



**AN BILLE AIRÍ AGUS RÚNAITHE (LEASÚ), 2011
MINISTERS AND SECRETARIES (AMENDMENT) BILL 2011**

EXPLANATORY MEMORANDUM

Introduction

This Bill provides for the establishment of the Department of Public Expenditure and Reform and for the transfer of certain functions from the Minister for Finance to the Minister for Public Expenditure and Reform. In general terms, the Bill provides that the following broad functions will be transferred to the Minister for Public Expenditure and Reform:

- the entirety of functions relating to the public service;
- public service reform functions which will, for the first time, be placed on a statutory footing;
- responsibility for managing public expenditure within the overall envelope set by the Government, while the Minister for Finance will retain responsibility for overall budgetary parameters.

The structure of the Bill is such that the over-riding principles of the legislation are contained in the main body of the Bill. A broad provision (contained in *Section 7*) transfers many of the general statutory functions of the Minister for Finance in relation to the public service to the Minister for Public Expenditure and Reform, such as those relating to public sector superannuation, terms and conditions of staff, remuneration etc., A large number of remaining statutory functions which are appropriate for transfer to the Minister for Public Expenditure and Reform will be transferred by way of Transfer of Functions Order, which will be timed to commence immediately following the commencement of this Act. *Schedule 2* to the Bill lists functions which will be transferred to the Minister for Public Expenditure and Reform but which he will exercise following consultation with, or with the consent of the Minister for Finance. To reflect the new reform function included in the name of the Department, specific public service reform and modernisation functions are being put on a statutory basis. The Bill also provides for the necessary amendments to miscellaneous pieces of legislation, to take account of the establishment of the new Department or to link the policy role of the Minister for Public Expenditure and Reform in relation to the legislation with the payments role of the Minister for Finance in relation to the Central Fund.

PART 1

PRELIMINARY AND GENERAL

Section 1 deals with the short title, collective citation and construction.

Section 2 defines certain terms used in the Bill.

Section 3 defines “Public service body”.

PART 2

DEPARTMENT OF PUBLIC EXPENDITURE AND REFORM

Section 4 provides that the Government may determine, by order, a day to be the “appointed day” under the Act.

Section 5 provides for the establishment of the Department of Public Expenditure and Reform and the Minister for Public Expenditure and Reform in the English language and An Roinn Caiteachais Phoiblí agus Athchóirithe and an tAire Caiteachais Phoiblí agus Athchóirithe in the Irish language.

Section 6 provides that the Minister for Public Expenditure and Reform will have responsibility for the management of gross voted expenditure and the annual estimates process, general sanctioning powers in relation to expenditure and policy matters relating to the appraisal, review and evaluation of expenditure, while the Minister for Finance will retain responsibility for overall budgetary parameters.

Section 7 is a further provision for the transfer of functions to the Minister for Public Expenditure and Reform. It contains a broad provision transferring the general public service statutory functions of the Minister for Finance to the Minister for Public Expenditure and Reform. A number of Offices currently under the aegis of the Minister for Finance will also transfer to the Minister for Public Expenditure and Reform under *Section 7*. These include the Commissioners of Public Works, Public Appointments Service, Commission for Public Service Appointments, Valuation Office and the State Laboratory. A large number of remaining statutory functions which are appropriate for transfer to the Minister for Public Expenditure and Reform will be transferred by way of a Transfer of Functions Order, which will be timed to commence immediately following the commencement of this Act. The Schedules to the Bill will list functions which will require to be exercised in cooperation with the Minister for Finance (see also *Section 18*).

Section 8 details public service reform and modernisation functions which are being put on a statutory basis to reflect the new reform function included in the name of the Department. The Minister will also assume responsibility for existing non-statutory functions of the Department of Finance and the Department of the Taoiseach in the area of public service modernisation, development and reform. The statutory functions will include the formulation and development of policies required for the modernisation and development of the public service and making proposals to Government in relation to the implementation of those policies, along with the coordination and review of the implementation of these measures across the

public service. The functions also include the promotion of value for money in the provision of public services and the development of policy and procedural frameworks in relation to the procurement of goods and services by the State.

Section 9 provides for the transfer to the Department of Public Expenditure and Reform of the administration and business connected with the transferred functions.

Section 10 provides that if legal proceedings involving the Minister for Finance are in train in relation to a transferred function immediately before the appointed day, these proceedings will, following the appointed day, be deemed to relate to the Minister for Public Expenditure and Reform.

Section 11 provides that any work commenced before the appointed day, by or under the authority of the Minister for Finance in relation to a transferred function, will be carried on and completed by the Minister for Public Expenditure and Reform.

Section 12 provides that any legal document made by the Minister for Finance in relation to a transferred function will continue to have effect as if it had been made by the Minister for Public Expenditure and Reform.

Section 13 provides that any references to the Minister for Finance in relation to a transferred function in any legal document or in the Memorandum and Articles of Association of any company shall be deemed to be references to the Minister for Public Expenditure and Reform.

Section 14 provides that all property, rights and liabilities, moneys, stocks, shares and securities held by the Minister for Finance in relation to any transferred function will transfer to the Minister for Public Expenditure and Reform without any further legal actions. *Section 14* also provides that the consent of the Minister for Finance will be required in relation to the disposal of assets and the application of the proceeds from the disposal of assets of State bodies, where such assets exceed a value of €50m.

