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**An Bille Fá Chomhairle um Pianbhreith a Ghearradh,  
2015**

**Sentencing Council Bill 2015**

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*Meabhrán Mínitheach*  
*Explanatory Memorandum*

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**AN BILLE FÁ CHOMHAIRLE UM PIANBHREITH A  
GHEARRADH, 2015  
SENTENCING COUNCIL BILL 2015**

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**MEABHRÁN MÍNITHEACH  
EXPLANATORY MEMORANDUM**

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This Bill aims to address the many controversies that have arisen from the inconsistencies in sentencing in Ireland in recent years. The sentencing process, following a guilty verdict at a criminal trial, is a matter of public concern.

This Bill proposes the establishment of a Sentencing Council, to mirror the successful model operating in England and Wales.

The aim of the Sentencing Council is to promote greater consistency in sentencing, whilst maintaining the independence of the judiciary. The Council will produce guidelines on sentencing for the judiciary and for criminal justice professionals. It also aims to increase public understanding of sentencing. The Sentencing Council will act in the public interest to ensure accountability and consistency in sentencing.

The Bill, in general, mirrors the model used in England and Wales.

*Section 1* sets out the definitions of various terms within the Bill.

*Section 2* outlines the Ministerial power in relation to any regulations that may be made in relation to the Act.

*Section 3* sets out the establishment day of the Council, to be made by order of the Minister for Justice and Equality.

*Section 4* provides for the establishment of the Council and makes provisions for the office seal of office, the legal status of the Council and the powers of the Council to contract. It also provides for the independence of the Council.

*Section 5* outlines the membership of the Council. The Council shall have 14 members (8 judicial members and 6 non-judicial members). It also provides for gender equality. This section outlines the criteria for membership to be considered in the public appointment process.

*Section 6* outlines the ineligibility for appointment to the Council and other disqualifications to membership.

*Section 7* outlines the functions of the Council. The primary function of the Council shall be to produce sentencing guidelines relating to the sentencing of criminal offenders. It outlines the process for submissions, the publishing of draft guidelines and the persons and bodies to be consulted upon the publishing of draft guidelines. It also provides for a guideline

review mechanism. This section outlines certain issues that the Council must have regard to when exercising its functions.

*Section 8* provides for sentencing ranges. The section outlines the way in which a particular offence is structured. It provides for different offence and category ranges.

*Section 9* allows for the Minister or the Court of Appeal to propose that guidelines be prepared or revised.

*Section 10* outlines the duty of the court to follow the sentencing guidelines, unless the court is satisfied that it would be contrary to the interests of justice to do so.

*Section 11* provides that the Council must publish a resource assessment in respect of any guidelines it issues.

*Section 12* provides that the Council must monitor all guidelines issued and outlines a number of factors to be taken into account in this regard.

*Section 13* allows the Minister to refer any government policy proposal to the Council and the Council must assess the likely effect of the proposal in relation to the resources required in terms of prison places, probation provision and the provision of the youth justice system.

*Section 14* allows the Minister to provide the Council with such assistance as it requests in connection with the performance of its functions.

*Section 15* outlines the duty of the Council to produce an annual report.

*Section 16* outlines the review process to be undertaken by the Minister within 5 years of the Council being established.

*Section 17* outlines the short title of the Bill and the power of the Minister for Justice and Equality to order the day of commencement of the Act.

*Deputy Pádraig Mac Lochlainn,*  
*Deireadh Fomhair, 2015.*