



Number 44 of 2009

**HOUSES OF THE OIREACHTAS COMMISSION
(AMENDMENT) ACT 2009**

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[No. 44.] *Houses of the Oireachtas Commission* [2009.]
(Amendment) Act 2009.

SCHEDULE

PART 1

AMENDMENT OF ACTS TO CHANGE NAME OF OFFICE OF THE HOUSES
OF THE OIREACHTAS TO HOUSES OF THE OIREACHTAS SERVICE

PART 2

AMENDMENT OF STATUTORY INSTRUMENTS TO CHANGE NAME OF
OFFICE OF THE HOUSES OF THE OIREACHTAS TO HOUSES OF THE
OIREACHTAS SERVICE

ACTS REFERRED TO

Civil Service Regulation Act 1956	1956, No. 46
Civil Service Regulation (Amendment) Act 2005	2005, No. 18
Comptroller and Auditor General Acts 1866 to 1998	
Comptroller and Auditor General (Amendment) Act 1993	1993, No. 8
Disability Act 2005	2005, No. 14
Electoral (Amendment) Act 2004	2004, No. 15
Ethics in Public Office Act 1995	1995, No. 22
Exchequer and Audit Departments Act 1866	29 & 30 Vict., c. 39
Freedom of Information Act 1997	1997, No. 13
Houses of the Oireachtas Commission Act 2003	2003, No. 28
Houses of the Oireachtas Commission Acts 2003 and 2006	
Houses of the Oireachtas Commission (Amendment) Act 2006	2006, No. 39
National Treasury Management Agency (Amendment) Act 2000	2000, No. 39
Official Languages Act 2003	2003, No. 32
Oireachtas (Allowances to Members) Act 1962	1962, No. 32
Oireachtas (Miscellaneous Provisions) and Ministerial and Parliamentary Offices (Amendment) Act 1996	1996, No. 39
Public Service Management (Recruitment and Appointments) Act 2004	2004, No. 33
Staff of the Houses of the Oireachtas Act 1959	1959, No. 38



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(AMENDMENT) ACT 2009**

AN ACT TO AMEND AND EXTEND THE HOUSES OF THE OIREACHTAS COMMISSION ACT 2003 AND TO AMEND ACCORDINGLY THE REFERENCES TO THE OFFICE OF THE HOUSES OF THE OIREACHTAS IN CERTAIN ENACTMENTS.

[21st December, 2009]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

Definitions.

“Act of 2006” means Houses of the Oireachtas Commission (Amendment) Act 2006;

“Principal Act” means Houses of the Oireachtas Commission Act 2003.

2.—Section 2(1) of the Principal Act is amended by—

Houses of the
Oireachtas Service.

(a) deleting the definition of “Office of the Houses of the Oireachtas” (inserted by section 2(a) of the Act of 2006),

(b) inserting after the definition of “functions” the following:

“ ‘Houses of the Oireachtas Service’ or, in the Irish language, ‘Seirbhís Thithe an Oireachtais’ means the office of the public service that is staffed by civil servants of the State, employed by the Commission, who exercise functions under section 3A and under the Commission in running the Houses of the Oireachtas under section 4(1);”

and

(c) by inserting after the definition of “Secretary General” the following:

“ ‘Service’ means Houses of the Oireachtas Service.”

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Function of Service. 3.—The Principal Act is amended by inserting after section 3 the following:

“3A.—The function of the Service is to provide advice and support services to—

- (a) the Commission,
- (b) the Houses of the Oireachtas and their Committees, and
- (c) members of the Houses of the Oireachtas.”

Amendment of section 4 (functions of Commission) of Principal Act.

4.—Section 4 of the Principal Act is amended—

- (a) by substituting for subsection (1) (inserted by section 3(1) of the Act of 2006) the following:

“(1) The functions of the Commission are—

- (a) to provide for the running of the Houses of the Oireachtas,
- (b) to act as governing body of the Service,
- (c) to consider and determine policy in relation to the Service, and
- (d) to oversee the implementation of that policy by the Secretary General.

