



AN BILLE UM EITIC IN OIFIGÍ POIBLÍ (LEASÚ) 2007
ETHICS IN PUBLIC OFFICE (AMENDMENT) BILL 2007

EXPLANATORY AND FINANCIAL MEMORANDUM

[This memorandum is not part of the Act and does not purport to be a legal interpretation.]

General

The purpose of this Bill is to provide that Ministerial and Parliamentary office holders and Oireachtas members are not to accept benefits worth in aggregate more than €2,000 from a friend for personal reasons in a period (usually a calendar year) comprehended by an interests statement prepared under the Ethics in Public Office Act 1995, unless they have obtained the Standards in Public Office Commission's opinion that acceptance would not be likely to influence the recipient in the performance of his or her functions or duties. If offered a benefit on an occasion where it would not be practical to refuse it, the recipient must seek the opinion afterwards, and must return or give up the benefit or its value if the Standards Commission is unable to issue such an opinion.

The Bill also increases the monetary thresholds for registrable interests, and the monetary threshold at which a gift given to an office holder by virtue of his or her office is deemed to be a gift to the State, in the 1995 Act.

Provisions

Section 1 defines the term "Principal Act", used throughout the Bill, as meaning the Ethics in Public Office Act 1995.

Section 2 provides that the statements prepared each year under the 1995 Act by office holders and Oireachtas members and sent to the Standards Commission are to include a statement that they have complied with Section 4 of this Bill. It also provides that "nil statements" (i.e. where the person has no registrable interests) are to be furnished to the Standards Commission instead of to the Clerk of the relevant House of the Oireachtas as at present.

Section 3 increases from €650 to €2,000 the monetary threshold at which a gift given to an office holder by virtue of his or her office is deemed to be a gift to the State.

Section 4 defines Ministers (including the Taoiseach and Tánaiste), Ministers of State, the Attorney General, the Chairman and Deputy Chairman of Dáil Éireann and of Seanad Éireann, and members of

Dáil Éireann and of Seanad Éireann, as “relevant persons”. It provides that such persons are not to accept benefits worth in aggregate more than €2,000 from a friend for personal reasons in a period comprehended by an interests statement, unless they have obtained the Standards Commission’s opinion that acceptance would not be likely to influence the recipient in the performance of his or her functions or duties as a relevant person (including the performance of such functions or duties by a person under the relevant person’s direction). If offered a benefit on an occasion on which it would not be practical to refuse it, the relevant person must seek the opinion of the Standards Commission within 30 days of accepting it.

A benefit can be a gift of money or property and includes a loan, whether of money or property. It also includes the supply of services, including travel facilities, accommodation, meals and entertainment. The value of benefits from the same friend in a period will be aggregated in determining whether the €2,000 threshold has been exceeded. For a gift or loan of money, the amount of the gift or loan will be what counts; for services or a loan of property, the value will be the commercial value less any amount paid by the recipient. Benefits received before the Bill comes into operation will not count.

The Standards Commission can ask the relevant person to provide such further information (e.g. the purpose of the gift, the identity of the donor, what his or her occupation is, how long he or she has been a friend, whether he or she has given similar gifts in the past) as it considers necessary to consider the application for its opinion.

The Standards Commission will notify its opinion to the relevant person in writing. Unless the person receives the opinion of the Commission that acceptance of the benefit would not be likely to influence the recipient in the performance of his or her functions or duties, he or she must not accept the benefit. If the person has already accepted the benefit, he or she must return it to the donor or, if the donor refuses it, must surrender it to the Secretary General to the Government. If the benefit is non-returnable (e.g. has already been consumed or used), the relevant person must pay its value to the donor or, if refused, to the Secretary General to the Government; in such cases, its value will be its commercial price as determined by the Standards Commission less any amount paid in respect of it by the relevant person. A relevant person who is obliged to return a benefit or its value must do so within 30 days or such longer period as may be determined by the Standards Commission. Where a benefit is surrendered or its value paid to the Secretary General to the Government, it or its value will be disposed of as if it were a gift to the State.

The Standards Commission will be precluded from disclosing information about an application for its opinion without the consent of the person concerned or the Minister for Finance. This prohibition will not apply to an investigation by the Standards Commission or to a report by the Standards Commission to the Oireachtas.

Section 5 requires the Attorney General, if not an Oireachtas member, to furnish a statement of compliance with *Section 4* to the Taoiseach and to the Standards Commission at the same time as his or her annual statement of registrable interests under the 1995 Act, or, where he or she has no registrable interests, to furnish a statement on compliance at that time in any event.

Section 6 updates the monetary thresholds for registrable interests in the 1995 Act. These are interests that are disclosable in annual statements of registrable interests under the Ethics Acts, and refer

to items such as a remunerated trade or profession, shares, interests in land, property supplied or lent, etc.

The following table shows the existing thresholds and those proposed in the Bill:

Ethics in Public Office Act 1995	Existing threshold	Proposed threshold
Second Schedule — Registrable Interests		
A remunerated trade, profession, etc. the remuneration from which exceeded	€2,600	€5,000
Shares, etc. if the aggregate value exceeded	€13,000	€20,000
Any interest in land the value of which exceeded	€13,000	€20,000
Gifts, excluding gifts the aggregate value of which did not exceed	€650	€2,000
Property supplied or lent or a service supplied at less than the commercial price by more than	€650	€2,000
Travel facilities, living accommodation, meals or entertainment, excluding those supplied at prices less than the commercial price by not more than	€650	€2,000
Any contract for the supply of goods or services to a Government Minister or a public body if the value exceeded	€6,500	€10,000

Section 7 provides for the short title of the Act and for its collective citation with the other Ethics Acts (the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001).

Financial Implications

There are no discernable financial implications for the Exchequer.

*An Roinn Airgeadais
Aibreán, 2007.*