



Number 17 of 2009

**EUROPEAN PARLIAMENT (IRISH CONSTITUENCY
MEMBERS) ACT 2009**

ARRANGEMENT OF SECTIONS

Section

1. Definitions.
2. Salaries of members.
3. Superannuation of members.
4. Disqualification of members for membership of, or employment by, certain bodies.
5. Amendment of Taxes Consolidation Act 1997.
6. Amendment of Act of 2001.
7. Amendment of Houses of the Oireachtas Commission Act 2003.
8. Repeal.
9. Expenses.
10. Short title and commencement.

SCHEDULE

[No. 17.] *European Parliament (Irish Constituency Members) Act 2009.* [2009.]

ACTS REFERRED TO

European Assembly (Irish Representatives) Act 1979	1979, No. 19
European Parliament Elections Act 1997	1997, No. 2
Houses of the Oireachtas Commission Act 2003	2003, No. 28
Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001	2001, No. 33
Oireachtas (Allowances to Members) Act 1938	1938, No. 34
Taxes Consolidation Act 1997	1997, No. 39



Number 17 of 2009

EUROPEAN PARLIAMENT (IRISH CONSTITUENCY MEMBERS) ACT 2009

AN ACT TO MAKE TRANSITIONAL PROVISIONS FOR THE PAYMENT OF SALARIES TO CERTAIN MEMBERS OF THE EUROPEAN PARLIAMENT, TO PROVIDE FOR MATTERS RELATING TO THOSE AND OTHER MEMBERS OF THAT PARLIAMENT, TO AMEND PART 5 OF THE TAXES CONSOLIDATION ACT 1997, TO AMEND SECTION 55 OF THE MINISTERIAL, PARLIAMENTARY AND JUDICIAL OFFICES AND OIREACHTAS MEMBERS (MISCELLANEOUS PROVISIONS) ACT 2001, TO AMEND THE HOUSES OF THE OIREACHTAS COMMISSION ACT 2003 AND TO REPEAL THE EUROPEAN ASSEMBLY (IRISH REPRESENTATIVES) ACT 1979.

[8th July, 2009]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

Definitions.

“Act of 1979” means European Assembly (Irish Representatives) Act 1979;

“Act of 1997” means European Parliament Elections Act 1997;

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

“Article”, in relation to a numbered Article, means the Article so numbered of the Decision;

“Decision” means Decision of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament (No. 2005/684/EC, Euratom¹);

“European election” has the meaning assigned to it by section 7 of the Act of 1997;

“member” means a person who is elected under the Act of 1997, or is regarded under that Act as having been so elected, to be a member of the Parliament;

“Minister” means Minister for Finance;

¹O.J. No. L. 262, 07.10.2005, p.1

“Parliament” means European Parliament;

“parliamentary term” means a parliamentary term of the Parliament;

“2009 European election” means the European election held in 2009.

Salaries of members.

2.—(1) A member who belonged to the Parliament at any time before the entry into force of the Decision and is re-elected to it under the Act of 1997 at the 2009 European election, may opt, in lieu of the salary provided under Article 9, and in accordance with Article 26, to be paid the salary specified in *subsection (2)*.

(2) The salary referred to in *subsection (1)* is a salary at the same rate per year as that of the salary payable to members of Dáil Éireann for the time being under sections 2 and 3 (as amended by sections 23 and 24, respectively, of the Act of 2001) of the Oireachtas (Allowances to Members) Act 1938.

(3) Payment of a salary under *subsection (2)* commences with effect from the commencement of the term of office of the person concerned as a member and ends when he or she ceases to be a member, and is payable monthly out of moneys provided by the Oireachtas.

(4) For the purposes of *subsection (3)*, the term of office of a member is to be regarded as commencing on the first day of the parliamentary term beginning in 2009.

Superannuation of members.

3.—(1) In this section—

“pensions” means pensions, gratuities and other allowances on death or on ceasing otherwise to hold office as a member;

“pensions scheme” means a scheme made under this section.

(2) The Minister may make a contributory scheme (“pension scheme”) for granting pensions to or in respect of members or former members, as the case may be, who—

(a) were elected or appointed to the Parliament under the Act of 1979,

(b) were elected to the Parliament under the Act of 1997, or were regarded under that Act as having been so elected, or

(c) opt to be paid the salary referred to in *section 2(2)*.

(3) A pension scheme shall fix the time and conditions for payment for all members or former members to or in respect of whom superannuation benefits are payable under it, and different times and conditions may be fixed in respect of different classes of members.

(4) A pension scheme may have effect from a date which is earlier than the date of the scheme.

(5) The Minister may, in accordance with a pension scheme, make deductions from a salary paid under *section 2(3)*.

(6) The European Assembly (Irish Representatives) Pensions Scheme (S.I. No. 387 of 1979) made under section 4 of the Act of 1979 continues in force as if made under this section.

