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**AN BILLE TOGHCHÁIN (LEASÚ), 2011  
ELECTORAL (AMENDMENT) BILL 2011**

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**EXPLANATORY MEMORANDUM**

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*Overview*

This Electoral (Amendment) Bill 2011 provides for the revision of the terms of reference of a Constituency Commission, puts a time limit on the calling of bye-elections to fill vacancies in Dáil Éireann and reduces the spending limits and the level of election expenses that can be reimbursed to a candidate at a presidential election.

*Section 1* contains definitions.

*Section 2* inserts a new section 39(2A) into the Electoral Act 1992. The new provision provides that where, after a period of 6 months from the date of a vacancy arising in the Dáil, the Dáil has failed to direct the Chairman of the Dáil to instruct the Clerk of the Dáil to issue the writ for a bye-election, the Chairman shall so instruct the Clerk as soon as is practicable.

*Section 3* amends section 6(2)(a) of the Electoral Act 1997. The amendment revises the terms of reference of a Constituency Commission which will now be required to recommend Dáil constituencies based on an overall number of members of Dáil Éireann between a minimum of 152 and a maximum of 160. The number of members of Dáil Éireann recommended by a Commission will still be subject to the limits set out in the Constitution.

*Section 4* deletes provisions currently in sections 21(2)(a) and 21(4) of the Electoral Act 1997 that enable the Minister to put in place Regulations to provide for the reimbursement of expenses to a candidate at a presidential election. Revised arrangements are being made in section 5 of the Bill, which will insert a new section, 21A, into the Electoral Act 1997.

*Section 5* provides that the maximum amount that can be reimbursed to a candidate at a presidential election is €200,000. It makes provision in primary legislation, through the Electoral Act 1997, for the setting of the maximum payment that can be made to a presidential election candidate in respect of the reimbursement of expenses. It also sets out the qualifying criteria and the administrative arrangements for the making of payments. It replaces the existing provisions in sections 21(2)(a) and 21(4) of the 1997 Act, which required that arrangements for the reimbursement of election expenses be put in place by Regulations made by the Minister. Statutory Instrument No. 442 of 2004 set the reimbursement level at €260,000 and specified the related administrative arrangements. This

Statutory Instrument is now repealed and its provisions are replaced with a new section 21A of the Electoral Act 1997.

*Section 6* provides that the spending limit at a presidential election shall not exceed €750,000. It makes provision in primary legislation, through an amendment to the Electoral Act 1997, for the spending limit to apply at a presidential election and replaces the existing section 53 of the 1997 Act which provided that the spending limit be set by an order made by the Minister. Statutory Instrument No. 441 of 2004 set the spending limit at €1,300,000. This Statutory Instrument is now repealed and its provisions are replaced with the new section 53 of the Electoral Act 1997.

*Section 7* provides for consequential amendments to the Electoral Act 1997 arising from the provisions in sections 4, 5 and 6 of the Bill. Subsection (a) provides that the Minister may, by order, vary the spending limit and level of reimbursement of expenses that apply at a presidential election in a manner similar to existing provisions that apply in respect of elections to Dáil Éireann and the European Parliament. Subsection (b) is a technical amendment to section 60 of the 1997 Act to provide for the revised spending limit at a presidential election to apply in circumstances where a fresh election is called following the death of a candidate. Subsection (c) is a technical amendment to section 61(2)(a) of the 1997 Act to acknowledge that the spending limit to apply at a presidential election will now be specified directly in the revised section 53 of the 1997 Act.

*Section 8* contains standard provisions of a general nature dealing with title, construction and citation.

*Department of the Environment, Community and Local Government  
June, 2011.*