

<b>Lead topic:</b> Ethics legislation	<b>Sub-topic:</b> Public Sector Standards Bill 2015	<b>Contact:</b> Joyce Nolan or Steven Fadian Ext. 5486 or 7346
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#### **FAST FACTS**

- **The Minister for Public Expenditure and Reform has responsibility for the Ethics legislation (i.e. the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001).**
- **This legislation provides for the disclosure of registrable interests by members of the Oireachtas and public servants and for investigation of possible non-compliance with the legislation. It provides for the publication of Codes of Conduct for office holders, for ordinary members of the Dáil, for ordinary members of the Seanad and for public servants, and also a requirement that members of the Oireachtas and appointees to senior office in the public service are required to furnish evidence of tax compliance.**
- **A new Bill, the Public Sector Standards Bill 2015, is currently progressing through the Houses of the Oireachtas. This Bill consolidates the current legislative framework governing the ethical obligations of public officials and gives effect to the recommendations of the Tribunals. It was published on 23 December 2015, and completed Second Stage in the Dáil on 20th January 2016.**
- **This Bill aims to significantly enhance the existing framework for identifying, disclosing and managing conflicts of interest and minimising corruption risks, to achieve a shift towards a more dynamic and risk-based system of compliance and to ensure that the institutional framework for oversight, investigation and enforcement is robust and effective.**

#### **Q&A'S**

##### **Q1. What is the context for reform of the existing legislation?**

The context for reform is as follows:

- An effective standards framework is integral to the quality and efficacy of public governance.
- The minimisation of corruption risks, and the regulation of conflicts of interests, is central to maximising the value generated by the public sector and to the contribution it can make.
- International research highlights the important linkage between the quality of public institutions and long-term economic and social sustainability.

- Ireland's recent history in relation to the banking and financial crisis show clearly how institutional weaknesses and governance failures can give rise to very substantial economic and social costs

## **Q 2 Why do we need to reform the existing ethics system?**

At a practical level, the main reasons for reform are

- Inconsistencies between obligations at national and local level
- Mahon tribunal report pointed to the need for a far reaching overhaul of Ireland's ethics regime
- Responsibilities for advice, guidance and Codes disperse
- Need for more dynamic and risk-based system of compliance
- Need for consistent, coherent and proportionate framework which safeguarded privacy and encourages participation in public life

## **Q 3 What are the key reforms in the Public Sector Standards Bill 2015?**

Among the key reforms of the Public Sector Standards Bill 2015 are:-

- the introduction of a Public Sector Standards Commissioner to replace the Standards in Public Office Commission and to oversee a reformed complaints and investigations process;
- the establishment in legislation of a set of integrity principles for all public officials;
- the strengthening of the legal obligation for public officials to disclose, as a matter of routine, actual and potential conflicts of interest, reinforced by a significant extension of the personal and material scope of disclosures for public officials and graduated disclosure requirements;
- the establishment of a more effective (IT-based) process for the submission of periodic statements of interests;
- the imposition of statutory prohibitions on the use of insider information, on the seeking by public officials of benefits to further their private interests, and on local elected representatives from dealing professionally with land in certain circumstances; and
- the establishment of a new statutory board to address potential conflicts of interest as public officials take up roles in the private sector.

## **Q4. When will the Bill be enacted?**

The intention is for the Bill to be enacted either prior to the summer recess in July 2017 or in the autumn.

**Q5. Why establish a Commissioner to replace the existing Commission?**

The current Standards in Public Office Commission has played a crucial role by supervising the operation of the relevant legislation and in fostering and seeking to develop and strengthen the ethics regime through recommendations in its Annual reports. However, given the increasing demands required to successfully oversee the regulatory system and in light of the significant expansion in the scope of the regime under the proposed legislation, as well as the increased powers under it, the current part-time, ex-officio model is unlikely to be fully aligned with future requirements.

It is considered necessary to put in place a Commissioner whose role will be to oversee effective implementation of the Act with investigation and enforcement powers, as well as powers to develop appropriate codes of practice under the legislation, and to issue advice and guidance as required to ensure coherence of approach in implementation.

