Teachers' Union of Ireland

Aontas Múinteoirí Éireann

Haddington Road Agreement 2013 - 2016

and

Financial Emergency Measures in the Public Interest (FEMPI) Act 2013

FOR INFORMATION OF MEMBERS

September 2013

CONTENTS

Education sector talks under the auspices of the Labour Relations Commission (LRC) were held in late May 2013. The talks resulted in issue, by the LRC, of the proposed Haddington Road Agreement.
With effect from 1st of July 2013, this Act cut the pay of all public servants earning over **€**65,000 and froze the increments of public servants not covered by a collective agreement.

On 5th of June 2013, the Oireachtas enacted the Financial Emergency Measures in the Public Interest *(FEMPI)* Act 2013. With effect from 1st of July 2013, this Act cut the pay of all public servants and froze the increments of public servants not covered by a collective agreement. The FEMPI Act also provides (under section 2B) that the relevant Minister can set or amend terms and conditions so as to reduce remuneration or increase the working hours of public servants.

Following a decision of the Executive Committee, TUI members will ballot on whether to accept or reject the proposed Haddington Road Agreement between September 2, 2013 and September 20, 2013. As the implications of the proposed Haddington Road Agreement and the FEMPI Act are different for each member, the Executive Committee decided to issue the Ballot without a recommendation.

For the information of members, the following document contains the text of the Haddington Road Agreement and the Education Sector Appendix. For ease of reading, areas of the text of the proposed Agreement which are different to the previously rejected 'Croke Park 2' proposals are in Green.

The document also contains the full text of the Financial Emergency in the Public Interest (FEMPI) Act 2013 and the Explanatory Memorandum which accompanied the FEMPI Bill.

LRC PROPOSALS

PUBLIC SERVICE STABILITY

AGREEMENT 2013 - 2016

THE HADDING TON ROAD AGREEMENT

May 2013

CONTENTS

FOREWORD

The Labour Relations Commission issued earlier proposals to the parties in February 2013 and those proposals were not accepted by the Trade Union side. At the behest of Government the Chief Executive of the Commission and the Director and Deputy Director of the Commission's Conciliation Service then met with all of the Trade Unions and Associations representing staff in the Public Service in order to assess the potential that might exist for further engagement in an effort to find an agreed way forward. The Commission was made aware that Government's intention to secure the identified level of payroll and pension savings remained and that if necessary, the Government would legislate to achieve those savings. The Government also emphasised to the Commission its preference for a collective agreement as the means to secure the identified level of savings and its commitment to engage fully in any process the Commission would put in place to attempt to achieve an agreement.

The Commission, following its process of assessment, took the view that it should facilitate dialogue and engagement between the parties to explore to the fullest the potential for agreement. The Commission has therefore chaired extensive and intensive conciliation and mediation between Government and all Trade Unions and representative bodies across every sector of the Public Service. All aspects of the challenge of finding agreement were explored in great detail in a process which focused on each sector of the Public Service separately. That process concluded on the morning of 21st May 2013.

This document captures all of the positions reached in that process of engagement and sets outs the detail of potential collective agreements for consideration by the Trade Unions and representative associations. The Commission understands that the Government will conclude a collective agreement on these terms with any Trade Union or association confirming its acceptance of the position reached and set out in this document. The Commission is also clear that where a collective agreement is reached, the terms of that agreement will apply to the staff covered by that agreement as opposed to any other terms which may be set out in legislation, circular or regulation designed to achieve the payroll and pension savings identified by Government.

The Labour Relations Commission confirms to all parties that the positions set out in this document represent the limit of what can be achieved by negotiation between the parties in all of the circumstances applying at this time. On that basis the Commission puts the positions set out as its proposals for collective agreement between the parties. Any anomalies or matters of practical application that arise should be addressed using the procedures contained in this agreement.

Kieran Mulvey
Chief Executive

Kevin Foley
Director of Conciliation

Anna Perry
Deputy Director of Conciliation

EXECUTIVE SUMMARY

Ireland is committed to reducing its general government deficit – the gap between Government revenues and spending, which must be financed by borrowing – to less than 3% by 2015.

As the Public Service Pay and Pensions Bill accounts for 35% of spending, the Government have decided that a proportionate contribution to the necessary overall additional expenditure reduction required must come from this area.

The Parties are agreed on the following series of pay and productivity measures to be implemented in order to achieve the necessary €1 billion savings in the cost of the pay and pensions bill over the 3 years from 2013 to 2015.

The Parties acknowledge the significant level of reform that has taken place across the public service under the Public Service Agreement 2010-2014. However, they also agree that further measures are required to underpin the delivery of a more integrated, efficient and effective public service. Under this Agreement further sustainable reform measures will be implemented in the following areas:

- Redeployment
- Performance management
- Flexible working arrangements
- Work-sharing arrangements
- Workforce restructuring.

The Government reaffirms the commitment given under Paragraphs 1.6 and 1.15 of the Public Service Agreement in relation to pay rates of public servants and compulsory redundancy, subject to the provisions set out in this Agreement.

This Collective Agreement, subject to ratification by the Parties, will apply for a period of 3 years from 1st July 2013. The pay and productivity provisions set out in this Agreement will be implemented with effect from 1st July 2013.

1 INTRODUCTION

Context

1.1 Since 2008, expenditure reducing and revenue raising measures designed to save approximately €25 billion (around 16% of 2011 GDP) have been implemented. These measures have been wide-ranging and have had a significant impact on the living standards of all the citizens of the State, including public servants.

1.2 Ireland is committed to reducing its general government deficit – the gap between Government revenues and spending, which must be financed by borrowing – to less than 3% by 2015. Given the volume of borrowing required, the State's debt-to-GDP ratio is set to rise further to over 120% of GDP and the proportion of revenue that goes towards servicing that debt will also increase.

1.3 The deficit for 2012 is estimated to be just under 8% of GDP, or over €15 billion in Exchequer terms. The Parties recognise the very large challenge remaining, both in terms of revenue streams and reducing public expenditure, to reduce that deficit to the necessary sustainable level over the years ahead.

1.4 The Government's Medium Term Fiscal Statement indicates that, in addition to the overall fiscal consolidation of €3.5 billion required for 2013, an additional €3.1 billion in savings and revenue-raising measures must be identified for 2014 and €2 billion in 2015.

1.5 The scale of consolidation required can only be achieved with a contribution from all the main components of public expenditure. As the pay and pensions bill accounts for 35% of spending, a proportionate contribution to the necessary overall additional expenditure reduction required must come from this area. This will involve a further reduction of some €1 billion in the cost of the pay and pensions bill over the 3 years from 2013 to 2015. These savings must be over and above savings already identified for the pay bill through to 2015 and a substantial portion, some €300 million, must be delivered in 2013.

Contribution of public servants to date

1.6 The Parties acknowledge the substantial contribution made by public servants to the fiscal consolidation process to date. This contribution has involved:

- Non-payment of general round increases under the terms of the Towards 2016 Review and Transitional Agreement and certain other 3rd party recommendations;
- Pay reductions averaging 14% arising from the introduction of the Pension Related Deduction in 2009 and the pay reductions introduced in January 2010;
- An ongoing pay freeze; and
- Deductions from public service pensioners.

Furthermore, the ongoing efforts of workers across the Public Service to maintain and enhance services to the public, as staff numbers have reduced by more than 30,000, is also acknowledged.

The Parties also recognise that €1.5 billion in pay and non-pay savings were delivered with the co-operation of staff under the Public Service Agreement 2010-2014 in its first two years, as outlined in the annual progress reports published by the Implementation Body. Significant reform of the way public services are delivered has also been achieved and is detailed in these reports.

This Agreement

1.9 This Agreement sets out measures on productivity, cost extraction and reform which together will achieve the targeted pay bill reduction. The Agreement builds on the measures set out in the Public Service Agreement 201 0–2014 which began the process of delivering an increasingly integrated and more productive Public Service, with greater standardisation of employment conditions within and across sectors of the Public Service.

1.10 The Parties agree to continue to work within the framework of the Public Service Agreement and reaffirm the overall commitments provided within it, subject to the matters set out in this Agreement. The Parties will also continue to co-operate fully with change and reform measures advanced under the framework of the Public Service Agreement.

1.11 The Parties are agreed that the Public Service should continue to support employment and activation measures for the unemployed, including apprenticeship/traineeship opportunities. The parties agree to work together to support the development and implementation of well-designed employment initiatives within the Public Service.

1.12 This Agreement, subject to ratification by the Parties, will apply for a period of 3 years from 1st July 2013.

Review of this Agreement

1.13 The Government reaffirms, subject to Paragraph 1.14 below, that public service pay and any related issues will not be revisited over the lifetime of this Agreement.

1.14 However, in the event that the commitments or assumptions reaffirmed under this Agreement must be revisited, the Parties will meet to discuss the circumstances that had arisen and the implications for the Agreement. The Government confirms, in this regard, that it will not act without prior engagement with the parties on what may be required.

2 PAY AND PRODUCTIVITY MEASURES

2.1 The Parties agree that the following measures will be implemented in order to generate the required saving of €1 billion in the Exchequer pay and pensions bill by 2015.

