



Number 33 of 2001

**MINISTERIAL, PARLIAMENTARY AND JUDICIAL
OFFICES AND OIREACHTAS MEMBERS
(MISCELLANEOUS PROVISIONS) ACT, 2001**

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[No. 33.] *Ministerial, Parliamentary and
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Members (Miscellaneous
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ACTS REFERRED TO

Adoption Act, 1991	1991, No. 28
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Civil Service Commissioners Act, 1956	1956, No. 45
Courts (Supplemental Provisions) Act, 1961	1961, No. 39
Courts (Supplemental Provisions) (Amendment) (No. 2) Act, 1968	1968, No. 21
European Assembly (Irish Representatives) Act, 1979	1979, No. 19
Military Service Pensions Act, 1924	1924, No. 48
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Oireachtas (Allowances to Members) Act, 1938	1938, No. 34
Oireachtas (Allowances to Members) Act, 1962	1962, No. 32
Oireachtas (Allowances to Members) (Amendment) Act, 1994	1994, No. 21
Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1960	1960, No. 12
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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
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(MISCELLANEOUS PROVISIONS) ACT, 2001**

AN ACT TO AMEND THE MINISTERIAL AND PARLIAMEN-
TARY OFFICES ACTS, 1938 TO 1998, THE OIREACHTAS
(ALLOWANCES TO MEMBERS) ACT, 1938, AND CER-
TAIN OTHER ACTS TO MAKE FURTHER PROVISION
FOR THE REMUNERATION, ALLOWANCES AND
SUPERANNUATION PAYABLE TO AND IN RESPECT
OF CERTAIN HOLDERS AND FORMER HOLDERS OF
MINISTERIAL, PARLIAMENTARY AND JUDICIAL
OFFICES; TO PROVIDE FOR THE TRANSFER OF PRE-
VIOUS PENSIONABLE SERVICE OF PERSONS WHO
HOLD SUCH OFFICES; AND TO PROVIDE FOR
RELATED MATTERS. [16th July, 2001]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY

1.—(1) This Act may be cited as the Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act, 2001. Short title and commencement.

(2) Except as provided by this section, this Act comes into operation on the date of its passing.

(3) *Sections 37, 39(c) and (d) and 40* are taken to have come into operation on 26 June, 1997.

(4) *Sections 7, 11 and 39(a) and (e)* are taken to have come into operation on 17 September, 1997.

(5) *Sections 3, 4, 5, 6, 22, 23, 24, 27(1), 28, 31, 34(a) and 36* are taken to have come into operation on 25 September, 2000.

PART 2

AMENDMENT OF MINISTERIAL AND PARLIAMENTARY OFFICES ACT,
1938

2.—In this Part, “the 1938 Act” means the Ministerial and Parliamentary Offices Act, 1938. Interpretation:
Part 2.

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Amendment of section 3 of the 1938 Act — remuneration of members of the Government, etc.

3.—Section 3 of the 1938 Act is amended by substituting the following subsections for subsections (1) and (2) (as respectively substituted by section 7 of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1973, and section 6 of the Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act, 1977):

“(1) On and from 25 September, 2000—

- (a) the Taoiseach is entitled to be paid a salary at the rate of £79,146 per year, and
- (b) the Tánaiste is entitled to be paid a salary at the rate of £62,295 per year, and
- (c) a member of the Government, other than the Taoiseach and the Tánaiste, is entitled to be paid a salary at the rate of £54,855 per year.

(2) On and from 25 September, 2000, a Minister of State is entitled to be paid a salary at the rate of £24,640 per year.”.

Substitution of section 4 of the 1938 Act — remuneration of Attorney General.

4.—The 1938 Act is amended by substituting the following section for section 4 (as substituted by section 8 of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1973):

“Remuneration of Attorney General.

4.—On and from 25 September, 2000, the Attorney General is entitled to be paid—

- (a) if the person who holds the office is not a member of either House of the Oireachtas, a salary at the rate of £95,998 per year, or
- (b) if that person is a member of either House of the Oireachtas, a salary at the rate of £54,855 per year.”.

Substitution of section 5 of the 1938 Act — remuneration of the Chairman and Deputy Chairman of Dáil Éireann.

5.—The 1938 Act is amended by substituting the following section for section 5 (as substituted by section 9 of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1973):

“Remuneration of the Chairman and Deputy Chairman of Dáil Éireann.

5.—On and from 25 September, 2000—

- (a) the Chairman of Dáil Éireann is entitled to be paid a salary at the rate of £54,855 per year, and
- (b) the Deputy Chairman of Dáil Éireann is entitled to be paid a salary at the rate of £24,640 per year.”.

Substitution of section 6 of the 1938 Act — remuneration of the Chairman and Deputy Chairman of Seanad Éireann.

6.—The 1938 Act is amended by substituting the following section for section 5 (as substituted by section 10 of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1973):

“Remuneration of the Chairman and Deputy Chairman of Seanad Éireann.

6.—On and from 25 September, 2000—

- (a) the Chairman of Seanad Éireann is entitled to be paid a salary at the rate of £22,518 per year, and

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(b) the Deputy Chairman of Seanad Éireann is entitled to be paid a salary at the rate of £12,227 per year.” Pt.2 S.6

7.—The 1938 Act is amended by inserting the following section after section 6 (as substituted by *section 6* of this Act):

“Remuneration of the Leader of Seanad Éireann.

6A.—On and from 17 September, 1997, the Leader of Seanad Éireann is entitled to be paid a salary at the rate of £7,213 per year.”.

Amendment of the 1938 Act — insertion of new section 6A (Remuneration of the Leader of Seanad Éireann).

8.—Section 8A of the 1938 Act (as inserted by section 11 of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1973) is amended—

Amendment of section 8A of the 1938 Act — increase of salaries payable under Part II.

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

“(1) The Government may, by order, increase or decrease all or any of the salaries payable under this Part.”.

(b) by inserting the following subsections after subsection (2):

“(3) Every order made by the Government under this section is required to be laid before Dáil Éireann as soon as practicable after it is made.

(4) Dáil Éireann may, by resolution, annul an order made under this section within 21 sitting days after the day on which the order was laid in accordance with subsection (3). The annulment of an order under this subsection takes effect immediately on the passing of the resolution concerned, but does not affect anything that was done under the order before the passing of that resolution.”.

9.—The 1938 Act is amended by inserting the following sections after section 8A (as inserted by section 11 of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1973):

Amendment of the 1938 Act — insertion of new sections 8B, 8C and 8D.

“Salaries to be adjusted automatically by reference to salary increases in Civil Service.

8B.—(1) Whenever remuneration in the Civil Service is increased with effect from a particular day in accordance with agreements or arrangements that have effect on a general basis in the Civil Service (whether or not they also apply in relation to persons employed other than in the Civil Service), the salaries payable under this Part are, by the operation of this section, increased on and from that day by the same proportion.

(2) It is not necessary for an order to be made under section 8A in order to give effect to an increase made by the operation of subsection (1).

(3) In this section, ‘Civil Service’ has the meaning given by the Civil Service Commissioners Act, 1956.

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Rights of Ministers and others to elect not to accept increase in salary.

