

**GENERAL SCHEME OF A BILL TO BE CALLED THE FISCAL RESPONSIBILITY  
BILL 2012**

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**FOR INFORMATION PURPOSES IN THE CONTEXT OF THE REFERENDUM TO BE HELD ON 31  
MAY 2012 REGARDING THE RATIFICATION OF THE TREATY ON STABILITY,  
COORDINATION AND GOVERNANCE IN THE ECONOMIC AND MONETARY UNION**

# GENERAL SCHEME OF FISCAL RESPONSIBILITY BILL 2012

## ARRANGEMENT OF HEADS

### PART 1

#### INTERPRETATION

Head

1. Interpretation.

### PART 2

#### THE FISCAL RULES

2. Duty of Government to endeavour to comply with fiscal rules.
3. Budgetary rule.
4. Debt rule.
5. Medium-term budgetary objective.
6. Correction mechanism.

### PART 3

#### IRISH FISCAL ADVISORY COUNCIL

7. Irish Fiscal Advisory Council.
8. Functions of Fiscal Council.

### PART 4

#### MISCELLANEOUS AND SUPPLEMENTARY

9. Regulations.
10. Expenses.
11. Short title and commencement.

### SCHEDULE

#### IRISH FISCAL ADVISORY COUNCIL

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ACTS REFERRED TO

Companies Act 1990	1990, No. 33
Comptroller and Auditor General (Amendment) Act 1993	1993, No. 8
Comptroller and Auditor General Acts 1866 to 1998	
Ethics in Public Office Act 1995	1995, No. 22
European Parliament Elections Act 1997	1997, No. 2
Freedom of Information Act 1997	1997, No. 13
Interpretation Act 2005	2005, No. 23
Local Government Act 2001	2001, No. 37

## **Explanatory Note**

### **General**

The purpose of the Bill is to make provision for securing that the rules in Article 3 of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union take effect in the law of the State in accordance with paragraph 2 of that Article and that the rule in Article 4 of that Treaty takes effect in the State; to make provision in accordance with Article 3 of that Treaty in relation to a medium-term budgetary objective and a correction mechanism and to establish a body to be known as An Chomhairle Fhioscach Chomairleach na hÉireann or, in the English language, the Irish Fiscal Advisory Council and provide for its functions.

PART 1  
INTERPRETATION

**Head 1: Interpretation.**

**1.\_\_(1)** In this Act -

“1997 excessive deficit Regulation” means Council Regulation (EC) No. 1467/97 of 7 July 1997<sup>1</sup> as amended by Council Regulation (EC) No. 1056/2005 of 27 June 2005<sup>2</sup> and Council Regulation (EU) No. 1177/2011 of 8 November 2011<sup>3</sup>;

“1997 surveillance and coordination Regulation” means Council Regulation (EC) No. 1466/97 of 7 July 1997<sup>4</sup> as amended by Council Regulation (EC) No. 1055/2005 of 27 June 2005<sup>5</sup> and Regulation (EU) No. 1175/2011 of 16 November 2011<sup>6</sup>;

“2009 Regulation” means Council Regulation (EC) No 479/2009 of 25 May 2009<sup>7</sup> as amended by Council Regulation (EU) No. 679/2010 of 26 July 2010<sup>8</sup>;

“2012 Treaty” means the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union done at Brussels on 2 March 2012;

“annual structural balance of the general government”, in relation to a year, means the general government deficit or general government surplus for the year, cyclically adjusted and net of one-off and temporary measures, expressed as a percentage of gross domestic product at market prices;

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<sup>1</sup> OJ No. L209, 2.8.1997, p.6

<sup>2</sup> OJ No. L174, 7.7.2005, p.5

<sup>3</sup> OJ No. L306, 23.11.2011, p.33

<sup>4</sup> OJ No. L209, 2.8.1997, p.1

<sup>5</sup> OJ No. L174, 7.7.2005, p.1



“Budget”, in relation to a year, means the Financial Statement and associated material presented by the Minister to Dáil Éireann, and the Estimates for Public Services, which set out the Government’s proposals for the year with regard to the raising of tax and other revenues and to public expenditure;

“budgetary rule” shall be construed in accordance with *head 3*;

“cyclically-adjusted” means adjusted to take account of effects estimated to be due to the operation of the economic cycle;