2.2 Unless otherwise specified, the measures set out in this section and any sectoral appendix to this part will be implemented from 1st July 2013. The Parties note that a number of these measures will require legislative change. The measures set out in this section will be applied save as may be varied in relevant sectoral appendices.

2.3 When economic circumstances allow and the public finances are restored to a sustainable position, the pay measures that have applied to public servants, including those under this Agreement, will be reviewed. As was stated in Paragraph 1.16 of the Public Service Agreement 2010 – 2014, it is reaffirmed that priority will be given to public servants with pay rates at €35,000 or less in that review.

Additional working hours

2.4 The standard working hours of public servants will increase as follows:

- Those with a working week of **35 hours or less** (net of rest breaks) will increase to a minimum of a 37 hour week. The implementation of these additional hours for specific groups is subject to the arrangements set out in Appendix 9.
- Those with a working week that is **greater than 35 hours but less than 39 hours** (net of rest breaks) will increase to a 39 hour week.
- Working hours of those currently with a net working week of **39 hours or greater** will remain the same. However, an hour of overtime worked each week for these grades will be unpaid until 31st March 2014.

2.5 The implementation of additional hours will be on the basis of the following phased arrangement:

- The first 2 hours and 15 minutes will be implemented from 1st July 2013.
- Any remaining liability will be implemented from 1st July 2015.

Management will allow persons to opt to remain on their current hours with appropriate pay adjustments for a period, after which the provisions of Paragraph 3.15 will apply.

The actual implementation of these proposals will require detailed consultation at workplace level in order to maximise the capacity to accommodate issues for affected individuals.

Extra hours worked will be deployed and may be aggregated on a daily, weekly or annual basis as best meets service demands, following local consultation, based on the principles agreed in each sector.

The gross working week, inclusive of breaks, will increase as appropriate to reflect the increased net hours worked and divisors for the calculation of overtime will be adjusted accordingly.

Staff will co-operate with the revisions to rosters necessary for the full deployment of the additional hours and with any consequential revisions.

No cost increasing claim will be made consequential on the increase in working time, including of leave.

2.12 Nothing in this Agreement shall serve to restrict working arrangements involving greater flexibility in those sectors where they currently exist.

Overtime

2.13 Overtime arrangements are revised as follows:

For those on salaries of up to €35,000 (inclusive of allowances in the nature of pay), overtime will be paid at time and a half at the first point of the appropriate scale. This formula will not apply to any scale where this provision would result in overtime being paid at less than time at any point on the scale. In the case of such scales, the formula set out in (b) below will apply.

For those on salaries (inclusive of allowances in the nature of pay) of €35,000 or greater, overtime will be paid at the rate of time and a quarter at the individual's scale point.

2.14 Divisors for the calculation of overtime will be adjusted to take account of any additional hours provided for above.

2.15 For those grades currently with a working week of 39 hours or more (net of rest breaks), an hour of overtime worked each week will be unpaid until 31st March 2014.

Premia

2.16 Sunday staffing and other reforms: Management will actively seek to reduce the overall numbers of staff rostered for duty on Sundays. At the same time, all staff will co-operate with measures to achieve the most cost-effective skill-mix and staffing ratios to meet service needs. An intensive engagement process will begin immediately to review existing skill mix and staffing ratios to ensure that these identified needs are met. Co-operation will be forthcoming for other measures to improve efficiency and effectiveness of hospital services, in particular concentrating as much care provision as possible into the Monday to Saturday period. Staff co-operation will be forthcoming for the establishment of hospital groups and for the re-organisation of services within and between those groups.

2.17 Twilight payments and any equivalent payments across sectors, will no longer be payable.

Increments and related balancing measures

2.18 For those on salaries below €35,000 (inclusive of allowances in the nature of pay), a three month increment freeze will apply during the Agreement. This freeze will take effect after the next increment is paid with the following increment being awarded in fifteen months rather than twelve, or equivalent if the increment interval is longer.

2.19 For those on salaries between €35,000 and €65,000 (inclusive of allowances in the nature of pay), two three-month increment freezes will apply (total of a six month freeze) during the Agreement. As above, this would take effect after the next increment is paid but for two consecutive years there would be a fifteen month period between increment dates. If the increment interval is longer than 12 months, the freeze will be for a single 6 month period.

2.20 For those on salaries above €65,000 (inclusive of allowances in the nature of pay) to the max of the Principal (higher) scale or equivalent in the civil service or similar across the Public Service, two six month increment freezes will apply. These freezes will take effect after the payment of the next due increment with the following two increments being awarded in 18 months rather than 12 months, or equivalent if the increment date is longer.

2.21 Incremental progression will be suspended for three years for those on salary scales starting over €100,000 (inclusive of allowances in the nature of pay).

2.22 Where an employee's salary (inclusive of allowances in the nature of pay) surpasses €35,000 during the Agreement, a second incremental freeze of three months will apply, in accordance with the arrangements for those on salaries between €35,000 and €65,000, inclusive of allowances in the nature of pay outlined above.

2.23 If a person's salary increases above €65,000 (inclusive of allowances in the nature of pay) during the Agreement, the pay reduction provisions outlined below will apply.

2.24 For those currently on the final point on the incremental scale and with salaries between €35,000 and €65,000 (inclusive of allowances in the nature of pay), the following arrangements will apply, apart from those grades with an annual leave entitlement of 23 days or less, in the interests of equity:

- A total reduction of annual leave entitlement over the period of the Agreement of 6 days; Or
- A cash deduction from salary of an equivalent amount to the value of the 6 annual leave days or a half of the most recent increment, whichever is the lesser.

2.25 For those on salaries between €35,000 and €65,000 (inclusive of allowances in the nature of pay) and who reach the maximum of the scale following a single 15 month incremental period, a reduction of annual leave entitlement of 3 days will apply, or an equivalent amount to the value of the 3 annual leave days or a quarter of the most recent increment, whichever is the lesser.

Higher remuneration

2.26 In addition to the measures on increments above, the Parties note that the Government intends to apply a reduction in pay for those on salaries of €65,000 and greater (inclusive of allowances in the nature of pay) as follows:

Annualised amount of Remuneration	Reduction
Any amount up to €80,000	5.5%
Any amount over €80,000 but not over €150,000	8%
Any amount over €150,000 but not over €185,000	9%
Any amount over €185,000	10%

- For those on salaries (inclusive of allowances in the nature of pay) above €65,000 to the max of the Principal (higher) scale or equivalent in the civil service or similar across the Public Service, the reduction in pay above will be restored to the pay rate that they would have had, but for the pay reduction, within a maximum of 18 months of the end of this 3 year Agreement between the parties which is intended to commence with effect from 1st July 2013. The restoration will be in two equal phases – the first after 9 months and the second 9 months later.
- In relation to impacts at the margin, salaries will not fall below €65,000 as a result of the application of this reduction.
- Salary scales above €100,000 will be reduced by the appropriate percentage based on the application of the reductions above.
- Detailed guidance and circulars in relation to the application of the above measures will be prepared.
- The Government has also indicated that it intends to provide in the legislation for a grace period for pension purposes during which both the reduction in pay and any deferral of increment progression will be disregarded.

Other pay related measures

2.27 **Allowances:** There will be full co-operation by the Parties with the follow up to the Government's Allowances Review, taking account of the recommendations contained in Labour Court Recommendation 20448. In accordance with that Recommendation, the Parties agree to enter into central negotiations with a view to reaching a generally applicable agreement on measures by which loss arising from the elimination of pensionable allowances can be ameliorated. Where a dispute arises during the course of this process, the Parties agree to use the agreed industrial relations machinery appropriate to each sector and to be bound by its outcome (see section 5.1).

2.28 **Travel and Subsistence:** The Parties note that the Government intends to review travel and subsistence arrangements. There will be full co-operation by the Parties with the review and the implementation of a standardised system of travel and subsistence across the Public Service.

2.29 **Public Service Pensions:** Separately to this Agreement, the Parties note that the Government intends to align the reductions in public service pensions in payment with the reductions applied to serving staff. The Parties note that this measure will apply to pensions in payment greater than €32,500 only.

2.30 **Use of external consultants by public bodies:** The Staff Side have expressed considerable concern at what they believe to be excessive use of external consultants in the Public Service. The Government, for its part, shares these concerns regarding the costs to the Exchequer of the use of outside consultancy and re-affirms its commitment to maximising the potential of in-house expertise to deliver further savings in this area. The recent procurement reform programme to achieve between €250m to €600m of savings is welcomed. It is expected that savings in consultancy contracts will be a key element of this Programme.

2.31 **New Entrant Salary Scales:** In order to address the imbalance between those who entered the Public Service since 2011 and those who entered before that date, revised incremental salary scales shall be prepared for same grade entrants to each public service sector as necessary to incorporate the revision of salary scales introduced by Government Decision in January 2011.