8C.—(1) A person who is entitled to be paid a salary under this Part may, by notice in writing given to the Minister for Finance, elect not to accept the amount of an increase of that salary that would otherwise become payable under a provision of this Part.

(2) Such an election does not affect the application of subsection (1) to the remaining part of the salary whenever salaries payable under this Part are generally increased.

(3) A person who has made an election under this section may revoke the election by a further notice in writing given to the Minister for Finance, but the revocation has effect only prospectively.

(4) Subject to subsection (3), an election made by a person under this section is not affected by the fact that the person ceases to hold the office to which the salary relates and the person is subsequently reappointed to that office.

Salaries to be paid in monthly instalments.

8D.—A salary payable under this Part is to be paid in monthly instalments.”.

Amendment of the 1938 Act — insertion of new sections 11 and 11A.

10.—The 1938 Act is amended by inserting the following sections after section 10 (as substituted by section 5 of the Oireachtas (Miscellaneous Provisions) and Ministerial and Parliamentary Offices (Amendment) Act, 1996):

“Increase and decrease of allowances payable under this Part.

11.—(1) The Government may, by order, increase or decrease all or any of the allowances payable under this Part.

(2) An order under this section may, if so expressed, have retrospective effect.

(3) Every order made by the Government under this section is required to be laid before Dáil Éireann as soon as practicable after it is made.

(4) Dáil Éireann may, by resolution, annul an order made under this section within 21 sitting days after the day on which the order was laid in accordance with subsection (3). The annulment of an order under this subsection takes effect immediately on the passing of the resolution concerned, but does not affect anything that was done under the order before the passing of that resolution.

Allowances to be adjusted automatically by reference to salary increases in Civil Service.

11A.—(1) Whenever remuneration in the Civil Service is increased with effect from a particular day in accordance with agreements or arrangements that have effect on a general basis in the Civil Service (whether or not they also apply in relation to persons employed other than in the Civil Service), the allowances payable under this

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Part are, by the operation of this section, increased on and from that day by the same proportion. Pt.2 S.10

(2) It is not necessary to make an order under section 11 in order to give effect to an increase made by the operation of subsection (1).

(3) In this section, ‘Civil Service’ has the meaning given by the Civil Service Commissioners Act, 1956.”.

11.—Section 13 of the 1938 Act (as amended by section 5 of the Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act, 1983) is amended by inserting the following paragraph in the definition of “secretarial office” in subsection (1):

Amendment of the 1938 Act — definitions for the purpose of Part IV.

“(e) the office of Leader of the House in Seanad Éireann;”.

12.—Section 13A of the 1938 Act (as amended by section 7 of the Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act, 1992) is amended—

Amendment of section 13A of the 1938 Act — ministerial pensions and secretarial pensions.

(a) by substituting the following subsections for subsection (5):

“(5) A pension under this section is payable to a person at the rate of 25 per cent of the person’s appropriate salary, plus 5 per cent of that salary for each year of service exceeding 3, with a maximum of 7 such additional years. For the purposes of this subsection, a part of a year is to be reckoned on a proportionate basis.

(5A) For the purpose of calculating the ministerial pension of a person, the appropriate salary for the person is as follows:

- (a) if the person held the office of Taoiseach — the annual salary payable to the Taoiseach;
- (b) if the person held the office of Tánaiste for a period of not less than 3 years — the annual salary payable to the Tánaiste;
- (c) if the person held the office of Tánaiste for a period of less than 3 years — the amount calculated in accordance with the following formula:

$$A = \frac{D \times S1}{T} + \frac{(T-D) \times S2}{T}$$

where—

A is the amount to be calculated,

D is the number of days during which the person served as Tánaiste,

T is the total number of days (not exceeding 3,650) during which the person served in a ministerial office,

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S1 is the annual salary payable to the Tánaiste, and

S2 is the annual salary payable to a member of the Government other than the Taoiseach and the Tánaiste, and

(d) if the person held any other ministerial office — the annual salary payable to a member of the Government other than the Taoiseach and the Tánaiste.

(5B) For the purpose of calculating the secretarial pension of a person, the appropriate salary for the person is—

(a) if the person has held a ministerial office on or after 1 January, 1978, or has served for 3 years or more in one or more qualifying offices (other than a prescribed office) — the amount of annual salary payable to a Minister of State, or

(b) in the case of any other person—

(i) the amount of annual salary payable to the person in respect of the last qualifying office that the person held (other than a ministerial office), or

(ii) an amount calculated in accordance with subsection (5C),

whichever is the greater.

(5C) The calculation to be made for the purpose of subsection (5B)(b)(ii) is as follows:

Step 1: Multiply the number of days (not exceeding 3,650) during which the person held each of the qualifying offices by the amount of salary that is currently payable to the holder of the office concerned;

Step 2: If the amount of salary that is currently payable for a qualifying office that the person formerly held is higher than that for another qualifying office that the person so held, reckon the time that the person served in the first of those offices before reckoning the time that the person served in the other of those offices;

Step 3: Add together the amounts derived in accordance with step 1 for the qualifying offices that the person formerly held;

Step 4: Divide the total of the amounts so derived by the total number of days (not exceeding 3,650) during which the person held qualifying offices.

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(5D) The following offices are prescribed offices for the purposes of subsection (5B): Pt.2 S.12

- (a) Chairman and Deputy Chairman of Seanad Éireann;
- (b) Leader of the House in Seanad Éireann.

(5E) In subsection (5), ‘service’ means—

- (a) in relation to a person entitled to a ministerial pension, ministerial service, and
- (b) in relation to a person entitled to a secretarial pension, secretarial service.”,

and

(b) by substituting the following paragraph for subsection (7)(b):

“(b) Subject to paragraph (c), a person who—

- (i) is receiving a severance allowance under Part V of this Act, or
 - (ii) has not reached 50 years of age,
- is not entitled to a pension under this section.”,

and

(c) by repealing subsections (7)(d) and (e), and

(d) in subsection (7)(f), by deleting “or a discounted pension”, and

(e) by inserting the following subsections after subsection (8):

“(9) If a person who has reached 50 years of age was not entitled to a pension under this section (as in force before the commencement of *section 12* of the *Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act, 2001*) only because the person had not then reached 55 years of age, the person becomes so entitled on and from the date of that commencement. A reference in this subsection to a pension does not include a discounted pension.

(10) A person who was being paid a discounted pension under this section (as in force before the commencement of *section 12* of the *Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act, 2001*) is entitled to continue to receive the pension after that commencement on the same terms and conditions as applied to it immediately before that commencement.”.

13.—The 1938 Act is amended by inserting the following sections after section 13A (as inserted by section 7 of the *Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act, 1992*):

Amendment of the 1938 Act — insertion of new sections 13AA and 13AB.

“Ministerial and secretarial pensions for less than 3 years’ qualifying service.

13AA.—(1) This section applies to a person to whom section 13A applies where, on ceasing to hold a qualifying office—

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(a) the person has completed not less than 2 years, but less than 3 years, of ministerial service, or

(b) the person has completed not less than 2 years, but less than 3 years, of secretarial service.

