



Number 18 of 2005

CIVIL SERVICE REGULATION (AMENDMENT) ACT 2005

REVISED

Updated to 31 March 2017

This Revised Act is an administrative consolidation of *Civil Service Regulation (Amendment) Act 2005*. It is prepared by the Law Reform Commission in accordance with its function under *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Health (Miscellaneous Provisions) Act 2017 (5/2017)*, enacted 31 March 2017, and all statutory instruments up to and including *Sea-Fisheries (Quotas) Regulations 2017 (S.I. No. 136 of 2017)*, made 22 March 2017, were considered in the preparation of this Revised Act.

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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Civil Service Regulation Acts 1956 to 2005: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Civil Service Regulation (Amendment) Act 2005* (18/2005), s. 1(2)). The Acts in this group are:

- *Civil Service Regulation Act 1956* (46/1956)
- *Civil Service Regulation (Amendment) Act 1958* (34/1958)
- *Civil Service Regulation (Amendment) Act 1996* (13/1996)
- *Civil Service Regulation (Amendment) Act 2005* (18/2005), Part 2

Unfair Dismissals Acts 1977 to 2015: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Industrial Relations (Amendment) Act 2015* (27/2015), s. 1(4)). The Acts in this group are:

- *Unfair Dismissals Act 1977* (10/1977)
- *Unfair Dismissals (Amendment) Act 1993* (22/1993)
- *Protection of Employees (Part-Time Work) Act 2001* (45/2001), in so far as it relates to the *Unfair Dismissals Acts 1977 to 1993*
- *Civil Service Regulation (Amendment) Act 2005* (18/2005), Part 6
- *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007* (27/2007), insofar as it relates to the *Unfair Dismissals Acts 1977 to 2005*
- *Industrial Relations (Amendment) Act 2015* (27/2015), s. 39

Acts previously included in the group but now repealed are:

- *Worker Protection (Regular Part-Time Employees) Act 1991* (5/1991)

Minimum Notice and Terms of Employment Acts 1973 to 2005: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Civil Service Regulation (Amendment) Act 2005* (18/2005), a. 1(4)). The Acts in this group are:

- *Minimum Notice and Terms of Employment Act 1973* (4/1973)
- *Protection of Employees (Employers' Insolvency) Act 1984* (21/1984), s. 13

- *Protection of Employees (Part-Time Work) Act 2001 (45/2001)*, in so far as it relates to the *Minimum Notice and Terms of Employment Acts 1973 and 1984*
- *Civil Service Regulation (Amendment) Act 2005 (18/2005)*, Part 7

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1996, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Houses of the Oireachtas Commission (Amendment) Act 2009 (44/2009)*
- *Residential Tenancies Act 2004 (27/2004)*

All Acts up to and including *Health (Miscellaneous Provisions) Act 2017 (5/2017)*, enacted 31 March 2017, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Civil Service Regulation (Amendment) Act 2005 (Sections 28, 29 and 30) (Commencement) Order 2007 (S.I. No. 229 of 2007)*
- *Civil Service Regulation (Amendment) Act 2005 (Commencement of Certain Provisions) Order 2006 (S.I. No. 363 of 2006)*
- *Civil Service Regulation (Amendment) Act 2005 (Section 31) (Commencement) Order 2006 (S.I. No. 355 of 2006)*
- *Civil Service Regulation (Amendment) Act 2005 (Commencement) (Section 8) Order 2005 (S.I. No. 763 of 2005)*
- *Civil Service Regulation (Amendment) Act 2005 (Section 8) (Commencement) Order 2005 (S.I. No. 629 of 2005)*

All statutory instruments up to and including *Sea-Fisheries (Quotas) Regulations 2017 (S.I. No. 136 of 2017)*, made 22 March 2017, were considered in the preparation of this revision.



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Number 18 of 2005

CIVIL SERVICE REGULATION (AMENDMENT) ACT 2005

REVISED

Updated to 31 March 2017

AN ACT TO PROVIDE FOR THE AMENDMENT OF THE CIVIL SERVICE REGULATION ACT 1956, TO PROVIDE FOR THE APPLICATION OF THE UNFAIR DISMISSALS ACT 1977 TO CERTAIN CIVIL SERVANTS, TO PROVIDE FOR THE APPLICATION OF THE MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACT 1973 TO CIVIL SERVANTS, TO PROVIDE FOR THE AMENDMENT OF THE COMPTROLLER AND AUDITOR-GENERAL ACT 1923, TO PROVIDE FOR THE AMENDMENT OF THE MINISTERS AND SECRETARIES ACT 1924, TO PROVIDE FOR THE AMENDMENT OF THE PROSECUTION OF OFFENCES ACT 1974, TO PROVIDE FOR THE AMENDMENT OF THE OMBUDSMAN ACT 1980, TO PROVIDE FOR THE AMENDMENT OF THE SUPERANNUATION (PRISON OFFICERS) ACT 1919, TO PROVIDE FOR THE AMENDMENT OF THE PUBLIC SERVICE SUPERANNUATION (MISCELLANEOUS PROVISIONS) ACT 2004, TO PROVIDE FOR THE AMENDMENT OF THE PUBLIC SERVICE MANAGEMENT (RECRUITMENT AND APPOINTMENTS) ACT 2004, TO PROVIDE FOR THE AMENDMENT OF THE STAFF OF THE HOUSES OF THE OIREACTHAS ACT 1959, TO PROVIDE FOR THE AMENDMENT OF THE HOUSES OF THE OIREACTHAS COMMISSION ACT 2003, TO PROVIDE FOR THE ALTERATION OF THE TITLE OF THE SECRETARY TO THE PRESIDENT AND TO PROVIDE FOR MATTERS CONNECTED WITH THE MATTERS AFORESAID.

