

DEPARTMENT OF THE TAOISEACH CABINET HANDBOOK



INTRODUCTION

This Handbook is an internal Government (Cabinet) guide for Ministers. Its purpose is to assist Ministers and officials in the preparation of matters to be dealt with at Government meetings, in accordance with the principles of collective responsibility. It also offers guidance on a number of ancillary matters. The guidelines in the Handbook may be changed by the Government as they see appropriate and, where appropriate the Government may decide that the guidelines (in whole or in part) do not apply in particular circumstances.

The Government ask that Ministers and Departments comply fully with these guidelines.

The Secretary General to the Government, in consultation as necessary with the Taoiseach, will be pleased to provide Ministers with clarification or resolve any issues of doubt.

*Department of the Taoiseach
December, 2006*

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COLLECTIVE RESPONSIBILITY

1.1 Collective Responsibility: Submission of matters to Government

The Constitution (Article 28.2) provides that the executive power of the State shall be exercised by or on the authority of the Government.

Article 28.4.2^o provides that:

"the Government shall meet and act as a collective authority, and shall be collectively responsible for the Departments of State administered by the members of the Government".

1.2 Collective responsibility requires that Ministers should inform their colleagues in Government of proposals they, or Ministers of State at their Departments, intend to announce and, if necessary, seek their agreement. This applies, in particular, to proposals for legislation that can be initiated only after formal approval by Government. Ministers must at all times support Government decisions in public debate as a responsibility of office.

1.3 Ministers and Ministers of State should be aware that Government approval is required for significant new or revised policies or strategies and in particular that approval should be sought sufficiently in advance of publication of such initiatives to allow proper consultation and consideration.

This requirement arises from the nature of collective responsibility. The fact that a specific decision or function may be expressly vested in a Minister or Minister of State does not serve to set aside this requirement.

- 1.4 In order not to prejudice Government discussions, Ministers and Ministers of State should avoid making public statements or commenting on specific policy proposals which are to be brought to Government or which are under consideration by Government.**

For example, only in exceptional circumstances would it be appropriate to disclose the fact that a particular matter is due for consideration at a specific Government meeting. Nor should the details of what is being recommended to Government be divulged. In both instances, prior disclosure may limit options available to the Government to have consideration of a matter postponed or withdrawn or to amend the proposal.

ACCESS TO RECORDS

- 1.5 Confidentiality and Access to Government Records**

(a) Government discussions

Article 28.4.3° of the Constitution requires the maintenance of strict confidentiality regarding **discussions at meetings** of the Government except where the High Court determines that disclosure should be made on the grounds set out in that Article.

(b) Government documents

Subject to certain exceptions, Government records are confidential to Government. Exceptions where all or part of Government records may be disclosed are:

- in accordance with provisions contained in Freedom of Information legislation relating to factual information (see next Paragraph) and provisions relating to Government records which are more than 10 years old,
- under National Archives legislation when they are more than 30 years old,
- on foot of a judicial Order for disclosure. [The Courts established (the Ambiorix case) in July, 1991, that no Government (or Cabinet) **documents** were privileged from disclosure in court proceedings merely on account of their origin. Documents which the Government wanted to protect on grounds of executive privilege would have to be inspected by the Judge who would balance the need for secrecy against the interests of the litigant and the public in the administration of justice.]

1.6 Freedom of Information Acts 1997 and 2003

1.7

Section 19 of the 1997 Act, as amended by the 2003 Act, provides that **Government records** (e.g. memoranda for Government, other records relating to proceedings or decisions of the Government, etc.) other than purely factual information, be withheld from access for 10 years. The term “government”, as defined in those Acts, includes Cabinet Committees and certain other Committees set up by the Government for particular purposes. Communications between Ministers in relation

to a matter under consideration or submitted to Government are also protected in certain circumstances.

After the ten years, such material may, subject to other exemptions in the Acts, be accessible under Freedom of Information.

Information concerning actual discussions (as distinct from decisions) at Government meetings is constitutionally exempt from disclosure under the Acts.

1.7 *Subject to other exemptions, factual information in relation to a published decision of the Government may be accessed at any time.*

Detailed information texts on the implementation of the Acts have been prepared by the Department of Finance. Advice may also be obtained from the Government Secretariat, which should be kept informed of any significant requests/developments in relation to this matter.

1.8 Retention by Ministers of Government Papers

Under the Official Secrets Act 1963, former Ministers and Ministers of State may retain certain official documents. Great care should be taken, however, to prevent the unauthorised release of documents so retained. In April 1998, the Government, on foot of a recommendation in the Final Report of the Interdepartmental Committee on the Protection of Classified Official Information, agreed to the provision of facilities for the storage in their former Departments of official documents, where requested by former Ministers and Ministers of State.

ETHICAL AND RELATED MATTERS

1.9 Ethics Framework

The ethics framework for office holders is set out in the: -

- Ethics in Public Office Act, 1995 and the Standards in Public Office Act, 2001,
- Guidelines on Compliance with the provisions of those Acts and
- Code of Conduct for Office Holders as drawn up by the Government and operative since 3 July 2003.

Office holders are obliged to familiarise themselves with and observe those requirements.

1.10 Additional Procedures to Apply to Certain Consultancies and Procurements

Ministers should familiarise themselves with these additional procedures, which are set out in Appendix VI.

The purpose of the additional procedures is to ensure that there can be no suggestion of impropriety on the part of a Minister in the procurement of services or the giving of contracts where: -

- there is an element of direct service to a Minister or Minister of State particularly in the PR or communications area (specifically the giving of advice, briefing, etc.) or
- where a Minister or Minister of State may have suggested, prior to commencement of a procurement, the name of an individual or enterprise for consideration.

VISITS OUTSIDE THE STATE

1.11 Visits to Northern Ireland

Ministers proposing to visit Northern Ireland should, a reasonable period in advance of the visit, advise the Ministers for Foreign Affairs and Justice, Equality and Law Reform, who will arrange notification of the Northern Ireland authorities as appropriate.

1.12 Consultation with Taoiseach and the Minister for Foreign Affairs

Members of the Government and Ministers of State proposing visits abroad, including visits in connection with European Union business, should inform the Minister for Foreign Affairs at the first moment such visits are mooted. In addition they should consult the Taoiseach as soon as practicable but in any event not less than two weeks before the visit.

1.13 Protocol and Briefing for Visits

Ministers concerned should ask the Minister for Foreign Affairs to notify the visit in accordance with international protocol and practice; and to arrange for briefing on issues of particular concern in relations with the country in question.

1.14 Maximising Benefit from Visits

Notification in advance of an intended visit affords an opportunity for briefing and helps to ensure that a Minister knows if one of his/her colleagues has planned a visit to the same country at about the same time. It will also make it possible to take account of any concerns that other Departments or State-sponsored Bodies may have which they might wish to have pursued during the visit. In addition, it will enable the effect of such visits to be maximised by arranging to have other

Irish promotional activities, of an economic, cultural, or other kind, timed to coincide with them.

1.15 Arrangements in Host Country

Sufficient advance notice of Ministerial visits will help Irish diplomatic and consular missions to make any necessary arrangements, including appointments with the authorities of the country concerned, reception facilities on arrival, security, accommodation, transport and so on. Expenditure on these services will, in accordance with established practice, continue to be the responsibility of the Department concerned.

1.16 Duration of Visits

Ministers should keep all visits abroad to the minimum time necessary to perform the functions which have occasioned them.

1.17 Participation by Spouses/Partners

Where the nature of a visit requires that a Minister be accompanied by his/her spouse/partner, he/she should consult the Taoiseach in advance on the matter. Expenses in respect of a spouse/partner will not be charged to public funds in any particular case unless the Taoiseach is satisfied that, in the circumstances, this is warranted.

1.18 Expenses - Offers of Payment

Offers by private commercial organisations - national or international - to pay the expenses of a Ministerial visit outside the State must in all circumstances be declined. Discretion to accept minor hospitality, within the limits prescribed in the Ethics Framework is allowed (see Paragraph 1.9). The advice of the Taoiseach, requested through the Secretary General to the Government, should be sought on the propriety of any significant offers or invitations.

1.19 Use of Ministerial Air Transport Service

Applications for the use of the Ministerial Air Transport Service should be submitted to the Taoiseach in respect of every mission, including the destination, route, timings, passenger details and purpose of travel. The justifying need to use the service should be set out in every application. The relative cost of Ministerial Air Transport Service travel to possible alternatives should always be borne in mind in preparing travel plans.

1.20 Private Visits Abroad

In the matter of private travel abroad, it is also desirable, for security reasons, that Irish diplomatic and consular missions, the Gardaí and the authorities of the countries concerned should be made aware of the travel plans of Ministers.

DELEGATION OF FUNCTIONS

1.21 Performance of Functions during Ministerial Absence

Whenever a Minister is due to be absent for a period of time, the Head of the Department should consider whether it is necessary to formally vest responsibility in another Minister by way of an Agency Order to be made by the Government. Further guidance can be sought from the Government Secretariat.

1.22 Delegation of Ministerial Functions to Ministers of State

The Ministers and Secretaries (Amendment) (No. 2) Act, 1977, provides for the delegation of a Minister's powers and duties to Minister(s) of State by Order made by the Government at the request of the Minister concerned. It has been the practice for such orders to be made in cases where a Minister of State would be expected to carry out statutory functions on behalf of a Minister.

It is the responsibility of the Minister and Department concerned to establish whether or not a formal delegation of functions is required. The Secretary General of a Department should consider the need for a Delegation of Functions Order whenever a Minister of State is appointed to the Department.

As the 1977 Act makes clear, the Minister remains responsible to Dáil Éireann for the exercise or performance of any powers or duties delegated to a Minister of State. Delegation arrangements should be regularly reviewed to take account of legislation enacted subsequent to any Delegation of Functions Order being made.

Delegation Orders cease to be valid if the Government Minister in question ceases to hold (that particular) office. Even if there is no change of Minister of State to whom function(s) were delegated, a fresh Delegation of Functions Order is necessary in those circumstances.

Delegation of non-statutory responsibilities is generally made by way of an informal understanding between a Minister and Minister of State.

TRANSFER OF FUNCTIONS

1.23 The transfer of statutory powers from one Minister to another is usually effected by a Transfer of Functions Order.

If any change is to be made in the nature or manner of exercise of the power in question, amendment of the relevant legislation will be required and should be processed in the same way as any legislative proposal.

It would not be appropriate to transfer a power from one Minister to another if this would result in the same Minister exercising powers that the primary legislation intended to be exercised by different Ministers. This would require amendment of the primary legislation or some other

arrangement which did not infringe on the intent of the existing primary legislation.

PERSONAL STAFF AND STAFFING OF PRIVATE AND CONSTITUENCY OFFICES

1.24 Terms and Conditions of Appointment

Details relating to the appointment of Programme

Managers/Special Advisors are set out in Section 11 of the Public Service Management Act, 1997. The terms and conditions which apply to the appointment of Ministers' personal staff, including Programme Managers and Advisors, are determined by the Minister for Finance within parameters set down by the Government. Such staff should not be appointed from outside the civil service without prior consultation with the Taoiseach and the Minister for Finance. Appointments terminate not later than the date on which the relevant Minister/Minister of State ceases to hold the specific office held when the appointment was made.

1.25 Numbers of Staff

The guidelines at present are as follows:-

- (a) the number of staff in the Private Office of a Minister or a Minister of State may not exceed 10 and 7 respectively
- (b) the number of staff in the Constituency Office of a Minister or a Minister of State may not exceed 6 and 5 respectively.

Where a "Minister of State" is assigned to more than one Department, the total number of staff between all Private Offices may not exceed 9 and there should be only one Constituency Office, with a maximum of 5 staff. A Minister or a Minister of State may not have more than one Personal Secretary and one Personal Assistant.

1.26 Obligations of Personal Staff under the Ethics Acts.

Heads of Departments or Private Secretaries should inform Ministers and Ministers of State, on their appointment, of their annual obligations under the Ethics Framework in relation to the staff personally appointed by them (including Special Advisors, Programme Managers, Press Officers, Personal Assistants and Personal Secretaries).

1.27 The function of Departments in this area is purely one of providing outline information; the legal obligation to comply with the terms of the ethics legislation lies with individual office holders and public servants. Ministers and Ministers of State and staff personally appointed by them, to whom the relevant provisions of the ethics legislation apply, should consult with the Standards in Public Office Commission in relation to any matter pertaining to their personal obligations under the Acts.