(2) A person referred to in subsection (1)(a) is, on ceasing to hold office, entitled to a ministerial pension calculated at the rate of 20 per cent of the appropriate salary, plus an additional amount calculated in accordance with subsection (4).

(3) A person referred to in subsection (1)(b) is, on ceasing to hold office, entitled to receive a secretarial pension calculated at the rate of 20 per cent of the appropriate salary, plus an additional amount calculated in accordance with subsection (4).

(4) The calculation for the additional amount referred to in subsections (2) and (3) is as follows:

$$AA = \frac{ND}{365} \times 0.05 \times AS$$

where—

AA is the amount of additional pension to be determined, and

ND is the number of days' ministerial or secretarial service exceeding 2 (but less than 3) years, and

AS is the appropriate salary.

(5) For the purposes of this section, the number of years of the person's ministerial service is taken to be the result obtained by dividing by 365—

(a) the number of days during which the person held a ministerial office, and

(b) if the number of days during which the person held the office was not less than 730, half the number of days during which the person held some other qualifying office.

(6) For the purposes of this section, the number of years of the person's secretarial service is taken to be the result obtained by dividing by 365 the number of days during which the person held a qualifying office or qualifying offices.

(7) For the purpose of calculating the ministerial pension of a person to whom this section applies, the appropriate salary is as follows:

(a) if the person has held the office of Taoiseach — the annual salary currently payable to the holder of that office;

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- (b) if the person has held the office of Tánaiste — the amount calculated in accordance with the formula— Pt.2 S.13

$$AS = \frac{ND \times S1}{TD} + \frac{(TD - ND) \times S2}{TD}$$

where—

AS is the appropriate salary to be determined, and

ND is the number of days during which the person served as Tánaiste, and

TD is the total number of days during which the person served in a ministerial office, and

S1 is the amount of annual salary currently payable to the Tánaiste, and

S2 is the amount of annual salary currently payable to a member of the Government other than the Taoiseach and the Tánaiste;

and

- (c) in the case of any other person — the annual salary currently payable to a member of the Government other than the Taoiseach and the Tánaiste.

(8) For the purpose of calculating the secretarial pension of a person, the appropriate salary is as follows:

- (a) if the person has held a ministerial office on or after 1 January, 1978 — the annual salary currently payable to the holder of the office of Minister of State,

- (b) in the case of any other person — the annual salary currently payable in respect of the last qualifying office (other than a ministerial office) held by the person.

(9) If a person whose entitlement to a pension under this section arises after the commencement of this section applies to the Minister for Finance for payment, the pension is to be paid—

- (a) if the application is made not later than 6 months after the date on which the entitlement arises — on and from that date, and

- (b) in any other case — on and from the date of the application.

(10) If a person whose entitlement to a pension under this section arose on the commencement of

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this section applies to the Minister for Finance for payment, the pension is to be paid on and from such date (being a date not earlier than the date of that commencement and not later than the date of the application) as the Minister determines in writing.

(11) Except as provided by subsection (12)—

- (a) a person who is receiving a severance allowance under Part V, or
- (b) a person who has not reached the age of 50 years,

is not entitled to a pension under this section.

(12) If satisfied that a person referred to in subsection (11)(b) is precluded from earning a livelihood because of having a permanent physical or mental disability, the Minister for Finance may, in writing, direct a pension under this section to be paid to the person. A person in respect of whom such a direction is in force is entitled to be paid a pension in accordance with the direction.

(13) The amount of a pension under this section is to be reduced by 50 per cent during any period that the person to whom it is payable is a member of either House of the Oireachtas or an Irish member of the European Parliament. This subsection does not apply to a person who has held the office of Taoiseach.

(14) Service in an office held by a person to whom this section applies counts for a pension under this section even if the person held the office before the commencement of this section, but in that case the entitlement to the pension arises only on that commencement.

Special provisions
for calculating
appropriate salary
of certain former
Attorneys General.

13AB.—(1) This section applies to a person who has, before or after the commencement of this section, held the office of Attorney General but who, for some or all of the time while holding that office, was not also a member of a House of the Oireachtas.

(2) If a person to whom this section applies is entitled to a ministerial pension calculated in accordance with section 13A or 13AA, the appropriate salary for the purposes of calculating the person's pension entitlement under that section is an amount calculated in accordance with the following formula:

$$AS = \frac{ND \times S1}{TD} + \frac{(TD - ND) \times S2}{TD}$$

where—

AS is the appropriate salary to be determined,
and

ND is the number of days (not exceeding 3,650) during which the person held office as Attorney General while not also being a member of a House of the Oireachtas, and

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TD is the total number of days (not exceeding 3,650) of the person's ministerial service, and

S1 is the annual salary currently payable to a person who holds office as Attorney General while not being a member of a House of the Oireachtas, and

S2 is the annual salary payable to a member of the Government other than the Taoiseach and the Tánaiste.

(3) If a person to whom this section applies is entitled to a ministerial pension calculated in accordance with section 14, the appropriate salary for the purposes of calculating the person's pension entitlement under that section is an amount calculated in accordance with the following formula:

$$AS = \frac{ND \times S1}{TD} + \frac{(TD - ND) \times S2}{TD}$$

where—

AS is the amount of salary to be determined, and

ND is the number of days (not exceeding 2,920) during which the person served as Attorney General while not also being a member of either House of the Oireachtas, and

TD is the total number of days (not exceeding 2,920) of the person's ministerial service, and

S1 is the annual salary currently payable to a person who holds office as Attorney General while not being a member of a House of the Oireachtas, and

S2 is the annual salary payable to a member of the Government other than the Taoiseach and the Tánaiste.

(4) In the case of a person who held the office of Attorney General before the commencement of this section, subsections (2) and (3) apply only on and from that commencement.”.

14.—The 1938 Act is amended by inserting the following section after section 13D (as inserted by section 14 of the Oireachtas (Allowances to Members) and Ministerial, Parliamentary, Judicial and Court Offices (Amendment) Act, 1998):

Amendment of the 1938 Act — insertion of new section 13E (special provisions for pensions payable to certain Ministers of State).

“Special provisions for pensions payable to certain Ministers of State.

13E.—(1) If a person who has held office as a Minister of State—

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- (a) is entitled to a secretarial pension under section 13A or 13AA, or to a supplementary pension under section 13B(5)(a)(iii), and
- (b) has received an allowance under section 3A of the Oireachtas (Allowances to Members) and Ministerial, Parliamentary, Judicial and Court Offices (Amendment) Act, 1998,

the amount of the pension is to be increased as provided by subsection (2) or (3), whichever is applicable.

(2) If the person has been entitled to the allowance for less than 2 years, the increase is to be calculated in accordance with the following formula:

$$AI = (AY \times 0.1) \times NY$$

where—

- AI is the amount of increase to be calculated, and
- AY is the amount per year of the allowance, and
- NY is the number of years during which the person has been entitled to be paid the allowance.

(3) If the person has been entitled to the allowance for 2 years or more, the increase is to be calculated in accordance with the following formula:

$$AI = [AY \times 0.2] + [AY \times 0.05 \times (NY - 2)]$$

where—

- AI is the amount of increase to be calculated, and
- AY is the amount per year of the allowance, and
- NY is the number of years (not exceeding 8) during which the person has been entitled to be paid the allowance.

