

Removal of Officer Bill 2010



REMOVAL OF OFFICER BILL, 2010

As initiated

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Removal of Officer Bill, 2009

BILL

Entitled

AN ACT TO PROVIDE, THE GENERAL PUBLIC THE POWER TO REMOVE AN UNDER PERFORMING OFFICER BY MAJORITY VOTE

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS;

PART 1

Preliminary and General

Definitions

1. - This Bill may be cited as the Removal of Officer Bill 2010;

“Cathaoirleach” means chairperson his/her local Authority;

“Senator” means any person elected by An Taoiseach or by College Votes, to hold a seat in Seanad Eireann;

“Seanad Eireann” means the upper house of the Oireachtas;

“Minister” refers to the Minister for Environment, Heritage and Local Government;

“Dáil Eireann” refers to the lower house of the Oireachtas;

“Local authority” means a body established in accordance with *section 43* of the *Local Government Act 1991*;

“TD” refers to any person elected to Dáil Eireann via General Election or by-election;

“MEP” refers to any person elected by his/her constituency to hold a seat in the European Parliament;

“Councillor/Cllr” refers to any person elected to hold a seat in his/hers local Authority;

“www.reapointofficer.ie” refers to the website as mentioned in *Part 2, Section 4*

“Officer” (as cited in title and otherwise), refers to MEP, TD, Senator or Councillor;

“Removal of Officer Form” refers to the form one must collect to start the process of removing on officer;

“Proposer” refers to the person who the “Removal of Officer Form” is in the name of;

- Expenses
- 2.** – Any expenses incurred by this Minister in administration shall be provided by the Oireachtas.
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- Commencement
- 3.** – This Bill will commence on date of enactment.
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- General Power
To make regulations
- 4.** – This Bill may be regulated by the Minister for Environment, Heritage and Local Government at any time. Amendments to this Bill should be titled: *Removal of Officer Bill 2010, Amendment 1, 2, 3* etc.
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- Persons Involved
- 5.** - Persons involved in this Bill are as follows:
- a) The Minister for Environment, Heritage and Local Government;
 - b) The Minister for Justice, Equality and Law reform;
 - c) Cathaoirligh;
 - d) Proposer.
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PART 2

General Functions

- Procedures
- 6.** – The procedures for the removal of an officer are as follows:
- a) A person may collect a “Removal of Officer Form”.
 - b) Regardless of the office of replacement the proposer must

receive 95% of constituents/ college votes + 1 support pledges to support their campaign. Refer to *Part 3, Section 15* for MEP details.

- c) The proposer must hand their Removal of Officer Form to their Local Cathaoirleach by 12:00pm, any forms submitted after this time will be discarded.

- d) The Cathaoirleach may:
 - i) Receive the minister's approval to dismiss an officer;
 - ii) Find no reason to go any further;
 - iii) Refer a case to the Minister for Justice, Equality and Law Reform in accordance with *Part 6, Section 26*.

(All of the above must be on consent of the minister.)

- e) The Cathaoirleach must in writing inform proposer of action taken.

Obligations to be met by
County Council

7. – The county council are obliged to:

- a) Keep proposer's details safe;
- b) Ensure there is an adequate amount of Removal of Officer Forms available.

Ministerial Functions

8. – Ministerial Functions include:

- a) Consulting with other cabinet ministers on removing an officer
 - b) Consult with Cathaoirleach in accordance with *Part 2, Section 6, d)*
 - c) Allow election to be called in accordance with *Part 2, Section 6, d) (i)*
 - d) Consult with the County Returning Officer in accordance with *Part 5, Section 25, (2)*.
 - e) Consult with the Director of Public Prosecutions in accordance with *Part 6, Section 26 (2)*.
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Cathaoirligh Functions

9. – Cathaoirligh functions must adhere to:

- a) *Part 2, Section 6 d);*
 - b) *Part 2, Section 6 e);*
 - c) *Part 2, Section 8 b)*
 - d) *Part 3, Section 12 (2);*
 - e) *Part 3, Section 14 (2), (3);*
 - f) *Part 5, Section 25;*
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Website

10. – www.reapointofficer.ie shall be set up under the Department of Environment of Environment, Heritage and Local Government.

(2) It will include:

- a) Procedures
- b) Links to other government

Departments

c) This Bill

(3) This website will be funded by the Department of Environment, Heritage and Local Government communications budget.

N.B This website is not subject to law, and can be removed with the consent of the Minister.

Exemptions

11. – All senators nominated by the Taoiseach are exempt from being removed unless the Taoiseach does it him/herself.

(2) The only member of Dáil Eireann who is exempt from being removed from office is the incumbent Ceann Comhairle.

(3) An tUachtarán na hÉireann is also exempt from being removed.

PART 3

Quotas

Quotas to be reached

To remove Councillor

12. – The quota to be reached to remove a councillor must be 95% of constituent voters + 1 other support pledges to successfully bring the Removal of Officer Form to the Cathaoirleach/minister.

(2) If the councillor being removed is the Cathaoirleach, the proposer may bring the Removal of Officer Form to Cathaoirleach of any political party in any other Local Authority.

