



Number 6 of 2014

Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2014



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**OIREACHTAS (MINISTERIAL AND PARLIAMENTARY OFFICES) (AMENDMENT)
ACT 2014**

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Friendly Societies Acts 1896 to 1977
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Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001 (No. 33)
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Number 6 of 2014

**OIREACHTAS (MINISTERIAL AND PARLIAMENTARY OFFICES) (AMENDMENT)
ACT 2014**

An Act to amend and extend the Ministerial and Parliamentary Offices Act 1938 and to provide for related matters. [12th April, 2014]

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act “Principal Act” means the Ministerial and Parliamentary Offices Act 1938.

Payment of Parliamentary Activities Allowance to parliamentary leaders of qualifying parties and to independent members

2. Section 10 (inserted by section 1 of the Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2001) of the Principal Act is amended by substituting the following for that section:

“10. (1) There may be paid, on request, to the parliamentary leader of a qualifying party, in relation to expenses arising from the parliamentary activities, including research, of the party, where he or she is a member of Dáil Éireann in respect of—

(a) members of that party elected to Dáil Éireann at the last preceding general election or a subsequent bye-election as members of that party—

(i) where not more than 10 members of that party are so elected, an annual allowance of €64,368 in respect of each member,

(ii) where more than 10 but not more than 30 members of that party are so elected, an annual allowance of—

(I) €64,368 in respect of each of the first to the tenth of them,
and

(II) €51,493 in respect of each of the remainder,

or

(iii) where more than 30 members of that party are so elected, an annual allowance of—

- (I) €64,368 in respect of each of the first to the tenth of them,
 - (II) €51,493 in respect of each of the eleventh to the thirtieth of them, and
 - (III) €25,754 in respect of each of the remainder,
- and
- (b) members of that party elected to Seanad Éireann at the last preceding general election or a subsequent bye-election or nominated to it after the last preceding general election, as members of that party—
 - (i) where not more than 5 members of that party are so elected or nominated, an annual allowance of €42,089 in respect of each member, or
 - (ii) where more than 5 members of that party are so elected or nominated, an annual allowance of—
 - (I) €42,089 in respect of each of the first to the fifth of them, and
 - (II) €21,045 in respect of each of the remainder.
- (2) In the case of a qualifying party forming or forming part of the Government, the combined allowances under subsection (1)(a) shall be reduced by one-third.
 - (3) There may be paid, on request, to—
 - (a) an independent member of Dáil Éireann, in relation to expenses arising from the parliamentary activities, including research, of that member, an annual allowance of €37,037, and
 - (b) an independent member of Seanad Éireann, in relation to expenses arising from the parliamentary activities, including research, of that member, an annual allowance of €21,045.
 - (4) An allowance under this section shall not be paid if it is in relation to an expense that is otherwise reimbursed or provided for.
 - (5) Subject to the approval of the Houses of the Oireachtas Commission and to such exceptions, restrictions and conditions as may be provided for by regulations, secretarial facilities may be provided to a qualifying party for the purposes of facilitating the parliamentary activities of its elected members.
 - (6) An allowance paid under this section shall not be used for, or to recoup, election or poll expenses incurred for the purposes of any election or poll held under—
 - (a) the Electoral Acts 1923 to 1990 or the Electoral Acts 1992 to 2013,

