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

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*Mar a ritheadh ag Seanad Éireann*  
*As passed by Seanad Éireann*

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**ARRANGEMENT OF SECTIONS**

**Section**

1. Principal Act defined.
  2. Amendment of Section 5 of Principal Act.
  3. Amendment of Section 15 of Principal Act.
  4. Requirements in relation to certain benefits given to relevant persons.
  5. Amendment of Section 16 of Principal Act.
  6. Amendment of Section 23 of Principal Act.
  7. Amendment of Second Schedule to Principal Act.
  8. Short title and collective citation.
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ACTS REFERRED TO

Ethics in Public Office Act 1995

1995, No. 22

Ethics in Public Office Acts 1995 and 2001



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

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# BILL

*entitled*

5 AN ACT TO AMEND THE ETHICS IN PUBLIC OFFICE ACT  
1995 AND TO MAKE PROVISION FOR CONNECTED  
MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act “Principal Act” means the Ethics in Public Office  
10 Act 1995. Principal Act  
defined.

2.—Section 5 of the Principal Act is amended— Amendment of  
Section 5 of  
Principal Act.

(a) by the insertion after subsection (1) of the following  
subsection:

15 “(1A) Each statement required to be furnished to the  
Commission under subsection (1) shall be accompanied by  
a statement in writing that the member has complied with  
section 15A.”,

and

20 (b) by the substitution for subsection (2) of the following  
subsection:

25 “(2) Where a person who is a member on a registration  
date did not have a registrable interest at any time during  
the appropriate period specified in subsection (1), he or  
she shall, not later than the following 31 January, prepare  
and furnish to the Commission a statement in writing of  
that fact together with a statement in writing that the  
member has complied with section 15A.”.

3.—Section 15 of the Principal Act is amended in subsection (1) Amendment of  
Section 15 of  
Principal Act.  
by the substitution of “€2,000” for “€650”.

Requirements in relation to certain benefits given to relevant persons.

4.—The Principal Act is amended by the insertion in Part III, after section 15, of the following new section:

“Requirements in relation to certain benefits given to relevant persons.

15A.—(1) This section applies to—

- (a) a person who is a Minister of the Government or a Minister of State, 5
- (b) a person who holds the office of Attorney General,
- (c) a person who is Chairman or Deputy Chairman of Dáil Éireann,
- (d) a person who is Chairman or Deputy Chairman of Seanad Éireann, 10
- (e) a person who is a member of Dáil Éireann,
- (f) a person who is a member of Seanad Éireann. 15

(2) A person to whom this section applies is referred to in this section as a ‘relevant person’.

(3) Where a relevant person is offered a benefit to which this section applies, other than in the circumstances referred to in subsection (4)(a), that person shall not accept the benefit unless he or she has in accordance with this section made an application in writing to the Commission under this section and received the opinion of the Commission that acceptance of the benefit would not be likely to materially influence the person concerned in the performance of his or her functions or duties as a relevant person. 20 25

(4) (a) The circumstances in which a relevant person may, subject to paragraph (b), accept a benefit to which this section applies are circumstances where, by reason of the occasion on which the benefit was offered or supplied, it would have been impractical to defer accepting the benefit until the opinion of the Commission had been received. 30 35

(b) A relevant person who accepts a benefit to which this section applies in the circumstances referred to in paragraph (a), shall, within 30 days of accepting the benefit concerned, make an application to the Commission in writing under this section, and unless the relevant person receives the opinion of the Commission that acceptance of the benefit would not be likely to materially influence the person concerned in the performance of his or her functions 40 45

