Information Note on the General Scheme of the Fiscal Responsibility Bill 2012

The Government is committed to ensuring that the electorate is as fully informed as possible in relation to the referendum on the ratification of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union ("the Treaty"). Accordingly, the Government is publishing the draft legislation that it will initiate in the Houses of the Oireachtas to implement the provisions of the Treaty in national law if the referendum result permits ratification of the Treaty.

The purpose of the proposed Fiscal Responsibility Bill ("the Bill") is to provide for the implementation in national law of Articles 3 and 4 of the Treaty. The other articles of the Treaty are binding obligations under international law that do not require to be reflected in national law.

Article 3 of the Treaty requires provision in national law for the budgetary rules set out in that Article. Article 4 sets out a debt rule. Details of the budgetary rule and the debt rule are set out in the notes on the relevant Heads of the Bill below.

The Treaty also requires that there is an independent institution at national level responsible for monitoring compliance with the budgetary rules. Accordingly, the Bill also provides for putting the Irish Fiscal Advisory Council on a statutory basis and allocates the monitoring function to it.

Explanatory notes for each Head of the Bill are included in the General Scheme and the information set out below follows the same format for ease of reference.

Head 1: Interpretation

This Head defines certain terms used in the Bill. This is a standard section in all Bills.

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, which are provided for in the following sections of the Bill, are complied with. The section also provides that the official Spring and Autumn macroeconomic and budgetary forecasts prepared by the Department of Finance must include the data required to assess whether the Government is complying with the budgetary rule provided for in Head 3.

Head 3: Budgetary rule

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

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, which are defined as an unusual event outside the control of the State that has a major impact on the financial position of the general government or a period of severe economic downturn.

General government includes central government, local government and various other State agencies and bodies that are controlled by or dependent on the other sectors of general government, including non-commercial semi-state bodies.

The medium-term budgetary objective is a key element of the Stability and Growth Pact. It is a target for the structural balance which takes into account existing debt levels as well as likely future liabilities arising from the ageing of the population. This target is set in structural terms, which means that it takes into account the impact of the economic cycle for public finances. For instance, when unemployment is low, tax revenues tend to run above normal levels and expenditure on unemployment benefit is reduced. When unemployment is high, the opposite occurs. Using the structural balance as a measure of the Government's financial position means that the State's underlying budgetary position is what is considered.

The adjustment path towards the medium-term budgetary objective is to be agreed with the European Commission and the Council under EU Regulation 1466/97, which is defined in Head 1 of the General Scheme as the 1997 surveillance and coordination Regulation.

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. It has been drafted in this form to ensure full consistency between this proposed legislation and the EU legislative requirement, which is that the difference between the existing debt to GDP ratio and the 60% threshold must be reduced by one twentieth each year. Compliance with this requirement will be assessed by reference to three years data. Furthermore, the EU regulation also provides for a transition period for Member States which were subject to an excessive deficit procedure on 8 November 2011, which includes Ireland. Under the transition period, such Member States still have to reduce their debt ratio at a reasonable pace but full application of the one twentieth reduction only takes place three years after the correction of the existing excessive deficit. In Ireland's case, the existing excessive deficit should be corrected in 2015 when our general government deficit is targeted to be just under 3% of GDP. This means that the requirement for the full one twentieth reduction should apply to Ireland from 2019.

Head 5: Medium-term budgetary objective

The medium-term budgetary objective is calculated in accordance with the requirements of EU regulation 1466/97 which is defined in the Bill as the 1997 surveillance and coordination Regulation. Articles 3.1.a and 3.1.d of the Treaty set limits on what the objective can be irrespective of the results of the calculation referred to above. This Head sets out the limits stipulated in the Treaty. These are that the lower limit of the medium-term budgetary objective shall be minus 0.5% of GDP unless the general government debt to GDP ratio is significantly below 60%, in which case the lower limit is minus 1% of GDP.