**Q6. Who will the new Public Sector Standards Commissioner be?**

The Bill provides in Section 26(3) that the appointment of the Commissioner shall be made by the President on the advice of the Government following a resolution passed by Dáil Éireann and by Seanad Éireann recommending the appointment of the person.

**Q7. How will the Commissioner's role be strengthened?**

This is a major element of what the proposed legislation seeks to achieve. For example:-

- The Commissioner will implement a significantly more streamlined and improved complaints and investigations procedure.
- The Commissioner will be able to refer a matter to the Deputy Commissioner for investigation even in the absence of the receipt of a complaint, if he or she believes there may have been a contravention of the Act, or if it is in the public interest to do so.
- The Commissioner will have a broader role in the provision of advice and guidance - this includes advice on the steps necessary to secure compliance with the Act.
- The Commissioner will have robust powers to ensure compliance with the Act, with the power to issue fixed payment notices where declaration of interests statements are not submitted.
- The Commissioner will have stronger powers of sanction and enforcement in relation to a range of contraventions and may prosecute summary offences under the Act, or refer the matter to the Director of Public Prosecutions (DPP) for prosecution on indictment.

**Q8. How does the new declarable interests regime compare with the current one?**

There is a major extension of the declarable interests regime in line with the recommendations of the Mahon Tribunal. There has been an extension of the personal and material scope of disclosures for public officials, with common definitions applying at national and local level. The obligations to declare interests will be the same for both members and office holders alike.

- Senior public officials and politicians (Category A) will declare publicly their own interests, as well as those of his or her spouse or child, during the period where the interest could reasonably be perceived to be connected with the performance of his or her functions.

- Interests of wider family and relatives will be declared on a private basis to the Commissioner.

- Interests of connected persons (which includes relatives as well as business partners and companies, and other such legal arrangements that the person has a beneficial interest in, or is a director of) will be disclosed by all Categories of official in the context of making ad hoc disclosures where he/she has actual knowledge of the interest and where it could reasonably be perceived to be connected with the performance of his or her functions.

**Q9. What are the requirements for Members of the Oireachtas in this Bill compared to the requirements in the current legislation in place?**

In place of the current requirement to make annual statements, Members will be obliged to make an initial declaration and to update it every four months if there has been any material change.

The scope of interests which are declarable will be significantly extended with some interests declared publicly, while other interests will be disclosed on a private basis.

Members will be required to privately declare to the Public Sector Standards Commissioner the interests of a spouse or child where the Member has actual knowledge that the interest could reasonably be perceived to be connected with the performance of his or her functions.

Members will also have to privately declare the amounts of any income from an outside occupation, any asset valued at over €50,000 other than a private home or a pension, any liability in excess of €50,000 (other than a charge on a private home) and any gift, travel facilities or property supplied or lent by a person other than a relative which are not connected with the performance of his or her functions.

A failure to make a declaration of interests will give rise to a fixed payment notice to be issued by the Public Sector Standards Commissioner.

Members will also be prohibited from accepting gifts of over €600 unless unconnected with their functions. Where such a gift is given, it (or its value) must be remitted to the State. Contravention of these provisions will be an offence.

Members will be required to provide evidence of tax compliance on an annual basis rather than after an election as at present. New offences of failing to comply with this requirement or furnishing a declaration of tax compliance that is false or misleading will be introduced.

**Q10. How can the Minister justify the new requirements for Members of the Oireachtas?**

The provisions of the Bill that will apply to Members will also apply to other senior public officials, including all public servants at or above the level of a Deputy Secretary General.

Members will accept the necessity of ensuring that public trust in all public officials is improved. For that reason, an ethics framework that is based on the highest standards of integrity is vital in minimising corruption risks.

The Bill will provide a comprehensive ethics framework for all public officials, which will modernise, simplify and reform the current framework. It will provide for independent and robust oversight of compliance with its provisions. This will bolster confidence in the integrity of the political system.