Ghaeilge agus don Bhéarla mar theangacha oifigiúla an Stáit agus foráil a dhéanamh maidir le cearta teanga an tsaoránaigh ina chaidreamh nó ina caidreamh leis an Stát.

2. Impleachtaí Airgeadais

Beidh impleachtaí airgeadais ann i dtaca le bunú Oifig Choimisinéir na dTeangacha Oifigiúla agus i dtaca le bunú rannáin nua sa Roinn Ealaón, Oidhreachta, Gaeltachta agus Oileán. Samhlaítear go mbeidh caiteachas breise ann freisin a éireoidh as costais a bhaineann le riachtanais oiliúna, seirbhísí dátheangacha agus riachtanais aistriúcháin.

3. Impleachtaí Foirne

Beidh impleachtaí foirne ann i gcomhthéacs líon cuí foirne a sholáthar d'Oifig Choimisinéir na dTeangacha Oifigiúla. Beidh costais foirne ann don Roinn Ealaón, Oidhreachta, Gaeltachta agus Oileán mar gheall ar bhunú rannáin nua a bheidh freagrach as an reachtáiocht a chur i ngníomh.

4. Leagtar amach in *alt 1* gearrtheideal agus tosach feidhme an Bhille. Leagtar amach ann freisin go meastar go mbeidh an tAcht ionmlán i bhfeidhm tráth nach déanaí ná trí bliana tar éis é a rith.

5. Foráil léiritheach atá in *alt 2*. Áirítear ann an míniú ar “na teangacha oifigiúla” mar “an Ghaeilge (ós í an teanga náisiúnta agus an phríomhtheanga oifigiúil í) agus an Béarla (ós é an dara teanga oifigiúil é) mar a shonraítear in Aireagal 8 den Bhunreacht”.

6. Foráiltear le *halt 3* go ndéanfar na caiteachais a thabhlóidh Airí ag riadaradh an Acharta a ioc as airgead a sholáthróidh an tOireachtas, le toiliú an Aire Airgeadais.

7. Foráiltear le *halt 4* go bhféadfaind an tAire, le toiliú an Aire Airgeadais, Rialacháin a dhéanamh i ndáil le forálacha an Acharta. Foráiltear leis go bhféadfaind ceachtar Teach den Oireachtas Rialacháin, a bheidh déanta faoin Acht, a neamhnuí laistigh de 21 lá suí ach, in imthosca mínithe áirithe, beidh gá le rún ó Thithe an Oireachtas chun déanamh amhlaidh.

8. Déantar foráil le *halt 5* maidir le húsáid na dteangacha oifigiúla i dTithe an Oireachtas.

9. *Section 6* provides for the publication of Acts simultaneously in both official languages.

10. *Section 7* provides for the use of the Official Languages in legal proceedings and sets out that a person has the right to be heard in the official language of his or her choice.

11. *Section 8* provides that a person has the right to communicate with and receive services from a public body in either of the official languages, subject to the planning framework (known as a “scheme”) set out in *section 15*. It also provides that it shall not be open to a public body to question the competency of that person in either official language.

12. *Section 9* provides that public bodies have a duty to ensure that persons can communicate with and receive services from them in either of the official languages, subject to a scheme under *section 15*.

13. *Section 10* provides that public bodies have a duty to ensure that the official languages are used on stationery, signage and advertisements, subject to a scheme under *section 15*.

14. *Section 11* provides that in the case of public bodies who are also state bodies, certain documents of public interest, for example, policy proposals or annual reports, shall be published in each of the official languages simultaneously.

15. *Section 12* provides that the Minister shall issue guidelines to assist public bodies in preparing a scheme and sets out the procedures for drawing up these guidelines, including a consultative process. A copy of the approved guidelines shall be laid before both Houses of the Oireachtas. The guidelines may be revised from time to time.