[9th July, 2005]

BE IT ENACTED BY THE OIREACTHAS AS FOLLOWS:

Annotations

Modifications (not altering text):

- C1** Application of collectively cited *Civil Service Regulation Acts 1956 and 1958* restricted (1.07.2010) by *Inland Fisheries Act 2010* (10/2010), s. 82(3), commenced as per s. 5(2) and S.I. No. 262 of 2010.

Powers of Minister in operating a fishery.

82.— ...

(3) The Public Service Management (Recruitment and Appointments) Act 2004 and the Civil Service Regulation Acts 1956 and 1958 do not apply to any person employed or appointed by the Minister under this section.

- C2** Application of collectively cited *Civil Service Regulation Acts 1956 to 1996* restricted (1.09.2004) by *Residential Tenancies Act 2004* (27/2004), s. 164(8), S.I. No. 505 of 2004.

Mediators and adjudicators.

164.— ...

(8) Neither the Civil Service Commissioners Act 1956 (or any enactment that replaces in whole or in part that Act) nor the Civil Service Regulation Acts 1956 to 1996 shall apply to a mediator or an adjudicator.

C3 Application of collectively cited *Civil Service Regulation Acts 1956 and 1958* restricted (16.11.1984) by *Motor Insurance Advisory Board (Establishment) Order 1984* (S.I. No. 299 of 1984).

4. ...

(4) The Civil Service Regulation Acts, 1956 and 1958, shall not apply to the office of member of the Board.

C4 Application of collectively cited *Civil Service Regulation Acts 1956 and 1958* restricted (3.06.1969) by *Industrial Relations Act 1969* (14/1969), s. 4(7), commenced on enactment.

Deputy chairman of the Court.

4.— ...

(7) Neither the Civil Service Commissioners Act, 1956, nor the Civil Service Regulation Acts, 1956 and 1958, shall apply to the office of deputy chairman of the Court.

C5 Application of collectively cited *Civil Service Regulation Acts 1956 and 1958* restricted (5.06.1968) by *Imposition of Duties (Dumping and Subsidies) Act 1968* (11/1968), s. 4(12), commenced on enactment.

An Coimisin Dumpála.

4.— ...

(12) The Civil Service Regulation Acts, 1956 and 1958, shall not apply to the office of member of the Commission.

PART 1

PRELIMINARY AND GENERAL

Citation. 1.—(1) This Act may be cited as the Civil Service Regulation (Amendment) Act 2005.

(2) The Civil Service Regulation Acts 1956 to 1996, and *Part 2* of this Act may be cited together as the Civil Service Regulation Acts 1956 to 2005 and shall be construed together as one.

(3) The Unfair Dismissals Acts 1977 to 2001, and *Part 6* of this Act may be cited together as the Unfair Dismissals Acts 1977 to 2005 and shall be construed together as one.

(4) The Minimum Notice and Terms of Employment Acts 1973 to 2001, and *Part 7* of this Act may be cited together as the Minimum Notice and Terms of Employment Acts 1973 to 2005 and shall be construed together as one.

Commencement. 2.—(1) This Act, other than *Parts 9* and *11*, shall come into operation on such day or days as the Minister 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 provisions or different purposes.

(2) *Part 9* of this Act shall come into operation on such day or days as the Taoiseach 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 provisions or different purposes.

(3) *Part 11* of this Act is deemed to have come into operation on 1 April 2004.