2.32 Pension-related Deduction – Rate Adjustment: The present rates and bands of the Pension Related Deduction are set out in the Table hereunder:

Bands and Rates	
€15,000	Exempt
€15,000 - €20,000	5.0%
€20,000 - €60,000	10.0%
Above €60,000	10.5%

As part of the Agreement, it is agreed to reduce the €15,000-€20,000 band rate to 2.5% from 5% to produce the following Table:

Bands and Rates	
€15,000	Exempt
€15,000 - €20,000	2.5%
€20,000 - €60,000	10.0%
Above €60,000	10.5%

3 WORKPLACE REFORM

3.1 The Parties re-affirm Paragraph 1.4 of the Public Service Agreement 2010-2014 which states that:

"In order to sustain the delivery of excellent public services alongside the targeted reduction in public service numbers over the coming years, the Parties accept that efficiencies will need to be maxim ised and productivity in the use of resources greatly increased through revised work practices and other initiatives. The Parties will work together to implement this Agreement to deliver an on going reduction in the cost of delivery of public services along with excellent services to the public."

3.2 Accordingly, the Parties have agreed that the following measures will be implemented as a priority over the lifetime of this Agreement.

Further headcount reduction

3.3 The Parties recognise that the provision of additional working hours and related productivity measures in this Agreement have the potential to facilitate further reductions in staff numbers over the course of the Agreement, subject to decisions by Government in relation to such issues. The Parties accept that it is appropriate to make provision for annual pay bill savings in respect of such reductions.

3.4 Redeployment in the Public Service is critical to supporting the maintenance of front line public services as staff numbers are reduced. The current redeployment arrangements are being revised to make them more efficient and effective to ensure more flexible and faster redeployment both within and across all sectors. It is necessary to improve the flow of staff across the Public Service, and to ensure that suitably skilled staff are available to meet the identified organisational, operational and business needs of public service organisations.

3.5 To assist this process, workforce planning will become the norm across public service bodies. Workforce Action Plans will match resources with business/sectoral policy needs within the Employment Control Framework (ECF) disciplines. The process will support management in identifying the skills deficits as well as staff surpluses within organisations as part of a consistent and structured resourcing policy.

Redeployment

3.6 The Parties reaffirm the commitments given in paragraph 1.5-1.12 of the Public Service Agreement 2010-2014, including those relating to service reconfiguration.

3.7 Across all sectors the guideline redeployment distance will continue to be 45km from the current work location or of the home address, whichever is the shorter commute. Regard will also be had to reasonable daily commute time (i.e. as per the Public Service Agreement 2010-2014). In line with the Public Service Agreement 2010-2014, redeployment options may of necessity be beyond this guideline distance and in such circumstances, consultation will take place in relation to the assignment on offer.

3.8 Where redeployment is not an option and taking account of the business needs of the organisation there may be circumstances where voluntary departure would be appropriate. In such situations there will be discussions with the relevant unions on the terms of any arrangement (which will be in line with any centrally agreed arrangements).

3.9 The existing provisions in the Public Service Agreement 2010-2014 are reaffirmed but to enhance management flexibility and optimise the redeployment arrangements the following changes will be introduced for the Civil Service and NCSSBs and for cross-sectoral redeployment:

- Departments should identify staff for redeployment as follows:
    - Where an activity or programme is no longer being carried out, the posts associated with that activity or programme should be deemed to be surplus and available for redeployment. Surplus posts may also arise as a result of rationalisation, reconfiguration, reorganisation or restructuring of services or functions or as a result of the ECF or in line with business needs.
    - The Department should identify the number of posts at each relevant grade which are surplus and the location of the surplus. Once a surplus has been established on this basis the identification of staff to be redeployed will proceed as follows: (i) volunteers will be sought for the Redeployment Panel and (ii) if the number of volunteers falls short of the surplus, LIFO will be applied, as appropriate.
- Redeployment must occur seamlessly across the Public Service, particularly at regional level. This will continue to be facilitated by the Public Appointments Service (PAS) which will strengthen the systems in place to match surplus staff with vacancies on a geographic basis within the guideline distance. Specifically:
    - The operation of the redeployment arrangements will be based on the "best fit" for the vacancy in the location. In this context, every opportunity should continue to be taken for re-skilling and re-assignment as the key method to seek to retain and secure employment in comparable roles in the Public Service.
    - The appropriate match will be determined by the PAS in conjunction with the organisation's sectoral liaison officer/contact point and its respective management within a period not exceeding one month of notification of the vacancy.
    - To assist the assignment process and to ensure the selection of the "best fit" for the vacancy, each individual assigned to the Resource Panel must submit a CV with a profile of skills, competencies, knowledge and career experience. The PAS in conjunction with the receiving organisation will conduct a selection process to establish the suitability of individuals for the vacancy concerned.
    - Where a staff member wishes to appeal a redeployment assignment, whether cross-sectoral or within the civil service, such an appeal will be considered by an agreed adjudicator who will issue a decision within the terms of the scheme within 21 days and whose decision will be binding on all parties and will be final. In all instances the individual will be required to take up the position offered in advance of the adjudication process.

Workforce restructuring

3.10 Significant progress has been made on restructuring the Public Service since 2008 and, in particular, since 2010, under the framework of the Public Service Agreement.

3.11 However, it is necessary to look at further ways to streamline the Public Service given the ongoing challenges it faces. Specifically, each sector will:

- Bring forward proposals for grade rationalisation with a view to restructuring grades in each sector by 2014; and

- Develop and implement proposals to further reduce management numbers by increasing the span of control (ratio of staff to management) across all management and supervisory grades where appropriate. This ratio will vary to reflect the business of the organisation concerned.

3.12 In recognition of ongoing resource constraints, there will be flexibility around traditional grade demarcations.

Strengthening performance management

3.13 The Parties are agreed on the need to nurture a high performing Public Service. While progress has been made in this area, it is accepted that further steps need to be taken urgently to strengthen performance management systems and procedures in place across the Public Service.

3.14 Specifically:

- During the lifetime of this Agreement, the introduction of performance management systems will be accelerated at the level of the individual in all areas of the Public Service where they do not currently exist.

Where necessary, existing arrangements will be revised to ensure:

- Managers are held to account for managing the performance and development of their staff. This must be a key goal for all managers and taken account of in their own performance reviews.

- Procedures to deal with underperformance will be streamlined to be more effective.

- The performance of individual public servants is managed and assessed against agreed objectives.

- Performance improvement action plans will be developed for individuals identified as having performance issues clearly setting out the performance issues that need to be addressed over a defined timeframe. There will be active management of the performance improvement action plans. In instances where performance has not been satisfactorily addressed within the timeframe set down, procedures to deal with underperformance will be invoked.

- Where performance does not improve to a satisfactory level within an agreed timeframe, disciplinary procedures may apply.

- The performance of senior managers is critical to supporting the effective delivery of quality public services and never more so than in a climate of significantly reduced resources. Measures will be introduced to further develop and enhance a culture of performance across the management cohort of the Public Service. These measures will include the introduction of management performance agreements.

Work-sharing

3.15 It is acknowledged that flexibility in attendance arrangements can, where they can be accommodated, contribute to efficient and effective business performance while enabling staff to balance work and personal life requirements. Accordingly the Public Service has been to the fore in pioneering flexible attendance patterns. Nevertheless, the multitude and variety of work sharing patterns in place, in some sectors, has created a significant management challenge and overhead and is impacting on the capacity of organisations to deliver their services. Therefore, in order to support the effective management of increasingly scarce staff resources into the future and the protection of services to the public, the following principles will apply:

- The implementation and operation of the work-sharing arrangements is at the discretion of management, who retain the discretion to alter, reduce and/or standardise the range of work sharing patterns available to staff having regard to the specific business needs of their organisation.

- No work-sharing pattern approved in the future should be less than 50% of full time working hours. Staff currently on patterns of less than 50% can retain the work pattern on a personal to holder basis.

- In line with previous agreed arrangements, each individual's work-sharing arrangements will be formally reviewed on an annual basis (or earlier if required). Where such a review has not yet taken place a review must be completed by the end of 2013.

- Management's discretion to alter or change an individual's work-sharing arrangements, on the giving of due notice (3 months), is confirmed. Management reserves the right, on reasonable business grounds and with reasonable notice, to refuse access to the scheme, to require a person to vary their work-sharing arrangements, or to require a person to resume full time work.

Flexible Working Arrangements (Flexitime)

3.16 The Parties agree that management has the responsibility and the right to actively manage flexible working arrangements in their organisations. This will help to build on the work done to date in reviewing and revising work practices to ensure that, in a context of reduced resources and numbers, as well as additional working hours, the Public Service will continue to provide the required level of service to the public and to contribute to economic recovery.

3.17 While the rationale for this flexibility is acknowledged, it is now necessary to update the arrangements to better reflect the current needs of organisations, in the context of falling numbers in the Public Service, changing demands in terms of services to the public and the additional working hours under this Agreement. In this context, it may be necessary to amend the core time bands to reflect the extended hours of working and to meet business needs following local consultation. Flexible Working Arrangements (FWA) are only possible so long as they support and enhance the efficient operation of Departments/Offices. In particular, all areas must always be appropriately staffed during the working day, including lunch breaks; all arrangements must ensure that this is consistently the case.

3.18 The current FWA will continue to apply subject to the following amendments:

- FWA will continue to be available for staff up to Higher Executive Officer (HEO) grade and its equivalents in the Civil Service and other sectors, as appropriate.

- FWA will not apply to staff at the Assistant Principal Officer (APO) grade and its equivalents in the Civil Service and other sectors, except for those staff who already have this arrangement.