(4) For the purposes of subsections (2) and (3)—

- (a) the expression ‘year’ includes part of a year, and
- (b) a part of a year is to be reckoned on a proportionate basis, and
- (c) the number of years during which a person has been entitled to an allowance is to be calculated by dividing the number of days that the person has been so entitled by 365.”.

15.—(1) The 1938 Act is amended by substituting the following section for section 20:

“Pensions and allowances payable to surviving spouses and children of deceased office holders.

20.—(1) This section applies in respect of the following deceased persons:

- (a) a person who was holding a qualifying office at the time of death;
- (b) a person who held such an office at any time before the time of death.

(2) The surviving spouse of a deceased person in respect of whom this section applies is, subject to this section, entitled to receive a surviving spouse’s pension of an amount equal to half the amount of the pension (if any) to which the person—

- (a) was entitled at the time of death, or
- (b) would have been so entitled if the person was not the holder of a qualifying office and had reached 50 years of age.

(3) A person is no longer entitled to a surviving spouse’s pension if the person remarries.

(4) If the surviving spouse of a deceased person who held a qualifying office—

- (a) does not qualify for a spouse’s pension because the person’s pensionable service was not sufficient, or
- (b) qualifies for such a pension but of an amount smaller than it would have been had the person’s pensionable service been 3 years,

that spouse is entitled to receive a surviving spouse’s pension of the same amount as that which would have been payable had the deceased person’s pensionable service been 3 years.

(5) A surviving spouse’s pension is not, for the purposes of section 8(1) of the Military Service Pensions Act, 1924, or section 20(1) of the Military Service Pensions Act, 1934, to be regarded as a pension or allowance that is payable out of public money.

(6) If a child of a deceased person in respect of whom this section applies has not reached 21 years of age, the child is entitled to receive—

- (a) if a relevant parent of the child survives the deceased person and paragraph (b) does not apply, a child’s allowance at the rate of £1,706.25 per year, or

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Substitution of section 20 of the 1938 Act (pensions and allowances payable to surviving spouses and children of deceased office holders).

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- (b) if a relevant parent of the child survives the deceased person but dies before the child has reached 21 years of age, a child's allowance at the rate of £2,843.75 per year but only from the date of the parent's death, or
- (c) if no relevant parent of the child survives the deceased person, a child's allowance at the rate of £2,843.75 per year.

(7) A child who marries before reaching 21 years of age ceases to be entitled to a child's allowance under this section.

(8) A surviving spouse's pension, or a child's allowance, in respect of a deceased person in respect of whom this section applies becomes payable—

- (a) if an application for payment of the pension or allowance is made within 6 months after the date of the person's death, on and from the day following that date, or
- (b) if an application for payment is made at any other time, on and from the date on which the application is made.

However, if a person whose entitlement to such a pension or an allowance arose on the commencement of this section applies in writing to the Minister for Finance for payment, the pension or allowance is to be paid on and from such date (being a date not earlier than the date of that commencement and not later than the date of the application) as the Minister determines in writing.

(9) In this section—

'adopted child' means a child who is—

- (a) adopted under the Adoption Acts, 1952 to 1998, or
- (b) the subject of a foreign adoption (within the meaning of section 1 of the Adoption Act, 1991) that is deemed to have been effected by a valid adoption order made under the Adoption Acts, 1952 to 1998;

'child' includes a step-child and an adopted child;

'parent' includes step-parent and adoptive parent;

'pension', when used without qualification, means a pension that is either a ministerial pension or a secretarial pension and, in the case of a secretarial pension, includes any amount by which the pension is increased under section 13E;

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‘relevant commencement date’ means the date on which *section 15* of the *Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act, 2001*, commences; Pt.2 S.15

‘relevant parent’ in relation to a child, means a parent—

- (a) who is or was entitled to a surviving spouse’s pension under this section, or
- (b) who would have been entitled to such a pension had the parent not died.”.

(2) If a pension or an allowance was being paid, or an entitlement to a pension or an allowance had accrued, under *section 20* of the 1938 Act before the commencement of *subsection (1)* but the pension or allowance would not be payable, or the entitlement would not arise, under that section as in force on and after that commencement, the pension or allowance nevertheless continues to be payable, or the entitlement nevertheless continues. However, if a surviving spouse’s pension or a child’s allowance arising under *section 20* of the 1938 Act (as in force after that commencement) is increased, the corresponding pension or allowance that was being paid, or to which a person was entitled, under that section (as in force before that commencement) is increased by a corresponding amount.

16.—The 1938 Act is amended by inserting the following sections after *section 20* (as substituted by *section 15* of this Act):

Amendment of the 1938 Act —
insertion of sections 20A, 20B and 20C.

“Child allowance to be adjusted automatically by reference to salary increases in Civil Service.

20A.—(1) Whenever remuneration in the Civil Service is increased with effect from a particular day in accordance with agreements or arrangements that have effect on a general basis in the Civil Service (whether or not they also apply in relation to persons employed other than in the Civil Service), the child allowances payable under *section 20* are, by the operation of this section, increased on and from that day by the same proportion.

(2) In this section ‘Civil Service’ has the meaning given by the Civil Service Commissioners Act, 1956.

Power to continue payment of child allowance to incapacitated children.

20B.—(1) The Minister for Finance may, in writing, direct a child’s allowance under *section 20* to be paid throughout the child’s lifetime, if satisfied—

- (a) that the child is physically or mentally incapacitated to the extent of being unable to maintain himself or herself, and
- (b) that the incapacity arose before the child reached 21 years of age.

(2) A child in respect of whom a direction is given under this section is entitled to be paid the allowance in accordance with the direction.

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Power to reinstate certain terminated surviving spouse's pensions.

20C.—(1) The Minister for Finance may, by notice in writing given to the person concerned, reinstate a surviving spouse's pension that has ceased to be payable because that person has remarried, but only if satisfied that—

- (a) the marriage has been annulled or dissolved, or
- (b) compassionate grounds exist for reinstating the pension.

(2) Payment of a pension reinstated under this section is to be resumed—

- (a) if the pension is reinstated because the marriage has been annulled or dissolved — on and from the date of the annulment or dissolution or, if the annulment or dissolution occurred before the date of commencement of this section, on and from that date, and
- (b) in any other case — on and from a date specified by the Minister for Finance in the notice of reinstatement (being a date not earlier than the date of commencement of this section).”.

Amendment of section 29 of the 1938 Act — annual rate of severance allowance.

17.—Section 29 of the 1938 Act (as inserted by section 10 of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1992) is amended—

- (a) in subsection (2), by substituting “730.” for “730:”, and
- (b) by deleting the proviso to subsection (2), and
- (c) by inserting the following subsection after subsection (2):

“(2A) A person who has held the office of Attorney General—

- (a) during a period when the person was not also a member of a House of the Oireachtas, and
- (b) during a period when the person was also such a member,

is to be regarded as having held separate qualifying offices during each of those periods for the purpose of determining the person's relevant salary under subsection (2).”.