Annotations**Editorial Notes:**

- E1** Power pursuant to subs. (2) exercised (16.05.2007) by *Civil Service Regulation (Amendment) Act 2005 (Sections 28, 29 and 30) (Commencement) Order 2007* (S.I. No. 229 of 2007).
2. The 16th day of May 2007 is appointed as the day on which sections 28, 29 and 30 of the Civil Service Regulation (Amendment) Act 2005 (No. 18 of 2005) shall come into operation
- E2** Power pursuant to subs. (1) exercised (4.07.2006) by *Civil Service Regulation (Amendment) Act 2005 (Commencement of Certain Provisions) Order 2006* (S.I. No. 363 of 2006).
2. The 4th day of July 2006 is appointed as the day on which the Civil Service Regulation (Amendment) Act 2005 (No. 18 of 2005) (other than Part 9), shall come into operation, insofar as it is not already in operation.
- E3** Power pursuant to subs. (2) exercised (4.07.2006) by *Civil Service Regulation (Amendment) Act 2005 (Section 31) (Commencement) Order 2006* (S.I. No. 355 of 2006).
2. The 4th day of July 2006 is appointed as the day on which section 31 of the Civil Service Regulation (Amendment) Act 2005 (No. 18 of 2005) shall come into operation.
- E4** Power pursuant to subs. (1) exercised (6.10.2005) by *Civil Service Regulation (Amendment) Act 2005 (Commencement) (Section 8) Order 2005* (S.I. No. 763 of 2005).
2. The 6th day of October 2005 is appointed as the day on which section 8 of the Civil Service Regulation (Amendment) Act 2005 shall come into operation.
- E5** Previous affecting provision: power pursuant to section exercised (09.2006) by *Civil Service Regulation (Amendment) Act 2005 (Section 8) (Commencement) Order 2005* (S.I. No. 629 of 2005); superseded (6.10.2005) by *Civil Service Regulation (Amendment) Act 2005 (Commencement) (Section 8) Order 2005* (S.I. No. 763 of 2005).

PART 2**AMENDMENT OF CIVIL SERVICE REGULATION ACT OF 1956**

Interpretation
(Part 2).

3.—In this Part—

“Minister” means the Minister for Finance;

“Principal Act” means the Civil Service Regulation Act 1956.

Amendment of
section 1 (Inter-
pretation) of
Principal Act.

4.—Section 1 of the Principal Act is amended—

(a) by inserting after the definition of “established service” the following definition:

“ ‘Head’ in relation to a Scheduled Office, means the person appointed as the principal officer of the Scheduled Office, or where no such person has been appointed, the person designated by order of the Government to be Head of the Scheduled Office for the purposes of this Act;”

(b) by inserting after the definition of “member of the staff of the Houses of the Oireachtas” the following definition:

“ ‘Ministerial Private Office appointment’ has the same meaning as the meaning assigned to ‘special adviser’ in section 19 of the Ethics in Public Office Act 1995;”

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

“ ‘Minister of the Government’ includes—

(a) in relation to a Scheduled Office within the meaning of the Public Service Management Act 1997 which is specified in column (1) of Part 1 of the Schedule to that Act, the person who holds the office specified in column (2) of that Schedule at that reference number, whether or not such person has consented to the application of that Act to such Scheduled Office, and

(b) in relation to a Scheduled Office which is specified in column (1) of Schedule 2 to this Act, the person specified in column (2) of that Schedule at that reference number.”,

and

(d) by inserting after the definition of “officer to whom the Act of 1919 applies” the following definitions:

“ ‘Scheduled Office’ means an office or branch of the public service specified in—

(a) column (1) of Part I of the Schedule to the Public Service Management Act 1997 (whether or not that Act applies to the Scheduled Office concerned),

(b) Part II of the Schedule to the Public Service Management Act 1997, and

(c) column (1) of Schedule 2 to this Act;

‘Secretary General’ has the meaning assigned to it by the Public Service Management Act 1997;”.

Appointment of Head of Scheduled Office.

5.—The Principal Act is amended by inserting after section 1 the following section:

“Appointment of Head of Scheduled Office.

1A.—Where for the time being no person stands appointed as the principal officer of a Scheduled Office the Government may by order designate a person to be Head of the Scheduled Office concerned for the purposes of this Act.”.

Appropriate authority.

6.—The Principal Act is amended by substituting for section 2 the following:

“2.—(1) Subject to subsection (2) and section 5, in this Act ‘appropriate authority’ means—

(a) in relation to a civil servant—

(i) holding a position to which that civil servant was appointed by the Government, or

(ii) holding a position as a Commissioner of the Revenue Commissioners pursuant to Article 7 of the Revenue Commissioners Order 1923,

the Government,

(b) in relation to a civil servant who is of the grade of Principal or of an equivalent or superior grade to whom paragraph (a) does not apply, the Minister of the Government by whom the power of appointing a successor to that civil servant would for the time being be exercisable,