PART 3

PERFORMANCE OF CERTAIN FUNCTIONS

Section 15 sets out the responsibility of the Minister in relation to the annual estimates process. This provides that the Government will approve an “annual approved expenditure amount” which can be reviewed in the course of a financial year if circumstances require. The Minister for Public Expenditure and Reform will have full responsibility for the management of gross voted expenditure as set out in *Section 6*, within the “annual approved expenditure amount” or the “revised annual approved expenditure amount”. The Minister for Finance may make recommendations to the Minister for Public Expenditure and Reform on the apportionment of the “annual (or revised annual) approved expenditure amount” as between current and capital expenditure.

Section 16 provides for appropriate changes to the Central Fund (Permanent Provisions) Act 1965 to give effect to the role of the Minister for Public Expenditure and Reform in relation to voted expenditure and to link the policy role of the Minister for Public Expenditure and Reform with the payments role of the Minister for

Finance. The Minister for Finance will retain responsibility for payments from the Central Fund. The Secretary General of the Department of Finance will remain as Accounting Officer for both the Central Fund and the Finance Accounts.

Section 17 provides that certain functions relating to the promotion and coordination of economic and social planning for the development of the economy and the identification of policies for general economic and social development may be exercised by either Minister but that they shall consult from time to time in relation to those functions.

Section 18 provides that the functions transferred to the Minister for Public Expenditure and Reform and referred to in *Section 7(2)* and detailed in Part 1 of *Schedule 2* may be performed only with the consent of the Minister for Finance. These include provisions of certain Acts mainly relating to borrowings by State agencies. *Section 18* also provides that the functions referred to in *Section 7(3)* and detailed in Part 2 of *Schedule 2* may be performed only following consultation with the Minister for Finance. These relate mainly to the review mechanism in the Financial Emergency Measures in the Public Interest legislation.

Section 19 ensures that responsibility for matters relating to superannuation, remuneration etc of bodies under the aegis of the Minister for Finance remains with the Minister. The Minister for Finance will perform these functions following consultation with the Minister for Public Expenditure and Reform.

PART 4

AMENDMENT OF CERTAIN ENACTMENTS

Section 20 provides for the amendment of the Intoxicating Liquor (General) Act 1924, to take account of the establishment of the Department of Public Expenditure and Reform.

Section 21 provides for the amendment of the Seanad Electoral (University Members) Act 1937, to link the policy role of the Minister for Public Expenditure and Reform in relation to that Act with the payments role of the Minister for Finance in relation to the Central Fund.

Section 22 provides for the amendment of the Seanad Electoral (Panel Members) Act 1947, to link the policy role of the Minister for Public Expenditure and Reform in relation to that Act with the payments role of the Minister for Finance in relation to the Central Fund.

Section 23 provides for the amendment of the Ombudsman Act 1980, to take account of the establishment of the Department of Public Expenditure and Reform.

Section 24 provides for the amendment of the Postal and Telecommunications Services Act 1983, to link the policy role of the Minister for Public Expenditure and Reform in relation to that Act with the payments role of the Minister for Finance in relation to the Central Fund.

Section 25 provides for the amendment of the Electoral Act 1992, to link the policy role of the Minister for Public Expenditure and Reform in relation to that Act with the payments role of the Minister for Finance in relation to the Central Fund.

Section 26 provides for the amendment of the Presidential Elections Act 1993, to link the policy role of the Minister for Public Expenditure and Reform in relation to that Act with the payments role of the Minister for Finance in relation to the Central Fund.

Section 27 provides for the amendment of the Referendum Act 1994, to link the policy role of the Minister for Public Expenditure and Reform in relation to that Act with the payments role of the Minister for Finance in relation to the Central Fund.

Section 28 provides for the amendment of the Electoral Act 1997, to link the policy role of the Minister for Public Expenditure and Reform in relation to that Act with the payments role of the Minister for Finance in relation to the Central Fund.

Section 29 provides for the amendment of the European Parliament Elections Act 1997, to link the policy role of the Minister for Public Expenditure and Reform in relation to that Act with the payments role of the Minister for Finance in relation to the Central Fund.

Section 30 provides for the amendment of the Freedom of Information Act 1997, to take account of the establishment of the Department of Public Expenditure and Reform.

Section 31 provides for the amendment of the Public Service Management (Recruitment and Appointments) Act 2004, to take account of the establishment of the Department of Public Expenditure and Reform.

Section 32 provides for the amendment of the Social Welfare Consolidation Act 2005, to take account of the establishment of the Department of Public Expenditure and Reform.

Schedules

Schedule 1 contains a list of excluded bodies for the purposes of the definition of “Public service body” in this Act (*Sections 2 and 3 refer*).

Schedule 2 Part 1 lists the functions of the Minister for Finance which are transferring to the Minister for Public Expenditure and Reform which will be exercised with the consent of the Minister for Finance (*Sections 7 and 18 refer*)

Schedule 2 Part 2 lists the functions of the Minister for Finance which are transferring to the Minister for Public Expenditure and Reform which will be exercised following consultation with the Minister for Finance (*Sections 7 and 18 refer*)

Schedule 3 lists the legislation governing payments of superannuation and remuneration from the Central Fund to link the policy role of the Minister for Public Expenditure and Reform in relation to this legislation with the payments role of the Minister for Finance in relation to the Central Fund (*Section 16 refers*).

Financial Implications

No additional Exchequer costs are envisaged in implementing this Bill. Any costs arising will be absorbed from within the existing expenditure ceilings for the Departments of Finance and An Taoiseach.

*An Roinn Airgeadais,
Bealtaine, 2011.*