- (b) the European Parliament Elections Acts 1977 to 1993 or the European Parliament Elections Acts 1992 to 2013,
 - (c) the Presidential Elections Acts 1992 to 2006,
 - (d) the Referendum Acts 1992 to 2013,
 - (e) the Seanad Electoral (Panel Members) Acts 1947 to 2006, or
 - (f) the Seanad Electoral (University Members) Acts 1937 to 2006.
- (7) An allowance paid under this section shall not be liable to income tax.
- (8) An allowance under this section shall not be paid or be payable in respect of the period in office of the Ceann Comhairle where at the last preceding general election or at a subsequent bye-election he or she was elected as a member of Dáil Éireann—
- (a) other than as a member of a qualifying party, or
 - (b) as a member of a qualifying party but was the only member of the qualifying party so elected.
- (9) Any allowance which is payable, and any facility which is to be provided, under this section shall be paid and provided in addition to any other allowance or salary payable, or any other facility provided, under the Oireachtas (Allowances to Members) Acts 1938 to 1998, or the Ministerial and Parliamentary Offices Acts 1938 to 2009.
- (10) Allowances payable under this section shall, in respect of each member of Dáil Éireann or Seanad Éireann, be calculated for each week the person was at any time during that week a member thereof, and it shall be paid—
- (a) to each qualifying parliamentary party leader, or
 - (b) where subsection (3) applies, to each member concerned,
- for such period in arrears as the Minister considers appropriate.
- (11) If, after an allowance under this section for a particular period has become due and payable to the parliamentary leader of a qualifying party or to an independent member, a period of 6 months expires without the parliamentary leader or the member having claimed the allowance or part thereof, then, on that expiry, the allowance or part thereof (as the case may be) for the period first mentioned in this subsection shall cease to be payable.
- (12) Where—
- (a) the members of a qualifying party agree that from a specified date the party (referred to subsequently in this subsection as the ‘dissolved party’) shall stand dissolved and—
 - (i) that the dissolved party shall from that date amalgamate with, or

(ii) that all its members shall join,

a specified other qualifying party, and

(b) that other qualifying party agrees to give effect to that amalgamation or to grant membership to all the members of the dissolved party on the date specified,

then all members of the dissolved party who were elected as members of Dáil Éireann, elected as members of Seanad Éireann or nominated to Seanad Éireann, as members of that party at the last preceding general election, or at any subsequent bye-election before its dissolution, shall, for the purposes of subsection (1), from the date of dissolution of the dissolved party, be deemed to be members of that other party as if elected as members of Dáil Éireann, elected as members of Seanad Éireann or nominated to Seanad Éireann, as members of that other party at the last preceding general election or at a subsequent bye-election before such dissolution.

(13) The Houses of the Oireachtas Commission may make regulations for the purposes of subsection (5).”.

Amendment of Principal Act — insertion of sections 10A to 10H

3. The Principal Act is amended by inserting the following after section 10:

“Additional condition for payment of allowance under section 10

10A. (1) Notwithstanding that the conditions specified in section 10 for the payment of an allowance, in respect of a given period, to a parliamentary leader or an independent member, as the case may be, are satisfied, such an allowance shall not be paid under that section if, in respect of an allowance paid under that section in a previous period—

(a) either—

(i) there has been a default in the furnishing of the statement and auditor’s report referred to in section 10B in accordance with that section, or

(ii) the Commission has indicated in a report under section 10D(6) that that statement does not comply with sections 10 and 10B,

and

(b) that default has not been remedied or, as the case may be, the matters in respect of which the Commission has indicated that that statement does not comply with sections 10 and 10B have not been rectified in a manner that the Minister determines to be satisfactory.

(2) This section, and sections 10B to 10D, are subject to section 10E.

