



AN BILLE UM CHUNTAIS DHÍOMHAOINE (LEASÚ), 2011
DORMANT ACCOUNTS (AMENDMENT) BILL 2011

Mar a tionscnaíodh
As initiated

ARRANGEMENT OF SECTIONS

Section

1. Definitions.
 2. Appointed day.
 3. Substitution of Part 6 of Principal Act.
 4. Amendment of section 45 of Principal Act (reports).
 5. Dissolution of Dormant Accounts Board.
 6. Transfer of property, rights and liabilities.
 7. Pending legal proceedings.
 8. Preservation of certain contracts and adaptation of references.
 9. Final accounts of Board.
 10. Final report.
 11. Records.
 12. Transitional provisions.
 13. Consequential amendments to Principal Act.
 14. Repeals.
 15. Short title, collective citation and commencement.
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ACTS REFERRED TO

Dormant Accounts (Amendment) Act 2005	2005, No. 8
Dormant Accounts Act 2001	2001, No. 32
Equal Status Act 2000	2000, No. 8
Public Accounts and Charges Act 1891	54 & 55 Vic., c. 24
Unclaimed Life Assurance Policies Act 2003	2003, No. 2



AN BILLE UM CHUNTAIS DHÍOMHAOINE (LEASÚ), 2011
DORMANT ACCOUNTS (AMENDMENT) BILL 2011

BILL

entitled

5 AN ACT TO AMEND THE DORMANT ACCOUNTS ACTS 2001
TO 2005, TO PROVIDE FOR THE EXERCISE BY THE
MINISTER FOR THE ENVIRONMENT, COMMUNITY
AND LOCAL GOVERNMENT OF CERTAIN FUNCTIONS
10 RELATING TO THE DORMANT ACCOUNTS FUND AND
THE DISSOLUTION OF THE DORMANT ACCOUNTS
BOARD AND TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

Definitions.

“Act of 2005” means Dormant Accounts (Amendment) Act 2005;

15 “appointed day” means the day appointed under *section 2* to be the
appointed day;

“Board” has the same meaning as in the Principal Act;

“Minister” means Minister for the Environment, Community and
Local Government;

20 “Principal Act” means Dormant Accounts Act 2001.

2.—(1) The Minister shall by order appoint a day to be the Appointed day.
appointed day for the purposes of this Act.

(2) The appointed day shall be a day that is not earlier than 60
days after the day on which the order referred to in *subsection (1)*
25 is made.

3.—The Principal Act is amended by substituting the following for Substitution of Part
Part 6 (inserted by section 8 of the Act of 2005): 6 of Principal Act.

“PART 6

DISBURSEMENT OF MONEYS FROM THE INVESTMENT AND DISBURSEMENTS ACCOUNT

Definitions.	40A.—In this Part—	
	‘account’ means the investment and disbursements account of the Fund;	5
	‘action plan’ means a plan prepared under section 43;	
	‘appointed day’ means the day appointed by the Minister under <i>section 2 of the Dormant Accounts (Amendment) Act 2011</i> ;	10
	‘programme’ means a set of related measures the policy objective of which is to provide one or more than one of the types of assistance contemplated by section 41;	15
	‘project’ means a measure designed to provide one or more than one of the types of assistance contemplated by section 41;	
	‘scheme’ has the meaning given to it by section 42.	
Purposes of disbursements.	41.—Moneys in the account may be disbursed, in accordance with this Part, only for the purposes of programmes or projects to assist—	20
	(a) the personal and social development of persons who are economically or socially disadvantaged,	25
	(b) the educational development of persons who are educationally disadvantaged, or	
	(c) persons with a disability (within the meaning of the Equal Status Act 2000).	30
Scheme for disbursements.	42.—(1) The Minister shall, not earlier than the appointed day and not later than 12 months after the appointed day, make a scheme for the disbursement of moneys from the account (in this Part referred to as a ‘scheme’), relating to the programmes or projects for which moneys may be disbursed pursuant to section 41.	35
	(2) For the purposes of making a scheme under this section, the Minister shall consult with—	
	(a) the Minister for Education and Skills,	40
	(b) the Minister for Health,	
	(c) the Minister for Social Protection, and	
	(d) such other persons (including other Ministers of the Government) as the Minister considers appropriate.	45

(3) In making a scheme, the Minister shall have regard to—

(a) the policies and priorities of the Government in so far as those policies and priorities may affect or relate to the types of assistance contemplated by section 41,

(b) the amount of moneys available or likely to be available for disbursement from the account in the period to which the scheme relates, and

(c) the need to ensure that the moneys in the account are expended in a cost effective manner.