16. *Section 13* provides for the preparation by public bodies of a statutory scheme detailing the services that they will provide in the Irish language. The process will commence with a formal request by the Minister to a public body to prepare and present a draft scheme within a specific period of time (not later than 6 months from the date of the request).

17. *Section 14* provides for the procedures to be followed by public bodies in relation to the preparation of a draft scheme, including a public consultative process. The draft scheme shall ensure that an adequate number of staff are competent in the Irish language and also shall ensure that any particular linguistic requirements associated with the provision of services in the Gaeltacht are met.

18. *Section 15* provides for the procedures to be followed by the Minister before confirming a draft scheme. Having confirmed the draft scheme with the public body concerned, the Minister shall forward a copy of the scheme to the Official Languages Commissioner. A scheme shall normally remain in force for three years.

19. *Section 16* provides for the periodic review of schemes.

20. *Section 17* provides for the amendment of a scheme in the case of any change in the functions or circumstances of a public body.

21. *Section 18* provides that a failure, refusal or inability to prepare a scheme shall be reported to the Houses of the Oireachtas.

9. Déantar foráil le *halt 6* maidir le hAchtanna a fhoilsiú go comhuaineach sa dá theanga oifigiúla.

10. Déantar foráil le *halt 7* maidir le húsáid na dTeangacha Oifigíúla in imeachtaí dlíthiúla agus leagtar amach ann go bhfuil an ceart ag duine éisteacht a fháil sa teanga oifigiúil is rogha leis nó léi.

11. Foráltear le *halt 8* go bhfuil an ceart ag duine cumarsáid a dhéanamh le comhlacht poiblí, agus seirbhísí a fháil uaidh, i gceachtar de na teangacha oifigiúla, faoi réir an chreata pleánala (ar a dtabharfar “scéim”) a leagtar amach in *alt 15*. Foráltear leis freisin nach bhféadfaidh comhlacht poiblí inniúlacht an duine sin i gceachtar teanga oifigiúil a thabhairt faoi cheist.

12. Foráltear le *halt 9* go bhfuil dualgas ar chomhlachtaí poiblí a chinntíú gur féidir le daoine cumarsáid a dhéanamh leo, agus seirbhísí a fháil uathu, i gceachtar de na teangacha oifigiúla, faoi réir scéime faoi *alt 15*.

13. Foráltear le *halt 10* go bhfuil dualgas ar chomhlachtaí poiblí a chinntíú go n-úsáidtear na teangacha oifigiúla ar stáiseanóireacht, ar chomharthaí agus ar fhógráin, faoi réir scéime faoi *alt 15*.

14. Foráltear le *halt 11* go ndéanfar, i gcás comhlachtaí poiblí ar comhlachtaí stáit iad freisin, doiciméid áirithe ar díol spéise iad don phobal, mar shampla, tograí beartais nó tuarascálacha bliantúla, a fhoilsiú go comhuaineach i ngach ceann de na teangacha oifigiúla.

15. Foráltear le *halt 12* go n-eiseoidh an tAire treoirlínte chun cuidiú le comhlachtaí poiblí scéim a ullmhú agus leagtar amach ann na nósanna imeachta chun na treoirlínte sin a tharraingt suas, lena n-áirítear próiseas comhchomhairle. Déanfar cóip de na treoirlínte ceadaithe a leagan faoi bhráid gach Tí den Oireachtas. Féadfar na treoirlínte a athmheas ó am go ham.

16. Déantar foráil le *halt 13* maidir le comhlachtaí poiblí d’ullmhú scéim reachtúil ina dtabharfar sonraí na seirbhísí a sholáthróidh siad sa Ghaeilge. Is é túis an phróisis ná iarraidh fhoirmiúil ón Aire chuig comhlacht poiblí á iarraidh air dréacht-scéim a ullmhú agus a thíola-cadh laistigh de thréimhse shonrach ama (nach déanaí ná 6 mhí ó dháta na hiarrata).