“enactment” has the same meaning as in section 2(1) of the Interpretation Act 2005;

“Estimates for Public Services” means the estimates of expenditure submitted by the Government to Dáil Éireann for approval in relation to supply grants and appropriations-in-aid in respect of supply services for a year;

“European system of accounts” means the European system of national and regional accounts in the Community as provided for under Council Regulation (EC) No. 2223/96 of 25 June 1996<sup>9</sup>, as it has effect as amended from time to time;

“Fiscal Council” has the meaning given by *Head 7(1)*;

“fiscal stance” means the change in the annual structural balance of the general government, excluding interest payments on the general government debt expressed as a percentage of gross domestic product at market prices, for a year relative to the preceding year;

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<sup>6</sup> OJ No. L306, 23.11.2011, p.12

<sup>7</sup> OJ No. L145, 10.6.2009, p.1

<sup>8</sup> OJ No. L198, 30.7.2010, p. 1

<sup>9</sup> OJ No. L310, 30.11.1996, p.1

“general government”, in relation to the State, shall be construed in accordance with the European system of accounts;

“general government debt”, in relation to a year, means the total gross debt at nominal value of the general government of the State which is outstanding at the end of the year, as arrived at in accordance with the 2009 Regulation;

“general government deficit”, in relation to a year, means the net borrowing of the general government of the State for the year, as arrived at in accordance with the 2009 Regulation;

“general government surplus”, in relation to a year, means the net lending of the general government of the State for the year, as arrived at in accordance with the 2009 Regulation;

“gross domestic product at market prices”, in relation to a year, means gross domestic product of the State for the year at market prices, as arrived at in accordance with the European system of accounts;

"local authority" has the same meaning as in the Local Government Act 2001;

“medium-term budgetary objective” means the medium-term budgetary objective required by the 1997 surveillance and coordination Regulation;

“Minister” means Minister for Finance;

“official forecasts” means the macroeconomic and budgetary forecasts published by the Department of Finance for the purposes of fiscal planning and known as the Spring forecasts and the Autumn forecasts;

“Stability and Growth Pact” means the 1997 surveillance and coordination Regulation, the 1997 excessive deficit Regulation and the Resolution of the European Council of 17 June 1997 on the Stability and Growth Pact<sup>10</sup>;

“stability programme” means the stability programme required by Article 3(1) of the 1997 surveillance and coordination Regulation.

(2) A word or expression used in this Act and in the 2012 Treaty has, unless the contrary intention appears, the same meaning in this Act as in the 2012 Treaty.

**Explanatory Note - Head 1: Interpretation**

This Head defines certain terms used in the Bill.

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<sup>10</sup> OJ No. C236, 2.8.1997, p.1



PART 2  
THE FISCAL RULES

**Head 2: Duty of Government to endeavour to comply with fiscal rules.**

2.\_\_\_\_(1) The Government shall endeavour to secure that -

- (a) the requirement imposed by *Head 3* (the budgetary rule), and
- (b) the requirement imposed by *Head 4* (the debt rule),

which derive from Articles 3 and 4 respectively of the 2012 Treaty, are complied with.

(2) The official forecasts shall set out the data required to assess whether the requirement specified in *subhead (1)(a)* is complied with.

**Explanatory Note - Head 2: Duty of Government to endeavour to comply with fiscal rules.**

Head 2 requires the Government to ensure that the budgetary rule and the debt rule are complied with. The Head also provides that the official spring and autumn macroeconomic and budgetary forecasts prepared by the Department of Finance for the purposes of fiscal planning must include the data required to assess whether the Government is complying with the budgetary rule.

### Head 3: Budgetary rule.

3.\_\_(1) The budgetary rule is that for each year either -

- (a) the budget condition (set out in *subhead (2)*), or
- (b) the adjustment path condition (set out in *subhead (4)*),

is satisfied.

(2) The budget condition is that either -

- (a) the budgetary position of the general government is in balance or in surplus, or
- (b) the requirement in *paragraph (a)* is not met only as a result of exceptional circumstances and the failure to meet it does not endanger fiscal sustainability in the medium-term.

(3) The requirement in *subhead (2)(a)* shall be deemed to be respected if the annual structural balance of the general government is at the medium-term budgetary objective.

