



Number 29 of 2009

**OIREACTHAS (ALLOWANCES TO MEMBERS) AND
MINISTERIAL AND PARLIAMENTARY OFFICES ACT 2009**

ARRANGEMENT OF SECTIONS

Section

1. Definition.
 2. Amendment of section 3 (amount of allowance to members of the Oireachtas) of Oireachtas (Allowances to Members) Act 1938.
 3. Parliamentary standard allowance.
 4. Pensions to former holders of ministerial and other offices.
 5. Amendment of section 13A (ministerial pensions and secretarial pensions) of Act of 1938.
 6. Amendment of section 13AA (ministerial pensions and secretarial pensions for less than 3 years' qualifying service) of Act of 1938.
 7. Short title and collective citation.
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[No. 29.] *Oireachtas (Allowances to Members) [2009.]
and Ministerial and Parliamentary
Offices Act 2009.*

ACTS REFERRED TO

Markets in Financial Instruments and Miscellaneous Provisions Act 2007	2007, No. 34
Ministerial and Parliamentary Offices Act 1938	1938, No. 38
Ministerial and Parliamentary Offices Acts 1938 to 2001	
Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001	2001, No. 33
Oireachtas (Allowances to Members) Act 1938	1938, No. 34
Oireachtas (Allowances to Members) Act 1962	1962, No. 32
Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1964	1964, No. 14
Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1992	1992, No. 3
Oireachtas (Allowances to Members) and Ministerial, Parliamentary, Judicial and Court Offices (Amendment) Act 1998	1998, No. 5
Oireachtas (Miscellaneous Provisions) and Ministerial and Parliamentary Offices (Amendment) Act 1996	1996, No. 39
Public Service Superannuation (Miscellaneous Provisions) Act 2004	2004, No. 7
Taxes Consolidation Act 1997	1997, No. 39



Number 29 of 2009

**OIREACHTAS (ALLOWANCES TO MEMBERS) AND
MINISTERIAL AND PARLIAMENTARY OFFICES ACT 2009**

AN ACT TO AMEND THE OIREACHTAS (ALLOWANCES TO MEMBERS) ACT 1938 AND THE MINISTERIAL AND PARLIAMENTARY OFFICES ACTS 1938 TO 2001, TO MAKE FURTHER PROVISION FOR SALARIES AND ALLOWANCES PAYABLE TO MEMBERS OF EITHER HOUSE OF THE OIREACHTAS AND FOR THE REMUNERATION, ALLOWANCES AND PENSIONS PAYABLE TO FORMER HOLDERS OF MINISTERIAL AND OTHER OFFICES WHO ARE MEMBERS OF EITHER SUCH HOUSE OR MEMBERS OF THE EUROPEAN PARLIAMENT, AND TO PROVIDE FOR RELATED MATTERS.

[21st July, 2009]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act “Act of 1938” means the Ministerial and Parliamentary Offices Act 1938. Definition.

2.—Section 3 of the Oireachtas (Allowances to Members) Act 1938 is amended by substituting the following for subsections (1) and (2) (inserted by the Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001): Amendment of section 3 (amount of allowance to members of the Oireachtas) of Oireachtas (Allowances to Members) Act 1938.

“(1) Subject to subsection (1A) the salaries payable to members of Dáil Éireann are as follows:

- (a) in the case of a member of Dáil Éireann other than one to whom paragraph (b) or (c) applies — a salary at the rate of €100,191 per year;
- (b) in the case of a member of Dáil Éireann who, on 13 May 2009, has not less than 7 years (but less than 10 years) service as a member of the Oireachtas — a salary at the rate of €103,389 per year;
- (c) in the case of a member of Dáil Éireann who, on 13 May 2009, has not less than 10 years service as a member of the Oireachtas — a salary at the rate of €106,582 per year.

[No. 29.] *Oireachtas (Allowances to Members) [2009.]
and Ministerial and Parliamentary
Offices Act 2009.*

However, if a member of Dáil Éireann holds an office to which Part II of the Ministerial and Parliamentary Offices Act 1938 applies, the annual salary payable to the member under this subsection is €100,191 while the member so holds office, even if on or before 13 May 2009 the member has 7 or more years of service as a member of the Oireachtas.