CHAPTER 2



ARRANGEMENTS FOR GOVERNMENT MEETINGS AND CONDUCT OF BUSINESS AT MEETINGS

GOVERNMENT MEETINGS

2.1 Scheduling of Meetings

Government meetings normally will be held at 10.00 a.m. each Tuesday morning when the Dáil is in session, and each Wednesday morning when it is in recess.

2.2 Agenda

The Agenda comprises the Main Agenda and the Supplementary Agenda.

The Agenda for each Government meeting is confidentially available online to Ministers, their Private Secretaries, Secretaries General and other approved high level users. The documents relevant to each Agenda item are also available online. Any document not available online will be circulated manually.

The Main Agenda is finalised on the previous Friday morning. The Supplementary Agenda is finalised at 4.00 p.m. on the evening preceding the meeting.

2.3 Absences from Meetings

The Private Secretary should as soon as possible inform the Government Secretariat if a Minister is unable to attend a Government meeting and indicate whether another Minister is being briefed to deal with any item on the Agenda that is of relevance to the absent Minister's Department.

RAISING MATTERS AT GOVERNMENT MEETINGS

2.4 Memoranda for proposals requiring Government Decisions

Proposals requiring a Government decision should be the subject of a memorandum from the responsible Minister. At Government, Ministers normally make a short oral presentation, based on the memorandum.

Where a Minister wishes to use visual aids to supplement an oral presentation, the promoting Department should make the necessary arrangements with the Government Secretariat well in advance of the relevant Government meeting.

2.5 Time Limit for receipt of Memoranda for Government Agenda

To ensure that Ministers have sufficient time to consider their colleagues' proposals, the Government Secretariat will normally accept memoranda to the Main Agenda for a particular Government meeting only if they are submitted by 12.00 p.m. on the Friday before a Tuesday or Wednesday meeting.

2.6 Submission of Memoranda to Government Secretariat

When a memorandum is submitted to the Government Secretariat, it is checked by the Secretariat to ensure it complies with the Cabinet Handbook requirements before it is approved for the Agenda. The Government Secretariat will engage with the sponsoring Department and any other concerned Departments to seek to resolve any issues that may prevent an item being approved for the Agenda.

At the time of submitting an item to the Government Secretariat, the Minister for Finance and each other Minister concerned should be notified by the sponsoring Minister.

2.7 Urgent Business

Matters that require an urgent decision may be accepted at the Taoiseach's discretion for an imminent Government meeting, without the usual notice, if accompanied by a prescribed Request for Urgency on behalf of the sponsoring Minister. Because this procedure curtails the time for Ministers to consider proposals, the case for urgency will be accepted only where it is absolutely necessary that the item should be dealt with at that particular meeting.

A statement should be ***included in the Memorandum for Government*** to explain to colleagues why the usual period of notice could not have been given.

2.8 Memoranda with a Request for Urgency will not be accepted later than 4.00 p.m. on the afternoon prior to the next scheduled Government meeting.

The Government Secretariat and other Departments concerned (including the Office of the Attorney General as appropriate) must be **alerted immediately** an urgent submission is **envisaged but in any case not later than noon on the day prior to the meeting.**

The Government Secretariat **will not** include on the Supplementary Agenda any urgent item unless it has been notified in advance by the sponsoring Department.

2.9 Memoranda for Information

From time to time Ministers may wish to bring to the attention of Government matters that do not require any policy decision, being essentially matters brought before Government solely for information.

In any such circumstance the matter(s) in question may be dealt with by way of a Memorandum for Information, which should be submitted to the Government Secretariat in advance of the meeting.

Memoranda for Information will ordinarily be noted by the Government and will not give rise to substantive decisions approving policy proposals. They may not be used to obtain (tacit) approval in circumstances where a matter should be formally brought to Government following consultation with appropriate Ministers.

2.10 Acceptance of Memoranda for Agenda

The Secretary General to the Government, unless directed otherwise by the Taoiseach, may not accept for the Agenda, memoranda that do not comply with the specified requirements.

2.11 Presentation of Documents at Meetings

The Secretary General to the Government may not allow documents to be presented at a meeting, which do not comply with the procedures set out in this Handbook, unless specifically directed to do so by the Taoiseach or member of the Government chairing the meeting.

2.12 Matters raised without documents

For reasons of urgency or confidentiality certain matters may have to be raised orally at Government. Ministers should ensure prior notice is given to the Taoiseach, the Tánaiste, any other Party Leader in Government, any other Minister concerned and the Government Secretariat.

ACTION/APPOINTMENTS BY THE PRESIDENT, GOVERNMENT OR BY MINISTERS

2.13 Memoranda envisaging Presidential Action

Where a submission envisages action by the President (or by the Presidential Commission) sufficient time should be allowed for the necessary administrative arrangements to be made. The Government Secretariat is the channel for communicating with the Office of the President in relation to such matters.

2.14 Memoranda concerning Presidential and Government Appointments

Where a vacancy is anticipated in the membership of any body of which the President or the Government is the appointing authority, a memorandum should be submitted to the Government in sufficient time to ensure that the vacancy can be filled on, or as soon as practicable after, the date on which it occurs.

It is the responsibility of the promoting Minister or Department to ensure that a nominee is eligible for the post in question.

2.15 Memoranda concerning Judicial Appointments

In the case of appointments to the judiciary, the Taoiseach, Tánaiste, any other Party Leader in Government, the Minister for Finance and Attorney General should be informed, in advance, of proposals to make such appointments.

2.16 Appointments by Ministers

Where an appointment by a Minister to the Board of a State-sponsored Body (or the like) is envisaged, the Minister should mention the matter

at Government at least two weeks in advance to allow colleagues the opportunity of making recommendations.

The Taoiseach, the Tánaiste and any other Party Leader in Government should be informed separately, in advance, of such proposals.

2.17 Publication of Appointments

All Government and Ministerial appointments should be published in the Iris Oifigiúil as soon as can be arranged following the appointment. The Government Secretariat will arrange for publication of appointments made by the Government. It is the responsibility of individual Departments to publish appointments made by a Minister.

2.18 Gender Balance on Boards of State-sponsored Bodies

In making or recommending appointments to boards of State-sponsored Bodies, Ministers should have regard to the objective of achieving a minimum representation of 40 per cent for both men and women on such boards.

AUTHORISED MEDIA BRIEFING

2.19 Media Briefing after Government Meetings

The Secretary General to the Government will provide the Government Press Secretary with a briefing **after** each Government meeting on such matters as the Taoiseach (or other person chairing the meeting) may authorise for release to the media. **No member of the Government or person attending a meeting should divulge any information about the content of Government discussions (as distinct from decisions).**

CIRCULATION AND SAFEKEEPING OF CABINET DOCUMENTS

2.20 Circulation of Government Memoranda

It is for each Department to ensure that it has appropriate arrangements for the Minister to access or obtain, as appropriate, Government documents in order and in good time.

2.21 Safekeeping of Government Memoranda

Documents (in paper or electronic or any other form) relating to meetings of the Government and any drafts of same, from whatever source they are received, are strictly confidential and as such should receive restricted Departmental circulation.

2.22 Each Minister should ensure that a system operates which restricts access to and circulation of Government documents in his/her Department to defined persons and, in consultation with management in the Department, that definite procedures and controls, as may be appropriate to the circumstances, are implemented.

The written procedures and controls within each Department and Office should include a protocol setting out details of: -

- (1) Persons who should be registered to have access to Government records online and the appropriate level(s) of access to be granted
- (2) The circumstances in which printed copies of Government documents may be generated, together with arrangements for their control during their life cycle.

2.23 If ever a breach of security occurs a special investigation should be initiated by the Secretary General of the author Department, with the Garda Síochána being called in to assist as necessary. The steps to be taken are set out in *Department of Finance Circular 5/96*.

CABINET COMMITTEES

2.24 The Government establishes Cabinet Committees to assist it in carrying out its responsibilities. They derive their authority and privileges from Government. Appendix VIII contains guidelines in relation to the operating arrangements of such Cabinet Committees. These arrangements are amended from time to time by the Government as considered appropriate.

CHAPTER 3



INSTRUCTIONS FOR THE PREPARATION AND SUBMISSION OF MEMORANDA FOR GOVERNMENT

IMPORTANT

Proposals requiring a Government decision should be the subject of a memorandum from the responsible Minister.

To ensure that Ministers have sufficient time to consider their colleagues' proposals, the Government Secretariat will normally accept memoranda to the Main Agenda for a particular Government meeting only if they are submitted by 12.00 p.m. on the Friday before a Tuesday or Wednesday meeting.

The following requirements are intended to assist in the presentation of issues to Cabinet in a clear and concise way.

Memoranda should be submitted using one of the online templates provided, with any necessary adjustments to suit the particular submission. Good practice in the presentation of issues to Government requires that there be clarity about the decision required, that key information be highlighted and that all the considerations involved are dealt with in a clear and concise manner.

More detailed guidance follows:

MEMORANDA - Layout and Content

3.1 General Requirements

Memoranda should be drafted bearing in mind that the Government are concerned with strategy and policy - not necessarily with operational detail. Language should not be discursive but should be sharp and clear.

As the navigation bar on the key features views of memoranda is automatically generated, using Section headings, frequent use of Section headings (paragraphing) will help to break up a document for easier reading.

3.2 Every Memorandum should

- (a) prominently indicate the decision sought in clear and meaningful terms
- (b) provide a decision summary to facilitate quick identification of what is required and a cost summary to facilitate similar identification of any cost issues arising
- (c) ensure that all relevant considerations are brought to the attention of the Government in making a decision, that information provided is complete and accurate and that any qualifications are clearly stated
- (d) deal adequately with observations of Ministers consulted on the draft
- (e) address regulatory impact issues, where required, as set out at Paragraph 3.3 below
- (f) provide where appropriate a date or timetable for implementation
- (g) present factual information so that it can be easily extracted for Freedom of Information purposes
- (h) indicate if an announcement is intended and, if so, provide a draft press release or draft press briefing note to assist the Government Press Secretary with media enquiries.

3.3 Regulatory Impact Analysis

Any Memorandum

- a) seeking approval for legislation involving changes to the regulatory framework including the transposition of EU Directives and Regulations must be accompanied by a Regulatory Impact Analysis (RIA). The RIA should be conducted in advance of the Memorandum seeking approval for the General Scheme of a Bill. The RIA should be summarised as part of the Memorandum and the RIA document should be included as an Appendix to the Memorandum.
- b) seeking approval for a Government Order involving changes to the regulatory framework must be accompanied by a Regulatory Impact Analysis (RIA). Section 5.1 details the RIA requirements in relation to Government Orders.

Where a RIA falls to be conducted, the steps of the RIA model as outlined in Appendix III must be followed. The RIA must be summarised in the body of the Memorandum, and this summary must address all of the impacts set out in Appendix III. The RIA document must also be included as an Appendix to the Memorandum. Where these steps are followed, the need to separately address within the Memorandum the impacts as set out in section 3.4 below does not arise.

3.4 Impacts

Where no requirement for a RIA arises, each memorandum is required to indicate clearly, as appropriate, the impact of the proposal for

- (i) **North-South, East-West Relations**, this should be assessed for all substantive memoranda, bearing in mind that often policy proposals not directly related to North/South relations do have implications for people in Northern Ireland or for all-island co-operation

- (ii) **Employment**
- (iii) **Gender Equality**, include a statement on the likely effects of the policy on both men and women and, if necessary, identify any actions necessary to ensure that the policy promotes gender equality
- (iv) **Persons experiencing or at risk of poverty or social exclusion**, in the case of significant policy proposals. Include a statement of the likely effects of the policy on such groups and indicate the actions necessary to counteract any negative impact. Reference should be made to the guidelines issued by the Office for Social Inclusion
- (v) **People with Disabilities**. All substantive Memoranda should indicate the impact on people with disabilities
- (vi) **Industry costs** (except in the case of measures relating to the Budget) and the cost to small business (defined as enterprises employing less than 50 staff and whose annual turnover or annual balance sheet does not exceed €10 million - as defined in the European Commission recommendation 2003/361/EC, published in the Official Journal of the European Union L124, p.36 of 20 May 2003)
- (vii) **Cost to Exchequer**, in particular
 - the cost, both capital and non-capital, in the current year, the next year and in a full year (whether of central or local government or of State-sponsored Bodies) and the number of years until the full year cost is reached: in consultation with the Department of Finance, how it is proposed that these costs should be financed e.g. by

taxation, borrowing, reductions elsewhere on the Vote or charges for services;

- the number and levels of additional staff involved and whether these are to be provided by new recruitment or by redeployment in Departments, State-sponsored Bodies or local authorities etc;
- the staff cost including overheads and the cost to the Exchequer Pay and Pensions Bill (if different) in the current year, the next year and in a full year and the number of years until the full-year cost is reached

(viii) **Rural communities**, indicate the impact of the proposed measure, if any, on the physical, economic and social conditions of people living in the open countryside, in “coastal” areas, towns and villages and in smaller urban centres outside of the five major urban areas (i.e. Cork, Dublin, Galway, Limerick and Waterford).

