

An Roinn Oideachais agus Scileanna
Sráid Maoilbhride
Baile Átha Cliath 1
D01 RC96



Department of Education and Skills
Marlborough Street
Dublin 1
D01 RC96

Circular 0019/2017

15th March 2017

To: **The Higher Education Authority for dissemination to all Institutes of Technology and the Dublin Institute of Technology**

Re: **Institutes of Technology Staff & DIT Staff - Public Service Stability Agreement 2013 – 2018 (Lansdowne Road Agreement) and the Financial Emergency Measures in the Public Interest Act 2015**

The Minister for Education and Skills wishes to inform of the application of revised rates of salary with effect from 1 April 2017.

The revised salary rates have been introduced as a result of the Public Service Stability Agreement 2013 – 2018 (Haddington Road Agreement/ Lansdowne Road Agreement) and the Financial Emergency Measures in the Public Interest Act 2015.

Salary Increases with effect from 1 April 2017

In accordance with the Agreement and the legislation, whole-time annual basic salaries up to €65,000 are increased by €1,000 with effect from 1 April 2017.

Restoration of Haddington Road Agreement/ FEMPI Act 2013 Pay Reductions

Where a public servant currently in receipt of annualised remuneration of between €65,000 and €110,000 had their salary reduced under the terms of the Haddington Road Agreement/ FEMPI Act 2013, one half of the reduction will be restored to his/her salary with effect from 1 April 2017. The second half of the reduction will be restored on 1 January 2018. Specific directions in relation to the 1 January 2018 restoration will be issued by the Department closer to the time of its implementation.

Where a public servant currently in receipt of annualised remuneration above €110,000 had their salary reduced under the terms of the Haddington Road Agreement/ FEMPI Act 2013, one third of the reduction will be restored to his/her salary with effect from 1 April 2017. The second third of the reduction will be restored on 1 April 2018 and the final third on 1 April 2019. Specific directions in relation to the 1 April 2018 and 1 April 2019 restorations will be issued by the Department closer to the time of their implementation.

Revised salary scales

Revised salary scales for the affected grades of staff whose salary scales are sanctioned by this Department are included in an attachment with this Circular.

All salary scales and hourly rates payable to affected staff set out in previous Circulars are superseded by the terms of this Circular with effect from 1 April 2017.

Part-time / hourly paid staff

The pay of part-time staff or hourly paid staff may be revised, in accordance with normal arrangements, by reference to the pay of whole-time staff to which they are related for pay purposes in accordance with this Circular.

Allowances

Allowances which are calculated as a specific percentage or specified portion of basic pay should be recalculated by reference to the revised rates of pay with effect from 1 April 2017. Fixed allowances are not affected.

Overtime

Payment in respect of overtime for eligible grades rendered on or after 1 April 2017 should be calculated by reference to the revised rates of pay with effect from 1 April 2017.

Enhanced Controls in relation to Terms and Conditions of Employment Agreed with effect from 30 November 2015

Employers are reminded that the Ministers and Secretaries (Amendment) Act 2011 has been amended under the FEMPI Act 2015 to introduce enhanced controls in relation to terms and conditions of employment agreed between public servants and their public service body employers with effect from 30 November 2015. The relevant sections of the Act are included in the Appendix to this letter.

Anomalies

Where the operation of the increases set out in this Circular results in the basic salary of a public servant being higher than the basic salary applicable to the next immediate point on the pay scale (or any higher point), this should be notified to the Department so that the anomaly can be addressed.

Off-Scale Salaries

The restoration of Haddington Road Agreement/ FEMPI Act 2013 pay reductions set out above should only be applied to staff on an off-scale salary where that salary was subject to the Haddington Road Agreement/ FEMPI Act 2013 pay reductions.

Whole-time off-scale salaries which are less than €65,000 are increased by €1,000 with effect from 1 April 2017.

Any queries in relation to anomalies identified in relation to this circular should be forwarded by email to esr@education.gov.ie. Any other queries in relation to this circular should also be forwarded by email to this address.