(1A) On and from the date of the election or deemed election of a person to Dáil Éireann as a member consequent on the first holding of a general election for a new Dáil Éireann after the passing of the *Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices Act 2009* and in respect of every person duly elected or deemed elected thereafter as a member of Dáil Éireann, the salary payable to each such member shall be at the rate of €100,191 per year.

(2) Subject to subsection (2A) the salaries payable to members of Seanad Éireann are as follows:

- (a) in the case of a member of Seanad Éireann other than one to whom paragraph (b) or (c) applies — a salary at the rate of €70,134 per year;
- (b) in the case of a member of Seanad Éireann who, on 13 May 2009, has not less than 7 years (but less than 10 years) service as a member of the Oireachtas — a salary at the rate of €72,371 per year;
- (c) in the case of a member of Seanad Éireann who, on 13 May 2009, has not less than 10 years service as a member of the Oireachtas — a salary at the rate of €74,608 per year.

However, if a member of Seanad Éireann holds an office to which Part II of the Ministerial and Parliamentary Offices Act 1938 applies, the salary payable to the member under this subsection is €70,134 even if on or before 13 May 2009 the member has 7 or more years of service as a member of the Oireachtas.

(2A) On and from the date of the election or nomination of a person to Seanad Éireann as a member consequent on the first holding of a general election for a new Seanad Éireann after the passing of the *Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices Act 2009* and in respect of every person duly elected or nominated thereafter as a member of Seanad Éireann, the salary payable to each such member shall be at the rate of €70,134 per year.”.

Parliamentary
standard allowance.

3.—(1) Where a member of the Oireachtas is entitled to—

- (a) payments for travelling facilities prescribed under section 5 (as amended by section 18 of the Act of 1998) of the Act of 1964 and granted under section 2 of the Oireachtas (Allowances to Members) Act 1938,
- (b) the overnight allowance under section 1 (inserted by section 2 of the Act of 1996 and as amended by section 15 of the Act of 1998) of the Act of 1962,

- (c) a telephone allowance under section 2(2) (inserted by section 3 of the Act of 1996) of the Act of 1962, or
- (d) an allowance for expenses under section 3 (as amended by section 19 of the Act of 1998 and section 37 of the Act of 2001) of the Act of 1992,

the Minister may decide that any payment due to the member in respect of all or any of them may be paid together as a single composite monthly payment (“parliamentary standard allowance”) to the member, of the amount determined in regulations under this section, in lieu of each allowance or payment due to the member being paid separately to him or her.

(2) Where the parliamentary standard allowance applies under this section to a member of the Oireachtas—

- (a) the rate payable for travelling expenses determined in regulations under section 5(1A) (inserted by section 18 of the Act of 1998) of the Act of 1964,
- (b) an overnight allowance of the amount sanctioned by the Minister for Finance under section 1(2) (inserted by section 15 of the Act of 1998) of the Act of 1962,
- (c) a telephone allowance of the amount prescribed in regulations under section 2(2)(a) (inserted by section 3 of the Act of 1996) of the Act of 1962, and
- (d) the rate payable of an allowance for expenses determined in regulations under section 3(4) of the Act of 1992,

do not apply to the member.

(3) The Minister may, in applying the parliamentary standard allowance to a member of the Oireachtas—

- (a) by regulations revoke any regulations made under the provisions referred to in *subsection (2)*, and
- (b) determine in regulations made under *subsection (4)* the rates and amounts payable under those provisions in determining the amount of the parliamentary standard allowance payable to a member of the Oireachtas in regulations under that subsection.

(4) The Minister may, by regulations, in respect of the parliamentary standard allowance, determine—

- (a) the date from which the allowance is payable,
- (b) the amount of the allowance payable—
 - (i) to a member or members of Dáil Éireann, and
 - (ii) to a member or members of Seanad Éireann,and
- (c) the manner in which, and the exceptions, restrictions and conditions (including attendance recording and

[No. 29.] *Oireachtas (Allowances to Members) [2009.]
and Ministerial and Parliamentary
Offices Act 2009.*

deductions for non-attendance) subject to which, the allowance is to be provided and paid.

(5) Regulations under this section may, if so expressed, have retrospective effect.