3.5 Attachments

Attachments must be presented in one of the supported prescribed electronic formats. Where it is the intention to subsequently publish attachments on the Web consideration should be given to having those documents Web enabled prior to submission to Cabinet. This would facilitate online navigation of those attachments.

3.6 Memoranda concerning International Agreements

Memoranda relating to the signature, ratification etc., of International Agreements, etc. (other than International Labour Organisation Conventions) should be submitted by the Minister for Foreign Affairs, acting on behalf of the Minister primarily concerned.

The requirements in relation to memoranda generally, including that of adequate prior consultation with concerned Departments and the Office of the Attorney General, apply to these memoranda also.

3.7 Memoranda concerning Annual Reports and Accounts

The aim should be to have these submitted to the Government (prior to presentation to the Houses of the Oireachtas) within six months after the end of the year to which they relate, where a shorter period is not specified by statute.

To facilitate orderly publication of Annual Reports, particularly at times when a substantial number of them are presented to Government, the Government Press Office should be consulted before a date for publication is arranged.

In the case of Reports and/or Accounts to be presented to the Houses of the Oireachtas by the Government, six extra copies should be forwarded to the Government Secretariat. It is unnecessary to await the availability of printed copies of Reports or Accounts if a delay is likely to occur. (Note this only happens in relation to the White Book on Receipts and Expenditure.)

PRIOR CONSULTATION

Note: *The following instructions do not apply to estimates, budgetary policy and financial policy memoranda nor to memoranda on pay submitted by the Minister for Finance.*

3.8 Consultation with Ministers directly concerned

Any Minister with a functional interest in a proposal being submitted to Government **must** be given an opportunity to express views on it. Where they are not accepted by the promoting Minister, they should be referenced and addressed in the memorandum by the promoting Minister.

3.9 Consultation with Departments of the Taoiseach and Finance and the Office of the Attorney General

In respect of any proposal for the Government of a policy nature, the Departments of the Taoiseach and of Finance should be consulted when the memorandum is being drafted. The offices of all Party Leaders in a Partnership Government should also be consulted.

The Office of the Attorney General should be consulted if the proposals involve any substantive constitutional or legal dimension.

If, however, legal advice is required from the Office of the Attorney General in relation to the proposal, that advice should be sought and addressed in the draft memorandum *in advance* of its circulation for observations.

Legal advice obtained from the Office of the Attorney General, where relevant, should be incorporated into the draft memorandum.

A memorandum that raises legal or constitutional issues, where no advice from the Office of the Attorney General has been obtained, and where no or insufficient time for consideration of the Memorandum has been afforded to the Office of the Attorney General, may be withdrawn from the Agenda on the instructions of the Taoiseach following consultation with the Attorney General.

3.10 Circulation to other Ministers

If a draft memorandum is likely to be of interest to Ministers generally - apart from their purely Departmental responsibilities - all other members of the Government may be furnished with the memorandum. There is no need, however, to delay the submission of a memorandum to Government for the views of Ministers who do not have a Departmental interest in its subject matter.

3.11 Time-Limit for receipt of observations

Except in the case of complex issues, Departments might reasonably be requested to provide observations on draft memoranda within two weeks (10 working days) of receipt.

Departments should not be asked to provide observations within a shorter time unless it is absolutely essential and, even then, the maximum time possible should be allowed.

See Chapter 4 for separate requirements in relation to memoranda proposing the drafting of legislation.

3.12 If a Minister is satisfied that unreasonable delay has taken place in the provision of observations by a Department,

- a) he/she should contact the Minister in charge of that Department,
- b) if the delay continues, the promoting Department should inform the Secretary General to the Government, and
- c) the Secretary General to the Government will seek an appropriate direction from the Taoiseach.

3.13 See paragraph 4.6 in relation to draft memoranda with **proposals for legislation**

3.14 Distinguishing between Ministerial and Departmental views

If, for any reason, the Minister has not been able to approve Departmental views either specifically, or by way of general directions, in time for their incorporation in the memorandum, the views should be clearly identified as being those of the Department.

RECONCILIATION OF DIFFERENCES

3.15 Need to seek prior agreement

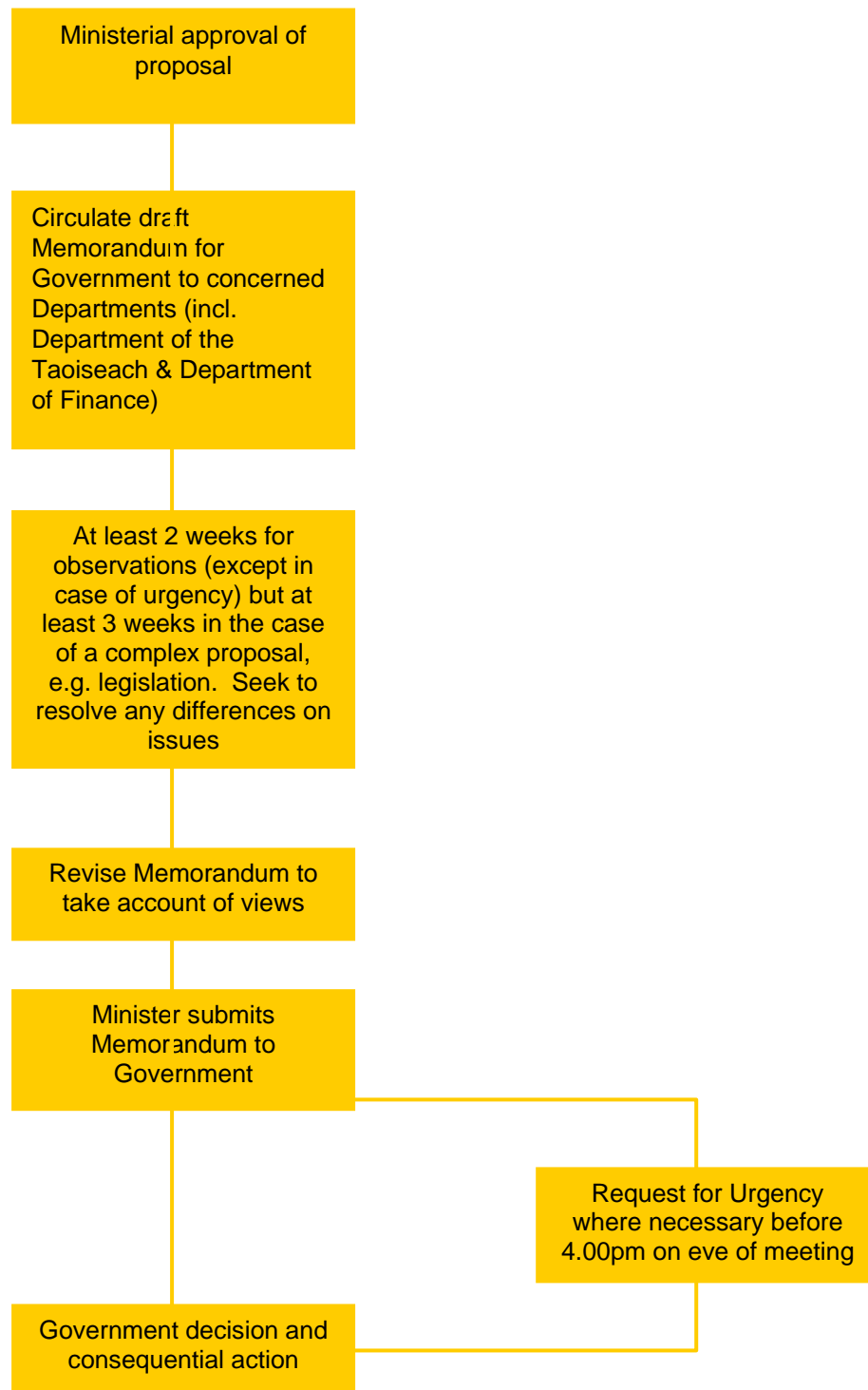
To avoid wasting the time of Government in seeking to establish facts or reconcile differences, Departments should evaluate arguments as comprehensively as possible and the maximum degree of agreement between Ministers and between Departments should be established prior to submission of memoranda. In particular Ministers and Secretaries General of Departments should involve themselves personally in sorting out, as far as possible, not only differences as regards to policy, but differences as to administration, staffing, legal and constitutional implications, etc., before memoranda are submitted to the Government.

3.16 Differences of opinion between Departments after circulation

Should points of difference between Departments arise after the submission of a memorandum to the Government, the Secretary General to the Government should be informed at once with a view to consulting the Taoiseach.

PREPARATION AND SUBMISSION OF A MEMORANDUM TO GOVERNMENT

Detailed requirements are set out in Chapters 2 and 3



CHAPTER 4



PROPOSALS FOR NEW LEGISLATION

A flowchart is included at the end of the Chapter to assist in the preparation of legislation.

ESSENTIAL PRELIMINARY STEPS

4.1 Consultation prior to submission to Cabinet

The Attorney General's Office must be consulted in advance about any proposed submission to Government seeking authority to draft a Bill.

4.2 Approval for policy

Where proposals for legislation relate to matters on which Government policy has not already been laid down or where they involve a new development or a material departure from existing policy, they should first be submitted to the Government by way of a memorandum for a decision in principle of the policy at issue.

It is of critical importance that policy issues are resolved before the drafting process ever begins.

4.3 Constitutional issue or substantial issue involving legal policy

Where a constitutional issue, or a substantial issue involving legal policy is or is likely to be involved, advice must be sought on the issue from the Office of the Attorney General as part of the preparation of the draft memorandum for Government and general scheme and **prior to the circulation of the draft memorandum to Departments** (see Appendix II for guidelines on seeking legal advice from the Office of the Attorney General).

Legal advice obtained from the Office of the Attorney General, where relevant, should be incorporated into the draft memorandum and general scheme.

SEEKING GOVERNMENT DRAFTING APPROVAL

4.4 General Scheme

Following a decision in principle on the policy issue involved, or where proposed legislation is in accordance with the general lines of policy, Government authority should be sought for the drafting of the legislation in accordance with a general scheme.

4.5 The promoting Department should prepare a general scheme of the proposed Bill in numbered heads. Each head should comprise:

- (i) instructions for drafting, and
- (ii) explanatory notes, unless the heads are self-explanatory.

(See Appendix I for guidelines provided by the Office of the Attorney General.)

4.6 The draft scheme should be circulated to the Department of Finance and to every other Department which may be concerned, as well as to the Office of the Attorney General. Any scheme which relates to the preparation or auditing of Accounts or which contains a reference to the Comptroller and Auditor General should be referred to his/her Office for observations.

4.7 Regulatory Impact Analysis

The draft Memorandum seeking approval for the General Scheme of a Bill should also include a Regulatory Impact Analysis (RIA) as an Appendix in line with the requirement that all proposals for legislation involving changes to the regulatory framework be subject to Regulatory Impact Analysis. In addition, the content of the RIA should be

summarised in the body of the draft Memorandum. Appendix III provides more information in relation to the format and content of a RIA.

4.8 Time to be allowed for consideration of General Scheme

When the draft memorandum and general scheme of a Bill are circulated for observations prior to submission to Government, sufficient time should be allowed to enable the Attorney General's Office to assess the proposals and to have any observations they may make reflected in the memorandum to Government. In the normal course of events not less than 10 working days should be allowed for the making of observations. In the case of complex proposals, not less than 15 working days should be allowed.

When subsequently submitted to Government, such memoranda should include confirmation that the necessary time was allowed to consult Departments (including the Office of the Attorney General) for the making of observations. If for exceptional reasons it was not possible to allow the full period for consultation, the memorandum should explain why. This should also indicate whether the Attorney General is in agreement with the item proceeding to Government.