- With effect from 1st July 2014, the maximum amount of flexi leave allowed in any flexi period is one day.

- No change is proposed to the existing terms of the Flexitime Agreements with regard to the amount or the use of hours to be carried over.

Outsourcing

3.19 The Parties reaffirm that the principles and procedures set out in the Appendix: Service Delivery Options to the Public Service Agreement 2010-2014 will continue to apply, and in that context the relevant Trade Unions will be consulted on all aspects of the public procurement process, including the tendering process, at key stages before decisions are made, consistent with the requirements of

EU and national procurement law and commercial sensitivity. The Parties also note in this regard the mechanism established under paragraph 13 of the Agreement.

3.20 Management will put in place engagement between the Union Side and the National Procurement Office to review mechanisms in place to ensure compliance with the terms of the Agreement and to achieve a joint understanding on arrangements to deliver on the commitments of the Parties. The Official Side also agree to ongoing engagement over the lifetime of the Agreement.

3.21 The Chairman of the Construction National Joint Industrial Council and the Chairman of the Electrical Industry National Joint Industrial Council will convene an engagement between the two Councils and the relevant senior officials on the official contract management side to engage in relation to the effective compliance in public contracts with the terms of employment law, including with the terms of relevant Registered Employment

Agreements (REAs). This engagement will take place within 6 weeks of the adoption of this Agreement.

3.22 Should it be required, the Parties commit to a joint review of the operation of the Appendix, under the auspices of the Labour Relations Commission. That review will be completed within a period of 3 months of its initiation. The Commission undertakes to make proposals to support the operation of the Appendix, should the Parties' joint review not have found consensus on the matter.

4 EXIT MECHANISMS

4.1 To facilitate the necessary reduction in numbers of public servants, the moratorium on recruitment to and promotion in the Public Service and other employment numbers control mechanisms will continue to apply until numbers in each sector have fallen to the appropriate level specified in the Employment Control Framework (ECF) for that sector. In addition, where the circumstances require it, the Government may offer voluntary mechanisms to exit the Public Service, whether generally or in specific sectors, bodies, locations or services.

4.2 The Government reaffirms the commitment given under Paragraph 1.6 of the Public Service Agreement that compulsory redundancy will not apply within the Public Service. However, this commitment is subject to the following exceptions:

- Where existing exit mechanisms have applied, such arrangements will continue.
- The commitment on compulsory redundancy continues to be subject to the agreed flexibility on redeployment being delivered. Where redeployment is not an option and taking account of the business needs of the organisation there may be circumstances where voluntary departure would be appropriate. In such situations there will be discussions with the relevant unions on the terms of any arrangement (which will be in line with any centrally agreed arrangements).
- Agreed procedures for managing instances of consistent performance issues will be actively pursued.

4.3 Where voluntary redundancy is offered in the Public Service, the terms of the collective agreement reached between the Government and the Public Services Committee of ICTU on redundancy payments to public servants will apply.

5 IMPLEMENTATION

Dispute resolution

5.1 The Parties reaffirm their commitments under paragraphs 1.23 to paragraphs 1.27 in the Public Service Agreement, in particular the commitments given to resolving industrial relations disagreements within the Public Service promptly, using all available dispute resolution mechanisms (both statutory and non-statutory) with the outcome of the process final and binding on all Parties.

5.2 The Parties note that the legislative constraints imposed on the employer in the context of the financial emergency will continue to be the context for any claims made for improvement in pay or conditions of employment, and reaffirm the commitments given under paragraph 1.27 in that regard.

Anomalies

5.3 The Parties recognise that the complexity of the measures contained in this Agreement is such that unforeseen anomalies can arise. The Parties undertake to interpret this Agreement in good faith and to approach the resolution of any such anomalies in a positive fashion commensurate with the commitments contained within the Agreement. In the event that any anomaly cannot be resolved by agreement, the binding dispute resolution mechanisms provided for under this Agreement should be utilised.

Oversight and governance arrangements

5.4 **Implementation Body:** A group comprising representatives of Public Service Management and the Public Services Committee of the ICTU will meet as required to address any matters of implementation and interpretation that may arise under this Agreement.

APPENDIX: COLLECTIVE AGREEMENTS IN THE EDUCATION SECTOR

(1) COLLECTIVE AGREEMENT FOR TEACHERS (PRIMARY/ POST-PRIMARY)

SUPERVISION AND SUBSTITUTION SCHEME The existing S&S scheme will be amended as follows:

- With effect from the commencement of the school year 2013/14, the time currently assigned to supervision and substitution will be increased from one and a half hours in any given week to three hours. In this context, the additional time may only be used for substitution.
- The requirement that a teacher be available for three timetabled class periods per week will be increased to five class periods per week.
- Participation in the scheme will be compulsory for all teachers and the position in relation to the allowance is set out below.
- The requirement to provide 37 hours per annum will be increased to 43 with effect from the commencement of the 2013/14 school year.

Hours provided under the revised S&S scheme will, in addition to usage under the existing scheme, be used as follows:

- With effect from commencement of 2013/14 school year – to cover all uncertified sick leave absences, subject to appropriate alleviation measures in relation to multiple absences particularly in small schools.
- With effect from commencement of 2014/15 school year – to cover the first day of force majeure leave and illness in family leave.

The payments under the Scheme shall be discontinued with effect from the commencement of the 2013/14 school year.

As the above annualised payments are in the nature of a pensionable allowance (and are not amenable to current "buy-out" arrangements), the following arrangements shall apply:

- A gross additional payment equivalent to the 2011 lower payment rate paid for supervision and substitution will be included in the common basic scale for teachers. This will be included in two moieties with half included in the school year 2016/17 and the second half included in the school year 2017/18.

Such payments to be considered in any future pay negotiation arrangements in respect of teachers. The duties continue to be performed indefinitely.

POSTS OF RESPONSIBILITY IN SCHOOLS

In the context of the ongoing moratorium on filling posts of responsibility in schools, the alleviation arrangements which previously applied will be operated on an annual basis for the duration of this Agreement.

FIXED –TERM/ PART-TIME EMPLOYMENT IN TEACHING

An Expert Group will be established to consider and report on the level of fixed-term and part-time employment in teaching, having regard to the importance for teachers of employment stability and security and taking account of system and school needs and Teaching Council registration requirements.

This group will as a first task report on reducing the qualification period for the granting of a contract of indefinite duration (CID) from 4 years to 3 years to take effect for the 2014/15 school year. Arrangements will be made in relation to those entering their fourth year in September 2013 with a view to the early application to them of this provision.

SUPPLEMENTARY PANEL ARRANGEMENTS FOR REDEPLOYMENT OF POST-PRIMARY TEACHERS

In the context of the implementation of the Agreement, a supplementary panel will be established for teachers who have had sustained periods of employment with more than one school/VEC over an extended period of time. Inclusion on this panel will attract no remuneration entitlements. The general principles to underpin this new scheme will include the designation of certain permanent vacancies to be filled from this panel having taken account of, inter alia, those permanent vacancies requiring to be filled by pre-existing panel arrangements, the awarding of CIDs, and the allocation of additional hours to existing CID holders. On the commencement of this Agreement, discussions will be held between the parties in relation to the detailed implementation of these arrangements, with a view to their introduction for the school year 2014/15. Provision will also be made for a review of these arrangements following their operation for a period to be agreed between the Parties.

NEW ENTRANT SALARY SCALES

In order to address the imbalance between those who entered the Public Service since 2011 and those who entered before that date, revised incremental salary scales shall be prepared for same grade entrants to each public service sector as necessary to incorporate the revision of salary scales introduced by Government Decision in January 2011.

The proposed revised scales for teachers are:

Point	1/1/2011* Existing Scale	1/1/2011* Proposed Revised scale	1/2/2012 Existing Scale	1/2/2012 Proposed Revised scale
1	27,814	27,814	30,702	30,702
2	28,775	28,775	32,198	33,168
3	29,737	30,702	33,168	33,950
4	30,702	31,924	34,136	36,576
5	32,198	33,168	36,576	37,795
6	33,168	34,136	37,795	39,251
7	34,136	36,576	39,251	40,700
8	36,576	37,795	40,700	42,160
9	37,795	39,251	42,160	43,380
10	39,251	40,700	43,380	44,996
11	40,700	42,160	44,996	44,996
12	42,160	43,380	44,996	44,996
13	43,380	44,996	44,996	47,225
14	44,996	44,996	47,225	47,225
15	44,996	44,996	47,225	47,225
16	44,996	47,225	47,225	47,225
17	47,225	47,225	47,225	50,170
18	47,225	47,225	50,170	50,170
19	47,225	47,225	50,170	50,170
20	47,225	50,170	50,170	50,170
21	50,170	50,170	50,170	53,423
22	50,170	50,170	53,423	53,423
23	50,170	53,423		53,423
24	50,170	54,339		58,765
25	53,423	55,514		59,940

* Qualification allowances would continue to be paid to this cohort of teachers as appropriate.

(2) COLLECTIVE AGREEMENT FOR ACADEMIC STAFF IN INSTITUTES OF TECHNOLOGY

HIGHER REMUNERATION AND INCREMENTS

The revised arrangements shall apply.