- (c) in relation to a civil servant below the grade or rank of Principal or an equivalent grade, the Secretary General of the Department or the Head of the Scheduled Office in which the civil servant is serving,
 - (d) in relation to a civil servant holding a Ministerial Private Office appointment and who provides a service to a Minister of the Government, the Minister of the Government to whom that service is provided, and
 - (e) in relation to a civil servant holding a Ministerial Private Office appointment and who provides a service to a Minister of State, the Minister of State to whom that service is provided.
- (2) Notwithstanding subsection (1), in this Act ‘appropriate authority’ means—
- (a) in relation to a civil servant who is the Secretary General of the Office of the Houses of the Oireachtas or the Clerk-Assistant of Dáil Éireann, in respect of matters directly related to the business of Dáil Éireann, the Chairman of Dáil Éireann, in all other respects, the Houses of the Oireachtas Commission,
 - (b) in relation to a civil servant who is the Clerk or Clerk-Assistant of Seanad Éireann, in respect of matters directly related to the business of Seanad Éireann, the Chairman of Seanad Éireann, in all other respects, the Houses of the Oireachtas Commission,
 - (c) in relation to a civil servant who is the Superintendent, Houses of the Oireachtas or the Captain of the Guard, Houses of the Oireachtas—
 - (i) in respect of matters directly related to the business of Dáil Éireann, the Chairman of Dáil Éireann,
 - (ii) in respect of matters directly related to the business of Seanad Éireann, the Chairman of Seanad Éireann,
 - (iii) in all other respects, the Houses of the Oireachtas Commission,
 - (d) in relation to a member of the staff of the Houses of the Oireachtas Commission who is of the grade of Principal or of an equivalent or superior grade, the Houses of the Oireachtas Commission,
 - (e) in relation to a member of the staff of the Houses of the Oireachtas Commission below the grade or rank of Principal or an equivalent grade, the Secretary General of the Office of the Houses of the Oireachtas,
 - (f) in relation to a civil servant who is of the grade of Principal or of an equivalent or superior grade to whom subsection (1)(a)(i) does not apply, who is serving in the Office of the Secretary General to the President, the Taoiseach, and
 - (g) in relation to a civil servant below the grade or rank of Principal or an equivalent grade, who is serving in the Office of the Secretary General to the President, the Secretary General to the President.
- (3) For the purposes of paragraph (c) of subsection (1) ‘Department’ includes such bodies or organisations (whether established by or under statute, or otherwise) other than a Scheduled Office, for which the Minister having charge of the Department concerned is responsible.
- (4) For the purposes of paragraph (c) of subsection (1) ‘Scheduled Office’ includes such bodies or organisations (whether established by or under statute, or otherwise) for which the Minister of the Government having charge of the Scheduled Office concerned is responsible.

(5) In this section ‘Minister of State’ means a person appointed under section 1(1) of the Ministers and Secretaries (Amendment) (No. 2) Act 1977 to be a Minister of State.

(6) A reference in this section to ‘the grade of Principal or of an equivalent or superior grade’ shall be construed as a reference to the general service grade of principal or a position or office in respect of which the maximum salary is not less than the maximum salary of a general service grade principal.”.

Tenure of office of established civil servants.

7.—The Principal Act is amended by substituting for section 5 the following sections:

“Tenure of office of established civil servants. 5.—(1) Every established civil servant shall hold office at the will and pleasure of the Government.

(2) Where the Government so authorises, the powers and functions of the Government under subsection (1) of this section may as respects an established civil servant be exercised by the Minister of the Government by whom the power of appointing a successor to that civil servant would for the time being be exercisable.

(3) Where the Government so authorises, the powers and functions of the Government under subsection (1) may, as respects an established civil servant in relation to whom a person other than a Minister of the Government is the appropriate authority, be exercised on behalf of the Government by such appropriate authority.

(4) Subsections (2) and (3) shall not apply as respects the dismissal of—

(a) a civil servant who is the Head of a Scheduled Office, or

(b) a civil servant who holds a position as Commissioner of the Revenue Commissioners appointed pursuant to Article 7 of the Revenue Commissioners Order 1923.

(5) A Minister of the Government shall not exercise the powers and functions exercisable by him or her by virtue of subsection (2) unless the Secretary General of the Department concerned or the Head of the Scheduled Office concerned has made a recommendation in writing in that regard as respects the civil servant concerned.

(6) This section shall not apply to a person who is an established civil servant holding the office referred to in section 17(1) of the Courts Service Act 1998.

Appointment of civil servants on probationary contract. 5A.—(1) Notwithstanding any other provision of this Act, a person may initially be appointed to be an established civil servant on the basis of a probationary contract.

(2) Where a civil servant to whom subsection (1) refers completes the probationary period concerned to the satisfaction of the appropriate authority, that civil servant shall be appointed as an established civil servant and subsection (1) shall cease to apply to that appointment.

(3) Where a civil servant to whom subsection (1) refers does not complete the period of the probationary contract to the satisfaction of the appropriate authority, the provisions of section 7 shall apply.

(4) Nothing in this section shall prevent the termination of an appointment under subsection (1) in accordance with the terms and conditions of the probationary contract prior to the expiry of the term of the contract.”.

Appointment of civil servants beyond normal retirement age.

8.—The Principal Act is amended by the insertion after section 8 of the following section:

“Appointment of civil servants beyond normal retirement age. 8A.—(1) Subject to subsections (2) and (3), nothing in section 8 shall prevent the appointment of a person who has attained the age of 65 years to an established or unestablished position in the Civil Service.

(2) A person who has attained the age of 65 years shall not be appointed to either an established or unestablished position in the Civil Service unless that person is a new entrant.

(3) This section shall not apply as respects the appointment of a person to a position as an officer to whom the Act of 1919 applies.

(4) In this section ‘new entrant’ has the same meaning as is assigned to it by section 2 of the Public Service Superannuation (Miscellaneous Provisions) Act 2004.”

Amendment of section 14 (Remuneration of civil servant suspended from duty) of Principal Act.