or duties as a relevant person that person shall—

- 5 (i) return the money or property the subject of the benefit to the donor, or where the donor refuses to accept the return of the benefit, surrender the benefit to the Secretary General to the Government, or
- 10 (ii) where the benefit consists of a non-returnable benefit, pay to the donor an amount being the value of the benefit accepted by the person, or where the donor refuses to accept such payment, pay such amount to the Secretary General to the Government.
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- 20 (c) Where a benefit or the amount of the value of a benefit is surrendered or paid to the Secretary General to the Government under paragraph (b), the benefit or amount shall be disposed of as if it were a gift referred to in section 15.
- 25 (d) Where a benefit constitutes a non-returnable benefit the value of the benefit shall be such value as the Commission determines to be the commercial consideration or commercial price attributable to the benefit less any amount paid by the relevant person in respect of the benefit.
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- 35 (e) Where, having considered an application under this section, the Commission has notified the relevant person concerned that it is unable to issue an opinion that acceptance of the benefit concerned would not be likely to materially influence the relevant person concerned in the performance of his or her functions or duties as a relevant person, and as a consequence the relevant person concerned is obliged to return a benefit or an amount in respect of a non-returnable benefit, the relevant person shall comply with his or her obligation to do so within 30 days of the determination of the Commission or such further period as may be specified by the Commission.
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- 55 (5) (a) Where a relevant person makes an application under this section the Commission may request such further information regarding the matter as it believes is necessary to consider the application, and the relevant person

concerned shall furnish such information to the Commission within such reasonable period of time as may be specified by the Commission.

(b) Without prejudice to the generality of paragraph (a), the information which the Commission may request may include information which relates to— 5

(i) the scope or extent of the functions or duties of the relevant person concerned, 10

(ii) the identity of the donor,

(iii) the nature of the occupation, trade, business or profession of the donor, 15

(iv) the length of time the donor has been a friend of the relevant person,

(v) the purpose of the benefit,

(vi) the nature or value of the benefit, 20

(vii) the number, frequency, nature and value of similar benefits received from the same donor.

(6) On being furnished with information which it has requested, the Commission shall, if satisfied that the information furnished is sufficient to do so, determine the application under this section and shall, in writing, notify the relevant person concerned of the determination made. 25

(7) In this section— 30

‘donor’ means a person who offers to give or gives a benefit to which this section applies to a relevant person;

‘money’ includes documents and financial instruments which entitle a person to receive money or money’s worth, whether or not such entitlement arises— 35

(a) on the happening of an event,

(b) by reason of that person being the holder, owner or otherwise of the instrument, or 40

(c) by reason of the exchange or surrender of the financial instrument in whole or in part;

‘non-returnable benefit’ means property or a service which has already been consumed or used 45

or could not, in the view of the Commission, reasonably be returned to the donor of the benefit.

(8) Subject to subsection (9), in this section a ‘benefit to which this section applies’ means a benefit offered or given to a relevant person to whom this section applies by a friend of the person for personal reasons only, and which benefit consists of—

- (a) a gift of money,
- (b) a loan of money,
- (c) a gift of property other than money,
- (d) the supply or loan of property other than money,
- (e) the provision of travel facilities, living accommodation, meals or entertainment,
- (f) the provision or supply of a service (other than a service referred to in paragraph (e)),

the aggregate value of which is an amount greater than €2,000.

(9) (a) The value of a benefit referred to in paragraph (b) of subsection (8) is the amount of the loan.

(b) The value of a benefit referred to in paragraphs (c) to (f) of subsection (8) shall be the commercial consideration or commercial price attributable to the benefit less any amount paid by the relevant person in respect of the benefit.

(10) Subject to subsection (11), for the purposes of aggregation under this section every benefit referred to in subsection (8) which is received by or offered to a relevant person from the same donor within a period in respect of which a statement is to be made under section 5 shall be aggregated, and where a benefit is offered in a case to which subsection (3) applies or received in a case to which subsection (4)(a) applies which if accepted or when received, as the case may be, would cause the amount of €2,000 to be exceeded, that last benefit shall be considered to be a benefit to which this section applies notwithstanding that the benefit concerned is of an amount or value which is less than €2,000.

(11) Benefits received before the coming into operation of this section shall not be aggregated with benefits received after the coming into operation of this section.

