GAELTACHT BILL 2012

EXPLANATORY AND FINANCIAL MEMORANDUM

Purpose of Bill

This Bill has two primary purposes, namely, to provide for a statutory language planning process to support the Irish language and to provide for amendments to the board and functions of Údarás na Gaeltachta.

In regard to the **statutory language planning process**, the Bill provides for the designation of the existing Gaeltacht as a number of discrete Gaeltacht Language Planning Areas, using language planning criteria rather than geographical criteria as has been the case to date. This approach is based on the *Comprehensive Linguistic Study of the Use of Irish in the Gaeltacht* which showed that there has been a significant language shift towards English in the Gaeltacht and concluded that, without urgent remedial action, the Irish language may only have a lifespan of 15 to 20 years as a community and household language in the Gaeltacht.

This will involve the designation, by Order, of areas within the existing Gaeltacht as Gaeltacht Language Planning Areas comprising Electoral Divisions and parts thereof in respect of which language plans have been agreed by the communities concerned with the Minister for Arts, Heritage and the Gaeltacht, in accordance with prescribed regulations made by the Minister. The purpose of the language planning process is to strengthen the Irish language as the family and community language of Gaeltacht Language Planning Areas. Údarás na Gaeltachta will have a role in assisting communities with the preparation and implementation of language plans in Gaeltacht Language Planning Areas.

The Bill also provides for the designation of Gaeltacht Service Towns. These are towns in, or adjacent to, Gaeltacht Language Planning Areas which play a significant role in the delivery of public services to those areas. In order to be designated as a Gaeltacht Service Town, it will be necessary for an organisation in such a town to prepare a language plan and to have the plan approved by the Minister, in accordance with prescribed regulations made by the Minister. Údarás na Gaeltachta, or Foras na Gaeilge, as appropriate, will assist organisations with the preparation and implementation of language plans, depending on whether the town is located inside or outside Gaeltacht Language Planning Areas.

A further provision in the Bill relates to the designation of Irish Language Networks as language communities outside Gaeltacht Language Planning Areas. These Irish Language Networks are areas that have achieved a basic critical mass of community and State support for the Irish language and for which language plans have

been prepared by an organisation in the community concerned and agreed by the Minister, in accordance with prescribed regulations made by the Minister. Foras na Gaeilge will have a role in assisting organisations with the preparation and implementation of language plans in Irish Language Networks.

In regard to **Údarás na Gaeltachta**, the Bill makes the following provisions:

(i) to abolish the requirement for direct elections to Údarás na Gaeltachta;

(ii) to reduce the number of board members from 20 to 12, to provide for county councils, within which there are Gaeltacht areas, to nominate five members of the board for appointment by the Minister, and for the remaining 7 members to be appointed by the Minister;

(iii) to provide An tÚdarás with additional functions in respect of language planning and promotion in the Gaeltacht;

(iv) to abolish An tÚdarás' statutory regional committees;

(v) to reduce the size of its statutory evaluation committee;

(vi) to enable the Minister for Arts, Heritage and the Gaeltacht to direct An tÚdarás to invest in particular enterprise sectors; and

(vii) to provide for other related matters.

As a consequence of the foregoing provisions, the Bill provides for the repeal of section 2 of the Ministers and Secretaries (Amendment) Act 1956, of certain elements of the body of legislation relating to the governance and operations of Údarás na Gaeltachta and for amendments to the Electoral Acts (1992 and 1997) and the Litter Pollution Act 1997. It also provides for the revocation of a number of Gaeltacht Areas Orders and Údarás na Gaeltachta Elections Regulations.

Part 1
Preliminary and general
Section 1 — Short title and commencement

Subsection (1) provides for the citing of the Act as the Gaeltacht Act 2012. Subsection (2) provides for the commencement of its various sections.

Section 2 — Definition

This section contains a standard definition provision. It defines "Minister" as meaning the Minister for Arts, Heritage and the Gaeltacht.

Section 3 — Regulations

This section enables the Minister, having regard to available resources and after consultation with other Ministers, as appropriate, to make regulations and orders, where necessary, with regard to the provisions of the Bill and to include in these regulations and orders any incidental, supplementary or consequential provisions that the Minister considers necessary for the purposes of the regulations or orders. Subsection (3) provides for these orders or regulations to be laid before the Houses of the Oireachtas and for their annulment by resolution of either House.