FIXED –TERM/ PART-TIME EMPLOYMENT IN LECTURING

An Expert Group will be established to consider and report on the level of fixed-term and part-time employment in lecturing, having regard to the importance for lecturers of employment stability and security and taking account of system and Institute needs.

This group will as a first task report on reducing the qualification period for the granting of a CID from 4 years to 3 years to take effect for the 2014/15 academic year. Arrangements will be made in relation to those entering their fourth year in September 2013 with a view to the early application to them of this provision.

HOURLY PAID ASSISTANT/ ASSOCIATE LECTURERS

The Parties will put in place a process for the phased conversion of Hourly Paid Assistant/Associate Lecturers to pro-rata Assistant Lecturers. This process will in the first instance establish and agree those posts which are appropriate to be converted and thereafter, such posts will be converted over a period of 3 years commencing in or before the academic year 2014/15. A person converted will be assimilated to the Assistant Lecturer payscale on the point nearest to and not below his/her current rate from the date of conversion.

In the context of the above process the provisions of Circular 93/2007 will apply to Hourly Paid Assistant/ Associate Lecturers.

ACADEMIC STAFF – ADDITIONAL HOURS

Academic staff will work an additional 78 hours per annum. This will be applied towards evening weighting (which will be reduced from 1.5 to 1.25) and church holidays.

EXAM PAYMENTS - ALL ACADEMIC STAFF

Effective from 1st July 2013, the examination marking fee will be reduced to 75% of current rates.

NEW ENTRANT SALARY SCALES

In order to address the imbalance between those who entered the Public Service since 2011 and those who entered before that date, revised incremental salary scales shall be prepared for same grade entrants to each public service sector as necessary to incorporate the revision of salary scales introduced by Government Decision in January 2011.

(3) COLLECTIVE AGREEMENT FOR ACADEMIC STAFF IN UNIVERSITIES AND OTHER THIRD LEVEL COLLEGES

HIGHER REMUNERATION AND INCREMENTS

The revised arrangements shall apply.

FIXED –TERM/ PART-TIME EMPLOYMENT IN LECTURING

An Expert Group will be established to consider and report on the level of fixed-term and part-time employment in lecturing, having regard to the importance for lecturers of employment stability and security and taking account of system and institution needs.

This group will as a first task report on reducing the qualification period for the granting of a CID from 4 years to 3 years to take effect for the 2014/15 academic year. Arrangements will be made in relation to those entering their fourth year in September 2013 with a view to the early application to them of this provision.

ACADEMIC STAFF – ADDITIONAL HOURS

Academic staff will work an additional 78 hours per annum. This additional time will be deployed through Workload Allocation Models to maximise savings and productivity.

EXAM PAYMENTS - ALL ACADEMIC STAFF

Effective from 1st July 2013, the examination marking fee will be reduced to 75% of current rates.

NEW ENTRANT SALARY SCALES

In order to address the imbalance between those who entered the Public Service since 2011 and those who entered before that date, revised incremental salary scales shall be prepared for same grade entrants to each public service sector as necessary to incorporate the revision of salary scales introduced by Government Decision in January 2011.

FLEXIBILITY (LIBRARY/ ADMINISTRATIVE STAFF)

The agreement in relation to flexible working arrangements will apply to those Librarians and Administrative Staff who currently have access to these arrangements.

ADULT EDUCATION TUTORS

Issues in relation to contracts for Adult Education Tutors have been raised. On the commencement of this Agreement, the parties will meet under the auspices of the LRC with the objective of examining these issues.

SPECIAL NEEDS ASSISTANTS

HOURS

Under the terms of the Public Service Agreement 2010-2014, discussions took place that led to agreement on changed attendance arrangements for Special Needs Assistants (SNAs) that give schools the option of an additional two hours working time per week from each Special Needs Assistant. Under the terms of this Agreement on increased working hours in the Public Service, the available requirements in schools for additional hours for SNAs is quite limited. Given issues such as the duration of the school day and operation hours, and the specific availability of individual SNAs the details of the utilisation of any additional requirements should be the subject of further discussions.

These new attendance arrangements, allied to the provisions outlined in the above paragraph should be the subject of a review by the LRC in advance of the 2013/2014 school year, involving the Department of Education and Skills and IMPACT/SIPTU, in order to assess if the additional hours are being utilised in the most effective and appropriate manner and in order to achieve agreement on any changes deemed necessary in terms of the arrangement agreed for teachers.

This will constitute the liability on Special Needs Assistants in respect of working hours for the purposes of this extension to the Public Service Agreement.

Labour Court Recommendation 20308

SUPPLEMENTARY ASSIGNMENT ARRANGEMENTS FOR SNAs

- Having regard to the terms of Labour Court Recommendation 20308, the following terms shall apply to current SNAs who are notified that they are to be made redundant.
- The purpose of this scheme is to absorb surplus SNAs by means of reassignment within the School/VEC in the first instance, then to facilitate surplus SNAs in filling similar alternative posts that may become available in other schools/VECs.
- An SNA who is notified that they are to be made redundant shall be placed on a supplementary assignment panel. Likewise an SNA who remains on the panel for a full school year without being placed in employment should have the option of claiming a redundancy payment in line with the present arrangement.
- SNAs on the supplementary assignment panel will not be remunerated after the date on which they become surplus.
- Where a vacancy arises or where a new post is created it will first be offered to those on the panel in order of seniority, subject to suitability.
- The appropriate redeployment distance in the Education sector will apply to reassignments made under these arrangements. The Parties shall engage on the application of these arrangements.
- SNAs assigned under these arrangements will carry forward their prior service, and this service will be reckonable in their new employment for seniority-based selection for surplus declaration and for the purposes of calculating redundancy payments.
- A Supplementary Assignment Manager will be appointed to oversee implementation of the arrangements.
- Any permanent vacancies must be notified by the schools to the Supplementary Assignment Manager before they can be filled.
- As an alternative to being reassigned under these arrangements, an SNA who is displaced or who is unable to accept the offer of an alternative placement may opt to be made redundant in line with prevailing redundancy arrangements.
- In the context of these arrangements being put in place, the redundancy scheme for SNAs set out in CL 58/2006 shall apply.

Financial Emergency Measures in the Public Interest (FEMPI) Act 2013

AN BILLE UM BEARTA AIRGEADAIS ÉIGEANDÁLA AR MHAITHE LE LEAS AN PHOBAIL, 2013

FINANCIAL EMERGENCY MEASURES IN THE PUBLIC INTEREST BILL 2013

EXPLANATORY MEMORANDUM

1. Purpose of the Bill

1.1 The primary purpose of this Bill is to:

- reduce the remuneration of certain public servants on higher rates of pay in excess of €65,000,
- provide for the reduction of the amount of the payment of pension or other benefits (other than lump sums) payable to or in respect of certain persons who are or were in the public service under an occupational pension scheme or pension arrangement, and
- provide for a suspension of incremental progression for three years for all public servants unless they are covered by a collective agreement that modifies the terms of the incremental suspension and which has been registered with the Labour Relations Commission.

1.2 The Bill includes:

- clarification that the existing powers of Ministers of the Government or other bodies that may set terms and conditions of employment of public servants may be exercised so as to reduce the remuneration or increase the working time of those public servants,
- a modification of the pension related deduction that applies to serving public servants, that will reduce the pension deduction on all public servants by €125 a year, to commence from 1 January 2014, and
- related or consequential provisions to the above, including a provision providing for a consolidation of the existing separate annual reporting requirements under the Financial Emergency legislation into a single report to the Oireachtas by 30 June of each year.

1.3 The Bill is being introduced as a financial emergency measure in the public interest in the context of the continued priority been given to the stabilisation of the public finances including the need to achieve savings of €1 billion in the public service pay and pensions bill by 2015.

2. Provisions of the Bill

2.1 **Section 1** is a standard provision in legislation and sets out the necessary interpretive provisions to provide clarity in the understanding of and application of the terms of the Bill. Certain public servants who were not affected by the pay reductions imposed by the Financial Emergency Measures in the Public Interest (No. 2) Act 2009 will be affected by the measures in this Bill, including members of the judiciary and, under section 10, employees of the National Treasury Management Agency and the Railway Procurement Agency. The section also defines an incremental scale.

2.2 **Section 2** amends the Financial Emergency Measures in the Public Interest (No. 2) Act 2009 by inserting a new section 2A which provides for a further pay reduction to apply to public servants whose remuneration (which is defined as including core pay and any fixed periodic pensionable allowances) is greater than €65,000 with effect from 1 July 2013 in accordance with the rates in the table below:

Annualised amount of Remuneration	Reduction
Any amount up to €80,000	5.5%
Any amount over €80,000 but not over €150,000	8%
Any amount over €150,000 but not over €185,000	9%
Any amount over €185,000	10%

2.2.1 Public servants affected will include members of the Government and the Oireachtas (other than the President), and the judiciary.

2.2.2 A saver provision is provided for persons who are in receipt of salaries and allowances marginally in excess of the proposed €65,000 threshold being reduced below €65,000 per annum by application of the reductions.

