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PUBLIC SERVICE MANAGEMENT ACT, 1997

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SCHEDULE Offices and Branches of the Public Service

[No. 27.] *Public Service Management Act*, [1997.]
1997.

Acts Referred to

Civil Service Commissioners Act, 1956	1956, No. 45
Civil Service Regulation Act, 1956	1956, No. 46
Comptroller and Auditor General (Amendment) Act, 1993	1993, No. 8
Defence Acts, 1954 to 1993	
Ethics in Public Office Act, 1995	1995, No. 22
<i>Freedom of Information Act, 1997</i>	
Ministers and Secretaries (Amendment) (No. 2) Act, 1977	1977, No. 28
Ministers and Secretaries Acts, 1924 to 1995	



Number 27 of 1997

PUBLIC SERVICE MANAGEMENT ACT, 1997

AN ACT TO PROVIDE FOR A NEW MANAGEMENT STRUCTURE TO ENHANCE THE MANAGEMENT, EFFECTIVENESS AND TRANSPARENCY OF OPERATIONS OF DEPARTMENTS OF STATE AND CERTAIN OTHER OFFICES OF THE PUBLIC SERVICE AND INCREASE THE ACCOUNTABILITY OF CIVIL SERVANTS WHILE PRESERVING THE DISCRETION OF THE GOVERNMENT IN RELATION TO THEIR RESPONSIBILITY TO DÁIL ÉIREANN, TO PROVIDE FOR THE ADMINISTRATION OF DEPARTMENTS OF STATE AND THE OFFICES AFORESAID, THE APPOINTMENT OF SPECIAL ADVISERS, THE ASSIGNMENT OF CROSS-DEPARTMENTAL FUNCTIONS AND THE CORPORATE STATUS OF CERTAIN PUBLIC OFFICES AND TO PROVIDE FOR RELATED MATTERS. [19th May, 1997]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act, unless the context otherwise requires— Interpretation.

“civil servant” has the meaning assigned to it by the Civil Service Regulation Act, 1956;

“Department” means the part of a Department of State that is staffed by civil servants who exercise functions directly under a Minister of the Government or a Minister of State and, in the case of the Department of Defence, means that part of the Department together with the principal military branches, but does not include a Scheduled Office;

“enactment” means a statute or an instrument made under a power conferred by a statute;

“functions” includes powers and duties and references to the performance of functions include, with respect to powers and duties, references to the exercise of the powers and the carrying out of the duties;

“Head”, in relation to a Scheduled Office, means the person appointed as the principal officer of the Scheduled Office or, where no such person has been appointed, the person designated by order of the Government to be the Head of the Scheduled Office for the purposes of this Act;

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“Minister of the Government” includes, in relation to a Scheduled Office specified in *column (1)* of *Part I* of the *Schedule* at any reference number, the person who holds the office specified in *column (2)* of that Schedule at that reference number;

“Minister of State” means a person appointed under section 1(1) of the Ministers and Secretaries (Amendment) (No. 2) Act, 1977, to be a Minister of State;

“outputs”, in relation to a Department or a Scheduled Office, means the goods and services (including standards of service) that are a consequence of the activities of the Department or Scheduled Office;

“Scheduled Office” means an office or branch of the public service specified in *column (1)* of *Part I* or in *Part II* of the *Schedule*;

“Secretary General”, in relation to a Department, means the person appointed as the Secretary General of the Department or, where more than one person holds the rank of Secretary General in a Department, means the person holding such rank who is the principal officer of the Department;

“strategy statement” shall be construed in accordance with *section 5*.

(2) In this Act, unless the contrary intention appears—

- (a) a reference to a section or the *Schedule* is a reference to a section of or the *Schedule* to this Act unless it is indicated that reference to some other enactment is intended,
- (b) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended, and
- (c) a reference to an enactment includes a reference to that enactment as amended or adapted, whether before or after the commencement of this section, by or under any subsequent enactment.

Application to
Scheduled Offices
and amendment of
Schedule.

2.—(1) This Act shall apply to a Scheduled Office specified in *column (1)* of *Part I* of the *Schedule* at any reference number if, but only if, the person who holds the office specified in *column 2* of *Part I* of the *Schedule* at that reference number consents thereto in writing, and any such consent shall be binding in respect of any subsequent holder of the office concerned.

(2) The following provisions do not apply in respect of a Scheduled Office specified in *Part I* of the *Schedule*:

- (a) *section 4(1)(e)*,
- (b) *section 11*, and
- (c) *section 12*.

