



**AN BILLE UM CHUNTAIS DHÍOMHAOINE (LEASÚ) 2004
DORMANT ACCOUNTS (AMENDMENT) BILL 2004**

EXPLANATORY AND FINANCIAL MEMORANDUM

Purpose of the Bill

The Bill proposes to amend existing dormant accounts legislation, principally in relation to decisions on disbursements from the Dormant Accounts Fund (the Fund) and the role of the Dormant Accounts Fund Disbursements Board.

The objectives underpinning disbursements from the Fund will remain unchanged, i.e., to assist persons who are socially, economically or educationally disadvantaged or who have a disability.

The Bill provides for a two-stage process whereby decisions on spending from the Fund will be made by Government, following a transparent process of inviting applications for programmes or types of projects. Having regard to the Dormant Accounts Disbursements Plan (the Plan), and following consultation with other Ministers, the Minister for Community, Rural and Gaeltacht Affairs will, in the first instance, submit, at least annually, a proposal to Government regarding the programmes and types of projects for funding. Following completion of the assessment of applications under particular programmes or types of projects, a list of those recommended will be submitted to Government for approval. A list of all successful applications as approved by Government will be published along with the amounts involved in each case.

The Bill also proposes that the reconstituted Board would—

- retain responsibility for preparation of the Disbursement Plan;
- periodically review and assess the effectiveness of the Plan and the extent to which its objectives have been achieved;
- prepare reports on the additionality of the spend; and
- comprise eleven members, with knowledge or experience relevant to the Board's functions, to be appointed by the Minister.

Detailed provisions are set out below:

Sections 1-2 provide for definitions and establishment day for the new Act.

Section 3 provides for amendment of section 2 (interpretation) of the Dormant Accounts Act 2001 (the Principal Act) by updating definitions to take account of the changes provided for in this Act.

Section 4 provides for repeal of section 3 (establishment day) of the Principal Act.

Section 5 provides for deletion of section 5(2) of the Principal Act because references to two years from commencement date of the Principal Act have been overtaken by time and are therefore no longer relevant.

Section 6 amends section 6 (penalties and proceedings) of the Principal Act to remove references to section 40 of that Act. This is a consequence of removal of the provision on unauthorised disclosure of confidential information from this Act.

Section 7 provides for substitution of the following for Part 5 of the Principal Act: (With the exception of Section 31, these sections substantially reflect existing provision in the 2001 Act).

Section 30: provides for the establishment of the Dormant Accounts Board (the Board).

Section 31: provides for the following functions for the Board:

- preparation of a plan for the disbursement of monies from the Fund;
- reviewing and assessing the extent to which disbursement plan objectives have been achieved, the effectiveness of the strategies specified in that plan, the pattern and impact of disbursements made under the plan, including the additionality of such disbursements; and
- provision of annual reports to the Minister.

It also provides the Board with all powers necessary to carry out its functions and makes it independent in the performance of its functions.

Section 32: provides for the following:

- Appointment by the Minister of a chairperson and 10 ordinary members, with knowledge or experience of matters deemed relevant to the Board's functions;
- Members of the former Dormant Accounts Fund Disbursements Board (the former Board) are entitled to be appointed under the first tranche of appointments to the Board.

Section 33: provides for the following:

- The term of office of the chairperson shall be a maximum of 5 years and a maximum of 3 years for ordinary members;
- The terms of office of serving members, including the chairperson, are deemed to have commenced on the date of the member's appointment to the former Board;
- Members, including the chairperson, are eligible for re-appointment on expiry of their term of office but may not serve more than 2 consecutive terms;

- A term of office that includes a period of service with the former Board is counted as one term of office;
- A Board member, including the chairperson, may resign by letter to the Minister, with such resignation to take effect at the start of the Board meeting held next after the Minister has informed the Board of the resignation.

Section 34: provides that

- The Minister may remove a Board member, including the chairperson, if that person has become incapable through ill-health of performing his or her functions, or if they have committed stated misbehaviour; or if their removal appears necessary to the Minister for the effective performance of the Board's functions;
- A Board member ceases to be qualified for and hold office if he or she is adjudicated bankrupt, makes an arrangement with creditors, is sentenced to imprisonment, or is disqualified or restricted from being a company director;
- The Minister with the consent of the Minister for Finance will determine the terms and conditions of Board members, including remuneration and allowances.

Section 35: provides that if a Board member ceases to hold office before expiry of his or her term of office, the Minister may appoint a person to replace that member for the remainder of the term of office of the person who ceased to hold office.

Section 36: provides that the chairperson ceases to be the chairperson if he or she ceases to be a Board member, and that he or she is eligible for re-appointment as chairperson if he or she is re-appointed to the Board.