(4) The adjustment path condition is that either -

- (a) the annual structural balance of the general government is converging towards the medium-term budgetary objective in line with the timeframe set in accordance with the 1997 surveillance and coordination Regulation, or

- (b) the requirement in *paragraph (a)* is not met only as a result of exceptional circumstances and the failure to meet it does not endanger fiscal sustainability in the medium-term.

(5) In *subheads (2)(b)* and *(4)(b)* “exceptional circumstances” means -

- (a) an unusual event outside the control of the State which has a major impact on the financial position of the general government, or
- (b) a period of severe economic downturn,

within the meaning of the Stability and Growth Pact.

**Explanatory Note - Head 3: Budgetary rule**

Head 3 provides that one of the two conditions of the budgetary rule must be satisfied:

1. the budgetary position of general government is in balance or in surplus and that this condition will be satisfied if the annual structural balance of the general government is at the medium-term budgetary objective; or
2. the annual structural balance of the general government is complying with a set adjustment path towards the medium-term budgetary objective.

In both conditions, a deviation from the medium-term budgetary objective or from the adjustment path is permitted if it results from exceptional circumstances.

**Head 4: Debt rule.**

4.\_\_\_\_ When the ratio of general government debt to gross domestic product at market prices exceeds 60 per cent, the ratio shall be reduced in accordance with the 1997 excessive deficit Regulation until the ratio reaches 60 per cent.

**Explanatory Note - Head 4: Debt rule**

Head 4 provides that when the ratio of general government debt to GDP is above 60%, the ratio will be reduced in accordance with the relevant EU regulation under the Stability and Growth Pact.

**Head 5: Medium-term budgetary objective.**

5.\_\_(1) Subject to *subhead (2)*, the lower limit of the medium-term budgetary objective shall be an annual structural balance of the general government of minus 0.5 per cent of gross domestic product at market prices.

(2) If the ratio of general government debt to gross domestic product at market prices is significantly below 60 per cent, and risks in terms of long-term sustainability of public finances are low, the lower limit of the medium-term budgetary objective shall be an annual structural balance of the general government of minus 1 per cent of gross domestic product at market prices.

**Explanatory Note - Head 5: Medium-term budgetary objective**

Head 5 defines the limits for the medium-term budgetary objective.



**Head 6: Correction mechanism.**

6.\_\_\_\_ If there is, or would be but for *Head 3(2)(b)* or *(4)(b)*, a failure to comply with the budgetary rule constituting a significant deviation for the purposes of Article 6(3) of the 1997 surveillance and coordination Regulation, the Government shall undertake the corrective measures required by regulations under *Head 9(1)* in accordance with the regulations.

**Explanatory Note - Head 6: Correction mechanism**

Head 6 provides for a correction mechanism that will be triggered if there is a significant deviation of the general government's budgetary position from the medium-term budgetary objective or, if relevant, from the adjustment path towards the objective. The Government is required to take corrective actions in accordance with regulations to be made under Head 9 of the Bill.

## PART 3

### IRISH FISCAL ADVISORY COUNCIL

#### **Head 7: Irish Fiscal Advisory Council.**

7.\_\_\_\_(1) There shall be a body to be known as An Chomhairle Fhioscach Chomairleach na hÉireann or, in the English language, the Irish Fiscal Advisory Council (in this Act referred to as the “Fiscal Council”) to perform the functions conferred or imposed on it.

(2) The Fiscal Council -

- (a) is a body corporate with perpetual succession and a seal, and
- (b) may sue, and be sued, in its corporate name.

(3) The *Schedule* shall apply in relation to the Fiscal Council.

#### **Explanatory Note - Head 7: Irish Fiscal Advisory Council**

Head 7 establishes the Fiscal Council.

## **Head 8: Functions of Fiscal Council.**

- 8.\_\_\_\_(1) The Fiscal Council shall be independent in the performance of its functions.
- (2) The Fiscal Council shall monitor compliance by the Government with *Head 2(1)(a)*.
- (3) The Fiscal Council shall -
- (a) provide an assessment of the official forecasts, and
  - (b) in relation to each Budget and stability programme, provide an assessment of whether the fiscal stance for the year or years concerned is, in the opinion of the Fiscal Council, conducive to prudent economic and budgetary management, including by reference to the provisions of the Stability and Growth Pact.
- (4) The Fiscal Council shall, as soon as practicable after completing an assessment under *subhead (3)*, give a copy of the assessment to the Minister and publish the assessment within the period of 10 days beginning on the day on which the copy is so given.
- (5) The Fiscal Council has all such powers as are necessary for, or incidental to, the performance of its functions.
- (6) Any regulations made under *Head 9(3)(c)* in relation to the role or independence of the Fiscal Council shall have effect in relation to the Fiscal Council.