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(3) The Government may, by order, amend the *Schedule* by adding S.2 thereto, deleting therefrom or substituting therein the name of any Scheduled Office, office or branch of the public service.

3.—A Minister of the Government having charge of a Department shall, in accordance with the Ministers and Secretaries Acts, 1924 to 1995, be responsible for the performance of functions that are assigned to the Department pursuant to any of those Acts.

Responsibilities of Minister of the Government having charge of Department.

4.—(1) Except as otherwise directed by the Government or provided by or under any other Act, the Secretary General of a Department or Head of a Scheduled Office, as the case may be, shall, subject to the determination of matters of policy by the Minister of the Government having charge of the Department or Scheduled Office or by the Government, have the authority, responsibility and accountability for carrying out the following duties in respect of the Department or Scheduled Office:

Responsibility and accountability within Departments and Offices.

(a) managing the Department or Scheduled Office, implementing Government policies appropriate to the Department or Scheduled Office, monitoring Government policies that affect the Department or Scheduled Office and delivering outputs as determined with the Minister of the Government having charge of the Department or Scheduled Office;

(b) at the following times, or at an earlier time if the Minister of the Government having charge of the Department or Scheduled Office so requires, preparing and submitting to the Minister of the Government a strategy statement in respect of the Department or Scheduled Office—

(i) within 6 months after the coming into operation of this Act,

(ii) within 6 months after the appointment of a new Minister of the Government having charge of the Department or Scheduled Office, and

(iii) at the expiration of the 3 year period since the last such statement was prepared and submitted,

and providing progress reports to the Minister of the Government on the implementation of the strategy statement annually or at such intervals as the Government may by order from time to time direct;

(c) preparing, with a view to giving effect to section 9, an outline of how specific elements of the responsibilities described in paragraphs (d) to (h) are to be assigned so as to ensure that the functions performed on behalf of the Minister of the Government are performed by an appropriate officer, or an officer of an appropriate grade or rank, of the Department or Scheduled Office;

(d) providing advice to the Minister of the Government having charge of the Department or Scheduled Office with respect to any matter within, affecting or connected with, the responsibilities of the Minister or the Department or Scheduled Office giving rise to material expenditure chargeable to its appropriation account;

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- (e) ensuring that appropriate arrangements are put into place that will facilitate an effective response to matters that pertain to both the Department or Scheduled Office and other branches of the public service;
- (f) ensuring that the resources of the Department or Scheduled Office are used in a manner that is in accordance with the Comptroller and Auditor General (Amendment) Act, 1993, with a view to enabling the matters referred to in paragraphs (a) to (d) of section 19 (1) of that Act to be appropriately addressed by the Department or Scheduled Office;
- (g) examining and developing means that will improve the provision by the Department or Scheduled Office of cost effective public services;
- (h) subject to the Civil Service Regulation Act, 1956, the Civil Service Commissioners Act, 1956, the Defence Acts, 1954 to 1993 (in respect of civilian employees recruited or appointed under the Defence Acts, 1954 to 1993) and any other Act affecting the appointment, performance, discipline or dismissal of civil servants or civilian employees of the Department of Defence, managing all matters pertaining to appointments, performance, discipline and dismissals of staff below the grade of Principal or its equivalent in the Department or Scheduled Office; and
- (i) subject to *section 9(1)(f)*, assigning the responsibility for performance of the functions for which the Secretary General of the Department or Head of the Scheduled Office is responsible to other officers or to a grade or grades of officer of the Department or Scheduled Office including the conditions pertaining to such assignments in order to ensure coherence of policy across the Department or Scheduled Office, and ensuring that, where appropriate, the responsibility for the performance of those functions is further assigned to other officers or to a grade or grades of officer within the Department or Scheduled Office.

(2) Nothing in *subsection (1)* shall be construed as preventing or limiting the Secretary General of a Department or Head of a Scheduled Office from carrying out, on behalf of the Minister of the Government having charge of the Department or Scheduled Office, any other function of the Minister of the Government.

(3) Nothing in this Act shall be construed as limiting the power of the Government to assign, by warrant or decision, to a Secretary General who is not the principal officer of the Department, functions that are to be carried out by that Secretary General in accordance with the conditions set out in the warrant or decision.

(4) The position, in relation to a Department, heretofore known as Secretary of the Department or any other person in the Department known as Secretary shall be known as Secretary General of the Department or Secretary General, as the case may be, and the position heretofore known as Secretary to the Government shall be known as Secretary General to the Government and the position, in relation to the Office of the Attorney General, heretofore known as Senior Legal Assistant of the Office of the Attorney General, shall be known as Director General of the Office of the Attorney General.

