



Number 39 of 2011

**FINANCIAL EMERGENCY MEASURES IN THE PUBLIC
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ACTS REFERRED TO

| | |
|--|--------------|
| Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 | 2010, No. 24 |
| Court Officers Act 1926 | 1926, No. 27 |
| Courts (Supplemental Provisions) Act 1961 | 1961, No. 39 |
| Courts of Justice Act 1936 | 1936, No. 48 |
| Defence (Amendment) Act 2007 | 2007, No. 24 |
| Defence (Amendment) Act 2011 | 2011, No. 17 |
| Defence Act 1954 | 1954, No. 18 |
| Financial Emergency Measures in the Public Interest (No. 2) Act 2009 | 2009, No. 41 |
| Financial Emergency Measures in the Public Interest Act 2009 | 2009, No. 5 |
| Financial Emergency Measures in the Public Interest Act 2010 | 2010, No. 38 |
| Ombudsman Act 1980 | 1980, No. 26 |
| Planning and Development Act 2000 | 2000, No. 30 |
| Presidential Establishment Act 1938 | 1938, No. 24 |



Number 39 of 2011

**FINANCIAL EMERGENCY MEASURES IN THE PUBLIC
INTEREST (AMENDMENT) ACT 2011**

AN ACT TO PROVIDE FOR THE AMENDMENT OF THE FINANCIAL EMERGENCY MEASURES IN THE PUBLIC INTEREST ACT 2009 IN ORDER TO PROVIDE FOR THE PAYMENT OF A CONTRIBUTION BY JUDGES AND MILITARY JUDGES; TO PROVIDE FOR THE AMENDMENT OF THE FINANCIAL EMERGENCY MEASURES IN THE PUBLIC INTEREST (NO. 2) ACT 2009 IN ORDER TO PROVIDE FOR THE REDUCTION OF THE REMUNERATION OF JUDGES AND TO PROVIDE FOR CERTAIN OTHER AMENDMENTS OF THAT ACT; TO PROVIDE FOR THE AMENDMENT OF THE FINANCIAL EMERGENCY MEASURES IN THE PUBLIC INTEREST ACT 2010 IN RELATION TO THE APPLICATION OF THAT ACT IN RESPECT OF THE CENTRAL BANK OF IRELAND; TO PROVIDE FOR THE REMUNERATION OF PERSONS APPOINTED AFTER PARTICULAR DATES TO JUDICIAL OFFICES AND CERTAIN OTHER OFFICES; AND TO PROVIDE FOR RELATED MATTERS.

[19th December, 2011]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Financial Emergency Measures in the Public Interest (Amendment) Act 2011.

Short title and commencement.

(2) This Act shall come into operation on such day or days as the Minister for Public Expenditure and Reform may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Pr.1 [No. 39.] *Financial Emergency Measures in the Public Interest (Amendment) Act 2011.* [2011.]

Repeals. 2.—The following provisions are repealed:

- (a) subsections (3) and (4) of section 43 of the Court Officers Act 1926; and
- (b) section 43 of the Courts of Justice Act 1936.

PART 2

AMENDMENT OF ACTS RELATING TO FINANCIAL EMERGENCY MEASURES IN THE PUBLIC INTEREST

Amendment of section 1 of Financial Emergency Measures in the Public Interest Act 2009. 3.—Section 1 of the Financial Emergency Measures in the Public Interest Act 2009 is amended, in the definition of “public servant”, by—

- (a) the deletion of “or” at the end of paragraph (c),
- (b) the insertion of the following paragraphs after paragraph (d):

“(e) a judge, or

(f) a military judge appointed under Chapter IVC of Part V of the Defence Act 1954 (as amended by the Defence (Amendment) Act 2011),”

and

- (c) the deletion of “, a member of the judiciary or a military judge appointed under Chapter IVC of Part V of the Defence Act 1954 (as amended by the Defence (Amendment) Act 2007)”.