(12) Subsection (10) applies to a person who holds the office of Attorney General and who is not a member as if the reference in that subsection to a period in respect of which a statement is required to be made under section 5 were a reference to a period in respect of which a statement is required to be made under section 16. 5

(13) References in this section to the performance of a function or duty in a position are references to the performance of the function or duty by the relevant person concerned personally, or by another person in pursuance of a direction given to the person, in relation to the particular matter concerned, by the relevant person personally or a person acting on behalf of and with the personal knowledge of the relevant person. 10 15

(14) Information received by or held by the Commission in connection with an application under this section shall not be disclosed without the consent of— 20

(a) the relevant person concerned, or

(b) the Minister.

(15) Subsection (14) does not apply to a report prepared by the Commission under section 24 or an investigation under section 23.”. 25

Amendment of  
Section 16 of  
Principal Act.

**5.—Section 16 of the Principal Act is amended—**

(a) by the insertion after subsection (1) of the following subsection:

“(1A) A person who holds or held the office of Attorney General shall in addition to a statement under subsection (1) furnish a statement in writing to the Taoiseach and the Commission that the person has complied with section 15A and the statement shall be furnished at the same time as a statement under subsection (1) or if no such statement is required, at the time such statement would have been required to be made.”. 30 35

(b) by the insertion after subsection (4), of the following subsection:

“(5) Where a person who holds the office of Attorney General is a member subsection (1A) shall not apply to the person during the period of the person’s membership.”. 40

Amendment of  
Section 23 of  
Principal Act.

**6.—Section 23 of the Principal Act is amended—**

(a) by the insertion, after subsection (1A), of the following subsections: 45

“(1AB) Notwithstanding any other provision of this section, the Commission shall, where it considers it appropriate to do so, carry out an investigation under this



section to determine whether a person to whom section 15A applies—

- (a) has contravened the provisions of that section,
- (b) has contravened section 5(1A) in so far as it relates to a statement as respects section 15A (to the extent that section 5 applies to the person concerned),
- (c) has contravened section 16(1A) in so far as it relates to a statement as respects section 15A (to the extent that section 16 applies to the person concerned), or
- (d) has made a statement relating to section 15A pursuant to section 5(1A) or section 16(1A) the contents of which statement were inaccurate or misleading.

(1AC) An investigation by the Commission under subsection (1AB) shall be held in private unless the Commission determines that there are compelling reasons not to do so.”,

and

(b) by the insertion, after subsection (1B), of the following subsection:

“(1BA) The Commission shall not carry out an investigation in relation to a member as respects a matter which is or may be a specified act where the matter concerned—

- (a) relates to a private matter and is unrelated to the performance by the member of the functions of the office of member, or
- (b) results from incompetence or inefficiency in the performance of, or failure to perform, such a function, on the part of the member.”.

7.—Paragraph 1 of the Second Schedule to the Principal Act is amended:

Amendment of  
Second Schedule to  
Principal Act.

- (a) in subparagraph (1) by the substitution of “€5,000” for “€2,600”,
- (b) in subparagraph (2) by the substitution of “€20,000” for “€13,000”,
- (c) in subparagraph (4) by the substitution of “€20,000” for “€13,000”,
- (d) in subparagraph (5)(a)(ii) by the substitution of “€2,000” for “€650”,
- (e) in subparagraph (5)(b)(i) by the substitution of “€2,000” for “€650”,
- (f) in subparagraph (5)(b)(ii) by the substitution of “€2,000” for “€650”,

(g) in subparagraph (6)(c) by the substitution of “€2,000” for “€650”,

(h) in subparagraph (6)(d) by the substitution of “€2,000” for “€650”, and

(i) in subparagraph (8) by the substitution of “€10,000” for “€6,500” where it twice appears. 5

Short title and  
collective citation.

**8.—**(1) This Act may be cited as the Ethics in Public Office (Amendment) Act 2007.

(2) The Ethics in Public Office Acts 1995 and 2001 and this Act may be cited together as the Ethics in Public Office Acts 1995 to 10 2007.