17. Déantar foráil le *halt 14* maidir leis na nósanna imeachta a bheidh le leanúint ag comhlachtaí poiblí i ndáil le hullmhú dréacht-scéime, lena n-áirítear próiseas comhchomhairle poiblí. Cinnteofar leis an dréacht-scéim go bhfuil lón leordhóthanach den fhoireann inniúil sa Ghaeilge agus cinnteofar léi freisin go bhfreastalófar ar aon riachtanais áirithe teanga a bhaineann le seirbhísí a sholáthar sa Ghaeltacht.

18. Déantar foráil le *halt 15* maidir leis na nósanna imeachta a bheidh le leanúint ag an Aire sula ndaingneofar dréacht-scéim. Tar éis an dréacht-scéim a dhaingniú leis an gcomhlacht poiblí lena mbaineann, cuirfidh an tAire cóip den scéim ar aghaidh chuig Coimisinéir na dTeangacha Oifigiúla. Fanfaidh scéim i bhfeidhm ar feadh tréimhse trí bliana de ghnáth.

19. Déantar foráil le *halt 16* maidir le hathbhreithniú tréimhsíúil ar scéimeanna.

20. Déantar foráil le *halt 17* maidir le leasú scéime i gcás go dtiocfaidh aon athrú ar fheidhmeanna nó ar imthosca comhlachta phoiblí.

21. Foráltear le *halt 18* go ndéanfar aon mhainneachtain, diúltú nó neamhábaltacht scéim a ullmhú, a thuairisciú do Thithe an Oireachtais.

22. *Section 19* provides that a scheme approved under the Act must be implemented by the public body. It also provides that a public body shall not be limited to the extent of its scheme in terms of the measures it takes to provide services in the Irish language.

23. *Section 20* provides that no charge shall be levied by a public body on a person arising from a requirement upon the public body under the Act.

24. *Section 21* provides for the establishment of the Office of the Official Languages Commissioner. The Commissioner will be independent in the performance of his or her functions and will be appointed by the President.

25. *Section 22* provides for the functions of the Commissioner. In addition to monitoring compliance by public bodies with the Act, the Commissioner may carry out investigations and may provide advice or assistance both to public bodies and to the public.

26. *Section 23* provides for the powers of the Commissioner in relation to carrying out his or her functions under the Act. It provides, for example, for the power of the Commissioner to require a person to provide information or records and sets out the penalty for a person who fails to comply.

27. *Section 24* provides for the procedures to be followed in the conduct of investigations by the Commissioner.

28. *Section 25* provides that, unless special circumstances make it appropriate to do so, the Commissioner shall not investigate a complaint which is the subject of civil legal proceedings.

29. *Section 26* provides that information obtained by the Commissioner in the course of his or her duties shall be used for that purpose only.

30. *Section 27* provides for the procedures to be followed in relation to reports of the findings of investigations by the Commissioner. The Commissioner may include recommendations in such reports and, in the event of those recommendations not being implemented by the public body, the Commissioner may make a report on the matter to the Houses of the Oireachtas.

31. *Section 28* provides that the Minister may in the future, with the consent of the Minister for Finance, introduce a scheme of compensation to be administered by the Commissioner in respect of the failure of a state body to comply with the Act.

32. *Section 29* provides for appeals of decisions of the Commissioner to the High Court on a point of law.

33. *Section 30* provides that the Commissioner may prepare commentaries on the practical application and operation of the Act in order to assist both public bodies and the public.

34. *Section 31* provides that the Commissioner will prepare an annual report on his or her activities each year and that such report will be laid before the Houses of the Oireachtas. The Commissioner may also, if he or she considers it appropriate to do so in the public interest, publish a report in relation to any investigation carried out or other function performed by him or her under the Act.