(4) A scheme shall—

(a) set out the period (not exceeding 3 years) to which the scheme relates, and

(b) specify the objectives to be achieved by making disbursements from the account and the strategies for achieving those objectives,

and may include such other information as the Minister considers appropriate having regard to the matters referred to in subsection (3).

(5) The Minister—

(a) may, from time to time, and

(b) shall, at the times specified in subsection (6),

review a scheme or any part of a scheme and, if he or she considers it necessary, may amend a scheme or make a new scheme.

(6) For the purposes of subsection (5)(b), a review shall be carried out—

(a) within 3 years after the first scheme made under subsection (1) takes effect, and

(b) at least once in every 3 years thereafter.

(7) The Minister shall not make a scheme or amend a scheme unless a draft of the scheme or a draft of any proposed amendments to the scheme have first been approved by the Government.

(8) A scheme, including an amendment of a scheme, shall be laid before each House of the Oireachtas by the Minister as soon as practicable after it has been made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House sits

after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done under it.

(9) Subsections (2) and (3) apply to the amendment of a scheme as they apply to the making of a scheme with any necessary modifications. 5

Action plan.

43.—(1) Where the Minister has made a scheme under section 42, the Minister shall, at least once in each year, prepare a plan (in this Part referred to as an ‘action plan’) for the purpose of giving effect to the scheme. 10

(2) For the purposes of subsection (1), the Minister shall consult with—

- (a) the Minister for Education and Skills,
- (b) the Minister for Health, 15
- (c) the Minister for Social Protection, and
- (d) such other persons (including other Ministers of the Government) as the Minister considers appropriate.

(3) Following the consultation referred to in subsection (2), and having regard to the matters referred to in section 42(3) and such other matters as the Minister considers appropriate, the Minister may— 20

- (a) adopt an action plan, or 25
- (b) decide not to adopt an action plan.

(4) An action plan shall include particulars of the following:

- (a) the programmes or types of projects in relation to which it is proposed to invite applications for disbursements from the account; 30
- (b) the maximum amount of moneys that may be proposed for disbursement from the account in relation to any programme or project during the period to which the action plan relates. 35

(5) For the purposes of subsection (4)(b), different amounts may be specified by the Minister in the action plan in relation to a particular class or classes of programme or project. 40

(6) As soon as practicable after an action plan has been adopted the Minister shall—

- (a) cause a copy of the plan to be laid before each House of the Oireachtas and, if a resolution annulling the plan is passed by either such House within 45

the next 21 days on which that House sits after the plan is laid before it, the plan shall be annulled accordingly, but without prejudice to the validity of anything previously done under the plan, and

- (b) arrange for the plan to be published in a form and manner that will enable members of the public to have access to it.

(7) Where an action plan has been adopted in accordance with this section, the Minister may—

- (a) having consulted with the persons referred to in subsection (2), and

- (b) having regard to the matters referred to in section 42(3) and such other matters as the Minister considers appropriate,

decide that applications for disbursements from the account under section 43A shall not be invited.

(8) Where the Minister makes a decision under subsection (3)(b), the decision shall be submitted to the Government for approval.

Invitation to
apply for
disbursements.

43A.—(1) A Minister of the Government within whose remit lies responsibility for a programme or type of project specified in an action plan adopted under section 43 may, from time to time, in accordance with this section, invite applications for disbursements from the account.

(2) Where a Minister of the Government referred to in subsection (1) proposes to invite applications for disbursements from the account, he or she shall, after consulting with the Minister and any other Minister of the Government as the first-mentioned Minister considers appropriate, publish or cause to be published—

- (a) a notice inviting applications for disbursements from the account ('an invitation to apply'), and

- (b) the criteria ('assessment criteria') to be applied in assessing applications made in response to the invitation to apply.