Statement of expenditure

- 10B. (1) As soon as may be but not later than 120 days after the end of the financial year in which an allowance under section 10 has been paid to a parliamentary leader of a qualifying party or to an independent member, he or she shall prepare, or cause to be prepared, a statement of any expenditure from the allowance paid to the parliamentary leader or to the independent member, as the case may be.
- (2) Subject to subsection (3) where a person who is the parliamentary leader of a qualifying party ceases to be parliamentary leader of the party in respect of which he or she has received an allowance or portion thereof under section 10—
- (a) he or she, or
- (b) where he or she ceases to be such leader by reason of his or her death, his or her personal representative,
- shall prepare, or cause to be prepared, a statement of any expenditure from the allowance as soon as may be but not later than 120 days after the end of the financial year in which the allowance has been paid.
- (3) Subsection (2) does not apply where the person who has ceased to be the parliamentary leader, or his or her personal representative, and the person who succeeds him or her as the parliamentary leader of the qualifying party, agree in writing that a statement of any expenditure from the allowance under section 10 paid to the former parliamentary leader shall be included in the next statement of his or her successor under subsection (1).
- (4) Where an independent member in receipt of an allowance or portion thereof under section 10 dies his or her personal representative shall prepare, or cause to be prepared, a statement of any expenditure from the allowance as soon as may be but not later than 120 days after the end of the financial year in which the allowance has been paid.
- (5) A statement prepared under this section shall comply with such requirements as to its form and content as may be provided for in guidelines, if any, under section 10G.
- (6) A person who prepares, or causes to be prepared, a statement under this section, shall cause it to be audited by a public auditor and shall as soon as may be but in any event no later than the time limit specified in subsection (1), (2) or (4) (as the case may be) furnish the statement and the auditor's report to the Commission.
- (7) The period of 120 days referred to in subsections (1), (2) and (4) shall be extended by any period for which Dáil Éireann stands dissolved which coincides with that period.
- (8) In this section 'public auditor' means a public auditor for the purposes of the Industrial and Provident Societies Acts 1893 to 1978 and the

Friendly Societies Acts 1896 to 1977.

Retention and public inspection

10C. (1) A person who makes, or causes to be made, a statement under section 10B shall keep records relating to the statement—

- (a) in the case of a parliamentary leader of a qualifying party for a period of not less than 6 years, and
- (b) in the case of an independent member and a personal representative for a period of not less than 6 years or such shorter period as the Commission may determine,

from the end of the financial year to which the statement relates.

(2) The Commission shall retain every statement and auditor's report furnished to it under section 10B for such period as it thinks fit.

(3) As soon as reasonably practicable after receiving a statement and an auditor's report under section 10B (and the foregoing statement is determined by the Commission to be satisfactory), the Commission shall—

- (a) make a copy of the statement and the auditor's report, and the Commission's report on the statement, available for public inspection, without charge, on its website and at its principal office during normal working hours, and
- (b) permit any person to take a copy or an extract of either such statement or such report on payment of a fee not exceeding the reasonable cost of copying, at such times and subject to such conditions as the Commission considers appropriate.

Review by Commission

10D. (1) The Commission shall consider every statement and auditor's report furnished to it under section 10B and, where it considers it appropriate to do so, shall furnish a report in writing to the Minister on any matter arising in relation to such statement or report.

(2) Where the Commission, following consideration by it of a statement, finds a minor error or omission in the statement, the Commission shall furnish to the person by whom the statement was furnished details of the error or omission, as the case may be, and the Commission shall inform the person that he or she may correct the error or make good the omission within the period of 14 days from the date on which the notification issued to the person.

(3) Where the Commission, following consideration by it of a statement, is of the opinion that the statement does not comply with this Act, it shall furnish to the person by whom the statement was furnished a written notice containing details of the non-compliance and the Commission shall inform that person that he or she may furnish

comments on the matter to the Commission within 14 days from the date on which the notice issued to that person and that any such comments will be considered by the Commission before considering the matter further.

- (4) Where the person to whom a notice issues under subsection (3) furnishes to the Commission his or her comments on the matter referred to in the notice within the period referred to in that subsection, the Commission shall have regard to the said comments.
- (5) Where, following consideration of any comments received by the Commission under subsection (3), or where the person to whom a notice issued fails to make any comments under that subsection, and the Commission continues to be of the opinion that there may have been non-compliance with this Act it shall forward a report of the matter (together with any relevant document or other thing in its possession) to the Minister and the Chairman of Dáil Éireann.
- (6) The Commission shall furnish a report in writing on a statement and auditor's report to the Minister indicating—
 - (a) whether they have been made by the specified time limit,
 - (b) whether they disclose any expenditure which does not comply with section 10(6), and
 - (c) whether the statement complies with sections 10 and 10B.
- (7) The Commission shall cause a copy of every report furnished by it under subsection (6) to be laid before each House of the Oireachtas.
- (8) The Commission may make such inquiries as it considers appropriate and may require any person to furnish any information, document or thing in the possession or procurement of the person which the Commission may require for the performance of its functions under this section.
- (9) Where a person fails to comply with a requirement made under subsection (8), the Commission shall—
 - (a) furnish a statement to that effect to the Chairman of Dáil Éireann and the Minister, and
 - (b) publish details of the non-compliance on the Commission's website.
- (10) Nothing in this section prejudices the subsequent taking of steps to rectify any matter that was treated of (or failed to be treated of) in a statement.