Amendment of the 1938 Act — insertion of section 29A (severance allowance payable to certain former Ministers of State).

18.—The 1938 Act is amended by inserting the following sections after section 29 (as inserted by section 10 of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1992):

“Severance allowance payable to certain former Ministers of State.

29A.—(1) This section applies to a person who, having served as a Minister of State, becomes entitled to a severance allowance on account of having held a qualifying office.

(2) If a person to whom this section applies was entitled to be paid an allowance under section 3A of the Oireachtas (Allowances to Members) and Ministerial, Parliamentary, Judicial and Court Offices (Amendment) Act, 1998 (as inserted by *section 40* of the *Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act, 2001*), at any time during the 2 years immediately preceding the time when the person ceased to hold a qualifying office, the amount of the relevant salary referred to in section 29 is to be increased as provided by subsection (3). Pt.2 S.18

(3) The increase is to be calculated in accordance with the following formula:

$$AI = AY \times \frac{ND}{730}$$

where—

AI is the amount of increase to be calculated, and

AY is the amount per year of the allowance, and

ND is the number of days during which the person has been entitled to be paid the allowance during the 2 years immediately preceding the time when the person ceased to hold a qualifying office.”.

19.—Section 31 of the 1938 Act (as inserted by section 10 of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1992) is amended by substituting the following subsection for subsection (1):

Amendment of section 31 of the 1938 Act — special allowance for former Taoiseach.

“(1) If—

(a) a person who has held the office of Taoiseach for not less than 1 year was entitled to a severance allowance under this Part, but that entitlement has ceased otherwise than on the person’s appointment to a qualifying office, and

(b) the person has not yet reached 50 years of age,

the person immediately becomes entitled to be paid a special allowance at the rate of 25 per cent of the annual salary currently payable to the Taoiseach. However, if the person held the office of Taoiseach before the commencement of *section 19* of the *Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act, 2001*, the entitlement arises only on that commencement.”.

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Amendment of the 1938 Act — insertion of new Part VI (miscellaneous provisions).

20.—The 1938 Act is amended by inserting the following Part after Part V (as inserted by section 10 of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1992):

“PART VI

MISCELLANEOUS PROVISIONS

Chairman and Deputy Chairman to continue in office for limited period after dissolution of Dáil Éireann.

33.—Despite the dissolution of Dáil Éireann prior to the holding of a general election for Dáil Éireann, a person holding office as Chairman or Deputy Chairman of Dáil Éireann immediately before the dissolution—

(a) is, for constitutional purposes, taken to continue in that office, and

(b) is entitled to be paid the salary and allowances applicable to that office,

during the period beginning with the day after the date of dissolution and ending with the day before Dáil Éireann reassembles after the election.

Chairman and Deputy Chairman to continue in office for limited period after dissolution of Seanad Éireann.

34.—Despite the dissolution of Seanad Éireann prior to the holding of a general election for Seanad Éireann, a person holding office as Chairman or Deputy Chairman of Seanad Éireann on the day before the polling day for the election—

(a) is, for constitutional purposes, taken to continue in that office, and

(b) is entitled to be paid the salary and allowances applicable to that office,

during the period beginning with the polling day for the election and ending with the day before the date on which Seanad Éireann next reassembles after the election.”.

PART 3

AMENDMENT OF OIREACHTAS (ALLOWANCES TO MEMBERS) ACT, 1938

Interpretation:
Part 3.

21.—In this Part, “the 1938 Act” means the Oireachtas (Allowances to Members) Act, 1938.

Amendment of long title of the 1938 Act.

22.—The long title of the 1938 Act is amended by substituting “salaries” for “allowances”.

Amendment of section 2 of the 1938 Act — salaries and travelling facilities of members of the Oireachtas.

23.—Section 2 of the 1938 Act is amended by substituting “salary” for “allowance”.

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24.—Section 3 of the 1938 Act (as substituted by section 4 of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1960, and amended by section 4 of the Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act, 1973, and by section 2 of the Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act, 1983) is amended—

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Amendment of section 3 of the 1938 Act — amount of salary payable to members of the Oireachtas.

- (a) by substituting the following subsections for subsections (1) and (2):

“(1) On and from 25 September, 2000, 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 £41,143 per year,
- (b) in the case of a member of Dáil Éireann who has not less than 7 years (but less than 10 years) service as a member of the Oireachtas — a salary at the rate of £42,455 per year,
- (c) in the case of a member of Dáil Éireann who has not less than 10 years service as a member of the Oireachtas — a salary at the rate of £43,767 per year.

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 £41,143 even if the member has 7 or more years of service as a member of the Oireachtas.

(2) On and from 25 September, 2000, 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 £26,034 per year;
- (b) in the case of a member of Seanad Éireann who has not less than 7 years (but less than 10 years) service as a member of the Oireachtas — a salary at the rate of £26,864 per year;
- (c) in the case of a member of Seanad Éireann who has not less than 10 years service as a member of the Oireachtas — a salary at the rate of £27,694 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 £26,034 even if the member has 7 or more years of service as a member of the Oireachtas.

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(2A) The salary of a member of Dáil Éireann or Seanad Éireann is to be paid in monthly instalments.”,

and

(b) in subsection (4), by substituting “a salary” for “an allowance”.

Amendment of section 3A of the 1938 Act — increase and decrease of salaries payable under this Act.

25.—Section 3A of the 1938 Act (as inserted by section 5 of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1973) is amended by inserting the following subsections after subsection (2):

“(3) Every order made by the Government under this section is required to be laid before Dáil Éireann as soon as practicable after it is made.

(4) Dáil Éireann may, by resolution, annul an order made under this section within 21 sitting days after the day on which the order was laid in accordance with subsection (3). The annulment of an order under this subsection takes effect immediately on the passing of the resolution concerned, but does not affect anything that was done under the order before the passing of that resolution.”.

Amendment of the 1938 Act — insertion of sections 3B, 3C and 3D.

26.—The 1938 Act is amended by inserting the following sections after section 3A (as inserted by section 5 of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1973):

“Salaries to be adjusted automatically by reference to salary increases in Civil Service.

3B.—(1) Whenever remuneration in the Civil Service is increased with effect from a particular day in accordance with agreements or arrangements that have effect on a general basis in the Civil Service (whether or not they also apply in relation to persons employed other than in the Civil Service), the salaries payable under section 3 are, by the operation of this section, increased on and from that day by the same proportion.

(2) It is not necessary to make an order under section 3A in order to give effect to an increase made by the operation of subsection (1).

(3) In this section ‘Civil Service’ has the meaning given by the Civil Service Commissioners Act, 1956.

Right of member of Oireachtas to elect not to accept increase in salary.

3C.—(1) A person who is entitled to be paid a salary under section 3 may, by notice in writing given to the Minister for Finance, elect not to accept the amount of an increase of the salary that would become payable but for the election.

(2) Such an election does not affect the application of section 3A or 3B to the remaining part of the salary whenever salaries payable under section 3 are generally increased.