(3) An invitation to apply shall contain information relating to—

- (a) the programmes or types of project in respect of which applications for disbursements are invited,

- (b) the procedure for making an application for a disbursement,

- (c) the criteria to be applied in determining the classes of persons who may make an application for a disbursement for the programmes or types of projects concerned, and 5

- (d) the closing date for applications.

Assessment of applications and publication of decisions.

44.—(1) Applications for disbursements received in response to an invitation to apply shall be assessed, in accordance with the assessment criteria published in respect of the invitation concerned, by or on behalf of the Minister of the Government who invited the applications under section 43A. 10

(2) Following the assessment of the applications under subsection (1), the Minister of the Government concerned or the person who carried out the assessment on his or her behalf, shall prepare a report of the results of the assessments which shall include the following: 15

- (a) a list of the applications received and the programme or type of project to which the applications relate; 20
- (b) a recommendation in respect of each application as to whether or not such application should be approved for a disbursement from the account; 25
- (c) the reasons for the recommendation;
- (d) if a disbursement is recommended, the amount of the disbursement recommended. 30

(3) Following consideration of a report prepared under subsection (2), the Minister of the Government who invited the applications under section 43A shall prepare his or her list of the applications that, based on the assessment of the applications concerned, he or she recommends for a disbursement from the account, and the amounts that he or she recommends should be disbursed with respect to each of those applications. 35

(4) The Minister of the Government concerned shall submit the list prepared by him or her under subsection (3), for approval, to— 40

- (a) in the case of a list prepared by the Minister, the Minister for Public Expenditure and Reform, or 45
- (b) in the case of a list prepared by any other Minister of the Government, the Minister.

(5) (a) The Minister for Public Expenditure and Reform may approve the list submitted to him or her under subsection (4)(a) with or without amendment.

(b) The Minister may, with the consent of the Minister for Public Expenditure and Reform, approve the list submitted to him or her under subsection (4)(b) with or without amendment.

(6) The Minister shall ensure that as soon as practicable after approval has been given under subsection (5)(a) or (b), as the case may be, a statement—

(a) containing a list of the approved applications and the programme or type of project to which each of those applications relates, and

(b) specifying the amounts to be disbursed from the account in respect of each of those applications,

is laid before each House of the Oireachtas and is made available to the public.

(7) Any fees payable by a Minister of the Government who invited applications concerned under section 43A to consultants, advisers or other service providers engaged for any purpose relating to applications for disbursements under this Part shall be paid by the Agency out of the reserve account.

Making of disbursements. 44A.—(1) The amounts that are approved for disbursement from the account under section 44(5)(a) or (b), as the case may be, and that are required for the purposes of a programme or type of project in respect of which the applications were approved under section 44 shall be paid out of moneys provided by the Oireachtas.

(2) On the direction of the Minister for Public Expenditure and Reform, the Agency shall reimburse from the account to the relevant Ministers and Departments of State the amounts paid under subsection (1).

(3) Amounts reimbursed under subsection (2) may be applied as appropriations-in-aid in accordance with section 2 of the Public Accounts and Charges Act 1891.

(4) Amounts paid under subsection (1) and reimbursed by the Agency under subsection (2) are considered for the purposes of this Part to have been disbursed from the account.

(5) In this section, ‘relevant Minister’ means, in relation to an amount paid under subsection (1), the Minister of the Government within whose

remit lies responsibility for a programme or type of project concerned and in respect of which the amount concerned has been paid.”.

Amendment of
section 45 of
Principal Act
(reports).

4.—Section 45 (inserted by section 9 of the Act of 2005) of the Principal Act is amended—

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(a) in subsection (1), by substituting the following for paragraphs (d) to (e):

“(d) details of amounts reimbursed in accordance with section 44A(2),

(e) details of the remuneration, fees and allowances for expenses of the inspectors referred to in section 17(4)(a)(ii) (as amended by the *Dormant Accounts (Amendment) Act 2011*),”

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and

(b) by substituting the following for subsections (2) to (5):

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“(2) The Agency shall provide the Minister with a copy of each report made under subsection (1).

