



**AN BILLE CRAOLACHÁIN (LEASÚ), 2012
BROADCASTING (AMENDMENT) BILL 2012**

EXPLANATORY MEMORANDUM

The Bill is divided into 7 Parts and runs to 26 sections in all.

In Part 1, *section 1* sets out the short title of the Bill and also provides that the Bill should be read and cited together with the Broadcasting Act 2009.

Section 2 defines the term “Principal Act” which is used throughout the Bill.

Part 2 deals with the amendment or repeal of definitions which are contained in the Principal Act. The amendment effected by sections 3(a) and 3(d) are consequential on reforms introduced under Part 7 of the Bill. Significantly, this Bill (section 3(c)) introduces, for the first time in Irish legislation, a clear, comprehensive definition of the term “public service broadcasting”. The amendment effected by section 3(b) is consequential.

Part 3 deals with the funding of broadcasters. *Section 4* empowers the Broadcasting Authority to devise proposals on the allocation of funding to broadcasters under section 123 of the Principal Act.

Section 5 inserts a new paragraph (i) into section 28(1) of the Principal Act so as to enable the Broadcasting Authority to monitor how broadcasters are spending public monies provided to them under section 123 of the Principal Act.

Section 6(1) amends section 33(1) so as to provide that monies collected by way of the broadcasting levy shall form part of the Public Service Broadcasting Allocation which (under section 7 of the Bill) will be provided for in section 123 of the Principal Act. Section 6(2) amends section 33(5) of the Principal Act so as to provide that the expenses of the Committees of the BAI will be met by the Public Service Broadcasting Allocation.

Section 7 replaces the funding arrangements which are currently provided for in section 123 of the Principal Act. In place of the existing arrangements, section 7 proposes to establish a new fund termed the Public Service Broadcasting Allocation which will consist of (a) monies received by means of the broadcasting charge certificate, (b) income derived from the broadcasting levy under

section 33 of the Principal Act and (c) other monies which may be provided by the Oireachtas. The Public Service Broadcasting Allocation will be used to fund for television and radio broadcasters in the State which provide public service broadcasting services. The Public Service Broadcasting Allocation will also be used to also provide funding for the Authority.

Section 7 also empowers the Broadcasting Authority to invite broadcasters to submit proposals seeking funding. The Broadcasting Authority is required to consider those proposals and must then put forward recommendations on how it believes the monies should be allocated. The Minister is required to have regard to the recommendations put forward by the Broadcasting Authority.

In distributing funds, the Minister is required to ensure that a reasonable proportion of the funding is allocated to Irish language broadcasting. *Section 7(5)* imposes specific requirements regarding the disbursement of funding. In effect, amounts at the Minister's discretion are to be paid to RTE and TG4. A further amount, not exceeding 15% of the total of the Broadcasting Allocation, is to be disbursed under the Broadcasting Fund (i.e. Sound and vision). A further portion of the Broadcasting Allocation is to be used to meet the expenses of the Broadcasting Authority and specified Committees.

Section 7 also provides that a broadcaster which receives 40% of its funding from the Broadcasting Allocation must not charge for public access to its internet based television and radio services.

Section 8 inserts a new paragraph (f) and (g) into section 154 which deals with the Broadcasting Fund (i.e. Sound and Vision). The new paragraphs enable funding to be provided for local news and current affairs programming, as well as local sports events programming.

Section 9 replaces section 156 of the Principal Act so as to specify the purposes for which the Broadcasting Authority may utilise its funds.

Part 4 of the Bill introduces a number of new requirements in the interests of transparency, accountability and fairness in broadcasting.

Section 10 empowers Committees of the Houses of the Oireachtas to require a chief executive of a broadcasting entity to appear before a Committee to answer questions of a general nature.

Section 11 seeks to confer a right on an interviewee to have access to an unedited copy of a pre-recorded interview recording. An interviewee will have free and unrestricted use of the unedited copy of the interview recording and may for example, publish the recording on the internet.

Section 12 extends the remit of the CEO of the Broadcasting Authority so as to encompass the management of the Complaints Assessment Board.

Part 5 of the Bill seeks to introduce a redress mechanism as an alternative to the courts. This approach is modelled on the approach used to good effect by the Injuries Board. This will provide a low cost redress mechanism for persons who have suffered as a result of a broadcast.

Part 6 provides for the establishment of a new Irish language radio station aimed at a target audience of persons aged 18 to 34 years old.

Part 7 seeks to replace the television licence — with a Broadcasting Charge Certificate which is payable in respect of every premises, irrespective of whether a television set is present within the premises. Section 15 provides for the definition of key terms including “premises” and also provides for the repeal of certain other definitions.

Section 16 imposes an obligation to hold a broadcasting charge certificate with effect from the expiration of television licences in 2013.

Section 17 provides for the issuing of broadcasting charge certificates.

Sections 18 to 26 contain consequential amendments arising from the replacement of television licences with broadcasting charge certificates.

Éamon Ó Cuív,
July, 2012.