9.—The Principal Act is amended by the substitution for section 14 of the following section:

“Remuneration of civil servant suspended from duty. 14.—(1) Where a civil servant stands suspended under section 13, subject to subsections (2) and (3), the civil servant shall be paid ordinary remuneration.

(2) Nothing in subsection (1) shall entitle a civil servant standing suspended to be paid ordinary remuneration in circumstances where the civil servant would not, but for subsection (1), be entitled to be paid ordinary remuneration.

(3) Subsection (1) does not apply to a person suspended under section 15.”

Amendment of section 15 (Disciplinary measures) of Principal Act.

10.— The Principal Act is amended by the substitution for section 15 of the following:

“Disciplinary measures. 15.—(1) (a) Where, in the opinion of the appropriate authority, a civil servant has, in relation to his official duties, been guilty of misconduct, irregularity, neglect, unsatisfactory behaviour or underperformance, the appropriate authority may, subject to subsection (3) of this section, either for a specified period or otherwise, do one or more of the following—

(i) place the civil servant on a lower rate of remuneration, (including the withholding of an increment),

(ii) reduce the civil servant to a specified lower grade or rank, or

(iii) suspend the civil servant without pay.

(b) Where the rate of remuneration of a civil servant (in this paragraph referred to as his original rate) has been reduced by reason of his being placed pursuant to paragraph (a) of this subsection, on a lower rate (in this paragraph referred to as his reduced rate)—

(i) the appropriate authority may subsequently either, as he thinks fit, place the civil servant on his original rate or on

a rate of remuneration between his original rate and his reduced rate,

(ii) if the appropriate authority, pursuant to subparagraph (i), places him, under subparagraph (i) of this paragraph, on a rate of remuneration between his original rate and his reduced rate, he may subsequently place the civil servant on his original rate.

(c) Where a civil servant is reduced to a lower grade or rank in pursuance of paragraph (a) of this subsection, the appropriate authority may subsequently re-appoint that civil servant to his original grade or rank.

(2) If any question arises in relation to a matter referred to in subsection (1) as to whether a particular grade or rank is a lower grade or rank, the question shall be determined by the Minister.

(3) Before any action is taken pursuant to paragraph (a) of subsection (1) of this section, the civil servant concerned shall be afforded an opportunity of making to the appropriate authority any representations that the civil servant may wish to offer.

(4) An appropriate authority shall not in relation to the matters referred to in this section commence the process leading to one of the actions specified at subparagraphs (i) to (iii) of subsection (1)(a) by reason of underperformance on the part of the civil servant unless the appropriate authority is satisfied that measures aimed at improving the performance of the civil servant through training or development—

(a) have in relation to that civil servant been introduced and applied, and have failed to result in specified improvement in performance on the part of the civil servant, or

(b) have in relation to that civil servant no reasonable prospect of resulting in an improvement in performance on the part of the civil servant.

(5) (a) Where an appropriate authority pursuant to subsection (1) causes the remuneration of a civil servant to be reduced, any benefits or entitlements under any superannuation scheme which had accrued to or in respect of the civil servant prior to the imposition of such disciplinary measures shall not be reduced by reason of the imposition of such measures.

(b) Where an appropriate authority pursuant to subsection (1) causes the grade or rank of a civil servant to be reduced, any benefits or entitlements under any superannuation scheme which had accrued to or in respect of the civil servant prior to the imposition of such disciplinary measures shall not be reduced by reason of the imposition of such measures.

(6) The preceding subsections of this section do not apply to a civil servant—

(a) holding a position to which he was appointed by the Government,

(b) holding a position as Commissioner of the Revenue Commissioners appointed pursuant to Article 7 of the Revenue Commissioners Order 1923,

(c) holding the position of Clerk of Dáil Éireann.

(7) The provisions of this section are without prejudice to any other provision of this Act or such other disciplinary measures as may be specified in the Civil Service Disciplinary Code.

(8) The provisions of this section are without prejudice to sections 13 and 14.”.

Amendment of section 16 (Unauthorised absences from duty) of Principal Act.

11.—Section 16 of the Principal Act is amended by substituting the following subsections for subsection (2):

“(2) A period when a civil servant refuses to carry out the duties of his grade shall as respects the civil servant concerned be considered to be a period of unauthorised absence from duty.

(3) If any question arises in relation to the application of subsection (1) or (2) as to whether—

(a) a particular period of absence from duty of a civil servant is a period of unauthorised absence from duty, or

(b) a particular action taken by a civil servant constitutes a refusal to carry out the duties of his grade, or

(c) a refusal by a civil servant to perform a particular duty constitutes a refusal to carry out the duties of his grade,

the question shall be determined by the appropriate authority.”.

Appointment of officers of the Attorney General.

12.—The Principal Act is amended by substituting for section 19 the following section:

“Appointment of officers of the Attorney General. 19.—(1) Subject to subsection (2), the power of appointing a person to be an officer or servant of the Attorney General shall be vested in the Attorney General.

(2) The power of appointing a person to be an officer of the Attorney General of the grade of Secretary General or of an equivalent grade shall be vested in the Taoiseach.