Where a memorandum seeking drafting authority does not confirm that the consultation requirements have been satisfied and where a reasonable explanation has not been provided, the memorandum will not be placed on the Government Agenda.

These provisions and the provisions relating to the need to obtain prior approval of policy are also applicable to requests for authority to draft substantial amendments for Bills already before the Dáil/Seanad.

Cases of genuine urgency

If, for objective reasons of urgency, this is not possible, the Office of the Attorney General should

- (a) be alerted as soon as a Department becomes aware that it will have to request Government for drafting authority without being able to give the necessary advance notice; and
- (b) be consulted about the draft heads at the earliest possible opportunity.

4.9 Placing of requests for drafting authority on the Government

Agenda

The Secretary General to the Government is instructed not to place on the Agenda any submission requesting drafting authority that has not complied with the foregoing requirements, unless the sponsoring Minister obtains the approval of the Taoiseach, following consultation with the Attorney General.

4.10 Urgent drafting in exceptional circumstances

In the event that approval is required for urgent drafting of a legislative proposal in advance of the next scheduled Government meeting, the Taoiseach may give this approval, having consulted as necessary with the Attorney General.

REFERRAL OF PROPOSALS TO OIREACHTAS COMMITTEES

4.11 Submission of Legislative proposals to Oireachtas Committees

Where legislative proposals are to be submitted to Oireachtas Committees for consideration in accordance with their terms of reference, such proposals should be based on a general scheme. In no case should such proposals be submitted without Government approval.

Arrangements for Oireachtas Scrutiny of EU business came into effect from 1 July 2002.

These new arrangements require Ministers to provide copies of all draft legislative proposals by the European Commission to the Joint Committee on European Affairs, with an accompanying briefing note outlining the nature and purpose of the proposal and any possible implications for Ireland.

4.12 Exemptions

The instructions in this Chapter do not apply to

- (a) Appropriation Bills;
- (b) Finance Bills;
- (c) Bills to implement Budget proposals;
- (d) Expiring Law Bills;
- (e) Restrictive Practices (Confirmation of Orders) Bills;
- (f) Provisional Order Confirmation Bills; and
- (g) Consolidation Bills.

PRIORITY DRAFTING

4.13 Priority Drafting

To be eligible for consideration, requests to the Government for drafting priority should

- (a) give the objective reasons for priority, with particular reference to any adverse consequences which may result in the event that the measures are not enacted soon;
- (b) incorporate the views of the Attorney General on the issue of priority; and
- (c) in the case of a Minister who has other Bills undergoing priority drafting, show how the relative priority of same should be adjusted to make way for the new item.

Priority drafting should not be sought unless there is a clear intent to progress a Bill to enactment as soon as a text is approved and the Government Chief Whip is of the opinion that parliamentary time can be made available.

4.14 Managing Competing Drafting Priorities

The Legislation Committee, chaired by the Government Chief Whip, is responsible for coordinating and monitoring progress on the Government's legislative programme. That Committee will also be responsible for the management of competing priority of Bills awaiting drafting and will advise Government as appropriate.

PREPARATION OF TEXT

4.15 Drafting of Text

When the Government have approved the general scheme of a Bill, the Attorney General should be requested by the promoting Department to arrange for its drafting. Any subsequent drafting instructions from the promoting Department should be addressed directly to the Office of the Parliamentary Counsel to the Government.

4.16 Consultations with outside persons/bodies

During this stage consultations may take place with outside organisations if necessary (on the basis of the general scheme or outline of the approach being considered) but the text should not be disclosed to third parties prior to approval by Government and presentation to the Houses of the Oireachtas.

4.17 Policy changes with substantial drafting implications

If any unforeseen policy issues arise subsequent to commencement of drafting, they should be resolved and submitted to Government for approval as quickly as possible.

This applies also to proposals for the addition of new Heads to a Bill, which is before either House of the Oireachtas, being drafted and which raise issues of policy that have not been decided by Government. Approval of Government should be obtained before any such additions can be entertained in the drafting process.

In the case of a proposed addition of a significant number of new Heads to a Bill, the Memorandum should indicate why it is necessary to amend the Bill rather than having a separate Bill dealing with the subject matter concerned and whether it will be necessary to amend the long title of the Bill in these circumstances.

The normal consultation procedures set out in Chapter 3 apply in the event that the proposed further provisions are to be submitted to Government.

4.18 Publication of Heads of a Bill

As the drafting process proceeds, issues may arise, including constitutional issues, which require fundamental changes to be made in the scheme of the draft Bill. For that reason, Heads of Bills should not be published without obtaining explicit Government authority for publication. [This is complementary to the intention outlined in the White Paper on Better Regulation that where appropriate the draft Heads of Bills should be published to assist in consulting with concerned parties on the Government's intentions.]

4.19 Text

When the Parliamentary Counsel has completed the draft Bill, the promoting Department may arrange to have the Bill printed on White Paper. Immediately the text becomes available, copies should be sent to the Department of Finance, the Office of the Parliamentary Counsel and to any other Department concerned.

- 4.20** The accompanying memorandum for Government should seek approval of the text and authority to present the Bill to the Dáil (or Seanad) and to circulate it to Deputies (or Senators).

PUBLICATION OF TEXT APPROVED BY GOVERNMENT

4.21 Procedure following approval of text

After approval by the Government of the final text of the Bill the promoting Department should arrange for its initiation in one of the Houses of the Oireachtas.

- 4.22** Most Government Bills will be initiated in either House by the method of 'presentation' which enables the publication of a Government Bill without the prior approval of the House.

- 4.23** Bills may also be initiated by the method of 'introduction' which requires the prior approval of the House, on motion made, before publication.

- 4.24 In no case should a Bill be presented or introduced without specific Government authority.**

- 4.25** In the case of a Bill other than a Money Bill or a Bill to amend the Constitution (both of which must be initiated in Dáil Éireann) the advice of the Office of the Government Chief Whip should be sought as to whether it should be initiated in the Dáil or the Seanad. (Guidance in relation to Money Bills is contained in the Outline of Public Financial Procedures published by the Department of Finance.)

4.26 Introducing a Bill in the Dáil by long and short titles

If the Government decide that a Bill should be introduced in the Dáil before the final text is available, three copies, duly certified, of the long and short titles of the Bill should be supplied to the Clerk of the Dáil - three certified copies of the final text of the Bill and explanatory memorandum being provided as soon as possible thereafter.

4.27 Presentation of a Bill in the Dáil

In the case of a Bill to be presented to the Dáil, the promoting Department will send to the Clerk of the Dáil three copies of the text and of any explanatory memorandum, certified by the Minister or by his/her Private Secretary, or, in their absence, by an officer of the Department not below the rank of Principal, with an indication of the date on which it is desired to have the Bill circulated.

(Note: Certification involves writing the words "Arna dheimhniú dom" or the word "Certified" followed by the signature of the certifying officer and the date, at the foot of the front page of the document concerned.)

4.28 Presentation of a Bill in the Seanad

Similar arrangements will apply to a Bill to be initiated in the Seanad except for the substitution of the "Clerk of the Seanad" for the "Clerk of the Dáil", who will then arrange with a member of that House to present or introduce the Bill. The taking of the remaining stages of the Bill in the Seanad will be the responsibility of the Minister promoting the Bill.

4.29 Publication of Bills

In arranging for the publication of Bills, the procedures laid down by the Office of the Houses of the Oireachtas and outlined in Appendix IV regarding Publication of Bills and Amendments in the Houses of the Oireachtas should be noted. In particular, attention is directed to the requirements of the Standing Orders of each House in relation to notice. Where a Regulatory Impact Analysis has been conducted it should be published along with the Bill subject to the exemptions contained in the Freedom of Information Act (as amended).

4.30 Explanatory and financial memoranda to accompany Bills on initiation

Any Bill introduced or presented by or on behalf of a member of the Government, other than a Bill dealing with Budgetary or Estimates

matters, should be accompanied by an Explanatory and Financial Memorandum to explain in simple, non-technical language, the provisions of the Bill, setting out the existing law and the changes therein proposed by the Bill and providing information about the estimated Exchequer costs and staffing implications for Departments, State-sponsored Bodies, Local Authorities, etc. as follows:-

	Non-Capital Cost	Capital Cost	Paybill Cost	Staffing Implications
(i) current year	?	?	?	?
(ii) next year	?	?	?	?
(iii) full year	?	?	?	?
(iv) number of years before full cost/ staffing reached	?	?	?	?

unless the promoting Department consider that it is not practicable in the time available or not in the public interest to publish such information.

This is a mandatory requirement in the case of Government Bills (other than Consolidation Bills).

4.31 Amendment of legislation following initiation in Dáil/Seanad

Any communication regarding the drafting of amendments after the initiation of a Bill in either House, should be addressed to the Parliamentary Counsel to the Government. Where proposed Government amendments to Bills going through either House have financial or economic implications or contain significant changes to policy not previously approved by Government, they should first be

referred to Government or, in the case of urgent legislation, to the Taoiseach, the Minister for Finance and any other Minister concerned. No substantive amendments should be finally accepted or made at Committee or Report Stage without prior consultation with Parliamentary Counsel to ensure that no unintended consequences will arise.

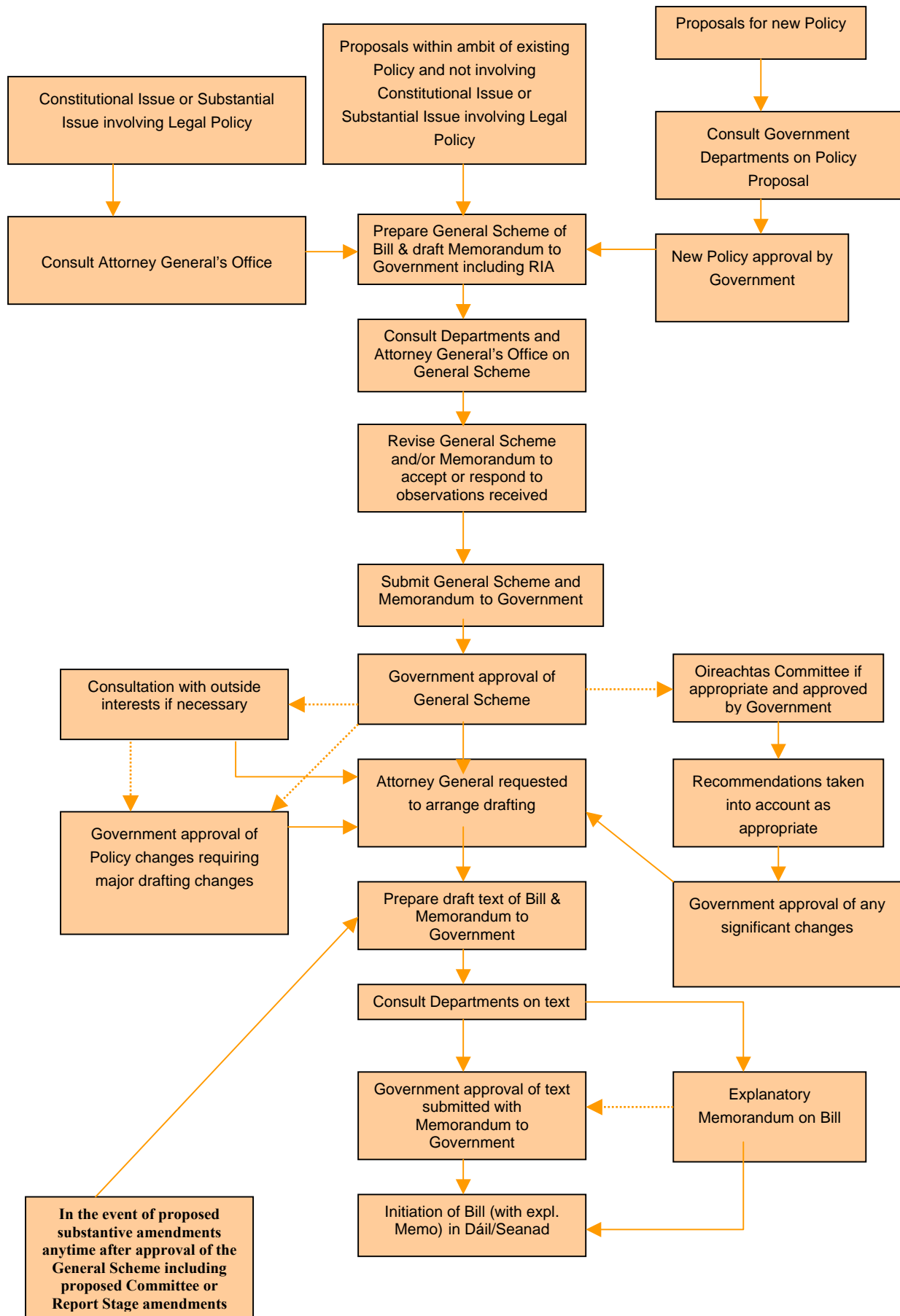
4.32 In arranging for the tabling and publication of amendments, the procedures outlined in Appendix IV regarding Publication of Bills and Amendments should be followed. In particular the requirements of the Standing Orders of each House in relation to notice must be observed.