(3) A person who has made an election under this section may revoke the election by a further

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notice in writing given to the Minister for Finance, but the revocation has effect only prospectively. Pt.3 S.26

(4) Subject to subsection (3), an election made by a person under this section continues in effect—

(a) despite a dissolution of the House of the Oireachtas concerned, and

(b) even if the person is subsequently returned as a member of that House after a period during which the person was not such a member.

Payments to persons who are members at dissolution of Dáil Éireann.

3D.—A person who is a member of Dáil Éireann on a day on which Dáil Éireann is dissolved is entitled to be paid an amount equal to one-eighteenth of the salary payable to that member under this Act. The amount is to be calculated by reference to the rate of that salary existing on that day.”

27.—(1) Section 6A of the 1938 Act (as inserted by section 5 of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1960, and amended by section 10 of the Oireachtas (Allowances to Members) and Ministerial, Parliamentary, Judicial and Court Offices (Amendment) Act, 1998) is amended by substituting the following paragraphs for subsections (2)(a) and (b): Amendment of section 6A of the 1938 Act — deductions for contributory pension scheme.

“(a) make deductions—

(i) from the salary and allowances paid to each member of the Oireachtas under this Act and under sections 3 and 4 of the Oireachtas (Allowances to Members) and Ministerial, Parliamentary, Judicial and Court Offices (Amendment) Act, 1998, and

(ii) from any allowance paid to such a member from an allocation made under section 5 of that Act,

and

(b) pay the deductions into the fund maintained for the purpose of the scheme.”

(2) Section 6A of the 1938 Act (as amended by *subsection (1)*) is further amended

(a) by inserting the following subsections after subsection (2):

“(2A) The Minister shall stop making deductions under subsection (2) in respect of the salary payable to a person as a member of the Oireachtas under this Act when deductions have been made from the person’s salary in relation to 7,300 days’ service as a member.

(2B) The Minister shall also stop making deductions under subsection (2) in respect of an allowance payable to a member of the Oireachtas—

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- (a) as the holder of a position referred to in section 3 or 4 of the Oireachtas (Allowances to Members) and Ministerial, Parliamentary, Judicial and Court Offices (Amendment) Act, 1998, or
- (b) as a member of a committee or subcommittee referred to in section 5 of that Act,

when deductions have been made from the allowances in relation to a total of 7,300 days service in such a position or as a member of such a committee or sub-committee.

(2C) In subsection (2B), ‘allowance’ includes an allowance paid to a member of the Oireachtas in accordance with section 2 or 3 of the Oireachtas (Allowances to Members) (Amendment) Act, 1994.

(2D) If, before the commencement of *section 27* of the *Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act, 2001*, deductions were made under subsection (2) from the salary payable to a person as a member of the Oireachtas in relation to a period of service exceeding 7,300 days, the trustees shall refund—

- (a) to the person, or
- (b) if the person has died, to the person’s personal representatives,

the amounts of the deductions relating to that period of service, but only to the extent that the deductions relate to service given on or after 26 June, 1997.’, and

- (b) by inserting the following subsection after subsection (3):

“(4) For the purpose of this section, ‘trustees’ means the trustees of the scheme for pensions referred to in subsection (1).”.

Amendment of the 1938 Act — insertion of section 6B (references in other Acts, etc. to allowances payable under this Act).

28.—The 1938 Act is amended by inserting the following section after section 6A (as inserted by section 5 of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1960, and amended by section 10 of the Oireachtas (Allowances to Members) and Ministerial, Parliamentary, Judicial and Court Offices (Amendment) Act, 1998, and *section 27* of this Act):

“References in other Acts, etc. to allowances payable under this Act.

6B.—A reference in any other Act, or in any statutory instrument or other document, to an allowance paid or payable under this Part, is to be read, on and after the commencement of this section, as a reference to a salary paid or payable under this Part.”.

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PART 4

AMENDMENT OF MINISTERIAL AND PARLIAMENTARY OFFICES
(AMENDMENT) ACT, 1952

29.—The Ministerial and Parliamentary Offices (Amendment) Act, 1952, is amended by repealing section 4.

Repeal of section 4 of the Ministerial and Parliamentary Offices (Amendment) Act, 1952 (widows' pensions).

PART 5

AMENDMENT OF COURTS (SUPPLEMENTAL PROVISIONS) ACT, 1961

30.—In this Part, “the 1961 Act” means the Courts (Supplemental Provisions) Act, 1961.

Interpretation:
Part 5.

31.—Section 46 of the 1961 Act (as amended by section 1 of the Courts (Supplemental Provisions) (Amendment) (No. 2) Act, 1968) is amended—

Amendment of section 46 of the 1961 Act — provisions in relation to remuneration and pensions of judges and justices.

(a) by substituting for subsections (1), (2) and (3) the following subsections:

“(1) On and from 25 September, 2000—

(a) the Chief Justice is entitled to be paid remuneration at the rate of £120,293 per year, and

(b) each of the other judges of the Supreme Court is entitled to be paid remuneration at the rate of £104,254 per year.

(2) On and from 25 September, 2000—

(a) the President of the High Court is entitled to be paid remuneration at the rate of £108,321 per year, and

(b) each of the other judges of the High Court is entitled to be paid remuneration at the rate of £96,002 per year.

(3) On and from 25 September, 2000—

(a) the President of the Circuit Court is entitled to be paid remuneration at the rate of £96,002 per year, and

(b) each of the other judges of the Circuit Court is entitled to be paid remuneration at the rate of £75,548 per year.

(3A) On and from 25 September, 2000—

(a) the President of the District Court is entitled to be paid remuneration at the rate of £75,548 per year, and

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(b) a judge of the District Court is entitled to be paid remuneration at the rate of £62,762 per year.

(3B) Remuneration payable under this section is to be paid in monthly instalments.”,

(b) in subsection (4), by substituting the following paragraphs for paragraphs (a) and (b):

“(a) the remuneration payable under this Act to a judge of the Supreme Court, the High Court, the Circuit Court or the District Court, and

(b) the pension payable under this Act to a judge of the Supreme Court, the High Court, the Circuit Court or the District Court, and”,

and

(c) by inserting the following subsection after subsection (9):

“(10) Every order made by the Government under subsection (9) is required to be laid before each House of the Oireachtas as soon as practicable after it is made.”.

Amendment of the 1961 Act — insertion of section 46A (remuneration to be adjusted automatically by reference to salary increases in Civil Service).

32.—The 1961 Act is amended by inserting the following section after section 46:

“Remuneration to be adjusted automatically by reference to salary increases in Civil Service.

46A.—(1) Whenever remuneration in the Civil Service is increased with effect from a particular day in accordance with agreements or arrangements that have effect on a general basis in the Civil Service (whether or not they also apply in relation to persons employed other than in the Civil Service), the amounts of remuneration payable under section 46 are, by the operation of this section, increased on and from that day by the same proportion.

(2) It is not necessary to make an order under section 46(9) in order to give effect to an increase made by the operation of subsection (1).

(3) In this section, ‘Civil Service’ has the meaning given by the Civil Service Commissioners Act, 1956.”.

PART 6

AMENDMENT OF OIREACTHAS (ALLOWANCES TO MEMBERS) ACT, 1962

Amendment of section 2 of the Oireachtas (Allowances to Members) Act, 1962 — telephone and postal facilities.

