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**AN BILLE UM AN OIREACHTAS (OIFIGÍ AIREACHTA  
AGUS PARLIAMINTE) (LEASÚ), 2013  
OIREACHTAS (MINISTERIAL AND PARLIAMENTARY  
OFFICES) (AMENDMENT) BILL 2013**

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**EXPLANATORY MEMORANDUM**

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**1. Purpose of the Bill**

1.1 The primary purpose of this Bill is to amend and extend Part III of the Ministerial and Parliamentary Offices Act 1938, as amended, in relation to allowances paid to parliamentary leaders of qualifying political parties and to qualifying independent members of Dáil Éireann and Seanad Éireann, in respect of expenses arising from parliamentary activities, including research. The Bill

- provides for improved auditing provisions to be applied to allowances paid to parliamentary leaders of qualifying parties and for the same requirements to apply to the allowances paid to qualifying independent members, and
- provides for a reduction of 10% in the rates of the allowance payable.

1.2 The Bill

- provides for inspection powers and for the preparation and publication of guidelines by the Standards in Public Office Commission,
- makes several changes including the repayment of unspent amounts, a time limit under which arrears of allowances due may be paid and for civil service decreases in remuneration, as well as increases, to apply, and
- renames the allowance to the Parliamentary Activities Allowance.

1.3 The Bill amends Part V of the Ministerial and Parliamentary Offices Act 1938, as amended, to provide for the abolition of severance payments to holders of certain Ministerial and Parliamentary Offices upon cessation of Office, in accordance with the Programme for Government.

**2. Overview of the Allowance**

2.1 The Ministerial and Parliamentary Offices Act, 1938, as amended, including more recently by the Oireachtas (Ministerial

and Parliamentary Offices) (Amendment) Act, 2001, provides for allowances to be made from Central Funds to relevant parliamentary leaders and independent members in respect of categories of expenses arising out of parliamentary activities, including research, of the party.

- 2.2 Allowances are paid in respect of members of the party elected to Dáil Éireann and members elected/nominated to Seanad Éireann at the last preceding general election or a subsequent bye-election or, in the case of Seanad Éireann, nominated to it after the last preceding general election.
- 2.3 The conditions governing entitlement to payment of the allowance are set out in the Act. The primary restriction in the Act on the use of the allowance is that it may not be used in respect of election expenses.
- 2.4 The 2001 Act gives a statutory oversight role in relation to allowance to the Standards in Public Office Commission. Under the legislation, each parliamentary leader is required to prepare a statement of expenditure from the allowance, have it audited by an independent auditor and furnish it with the auditor's report to the Commission. Based on the statement submitted, the Commission is required to make a report to the Minister in relation to the use of the allowance and cause a copy of the report to be laid before the Oireachtas. Allowances paid to independent members are not subject to these oversight provisions.

### **3. Financial implications**

- 3.1 The 10% reduction in the rates of the allowance will yield savings of some €0.84 million in a full year.
- 3.2 A saving will also arise from the abolition of severance payments to holders of certain Ministerial and Parliamentary Offices, as the current and future holders of such Offices will not receive such payments at the end of their term of Office.

### **4. Provisions of the Bill**

- 4.1 *Section 1* is the standard title definition provision.
- 4.2 *Section 2* substitutes section 10 of the Ministerial and Parliamentary Offices Act 1938 as inserted by the Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2001. Section 10 is concerned with the payment of the Parliamentary Activities Allowance to parliamentary leaders of qualifying parties and to qualifying independent members of Dáil Éireann and Seanad Éireann.
- 4.3 The new section includes, *inter alia*, the criteria for entitlement to the allowance and provides for a reduction of 10% in the rates of the allowance. The method of calculation of the allowance payable to a parliamentary leader of a qualifying party is set out. In the case of a qualifying party forming or forming part of the Government, the combined allowances payable in respect of members of that party elected to Dáil Éireann shall be reduced by one-third. The allowance shall be paid for such period in arrears as the Minister considers appropriate and will not be liable to income tax. The main restriction on the use of the allowance is that it cannot be used for, or to recoup, election or poll expenses incurred. These provisions are retained from the