I would be grateful if you could bring this letter to the attention of Institutes of Technology and the Dublin Institute of Technology in order to allow them the maximum time to prepare for these changes.

Philip Crosby
Principal Officer
External Staff Relations

Appendix

Section 12 of the Financial Emergency Measures in the Public Interest Act 2015

Amendment of Ministers and Secretaries (Amendment) Act 2011

The Ministers and Secretaries (Amendment) Act 2011 is amended by the insertion of the following section after section 16:

“Control of terms and conditions of public servants

16A. (1) Where—

(a) the Minister has approved a term or condition as being a term or condition that shall apply for the time being in respect of the employment of a class or category of public servant (whether that approval takes the form of an approval as such, any other form of sanction or the giving of consent by the Minister to a decision of another person in the matter), and

(b) a contract of employment in respect of a public servant falling within that class or category is entered into that contains a term or condition that corresponds or is equivalent to the term or condition standing so approved but which is more favourable to the public servant than that term or condition,

the contract shall have effect as if the term or condition standing so approved (referred to in subsections (2) and (3) as the ‘approved term or condition’) were substituted for the first-mentioned term or condition in paragraph (b) (referred to in subsections (2) and (3) as the ‘unapproved term or condition’).

(2) Any amount paid to the public servant concerned in purported compliance with the unapproved term or condition that is in excess of the amount payable to the public servant under the approved term or condition shall be disregarded for the purpose of calculating any pension entitlement (including an entitlement to a lump sum and an entitlement to periodic payments of pension) of that public servant.

(3) Where an amount is paid to the public servant concerned in purported compliance with the unapproved term or condition that is in excess of the amount payable to the public servant under the approved term or condition then—

(a) the public servant shall hold the overpayment in trust for the public service body, and

(b) the public service body shall recover the amount of the overpayment from the public servant, either directly or by a deduction taken from remuneration subsequently payable to that public servant or otherwise.

(4) Where—

(a) a contract of employment is entered into in respect of a public servant, and

(b) the contract contains a term or condition in relation to remuneration that does not correspond or is not equivalent to any term or condition standing approved by the Minister in respect of the employment of a class or category of public servant into which the first-mentioned public servant falls (whether that approval

takes the form of an approval as such, any other form of sanction or the giving of consent by the Minister to a decision of another person in the matter),

the term or condition shall be void.

(5) Any amount paid to the public servant concerned in purported compliance with a term or condition voided under subsection (4) shall be disregarded for the purpose of calculating any pension entitlement (including an entitlement to a lump sum and an entitlement to periodic payments of pension) of that public servant.

(6) Where an amount is paid to the public servant concerned in purported compliance with a term or condition voided under subsection (4) then—

(a) the public servant shall hold the amount in trust for the public service body, and

(b) the public service body shall recover the amount from the public servant, either directly or by a deduction taken from remuneration subsequently payable to that public servant or otherwise.

(7) Subsections (3) and (6) shall not be taken as limiting the liability under statute of any person to account for such overpayment.

(8) Where an amount to which subsection (3) or (6) relates has not been recovered by the public service body concerned, the Minister may direct in writing that body to recover, by a specified date, the amount in accordance with subsection (3)(b) or (6)(b), as the case may be, and, where that body fails to so recover the amount, the Minister may deduct the amount from any grant or vote of, or other payment to, that body out of money provided directly or indirectly by the Oireachtas or from the Central Fund or the growing produce of that Fund.

(9) This section applies to a term or condition agreed after the commencement of section 12 of the Financial Emergency Measures in the Public Interest Act 2015.

(10) This section has effect notwithstanding—

(a) any other enactment,

(b) any pension scheme or arrangement,

(c) any other agreement or contractual arrangement, or

(d) any understanding, expectation, circular or instrument or other document.

(11) In this section—

“public servant” means a person who is employed by, or who holds any office or other position in, a public service body;

“remuneration” means emoluments to which Chapter 4 of Part 42 of the Taxes Consolidation Act 1997 applies or is applied.”.