(6) Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either House within the next 21 days on which the House has sat after the regulation has been laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(7) Section 836 of the Taxes Consolidation Act 1997 is amended—

(a) by inserting after subsection (1A) (inserted by section 21 of the Act of 1998) the following:

“(1B) Parliamentary standard allowance payable under section 3 of the *Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices Act 2009* is exempt from income tax and shall not be reckoned in computing income for the purposes of the Income Tax Acts.”,

and

(b) in subsection (2), by inserting “or under section 3 of the *Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices Act 2009* or any allowance or payment made in respect of any particular allowance or payment referred to in subsection (1) of that section” after “1992,”.

(8) In this section—

“Act of 1962” means *Oireachtas (Allowances to Members) Act 1962*;

“Act of 1964” means *Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1964*;

“Act of 1992” means *Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1992*;

“Act of 1996” means *Oireachtas (Miscellaneous Provisions) and Ministerial and Parliamentary Offices (Amendment) Act 1996*;

“Act of 1998” means *Oireachtas (Allowances to Members) and Ministerial, Parliamentary, Judicial and Court Offices (Amendment) Act 1998*;

“Act of 2001” means *Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001*;

“Minister” means Minister for Finance.

[2009.] *Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices Act 2009.* [No. 29.]

4.—(1) The Act of 1938 is amended—

Pensions to former holders of ministerial and other offices.

- (a) in subsection (2) of section 14 by deleting “such person shall on the date of such cesser become entitled to a pension (in this Act also referred to as a ministerial pension).” and substituting the following:

“such person shall on the date of such cesser become entitled to a pension (in this Act also referred to as a ministerial pension), but for as long as such person is a member of either House of the Oireachtas or a member of the European Parliament any such entitlement shall, with effect from the passing of the *Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices Act 2009*, be reduced by 25 per cent of the amount which would, but for that Act, be payable.”,

and

- (b) in subsection (2) of section 16 by deleting “such person shall on the date of such cesser become entitled to a pension (in this Act also referred to as a secretarial pension).” and substituting the following:

“such person shall on the date of such cesser become entitled to a pension (in this Act also referred to as a secretarial pension), but for as long as such person is a member of either House of the Oireachtas or a member of the European Parliament any such entitlement shall, with effect from the passing of the *Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices Act 2009*, be reduced by 25 per cent of the amount which would, but for that Act, be payable.”.

(2) The Act of 1938 is further amended—

- (a) in section 14 by deleting so much of subsection (2) as amended by *subsection (1)* of this section and substituting the following:

“such person shall on the date of such cesser become entitled to a pension (in this Act also referred to as a ministerial pension), but only for so long as such person is not a member of either House of the Oireachtas or a member of the European Parliament.”,

and

- (b) in section 16 by deleting so much of subsection (2) as amended by *subsection (1)* of this section and substituting the following:

“such person shall on the date of such cesser become entitled to a pension (in this Act also referred to as a secretarial pension) but only for so long as such person is not a member of either House of the Oireachtas or a member of the European Parliament.”.

[No. 29.] *Oireachtas (Allowances to Members) [2009.]
and Ministerial and Parliamentary
Offices Act 2009.*

(3) *Subsection (2)* comes into operation—

- (a) in the case of membership of Dáil Éireann, on and from the election or deemed election to Dáil Éireann of the person concerned consequent on the holding of a general election for a new Dáil Éireann which first occurs after the passing of this Act,
- (b) in the case of membership of Seanad Éireann, on and from the election or nomination to Seanad Éireann of the person concerned consequent on the holding of a general election for a new Seanad Éireann which first occurs after the passing of this Act, and
- (c) in the case of a member of the European Parliament, on and from the first day of the European Parliament parliamentary term consequent on the first holding of elections for the European Parliament after the passing of this Act.

Amendment of
section 13A
(ministerial
pensions and
secretarial
pensions) of Act of
1938.