33.—Section 2 of the Oireachtas (Allowances to Members) Act, 1962 (as substituted by section 11 of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1992) is amended by deleting from subsection (1)(b) “arising out of the member’s parliamentary duties”.

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PART 7

AMENDMENT OF OIREACTHAS (ALLOWANCES TO MEMBERS) AND MINISTERIAL, PARLIAMENTARY AND JUDICIAL OFFICES (AMENDMENT) ACT, 1983

34.—The Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act, 1983, is amended—

(a) by repealing section 2, and

(b) by repealing sections 3 and 8.

Repeal of sections 2, 3 and 8 of the Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act, 1983.

PART 8

AMENDMENT OF OIREACTHAS (ALLOWANCES TO MEMBERS) AND MINISTERIAL AND PARLIAMENTARY OFFICES (AMENDMENT) ACT, 1992

35.—In this Part, “the 1992 Act” means the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1992.

Interpretation: *Part 8.*

36.—Section 2 of the 1992 Act is repealed.

Repeal of section 2 of the 1992 Act (salaries for members of Oireachtas).

37.—Section 3 of the 1992 Act is amended—

(a) by inserting the following subsection after subsection (1):

“(1A) A person who—

(a) holds office as Attorney General, or

(b) held that office on or after 26 June 1997, and before the commencement of *section 37* of the *Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act, 2001*,

Amendment of section 3 of the 1992 Act — allowances for expenses for members of Oireachtas and Attorney General.

while not a member of the Oireachtas is entitled to be paid an annual allowance out of money provided by the Oireachtas. The allowance is in full settlement of expenses incurred by the person in performing the duties of that office where those expenses are not otherwise reimbursed (directly or indirectly) out of money provided by the Oireachtas.”,

and

(b) by inserting the following paragraph after subsection (4)(c):

“(ca) the rate of an allowance payable to a person to whom subsection (1A) applies.”.

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PART 9

AMENDMENT OF OIREACHTAS (ALLOWANCES TO MEMBERS) AND
MINISTERIAL, PARLIAMENTARY, JUDICIAL AND COURT OFFICES
(AMENDMENT) ACT, 1998

Interpretation:
Part 9.

38.—In this Part, “the 1998 Act” means the Oireachtas (Allowances to Members) and Ministerial, Parliamentary, Judicial and Court Offices (Amendment) Act, 1998.

Amendment of
section 3 of the
1998 Act —
allowances to whips
and others.

39.—Section 3 of the 1998 Act is amended—

- (a) by deleting subsection (1)(a)(iii), and
- (b) in subsection (1)(a)(vii), by deleting “or”, and
- (c) by inserting the following word and subparagraph after subsection (1)(a)(viii):

“or

(ix) Assistant Party Whip in Dáil Éireann,”

and

- (d) by inserting in subsection (3) the following definition immediately after the definitions of “Assistant Government Whip in Seanad Éireann”, “Deputy Leader of the House in Seanad Éireann” and “Government Whip in Seanad Éireann”:

“Assistant Party Whip in Dáil Éireann” means a member of Dáil Éireann nominated by the leader of a party in Dáil Éireann to be an assistant whip for the party (but only if the party has at least 7 members in Dáil Éireann),”

and

- (e) in subsection (3), by deleting the definition of “Leader of the House in Seanad Éireann”.

Amendment of the
1998 Act —
insertion of section
3A (allowances
payable to certain
Ministers of State).

40.—The 1998 Act is amended by inserting the following section after section 3:

“Allowances
payable to certain
Ministers of State.

3A.—(1) The Government may, by order—

- (a) provide for the payment of an annual allowance to not more than 2 specified holders of the office of Minister of State who regularly attend meetings of the Government, and
- (b) determine the rate of the allowance, and the date or dates on and from which the allowance is payable.

(2) An order under this section may, if so expressed, have retrospective effect.”.

Substitution of
section 6 of the
1998 Act (payment
of allowances and
allocations).

41.—The 1998 Act is amended by substituting the following section for section 6:

“Payment of
allowances.

6.—(1) An allowance referred to in section 3, 3A, 4 or 5 of this Act is payable in addition to the

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salary payable to the member concerned under section 2 of the Principal Act (as amended by the Act of 1992), but is not payable for a period for which that salary is not payable. Pt.9 S.41

(2) An allowance referred to in section 3, 4 or 5 of this Act is not payable to a member who holds an office referred to in Part II of the Act of 1938 (as amended by the Act of 1977).

(3) If a member would, but for this section, be eligible to receive during a period more than one of the allowances referred to in sections 3, 3A, 4 and 5, the member is entitled to be paid only the highest or higher amount of those allowances during that period.

(4) An allowance referred to in sections 3, 3A, 4 and 5 is payable out of money provided by the Oireachtas.”.

42.—Section 7(1) of the 1998 Act is amended by inserting “3A,” after “3,”.

Amendment of section 7 of the 1998 Act — increase of allowances and allocations corresponding with general increase of remuneration in Civil Service.

43.—Section 8 of the 1998 Act is amended by inserting “3A,” after “3,” wherever occurring.

Amendment of section 8 of the 1998 Act — orders relating to allowances under sections 3, 3A and 4 and allocations under section 5.

44.—The 1998 Act is amended by inserting the following section after section 8:

Amendment of the 1998 Act — insertion of section 8A (right of Ministers and others to elect not to accept increase in allowance).

“Right of Ministers and others to elect not to accept increase in allowance.

8A.—(1) A person who is entitled to be paid an allowance under section 3, 3A or 4 may, by notice in writing given to the Minister for Finance, elect not to accept the amount of an increase of the allowance that would or could otherwise become payable under that section.

(2) Such an election does not affect the application of section 7, or an order made under section 3, 3A or 4, to the remaining part of the allowance whenever the relevant allowance is generally increased.

(3) A person who has made an election under this section may revoke the election by a further notice in writing given to the Minister for Finance, but the revocation has effect only prospectively.

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(4) Subject to subsection (3), an election made by a person under this section is not affected by the fact that the person ceases to hold the office to which the allowance relates and the person is subsequently reappointed to that office.”.

PART 10

PORTABILITY OF SERVICE OF CERTAIN HOLDERS OF PUBLIC OFFICES

CHAPTER 1

Interpretation and application

Interpretation:
Part 10.

45.—In this Part, unless the context otherwise requires—

“appropriate authority”, in relation to an approved organisation, means—

- (a) if an authority other than the authority governing the organisation administers the superannuation scheme that applies to persons appointed to or employed in a pensionable capacity in the organisation—the authority that is responsible for administering those provisions, and
- (b) in any other case—the governing authority of the organisation;

“Civil Service” means the Civil Service of the Government and the Civil Service of the State;

“court officer” means a Master of the High Court, Taxing Master or County Registrar;

“European Assembly (Irish Representatives) Pension Scheme, 1979” means a pension scheme made under section 4 of the European Assembly (Irish Representatives) Act, 1979;

“judge” means a judge of the Supreme Court, a judge of the High Court, a judge of the Circuit Court or a judge of the District Court;

“Minister” means the Minister for Finance;

“Oireachtas Pensions Scheme” means the pension scheme for members of the Oireachtas established under section 6A of the Oireachtas (Allowances to Members) Act, 1938;

“public office” has the meaning given by *section 46*.