(3) The Minister for Finance shall from time to time determine the number of officers and servants appointed to the Office of the Attorney General and all such officers and servants shall hold office on such terms and conditions as the Minister for Finance shall determine.

(4) A reference in this section to ‘the grade of Secretary General or of an equivalent grade’ shall be construed as a reference to the general service grade of Secretary General or a position or office in respect of which the salary is not less than the salary of a general service grade Secretary General.”.

Insertion of Schedule 2 to Principal Act.

13.—The Principal Act is amended by the insertion of the matter in the *Schedule* to this Act after the Schedule to that Act as Schedule 2 to that Act.

Cesser of delegation of powers under Principal Act.

14.—Where in any enactment provision is made for the delegation by a Minister of the Government of any of the powers exercisable by that Minister under—

(a) the Civil Service Regulation Act 1956,

(b) the Civil Service Regulation Acts 1956 and 1958, or

(c) the Civil Service Regulation Acts 1956 to 1996,

to another person then, subject to the provisions of *section 15*, on the coming into operation of this section any such delegation in force shall stand revoked, and such power of delegation shall thereafter cease to be exercisable.

Transitional.

15.—Where there are in being on the coming into operation of this Part proceedings under sections 5, 6, 7, 8, 9, 13, 14, 15 and 16 of the Principal Act, or procedures or measures under those sections have commenced then such proceedings, procedures or measures shall continue in being until concluded or completed as if the provisions of this Part had not been brought into operation.

PART 3

STAFF OF THE HOUSES OF THE OIREACHTAS COMMISSION

Amendment of section 20 of Staff of the Houses of the Oireachtas Act 1959.

16.—The Staff of the Houses of the Oireachtas Act 1959 is amended by the substitution of the following for section 20:

“Tenure of office of staff of the Houses of the Oireachtas Commission. 20.—(1) Notwithstanding anything contained in section 5(1) of the Regulation Act, where the Government so authorises, the powers and functions of the Government under section 5(1) may as respects an established civil servant be exercised—

(a) in the case of a person who holds the office of Clerk or Clerk-Assistant of Dáil Éireann, by the Taoiseach on the recommendation of the Chairman of Dáil Éireann, following consultation by that Chairman with the Houses of the Oireachtas Commission;

(b) in the case of a person who holds the office of Clerk or Clerk-Assistant of Seanad Éireann by the Taoiseach on the recommendation of the Chairman of Seanad Éireann following consultation by that Chairman with the Houses of the Oireachtas Commission;

(c) in the case of a person who holds the office of Superintendent, Houses of the Oireachtas, or Captain of the Guard, Houses of the Oireachtas, by the Taoiseach following consultation with the Chairman of Dáil Éireann, the Chairman of Seanad Éireann and the Houses of the Oireachtas Commission;

(d) in the case of a person who is a member of the staff of the Houses of the Oireachtas Commission who is of the grade of Principal or of an equivalent or superior grade and to whom paragraphs (a) to (c) do not apply, by the Houses of the Oireachtas Commission following a recommendation to that effect given by the Secretary General of the Office of the Houses of the Oireachtas;

and

(e) in the case of a person who is a member of the staff of the Houses of the Oireachtas Commission who is below the grade of Principal or of an equivalent grade and to whom paragraphs (a) to (c) do not apply, by the Secretary General of the Office of the Houses of the Oireachtas.

(2) A reference in this section to ‘the grade of principal or of an equivalent or superior grade’ shall be construed as a reference to the general service grade of principal or a position or office in respect of

which the maximum salary is not less than the maximum salary of a general service grade principal.”.

Amendment of section 12 of Houses of the Oireachtas Commission Act 2003.

17.—Section 12 of the Houses of the Oireachtas Commission Act 2003 is amended by the deletion of paragraphs (e) and (f) of subsection (3).

Amendment of section 16 of Houses of the Oireachtas Commission Act 2003.

18.—Section 16 of the Houses of the Oireachtas Commission Act 2003 is amended in paragraph (g) of subsection (1) by the deletion of “(Higher)”.

PART 4

AMENDMENT OF COMPTROLLER AND AUDITOR-GENERAL ACT 1923

Amendment of Comptroller and Auditor-General Act 1923.

19.—The Comptroller and Auditor-General Act 1923 is amended by the substitution of the following for section 4:

“Staff of Comptroller and Auditor-General. 4.—(1) The power of appointing a person to be an officer or servant of the Comptroller and Auditor-General shall be vested in the Comptroller and Auditor-General.

(2) The Minister for Finance shall from time to time determine the number of officers and servants appointed to the Office of the Comptroller and Auditor-General and all such officers and servants shall hold office on such terms and conditions as the Minister for Finance shall determine.”.

PART 5

AMENDMENT OF OMBUDSMAN ACT 1980

Amendment of Ombudsman Act 1980.

20.—Section 10 of the Ombudsman Act 1980 is amended by substituting the following for subsection (1):

“(1) (a) The power of appointing a person to be an officer or servant of the Ombudsman shall be vested in the Ombudsman.