5.—(1) With effect from the passing of this Act, section 13A (inserted by section 7 of the *Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1992*) of the Act of 1938 is amended—

- (a) in subsection (7)—
 - (i) by substituting “subject to subsection (11)” for “subject to subsection (9)” (inserted by section 16(a) of the *Markets in Financial Instruments and Miscellaneous Provisions Act 2007*) in paragraph (a)(i), and
 - (ii) by substituting “62.5 per cent” for “50 per cent.”, in paragraph (f),
- (b) by substituting the following for subsection (8):

“(8) The amount of pension payable to a person who has held the office of Taoiseach shall be reduced by 25 per cent for as long as such a person is a member of either House of the *Oireachtas* or a member of the European Parliament.”,

and
- (c) by deleting subsection (9) as inserted by section 16(b) of the *Markets in Financial Instruments and Miscellaneous Provisions Act 2007* and by inserting the following after subsection (10) (inserted by section 12 of the *Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001*):

“(11) On application for a pension under this section to the Minister for Finance, by a person whose entitlement to the pension arose on or after the date of commencement of this section, the pension is payable as of and from a date that the Minister for Finance may determine in writing that is—

- (a) not earlier than the date of entitlement, and

(b) not later than the date of the application.”.

(2) Section 13A of the Act of 1938 is further amended—

(a) in subsection (7) by substituting the following paragraph for paragraph (f) as amended by *subsection (1)(a)* of this section:

“(f) No pension under this section (including any subsisting discounted pension as previously provided for under paragraph (d)) shall be paid for as long as such person is a member of either House of the Oireachtas or a member of the European Parliament.”,

and

(b) by deleting subsection (8) as amended by *subsection (1)(b)* of this section.

(3) *Subsection (2)* comes into operation—

(a) in the case of membership of Dáil Éireann, on and from the election or deemed election to Dáil Éireann of the person concerned consequent on the holding of a general election for a new Dáil Éireann which first occurs after the passing of this Act,

(b) in the case of membership of Seanad Éireann, on and from the election or nomination to Seanad Éireann of the person concerned consequent on the holding of a general election for a new Seanad Éireann which first occurs after the passing of this Act, and

(c) in the case of a member of the European Parliament, on and from the first day of the European Parliament parliamentary term consequent on the first holding of elections for the European Parliament after the passing of this Act.

6.—(1) With effect from the passing of this Act, section 13AA (inserted by section 13 of the Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001) of the Act of 1938 is amended in subsection (13)—

Amendment of section 13AA (ministerial pensions and secretarial pensions for less than 3 years' qualifying service) of Act of 1938.

(a) by substituting “62.5 per cent” for “50 per cent”, and

(b) by deleting “This subsection does not apply to a person who has held the office of Taoiseach.” and substituting the following:

“The amount of pension payable to a person who has held the office of Taoiseach shall be reduced by 25 per cent for as long as such a person is a member of either House of the Oireachtas or a member of the European Parliament.”.

(2) Section 13AA of the Act of 1938 is further amended—

(a) by substituting the following subsection for subsection (13) as amended by *subsection (1)* of this section:

[No. 29.] *Oireachtas (Allowances to Members) [2009.]
and Ministerial and Parliamentary
Offices Act 2009.*

“(13) No pension under this section shall be paid for as long as such person is a member of either House of the Oireachtas or a member of the European Parliament.”.

(3) *Subsection (2)* comes into operation—

- (a) in the case of membership of Dáil Éireann, on and from the election or deemed election to Dáil Éireann of the person concerned consequent on the holding of a general election for a new Dáil Éireann which first occurs after the passing of this Act,
- (b) in the case of membership of Seanad Éireann, on and from the election or nomination to Seanad Éireann of the person concerned consequent on the holding of a general election for a new Seanad Éireann which first occurs after the passing of this Act, and
- (c) in the case of a member of the European Parliament, on and from the first day of the European Parliament parliamentary term consequent on the first holding of elections for the European Parliament after the passing of this Act.

Short title and
collective citation.

7.—(1) This Act may be cited as the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices Act 2009.

(2) The Ministerial and Parliamentary Offices Acts 1938 to 2001, section 11 of, and Part 1 of Schedule 2 to, the Public Service Superannuation (Miscellaneous Provisions) Act 2004, section 16 of the Markets in Financial Instruments and Miscellaneous Provisions Act 2007 and this Act (other than *sections 2* and *3*) may be cited together as the Ministerial and Parliamentary Offices Acts 1938 to 2009.