4.33 Early signature of a Bill by the President

Where it is imperative that a Bill should become law as soon as possible after it has been passed by both Houses of the Oireachtas and that the Government should, for that reason, invoke Article 25.2.2° of the Constitution, the Department promoting the Bill should submit a short memorandum, explaining the urgency and requesting the approval of the Government to invoke the terms of the Article. If time does not permit, an oral request should be made through the Secretary General to the Government for such approval.

4.34 If the Government accept the necessity for early signature, the Secretary General to the Government will issue a request to the Clerk of the Seanad to arrange to have the necessary motion moved in the Seanad.

PREPARATION OF LEGISLATION



CHAPTER 5 ORDERS



The term "Orders" covers all statutory instruments e.g. Orders, Regulations, Rules, Schemes, Bye-Laws and Proclamations to be made or approved by the Government.

MINISTERIAL AND DEPARTMENTAL ORDERS

- 5.1** The draft of a Ministerial or Departmental Order should be submitted to the Government where Government approval is required by statute, where the Government have so directed, where the Minister concerned thinks fit, or where the Attorney General so advises the Minister concerned.

Significant statutory instruments are subject to Regulatory Impact Analysis. Appendix III provides guidance on what should be considered significant in this context. Where a RIA is required, the draft Order should be circulated for observations and submitted to Cabinet for approval.

The draft of an Order commencing legislation should be sent to the Office of the Parliamentary Counsel to the Government for drafting or settling.

Presentation, gazetting, translation, printing, etc. of such Orders, following Government approval, is the responsibility of the promoting Department.

GOVERNMENT ORDERS

5.2 Drafting Approval for Government Orders

Except for Orders of an urgent or recurring nature or where the terms of an Order are clearly within what is envisaged in the enabling legislation, the approval of the Government should be sought for the general principles before the Order is drafted.

Where any proposed statutory instrument, not required otherwise in this document to be drafted in the Office of the Parliamentary Counsel to the Government, amends any Act, the Attorney General should be requested by the Department concerned to arrange for its drafting or settling, as the case may be. Subsequent communications regarding the drafting or settling should be addressed to the Parliamentary Counsel.

5.3 Covering Memorandum for Government

The draft Order to be made by the Government should be submitted with a covering memorandum which should

- a) give the background to the Order,
- b) state that the draft has been approved by the Parliamentary Counsel,
- c) indicate clearly any departure from the decision authorising drafting that may have been found necessary,
- d) set out the full title of the Order in English and Irish - the Irish version to be obtained from Translation Section, Houses of the Oireachtas (the title in which the Order is not being made to be in brackets), and
- e) state any statutory requirement concerning approval by the Houses of the Oireachtas.

5.4 Number of presentation copies required

When the draft Order is being submitted for circulation to the members of the Government, 6 copies of the Order should be provided to the Government Secretariat for subsequent presentation to the Houses of the Oireachtas.

Each of the six presentation copies of the Order should be accompanied by an explanatory note which should refer in particular to any European Union implications.

5.5 Special sealing copy

The Order to which the Seal of the Government will be affixed should

- a) be on vellum or linen-backed paper or other paper suitable for sealing (the Government Secretariat will advise on request)
- b) be in double spacing (with inserts in single spacing) in the same, clear font
- c) have neither a separate title-page nor the testatum/seal isolated on a separate page,
- d) have each page (except the first) numbered - the pages should be loose, be checked, and initialled at the bottom left-hand corner of each page, by an officer not below the rank of Assistant Principal (or equivalent),
- e) have the testatum set out, as follows, at the right-hand side immediately below the text of the Order (or of the final Schedule or Appendix thereto):-

“GIVEN UNDER THE OFFICIAL
SEAL OF THE GOVERNMENT,

_____20_____”

The title of the signatory - Taoiseach, Tánaiste or Secretary General to the Government - should not be included

- f) have space for application of the Government Seal i.e. a minimum space of 11 centimetres below the testatum at the end of the last page.

5.6 Presentation to the Houses of the Oireachtas and gazetting

The Secretary General to the Government will notify the promoting Department and other Departments concerned (as mentioned in the memorandum) of the making of the Order and will arrange, where necessary or desirable, for the laying of the Order before the Houses of the Oireachtas and for a notice in the Iris Oifigiúil. In the case of an Order to be published in full in the Iris Oifigiúil, the promoting Department should supply the full texts in both Irish and English.

5.7 Other consequential action

Responsibility is on the promoting Minister or Department to make arrangements, as necessary, for all other consequential action e.g. press notices, supply of sale copies to the Government Supplies Agency, advertisements, translation and printing, etc.

5.8 Requirements for Printed Copies of Orders

Printed copies of Orders that have been made by the Government should have the letters "L.S." placed in a circle at the left-hand side of the last page on a level with the testatum. Underneath the testatum should be printed the name and title of the person (Taoiseach, Tánaiste or Secretary General to the Government) who has authenticated the seal of the Government affixed to the Order.

5.9 Other relevant instructions

The following are relevant:

- (a) Department of Finance memorandum on the Laying of Documents before the Houses of the Oireachtas (Appendix V) and
- (b) the Printing and Publication of Statutory Instruments (Department of Finance Circulars Nos. 4/59 and 40/73).

CHAPTER 6

POST-MEETING PROCEDURES



Post-Meeting Procedures

6.1 Notification of Decisions

Government decisions are notified by the Secretary General to the Government to the Private Secretaries to concerned Ministers. It is the responsibility of each Department to have procedures in place for dissemination of decisions to the appropriate officials in that Department.

6.2 Responsibility for Implementation of Decisions

Where appropriate after action by the President or the Government, and in all other instances, it is the responsibility of the Ministers concerned to ensure that Government decisions, whether formal or informal, are implemented at the earliest practicable date.

In accordance with established practice, some procedural actions may be taken by the Government Secretariat on foot of certain Government decisions (e.g. the presentation of papers to the Houses of the Oireachtas or the gazetting of a notice in the *Iris Oifigiúil*). These will be identified in the communication conveying the decision and the agreement of the sponsoring Department will be sought in advance.

Any other action (e.g. the notification of appointees) will be the responsibility of the promoting Department. Attention is also drawn to paragraph 2.17 regarding publication of appointments in the *Iris Oifigiúil*.

6.3 Decisions involving Constitutional or Statutory Action by the President or Government

Where constitutional or statutory action by the President or by the Government is required on foot of a decision, the Secretary General to the President or the Secretary General to the Government, as appropriate, will arrange for that action to be taken.

6.4 Ceremonies

Ceremonies such as the swearing-in of Judges, the commissioning of officers of the Defence Forces, presentation of Full Powers and Letters of Accreditation/Recall, etc. should not be arranged until the availability of the President (or the Presidential Commission) to sign the appropriate document has been confirmed through the Government Secretariat.

6.5 Sanction for Expenditure

Approval of a proposal by the Government does not absolve the promoting Department from the need to obtain the specific sanction of the Minister for Finance, (where this is required) before expenditure is incurred, or for staff or organisational changes.

APPENDIX I



GUIDELINES FOR DEPARTMENTS IN RESPECT OF THE PREPARATION OF THE GENERAL SCHEME OF A BILL

Note: *The purpose of the following guidelines is to remind Departments sponsoring legislation of matters they should have regard to when drawing up Schemes of Bills for the approval of the Government. Failure by a Department to observe these requirements is likely to result in the preparation of the legislation in the Office of the Attorney General taking longer than would otherwise be the case. A Department which has failed to observe the guidelines cannot expect the drafting of its legislation to receive priority over the drafting of legislation for Departments which have observed the guidelines.*

Preliminary

1. In the preparation of the Heads of a Bill, it is necessary for the civil servants in a Department promoting legislation to be knowledgeable in the subject matter concerned and with the requirements and procedures of the process for proposed legislation; for that reason they should have thoroughly familiarised themselves with the existing body of legislation and administrative practices to which the Heads will relate to enable adequate Heads to be prepared by them on –
 - (a) the substantive matter,
 - (b) the administrative requirements or consequences resulting from the proposed legislation, and
 - (c) the consequential provisions (e.g. amendments and repeals, transitional provisions, etc.) necessary in the context of points (a) and (b).

General

2. The Heads and notes should contain sufficient background information to enable parliamentary counsel to understand the policy contained in the proposals.
3. The principal objects of the legislation have to be clearly and fully stated and the Heads and notes have to be sufficiently detailed to enable parliamentary counsel to draft the Bill.
4. The Heads and notes should refer to all known implications and difficulties, whether legal, social or administrative. Regarding constitutional, legal and legal policy issues, relevant advice should be obtained from the Office of the Attorney General as part of the preparation of the Heads and such issues should be resolved before the Heads are sent for drafting.
5. Although certain supplementary policy implications may only become apparent after discussions with (or a draft has been supplied by) the parliamentary counsel concerned, all policy matters that may have a bearing on the draft should be resolved by the Department (**including inter-departmental matters**) before the Heads are sent for drafting and supplementary policy implications should be resolved as quickly as possible.

Jargon and Technical Language

6. The Heads and notes should be expressed in language that will be understood by parliamentary counsel, accordingly-
 - (a) the use of jargon (administrative or otherwise) ought to be avoided; and
 - (b) where possible, technical language ought to be avoided and where it cannot be avoided it should be explained.

Use of Precedents

7. (a) Where Heads are based on a precedent, that fact should be referred to in the notes to the Head.
- (b) Where more than one appropriate precedent for a provision is known, each should be referred to and the reason given for the choice of one precedent over the other.
- (c) Care should be taken to check whether the precedent has been amended for any reason and drawn to the attention of parliamentary counsel.
- (d) Where a precedent is taken from another jurisdiction copies of it must be supplied to parliamentary counsel together with other relevant provisions (e.g., where appropriate, the definition or interpretation section).

Conventions and EU Directives, etc.

8. Where the proposed legislation is for the purpose of implementing international conventions or acts of the European Union, a copy of each relevant Convention or act to be implemented must be supplied to parliamentary counsel together with-
 - (a) either in the notes to the Heads or in a comparative table, sufficient information to identify where it is proposed in the Heads to implement each provision of the Convention or EU act;
 - (b) where a provision is not proposed to be implemented, that fact should be drawn to the attention of parliamentary counsel and the reason for the exclusion should be given;
 - (c) where a convention or EU act is amending an earlier one which has already been implemented into Irish Law, copies of all the

earlier Conventions and EU acts must be supplied to parliamentary counsel together with sufficient information to identify all the earlier implementing provisions.

Other and Special Cases

9. The above guidelines are guidelines for general application. In certain cases they may not all be of direct relevance or applicability because of the nature of the proposed legislation (e.g. the annual Finance and Social Welfare Bills); in such cases direct consultation is necessary on this matter with parliamentary counsel.
10. While these guidelines primarily deal with Bills, they are also generally of relevance to the drafting of statutory instruments, in particular, the drafting of Regulations to give effect to acts of the European Union.

*Office of the Attorney General,
October 2005*

APPENDIX II



GUIDELINES FOR GOVERNMENT DEPARTMENTS OR OFFICES SEEKING LEGAL ADVICE FROM THE OFFICE OF THE ATTORNEY GENERAL

These guidelines are intended to assist officers of Government Departments or Offices who have occasion to seek legal advice from the Office of the Attorney General.

In the context of proposals for Government (proposals for legislation or otherwise) in accordance with the requirements of Chapters 3 and 4 of the Cabinet Handbook, legal advice should be sought in advance and reflected in the draft memorandum for Government when circulated for observations.

