



Number 41 of 2018

Houses of the Oireachtas Commission (Amendment) Act 2018



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ACTS REFERRED TO

Electoral Act 1992 (No. 23)

Ethics in Public Office Act 1995 (No. 22)

Houses of the Oireachtas Commission (Amendment) Act 2009 (No. 44)

Houses of the Oireachtas Commission (Amendment) Act 2013 (No. 3)

Houses of the Oireachtas Commission (Amendment) Act 2015 (No. 53)

Houses of the Oireachtas Commission Act 2003 (No. 28)

Houses of the Oireachtas Commission Acts 2003 to 2015

Legal Services Regulation Act 2015 (No. 65)

Oireachtas (Allowances to Members) Act 1962 (No. 32)

Oireachtas (Miscellaneous Provisions) and Ministerial and Parliamentary Offices (Amendment)
Act 1996 (No. 39)

Staff of the Houses of the Oireachtas Act 1959 (No. 38)



Number 41 of 2018

HOUSES OF THE OIREACTHAS COMMISSION (AMENDMENT) ACT 2018

An Act to amend and extend the Houses of the Oireachtas Commission Act 2003; and to provide for related matters. [27th December, 2018]

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act “Principal Act” means the Houses of the Oireachtas Commission Act 2003.

Amendment of section 2 of Principal Act

2. Section 2 of the Principal Act is amended in subsection (1)—
 - (a) by substituting the following definition for the definition of “officer of the Houses of the Oireachtas”:

“ ‘officer of the Houses of the Oireachtas’ has the meaning given to it by section 2 of the Staff of the Houses of the Oireachtas Act 1959;”,
 - and
 - (b) in the definition of “Oireachtas Committee”, by deleting “(other than the Committee of Dáil Éireann and the Committee of Seanad Éireann to which section 8 of the Ethics in Public Office Act 1995 relates)”.

Amendment of section 4 of Principal Act

3. Section 4 of the Principal Act is amended—
 - (a) in subsection (2)—
 - (i) in paragraph (c)(i), by substituting the following clause for clause (II):

“(II) subsection (1)(c) (inserted by section 3 of the Oireachtas (Miscellaneous Provisions) and Ministerial and Parliamentary Offices (Amendment) Act 1996) of section 2 of the Oireachtas (Allowances to Members) Act 1962,”
 - (ii) by inserting the following paragraph after paragraph (c):

“(ca) to make fiscal and economic information, analysis and advice available to the Houses of the Oireachtas and Oireachtas Committees,”

and

- (iii) in paragraph (f), by inserting “and without prejudice to subsection (7A)” after “subject to subsections (6) and (7)”,
- (b) in subsection (2F) (inserted by section 3 of the Houses of the Oireachtas Commission (Amendment) Act 2013), by substituting—
 - (i) in the Irish text, “uair amháin gach 10 mbliana ar a laghad” for “uair amháin gach 7 mbliana ar a laghad”, and
 - (ii) in the English text, “not less than once every 10 years” for “not less than once every 7 years”,
- (c) in subsection (3), by substituting the following paragraph for paragraph (b):

“(b) subsection (1)(c) (inserted by section 3 of the Oireachtas (Miscellaneous Provisions) and Ministerial and Parliamentary Offices (Amendment) Act 1996) of section 2 of the Oireachtas (Allowances to Members) Act 1962.”,

and

- (d) by inserting the following subsection after subsection (7):

“(7A) (a) Where circumstances arise in which—

- (i) either House of the Oireachtas is in recess or otherwise stands adjourned,
- (ii) both such Houses are in recess or otherwise stand adjourned, or
- (iii) Dáil Éireann stands dissolved or the first meeting of Seanad Éireann has not yet taken place after a general election for Seanad Éireann,

and authorisation from either or both of those Houses, as the case may be, would, but for this subsection, be required under section 4(2)(f) to—

- (I) initiate legal proceedings as plaintiff or applicant,
- (II) seek leave to intervene in existing legal proceedings,
- (III) seek leave to be joined as a notice party in legal proceedings, or
- (IV) conduct the defence of legal proceedings,

then, if the Commission considers it necessary or expedient in any of the circumstances referred to in subparagraph (i), (ii) or (iii) for any step referred to in subparagraph (I), (II), (III) or (IV) to be taken, the Commission may take that step and, subject to paragraphs (b) and (c), that step shall be deemed to have been duly authorised by the House of the Oireachtas concerned or both such Houses, as the case may be.