Section 4 — Expenses

This is a standard provision allowing for the incurring of expenses in relation to the administration of the Bill.

Section 5 — Repeals and revocations

This section provides for the repeals and revocations detailed in the Schedule to the Bill.

Part 2

Language Planning

Section 6 — Definitions *(Part 2)*

This is a standard provision containing definitions for the terms "Gaeltacht area", "Gaeltacht Language Planning Area", "Gaeltacht Service Town", "Irish Language Network", "organisation", "prescribed" and "town".

Section 7 — Gaeltacht Language Planning Areas

This section provides that all Electoral Divisions currently within the Gaeltacht, as defined under section 2 of the Ministers and Secretaries (Amendment) Act 1956 and specified under the Gaeltacht Areas Orders of 1956, 1967, 1974 and 1982, shall, on commencement of this section, continue to be Gaeltacht areas and that thereinafter, the Minister may, from time to time, using prescribed language planning criteria, determine, by Order, areas to be designated as Gaeltacht Language Planning Areas.

Subsection (1) provides for existing Gaeltacht areas to continue to be Gaeltacht areas following the repeal of section 2 of the Ministers and Secretaries (Amendment) Act 1956. Subsection (2) provides that the Minister may, from time to time determine, by Order, areas to be designated as Gaeltacht Language Planning Areas. These areas will comprise Electoral Divisions and parts thereof in respect of which language plans have been agreed between the communities concerned and the Minister, in accordance with prescribed regulations, in order to strengthen the Irish language as the family and community language within the relevant areas. Subsection (3) provides that the Minister shall publish a notice of the Minister's intention to designate a Gaeltacht Language Planning Area by Order and specifies the type of information to be included in the notice. The notice shall, *inter alia*, specify the period within which a language plan for the area concerned is to be prepared.

Subsections (4) to (13) provide for a process by which local organisations may apply to Údarás na Gaeltachta to be selected to prepare language plans for Gaeltacht Language Planning Areas, for the provision of assistance by An tÚdarás to the selected organisations with the development of these plans and for the exclusion, by Ministerial Order, of an area from the Gaeltacht at various stages during the process, if no organisation applies to prepare a plan [subsection (5)], if a selected organisation fails to prepare a plan and no alternative organisation is available [subsection (10)] and, where the Minister does not approve of a plan submitted and is of the opinion that there is no reasonable prospect of an acceptable plan being submitted [subsection (13)]. Subsections (4) to (13) also provide for the Minister extending the period for the submission of plans in certain circumstances.

Subsections (14) and (15) allow for the application of the provisions of the section in the event that either a time extension has been granted or an alternative organisation has been selected. Subsection (16) allows the Minister to recommence the language planning process with an amended Gaeltacht Language Planning

Area in the event that he or she wishes to exclude from the Gaeltacht part of a previously designated Gaeltacht Language Planning Area.

Section 8 — Implementation of Irish language plans in Gaeltacht Language Planning Areas

This section provides for the implementation of language plans in Gaeltacht Language Planning Areas [subsection (1)], for the provision by Údarás na Gaeltachta of assistance in this regard [subsection (2)] and for the periodic review by the Minister of the implementation of the plans [subsection (3)]. If a plan is not being implemented to the satisfaction of the Minister, the Minister shall formally request the implementing organisation to remedy identified deficiencies within a specified time period, which can be extended by the Minister [subsections (4) and (5)]. If, following further review by the Minister, the deficiencies have not been remedied, the Minister may, by Order, revoke the designation of the Gaeltacht Language Planning Area and make a public notice to that effect [subsections (6), (7) and (8)].

Section 9 — Gaeltacht Service Towns

This section provides that the Minister may, by Order, designate towns to be Gaeltacht Service Towns. These are towns which are in, or adjacent to, Gaeltacht Language Planning Areas, which play a significant role in the delivery of public services and social, recreational and commercial facilities to those areas [subsection (1)]. Subsection (2) provides that the Minister shall publish a notice of the Minister's intention to designate a Gaeltacht Service Town by Order and specifies the type of information to be included in the notice. The notice shall, *inter alia*, specify the period within which a language plan for the area concerned is to be prepared and submitted to the Minister. Subsection (3) provides that an organisation in a town may apply to either Údarás na Gaeltachta or Foras na Gaeilge, as appropriate, to prepare a language plan for the town concerned. Subsection (4) provides that the Minister may publish another notice where no organisation has applied under subsection (2).