The aim is to ensure that requests for advice are accompanied by all necessary information so as to eliminate unnecessary requests for further information from the Office of the Attorney General which may delay the provision of the advice sought.

1. When advice is being sought on a particular matter, previous relevant advices should be consulted by the Department in advance and should be referred to in the request for advice.
2. A request for advice about a law or statutory instrument which the Department is responsible for administering should, where appropriate, include relevant information about the Department's experience in such administration and the Department's views on the point raised and its reasons for those views.
3. A request for advice should include details of all relevant legislation, primary or secondary, domestic or E.U. and Treaties or Conventions of which the Department is aware. The Department should refer where appropriate to relevant provisions of the European Convention on Human Rights. A copy of the relevant legislation or Treaty, etc., with

the exception of Acts of the Oireachtas and E.U. Treaties, should be attached. The Department should also refer to any relevant court judgments or decisions of which they are aware particularly if these are unreported or unlikely to be contained in any legal databases.

4. Requests should be as specific and precise as possible. The more specific a request is, the faster it can be dealt with.

Office of the Attorney General,
October 2005

APPENDIX III

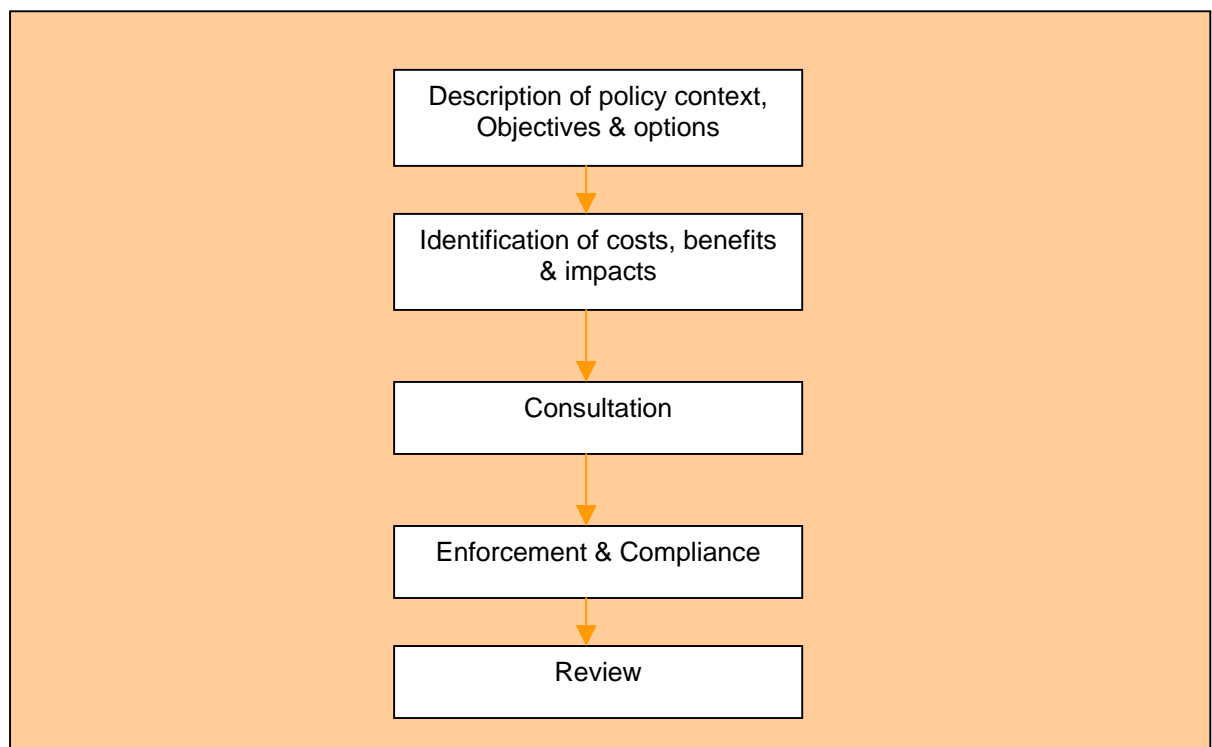


REGULATORY IMPACT ANALYSIS (RIA)

Regulatory Impact Analysis (RIA) is an assessment of the likely effects of a proposed new regulation or regulatory change. It involves a detailed analysis to ascertain whether or not the new regulation would have the desired impact. It helps to identify the side effects and any hidden costs associated with regulation. RIA clarifies the desired outcomes of the proposed regulatory change. It also provides for consultation with stakeholders to ensure that their views and interests are understood during the regulatory process.

There are two levels of RIA, a Screening RIA and a Full RIA (the significance and impacts of the proposal determines which should be applied in a particular case). A Screening RIA should be applied to all proposals for primary legislation involving changes to the regulatory framework and to significant Ministerial and Departmental Orders.

The steps of the Screening RIA are as follows:



Steps of Screening RIA

1. Description of policy context, objectives and options (for example different forms of regulation)

- (i) A brief description of the policy context;
- (ii) An explicit statement of the objectives that are being pursued;
and
- (iii) An identification of the various policy options or choices which are under consideration.

2. Identification of costs, benefits and other impacts of any options which are being considered (these incorporate and subsume the impacts which must be examined under section 3.4 of this Handbook)

- (i) Identification of likely costs including costs to the Exchequer and industry, an estimation of their magnitude and to whom they fall;
- (ii) A description of expected benefits and where these will fall;
- (iii) An examination of the following impacts:
 - (a) national competitiveness including employment;
 - (b) the socially excluded or vulnerable groups including gender equality, poverty, people with disabilities and rural communities;
 - (c) the environment;
 - (d) whether the proposal involves a significant policy change in an economic market including impacts on competition and consumers;
 - (e) North-South, East-West relations;
 - (f) the rights of citizens/ human rights;
 - (g) compliance burden on third parties e.g. citizens and business and other criteria to be decided from time to time by Government; and
- (iv) Summary of costs, benefits and impacts of each option identified in step 1 identifying preferred option where appropriate.

3. Consultation

Summary of the views of any key stakeholders consulted - which must include any relevant consumer interests and other Government Departments.

4. Enforcement and Compliance

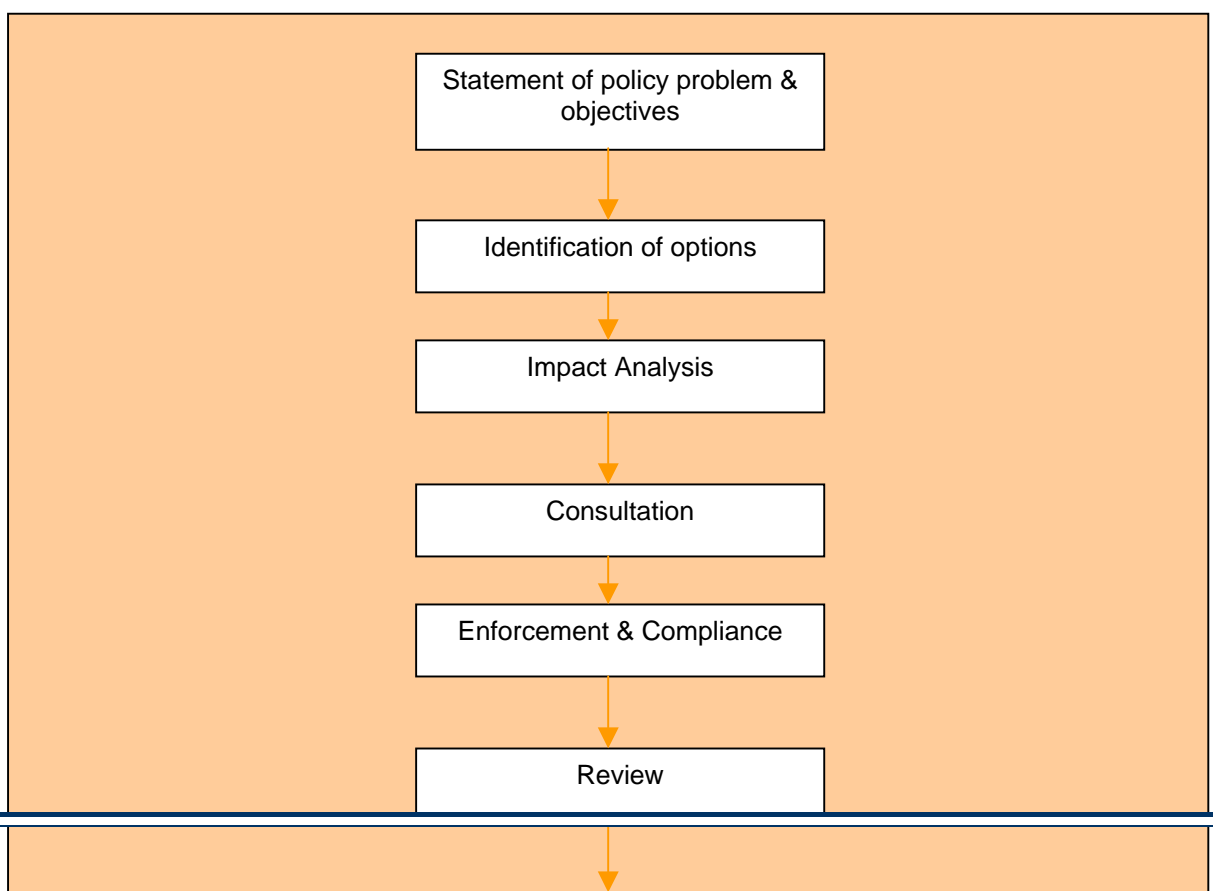
Brief description of how enforcement and compliance will be achieved.

5. Review

Identify mechanisms for review and specify indicators which would demonstrate the success of the policy proposal.

If the Screening RIA identifies significant impacts or costs a Full RIA should be conducted. Specifically, a Full RIA should be conducted where the Screening RIA indicates that there may be significant impacts under the headings 2 (iii) (a)-(g) above. A Full RIA should also be conducted where the costs to the Exchequer or third parties are significant, or are disproportionately borne by one group or sector. It is suggested that initial costs of €10 million or cumulative costs of €50 million over ten years (to include both costs to the Exchequer and third parties) might be considered significant in this context. This threshold will be reviewed periodically based on early experience with RIA.

The Full RIA is essentially a more detailed version of the Screening RIA involving the following steps:



Full RIA model

1. Statement of policy problem and objectives

Description of background to the issue and identification of policy problem to be addressed and the objective/(s) behind the proposals.

2. Identification and description of options

To include no action where relevant and at least one approach which is either an alternative to regulation (e.g. tax, information campaign, etc.) or an alternative form of regulation to the traditional approach (e.g. self-regulation, co-regulation, etc.)

3. Impact analysis including costs and benefits of each option

A full RIA involves a detailed and rigorous analysis of costs and benefits and their distribution. It should examine and measure costs, benefits and other impacts of the options being considered under the following headings:

- (a) national competitiveness including employment;
- (b) the socially excluded or vulnerable groups including gender equality, poverty, people with disabilities and rural communities;
- (c) the environment;
- (d) whether the proposal involves a significant policy change in an economic market including impacts on competition and consumers;
- (e) North-South, East-West relations;
- (f) The rights of citizens/human rights;
- (g) Compliance burden on third parties e.g. citizens and business.

Where costs are extremely significant (an indicative threshold is €50 million over ten years), formal Cost-Benefit Analysis should be conducted (where monetisation is possible).

4. Consultation

A formal consultation process to be held with a reasonable time-frame for responses. Views expressed during this process to be summarised and addressed in the RIA document.

5. Enforcement and Compliance for each option

A detailed description of how enforcement is going to be achieved under each option being considered, an outline of any particular compliance issues and how these are to be addressed.

6. Review

The identification of mechanisms for review under each option under analysis. Identification of performance indicators for measuring the success of each option.

7. Summary of Analysis

Summary of the performance of each option and identification of a preferred option where appropriate.

Either a Screening or Full RIA should accompany all Memoranda to Government seeking approval for the General Scheme of a Bill. The RIA should be summarised within the body of the Memorandum and the RIA document should be included as an Appendix to the Memorandum, both when it is circulated for observations and when it is submitted to Government. RIAs should be published and be available on Departmental websites. Where RIAs contain information which is exempt under the provisions of the Freedom of Information Act, RIAs can be partially published or in exceptional circumstances be withheld in their entirety. The decision on publication or withholding a RIA should be taken in tandem with the decision to publish the legislation in question.