(3) The Minister shall, not later than 30 June in each year, prepare and furnish to the Government a report in writing (in this section referred to as the ‘annual report’) on the operation of Part 6 during the preceding year together with any findings, conclusions or recommendations concerning such operation as the Minister considers appropriate.

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(4) As soon as practicable after the annual report has been submitted to the Government, the Minister shall cause copies of the report to be laid before each House of the Oireachtas.

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(5) Any information that the Minister may require from time to time and that is not included in the annual report shall be provided—

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(a) by the Agency, in the case of information relating to its functions under this Act or the Unclaimed Life Assurance Policies Act 2003, or

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(b) by a Minister of the Government within whose remit lies responsibility for a programme or a project in respect of which applications were approved under section 44(5).”.

Dissolution of
Dormant Accounts
Board.

5.—(1) The Board is dissolved on the appointed day.

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(2) References to the Board contained, immediately before the appointed day, in any enactment (other than this Act) or in an instrument made under an enactment are to be read on and after the appointed day as references to the Minister.

(3) If required after the appointed day by the Committee of Public Accounts, the person who immediately before that day was

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the chairperson of the Board shall give evidence to that Committee on any matter that arose during his or her term of office and that relates to the functions of the Board.

5 (4) Where the chairperson of the Board is required to give evidence under *subsection (3)*, he or she shall not question or express an opinion on the merits of a policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

6.—(1) With effect from the appointed day, the following are transferred to the Minister: Transfer of property, rights and liabilities.

10 (a) all property (real and personal) and rights relating to such property held or enjoyed immediately before that day by the Board;

(b) all liabilities incurred before that day by the Board that had not been discharged before that day.

15 (2) Accordingly, without any further conveyance, transfer or assignment—

20 (a) property which falls within *subsection (1)* shall, on the appointed day, vest in the Minister for all the estate, term or interest for which, immediately before that day, it was vested in the Board, but subject to all trusts and equities affecting the property and capable of being performed,

(b) rights which fall within *subsection (1)* shall, on and from that day, be enjoyed by the Minister, and

25 (c) liabilities which fall within *subsection (1)* shall, on and from that day, be liabilities of the Minister.

(3) All moneys, stocks, shares and securities transferred to the Minister by this section shall, at his or her request, be transferred into the name of the Minister.

30 (4) Every right and liability transferred to the Minister by this section may, on and after the appointed day, be sued on, recovered or enforced by or against the Minister in his or her name and it is not necessary for the Minister to give notice of the transfer to the person whose right or liability is transferred by this section.

35 7.—Where, immediately before the appointed day, any legal proceedings to which the Board is a party are pending, the name of the Minister shall be substituted in the proceedings for the name of the Board and the proceedings shall not abate because of the substitution. Pending legal proceedings.

40 8.—(1) Every contract or agreement made between the Board (or any trustee or agent acting on its behalf) and any other person, and in force immediately before the appointed day, continues in force on and after that day. Preservation of certain contracts and adaptation of references.

(2) A contract or agreement referred to in *subsection (1)*—

45 (a) is to be read and have effect as if the name of the Minister were substituted in it for that of the Board or, as the case may be, any trustee or agent acting on its behalf, and

(b) is enforceable against the Minister.

Final accounts of
Board.

9.—(1) Following the making of the order under *section 2*, the Board shall prepare final accounts in respect of the financial year, or part of the financial year of the Board ending on, insofar as it is practicable, the day immediately before the appointed day. 5

(2) The final accounts prepared under *subsection (1)* shall be submitted by the Board to the Minister immediately before the appointed day.

(3) The Minister shall, as soon as practicable after the final accounts are submitted to him or her, submit the final accounts to the Comptroller and Auditor General for audit, and, immediately after the audit, a copy of the accounts as audited and a copy of the Comptroller and Auditor General's report on the accounts shall be presented to the Minister who shall cause copies of those audited accounts and that report to be laid before each House of the Oireachtas. 10 15

Final report.