2.2.3 A new section 2B is inserted in to the Financial Emergency Measures in the Public Interest (No. 2) Act 2009. This provides that an existing power to fix terms and conditions may be exercised by the relevant employer or Minister of the Government so as to result in less favourable remuneration, other than core salary, or in increased hours for the public servants concerned, notwithstanding any of the terms of any enactment, contract or otherwise provided for. This provision will not apply to any group of public servants for whom remuneration is set by primary legislation, for example, the judiciary.

2.2.4 Both of the two new sections, section 2A and 2B, provide that the reduction in pay or the power to adjust terms and conditions apply notwithstanding any legislation, contract, or other agreement or measure to the contrary.

2.3 **Section 3** provides for the application of all existing additional sections of the Financial Emergency Measures in the Public Interest

(No. 2) Act 2009, including the prohibition on pay increases and the ability of the Minister to modify the pay reduction as it applies to certain persons or groups on limited grounds.

2.4 **Section 4** is a technical amendment which ensures that the definition of pensioner in the Financial Emergency Measures in the Public Interest (No. 2) Act 2009 is appropriately adjusted to encompass pensioners covered by the changes in the Bill.

2.5 **Section 5** provides for amendments to be made to the Financial Emergency Measures in the Public Interest Act 2010 to increase and extend the impact of the Public Service Pension Reduction (PSPR).

2.5.1 The reduction that applies to public service pensions in payment, for persons who retired up to 29 February 2012 and on pensions of greater than €32,500 will be increased as follows:

Annualised amount of public service pension	Reduction
Up to €12,000	Exempt
Any amount over €12,000 but not over €24,000	8 per cent
Any amount over €24,000 but not over €60,000	12 per cent
Any amount over €60,000 but not over €100,000	17 per cent
Any amount over €100,000	28 per cent

2.5.2 A reduction to public service pensions in payment of greater than €32,500, for those who retired after 29 February 2012 but before the end of a new grace period (and whose pensions therefore reflect pay rates which factor in the 2010 pay reductions) to be applied under this Bill will be as follows:

Annualised amount of public service pension	Reduction
Up to €12,000	Exempt
Any amount over €12,000 but not over €24,000	2 per cent
Any amount over €24,000 but not over €60,000	3 per cent
Any amount over €60,000 but not over €100,000	5 per cent
Any amount over €100,000	8 per cent

2.5.3 The section provides that no public service pension will be reduced to below €32,500 by virtue of these amendments.

2.6 **Section 6** consists of consequential amendments to the Financial Emergency Measures in the Public Interest Act 2010; these ensure that relevant elements of that Act, including in respect of aggregation of pensions and calculation of pension, are adjusted for purposes of the Bill.

2.7 **Section 7** provides for a freeze of incremental progression by public servants on incremental pay scales for a period of 3 years, commencing on 1 July 2013. Groups or grades of public servants may be excluded from the effect of this provision, or have its effects modified on the basis that a collective agreement, which has been registered with the Labour Relations Commission, has been reached.

2.8 **Section 8** provides a power for the Minister to exempt individual public servants or groups from the increment freeze on limited and exceptional grounds.

2.9 **Section 9** provides that persons retiring before 31 August 2014, or a later date that may be ordered by the Minister, will be entitled to have their pensions calculated as if the pay reduction and any increment pause or freeze had not applied to them.

2.10 **Section 10** amends the Financial Emergency Measures in the Public Interest (No. 2) Act 2009 to provide that the employees of the Railway Procurement Agency and the National Treasury Management Agency that were not affected by the pay reduction imposed effective from 1 January 2010 will be affected by the measures proposed in this Bill.

2.11 **Section 11** amends the Financial Emergency Measures in the Public Interest Act 2009 to provide for a modification of the pension related deduction that applies to serving public servants, that will reduce the pension deduction on all public servants by €125 a year, to commence from 1 January 2014.

2.12 **Section 12** provides for annual review and report to the Oireachtas of the necessity of the measures set out in the Bill. This Review will now encompass the reviews currently necessary under the earlier Financial Emergency Measures in the Public Interest Acts.

2.13 **Section 13** states the Short title of the Act.

Department of Public Expenditure and Reform,
Bealtaine, 2013.

Wt.—. 622. 5/13. Clondalkin. (37258). Gr. 30-15.

Number 18 *of* 2013

FINANCIAL EMERGENCY MEASURES IN THE PUBLIC INTEREST ACT 2013

ARRANGEMENT OF SECTIONS

Section

[*No.* **18.**] *Financial Emergency Measures in the Public Interest Act* 2013. [2013.]

ACTS REFERRED TO

Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010	2010, No. 24
Financial Emergency Measures in the Public Interest Act 2009	2009, No. 5
Financial Emergency Measures in the Public Interest (No. 2) Act 2009	2009, No. 41
Financial Emergency Measures in the Public Interest Act 2010	2010, No. 38
Financial Emergency Measures in the Public Interest (Amendment) Act 2011	2011, No. 39
Organisation of Working Time Act 1997	1997, No. 20
Public Service Pensions (Single Scheme and Other Provisions) Act 2012	2012, No. 37
Public Service Superannuation (Miscellaneous Provisions) Act 2004	2004, No. 7

Number 18 *of* 2013

FINANCIAL EMERGENCY MEASURES IN THE PUBLIC INTEREST ACT 2013

AN ACT, IN THE PUBLIC INTEREST, TO PROVIDE FOR—

(A) THE REDUCTION OF THE REMUNERATION OF CERTAIN PUBLIC SERVANTS (INCLUDING MEMBERS OF THE HOUSES OF THE OIREACHTAS, THE JUDICIARY AND CERTAIN OFFICE HOLDERS);

(B) THE REDUCTION OF THE AMOUNT OF THE PAYMENT OF PENSION OR OTHER BENEFITS (OTHER THAN LUMP SUMS) PAYABLE TO OR IN RESPECT OF CERTAIN PERSONS WHO ARE OR WERE IN THE PUBLIC SERVICE (INCLUDING MEMBERS AND FORMER MEMBERS OF THE HOUSES OF THE OIREACHTAS, FORMER MEMBERS OF THE JUDICIARY AND FORMER HOLDERS OF CERTAIN OFFICES) UNDER AN OCCUPATIONAL PENSION SCHEME OR PENSION ARRANGEMENT (BY WHATEVER NAME CALLED); AND

(C) THE ALTERATION OF THE OPERATION OF SCALES OF PAY FOR PUBLIC SERVANTS (INCLUDING THE SUSPENSION OF THE AWARDING, FOR A CERTAIN PERIOD, OF INCREMENTS UNDER THOSE SCALES),

AND TO PROVIDE FOR RELATED MATTERS.

[5*th June*, 2013]

WHEREAS budgetary and fiscal measures have been taken by the State since 2009 to address a serious disturbance in the economy and a decline in the economic circumstances of the State that have occurred;

AND WHEREAS it is necessary for the State to achieve further significant savings in its expenditure, both directly and indirectly, on remuneration and in its expenditure on public service pensions as a contribution to the reduction of the shortfall between revenue and expenditure that is needed to put debt on a downward path;

28

[*No.* **18.**] *Financial Emergency Measures in the Public Interest Act* 2013. [2013.]

AND WHEREAS the State is availing itself of a financial assistance programme established by the European Union and the International Monetary Fund with funding provided by the European Financial Stabilisation Mechanism, the European Financial Stability Facility, the bilateral lenders (the United Kingdom, the Kingdom of Sweden and the Kingdom of Denmark) and the International Monetary Fund and it is necessary to adopt a range of measures to meet commitments included in that programme to address the economic crisis in the State;

AND WHEREAS it is necessary for the State to take measures as part of remedial action to maintain the State's path toward correcting the excessive deficit by 2015 in line with the recommendation to that effect of the Council of the European Union (Council Recommendation with a view to bringing to an end the situation of an excessive deficit in Ireland of 7 December 2010);

BE IT THEREFORE ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—(1) In this Act—

"Act of 2009" means the Financial Emergency Measures in the Public Interest (No. 2) Act 2009;

"Act of 2010" means the Financial Emergency Measures in the Public Interest Act 2010;

"Act of 2011" means the Financial Emergency Measures in the Public Interest (Amendment) Act 2011;

"Act of 2012" means the Public Service Pensions (Single Scheme and Other Provisions) Act 2012;

"Minister" means the Minister for Public Expenditure and Reform.

(2) References in this Act—

(*a*) to an increment that may be awarded to a public servant are references to an increment, provided for in the applicable pay scale, that may be awarded to the public servant subject to there being satisfied the one or more conditions that are required by the pay scale, or a written statement governing its operation, to be satisfied before an award of such an increment may be made, and

(*b*) to a point on a pay scale shall be read accordingly.

Reduction in remuneration of public servants who earn more than €65,000.

2.—The Act of 2009 is amended by inserting the following sections after section 2:

"Public servants' remuneration: reduction, with effect from 1 July 2013, for certain public servants.

2A.—(1) In this section—

(*a*) a reference to a relevant provision shall, other than in the case of a public servant to whom *section 10(2)* of the *Financial Emergency Measures in the Public Interest Act 2013* relates, be read as a reference to that provision as it has effect, subject to any direction given under section 6, by virtue of the operation of section 2;

(*b*) a reference to the annual remuneration of a public servant is a reference to the public servant's annual basic salary, together with any fixed, periodic allowance that is—

(i) reckonable for the purposes of calculating a pension entitlement of the public servant, and

(ii) paid to the public servant as part of his or her annual remuneration,

and, for the purposes of this section, the definition of 'public servant' in section 1 shall apply as if in paragraph (*e*) of that definition the words 'who was appointed to judicial office before the commencement of section 10 of the Financial Emergency Measures in the Public Interest (Amendment) Act 2011' were omitted.