- (b) Where the Commission has taken any of the steps referred to in subparagraph (I), (II), (III) or (IV) of paragraph (a), then, the Commission shall, as soon as practicable thereafter, cause a statement to that effect to be laid before the House of the Oireachtas concerned or both such Houses, as the case may be.
- (c) If, within 21 sitting days of the laying of a statement referred to in paragraph (b), the House of the Oireachtas concerned, or either House of the Oireachtas where both are concerned, as the case may be, by motion disapproves of any of the steps taken by the Commission under paragraph (a), then, unless the legal proceedings concerned have already been disposed of or, where the step concerned is that referred to in subparagraph (II) or (III), leave has been refused, the Commission shall, as may be appropriate in the circumstances—
- (i) where the motion relates to a step referred to in paragraph (a)(I), discontinue or withdraw, or seek the leave of the court concerned to discontinue or withdraw, as the case may be, the legal proceedings,
 - (ii) where the motion relates to a step referred to in paragraph (a) (II), discontinue or withdraw from, or seek the leave of the court concerned to discontinue or withdraw from, as the case may be, the intervention in the legal proceedings,
 - (iii) where the motion relates to a step referred to in paragraph (a) (III), discontinue or withdraw from, or seek the leave of the court concerned to discontinue or withdraw from, as the case may be, being joined as a notice party in the legal proceedings, or
 - (iv) where the motion relates to a step referred to in paragraph (a) (IV), discontinue or withdraw from, or seek the leave of the court concerned to discontinue or withdraw from, as the case may be, conducting the defence of the legal proceedings.”.

Amendment of section 5 of Principal Act

4. Section 5 (inserted by section 3 of the Houses of the Oireachtas Commission (Amendment) Act 2015) of the Principal Act is amended by—

- (a) substituting the following subsection for subsection (1):

“(1) Subject to subsection (2), the expenditure incurred by the Commission in the performance of its functions during the period of 3 years from 1 January 2019 shall, with the approval of the Minister for Public Expenditure and Reform, be charged on and paid out of the Central Fund or the growing produce of that Fund by the Minister for Finance.”,

and

(b) substituting the following subsection for subsection (2):

“(2) Not more than the sum of €422,270,000 shall be charged on and paid out of the Central Fund or the growing produce of that Fund in accordance with subsection (1).”.

Parliamentary Budget Office

5. The Principal Act is amended by inserting the following section after section 14A (inserted by the Houses of the Oireachtas Commission (Amendment) Act 2009):

“**14B.** (1) There shall be established within the Service an Office to be known, in the Irish language, as An Oifig Buiséid Pharlaiminteach and, in the English language, as the Parliamentary Budget Office (in this section referred to as the ‘Office’).

(2) The Secretary General may assign a member of the staff of the Commission who has the requisite knowledge, skills and qualifications as the Director of the Office (in this section referred to as the ‘Director’) to perform the functions specified in subsection (4).

(3) There shall be assigned to the Office such and so many members of the staff of the Commission as the Secretary General considers appropriate to assist the Director in the performance of the functions specified in subsection (4).

(4) The Director shall, in addition to such other functions as the Secretary General may assign to him or her under section 16(1)(j), perform the following functions:

(a) manage and control generally the administration and business of the Office;

(b) provide to the Houses of the Oireachtas or an Oireachtas Committee fiscal and economic information, analysis and advice that is independent and impartial, relating to—

(i) the particular macro-economic conditions in the State from time to time,

(ii) developments affecting the public finances,

(iii) the management of the public finances, and

(iv) the financial implications of proposals affecting the public finances;

(c) furnish to either House of the Oireachtas or an Oireachtas Committee, upon the request of such House or Committee, a report relating to such matters referred to in paragraph (b) as may be

specified in the request, and publish the report not later than the next working day following it being so furnished;

- (d) publish, in such form and manner as he or she considers appropriate, briefing papers and other reports from time to time in relation to matters referred to in paragraph (b).
- (5) The Director shall provide to the Secretary General such information (including financial information) relating to the performance of his or her functions as the Secretary General may from time to time request.
- (6) Subject to the consent of the Secretary General, the Director may authorise a member of the staff of the Commission assigned to the Office to perform his or her functions under this section on his or her behalf and, in the absence of the Director or if that post is vacant, the Secretary General may designate a member of the staff of the Commission to perform those functions.
- (7) The Director shall have all such powers as are necessary or expedient for, or incidental to, the performance of his or her functions and, without prejudice to the generality of the foregoing, the Director may request in writing a Minister of the Government or other body to provide to him or her such information as he or she considers necessary for the performance of the functions specified in any paragraph of subsection (4).”.