- 4.4 The section inserts new provisions in relation to entitlement to the allowance. Provision is made to provide that an allowance shall not be paid if it is in respect of an expense that is otherwise reimbursed or provided for. In addition, where an allowance is due and payable and a period of six (6) months expires without the parliamentary leader or the member having claimed the allowance or part thereof, the part of the allowance for that period in excess of 6 months shall not be payable.
- 4.5 *Section 3* inserts eight (8) new sections, sections 10A-10H, into the Ministerial and Parliamentary Offices Act, 1938 after section 10.
- 4.5.1 *Section 10A* inserts a new additional condition to qualify for payment of the allowance. It provides that in circumstances where a parliamentary leader or an independent member fail to provide the statement of expenditure and auditor's report in the specified timeframe, or where the Standards in Public Offices Commission (the Commission) determine that the statement of expenditure does not comply with the Act, the allowance due will not be paid until such time as a satisfactory statement has been submitted or until the issues underlying the non-compliance have been resolved to the satisfaction of the Minister.
- 4.5.2 *Section 10B* relates to the provision of a statement of expenditure. The section sets out the different circumstances under which a statement of expenditure and auditor's report should be prepared, including on the death of a parliamentary leader or independent member and where there is a change in the parliamentary leader of a qualifying party. The statement and auditor's report must be furnished to the Commission no later than 120 days after the end of the financial year to which the statement relates. These provisions are largely retained from the Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2001.
- 4.5.3 *Section 10C* provides new requirements regarding the retention of records in relation to the statement of expenditure and for public inspection. This section provides that a parliamentary leader of a qualifying party is required to retain records relating to the statement of expenditure for a period of not less than 6 years from the end of the financial year to which the expenditure relates. Qualifying independent members, or their personal representatives where applicable, are required to retain records relating to the statement for a period of 6 years or for such shorter period as determined by the Commission. Under this section, the Commission is required to retain records for as long it thinks fit, and must also make a copy of each auditor's report and satisfactory statement furnished to it, in addition to the Commission's report on that statement, available to the public at its public offices during normal working hours and on its website.
- 4.5.4 *Section 10D* sets out the new expanded role of the Standards in Public Office Commission in relation to statements of expenditure and reporting procedures. This section provides that the Commission is required to consider every statement and auditor's report submitted to it and may, where it considers it appropriate to do so, report to the Minister on any matter in

relation to a statement submitted. The section provides for the review by the Commission of each statement of expenditure furnished to it under this Act. Where the Commission is of the view that there is a minor error or omission in a statement submitted, or where it is of the view that there may have been non-compliance with the Act, this section sets out the procedures to be followed by the Commission, including to provide the parliamentary leader or independent member with an opportunity to correct the error or make good the omission or to respond on the matter, as appropriate. The Commission is required under this section to make a report to the Minister in relation to each statement of expenditure and auditor's report submitted indicating whether they have been received within the deadline, and whether the statement of expenditure complies with the Act.

- 4.5.6 *Section 10E* provides that the date of commencement of the application of sections 10A to 10D to independent members and separately, the application of section 10C to parliamentary leaders shall come into effect on a day set by order of the Minister.
- 4.5.7 *Section 10F* inserts a new requirement to provide for any unspent allowances received to be refunded in circumstances where, following a general election or bye-election, a qualifying party or a qualifying independent member cease to be a qualifying party or qualifying member, respectively. The section provides that the unspent allowance must be refunded within 120 days of the end of the financial year in which the allowance was paid. Provision is also included for the sum to be recovered in any court of competent jurisdiction as a simple contract debt if the 120 day limit is not complied with.
- 4.5.8 *Section 10G* is a new provision which outlines the procedure by which the Commission may, following a consultation process, prepare and publish guidelines for the purpose of providing practical guidance on the application and operation of the allowance. The draft guidelines must be submitted to the Minister for approval and the Minister may approve, modify or refuse the guidelines as he or she deems appropriate.
- 4.5.9 *Section 10H* is the interpretation section of the Bill. The section includes the categories of expenses arising from parliamentary activities and provides that the Minister may, by regulations, add additional categories to the definition of 'expenses arising from parliamentary activities, including research'. These provisions are retained from the Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2001.
- 4.6 *Section 4* amends section 11A of the Ministerial and Parliamentary Offices Act to provide that decreases in civil service remuneration that have effect on a general basis should automatically apply to the allowance, as is the case for general civil service increases, and that the making of an order is not necessary to give effect to the decrease or increase.
- 4.7 *Section 5* provides for the abolition of severance payments to holders of certain Ministerial and Parliamentary Offices upon cessation of Office, which are provided for under Part V of the Ministerial and Parliamentary Offices Act, 1938. The abolition of these payments will apply to both current and future holders of the Offices in question, but any person who is in receipt of severance payments at the time of the commencement of

subsection (1) of this section will continue to be entitled to receive those payments on the same terms and conditions as applied immediately before that commencement.

- 4.8 *Section 6* states the Short title of the Act and provides for the Act to come into operation on such day or days appointed by order of the Minister.

*Deireadh Fómhair*, 2013.