Subsections (5) to (13) provide for a process for the selection of local organisations by Údarás na Gaeltachta or Foras na Gaeilge, depending on whether the town is within or outside a Gaeltacht Language Planning Area, to prepare language plans for Gaeltacht Service Towns [subsections (5) and (6)], for the provision of assistance by An tÚdarás or An Foras to the selected organisations with the development of these plans [subsection (8)] and for the selection of an alternative organisation if an organisation selected either fails to prepare a plan [subsection (10)] or submits a plan which is unacceptable to the Minister [subsection (13)]. Provision is also made for the Minister to extend the period for submission of plans in certain circumstances [subsection (9)].

Subsections (14) and (15) allow for the application of the provisions of the section in the event that either a time extension has been granted or an alternative organisation has been selected.

Section 10 — Implementation of Irish language plans in Gaeltacht Service Towns

This section provides for the implementation of language plans in Gaeltacht Service Towns [subsection (1)], for the provision of assistance in this regard by Údarás na Gaeltachta or Foras na Gaeilge, as appropriate, [subsection (2)] and for the periodic review by the Minister of the implementation of the plans [subsection (3)]. If a plan is not being implemented to the satisfaction of the Minister, the Minister shall formally request the implementing organisation to remedy identified deficiencies within a specified time period which

can be extended by the Minister [subsections (4) and (5)]. If, following further review by the Minister, the deficiencies have not been remedied, the Minister may, by Order, following consultation with Údarás na Gaeltachta or Foras na Gaeilge, as appropriate, revoke the designation of the town concerned and make a public notice to that effect [subsections (6), (7) and (8)].

Section 11 — Irish Language Networks

Subsection (1) of this section provides that the Minister may designate, by Order, communities outside Gaeltacht Language Planning Areas or Gaeltacht areas to be Irish Language Networks. These Irish Language Networks are communities that support the use of the Irish language and for which language plans have been agreed [subsection (2)]. Subsection (3) provides for organisations within the community to apply to Foras na Gaeilge to prepare and implement a language plan for the community concerned, with the assistance of Foras na Gaeilge. Subsection (4) provides for the making of an Order under subsection (1), where the Minister has approved a language plan. The implementation of language plans will be reviewed periodically by the Minister [subsection (5)]. If a plan is not being implemented to the satisfaction of the Minister, the Minister shall formally request the implementing organisation to remedy identified deficiencies within a specified time period which can be extended by the Minister [subsections (6) and (7)]. If, following further review by the Minister, the deficiencies have not been remedied, the Minister may, by Order, following consultation with Foras na Gaeilge, revoke the designation of the community concerned [subsections (8) and (9)].

Section 12 — Language Planning Criteria

This section provides for the Minister to prescribe, by Regulation, the language planning criteria for approving language plans in respect of Gaeltacht Language Planning Areas, Gaeltacht Service Towns and Irish Language Networks.

Section 13 — Preservation of contracts made by Údarás na Gaeltachta

This section allows for the continuation to their conclusion of contracts entered into by Údarás na Gaeltachta with companies based in areas excluded from the Gaeltacht for reason of either not preparing or not implementing language plans to the satisfaction of the Minister.

Part 3

Amendment of Údarás na Gaeltachta Act 1979

Section 14 — Definition *(Part 3)*

This is a standard provision defining, in this part of the Bill, the "Principal Act" as meaning the Údarás na Gaeltachta Act 1979.

Section 15 — Amendment of section 2 of Principal Act

Subsection (*a*) of this section provides for the amendment of section 2 of the Údarás na Gaeltachta Act 1979 by the inclusion in the definition of the term "Gaeltacht" of Gaeltacht Language Planning Areas designated under section 7(2) of the Gaeltacht Act 2012. Subsection (*b*) defines a "county council" and a "Gaeltacht Language Planning Area". Subsection (*c*) provides for the deletion of the term "regional committee" from the Údarás na Gaeltachta Act 1979 as this Bill provides for the abolition of An tÚdarás' statutory regional committees.