RIA Guidelines "*How to conduct a Regulatory Impact Analysis*" are available in hard copy on request from the Better Regulation Unit, Public Service Modernisation Division, Department of the Taoiseach, tel: 01-6194460/4593 or e-mail: betterregulation@taoiseach.gov.ie. They are also on the web-site www.betterregulation.ie. Further advice and assistance on RIA can also be obtained from the Better Regulation Unit.

APPENDIX IV



PUBLICATION OF BILLS AND AMENDMENTS IN THE HOUSES OF THE OIREACHTAS

Oireachtas Procedures re: Publication of Bills and Amendments (see paragraph 4.29)

What the Bills Office does

The Bills Office is responsible for the printing and circulation of all Bills and proposed amendments thereto. This includes

- Organising the publication of Bills, as initiated and as amended.
- Ensuring that the content of Bills comply with Standing Orders and the Constitution and advising the Ceann Comhairle, Cathaoirleach and Committee Chairmen accordingly.
- Receiving proposals for amendments to Bills from Ministers and Members (Dáil only).
- Checking that these proposals comply with Standing Orders and advising the Ceann Comhairle and Committee Chairmen.
- Producing and circulating lists of all amendments received.
- Producing technical briefs for the Ceann Comhairle and Committee Chairmen for use in Chamber/Committee.
- Preparing a “vellum” copy of the Bill as passed for signature by the President.

The Oireachtas Legislative process

The system involves a progressive refinement of proposals, working from broad principles to specific detail. This means that the debate is progressively narrowed from the broad policy issues of the Bill at second stage, through the details of the Bill at Committee stage and then to consideration only of issues already raised in Committee at Report stage.

Bills – First Stage

There are two methods of initiating a Bill – by presentation and by introduction.

- Presentation – a Bill can be published without leave (prior permission of the House). Only the Government and groups recognised by the Ceann Comhairle may present Bills. Each opposition group may have only one such Bill on the Order Paper at any one time.
- Introduction - any Member may seek Leave of the House to introduce a Bill.
- Public Bills initiated in Seanad are always printed on yellow paper and must be accompanied by an explanatory and financial memorandum.
- In order to present a Bill, a letter must be sent to the Bills Office –
 - Stating the date on which the Bill is to be published and the House in which it is to be initiated.
 - Enclosing three “white print” copies certified by an officer at PO level or higher. (“White print” copies are copies prepared by the Parliamentary contract printer and formatted according to the normal style for Bills).
 - Enclosing an electronic copy on floppy disc or CD Rom.
 - Setting out contact details for the persons who are the primary and reserve contacts for queries. These should include:
 - Direct line phone numbers
 - Fax numbers
 - E-mail addresses
 - Mobile phone numbers (if available)
 - Home phone numbers (for after hours contact)
- When any document is being sent to the Bills Office, always check that it has been received.

Publication timeframes

The letter, certified copies of the Bill and Explanatory Memorandum must be received in the Bills Office before 3 p.m. two days prior to publication. Two days is the **minimum** timescale for publication. Longer notice of publication is always desirable and is necessary during busy periods or for large Bills.

It must be stressed that the Bills Office cannot accede to any requests for urgent publication where there is a reasonable risk of errors being made in the text of the Bill when published, which could lead to the necessity for formal amendments in the House in order to remedy relatively minor errors.

Ownership

Bills are, first and foremost, parliamentary documents and once a bill has been presented or introduced, it belongs to the House in which it is being considered. The sponsoring Minister may not alter its content or format, or withdraw the Bill, without the agreement of the House. In practice, this means that once initiated, Bills may be altered by the printer only on instructions given by the Bills Office. *Departments should note that they are prohibited from querying, altering or countermanding any instructions given to the printer by the Bills Office* as doing so can have the most detrimental and unforeseen consequences and may, in certain circumstances, give rise to a result directly contrary to that sought to be achieved.

As parliamentary documents, Bills must be circulated in the first instance to Members of the Oireachtas. The Bills Office, therefore, is not prepared to become involved in delaying the circulation of Bills or circulating them manually at a given hour so as to coincide with the holding of a press conference or the issue of a press release or for any other reason that is not directly related to the business of the House. To do this would infringe the rights of Members to gain access to parliamentary documents at the earliest possible date, and could potentially constitute a breach of privilege if the contents of the Bill were disclosed at a press conference or otherwise before the Bill could have reasonably been received by Members.

Second Stage

- The House discusses what the Bill contains and also what might be relevantly included, i.e. the broad policy issues.
- Debate takes place on a motion “That the Bill be now read a second time”.
- Individual speaking times are limited.
- The proposer (the Minister) may reply at the end of the debate – other speakers may speak only once.
- Amendments to the motion are restricted to those related to the time for taking the second stage of the Bill or a special reason against the second reading of the Bill.

Third (Committee) Stage

- Usually takes place in Select Committee; but occasionally in Committee of the whole Dáil.
- In this, the 29th Dáil there are 13 legislative committees, ‘marking’ Government Departments.
- 3rd Stage involves detailed consideration of Bill, with separate decisions on each section and each amendment.
- The number and duration of contributions to debate are unrestricted, but the Chair will intervene to prevent repetition.
- All changes to Bills must be made by way of formal amendment. Some corrections may be made in very limited circumstances.
- Amendments must be relevant to the provisions of the Bill, unless the Dáil has agreed a motion liberalising this requirement. (NB - time is required for such a motion, at least one additional day).
- Amendments must be received by the Bills Office *before 11 a.m. on the day before 3rd Stage begins*.
- The day before 3rd Stage, draft lists of amendments will be faxed or e-mailed to you. You must check these, certify them, and return them to the Bills Office, as soon as possible.

- On the morning of 3rd Stage, a proof copy of the Bill containing anticipated changes will be sent to you. This must be checked and certified to the Bills Office, on the same day. This proof is also read by the Bills Office.
- *Grouping of amendments:*
- To avoid repetition of debate, similar amendments are discussed in groups.
- The groups are determined the night before 3rd Stage by the Bills Office in consultation with Departments.
- The availability of a Department to discuss grouping is essential as it affects the organisation of the sponsoring Minister's brief.
- When 3rd Stage is completed, you and the Bills Office review corrections noted during proofreading, and any other changes to the proof (e.g. unexpected acceptance of an opposition amendment).
- The proof is sent to the printer the same evening and the Bill is published the morning after 3rd Stage concludes.

Fourth (Report) Stage

- Always takes place in plenary.
- 4th Stage involves consideration of amendments only.
- Members may speak only twice on each amendment, the second contribution being limited to two minutes. The proposer may reply.
- No new matter may be introduced at Report Stage. Amendments tabled must arise from Committee proceedings unless the House agrees, by way of a motion made without notice, to "recommit" for particular amendments.
- Amendments involving a charge on the revenue or on the people must be recommitted.

- Bills may also be recommitted as a whole or in respect of certain sections.
- Recommitment is effectively a return to Committee Stage, and the rules of debate for Committee Stage apply.
- The same arrangements in relation to the submission and preparation of amendments, revising the text of Bills, and grouping of amendments apply at Report Stage as at Committee Stage.

Financial Procedure

- The Constitution and Standing Orders place restrictions and conditions on the content of Bills and/or amendments involving –
 - spending public money, or
 - raising charges on the people.
- These restrictions/conditions give the Government primacy in relation to financial proposals.
- See Dáil Standing Orders 148 and 149, Seanad Standing Order 38, Article 17.2 of the Constitution.
- Bills involving the imposition of a charge on the people, other than an incidental charge, may only be initiated by a member of the Government.
- Bills involving the appropriation of revenue or other public moneys, other than incidental expenses, may only be initiated by a member of the Government.
- Dáil Committee Stage of a Bill involving a charge on the people, including an incidental charge, may not be taken unless a motion (known as a Financial Resolution) approving a charge has been passed by the Dáil. The motion may only be moved by a member of the Government.
- Dáil Committee Stage of a Bill involving the appropriation of revenue or other public moneys, including incidental expenses, may not be taken unless the purpose of the appropriation has been recommended to the

Dáil by a Message from the Government (known as a Money Message).

- An amendment to a Bill which could have the effect of imposing or increasing a charge upon the people may only be moved by a Minister.
- An amendment to a Bill which could have the effect of imposing or increasing a charge upon the revenue may only be moved by a Minister.

Money Bills

- Money Bills may only be initiated in the Dáil.
- Money Bills are Bills which contain only provisions dealing with matters specified in Article 22.1 of the Constitution.

Seanad Procedures

- Procedures in the Seanad are broadly similar to those in the Dáil, with two important practical differences -
 - The deadline for receipt of amendments to Bills is **two** days in advance of consideration by the House (Standing Order 25), except when all stages of a Bill are taken in one day.
 - Time limits are not applied to Ministers' speeches.

Avoiding problems

Attention to the following will ensure that your Bill passes through the Oireachtas as painlessly as possible –

- Clarify procedures with the Bills Office at as early a stage in the process as possible.
- Once the Bill has been published, control passes to the Dáil and Seanad – ensure the text is right *before* publishing.
- Submit all documentation as early as possible.
- Certify amendments, proofs, motions etc. in good time;
- Ensure key staff are contactable at all times, including after normal office hours;

- When your Bill passes an amending stage you should go to the Bills Office before leaving Leinster House to finalise reprinting arrangements.

Dáil Standing Orders

- Standing Orders directly applicable to Bills
 - Bills generally – the 5 stages
 - 118 to 133
 - Specific Bills and procedures
 - Hybrid Bills 136
 - Consolidation Bills 137 - 146
 - Financial Procedure 147 - 157
 - Money Bills 158
 - Miscellaneous 161 – 165
- Standing Orders are available at <http://www.oireachtas.ie>

Bills Office Contacts

- Principal Clerk Tel: – (01) 618 4851 Fax: –(01) 618 4152
- Principal Clerk Tel: – (01) 618 4850 Fax: – (01) 618 4108
- E-mail – publicbills@oireachtas.ie

Seanad Office Contacts

- Clerk-Assistant (01) 618 3225
- Clerk of Seanad Éireann (01) 618 3357

APPENDIX V



LAYING OF DOCUMENTS BEFORE THE HOUSES OF THE OIREACHTAS

Drawn from Department of Finance Circular, 3/78.

Classification

1. Documents to be laid may be classified generally as follows:-
 - (1) documents laid in obedience to a statute or in pursuance of an order of both Houses or of either House of the Oireachtas.
 - (2) (a) documents relating to matters likely to be the subject of subsequent legislation; and
(b) documents which are regarded for other reasons as necessary or of advantage to members of the Dáil/Seanad in connection with the discharge of their duties as such members.

Procedure for laying documents

2. Documents are laid before both Houses of the Oireachtas except where a statute provides for the laying before the Dáil only, or where by order of one House a document is required to be laid before that House, in which cases the document is laid before one House only. The laying of a document before both Houses of the Oireachtas is effected by the Department concerned forwarding to the Clerk of each House (for the attention of the Librarian) three copies of the document accompanied by a form - obtainable from the Government Publications Sale Office - requesting that the document be laid before the House; details on this form should be carefully filled in. If the document is to be laid before one House only, six copies, with the form mentioned, should be sent to the Clerk of that House. This procedure should be followed even though the Houses are not sitting.

Delivery of Supplies to the Oireachtas

3. Where a document is likely to be the subject of subsequent legislation, or where it is considered necessary for other reasons to do so, copies should be distributed to each member of the Houses of the Oireachtas. The Department from which the document emanates will be responsible for supplying the General Office, Leinster House, with 325 copies of the document for this purpose together with appropriate instructions. In the case of every other document which is not being distributed to each member of the Houses of the Oireachtas, but which is of more than passing interest, 25 copies should be sent by the Department concerned to each of the following

- (a) The General Office, Leinster House - to be available for members who may ask for a copy; and
- (b) the Office(s)/Leader(s) of the Opposition Party/Parties in Leinster House.

These procedures should be carried out simultaneously with the formal laying of the document before the Houses of the Oireachtas but they do not dispense with the necessity for formal laying as required by paragraph 2.