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5.—(1) A statement referred to in this Act as a “strategy statement” shall—

- (a) comprise the key objectives, outputs and related strategies (including use of resources) of the Department of State or Scheduled Office concerned,
- (b) be prepared in a form and manner in accordance with any directions issued from time to time by the Government, and
- (c) be submitted to and approved by the relevant Minister of the Government with or without amendment.

(2) The Minister of the Government shall, not later than 60 days after the strategy statement has been approved, cause a copy thereof to be laid before each House of the Oireachtas.

(3) *The Freedom of Information Act, 1997*, shall not apply to a record containing—

- (a) a strategy statement that has not been approved under subsection (1) (c),
- (b) a preliminary or other draft of the whole or part of the material contained in a strategy statement,
- (c) the unamended version of a strategy statement that is approved under subsection (1) (c) with amendment, or
- (d) a direction under section 7 in connection with the obligations of the Secretary General of a Department or Head of a Scheduled Office under section 4 (1) (b) or 5 (1),

during the period of 5 years immediately following the creation of the record.

6.—Subject to section 12, the Secretary General of a Department or the Head of a Scheduled Office shall, in accordance with directions issued from time to time by the Government, be accountable to the Minister of the Government having charge of the Department or Scheduled Office in carrying out the duties or functions referred to in section 4.

Secretary or Head accountable to Minister of the Government.

7.—Subject to any other Act but notwithstanding anything in this Act, the Minister of the Government having charge of a Department or a Scheduled Office may, in writing, give directions to the Secretary General of the Department or Head of the Scheduled Office in connection with the obligations of the Secretary or Head under sections 4 to 6, other than section 4(1)(h).

Directions by Minister of the Government.

8.—Nothing in this Act shall be construed as limiting the power of a Minister of the Government to delegate a function under any other Act.

Delegated functions under other Acts not affected.

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Assignment of responsibility in respect of functions.

9.—(1) The assignment of the responsibility for the performance of functions to officers or to a grade or grades of officer of a Department or a Scheduled Office shall include a requirement, where deemed appropriate to the assignment, that the officer to whom the assignment is made shall—

- (a) provide policy advice in relation to the subject-matter of the assignment and related matters,
- (b) achieve the outputs specified in the assignment,
- (c) assume responsibility for the statutory schemes or programmes specified in the assignment,
- (d) assume responsibility for the delivery of quality services in respect of the area of the assignment,
- (e) ensure that the expenditure made in respect of the area of the assignment accords with the purpose for which the expenditure was chargeable to the appropriation account of the Department or Scheduled Office and that value for money is obtained, and
- (f) perform, on behalf of the Secretary General of the Department or Head of the Scheduled Office, functions in respect of appointments, performance and discipline of personnel in the area of the assignment, other than dismissals, that are the responsibility of the aforesaid Secretary General or Head pursuant to *section 4 (1)(h)*.

(2) An officer of a Department or Scheduled Office to whom the responsibility for the performance of functions has been assigned shall be accountable for the performance of those functions to the Secretary General of the Department or Head of the Scheduled Office, as the case may be, and to such other officers (if any) as may be specified under the assignment.

Appearance before committees of Houses of Oireachtas.

10.—The Secretary General of a Department or Head of a Scheduled Office or any other officer of the Department or Scheduled Office who is designated for the purposes of this section by the aforesaid Secretary General or Head and to whom the relevant responsibility for the performance of functions has been assigned, shall, when requested to do so in writing by a committee of either or both of the Houses of the Oireachtas authorised in that behalf to make the request in connection with the subject-matter before the committee, appear before the committee in relation to any strategy statement that has been laid before each House of the Oireachtas under *section 5 (2)* in respect of the Department or Scheduled Office.

Special Advisers.

11.—(1) The Government may, by order, on the request of a Minister of the Government having charge of a Department, referred to subsequently in this section as “Minister”, appoint Special Advisers to the Minister or to a Minister of State who is assigned to that Department or to a Scheduled Office specified at *reference numbers 1 or 6 of Part II of the Schedule*:

Provided that the number of Special Advisers shall not—

- (a) in the case of a Minister (other than the Taoiseach or the Tánaiste or the leader of a political party registered in the Register of Political Parties), be greater than 2,

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(b) in the case of a Minister of State who regularly attends meetings of the Government, be greater than 2, and

(c) in the case of any other Minister of State, be greater than one.