Section 16 — Amendment of section 6 of Principal Act

This section provides for the amendment of the existing body of Údarás na Gaeltachta legislation to provide for a new method of

constituting the board of Údarás na Gaeltachta. This section provides for the board to consist of a Chairperson and eleven other members appointed for a five-year term by the Minister. The mechanism for these appointments is detailed in this section. Five of the members will be nominated from among the elected members by county councils in whose jurisdiction a Gaeltacht area or a Gaeltacht Language Planning Area is situated. Four of these members will be nominated from among the elected members of the county councils of counties Donegal, Mayo, Galway and Kerry and will have representation for the full term of office. The remaining nomination will be filled in rotation every two years by an elected member nominated by one of the county councils of counties with smaller Gaeltacht areas (i.e. Cork, Waterford and Meath). In the event that a council cannot nominate one of its elected members for reasons of unavailability or unsuitability, that council may nominate a person other than an elected representative. The remaining seven members, including the Chairperson, will be appointed by the Minister. This section also specifies that all appointees will be required to satisfy the Minister that they have experience of, or have shown capacity in, matters relevant to the functions of An tÚdarás, including the capacity to discharge their duties effectively in Irish.

Section 17 — Amendment of section 8 of Principal Act

The amendments to section 8 of the Údarás na Gaeltachta Act 1979, provided for in subsections (*a*), (*b*), (*c*) and (*e*) of section 17, arise from advice received from the Office of the Attorney General regarding the necessity to clarify the extent of An tÚdarás' functions under subsection 8(1) of the 1979 Act. Section 8 of the 1979 Act sets out the functions of An tÚdarás and subsection 8(1) provides that *"an tÚdarás shall encourage the preservation and extension of the use of the Irish language as the principal medium of communication in the Gaeltacht and shall ensure that Irish is used to the greatest extent possible in the performance by it and on its behalf of its functions".*

The amendments to section 8 clarify that An tÚdarás has a statutory remit in regard to the promotion of the linguistic, cultural, social, physical and economic development of the Gaeltacht. In addition to this, since An tÚdarás has been designated as the implementation agency for the *20-Year Strategy for the Irish Language 2010-2030* within the Gaeltacht, it will clearly have a broad range of functions related to the various objectives outlined in the Strategy. With this in mind, the new function proposed for An tÚdarás in subsection (*b*) [1B] of section 17 provides for An tÚdarás to assist the development and implementation by Gaeltacht communities of language plans. Subsection (d) enables An tÚdarás, with the consent of the Minister for Arts, Heritage and the Gaeltacht and the Minister for Public Expenditure and Reform, to deliver services on behalf of other State bodies in the Gaeltacht.

Section 18 — Amendment of section 10 of Principal Act

Subsection (*a*) of this section provides An tÚdarás with the power to provide financial assistance for the purpose of fulfilling its functions.

Subsection (*b*) allows for the funding, with the consent of the Minister for Arts, Heritage and the Gaeltacht, the Minister for Public Expenditure and Reform and the Minister for Jobs, Enterprise and Innovation, by An tÚdarás of companies which have previously been in receipt of financial assistance from other enterprise agencies. In accordance with a Government decision of 31 May 2011, An tÚdarás is to retain its enterprise functions, subject, *inter alia*, to the development of a mechanism to enable it to operate in co-operation with other enterprise agencies in relation to any significant Gaeltacht

projects of high potential that may arise. An administrative mechanism to give effect to this decision is currently under development. The amendment proposed at subsection (*b*) is designed to ensure that An tÚdarás would not be precluded at some time in the future from providing assistance to companies, that may have been supported by the Industrial Development Authority or by Enterprise Ireland, under this mechanism, subject to adequate resources being made available.

Subsection (*c*) provides for the deletion of subsection 10(6) of the Principal Act as it refers to a function of An tÚdarás' statutory regional committees which are to be abolished by this Bill.

Section 19 — Amendment of section 10B of Principal Act

This section amends the quorum for a meeting of An tÚdarás' statutory Evaluation Committee from three-quarters to two-thirds. The amendment is required for operational reasons due to the reduction in the size of this committee provided for in section 18.