Head 6: Correction mechanism

Under the Treaty, Member States are required to provide for a correction mechanism in national law 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 that objective. However, the Treaty requires that the provisions of the correction mechanism have to take into account common principles that are to be proposed by the European Commission. The Head provides that, in the event of a significant deviation, the Government is required to take corrective actions in accordance with regulations to be made under section 9 of the Bill.

Under the Stability and Growth Pact, a significant deviation is defined as 0.5% of GDP in any one year or 0.25% in two consecutive years in structural terms.

Head 7: Irish Fiscal Advisory Council

The Treaty requires that there is an independent institution at national level with responsibility for monitoring compliance with the fiscal rules set out in Article 3 of the Treaty. As the Government has decided that the Irish Fiscal Advisory Council (Fiscal Council), which it established on an administrative basis in July 2011, will perform this function, this Head establishes the Fiscal Council on a statutory basis. The Schedule contains standard detailed provisions for establishing the Council on a statutory basis.

Head 8: Functions of Fiscal Council

This Head provides that the Fiscal Council shall be independent in the performance of its functions. The primary function of the Fiscal Council is that it shall monitor compliance by the Government with the duty imposed on it by section 2(1)(a) of the Bill, i.e. compliance with the budgetary rule provided for in Head 3.

When the Government established the Fiscal Council on a non-statutory basis in July 2011, it gave it a number of other functions and this Head provides for these as well. These are to provide an assessment of:

- the official Spring and Autumn macroeconomic and budgetary forecasts prepared by the Department of Finance; and
- the appropriateness of the fiscal stance in each Budget and stability programme. This assessment must have regard to whether the fiscal stance is conducive to prudent economic and budgetary management taking account of the provisions of the Stability and Growth Pact.

The Head also provides that

- the assessments of the Fiscal Council must be published; and
- the Fiscal Council has all the powers it needs to perform its functions.

The Head also provides that regulations made under section 9(3) in relation to the role and independence of the Fiscal Council will apply to the Fiscal Council. This stems from Article 3.2 of the Treaty which requires the European Commission to propose common principles concerning the role and independence of institutions at national level responsible for monitoring compliance with the rules set out in Article 3.1 of the Treaty. As with the common principles on the correction mechanism, it is expected that they will be available later this year.

Head 9: Regulations

This Head allows the Minister for Finance to make regulations under the Bill. These include regulations to be made on the basis of common principles to be proposed by the European Commission concerning the correction mechanism (Head 6) and the role and independence of the Fiscal Council (Head 8). Such regulations making technical changes that do not make substantive changes to the Bill 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 Dail, which can pass a resolution annulling the regulations within 21 sitting days.

Head 10: Expenses

This Head provides that the expenses of the Minister incurred in the administration of this Act shall be paid out of moneys provided by the Oireachtas. It is a standard provision in legislation.

Head 11: Short title and commencement

Head 11 states the short title of the Bill. It also contains the standard provisions for the commencement of the Act. This is also a standard provision in Acts of the Oireachtas.

Schedule

The Schedule contains standard provisions for establishing a body on a statutory basis. These 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 so that vacancies will arise on a staggered basis.
4. This paragraph deals with the resignation, termination and disqualification of members of the Fiscal Council. The grounds for termination and disqualification are in line with similar provisions in other Acts. So as to ensure of the independence 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 will be determined by the Minister.
6. The number of staff and their terms and conditions will 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 Eireann or becomes a member or 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 will be funded from the Central Fund. The paragraph sets a ceiling of €800,000 which will be adjusted in line with the annual percentage change in the Harmonised Index of Consumer Prices. This provision, which ensures that the funding of the Fiscal Council is secure from year to year, is designed to help ensure the independence of the Fiscal Council.
10. The Fiscal Council will be required to keeps proper accounts and it will be audited by the Comptroller and Auditor General.
11. The chairperson of the Fiscal Council will, 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.

Department of Finance
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