### **Explanatory Note - Head 8: Functions of Fiscal Council**

Head 8 provides that the Fiscal Council shall be independent in the performance of its functions and lists the functions of the Fiscal Council.

## PART 4

### MISCELLANEOUS AND SUPPLEMENTARY

#### **Head 9: Regulations.**

9.\_\_(1) The Minister shall make regulations providing for the corrective measures to be undertaken under *Head 6*.

(2) Regulations under *subhead (1)* shall -

- (a) be made on the basis of the common principles referred to in Article 3(2) of the 2012 Treaty, and
- (b) specify the nature, size and timeframe of the corrective measures to be undertaken.

(3) The Minister may make regulations to do anything that appears necessary or expedient -

- (a) for bringing this Act into operation,
- (b) for enabling this Act to have full effect in accordance with its purposes, or
- (c) on the basis of the common principles referred to in Article 3(2) of the 2012 Treaty.

(4) Regulations under this Head may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.



(5) The Minister shall not make regulations under *subhead (1)* or *(3)(c)* unless a draft of the regulations has been laid before, and approved by a resolution of, Dáil Éireann.

(6) Regulations under *subhead (3)(a)* or *(b)* shall be laid before Dáil Éireann as soon as may be after being made and, if a resolution annulling the regulations is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulations are laid before it, the regulations shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

**Explanatory Note - Head 9: Regulations**

Head 9 provides for regulation making powers of the Minister for Finance under the Bill.

Regulations to be made on the basis of common principles to be proposed by the European Commission concerning the correction mechanism, exceptional circumstances and the role and independence of the Fiscal Council may only be made by the Minister for Finance if a draft of the regulations has been approved by a resolution of Dáil Éireann.

The Minister may also make regulations to do anything that appears necessary or expedient for bringing the Act into operation or have full effect in accordance with its purpose. Such regulations, which would be expected to be of a procedural nature, must also be laid before the Dáil where a resolution annulling the regulations may be passed within 21 sitting days.



**Head 10: Expenses.**

**10.**\_\_\_ The expenses incurred by the Minister in the administration of this Act shall be paid out of moneys provided by the Oireachtas.

**Explanatory Note - Head 10: Expenses**

Head 10 provides that the expenses of the Minister incurred in the administration of this Act shall be paid out of moneys provided by the Oireachtas.

FOR INFORMATION

**Head 11: Short title and commencement.**

**11.\_\_\_\_** (1) This Act may be cited as the Fiscal Responsibility Act 2012.

(2) This Act comes into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

**Explanatory Note - Head 11: Short title and commencement**

Head 11 states the short title of the Bill and provides for the commencement of the Act.

SCHEDULE  
IRISH FISCAL ADVISORY COUNCIL

*Membership*

1. (1) The Fiscal Council shall consist of 5 members.
- (2) Subject to *paragraph 3*, the members of the Fiscal Council shall be appointed by the Minister.
- (3) In appointing members of the Fiscal Council, the Minister shall -
  - (a) have regard to the desirability of their having domestic and international experience in macroeconomic and fiscal matters, and
  - (b) to the extent practicable, ensure an appropriate balance between men and women in the membership of the Fiscal Council.
- (4) Where there is a vacancy (however occasioned) in the membership of the Fiscal Council the Minister shall, if it is reasonably practicable to do so, appoint a replacement before the end of the period of 6 months beginning on the day on which the vacancy arose.
- (5) The chairperson of the Fiscal Council shall be such one of its members as is for the time being designated as such by the Minister.

### *Term of office*

2. (1) Except where *paragraph 3 or 4(5)* makes provision for the term of office of a member of the Fiscal Council to be the period specified there, the term of office of a member of the Fiscal Council is 4 years.

(2) A person may not be a member of the Fiscal Council for more than 2 consecutive terms of office but is otherwise eligible for reappointment.