Office of Parliamentary Legal Advisers

6. The Principal Act is amended by inserting the following section after section 14B (inserted by *section 5*):

- “**14C.** (1) There shall be established within the Service an Office to be known, in the Irish language, as Oifig na gComhairleoirí Dlí Parlaiminteacha and, in the English language, as the Office of Parliamentary Legal Advisers (in this section referred to as the ‘Office’).
- (2) The Secretary General may assign a member of the staff of the Commission who has the requisite knowledge, skills and qualifications as the Chief Parliamentary Legal Adviser (in this section referred to as the ‘Chief Parliamentary Legal Adviser’) to perform the functions specified in subsection (4).
 - (3) There shall be assigned to the Office such and so many members of the staff of the Commission as the Secretary General considers appropriate to assist the Chief Parliamentary Legal Adviser in the performance of the functions specified in subsection (4).
 - (4) The Chief Parliamentary Legal Adviser shall, in addition to such other functions as the Secretary General may assign to him or her under section 16(1)(j), perform the following functions:

- (a) manage and control generally the administration and business of the Office;
- (b) arrange for the provision of legal advice and legal services (each within the meaning of section 2 of the Legal Services Regulation Act 2015) to—
 - (i) the Commission, including in relation to its functions under subsections (2)(f) and (7A) of section 4,
 - (ii) the Chairman of Dáil Éireann in his or her capacity as such,
 - (iii) the Chairman of Seanad Éireann in his or her capacity as such,
 - (iv) for the purposes of section 4(2)(e)—
 - (I) members of Dáil Éireann or Seanad Éireann as regards matters arising from their membership of Dáil Éireann or Seanad Éireann, and
 - (II) Oireachtas Committees,
 - and
 - (v) an officer of the Houses of the Oireachtas in his or her capacity as such and, in the case of the Clerk of Dáil Éireann, including in his or her capacity as Secretary General or as the Registrar of Political Parties under section 25 of the Electoral Act 1992;
- (c) provide legal advice in relation to legislative proposals to, and prepare draft Bills and draft amendments of Bills for, members of Dáil Éireann or Seanad Éireann other than—
 - (i) a Minister of the Government or a Minister of State, or
 - (ii) the Leader of the House in Seanad Éireann, or such other member of Seanad Éireann authorised by the Government under Standing Orders of Seanad Éireann for the purpose of the initiation of a Bill by presentation.
- (5) The Chief Parliamentary Legal Adviser shall provide to the Secretary General such information (including financial information) relating to the performance of his or her functions as the Secretary General may from time to time request.
- (6) Subject to the consent of the Secretary General, the Chief Parliamentary Legal Adviser may authorise a member of the staff of the Commission assigned to the Office to perform his or her functions under this section on his or her behalf and, in the absence of the Chief Parliamentary Legal Adviser or if that post is vacant, the Secretary General may designate a member of the staff of the Commission to perform those functions.

- (7) The Chief Parliamentary Legal Adviser shall have all such powers as are necessary or expedient for, or incidental to, the performance of his or her functions.
- (8) Subject to this Act, the Chief Parliamentary Legal Adviser and the members of the staff of the Commission assigned to the Office shall be independent in the performance of the functions specified in any paragraph of subsection (4).”.

Amendment of Schedule 1 to Principal Act

7. Schedule 1 to the Principal Act is amended—

- (a) in paragraph 1, by inserting the following subparagraph after subparagraph (j):

“(k) Single Public Service Pension Scheme for members of the staff of the Commission.”,

and

- (b) in paragraph 2, by inserting the following subparagraph after subparagraph (j):

“(k) Single Public Service Pension Scheme for members of the Houses of the Oireachtas.”.

Short title, collective citation and commencement

8. (1) This Act may be cited as the Houses of the Oireachtas Commission (Amendment) Act 2018.
- (2) The Houses of the Oireachtas Commission Acts 2003 to 2015 and this Act may be cited together as the Houses of the Oireachtas Commission Acts 2003 to 2018.
- (3) This Act comes into operation on 1 January 2019.