(1A) The Commission shall be accountable to the Houses of the Oireachtas for the performance of its functions.”,

- (b) in subsection (2), in paragraph (b), by substituting “the Service” for “the Office of the Houses of the Oireachtas”, and

- (c) by substituting for subsection (4A) (inserted by section 3(3) of the Act of 2006) the following:

“(4A) The Commission may prepare and publish guidelines for members of Dáil Éireann and Seanad Éireann in relation to the use of services and facilities provided out of public funds following a dissolution of Dáil Éireann, and—

- (a) may provide such services and facilities, and
- (b) shall specify an appropriate charge for such use made other than in respect of duties as public representatives.

(4B) The Commission shall have regard to the need to secure the most beneficial outcomes consistent with the achievement of value for money in the use of the resources available to it.”.

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5.—The Principal Act is amended by inserting after section 4 the following: Code of conduct.

“4A.—(1) The Commission, after consultation with the Standards in Public Office Commission, shall prepare and publish a code of conduct for the guidance of members of the Commission.

(2) A member of the Commission shall have regard to and be guided by the code in the performance of his or her functions and in relation to any other matters to which the code relates.

(3) The Secretary General, at the request of a member of the Commission, may give advice to the member in relation to the application of the code.”.

6.—Section 5 of the Principal Act is amended by substituting for subsections (1) and (2) (inserted by section 4 of the Act of 2006) the following: Amendment of section 5 (funding of Commission) of Principal Act.

“(1) Subject to subsection (2), the expenditure incurred by the Commission in the performance of its functions during the period of 3 years from 1 January 2010, shall be charged on and paid out of the Central Fund, or the growing produce thereof.

(2) Not more than the sum of €360,000,000 shall be so charged and paid out.”.

7.—(1) Section 8 of the Principal Act is amended by substituting for subsections (11) and (12) the following: Amendment of section 8 (membership and term of office) of Principal Act.

“(11) An ordinary member of the Commission may be removed from office at any time for stated reasons by resolution passed by Dáil Éireann or Seanad Éireann, as may be appropriate.”.

(2) The amendment effected by *subsection (1)* applies to ordinary members of the Commission appointed after this Act comes into operation.

8.—Section 12 of the Principal Act is amended by inserting after subsection (3) the following: Amendment of section 12 (staff of Commission) of Principal Act.

“(3A) A person who is a civil servant and is—

(a) transferred under subsection (1), or

(b) appointed under subsection (3)(a),

is a civil servant of the State.”.

9.—Section 13 of the Principal Act is amended by inserting after subsection (4) the following: Amendment of section 13 (annual estimate of ongoing expenditure) of Principal Act.

“(4A) If, in any year, on the advice of the Secretary General, the Commission is satisfied that the amount of moneys required by it—

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- (a) in respect of ongoing expenditure for a period of 12 months starting on 1 January, or
- (b) in respect of any matter specified in Schedule 1 as a grant-in-aid,

will exceed the amount of moneys specified in respect of any such period or matter by the Commission in a statement of estimates prepared and published in accordance with subsection (1), the Commission shall prepare and publish a supplementary statement of estimates of the additional amount of moneys required by it to meet such excess.

(4B) Any supplementary statement of estimates prepared and published by the Commission shall, not later than the end of the period to which it relates, be presented to Dáil Éireann in the manner set out in subsection (3)(a) and, when Dáil Éireann has taken note of the statement, it shall be furnished by the Secretary General to the Minister.”.

Audit committee.

10.—The Principal Act is amended by inserting after section 14 the following:

“14A.—(1) The Commission shall establish an audit committee (‘committee’) to perform the functions specified in this section.

(2) As soon as may be following the appointment of the ordinary members of the Commission under section 8(3), the Commission shall appoint the membership of the committee.

(3) The committee shall consist of the following persons:

- (a) one member of the Commission,
- (b) at least one but not more than 3 members of either House of the Oireachtas who are not members of the Commission,
- (c) at least 2 but not more than 3 other persons nominated by the Secretary General who are professionally qualified in finance or accounting or have experience of auditing and who are not, and have never been, members of the Houses of the Oireachtas, and
- (d) one member of the staff of the Service nominated by the Secretary General, not being a staff member with direct responsibility for financial functions.

(4) The quorum for a meeting of the committee shall be 3.

(5) The Commission shall designate one of the persons appointed under subsection (3)(c) as the chairperson of the committee.