10.—(1) Following the making of the order under *section 2*, the Board shall prepare a final report on the performance of its functions in respect of such period as has not already been the subject of a report to the Minister and ending on, insofar as it is practicable, the day immediately before the appointed day. 20

(2) The Board shall ensure that, where it has given a direction to the Agency in accordance with section 11(3) of the Act of 2005 during the period to which the final report prepared under *subsection (1)* relates, particulars of those to whom disbursements were made and the amount of each disbursement are included in the report. 25

(3) The final report prepared under *subsection (1)* shall be submitted by the Board to the Minister immediately before the appointed day, and the Minister shall, as soon as practicable after receiving the report, cause copies of it to be laid before each House of the Oireachtas. 30

Records.

11.—Each record held by the Board immediately before the appointed day shall, on the appointed day, stand transferred to the Minister and shall, on and from that day, be deemed to be held by the Minister. 35

Transitional
provisions.

12.—(1) In this section—

“Agency” has the same meaning as in the Principal Act;

“annual report” means the report prepared by the Minister under section 45(3) of the Principal Act (inserted by *section 4(b)*);

“approved plan” means the disbursements plan made under section 40 42 of the Principal Act and in effect before the coming into operation of this Act;

“former Board” means the Dormant Accounts Fund Disbursement Board dissolved under the Act of 2005;

“member”, in relation to the Board, means an ordinary member or 45 the chairperson of the Board.

(2) Until a scheme is made by the Minister under section 42 of the Principal Act (inserted by *section 3*)—

- (a) the approved plan shall continue in effect,
- (b) the approved plan may be reviewed and amended as if it were a scheme made after the appointed day under that section,
- (c) sections 43, 43A, 44 and 44A of the Principal Act (inserted by *section 3*) shall apply to the approved plan as if it were such a scheme, and
- (d) an invitation to apply for disbursements under section 43 (as that section read before it was amended by this Act) and applications received in response to such an invitation shall be treated as if issued or received under sections 43A and 44 of the Principal Act (inserted by *section 3*).

(3) If, immediately before the appointed day, the making of disbursements in respect of applications approved by the former Board has not yet been completed, the Minister may, on and after the appointed day and notwithstanding section 11(3) of the Act of 2005, give the Agency, from time to time, directions in relation to such disbursements.

(4) Where the Minister gives a direction under *subsection (3)*, information in relation to the disbursements concerned shall be included in the annual report.

(5) If a resignation of a member of the Board has not taken effect under section 33(6) of the Principal Act immediately before the appointed day, the resignation shall take effect on the earlier of—

- (a) the date on which the Minister received the letter notifying the Minister of the resignation of the member of the Board concerned, or
- (b) the day immediately before the appointed day.

13.—The Principal Act is amended—

Consequential
amendments to
Principal Act.

- (a) in section 2(1) by deleting the definition of “member”,
- (b) in section 6 by substituting the following for subsections (5) and (6):

“(5) Summary proceedings for an offence under this Act may be brought and prosecuted by the Central Bank.”,
- (c) in section 17(4) by substituting the following for paragraph (a):

“(a) defraying—

- (i) the fees, costs and expenses incurred by the Agency in performing its functions under this Act and the Unclaimed Life Assurance Policies Act 2003, and

(ii) the remuneration, fees and allowances for expenses of the inspectors who may be authorised by the Central Bank under section 22 or by the regulatory authority under section 19 of the Unclaimed Life Assurance Policies Act 2003,” 5

and

(d) in section 18 by substituting the following for subsection (1):

“(1) Subject to subsection (2), the Agency shall, as soon as practicable after 30 April in each year, prepare an investment plan for the Fund, having regard to the scheme made by the Minister under section 42 for the disbursement of moneys from the Fund.”. 10

Repeals.

14.—Sections 30 to 40 of the Principal Act are repealed with effect from the appointed day. 15

Short title,
collective citation
and
commencement.

15.—(1) This Act may be cited as the Dormant Accounts (Amendment) Act 2011.

(2) This Act and the Dormant Accounts Acts 2001 to 2005 may be cited together as the Dormant Accounts Acts 2001 to 2011. 20

(3) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes and different provisions.