(2) A relevant provision that fixes the remuneration, or any part of the remuneration, of a public servant whose annual remuneration exceeds €65,000 shall be taken to have been amended, with effect on and from 1 July 2013, in accordance with this section.

(3) Where the remuneration of a public servant is fixed by a relevant provision, then the relevant provision shall be taken to have been amended so that the remuneration is reduced in accordance with the Table to this section.

(4) Where the application to a public servant of subsections (2) and (3) and the Table to this section would result in his or her annual remuneration being reduced to less than €65,000, then those subsections and that Table shall only operate to reduce his or her annual remuneration to €65,000.

(5) Where a public servant is entitled as part of his or her annual remuneration to the payment of an allowance and the allowance—

(*a*) is not reimbursement of any expense actually incurred, and

(*b*) is expressed as a specified percentage or specified proportion of another part of the remuneration (referred to in this subsection as 'basic salary') of a public servant to whom the relevant provision applies,

then the public servant's basic salary, for the purposes of calculating the amount payable as the allowance, is his or her basic salary reduced in accordance with subsections (2) and (3) and the Table to this section.

(6) This section has effect notwithstanding—

(*a*) any provision by or under—

(i) any other Act,

(ii) any statute or other document to like effect of a university or other third level institution,

(iii) any circular or instrument or other document,

(iv) any written agreement or contractual arrangement,

or

(*b*) any verbal agreement, arrangement or understanding or any expectation.

Table

Reduction in Remuneration of Public Servants Earning More Than €65,000

Annualised amount of Remuneration	Reduction
Up to €80,000	5.5 per cent
Any amount over €80,000 but not over €150,000	8 per cent
Any amount over €150,000 but not over €185,000	9 per cent
Any amount over €185,000	10 per cent

Alteration of remuneration (other than basic salary) or working time of public servants.

2B.—(1) In this section—

'Act of 1997' means the Organisation of Working Time Act 1997;

'remuneration' does not include basic salary;

'working time' has the meaning it has in the Act of 1997.

(2) A power conferred by or under any enactment to fix the terms and conditions of persons who are public servants may, notwithstanding any thing referred to in subsection (3), be exercised so as—

(*a*) to result in less favourable remuneration for those persons, in respect of the employment, office or position held by them in the public service body concerned, than that enjoyed by them immediately before the exercise of the power, or (*b*) to provide that the working time, whether by reference to a day, a week or a month, of those persons in the employment, office or position held by them in the public service body concerned shall, to a specified extent, be greater (but not greater than that which is permitted by the Act of 1997) than that which stood provided, immediately before the exercise of the power, to be their working time in that employment, office or position.

(3) The things referred to in subsection (2) are—

(*a*) any provision by or under—

(i) any other Act,

(ii) any statute or other document to like effect of a university or other third level institution,

(iii) any circular or instrument or other document,

(iv) any written agreement or contractual arrangement,

or

(*b*) any verbal agreement, arrangement or understanding or any expectation.”.

3.—(1) The definition of “public servant” in section 1 of the Act of 2009 is amended by inserting “, subject to section 2A (inserted by the *Financial Emergency Measures in the Public Interest Act 2013*),” before “means a person”. Consequential amendments of Act of 2009.

(2) Section 4(1) of the Act of 2009 is amended by inserting “or 2A” after “section 2”.

(3) Section 5 of the Act of 2009 is amended—

(*a*) in subsection (1) by inserting “or 2A” after “section 2”, and

(*b*) in subsection (2) by inserting “or 2A” after “section 2”.

(4) Section 6 of the Act of 2009 is amended by inserting “or 2A” after “section 2” in both places where it occurs.

4.—The definition of “pensioner” in section 1 of the Act of 2010 is amended by inserting “, subject to section 2A (inserted by the *Financial Emergency Measures in the Public Interest Act 2013*),” before “means a person”. Amendment of definition of “pensioner” in Act of 2010.

Reduction in certain public service pensions.

5.—(1) In this section "public service pension" has the meaning it has in the Act of 2010.

(2) In *subsection (3)* "relevant pensioner" means a pensioner (within the meaning of the Act of 2010), the annual public service pension of whom exceeds €32,500, and this reference to the pensioner's annual public service pension is a reference to his or her annual public service pension as it stands reduced by virtue of the operation of the Act of 2010 before the passing of this Act.

(3) With effect on and from 1 July 2013, subsection (1) of section 2 of the Act of 2010 is amended, in relation to a relevant pensioner, by substituting the following Table for the Table in that subsection:

"TABLE

Annual Pensions that Exceed €32,500

Annualised amount of public service pension	Reduction
Up to €12,000	Exempt
Any amount over €12,000 but not over €24,000	8 per cent
Any amount over €24,000 but not over €60,000	12 per cent
Any amount over €60,000 but not over €100,000	17 per cent
Any amount over €100,000	28 per cent

".

(4) Where the application to a pensioner of the amendment effected by *subsection (3)* would result in the annualised amount of his or her public service pension being reduced to less than €32,500, then the amendment effected by that subsection shall only operate to reduce the annualised amount of his or her public service pension to €32,500.

(5) The Act of 2010 is amended by inserting the following section after section 2:

"Persons becoming pensioners after 29 February 2012: reduction in public service pension.

2A.—(1) For the purposes of this section—

(*a*) the definition of 'pensioner' in section 1 shall apply with the modification that references to the relevant date in paragraphs (*b*) and (*c*) of the definition shall be read as references to 31 August 2014 or such other date as may be specified in accordance with *section 9(1)(b)(ii)* of the *Financial Emergency Measures in the Public Interest Act 2013*;

(*b*) 'relevant (post 29 February 2012) pensioner' means, subject to subsection (2), a person who became a pensioner after 29 February 2012, or becomes such after the passing of the *Financial Emergency Measures in the Public*

Interest Act 2013, but no later than 31 August 2014 or such other date as may be specified in accordance with *section 9(1)(b)(ii)* of the *Financial Emergency Measures in the Public Interest Act 2013* and the annual pension of whom (in either case) exceeds €32,500.

(2) In subsection (1)(*b*) the words 'but no later than 31 August 2014 or such other date as may be specified in accordance with *section 9(1)(b)(ii)* of the *Financial Emergency Measures in the Public Interest Act 2013*' shall be disregarded in the case of a pensioner falling under paragraph (*c*) of the definition in section 1 of 'pensioner', as that definition applies by virtue of subsection (1)(*a*).

(3) With effect on and from 1 July 2013, the annualised amount of a public service pension payable in accordance with his or her entitlement to a person who is a relevant (post 29 February 2012) pensioner shall be reduced in accordance with the Table in this subsection.

Table

Annual Pensions of Relevant (Post 29 February 2012) Pensioners

Annualised amount of public service pension	Reduction
Up to €12,000	Exempt
Any amount over €12,000 but not over €24,000	2 per cent
Any amount over €24,000 but not over €60,000	3 per cent
Any amount over €60,000 but not over €100,000	5 per cent
Any amount over €100,000	8 per cent

(4) Where the application to a pensioner of subsection (3) and the Table in that subsection would result in the annualised amount of his or her public service pension being reduced to less than €32,500, then that subsection and Table shall only operate to reduce the annualised amount of his or her public service pension to €32,500.

(5) If two or more public service pensions, the annual amount of which, taken together, exceeds €32,500, are payable to a pensioner, all such pensions shall be aggregated for the purposes of applying subsection (3) in relation to the pensioner.

(6) Where a pension adjustment order has been made in relation to a public service pension, the annualised amount of the public service pension shall be reduced under this section before it is paid

in accordance with the provisions of the pension adjustment.

(7) This section has effect notwithstanding—

(*a*) any provision by or under—

(i) any other enactment,

(ii) any statute or other document to like effect of a university or other third level institution,

(iii) any pension scheme or arrangement,

(iv) any circular or instrument or other document,

(v) any written agreement or contractual arrangement,

or

(*b*) any verbal agreement, arrangement or understanding or any expectation.”.

Consequential amendments of Act of 2010.

6.—(1) The definition of “aggregation of public service pensions” (inserted by the Act of 2012) in section 1 of the Act of 2010 is amended by inserting “or subsection (5) of section 2A” after “subsection (1A) of section 2” and substituting “subsection (1) of section 2 or subsection (3) of section 2A, as the case may be,” for “subsection (1) of that section”.

(2) Section 2 of the Act of 2010 is amended by substituting the following subsection for subsection (1A):

“(1A) If two or more public service pensions, the annual amount of which, taken together, exceeds €32,500, are payable to a pensioner, all such pensions shall be aggregated for the purposes of applying subsection (1) in relation to the pensioner.”.