(6) (a) The members of the committee appointed under subsection (3)(a) and (b) shall hold office for the duration of their membership of the Commission or of the relevant House of the Oireachtas, as the case may be.

(b) The members of the committee appointed under subsection (3)(c) and (d) shall hold office until their successors are appointed.

(7) Subject to subsection (6), the members appointed under subsection (3)(c) shall hold office on such other terms and conditions as may be determined by the Commission.

(8) A member of the committee may be removed from office by the Commission at any time for stated reasons.

(9) The Secretary General shall ensure that the committee is provided with all of the Commission's audit plans and reports.

(10) The committee shall—

(a) advise the Secretary General on financial matters relating to his or her functions,

(b) advise the Commission on matters of corporate governance relating to its functions, and

(c) report in writing at least once a year to the Commission on its activities in the previous year.

(11) The committee's duties under subsection (10)(a) include advising on the following:

(a) the proper implementation of public service guidelines on financial matters,

(b) compliance with section 22 of the Exchequer and Audit Departments Act 1866, section 19 of the Comptroller and Auditor General (Amendment) Act 1993 and any other obligations imposed by law relating to financial matters,

(c) the appropriateness, efficiency and effectiveness of the Commission's procedures relating to—

(i) public procurement,

(ii) seeking sanction for expenditure and complying with that sanction,

(iii) acquiring, keeping custody of and disposing of assets,

(iv) risk management,

(v) financial reporting,

(vi) internal audit,

(vii) internal controls,

and

(d) the form of accounts of the Commission for approval by the Minister under section 14.

(12) The report of the committee under subsection (10)(c) may be published with the annual report of the Commission under section 6.

(13) The committee shall meet at least 4 times in each year and may invite a person who has responsibility for internal audits or financial matters within the staff of the Service, or any other person it considers appropriate, to attend specific meetings.”.

Secretary General
of Service.

11.—The Principal Act is amended by substituting for section 15 the following:

“15.—(1) The person who for the time being holds the office of the Clerk of Dáil Éireann is and may also be referred to as the Secretary General of the Service (in this Act referred to as the ‘Secretary General’).

(2) The Secretary General is the chief executive of the Commission.

(3) The Secretary General shall be the officer accountable for the accounts of the Commission for the purposes of the Comptroller and Auditor General Acts 1866 to 1998.”.

Functions of
Secretary General.

12.—(1) Section 16 of the Principal Act is amended—

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

“(1) Subject to determination of matters of policy by the Commission and except as otherwise directed by the Commission or provided by or under any other Act, the Secretary General of the Service has the authority, responsibility and accountability for carrying out the following duties in respect of the Service:

- (a) managing and controlling generally the staff and administration of the Service, implementing and monitoring Commission policies appropriate to that service, and delivering outputs as determined with the Commission,
- (b) providing advice to the Commission and the chairperson of the Commission on the performance of their functions under this Act,
- (c) preparing, with a view to giving effect to subsection (6), an outline of how specific elements of the responsibilities described in paragraphs (d) to (i) are to be assigned so as to ensure that the functions performed on behalf of the Commission are performed by a member of the staff of the Commission of an appropriate grade or rank,
- (d) providing advice to the Commission with respect to any matter within, affecting or connected with, the responsibilities of the Service giving rise to material expenditure chargeable to its accounts,

- (e) ensuring that appropriate arrangements are put into place that will facilitate an effective response to matters that pertain to both the Service and other branches of the public service,
- (f) ensuring that the resources of the Service are used in a manner that is in accordance with the Comptroller and Auditor General (Amendment) Act 1993 with a view to enabling the matters referred to in paragraphs (a) to (d) of section 19(1) of that Act to be appropriately addressed by the Secretary General,
- (g) preparing a statement on internal financial control for the purpose of it being reviewed by the Comptroller and Auditor General in the context of the audit to which section 14(2) relates,
- (h) examining and developing means that will improve the provision by the Service of cost effective services,
- (i) subject to the Civil Service Regulation Act 1956 and the Public Service Management (Recruitment and Appointments) Act 2004, managing all matters pertaining to appointments, performance, discipline and dismissals of staff below the grade of Principal, or its equivalent in the Service,
- (j) assigning the responsibility for performance of the functions for which the Secretary General is responsible to members of the staff of the Commission of an appropriate grade or rank, including the conditions pertaining to such assignments, in order to ensure coherence of policy across the Service and ensuring that, where appropriate, the responsibility for the performance of those functions is further assigned to other members of the staff of the Commission of an appropriate grade or rank,
- (k) providing progress reports on the implementation of the strategic plan, as defined in subsection (4)(b), annually to the Commission.”,