Quotas to be reached

To remove Senator

13. - The quota to be reached to remove;

a) A senator nominated by the Taoiseach; NIL, refer to *Part 2, Section 11*.

b) A senator nominated by college votes; 95% of college students + 1 other support pledges.

Quotas to be reached

To remove TD

14. – The quota to be reached to remove a TD must be 95% of constituent voters + 1 other support pledges to successfully bring the case to the Cathaoirleach/minister.

(2) If the TD being removed is the Minister for Environment, Heritage and Local Government, the Cathaoirleach may bring the Removal of Officer Form to a TD of the corresponding political party in the same constituency.

- i) The TD may bring the Removal of officer Form to An Taoiseach.

(3) If there is no other TD of the corresponding political party in the constituency, the Cathaoirleach may bring the Removal of Officer Form to a TD of the same political party in a different constituency.

- i) The TD may bring the Removal of officer Form to An Taoiseach.

N.B THIS MAY ONLY HAPPEN IF PART 3, SECTION 14 (2) OCCURS.

Quotas to be reached

To remove MEP

15. – The quota to be reached to remove an MEP must be 85% + 1 support pledges to successfully continue the process of removing an MEP from office.

PART 4

Dates and Limits

Dates and Limits

To remove Councillor

16. – Dates:

- i) No councillor shall be removed from office 90 days before a local election is called.
- ii) Once a local election is called no councillor may be removed.
- iii) If a Removal of Officer Form is pending and a local election is called, the Removal of Officer Form will be returned to the proposer.

Limits:

- i) Up to 5 councillors max may be removed at any one time. If any more than 5 are being removed by the proposer, the Removal of Officer Form will be returned to the proposer.

Dates and Limits

To remove Senator

17. – Dates:

- i) Refer to *Part 2, Section 11* for details on removing a senator nominated by An Taoiseach.
- ii) A senator may not be removed from office 90 days before a general election is called.
- iii) Once a general election is called no senator may be removed.
- iv) If a Removal of Officer Form is pending and a general election is called the Removal of Officers

form will be returned to the proposer.

Limits:

- i) Up to 2 senators max may be removed at any one time. If any more than 5 are being removed by the proposer, the Removal of Officer Form will be returned to the proposer.

Dates and Limits

To remove TD

18. - Dates:

- i) A TD may not be removed from office 90 days before a general election.
- ii) Once a General Election is called no TD may be removed.
- iii) If a Removal of Officer Form is pending and a General Election is called, the Removal of Officer Form will be returned to the proposer.

Limits:

- i) Up to 2 TDs max may be removed at any one time. If any more than 2 are being removed by the proposer, the Removal of Officer Form will be will be returned to the proposer.
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Dates and Limits

To remove MEP

19. – Dates:

- i) An MEP may not be removed from office 90 days before a European election.
- ii) Once a European Election is called no MEP may be removed.
- iii) If a Removal of Officer Form is pending and a European Election is called, the Removal of Officer Form will be returned to the proposer.

Limits:

- i) Up to 1 MEP max may be removed at any one time. If any more than 1 MEP is being removed the Removal of Officer Form will be returned to the proposer.

PART 5

Reappointment of Office holder

General Elections

20. - A General Election may be called in accordance with *Article 28* of the *Constitution of the Irish Free State Act 1922*.

(2) If a general election is called all TDS must resign from their seat.

By-Election

21. – A by-election may be called by the Minister for Environment, Heritage and Local

Government in accordance with Article 29 of the *Constitution of the Irish Free State Act 1922*.

(2) A By-Election may be called at the minister's discretion.

(3) If a By-election is called the sitting TDs not being removed in the respective constituency, may not give up their seats.

European Election

22. - A European election may be called by the Minister for Environment, Heritage and Local Government.

(2) The minister may call a European Election to replace a removed MEP.

(3) In the case of *Part 5, Section 22 (2)*, only one seat is available, i.e. All sitting MEP's may not give up their seat.

Nomination by An Taoiseach

23. – An Taoiseach may nominate any citizen he/she deems fit to hold a vacant seat in Seanad Éireann.

Election by College Votes

24. – The President of the respective college may call a college vote to elect a senator to Seanad Éireann when he/she deems fit.

Local Elections

25. – The Cathaoirleach may call a Local Election after consulting with the Minister for Environment, Heritage and Local Government. *Part 2, Section 6, d)*

(2) If the Cathaoirleach seat is vacant, the County Returning Officer may consult with the minister to hold an election.

PART 6

Entrance into the Judicial System

Breach of powers

26. - The proposer may alert the Cathaoirleach to an officer in breach of their powers. The Cathaoirleach must alert the minister.

(2) The minister must pass the Removal of Officer form to the Director of Public Prosecutions

Legal Aid

27. – An officer is entitled to free legal aid on request.

Courts

28. – The removal of an officer trial must be held in the District Court closet to the officer's constituency he/ she represents.

(2) An officer may appeal the decision of the District court. The normal court procedures follow.

(3) An officer has 90 days to appeal the verdict of the District court.

Sentencing's and Fines

29. – A judge may sentence an officer up to a maximum of five years in prison.

(2) A fine not exceeding €30,000 may be imposed on a removed officer.

(3) The courts may defer the case to an appropriate tribunal for further investigation.

(4) An officer may return to his/her post if elected in the following election after the sentence or fine has been fulfilled.
