

F 255/3/95

28 February, 1996

**Circular 7/96: Statutory Provision for New Services**

**A Dhuine Uasail,**

1. I am directed by the Minister for Finance to refer to paragraph 3.3 of **Public Financial Procedures**, which outlines the procedures to be followed when a **new service** is being introduced, and to draw to your attention that, as a prerequisite to ensuring that the service is within the ambit of the Vote concerned, it is necessary that the functions required to execute the service form part of the statutory functions assigned to the Department or Office in question.

2. In some cases that arose recently when the question of the statutory provision for expenditure on new services to be carried out by a Department was under consideration, it was found that a change in the ambit of the Vote was not by itself sufficient to provide the required legal cover, as **new statutory functions** were involved in the new service. This is because expenditure which a Department may undertake is legally constrained by the functions which have been allocated to it by the Ministers and Secretaries Acts (including any Allocation or Transfer of Functions Orders made under the Acts). Thus, the ambit of a Vote must be consistent with the statutory functions allocated to a Department – the Appropriation Act by itself cannot be used to extend the statutory functions of a Department.

3. In cases where new functions are involved in the new service, it is necessary to have an **Allocation of Functions Order** made under Section 6(1) of the Ministers and Secretaries (Amendment) Act, 1939. Such Orders, which allocate the relevant functions to the Department or Office in question, are signed by the Taoiseach following Government approval. An exception would be where expenditure on a new service or function is being undertaken pursuant to a statutory provision which identifies the Minister/Department involved - such legislation would provide the necessary legal cover in these cases. Also, the Department of the Taoiseach, under the provisions of Section 1 (i) of the Ministers and Secretaries Act, 1924, may undertake functions which have not been assigned to any other Department or Office, without the need for an Allocation of Functions Order.

4. **Public Financial Procedures** will be revised to take the foregoing into account.

Mise le Meas

Colm Gallagher  
Assistant Secretary