(b) The Minister for Finance shall from time to time determine the number of officers and servants appointed to the Office of the Ombudsman and all such officers and servants shall hold office on such terms and conditions as the Minister for Finance shall determine.”.

PART 6

APPLICATION OF UNFAIR DISMISSALS ACT TO CIVIL SERVANTS

Interpretation (Part 6).

21.—In this Part “Act of 1977” means the Unfair Dismissals Act 1977.

Extension of
Unfair Dismissals
Act to civil
servants.

22.—The Act of 1977 is amended—

(a) in section 2(1) by substituting the following for paragraph (h):

“(h) subject to the provisions of this subsection a person who was employed by or under the State who was dismissed by the Government,”

and

(b) by inserting after section 2 the following section:

“Application
of Act to
certain civil
servants.

2A.—(1) For the purposes of this Act, as respects the dismissal of a person who prior to such dismissal was a civil servant a reference in this Act to an ‘employee’ shall be construed as including a civil servant who held office in the Civil Service of the Government or in the Civil Service of the State.

(2) Subject to subsection (4), for the purposes of this Act, as respects the dismissal of a person who prior to such dismissal was a civil servant a reference in this Act to an ‘employer’ shall be construed as including the State, a Minister of the Government, a Department or a Scheduled Office (which term has the same meaning as it has in the Civil Service Regulation Act 1956) in which the civil servant concerned held office prior to the dismissal.

(3) As respects a civil servant to whom this Act applies, for the purposes of this Act, ‘contract of employment’ means such arrangements as are made by the Minister for Finance under section 17 of the Civil Service Regulation Act 1956, together with such further terms and conditions of service which apply to the civil servant concerned, made in respect of a particular Department or Scheduled Office which extend or alter the arrangements under the said section 17.

(4) For the purposes of this section and the First Schedule—

(a) ‘Department’ includes such bodies or organisations (whether established by or under statute, or otherwise) other than a Scheduled Office, for which the Minister having charge of the Department concerned is responsible, and

(b) ‘Scheduled Office’ includes such bodies or organisations (whether established by or under statute or otherwise) for which the Minister of the Government having charge of the Scheduled Office is responsible.

(5) Where, as respects a person who was dismissed as a civil servant, the dismissal is found to be an unfair dismissal, and the rights commissioner, the Tribunal or the Circuit Court, as the case may be, considers, pursuant to section 7, that it is appropriate that such person be re-engaged or re-instated, the right of re-instatement or re-engagement shall be construed to be a right to be re-instated or re-engaged, as the case may be, in the grade or rank held by that civil servant prior to his dismissal.

(6) Nothing in this section shall be construed as affecting the status of a civil servant as an officer.”

PART 7

APPLICATION OF MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACT TO CIVIL SERVANTS

Interpretation
(Part 7).

23.—In this Part “Act of 1973” means the Minimum Notice and Terms of Employment Act 1973.

Amendment of
section 1 of Act
of 1973.

24.—The Act of 1973 is amended in section 1—

(a) by inserting, after the definition of “the Act of 1967”, the following definitions:

“ ‘civil servant’ has the same meaning as in the Civil Service Regulation Act 1956;

‘Department’ has the same meaning as in the Public Service Management Act 1997;”,

and

(b) by inserting, after the definition of “prescribed”, the following definition:

“ ‘Scheduled Office’ has the same meaning as it has in the Civil Service Regulation Act 1956;”.

Annotations

Amendments:

Application of Act
to civil servants.

25.—The Act of 1973 is amended by inserting after section 1 the following section:

“Application
of Act to
civil
servants.

1A.—(1) For the purposes of this Act, a reference to an ‘employee’ shall be construed as including a civil servant who holds office in the Civil Service of the Government or in the Civil Service of the State.

(2) Subject to subsection (4), for the purposes of this Act, as respects a civil servant, a reference in this Act to an ‘employer’ shall be construed as including the State, a Minister of the Government, a Department or a Scheduled Office in which the civil servant concerned holds office.

(3) As respects a civil servant, for the purposes of this Act, ‘contract of employment’ means such arrangements as are made by the Minister for Finance under section 17 of the Civil Service Regulation Act 1956, together with such further terms and conditions of service which apply to the civil servant concerned, made in respect of a particular Department or Scheduled Office which extend or alter the arrangements under the said section 17.

(4) Nothing in this section shall be construed as affecting the status of a civil servant as an officer.

(5) For the purposes of this section and the First Schedule—

(a) ‘Department’ includes such bodies or organisations (whether established by or under statute, or otherwise) other than a Scheduled Office, for which the Minister having charge of the Department concerned is responsible, and

(b) ‘Scheduled Office’ includes such bodies or organisations (whether established by or under statute or otherwise) for which the Minister of the Government having charge of the Scheduled Office is responsible.”.

Extension of Act of 1973 to civil servants.

26.—The Act of 1973 is amended—

(a) in subsection (1) of section 3 by the deletion of paragraph (c), and

(b) in the First Schedule by the insertion after paragraph 13 of the following paragraph:

“14. For the avoidance of doubt, a civil servant shall be considered as having given continuous service, notwithstanding the fact that the civil servant may have served in more than one Department or Scheduled Office provided that the service would otherwise, by virtue of the provisions of this Schedule, be considered to be continuous.”.