22. Foráiltear le *halt* 19 nach foláir don chomhlacht poiblí scéim a bheidh ceadaithe faoin Acht a chur i ngníomh. Foráiltear leis freisin nach mbeidh raon a sceime ina theorainn ar chomhlacht poiblí ó thaobh na mbeart a ghlacann sé chun seirbhísí a sholáthar sa Ghaeilge.

23. Foráiltear le *halt* 20 nach ndéanfaidh comhlacht poiblí aon mhuirear a ghearradh ar dhuine de thoradh aon cheanglais a chuirtear ar an gcomhlacht poiblí faoin Acht.

24. Déantar foráil le *halt* 21 maidir le bunú Oifig Choimisinéir na dTeangacha Oifigiúla. Beidh an Coimisinéir neamhspleách i gcomhlíonadh a fheidhmeanna nó a feidhmeanna agus ceapfaidh an tUachtaráin é nó í.

25. Déantar foráil le *halt* 22 maidir le feidhmeanna an Choimisinéara. Chomh maith le faireachán a dhéanamh ar chomhlíonadh an Actica ag comhlachtaí poiblí, féadfaidh an Coimisinéir imscrúduithe a dhéanamh agus féadfaidh sé nó sí comhairle nó cúnamh a sholáthar do chomhlachtaí poiblí agus don phobal.

26. Déantar foráil le *halt* 23 maidir le cumhachtaí an Choimisinéara ó thaobh a fheidhmeanna nó a feidhmeanna faoin Acht a chur i gcrích. Déantar foráil leis, mar shampla, maidir le cumhacht an Choimisinéara a cheangal ar dhuine faisnéis nó taifid a sholáthar agus leagtar amach ann an pionós a chuirfear ar dhuine nach ndéanann amhlaidh.

27. Déantar foráil le *halt* 24 maidir leis na nósanna imeachta a bheidh le leanúint nuair a bheidh imscrúduithe á seoladh ag an gCoimisinéir.

28. Déantar foráil le *halt* 25 nach n-imscrúdóidh an Coimisinéir gearán is ábhar d'imeachtaí dlíthiúla sibhialta, mura rud é gur cui déanamh amhlaidh de bharr imthosca speisialta.

29. Foráiltear le *halt* 26 nach ndéanfar faisnéis a gheobhaidh an Coimisinéir i gcúrsa a dhualgas nó a dualgas a úsáid ach amháin chun na críche sin.

30. Déantar foráil le *halt* 27 maidir leis na possibilitàa imeachta a bheidh le leanúint i ndáil le tuarascálacha ar fhionnachtana imscrúduithe ag an gCoimisinéir. Féadfaidh an Coimisinéir moltaí a áireamh i dtuarascálacha den sórt sin agus, mura gcuirfidh an comhlacht poiblí na moltaí sin i ngníomh, féadfaidh an Coimisinéir tuarascáil maidir leis sin a thabhairt do Thithe an Oireachtas.

31. Foráiltear le *halt* 28 go bhféadfaidh an tAire amach anseo, le toiliú an Aire Airgeadais, scéim cuitimh a thabhairt isteach a bheidh le riadarbh ag an gCoimisinéir, i leith mainneachtana ag comhlacht stáit an tAcht a chomhlíonadh.

32. Déantar foráil le *halt* 29 maidir le hachomhairc chuig an Ard-Chúirt, ar phonc dli, i gcoinne cinntí de chuid an Choimisinéara.

33. Foráiltear le *halt* 30 go bhféadfaidh an Coimisinéir tráchtairachtai ar fheidhm phraiticiúil agus ar oibriú an Actica a ullmhú, d'fhonn cuidiú le comhlachtaí poiblí agus leis an bpobal.

34. Foráiltear le *halt* 31 go n-ullmhóidh an Coimisinéir tuarascáil bhliantúil maidir lena ghníomhaíochtaí nó lena gníomhaíochtaí gach bliain agus go leagfar an tuarascáil sin faoi bhráid Thithe an Oireachtas. Féadfaidh an Coimisinéir freisin, más cuí leis nó léi déanamh amhlaidh ar mhaithe le leas an phobail, tuarascáil a fhoilsiú i ndáil le haon imscrúdú a bheidh déanta aige nó aici nó i ndáil le haon fheidhm eile a bheidh comhlíonta aige nó aici faoin Acht.