Premature publication and placing on sale

4. It should be especially noted that documents to be laid before the Houses of Oireachtas must not be published before being so laid. A breach of this direction is a serious infringement of parliamentary privilege. Accordingly no issue to the public (and issue to the public includes the issue of complimentary or other copies to the news media but not advance copies or summaries which are given to the news media and carry on their face an embargo on publication before the day of laying) shall be made until it is known that the document has been laid and is available, therefore, in the Library at Leinster House for members of the Houses of the Oireachtas. The Librarian will notify the Government Publications Sale Office and the Department laying

the document, immediately the document has been placed in the Library. It is desirable, however, that once parliamentary requirements have been satisfied there should be no delay in issue to the public. Information can be obtained from the Librarian by telephone as to whether a particular document has been laid or not. In the case of a document which it is desired to issue to the public as a matter of exceptional urgency, the despatch of the document with the appropriate form (by hand if Leinster House is open, by post if not) to the Clerk of each House or of one House, as the case may be, will be deemed to be sufficient compliance with these instructions should the Librarian not be available at the time.

Numbering of documents

5. Every document laid before the Houses of the Oireachtas should receive a number in the parliamentary series even though it may not be regarded as of sufficient importance to be printed. The parliamentary number (Prn.---) will be allotted by the Government Publications Sale Office and should be inserted at the bottom left hand corner. In the case of a document which is being published and is intended for laying, a parliamentary number should, where practicable, be obtained from the Government Publications Sale Office and inserted at the duplicating stage so that it will appear on the published document; care should be taken to ensure, that even in such a case, the document is not placed on sale before laying. Should the document be printed subsequently, the Government Publications Sale Office should forward six copies to the Librarian.

Government Instruments

6. In the case of instruments executed by the Government, the Department of the Taoiseach will arrange, where necessary, for laying.

Size of documents

7. To facilitate filing, binding, etc., all printed documents should be produced in a standard size. The Government Supplies Agency should be consulted about current practice.

Requisitions for printing of documents

8. The Department responsible for a document will usually be aware, at the outset, whether or not it is intended to lay it before the Houses of the Oireachtas, and the form of requisition on the Government Publications Sale Office for printing should be completed accordingly. The full number of copies required by the Department (including those to be laid) should be stated on the requisition, as the subsequent ordering of extra copies involves additional expense. If it is impossible at the time to state the exact number, the figure should be supplied to the Government Publications Sale Office before the document is finally printed. It is within the province of the Government Publications Sale Office to question (a) the necessity of printing or duplicating any document and (b) the number of copies requisitioned. In the event of disagreement, the Department concerned should consult the Department of Finance whose decision will be final.

Signing of requisitions

9. Requisitions for printing of Statutory Instrument, annual reports and accounts and statistical publications (i.e. documents issued annually or periodically where the format has been agreed with the Government Publications Sale Office) may continue to bear the signature of the officer hitherto authorised to sign them. In order to ensure, however, that full consideration will be given to the question of issue in the correct form no new document which is to be laid before the Houses of the Oireachtas should be put forward for printing without the signature of a Principal Officer or officer of equivalent rank.

Laying of reports, etc., of Statutory Bodies

10. Departments responsible for laying documents on behalf of State Sponsored Bodies should ensure that the terms of this Memorandum are brought to the notice of such bodies so as to ensure uniformity of practice. To the same purpose other bodies, statutorily empowered to lay documents before the Houses of the Oireachtas, should be notified of the terms of this Memorandum by the appropriate Departments.

Officer responsible within a Department

11. Each Head of a Department should nominate an Officer to be responsible for the observance within his Department of the instructions contained in this Memorandum.

APPENDIX VI



ADDITIONAL PROCEDURES TO APPLY TO CERTAIN CONSULTANCIES AND PROCUREMENTS

The Quigley Report has highlighted the need for special care in cases where a Minister may wish to suggest a particular person (or enterprise) for a consultancy contract or where a contract provides for services to both a Minister and the Department.

At the outset it is important to stress that a Minister should not take any action that might interfere with the conduct, in accordance with the relevant guidelines, of a fair and transparent procurement process. Furthermore, the Code of Conduct for Office Holders sets out broad principles to guide Ministers in managing their responsibilities, including in relation to the appropriate use of public resources and the furtherance of the public interest. Ministers are obliged to act in accordance with the Code of Conduct.

The introduction of the following procedures is subject to those over-arching principles and represents a set of requirements additional to the operative procurement guidelines, compliance with which remains the responsibility of the relevant Department or Office.

These procedures do not dispense with any requirements as contained in relevant Administrative Budget provisions for sanction by the Department of Finance for expenditure. Any such requirements must be satisfied separately.

Additional Procedures

Circumstances in which they should be applied

The following procedures should be applied in situations where a proposed consultancy (or any proposed contract for services), whether short term or for a longer period,

(a) comprises a significant element of direct service to that Minister or Minister of State, particularly in the PR or communications area (specifically the giving of advice, briefing, etc); and/or

(b) where the Minister/Minister of State has suggested the name of a person(s) or enterprise(s) that might be suitable.

The Procedures

1. The Secretary General of the relevant Department or Head of Office (if (s)he is not already so aware) must be notified whenever the circumstances above occur.
2. The Secretary General of the relevant Department or Head of Office must inform the Secretary General to the Government.
3. The Secretary General or Head of Office should confirm to the Secretary General to the Government that arrangements for the proposed procurement will comply with national, E.U. and any other relevant requirements and will continue to be responsible for compliance with those requirements
4. If the Secretary General to the Government is of the view that the proposed consultancy comes within the definition at (a) or (b) above, (s)he will arrange for the relevant aspects to be considered within the Cabinet Secretariat. The Cabinet Secretariat may inquire about any aspect of the proposed procurement they believe to be pertinent to consideration of the matter and may, as necessary, consult the Department of Finance about same.
5. The Secretary General to the Government will then make a recommendation to the Taoiseach as to whether any special conditions should be observed in the procurement process.

6. The Secretary General or Head of Office concerned should give consideration to the appointment of a process auditor to oversee any such procurement. In any event, the Internal Audit Unit of the relevant Department or Office should be informed whenever a proposed consultancy (or contract for service) proceeds in accordance with these procedures.

General

The Secretary General or Head of Office should arrange to have these procedures brought to the attention of each Minister/Minister of State in his/her Department or Office and to any Minister or Minister of State appointed to the Department or Office in the future.

Department of the Taoiseach

17 February 2005

APPENDIX VII



OIREACTHAS SCRUTINY OF EU BUSINESS

The European Union (Scrutiny) Act, 2002 entered into force on 23 October 2002. The Act aims to enhance scrutiny of EU affairs by the Oireachtas by providing for scrutiny of (i) Regulations and Directives from the first pillar, (ii) Joint Actions and Common Positions from the second pillar and (iii) measures from the third pillar which require the prior approval of the Oireachtas. The Act is in addition to the procedures introduced by the Government in June 2002 which provide for briefing and reports to the Oireachtas by Government Departments.

Informing the Oireachtas

The general procedure for measures covered by the Act is as follows: Once a proposal for a measure has been formally presented, it is notified to the Oireachtas by the Department concerned in the form of an information note setting out the content, purpose and implications of the measure in question. Departments should take account of the Regulatory Impact Analysis (RIA) model in compiling these information notes. The European Scrutiny Sub-Committee of the Joint Committee on European Affairs will determine whether the measure in question will be the subject of scrutiny by the Oireachtas and take forward matters accordingly. Copies of the measure and the information note will be posted on a dedicated Oireachtas scrutiny website (<http://www.euscrutiny.ie>), and laid before the Houses of the Oireachtas. This means that they will also appear on the daily Order of Business for each House. The Act contains provisions for instances of confidentiality and urgency and guidelines have been drawn up and agreed to deal with these cases.

Council Meetings: Briefing and Reporting

All relevant Ministers should be available on request to offer an oral briefing in advance of Council meetings in order to set out the Government's broad approach and hear the views of Oireachtas members. Committees might choose from time to time to seek a briefing at official level. In order to safeguard the negotiating position of Ireland and other Member States, a Minister would be entitled, in consultation with the Chair of the Committee, to opt to provide a briefing in private. Some briefings are held jointly by the Joint Committee on European Affairs and the relevant sectoral Committee to avoid unnecessary and time consuming duplication of Ministerial commitments.

The Minister for Foreign Affairs or Minister of State for European Affairs will, on request, brief the Joint Committee on European Affairs in advance of the European Council.

Six Monthly Reports

Section 2 (5) of the EU (Scrutiny) Act, 2002 requires each Minister to provide the Oireachtas with a six-monthly report on progress in relation to measures, proposed measures and other relevant developments for which they he or she has lead responsibility. These reports are due to be submitted to the Oireachtas within four weeks of the period under review i.e. at the end of July and the end of January each year.

Annual Reports

Section 5 of the Act requires the Government to report once a year to the Oireachtas on developments in the EU over the course of the preceding calendar year. The report is compiled by the Department of Foreign Affairs on the basis of submissions received from all Departments.

EU Coordination Section,
Department of Foreign Affairs,
September 2005

APPENDIX VIII

CABINET COMMITTEE GUIDELINES



1. Definition

Cabinet Committees are committees which are established by Government to assist it in carrying out the responsibilities of Government and which derive their authority and privileges from Government. Cabinet Committees have a membership comprising two or more members of Government and may also include the Attorney General and Ministers of State.

Category 1: Committees that are established to consider *major policy areas* of an ongoing nature;

Category 2: Committees that are established to manage a *particular issue* of public importance;

Category 3: *Ad hoc* committees established to advance a particular item on the Government agenda and which usually conclude their work in a short period of time.

2. Establishment and Dissolution

All Cabinet Committees stand dissolved at the end of every Government's term in office. Committees also stand dissolved on producing a final report to Government, having discharged their remit.

The (re)establishment by the Government of a Cabinet Committee should be recorded, formally or informally. The decision should also normally set out the terms of reference, membership and reporting arrangements. This degree of structure can be simplified in the case of Category 3 (*ad hoc*) committees, to reflect their particular circumstances.

3. Criteria for Establishment

Cabinet Committees, other than Category 3 (*ad hoc*) committees, should have a remit that:

- will enhance the achievement of a key Government objective as set out in the Government Programme or major policy document or is of significant public importance or sensitivity;
- has a cross cutting dimension; and
- cannot be adequately dealt with by an existing Cabinet Committee.

4. Reporting Arrangements

Within three months of being established, Cabinet Committees (other than Category 3 committees) should set out a Work Programme for the year ahead which sets out explicit priorities and targets for benchmarking the achievement of key objectives in the Government Programme or other frame of reference such as a social partnership agreement.

Cabinet Committees (other than Category 3 committees) should provide a progress report to Government at least once a year, unless other reporting arrangements have been specified. Such committees should also produce a final report to Government on conclusion of their remit and then stand dissolved.

5. Powers

Committees must refer substantive issues to Government for approval except where a committee has been expressly mandated to take a decision.

Government Memoranda which deal with substantive issues that come within the remit of a Cabinet Committee, should, where time permits, be considered by that Committee in advance of being brought to Government.

6. Membership of Cabinet Committees

Cabinet Committees will be chaired by the Taoiseach, with a Minister who has lead functional responsibility being designated as Convenor, to deal with day to day issues relating to the activities of the Committee.

The members of the Cabinet Committee will be as set out in the Government Decision establishing the Committee, as amended by any subsequent Government Decisions. From time to time the Chairperson of the Committee may invite other Ministers/Ministers of State to attend meetings.

7. Servicing of Committees and Attendance at meetings

The Secretary of each Cabinet Committee will be an official of the Department of the Taoiseach appointed by the Secretary General to the Government. Also, the Secretary will usually be Chairperson of any cross-departmental team of officials that is established to support the work of the cabinet committee.

In addition to the Secretary and/or the Secretary General to the Government, other officials may attend committee meetings in an advisory capacity when required and with the prior approval of the Chairperson. Attendance by officials should be the minimum consistent with the efficient functioning of the committee.

Representatives of public and private bodies may be invited to make presentations from time to time and to engage in Q & A type discussion to clarify issues arising from the presentation but should not be present for any substantive deliberations by the Committee.

Other than existence, purpose and membership and such other information as may be provided for by law, information about Cabinet Committees should not be disclosed in PQs, FOI responses or publications generally. No person other than the Secretary of the Committee is authorised to make a record of any part of the proceedings of the meeting, other than to note actions points for follow up.

8. Review of Cabinet Committee System

The Secretary General to the Government will present an annual report to the Taoiseach, reviewing the operation and effectiveness of the cabinet committee system.

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