Section 37: provides for procedure at Board meetings, including members choosing one of their number to chair any meeting from which the chairperson is absent; determination of questions by majority vote subject to the casting vote of the chairperson in tied votes; the quorum for meetings is six; and the continuation of the Board notwithstanding one or more vacancies provided the total membership does not fall below six.

Section 38: provides that persons who are nominated to Seanad Éireann or are elected as members of the Oireachtas, the European Parliament, or a local authority may not hold office as Board members.

Section 39: provides for the following:

- the Board, subject to Ministerial approval, may engage such consultants, advisers or support staff as are necessary for the performance of its functions;
- the provision of additional administrative support by the Minister; and
- the National Treasury Management Agency (the Agency) may pay fees payable under this section, or other reasonable costs and expenses from the reserve account.

Section 40: provides for procedures in relation to disclosure of members' interests.

Section 8 provides for substitution of the following for Part 6 of the Principal Act.

Section 40A: defines terminology used in Part 6.

Section 41: provides that monies from the Fund shall be disbursed on programmes or projects to assist persons who are economically, socially or educationally disadvantaged, or persons with a disability.

Section 42: provides for preparation and submission for approval by the Minister by not later than 1 June 2006 of the Board's plan for disbursement of monies from the Fund. This includes the following:

- the Board shall prepare a plan and submit it to the Minister for approval with or without amendment. The Plan may be subsequently amended with Government approval. Amendments must be published in *Iris Oifigiúil*;
- the plan must specify the objectives in making disbursements from the Fund and the strategies for achieving those objectives;
- the plan will be reviewed and updated at least once every 3 years; and
- the Plan of the former Board shall continue to have effect until the Minister has approved the first Plan of the Board;
- the Minister may issue guidelines on the preparation and updating of the Plan.

Section 43: provides that:

- following consultation with other Ministers, the Minister shall at least annually submit a proposal to Government, consistent with the approved Plan, that lists programmes or types of projects that shall qualify for disbursement, and may apply spending thresholds to particular programmes or projects, and
- following Government approval of the proposal, the Minister shall publish an invitation to apply for disbursements on the basis approved by Government.

Section 44: provides that:

- applications arising from section 43 will be assessed and a list of recommendations with reasons will be provided to the Minister. He will in turn submit the recommendations to Government, with approved disbursements to be made through Government departments and published;
- details of such decisions and amounts involved shall be published within a month; and

- the discretion to approve disbursements for additional programmes as previously provided for the Minister in the Principal Act, is retained and subject to Government approval and publication in *Iris Oifigiúil*.

Section 44A: provides for the following:

The Minister for Finance shall direct the Agency to disburse funds for the purposes of programmes or projects approved by Government into the Votes of relevant Government Departments for onward provision to successful applicants.

Section 9 provides for substitution of the following for section 45 of the Principal Act:

- the Agency shall provide to the Minister for Finance and copy to the Minister a report on operation of the Fund in the previous financial year, the report to include details on the amount transferred into the Fund; the investment return achieved; costs and expenses of the Agency, the board, and inspectors; the balance in the Fund; and any other information required by the Minister;
- the Board shall report to the Minister, who will lay it before the Oireachtas, on the performance of its functions during the previous financial year including details of costs and expenses and the results of reviews and assessments under section 31(1)(b); and any other information required by the Minister; and
- both the Agency and the Board will from time to time provide the Minister with any information he or she may require.

Section 10 amends section 47 of the Principal Act. Reflecting the changed role of the Board, the accountability of the chairperson of the new Board to the Public Accounts Committee is not retained.

Section 11 provides for the following:—

- References to the Board shall be read as references to the former Board, with the Board to have power to direct the Agency to make disbursements in relation to approvals of the former Board that had not been paid out prior to dissolution of that Board.

Section 12 provides for:

- dissolution of the former Board, with any references to it in any enactment or legal document to be construed as a reference to the new Board; and
- the chairperson of the former Board to remain accountable to the Public Accounts Committee in respect of disbursements by that Board.

Section 13 provides for the transfer of all rights, assets, liabilities and property of the former Board to the Board.

Section 14 provides for the takeover by the Board of any contract or agreement made by the former Board.

Section 15 provides for the name of the Board to be substituted for that of the former Board with regard to any legal proceedings

that may have been under way to which the former Board was a party.

Sections 16 and 17 provide for short title, collective citation, and commencement.

Financial Implications of the Bill

There are no financial implications in the Bill.

An Roinn Gnóthaí Pobail, Tuaithe agus Gaeltachta, Meitheamh, 2004.