### *Appointment of initial members*

3. Each person who, immediately before the day appointed for the coming into operation of *Head 7(1)*, is a member of the non-statutory Fiscal Council shall (unless he or she declines to do so) on that day become a member of the Fiscal Council and, as determined by the Minister following consultation with each such person, his or her term of office shall be 2, 3 or 4 years from the coming into operation of *Head 7(1)*.

### *Resignation and termination of office*

4. (1) A member of the Fiscal Council may at any time resign from office by letter addressed to the Minister and the resignation shall take effect on the date specified in the letter or the date the letter is received by the Minister, whichever is the later.

(2) Subject to *subparagraph (3)*, the Minister may remove a member of the Fiscal Council from office if, in the opinion of the Minister -

- (a) the member has become incapable through ill-health of effectively performing the functions of the office,
- (b) the member has committed stated misbehaviour,
- (c) the member has a conflict of interest of such significance that, in the opinion of the Minister, the member should cease to hold the office, or
- (d) the removal of the member appears to be necessary for the effective performance by the Fiscal Council of its functions.

(3) A member of the Fiscal Council may not be removed from office under *subparagraph (2)* unless a resolution providing for the removal and stating the grounds for it is passed by Dáil Éireann.

(4) A person shall be disqualified from holding and shall cease to hold office as a member of the Fiscal Council if he or she -

- (a) is adjudicated bankrupt,
- (b) makes a composition or arrangement with creditors,
- (c) is convicted on indictment of an offence, or is convicted outside the State of an offence consisting of acts or omissions which would constitute an offence triable on indictment if done or made in the State,
- (d) is convicted of an offence involving fraud or dishonesty, or



- (e) has a declaration under section 150 of the Companies Act 1990 made against him or her or is subject or is deemed to be subject to a disqualification order by virtue of Part VII of that Act.

(5) Where the Minister appoints a new member of the Fiscal Council because a member of the Fiscal Council has died, resigned, been removed from office or become disqualified from holding office, the term of office of the new member is the remainder of the term of office of the former member.

(6) Subject to such rules as the Fiscal Council may make regarding quorum, the Fiscal Council may act despite one or more vacancies in its membership.

*Remuneration and other terms and conditions of office*

5. Each member of the Fiscal Council shall-

- (a) hold office on such terms (other than the payment of remuneration and allowances for expenses) as the Minister may determine, and
- (b) be paid by the Fiscal Council, out of the resources at its disposal, such remuneration (if any) and allowances for expenses (if any) as the Minister may determine.

### *Staff*

6. (1) The Fiscal Council may appoint such and so many persons to be members of the staff of the Fiscal Council, and on such terms, as may be determined by the Fiscal Council with the prior consent of the Minister given following consultation with the Minister for Public Expenditure and Reform.

(2) A member of the staff of the Fiscal Council shall be paid out of the moneys at the disposal of the Fiscal Council.

### *Membership of Oireachtas, European Parliament or local authority*

7. (1) *Subparagraph (2)* applies where a person who is a member of the Fiscal Council or a member of the staff of the Fiscal Council at any time (in this paragraph referred to as “the material time”) -

- (a) is nominated as a candidate for election to either House of the Oireachtas or the European Parliament,
- (b) is nominated as a member of Seanad Éireann,
- (c) is elected as a member of either House of the Oireachtas or the European Parliament,
- (d) is regarded pursuant to section 19 of the European Parliament Elections Act 1997 as having been elected to that Parliament to fill a vacancy, or

(e) becomes a member of a local authority.

(2) The person referred to in *subparagraph (1)* shall -

(a) if a member of the Fiscal Council, cease to be a member of the Fiscal Council, and

(b) if a member of the staff of the Fiscal Council, stand seconded from employment by the Fiscal Council, and not be paid by, or be entitled to receive from, the Fiscal Council any remuneration or allowances for expenses in respect of the period commencing at the material time and ending when the person ceases to be a member of either House of the Oireachtas, the European Parliament or the local authority.

(3) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit in that House or who is a member of the European Parliament or of a local authority shall, while so entitled or such a member, be disqualified from becoming a member of the Fiscal Council or a member of the staff of the Fiscal Council.

(4) Without prejudice to the generality of *clause (b)* of *subparagraph (2)*, that clause shall be read as prohibiting, among other things, the reckoning of a period mentioned in that clause as service with the Fiscal Council for the purposes of any superannuation benefits.