Public offices to which this Part applies.

46.—The following are public offices for the purposes of this Part:

- (a) member of Dáil Éireann or Seanad Éireann;
- (b) Irish representative to the European Parliament;
- (c) the office of judge or court officer;
- (d) member of the Civil Service;

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(e) member or employee of an organisation designated for the purposes of section 4 of the Superannuation and Pensions Act, 1963; Pt.10 S.46

(f) member or employee of an organisation designated by the Minister under *section 48*.

47.—The purpose of this Part is to allow holders of certain public offices to which this Part applies to have their service as holders of those offices treated as service for the purposes of any pension or superannuation scheme that is applicable to any other public offices that they may subsequently hold. Purpose of this Part.

48.—(1) The Minister may, by order notified in *Iris Oifigiúil*, designate an organisation as an approved organisation for the purpose of this Part. Power of Minister to designate organisation as an approved organisation.

(2) The Minister may from time to time, by order notified in *Iris Oifigiúil*, amend or revoke an order made under this section.

CHAPTER 2

Entitlement to transfer previous pensionable service

49.—If a person who is or was formerly— Entitlement to have certain previous service treated as parliamentary service.

(a) a member of Dáil Éireann or Seanad Éireann, or

(b) an Irish representative to the European Parliament,

has previously served in another public office, the person is entitled, subject to this Part, to have the previous service treated as pensionable service for the purposes of the Oireachtas Pensions Scheme, or the European Assembly (Irish Representatives) Pension Scheme, 1979.

50.—If a person who is or was formerly— Entitlement to have parliamentary service treated as service in another public body.

(a) a member of Dáil Éireann or Seanad Éireann, or

(b) an Irish representative to the European Parliament,

later serves in another public office, the person is entitled, subject to this Part, to have his or her service as a member of Dáil Éireann or Seanad Éireann, or as a member of the European Parliament, treated as service for the purposes of the superannuation provisions applicable to the other public office.

51.—If a person who is or was formerly a judge or court officer has previously served in another public office, the person is entitled, subject to this Part, to have the previous service treated as pensionable service for the purposes of the pension provisions applicable to that person under the Second Schedule to the Courts (Supplemental Provisions) Act, 1961, or section 57 of that Act (whichever is applicable). Entitlement to have previous service treated as service as judge or court officer.

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Entitlement to have judicial service treated as service as holder of other office.

52.—If a person who holds or formerly held office as a judge or as a court officer later has service as a holder of another public office, the person is entitled, subject to this Part, to have his or her service as a judge or court officer treated as pensionable service for the purposes of the superannuation provisions applicable to holders of that other office.

Exercise of entitlement to transfer service to be subject to terms and conditions.

53.—(1) The right conferred by *section 49, 50, 51 or 52* is exercisable only in accordance with—

- (a) such terms and conditions as the Minister determines, or
- (b) if the other public office in which the person exercising the right has served or later serves is with an approved organisation, such terms and conditions as the Minister agrees with the appropriate authority of the organisation.

(2) The terms and conditions may include (but are not limited to) terms and conditions governing the extent to which a person is entitled to have service treated as pensionable service in accordance with this Chapter.

(3) In determining the extent to which a person is entitled to have service treated as pensionable service in accordance with this Chapter, regard is to be had to the length of time required to achieve full superannuation benefit in each of the public offices that the person has held. The service so determined may be greater or less than the person's actual pensionable service in a particular public office.

(4) If the relevant public office is one referred to in subsection (1)(b), the terms and conditions agreed must either—

- (a) provide for the nature and amount of a contribution to or by the trustees of the Oireachtas Pensions Scheme, the Exchequer or the appropriate authority of an approved organisation in respect of any additional liability that is undertaken by those trustees, the Exchequer or the organisation, or
- (b) specify reciprocal arrangements that are to apply instead of such a contribution.

Transferred service not to be treated as service for purpose of earlier scheme.

54.—(1) Service as—

- (a) a member of Dáil Éireann or Seanad Éireann, or
- (b) an Irish representative to the European Parliament,

that in accordance with this Chapter is treated for superannuation purposes as service in another public office is not to be treated as service for the purposes of the Oireachtas Pensions Scheme or the European Assembly (Irish Representatives) Pension Scheme, 1979.

(2) Service as a judge or court officer that in accordance with this Chapter is treated for superannuation purposes as service in another public office is not to be treated as service for the purposes of the superannuation provisions applicable to judges or court officers under the Second Schedule to the Courts (Supplemental Provisions) Act, 1961, or section 57 of that Act.

55.—(1) Service is not to be treated as pensionable service in accordance with this Chapter where—

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Service not to be treated as pensionable service where pension already paid, etc.

- (a) a pension has already been paid in respect of the service, or
- (b) a benefit has been preserved in respect of the service, unless the entitlement to the pension benefit has been waived.

(2) Service is not to be treated as pensionable service in accordance with this Chapter if—

- (a) a lump sum or gratuity has been paid, or
- (b) a refund of pension contributions has been made,

in respect of the service, unless an appropriate repayment of the lump sum, gratuity or refund of contributions is made to the Exchequer, the trustees of the Oireachtas Pensions Scheme or the appropriate authority of an approved organisation, as determined by the Minister.

(3) For the purpose of this section, “appropriate repayment” means a repayment of—

- (a) the amount originally paid, and
- (b) compound interest at a rate determined by the Minister from time to time, in respect of the period between the date of payment and the date of repayment.

56.—(1) An entitlement conferred by this Chapter is exercisable by means of a written application.

Application to have previous service treated as pensionable service.

(2) The Minister may, by order notified in *Iris Oifigiúil*, determine the manner and form in which, and the persons to whom, such an application is to be made.

(3) The Minister may from time to time, by order notified in *Iris Oifigiúil*, amend or revoke an order published under this section.

CHAPTER 3

Supplementary provisions

57.—If the provisions applicable to a pension scheme for which the appropriate authority for an approved organisation is responsible do not confer on the authority power to make the amendments necessary to give effect to this Part, that power is conferred on the authority by this section. However, if the authority has power to make other amendments to those provisions and that power can be exercised only with the agreement of a specified person, the power conferred by this section is exercisable only with the agreement of that person.

Power to make necessary amendments to existing pension scheme.

58.—(1) The Minister is required to ensure that every order made by the Minister under this Part is laid before each House of the Oireachtas as soon as practicable after it is made.

Ministerial orders to be laid before Oireachtas.

(2) A House of the Oireachtas may, by resolution, annul an order made by the Minister under this Part within 21 sitting days after the

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day on which the order was laid before the House in accordance with subsection (1).

(3) The annulment of an order under this section takes effect immediately on the passing of the resolution concerned, but does not affect anything that was done under the order before the passing of that resolution.

Powers of Trustees
in relation to the
operation of this
Part.

59.—The trustees of the Oireachtas Pensions Scheme are authorised to accept and pay out money relating to the operation of this Part.