Section 20 — Amendment of section 10C of Principal Act

Subsection (*a*) provides for the reduction in the size of An tÚdarás' statutory Evaluation Committee to reflect the reduction in the size of the board of An tÚdarás. Subsection (*b*), allowing the Evaluation Committee to meet in the event that the Chairperson of An tÚdarás is unavailable, is required for operational reasons. Subsection (*c*) provides for a reduction in the number of An tÚdarás' board members on the Evaluation Committee to reflect the reduction in the size of the committee.

Section 21 — Amendment of section 20A of Principal Act

Subsection (*a*) provides for the Minister to give directions to An tÚdarás with regard to the promotion of the linguistic, cultural, social, physical and economic development of the Gaeltacht and with regard to the use of the Irish language in the performance by it and on its behalf of its functions. This amendment reflects the amendments to section 8 of the Údarás na Gaeltachta Act 1979 provided for in section 17 of this Bill. Subsection (*b*) provides for the Minister giving directions to An tÚdarás to promote the development of particular enterprise sectors in order to maximise value for money from An tÚdarás' expenditure on job creation and enterprise development projects.

Section 22 — Amendment of First Schedule of Principal Act

Subsection (1)(*a*)-(*g*) provides for the appointment of members to the board of An tÚdarás for a term of office not exceeding five years, subject to a maximum of two consecutive terms and for the deletion of references to elected members in accordance with the decision to abolish direct elections to An tÚdarás. Subsection (1)(*h*) is a technical amendment required for operational reasons. Subsection (1)(*l*) is required as a result of the abolition of An tÚdarás' statutory Regional Committees. Subsection (2) provides for the existing board of An tÚdarás to remain in office until 30 September 2012 in order to allow the Minister time to appoint a new board following enactment of this Bill.

Part 4
Miscellaneous
Section 23 — Amendment of Electoral Act 1992

This section provides for the deletion of references to Údarás na Gaeltachta elections from the Electoral Act 1992 in accordance with the decision to abolish direct elections to An tÚdarás.

Section 24 — Amendment of section 19 of the Litter Pollution Act 1997

This section provides for the deletion of references to Údarás na Gaeltachta elections from the Litter Pollution Act 1997 in accordance with the decision to abolish direct elections to An tÚdarás.

Section 25 — Amendment of section 18 of Electoral Act 1997

This section provides for the deletion of a reference to the Údarás na Gaeltachta Act 1979 from the Electoral Act 1997 in accordance with the decision to abolish direct elections to An tÚdarás.

Schedule — Repeals and revocations

Part 1 provides for the repeal of section 2 of the Ministers and Secretaries (Amendment) Act 1956 regarding the determination of Gaeltacht areas. Section 9 of the Údarás na Gaeltachta Act 1979, which provides for the making of Government orders conferring additional functions upon An tÚdarás is also repealed under this Part. No Order has ever been made under this section and legal advice indicates that delegated legislation can only give effect to the principles and policies outlined in primary legislation. Accordingly, section 9 is no longer relevant.

Part 1 also provides for the repeal of subsections (1), (2) and (3) of section 10A of the Údarás na Gaeltachta Act 1979 (amended by section 6 of the Údarás na Gaeltachta (Amendment) (No. 2) Act 1999), the effect of which is to abolish An tÚdarás' statutory Regional Committees. It also provides for the repeal of Part IV of the Údarás na Gaeltachta Act 1979 which deals with the election of members to the board of An tÚdarás as these elections are to be abolished under this Bill.

Part 2 provides for the revocation of various Gaeltacht Areas Orders made as a result of the provisions of section 2 of the Ministers and Secretaries (Amendment) Act 1956. These are no longer required as they will be replaced by a new Gaeltacht definition and Orders provided for in this Bill. Part 2 also provides for the revocation of various Údarás na Gaeltachta Election Regulations which are no longer required due to the abolition of Údarás na Gaeltachta elections under this Bill.

Financial Implications

It is estimated that Part 3 of the Bill will result in savings of approximately €100,000 annually and up to €500,000 every five years. It is not expected that the remaining Parts of the Bill will result in any additional costs to the Exchequer.

Department of Arts, Heritage and the Gaeltacht,
June 2012.