Amendment of section 2 of Financial Emergency Measures in the Public Interest Act 2009. 4.—(1) Section 2 of the Financial Emergency Measures in the Public Interest Act 2009 is amended—

- (a) in subsection (2), by the insertion of “, other than a public servant referred to in paragraph (e) or (f) of the definition of that term in section 1,” after “a person to whom this section applies”, and

- (b) by the insertion of the following subsection after subsection (3A):

“(3B) The person who is responsible for, or authorises, the payment of remuneration to a public servant referred to in paragraph (e) or (f) of the definition of that term in section 1 shall deduct or cause to be deducted an amount at the applicable rate or rates specified in the Table to this subsection in respect of the year 2012 and each subsequent year in respect of the year concerned from the remuneration from time to time payable to such a public servant for any such year.

TABLE

| Amount of remuneration | Rate of deduction |
|--|-------------------|
| Up to €15,000 | Exempt |
| Any excess over €15,000 but not over €20,000 | 5 per cent |
| Any excess over €20,000 but not over €60,000 | 10 per cent |
| Any amount over €60,000 | 10.5 per cent |

”.

(2) The amendments effected by *subsection (1)* shall apply to a military judge appointed under Chapter IVC of Part V of the Defence Act 1954 notwithstanding section 184L(4) of that Act.

5.—Section 1 of the Financial Emergency Measures in the Public Interest (No. 2) Act 2009 is amended, in the definition of “public servant”, by—

Amendment of section 1 of Financial Emergency Measures in the Public Interest (No. 2) Act 2009.

- (a) the deletion of “or” at the end of paragraph (c),
- (b) the insertion of the following paragraphs after paragraph (d):
 - “(e) a judge who was appointed to judicial office before the commencement of *section 10* of the *Financial Emergency Measures in the Public Interest (Amendment) Act 2011*, or
 - (f) a military judge appointed under Chapter IVC of Part V of the Defence Act 1954 (as amended by the Defence (Amendment) Act 2011),”

and

- (c) the deletion of “, a member of the judiciary or a military judge appointed under Chapter IVC of Part V of the Defence Act 1954 (as amended by the Defence (Amendment) Act 2007)”.

6.—Section 2 of the Financial Emergency Measures in the Public Interest (No. 2) Act 2009 is amended—

Amendment of section 2 of Financial Emergency Measures in the Public Interest (No. 2) Act 2009.

- (a) in subsection (1), by the substitution of “a public servant, other than a public servant referred to in paragraph (e) or (f) of the definition of that term in section 1,” for “a public servant”,
- (b) by the insertion of the following subsection after subsection (1):
 - “(1A) A relevant provision that fixes the remuneration, or any part of the remuneration, of a public servant referred to in paragraph (e) of the definition of that term in section 1 shall be taken to have been amended, with effect on and from 1 January 2012, in accordance with this section.”

and

- (c) by the insertion of the following subsection after subsection (2A):

“(2B) The provisions of subsections (1) and (2) and Table 1 to this section shall, for the purpose of the application of those provisions to the remuneration of the holders of certain offices specified in this subsection, have effect on and from the commencement of *section 6(c)* of the *Financial Emergency Measures in the Public Interest (Amendment) Act 2011* as if the reductions provided for in subsections (2) and (2A) (in the case of the holders of the offices referred to in paragraphs (a), (b) and (c)) and that Table were as follows and a relevant provision that fixes the remuneration, or any part of the remuneration, of the holders of any of the offices specified in this subsection shall be taken to have been so amended with effect on and from that commencement:

- (a) in the case of the Taoiseach, a 29.96 per cent reduction of remuneration in lieu of a reduction of 25 per cent of remuneration;
- (b) in the case of the Tánaiste, a 24.83 per cent reduction of remuneration in lieu of a reduction of 19.5 per cent of remuneration;
- (c) in the case of a Minister of the Government, a 24.83 per cent reduction of remuneration in lieu of a reduction of 19.5 per cent of remuneration;
- (d) in the case of a Minister of State, a 15.96 per cent reduction of remuneration in lieu of a reduction of 10 per cent of remuneration;
- (e) in the case of the Ceann Comhairle, a 24.83 per cent reduction of remuneration in lieu of a reduction of 15 per cent of remuneration;
- (f) in the case of the Leas-Ceann Comhairle, a 15.96 per cent reduction of remuneration in lieu of a reduction of 10 per cent of remuneration;
- (g) in the case of the Attorney General, a 24.83 per cent reduction of remuneration in lieu of a reduction of 15 per cent of remuneration; and
- (h) in the case of the Comptroller and Auditor General, a 21.15 per cent reduction of remuneration in lieu of a reduction of 15 per cent of remuneration.”.

7.—Section 3 of the Financial Emergency Measures in the Public Interest (No. 2) Act 2009 is amended—

Amendment of section 3 of Financial Emergency Measures in the Public Interest (No. 2) Act 2009.

(a) in subsection (1)—

(i) in paragraph (b), by the substitution of the following for subparagraph (ii) and the provisions of that paragraph after subparagraph (ii):

“(ii) a later date specified by the Minister by order in accordance with subsection (3),

and who, on ceasing to be a public servant, is entitled to payment of a pension under a public service pension scheme in respect of his or her service as a public servant or a person who was at some time before the date specified under subparagraph (ii) a public servant and has a preserved benefit in a public service pension scheme in respect of which the preserved pension age of the person falls on or before that date, and”,

and

(ii) by the substitution of the following paragraph for paragraph (c):

“(c) a person who becomes entitled to payment of a public service pension as a spouse, civil partner or child of a former public servant to whom paragraph (a) or (b) applied.”,

and

(b) in subsection (4), by the insertion of the following definition:

“ ‘civil partner’ has the meaning it has in the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;”.

8.—The Financial Emergency Measures in the Public Interest Act 2010 is amended—

Amendment of Financial Emergency Measures in the Public Interest Act 2010.

(a) in section 1, in paragraph (g) of the definition of “public service body”, by the insertion of “subject to section 1A,” before “the Central Bank of Ireland”, and

(b) by the insertion of the following section after section 1:

“Application of Act to Central Bank of Ireland.

1A.—(1) This Act applies in respect of the Central Bank of Ireland only with its consent, given in writing to the Minister by the Governor of that Bank, and with the consent of the Minister for Finance given in writing to the Minister.

(2) Where the consents referred to in subsection (1) have been given to the Minister, the Minister shall cause a notice to that effect to be published in *Iris Oifigiúil* and shall specify in the notice the date from which this Act applies to the persons concerned, which date shall not be earlier than the date on which the last such consent was given.”.

Amendment of section 2 of Financial Emergency Measures in the Public Interest Act 2010.

9.—Subsection (1) of section 2 of the Financial Emergency Measures in the Public Interest Act 2010 is amended, with effect on and from 1 January 2012, by the substitution of the following Table for the Table in that subsection:

“TABLE

| Annualised amount of public service pension | Reduction |
|---|-------------|
| Up to €12,000 | Exempt |
| Any amount over €12,000 but not over €24,000 | 6 per cent |
| Any amount over €24,000 but not over €60,000 | 9 per cent |
| Any amount over €60,000 but not over €100,000 | 12 per cent |
| Any amount over €100,000 | 20 per cent |

”.

PART 3

REMUNERATION OF JUDGES AND CERTAIN OTHER OFFICE HOLDERS

Amendment of section 46 of Courts (Supplemental Provisions) Act 1961.

10.—Section 46 of the Courts (Supplemental Provisions) Act 1961 is amended—

(a) by the insertion of the following subsection after subsection (3A):

“(3AA) Subsections (1) to (3A) shall be construed subject to subsections (9A) to (9C).”.