(b) by substituting for subsection (3) the following:

“(3) The Secretary General is accountable to the Commission in carrying out the duties or functions referred to in subsection (1) and is accountable to it for ensuring economy, efficiency and effectiveness in the use of Commission resources.”,

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

“(4A) The Secretary General shall prepare a statement of values for the Service and shall include such statement in the strategic plan referred to in subsection (4).”,

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(d) by substituting for subsection (5) the following:

“(5) The Commission may, subject to this or any other Act, give directions in writing to the Secretary General in connection with his or her functions under subsections (1) to (4) other than—

(a) subsection (1)(i),

(b) matters regarding the management of individual staff of the Service, and

(c) in relation to advice sought from or given by him or her in his or her capacity as Clerk of Dáil Éireann in respect of Dáil Éireann or any of its committees or members.”,

and

(e) in subsection (6)(a)(vi), by substituting “(1)(i)” for “(1)(g)”.

(2) Section 14(2) (as amended by section 9 of the Act of 2006) of the Principal Act is amended by substituting “16(1)(g)” for “16(1)(ea)”.

Payments,
indemnification,
etc., in respect of
certain persons in
employment.

13.—(1) Where an injury is claimed to have been sustained by a person in respect of which—

(a) the person sustained the injury in the course of employment as a secretarial assistant (whether or not referred to by such title) by a member of either House of the Oireachtas or by a registered political party which at the relevant time had members in either or both of those Houses, and

(b) such employment was remunerated by payments made by the Houses of the Oireachtas Commission,

then, the Commission may by regulations provide for the payment by the Commission to, or indemnification by the Commission of, such member or registered political party in respect of any award or settlement, together with the costs, incurred as a result of proceedings instituted by a person employed under regulations made by the Commission under section 2(1)(c) (inserted by section 3 of the Act of 1996) of the Oireachtas (Allowances to Members) Act 1962.

(2) The following are repealed:

(a) subsections (2)(d) and (4) of section 4 of the Principal Act, and

(b) section 4 of the Act of 1996.

(3) In this section “Act of 1996” means Oireachtas (Miscellaneous Provisions) and Ministerial and Parliamentary Offices (Amendment) Act 1996.

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14.—(1) The Acts specified in Part 1 of the Schedule are amended as indicated in that Part. Reference in other enactments to Office of the Houses of the Oireachtas.

(2) The statutory instruments specified in Part 2 of the Schedule are amended as indicated in that Part.

15.—(1) This Act may be cited as the Houses of the Oireachtas Commission (Amendment) Act 2009. Short title, collective citation and commencement.

(2) The Houses of the Oireachtas Commission Acts 2003 and 2006, and this Act, may be cited together as the Houses of the Oireachtas Commission Acts 2003 to 2009.

(3) This Act comes into operation on 1 January 2010.

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Section 14.