*Prohibition on disclosure of confidential information*

8. (1) A person shall not, without the relevant consent or as required by law, disclose confidential information obtained by that person in any capacity, or while performing functions, as -

- (a) a member of the Fiscal Council, or
- (b) a member of the staff of the Fiscal Council.

(2) A person who contravenes *subparagraph (1)* is guilty of an offence and liable on summary conviction to a class A fine.

(3) Nothing in *subparagraph (1)* shall prevent the disclosure of information to the Fiscal Council or by or on behalf of the Fiscal Council to the Minister.

(4) Nothing in *subparagraph (1)* shall prevent the disclosure of information by a person in the circumstances referred to in section 35(2) of the Ethics in Public Office Act 1995.

(5) In this paragraph -

“confidential information” means information that is expressed by the Fiscal Council or, in the case of information supplied to the Fiscal Council by the Minister, by the Minister to be confidential either as regards particular information or as regards information of a particular class or description;

“relevant consent” means -



- (a) in the case of information expressed to be confidential by the Fiscal Council, the consent in writing of the Fiscal Council, and
- (b) in the case of information expressed to be confidential by the Minister, the consent in writing of the Minister.

### *Funding*

9. (1) Subject to *subparagraph (2)*, the expenditure incurred by the Fiscal Council in the performance of its functions shall be charged on and paid out of the Central Fund or the growing produce thereof.

(2) Subject to *subparagraph (3)*, not more than the sum specified in *subparagraph (4)* shall be so charged and paid out for any year.

(3) If *Head 7(1)* comes into operation otherwise than at the beginning of a year, the amount so charged and paid out for that year shall be reduced pro rata.

(4) The sum referred to in *subparagraph (2)* is -

- (a) for the year in which *Head 7(1)* comes into operation, €800,000, and
- (b) for each subsequent year, the sum which (whether by virtue of *clause (a)* or this clause) applies for the preceding year as adjusted by the annual percentage change in the Harmonised Index of Consumer Prices published by the Central Statistics Office in respect of the preceding year.



*Accounts and audit*

10. (1) The Fiscal Council shall keep, in such form as may be approved by the Minister, all proper and usual accounts of receipts and expenditure by the Fiscal Council and shall keep any special accounts which the Minister may from time to time direct.

(2) Accounts kept under this paragraph and signed by the chairperson of the Fiscal Council (who shall be the accounting officer in relation to the appropriation accounts of the Fiscal Council for the purposes of the Comptroller and Auditor General Acts 1866 to 1998) shall be submitted as soon as is practicable (but not later than 3 months after the end of the accounting period to which they relate) to the Comptroller and Auditor General for audit.

(3) A copy of any accounts of the Fiscal Council audited by the Comptroller and Auditor General shall be given to the Minister as soon as reasonably practicable and the Minister shall lay a copy of them before each House of the Oireachtas.

(4) The Comptroller and Auditor General shall, together with the report on the Appropriation Accounts for each year, make a report to Dáil Éireann with respect to the correctness of the sums brought to account by the Fiscal Council under this paragraph in the year.

(5) (a) The Fiscal Council and any relevant member of the staff shall, whenever required to do so by the Minister, permit any person appointed by the Minister to examine any accounts of the Fiscal Council and facilitate the examination and the Fiscal Council shall pay

to the Minister such fee for the examination as may be fixed by the Minister.

- (b) In this subparagraph "relevant member of the staff" means a member of the staff of the Fiscal Council to whom duties relating to those accounts have been duly assigned.

*Appearance before Oireachtas Committees*

11. (1) The chairperson of the Fiscal Council shall, whenever requested in writing by a Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General, give evidence to that Committee on -

- (a) the regularity and propriety of the transactions recorded or required to be recorded in any account kept under *paragraph 10*,
- (b) the economy and efficiency of the Fiscal Council in the use of its resources,
- (c) the systems, procedures and practices employed by the Fiscal Council for the purpose of evaluating the effectiveness of its operations, and
- (d) any matter affecting the Fiscal Council referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993 or in any other report of the Comptroller and Auditor General (in so far as it

relates to a matter specified in *clause (a), (b) or (c)* that is laid before Dáil Éireann.