PART 8

SECRETARY GENERAL TO THE PRESIDENT

Secretary General to the President.

27.—(1) The office or post established by the Presidential Establishment Act 1938 known as the secretary to the President shall be known as the Secretary General to the President, and a reference in any enactment to the secretary to the President shall be construed as a reference to the Secretary General to the President.

(2) A reference in any enactment to the Office of the Secretary to the President shall be construed as a reference to the Office of the Secretary General to the President.

PART 9

ADDITIONAL FUNCTIONS OF DIRECTOR OF PUBLIC PROSECUTIONS

Amendment of section 6 of Ministers and Secretaries Act 1924.

28.—Section 6 of the Ministers and Secretaries Act 1924 is amended by the insertion of the following subsections after subsection (1):

“(1A) Notwithstanding subsection (1) of this section the administration and control of the business, powers, authorities, duties and functions, vested in or exercised by the Attorney General by virtue of subsection (1) of this section as relate to local State Solicitors are transferred to the Director of Public Prosecutions (established by the Prosecution of Offences Act 1974).

(1B) Nothing in subsection (1A) shall affect the operation of any contract or agreement in force at the time of coming into operation of that subsection.”.

Additional function of Director of Public Prosecutions.

29.—Section 3 of the Prosecution of Offences Act 1974 is amended by the insertion after subsection (1) of the following subsection:

“(1A) The Director shall in addition to the functions specified in subsection (1) have the powers, duties and functions vested in the Director by virtue of section 6(1A) of the Ministers and Secretaries Act 1924 relating to local State Solicitors.”.

Direction to local State Solicitors.

30.—The Prosecution of Offences Act 1974 is amended by the insertion after section 4 of the following section:

“4A.—(1) The Director may direct a local State Solicitor to perform on his behalf and in accordance with his instructions any particular function of the Director in relation to a particular case or cases or in all cases in which that function falls to be performed.

(2) The Director may, without prejudice to the validity of anything previously done thereunder, revoke a direction given by him under this section.

(3) The fact that a function of the Director has been performed by him (whether it has been so performed personally or by virtue of subsection (1) of this section) may be established, without further proof, in any proceedings by a statement of that fact made—

(a) in writing and signed by the Director, or

(b) orally to the court concerned by a person appearing on behalf of or prosecuting in the name of the Director.”.

Power of appointment of officers and servants of Director of Public Prosecutions.

31.—Section 2 of the Prosecution of Offences Act 1974 is amended—

(a) by substituting the following for subsection (10):

“(10) The Minister for Finance shall from time to time determine the number of officers and servants appointed to the Office of the Director and all such officers and servants shall hold office on such terms and conditions as the Minister for Finance shall determine.”,

and

(b) in subsection (11) by substituting “the Director” for “the Taoiseach”.

PART 10

AMENDMENT OF PUBLIC SERVICE MANAGEMENT (RECRUITMENT AND APPOINTMENTS) ACT 2004.

Amendment of section 15 (Investigations on behalf of Commission) of Public Service Management (Recruitment and Appointments) Act 2004.

32.—The Public Service Management (Recruitment and Appointments) Act 2004 is amended in section 15(11) by substituting “6 months” for “2 years”.

PART 11

PUBLIC SERVICE SUPERANNUATION

Public Service Superannuation.

33.—(1) The Superannuation (Prison Officers) Act 1919 is amended in section 1(1)(a) by substituting “as the age on retirement at which” for “as the age of retirement which”.

(2) The Public Service Superannuation (Miscellaneous Provisions) Act 2004 is amended—

(a) in section 10 by substituting for subsection (6) the following:

“(6) Nothing in this section shall affect any provision by or under any enactment or public service pension scheme which provides for the award of superannuation benefits at an age earlier than that specified in this section or in the amendments provided for by Part 2 of Schedule 2—

(a) on grounds of ill health, or

(b) where it is provided for by the provisions of a public service pension scheme, on 31 March 2004, in the case of compulsory cesser of office or position before 65 years of age, or

(c) for any other specified purpose under any enactment or public service pension scheme that applies to a new entrant and is approved by the relevant Minister and the Minister after 31 March 2004.”,

and

(b) in Schedule 1—

(i) by inserting after paragraph 9 the following:

“9A. EirGrid.”,

(ii) in paragraph 20 by substituting for “relates, including a subsidiary of any subsidiary.” the following:

“relates.”.

Section 13.

SCHEDULE

"SCHEDULE 2

SCHEDULED OFFICES

Reference Number	(1)	(2)
1	The Courts Service	The Board of the Courts Service
2	F2[Houses of the Oireachtas Service]	The Houses of the Oireachtas Commission

”.

Annotations**Amendments:**

- F2** Substituted (1.01.2010) by *Houses of the Oireachtas Commission (Amendment) Act 2009 (44/2009)*, s. 14(1) and sch. part 1 item 9, commenced as per s. 15(3).