SCHEDULE

PART 1

AMENDMENT OF ACTS TO CHANGE NAME OF OFFICE OF THE HOUSES
OF THE OIREACHTAS TO HOUSES OF THE OIREACHTAS SERVICE

Item	Provision affected	Amendment
1.	Section 2(2)(a) and (e) (inserted by section 6 of the Civil Service Regulation (Amendment) Act 2005) of the Civil Service Regulation Act 1956	Substitute “Houses of the Oireachtas Service” for “Office of the Houses of the Oireachtas”.
2.	Section 20(1)(d) and (e) (inserted by section 16 of the Civil Service Regulation (Amendment) Act 2005) of the Staff of the Houses of the Oireachtas Act 1959	Substitute “Houses of the Oireachtas Service” for “Office of the Houses of the Oireachtas”.
3.	Paragraph 1(7) of the First Schedule to the Ethics in Public Office Act 1995	Substitute “Houses of the Oireachtas Service” for “Office of the Houses of the Oireachtas”.
4.	Section 2(1), paragraph (j) in the definition of “head of a public body” and section 22(1)(c)(I) and (II) of, and paragraph 1(2) of the First Schedule to, the Freedom of Information Act 1997	Substitute “Houses of the Oireachtas Service” for “Office of the Houses of the Oireachtas”.
5.	Schedule to the National Treasury Management Agency (Amendment) Act 2000	Substitute “Houses of the Oireachtas Service” for “Office of the Houses of the Oireachtas”.
6.	Section 2(1), paragraph (f) in the definition of “ceann comhlachta phoiblí” of, and paragraph 1(1) of the First Schedule to, the Irish text of the Official Languages Act 2003. Section 2(1), paragraph (f) in the definition of “head of a public body” of, and paragraph 1(1) of the First Schedule to, the English text of the Official Languages Act 2003.	Substitute “Seirbhís Thithe an Oireachtais” for “hOifig Thithe an Oireachtais” and “Oifig Thithe an Oireachtais” respectively. Substitute “Houses of the Oireachtas Service” for “Office of the Houses of the Oireachtas”.
7.	Section 24 of the Electoral (Amendment) Act 2004	Substitute “Houses of the Oireachtas Service” for “Office of the Houses of the Oireachtas”.
8.	Section 2(1), paragraph (e) in the definition of “public body”, of the Disability Act 2005	Substitute “Houses of the Oireachtas Service” for “Office of the Houses of the Oireachtas”.
9.	Reference number 2, column 1, of Schedule 2 to the Civil Service Regulation (Amendment) Act 2005	Substitute “Houses of the Oireachtas Service” for “Office of the Houses of the Oireachtas”.

PART 2

AMENDMENT OF STATUTORY INSTRUMENTS TO CHANGE NAME OF
 OFFICE OF THE HOUSES OF THE OIREACTHAS TO HOUSES OF THE
 OIREACTHAS SERVICE

Item	Provision affected	Amendment
1.	Schedule to the Ethics in Public Office (Designated Positions in Public Bodies) Regulations 1996 (S.I. No. 57 of 1996)	Substitute “Houses of the Oireachtas Service” for “Office of the Houses of the Oireachtas”.
2.	Column 2 (opposite the mention of the Minister for Finance in column 1) of the Table to the National Treasury Management Agency (Delegation and Conferral of Functions) Order 2001 (S.I. No. 531 of 2001)	Substitute “Houses of the Oireachtas Service” for “Office of the Houses of the Oireachtas”.
3.	Article 1(a), and in the definition of “office” in article 2, of the Public Service Management Act 1997 (Designation of Head of the Office of the Houses of the Oireachtas) Order 2002 (S.I. No. 11 of 2002)	Substitute “Houses of the Oireachtas Service” for “Office of the Houses of the Oireachtas”.
4.	Regulation 6 of the Oireachtas (Ministerial and Parliamentary Offices) (Secretarial Facilities) Regulations 2004 (S.I. No. 96 of 2004)	Substitute “Houses of the Oireachtas Service” for “Office of the Houses of the Oireachtas”.
5.	Part 1 of Schedule 1 to the Oireachtas (Ministerial and Parliamentary Offices) (Secretarial Facilities) (No. 5) Regulations 2004 (S.I. No. 888 of 2004)	Substitute “Houses of the Oireachtas Service” for “Office of the Houses of the Oireachtas”.
6.	Column 2 of the Schedule to the National Treasury Management Agency (Delegation of Claims Management Functions) Order 2005 (S.I. No. 503 of 2005)	Substitute “Houses of the Oireachtas Service” for “Office of the Houses of the Oireachtas”.
7.	Schedule to the Disability Act 2005 (Code of Practice) (Declaration) Order 2006 (S.I. No. 163 of 2006)	Substitute “Houses of the Oireachtas Service” for “Office of the Houses of the Oireachtas”.
8.	Regulation 2(1), paragraph (e) in the definition of “public body”, of the European Communities (Energy Performance of Buildings) Regulations 2006 (S.I. No. 666 of 2006)	Substitute “Houses of the Oireachtas Service” for “Office of the Houses of the Oireachtas”.