(2) The chairperson of the Fiscal Council shall, whenever requested to do so, account for the performance of the functions of the Fiscal Council to a Committee of either House of the Oireachtas.

#### *Freedom of information*

12. Paragraph 1 of the First Schedule to the Freedom of Information Act 1997 is amended, in subparagraph (2), by inserting “the Irish Fiscal Advisory Council”.

#### *Annual report*

13. (1) The Fiscal Council shall as soon as practicable after the end of each year prepare a report of its activities during the year to which the report relates.

(2) The Fiscal Council shall provide a copy of each report prepared under *subparagraph (1)* to the Minister who shall cause a copy to be laid before each House of the Oireachtas as soon as reasonably practicable after the copy is so provided.

#### *Seal of Fiscal Council*

14. (1) The seal of the Fiscal Council shall be authenticated by -



- (a) the signature of the chairperson or another member of the Fiscal Council authorised by the Fiscal Council to act in that behalf, and
- (b) the signature of a member of the staff of the Fiscal Council authorised by the Fiscal Council to act in that behalf.

(2) Judicial notice shall be taken of the seal of the Fiscal Council and, accordingly, every instrument -

- (a) purporting to be an instrument made by the Fiscal Council, and
- (b) purporting to be sealed with the seal of the Fiscal Council authenticated in accordance with *subparagraph (1)*,

shall be received in evidence and be deemed to be such instrument without further proof, until the contrary is proved.

(3) Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal, may be entered into or executed on behalf of the Fiscal Council by any person generally or specially authorised by the Fiscal Council to act in that behalf.

#### *Premises*

15. The Fiscal Council may, for the purposes of providing premises necessary for the performance of its functions, lease, equip and maintain offices and premises subject to the consent of the Minister after consultation with the Minister for Public Expenditure and Reform.

### *Procedure and quorum*

16. Subject to this Act, the Fiscal Council may regulate its own procedures (including quorum).

### **Explanatory Note – Schedule**

The Schedule provides for the setting up of the Fiscal Council. The provisions are:

1. The Fiscal Council will have five members appointed by the Minister. The Minister will designate one of the members to be chairperson. In so far as it is practicable, the Minister should fill vacancies in the membership within 6 months.
2. Members will serve for 4 years. Members may serve two consecutive terms of office and will be eligible for reappointment after a break.
3. The existing members of the non-statutory Fiscal Council will be the first members of the statutory Fiscal Council. However, they will serve for different terms to set up a rotation in the filling of vacancies.
4. This paragraph deals with the resignation, termination and disqualification of members of the Fiscal Council. The Minister may only use his powers to terminate the appointment of a member if a resolution providing for such removal and stating the grounds for it has been passed by Dáil Éireann.
5. The terms of office and the remuneration of members shall be determined by the Minister.
6. The number of staff and their terms and conditions may be determined by the Fiscal Council with the consent of the Minister following consultation with the Minister for Public Expenditure and Reform.
7. Staff shall be seconded from their duties and not be paid by the Council if they are nominated as candidates for election or elected to the Houses of the Oireachtas or the European Parliament or is nominated as a member of Seanad Éireann or becomes a member of a local authority. Members in the same circumstances shall cease to be members.
8. This paragraph prohibits the disclosure of confidential information with the consent of the Council or the Minister if the information was supplied by the Minister.



9. The Fiscal Council shall be funded from the Central Fund. The paragraph sets a ceiling of €800,000 which shall be adjusted in line with the annual percentage change in the Harmonised Index of Consumer Prices.
10. The Fiscal Council will be required to keep proper accounts and it will be audited by the Comptroller and Auditor General.
11. The chairperson of the Fiscal Council shall, when requested to do so in writing, appear before the Committee of Public Accounts and give evidence on the accounts and operations of the Council. The chairperson may also be summoned by a Committee of the Oireachtas to account for the performance of its functions under the Bill.
12. The Fiscal Council will be subject to the Freedom of Information Act 1997.
13. The Fiscal Council is required to produce an annual report of its activities. The Minister shall lay the annual report before each House of the Oireachtas.
14. The Fiscal Council will have a seal.
15. The Fiscal Council may lease, equip and maintain offices subject to the consent of the Minister after consultation with the Minister for Public Expenditure and Reform.
16. The Fiscal Council may regulate its own procedures, subject to the provisions of this Act.

FOR INFORMATION

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