(2) A Special Adviser to a Minister or to a Minister of State, as the case may be, shall—

(a) assist the Minister or the Minister of State, as the case may be, by—

(i) providing advice,

(ii) monitoring, facilitating and securing the achievement of Government objectives that relate to the Department, as requested by the Minister or the Minister of State, as the case may be, and

(iii) performing such other functions as may be directed by the Minister or the Minister of State, as the case may be, that are not otherwise provided for in this Act and do not involve the exercise of any specific powers conferred on the Minister or the Minister of State, as the case may be, or any other office holder by or under any other Act, and

(b) be accountable to the Minister or the Minister of State, as the case may be, in the performance of those functions.

(3) The terms and conditions of employment of a Special Adviser shall be such as may be determined from time to time by the Minister for Finance.

(4) The term of office of a Special Adviser shall cease—

(a) in the case of a Special Adviser to the Minister, on the date on which the Minister ceases to hold the office by reference to which he or she is an office holder, or

(b) in the case of a Special Adviser to a Minister of State assigned to a Department or to a Scheduled Office, on the expiration of the assignment of the Minister of State to that Department or to that Scheduled Office.

(5) The provisions of the Ethics in Public Office Act, 1995, other than subsections (2) and (6)(a) of section 19, that apply in respect of a special adviser referred to in that section apply in respect of a Special Adviser appointed under this Act.

12.—(1) A Minister of the Government having charge of an office (being a Department or a Scheduled Office) may, jointly with a Minister of the Government having charge of another such office or other such offices after consultation with the Secretary General or Head of each Department or, as the case may be, Scheduled Office concerned, by order assign to one or more civil servants responsibility for the performance of functions in relation to matters that pertain

Assignment of responsibility in respect of cross-departmental matters.

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to the offices aforesaid concerned as may be specified in the order or in any order made by those Ministers of the Government in substitution therefor.

(2) A function of the Minister of the Government under this section may be delegated to a Minister of State under section 2 of the Ministers and Secretaries (Amendment) (No. 2) Act, 1977, only as respects other functions of that Minister of the Government standing delegated to that Minister of State under the said section 2.

(3) An assignment by Ministers of the Government under *subsection (1)* of responsibilities for the performance of functions shall be construed as reserving to those Ministers of the Government the right to perform those functions concurrently with the assignees.

(4) An order under *subsection (1)* shall specify the manner in which the civil servants to which the order relates shall be accountable for the carrying out of the responsibilities concerned and, where the Minister for Finance has agreed (which he or she is hereby authorised to do) that those responsibilities are to include functions pertaining to the utilisation of financial resources related to the carrying out of those responsibilities, the Minister for Finance may specify the manner in which the civil servants concerned shall be accountable for such utilisation.

(5) An order made by Ministers of the Government under *subsection (1)* shall specify the date when the assignment made thereby shall cease and may be amended or revoked by the Ministers of the Government before that date.

Corporate status of certain offices.

13—(1) The Government may by order declare any office specified at *reference numbers 2 to 5 of column (2) of Part I of the Schedule* to be a corporation sole for the purpose of the office specified in *column (2) of the Schedule* at that reference number.

(2) An office declared under *subsection (1)* to be a corporation sole shall have perpetual succession and an official seal (which shall be officially and judicially noticed) and may sue and be sued and may acquire, hold and dispose of land for the purposes of the office.

Short title and commencement.

14—(1) This Act may be cited as the *Public Service Management Act, 1997.*

(2) This Act shall come into operation on such day or days as, by order or orders made by the Minister under this section, may be fixed therefor either generally or with reference to any particular purpose or provision, and different days may be so fixed for different purposes and different provisions.

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SCHEDULE

Section 2.

Offices and Branches of the Public Service

Part I

Reference Number	(1)	(2)
1.	The Office of the Houses of the Oireachtas	The Chairman of Dáil Éireann and, in relation to functions relating directly to the business of Seanad Éireann, the Chairman of Seanad Éireann
2.	The Office of the Attorney General including the services assigned to the Attorney General	The Attorney General
3.	The Office of the Comptroller and Auditor General	The Comptroller and Auditor General
4.	The Office of the Director of Public Prosecutions	The Director of Public Prosecutions
5.	The Office of the Ombudsman	The Ombudsman

Part II

Reference Number	
1.	The Office of the Tánaiste
2.	The Central Statistics Office
3.	The Office of the Civil Service Commissioners
4.	The Office of the Local Appointments Commissioners
5.	The Land Registry and the Registry of Deeds
6.	The Office of the Commissioners of Public Works in Ireland
7.	The Office of the Revenue Commissioners
8.	The Valuation and Ordnance Survey Office
9.	The State Laboratory
10.	The Office of Charitable Donations and Bequests