(b) in subsection (9), by the substitution of the following paragraph for paragraph (a):

“(a) The Government may, whenever they consider it appropriate to do so, by order increase the annual sums payable by way of remuneration to the several judges of the Supreme Court, the High Court, the Circuit Court and the District Court who were appointed to those judicial offices before the commencement of *section 10* of the *Financial Emergency Measures in the Public Interest (Amendment) Act 2011.*”.

(c) by the insertion of the following subsections after subsection (9):

“(9A) Subject to subsection (9B), the annual sums payable by way of remuneration to the several judges of the Supreme Court, the High Court, the Circuit Court and the

District Court who are appointed to any of those judicial offices on or after the commencement of *section 10* of the *Financial Emergency Measures in the Public Interest (Amendment) Act 2011* shall be the following, namely—

- (a) to the Chief Justice, the sum of €226,376,
 - (b) to the President of the High Court, the sum of €210,206,
 - (c) to each ordinary judge of the Supreme Court, the sum of €197,272,
 - (d) to the President of the Circuit Court, the sum of €190,805,
 - (e) to each ordinary judge of the High Court, the sum of €185,956,
 - (f) to the President of the District Court, the sum of €145,644,
 - (g) to each ordinary judge of the Circuit Court, the sum of €140,623, and
 - (h) to each ordinary judge of the District Court, the sum of €122,512.
- (9B) If, in the case of a person who—
- (a) on the commencement of *section 10* of the *Financial Emergency Measures in the Public Interest (Amendment) Act 2011*, holds a judicial office, and
 - (b) at any time after that commencement, is appointed to another judicial office,

the application of subsection (9A) to the person would result in the remuneration of the person under this section being reduced, then that subsection shall not apply to that person and he or she shall continue to be paid the remuneration that he or she would have been entitled to be paid as the holder of the first-mentioned judicial office.

- (9C) (a) The Government may, whenever they consider it appropriate to do so, by order increase the annual sums payable by way of remuneration to the several judges of the Supreme Court, the High Court, the Circuit Court and the District Court to whom subsection (9A) applies.
- (b) An order under this subsection may, if so expressed, have retrospective effect.”,

and

- (d) in subsection (10), by inserting “or (9C)” after “under subsection (9)”.

Amendment of section 46A(2) of Courts (Supplemental Provisions) Act 1961.

11.—Section 46A(2) of the Courts (Supplemental Provisions) Act 1961 is amended by the substitution of “an order under subsection (9) or (9C) of section 46” for “an order under section 46(9)”.

Amendment of section 1(1)(b) of Presidential Establishment Act 1938.

12.—(1) Subject to *subsection (2)*, section 1(1)(b) of the Presidential Establishment Act 1938 is amended by the insertion of “, provided for in subsection (9A) of section 46 of the Courts (Supplemental Provisions) Act 1961 and increased by an order (if any) made under subsection (9C) of that section or by the operation of section 46A of that Act,” after “the remuneration of the Chief Justice”.

(2) The amendment effected by *subsection (1)* shall not apply to the person who, on the commencement of this section, holds the office of President.

Amendment of section 3 of Ombudsman Act 1980.

13.—(1) Section 3 of the Ombudsman Act 1980 is amended by the substitution of the following subsection for subsection (1):

“(1) There shall be paid to the holder of the office of Ombudsman such remuneration and allowances for expenses as the Minister may determine.”.

(2) The amendment effected by *subsection (1)* shall not apply to the person who, on the commencement of this section, holds the office of Ombudsman.

Amendment of section 105 of Planning and Development Act 2000.

14.—Section 105 of the Planning and Development Act 2000 is amended by the substitution of the following subsection for subsection (14):

“(14) Subject to the provisions of this section, the chairperson shall hold office on such terms and conditions (including terms relating to allowances for expenses) as the Minister, with the consent of the Minister for Public Expenditure and Reform, determines.”.