35. *Section 32* provides that the powers of the Ombudsman remain unaffected by the provisions of the Act.

36. *Section 33* provides that the Act will not confer a right of action in civil proceedings in respect of any failure to comply with a statutory scheme under the Act. It also provides that no civil or criminal proceedings shall lie in any court against the Commissioner and his or her staff in respect of acts done in good faith by the Commissioner and his or her staff.

37. The *First Schedule* sets out the bodies which will constitute public bodies for the purposes of the Act. It also sets out the procedure in the event of seeking to extend the scope of the Act at a future date to sectors of the economy other than the public sector which are engaged in the provision of services directly to the public (e.g., commercial banks, other lending agencies, insurance companies, transport companies, health care providers, telecommunications companies). The scope could extend to companies which provide broadly similar services to the services provided by public bodies or to a body which at the time of coming into force of this Act was a public body but was subsequently privatised. It could also extend to bodies which receive monies directly from a Minister of the Government or a Department or directly from the Central Fund if the amount or the aggregate of the amounts received constitutes not less than 50% of current expenditure of a body in a year.

38. The *Second Schedule* sets out provisions relating to the Office of Official Languages Commissioner.

*Department of Arts, Heritage, Gaeltacht and the Islands,
April, 2002.*

35. Foráiltear le *halt* 32 nach ndéanann forálacha an Acharta aon difear do chumhactaí an Ombudsman.

36. Foráiltear le *halt* 33 nach dtabharfaidh an tAcht ceart caingne in imeachtaí sibhialta i leith aon mhainneachtain scéim reachtúil a chomhlíonadh faoin Acht. Foráiltear leis freisin nach mbeidh aon imeachtaí sibhialta nó coiriúla ann in aon chuírt i gcoinne an Choimisinéara agus a fhoirne nó a foirne i leith gníomhartha a bheidh déanta de mheon macánta ag an gCoimisinéir agus ag a fhoireann nó a foireann.

37. Sa *Céad Sceideal*, leagtar amach na comhlacthaí a bheidh ina gcomhlacthaí poiblí chun crioche an Acharta. Leagtar amach ann freisin an nós imeachta i gcás ina mbeifear ag iarraidh scóip an Acharta a leathnú amach anseo chuig earnálacha den gheilleagar, seachas an earnáil phoiblí, a ghabhann do sheirbhísí a sholáthar go díreach don phobal (e.g., bainc thráchtála, gníomhaireachtaí eile a thugann iascachtaí, cuideachtaí árachais, cuideachtaí iompair, soláthraithe cúraim sláinte, cuideachtaí teileachumarsáide). D'fhéadfadh sé go leathnófar an scóip chuig cuideachtaí a sholáthraíonn seirbhísí atá comhchosúil go mór leis na seirbhísí a sholáthraíonn comhlacthaí poiblí nó chuig comhlacht a bhí, tráth theacht i bhfeidhm an Acharta seo, ina chomhlacht poiblí ach a príobháidíodh dá éis sin. D'fhéadfadh sé go leathnófar í freisin chuig comhlacthaí a fhraigheann airgead go díreach ó Aire den Rialtas nó ó Roinn nó go díreach ón bPríomh-Chiste más rud é nach lú an méid nó comhionnlán na méideanna a fhaightear ná 50% de chaiteachas reatha comhlactha i mbliain áirithe.

38. Sa *Dara Sceideal*, leagtar amach forálacha a bhaineann le hOifig Choimisinéir na dTeangacha Oifigiúla.

*An Roinn Ealaíon, Oidhreachta, Gaeltachta agus Oileán,
Aibreán, 2002.*