Restriction of certain sections' application to cases falling on or after specified days

10E. (1) Sections 10A to 10D shall, in relation to such an allowance payable to

an independent member, only apply to an allowance under section 10 that is paid to such a member on or after a day fixed by an order made by the Minister for the purposes of this subsection.

- (2) Section 10C shall, in relation to such an allowance payable to a parliamentary leader of a qualifying party, only apply to an allowance under section 10 that is paid to such a leader on or after a day fixed by an order made by the Minister for the purposes of this subsection.

Repayment of annual allowances by parliamentary leaders of qualifying parties and by independent members

- 10F. (1) Where, following a general election or bye-election, a party ceases to be a qualifying party the parliamentary leader of that party shall repay, as soon as may be but not later than 120 days after the end of the financial year in which an allowance under this section has been paid, the allowance or any portion thereof, that is unspent.
- (2) Where, following a general election or bye-election, an independent member is not re-elected as an independent member then the member shall repay, as soon as may be but not later than 120 days after the end of the financial year in which an allowance under this section has been paid, the allowance or any portion thereof, that is unspent.
 - (3) Where, in respect of a sum required to be paid under subsection (1) or (2), there is a default in the repayment thereof, such sum shall be recoverable as a simple contract debt in any court of competent jurisdiction.

Guidelines

- 10G. (1) Subject to the provisions of this section the Commission may prepare and publish guidelines for the purpose of providing practical guidance to parliamentary leaders of qualifying parties, independent members and personal representatives relating to the application and operation of sections 10 to 10D.
- (2) Where the Commission proposes to publish guidelines it shall—
 - (a) publish in such manner as it considers appropriate a draft of the guidelines and give persons 28 days from the date of publication of the draft guidelines within which to make written representations to it in relation to the draft guidelines, or such further period, not exceeding 28 days, as it in its absolute discretion thinks fit, and
 - (b) consult with parliamentary leaders of qualifying parties and independent members.
 - (3) The Commission may, following consideration of representations, if any, received by it under subsection (2)(a) and consultations carried out under subsection (2)(b), amend the draft guidelines.
 - (4) Before publishing guidelines the Commission shall submit the draft guidelines, referred to in subsection (3), to the Minister for his or her

approval.

- (5) Where draft guidelines are submitted to the Minister for his or her approval, the Minister shall, as he or she may think proper, refuse to approve of the guidelines or approve thereof without modifications or make such modifications thereto as he or she may think proper and approve of the guidelines as so modified and the Commission shall, accordingly, not publish the guidelines or, as the case may be, publish them in the terms as so approved of.
- (6) Where the Commission publishes guidelines, it shall publish a notice of such publication in *Iris Oifigiúil* and the notice shall—
 - (a) identify the guidelines,
 - (b) specify the matters relating to the statements in respect of which the guidelines are published, and
 - (c) specify the date on which the guidelines come into operation.
- (7) The Commission may, with the consent of the Minister, and following consultation with any other person or body that the Commission considers appropriate or that the Minister directs, amend, revoke or withdraw approval of any guidelines, or part thereof, prepared and published by it under this section.
- (8) Where the Commission amends, revokes or withdraws approval of guidelines, or part thereof, published under this section, it shall publish notice of the amendment, revocation or withdrawal of approval, as the case may be, in *Iris Oifigiúil*.
- (9) The Commission shall, as soon as practicable after it publishes guidelines or amended guidelines—
 - (a) furnish a copy of the guidelines, or the guidelines so amended, to every parliamentary leader of a qualifying party and independent member, and
 - (b) make a copy of the guidelines, or the guidelines so amended, available for public inspection, without charge, at its principal office during normal working hours and on the Commission's website.
- (10) The Commission in performing its functions under section 10D shall have regard to the guidelines.