(7) Every pension scheme and every scheme amending or revoking such a scheme shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly but without prejudice to the validity of anything previously done under it.

4.—(1) In this section “specified body” means a body specified in the *Schedule*.

Disqualification of members for membership of, or employment by, certain bodies.

(2) A person who is elected to be a member at the 2009 European election and who is either a member of, or a director on the board of, a specified body shall, on the signing by the chief returning officer at the election of the return required by Rule 94 of Schedule 2 to the Act of 1997, cease to be such member or director, as the case may be.

(3) Where a person who is either a member of, or a director on the board of, a body which is a specified body is validly nominated as a candidate for election to, or where a replacement candidate is regarded as having been elected under the Act of 1997 to be a member of, the Parliament, he or she shall on such nomination, or as soon as he or she is regarded as having been so elected, cease to be such a member or director, as the case may be.

(4) A person who is for the time being a member of the Parliament shall be disqualified for being a member of, a director on the board of, any body which is a specified body or an officer or servant of any such body.

(5) Where a person who is either an officer or servant of any body which is a specified body is validly nominated for election as a candidate for election to, or where a replacement candidate is regarded as having been elected under the Act of 1997, to be a member of, the Parliament, he or she shall stand seconded from employment by the body and shall not be paid by or be entitled to receive from the body any remuneration or allowances in respect of the period commencing on—

- (a) in case the candidate is so nominated at the 2009 European election, the signing by the chief returning officer at the election of the return referred to in *subsection (2)*,
- (b) in case the candidate is so nominated at any other European election, on such nomination,
- (c) in case the replacement candidate is so regarded as having been elected at the 2009 European election or at any other European election, on his or her having been so regarded,

and ending when he or she withdraws his or her candidature, fails to be elected or ceases to be a member of the Parliament.

[No. 17.] *European Parliament (Irish Constituency Members) Act 2009.* [2009.]

Amendment of Taxes Consolidation Act 1997.

5.—Chapter 5 of Part 5 of the Taxes Consolidation Act 1997 is amended by inserting after section 127 the following:

“Tax treatment of members of the European Parliament.

127A.—(1) Notwithstanding any other provision of the Tax Acts, income arising to any individual as a member of the European Parliament and payable out of moneys provided—

(a) by the Oireachtas, shall be chargeable to tax under Schedule E, or

(b) by the budget of the European Union, shall be chargeable to tax under Case III of Schedule D.

(2) Any income tax liability arising in the State in respect of any such income referred to in subsection (1) shall be reduced by the amount of tax, if any, paid for the benefit of the budget of the European Union in respect of such income.”.

Amendment of Act of 2001.

6.—Section 55 of the Act of 2001 is amended by inserting after subsection (2) the following:

“(2A) Service is not to be treated as pensionable service in accordance with this Chapter if any pension or benefit under the terms of the Decision of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament (2005/684/EC, Euratom¹) has already been paid or preserved, as the case may be, in respect of the service.”.

Amendment of Houses of the Oireachtas Commission Act 2003.

7.—The Houses of the Oireachtas Commission Act 2003 is amended:

(a) in Schedule 1, by inserting after paragraph 7 the following:

“8. Any other expenses incurred by the Commission acting as paying agent under any agreement concluded with the European Parliament for the purpose of defrayal and recoupment of certain parliamentary expenses of members of that Parliament elected under the European Parliament Elections Act 1997, or regarded under that Act as having been so elected.”,

and

(b) in Schedule 2, by substituting for paragraph 6 the following:

“6. Any other receipts obtained by the Commission in the performance of its functions except where they consist of—

(a) expenses paid by the Commission on behalf of its members and staff which have been recouped by it from them, or

¹O.J. No. L. 262, 07.10.2005, p.1

[2009.]

*European Parliament (Irish
Constituency Members) Act 2009.*

[No. 17.]

S.7

- (b) monies recouped by the Commission from the European Parliament under an agreement concluded under paragraph 8 of Schedule 1.”.

8.—The European Assembly (Irish Representatives) Act 1979 is repealed.

9.—The expenses incurred by the Minister in the administration of this Act shall be paid out of moneys provided by the Oireachtas.

10.—(1) This Act may be cited as the European Parliament (Irish Constituency Members) Act 2009.

(2) This Act comes into operation on the first day of the parliamentary term beginning in 2009.

Section 4.

SCHEDULE

Bord Gáis Éireann

An Bord Iascaigh Mhara

Bord na gCon

Córas Iompair Éireann

Electricity Supply Board

Irish National Petroleum Corporation Limited

Irish National Stud Company Limited

Law Reform Commission

National Building Agency Limited

Shannon Free Airport Development Company Limited

An tÚdarás um Ard-Oideachas.