(3) The following section is substituted for section 3 of the Act of 2010:

“3.—Nothing in section 2 or 2A shall affect the calculation of any public service pension entitlement (including an entitlement to a lump sum and an entitlement to periodic payments of pension or other benefits) of a person who—

(*a*) in the case of section 2, is a pensioner or becomes a pensioner on or at any time before the relevant date or, in the case of a pensioner falling under paragraph (*c*) of the definition of “pensioner” in section 1, at any time after that date; and

(*b*) in the case of section 2A, falls within the definition of ‘relevant (post 29 February 2012) pensioner’ in that section.”.

(4) The following sections of the Act of 2010:

(*a*) section 4 (as amended by the Act of 2012);

(*b*) section 5 (as amended by the Act of 2012);

(*c*) section 6;

(*d*) section 11; and

(*e*) section 12 (as amended by the Act of 2012),

are amended by inserting "or 2A" after "section 2" in each place where it occurs.

Pay scales: suspension, subject to exceptions, for certain period.

7.—(1) Subject to the provisions of this section and *section 8*, for the period of 3 years beginning on 1 July 2013—

(*a*) no increment shall be awarded to a public servant; and

(*b*) the operation of the pay scale that applies in respect of a public servant shall stand suspended,

and with the effect that—

(i) the point on that pay scale that shall be applicable in respect of a public servant on 1 July 2016 shall be that which was applicable on 1 July 2013 in respect of him or her, and

(ii) the operation of that pay scale, on and from 1 July 2016, shall be by reference to service of the public servant on and from 1 July 2016, but this is subject to *subsection (2)*.

(2) *Subsection (1)(b)(ii)* does not operate to exclude for the purpose of the operation of the pay scale so much of the service of the public servant, before 1 July 2013, as would have been reckoned for the purpose of the next immediate increment that, but for the suspension of the pay scale by virtue of *subsection (1)*, would have fallen to be awarded to him or her on or after 1 July 2013.

(3) The reference in *subsection (1)* to the pay scale that is applicable in respect of a public servant (being a public servant to whom the amendment hereafter mentioned relates) is a reference to that pay scale as it stands adjusted by virtue or in consequence of the amendment of the Act of 2009 made by *section 2*.

(4) For the avoidance of doubt, s*ubsection (1)* has effect in relation to a pay scale that, in consequence of a public servant's appointment or promotion to a position after 1 July 2013 (but before 1 July 2016), falls to be applied subsequent to 1 July 2013 as it has effect in relation to a pay scale that applies to a public servant on 1 July 2013, but with the substitution in that subsection for the reference to 1 July 2013 (where it secondly occurs) of a reference to the date of such appointment or promotion of the public servant.

(5) Notwithstanding anything in the preceding subsections of this section, *subsection (1)* shall—

(*a*) apply to a public servant only to the extent specified in the agreement, or

(*b*) apply to a public servant with such modifications as are specified in the agreement, to whom a collective agreement relates and which agreement—

(i) for the time being stands registered with the Labour Relations Commission for the purposes of this section, and

(ii) provides for the application to such a public servant of *subsection (1)* in the manner described in *paragraph (a)* or *(b)*, as the case may be.

(6) A collective agreement for the purposes of *subsection (5)* may be entered into at any time (whether before or after 1 July 2013).

(7) In this section—

"collective agreement" means an agreement by or on behalf of a public service body on the one hand, and by or on behalf of a body or bodies representative of the public servants to whom the agreement relates on the other hand;

"public servant" has the meaning it has in the Act of 2010.

Exemption, etc., from operation of *section 7* in certain circumstances.

8.—(1) Where in respect of a particular public servant or class or group of public servants the Minister is satisfied that—

(*a*) exceptional circumstances exist (because of some particular aspect or condition of their employment, office or position) in respect of such public servant, class or group and a substantial inequity would thereby arise, or

(*b*) any award under an arbitration agreement would, but for *section 7*, result in the amendment of an applicable pay scale,

and there is in the circumstances a necessity for a distinction from other public servants or from other classes or groups of public servants, as the case may be, then the Minister, if he or she considers it to be just and equitable in all the circumstances to do so, may by direction—

(i) exempt that public servant, class or group from the operation of *section 7*, either entirely or to such extent as the Minister considers appropriate, or

(ii) modify the operation of *section 7* to permit the awarding of increments in such manner as the Minister thinks fit,

and the provisions of *section 7* shall be read subject to any such direction.

(2) In this section "public servant" has the meaning it has in the Act of 2010.

Certain pension rights not affected.

9.—(1) This section applies to—

(*a*) a person who was at some time before 1 July 2013 a public servant but is on 1 July 2013 in receipt of a pension under a public service pension scheme, (*b*) a person who was a public servant on 1 July 2013, but ceases to be a public servant on or before—

(i) 31 August 2014, or

(ii) a later date specified by the Minister by order in accordance with *subsection (3)*,

and who, on ceasing to be a public servant, is entitled to payment of a pension under a public service pension scheme in respect of his or her service as a public servant or a person who was at some time before 31 August 2014 or such later date as may be specified under *subparagraph (ii)* a public servant and has a preserved benefit in a public service pension scheme in respect of which the preserved pension age of the person falls on or before that date, and

(*c*) a person who becomes entitled to payment of a public service pension as a spouse, civil partner or child of a former public servant to whom *paragraph (a)* or *(b)* applied.

(2) The following 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 a person to whom this section applies—

(*a*) the amendment made by *section 2* inserting a section 2A in the Act of 2009,

(*b*) any suspension of the operation of a pay scale by virtue of *subsection (1)* of *section 7*, or

(*c*) the application of *subsection (1)* of *section 7* to a person, in the manner described in *paragraph (a)* or *(b)* of *subsection (5)* of that section, by a collective agreement referred to in that *subsection (5)*.

(3) For the purpose of making an order pursuant to *subsection (1)(b)(ii)*, the Minister shall take into account such legal, superannuation and personnel management issues affecting public service bodies as he or she considers appropriate, and shall consult with any body or other person that he or she considers appropriate.

(4) In this section—

"civil partner" has the meaning it has in the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

"preserved benefit" has the meaning it has in the Public Service Superannuation (Miscellaneous Provisions) Act 2004;

"preserved pension age", in relation to a preserved benefit in a public service pension scheme, means the age of the public servant or former public servant concerned at which the preserved benefit becomes payable to him or her under the scheme;

"public servant" has the meaning it has in the Act of 2010;

"public service pension scheme" has the meaning it has in the Financial Emergency Measures in the Public Interest Act 2009.

Amendment of Schedule to Act of 2009.

10.—(1) The Schedule to the Act of 2009 is amended by deleting the following:

"21. Railway Procurement Agency.

22. National Treasury Management Agency.".

(2) The deletion effected by *subsection (1)* shall not have the effect of causing section 2 of the Act of 2009 to apply to a person who is employed by, or who holds any office or other position in, either of the bodies mentioned in that subsection.

Amendment of Financial Emergency Measures in the Public Interest Act 2009.

11.—With effect on and from 1 January 2014, section 2 of the Financial Emergency Measures in the Public Interest Act 2009 is amended—

(*a*) in paragraph (*d*) of subsection (3) by substituting "2014" for "2010",

(*b*) by substituting the following for Table D to subsection (3):

"Table D

Amount of Remuneration	Rate of deduction
Up to €15,000	Exempt
Any excess over €15,000 but not over €20,000	2.5 per cent
Any excess over €20,000 but not over €60,000	10 per cent
Any amount over €60,000	10.5 per cent

",

(*c*) in subsection (3B) by substituting "2014" for "2012", and

(*d*) by substituting the following for the Table to subsection (3B):

"Table

Amount of Remuneration	Rate of deduction
Up to €15,000	Exempt
Any excess over €15,000 but not over €20,000	2.5 per cent
Any excess over €20,000 but not over €60,000	10 per cent
Any amount over €60,000	10.5 per cent

".

Review of this Act and certain enactments of like character.

12.—(1) For the purposes of this section the "relevant Acts" are—

(*a*) in respect of the application of this section in the year 2013—

(i) the Financial Emergency Measures in the Public Interest Act 2009;

(ii) the Act of 2009; and

(iii) the Act of 2010;

(*b*) in respect of the application of this section in the year 2014 and subsequent years—

(i) each of the enactments specified in *paragraph (a)*, and

(ii) this Act.

(2) Before 30 June in 2013 and every year after 2013, the Minister shall—

(*a*) carry out a review of the operation, effectiveness and impact of the relevant Acts, having regard to the overall economic conditions in the State and national competitiveness,

(*b*) consider whether or not any of the provisions of the relevant Acts continue to be necessary having regard to the purposes of those Acts, the revenues of the State and State commitments in respect of public service pay and pensions,

(*c*) make such findings as he or she thinks appropriate consequent on the review and consideration, and

(*d*) cause a written report of his or her findings resulting from the review and consideration to be prepared and laid before each House of the Oireachtas.

(3) The following provisions are repealed—

(*a*) section 13 of the Financial Emergency Measures in the Public Interest Act 2009;

(*b*) section 7 of the Act of 2009; and

(*c*) section 10 of the Act of 2010.

(4) If any step taken under a provision specified in *subsection (3)* is commenced but not completed before the commencement of this section then that step may be continued and completed under *subsection (2)*.

13.—This Act may be cited as the Financial Emergency Measures in the Public Interest Act 2013. Short title.

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