Interpretation — sections 10 to 10G

10H. (1) In sections 10 to 10G—

‘Commission’ means Standards in Public Office Commission;

‘expenses arising from parliamentary activities, including research’ includes expenditure on the following categories—

- (a) the general administration of the parliamentary activities of a qualifying party,
- (b) the provision of technical or specialist advice likely to be required in connection with legislative proposals or potential parliamentary initiatives,
- (c) research and training,
- (d) policy formulation,
- (e) the provision of consultants' services, including the engagement of public relations consultants,
- (f) polling or public attitude sampling in connection with parliamentary debates or initiatives,
- (g) the purchase of support services for a parliamentary party from the party,
- (h) the payment to a parliamentary leader of any salary or honorarium in respect of duties arising from his or her activities as such leader as distinct from those of a member of Dáil Éireann or a holder of a ministerial office,
- (i) the payment to another person of any salary or honorarium in respect of duties arising from the person's activities in a parliamentary party,
- (j) the provision for, or recoupment of, transport and personal expenditure incurred by a parliamentary leader, officers or a parliamentary party spokesperson as a result of their parliamentary party function,
- (k) entertainment, and
- (l) such other matters as may be prescribed by regulations made by the Minister;

'financial year' means a period of 12 months ending on 31 December;

'guidelines' means guidelines published by the Commission under section 10G;

'independent member' means—

- (a) a member of Dáil Éireann who at the last preceding general election or at a subsequent bye-election was elected as a member of Dáil Éireann other than as a member of a qualifying party, and
- (b) a member of Seanad Éireann who at the last preceding general election or at a subsequent bye-election was elected as a member of Seanad Éireann or nominated to it as a member after the last preceding general election, other than as a member of a qualifying party;

‘Minister’ means Minister for Public Expenditure and Reform;

‘qualifying party’ means a political party registered in the Register of Political Parties which contested the last preceding general election or any subsequent bye-elections and which had a member or members elected to Dáil Éireann or elected or nominated to Seanad Éireann at that general election or at any subsequent bye-election;

‘statement’ means a statement of expenditure prepared and furnished, or required to be prepared and furnished, to the Commission under section 10B.

- (2) Subject to subsection (3), the Minister may make regulations for the purposes of paragraph (l) of the definition of ‘expenses arising from parliamentary activities, including research’ in subsection (1).
- (3) Before making regulations for the foregoing purposes, the Minister shall consult with the parliamentary leaders of qualifying parties and with independent members and shall consider any report furnished by the Commission under section 10D.”.

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

4. Section 11A (inserted by section 10 of the Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001) of the Principal Act is amended by substituting the following for that section—

“11A. (1) Whenever remuneration in the Civil Service is increased or decreased 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 Part are, by the operation of this section, increased or decreased accordingly on and from that day by the same proportion.

- (2) It is not necessary to make an order under section 11 in order to give effect to an increase or decrease made by the operation of subsection (1).
- (3) In this section, ‘Civil Service’ has the same meaning as it has in the Civil Service Commissioners Act 1956.”.

Repeal and saver

5. (1) Sections 25 to 32 of the Principal Act are repealed.
- (2) A person who, on the commencement of *subsection (1)*, is in receipt of an allowance under Part V of the Principal Act, shall continue to be entitled to receive that allowance after the commencement of *subsection (1)* on the same terms and conditions as applied immediately before that commencement.

Short title and commencement

6. (1) This Act may be cited as the Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2014.
- (2) This Act comes into operation on such day or days as the Minister for Public Expenditure and Reform may appoint by order or orders, either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.