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Number 41 of 2009

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**FINANCIAL EMERGENCY MEASURES IN THE PUBLIC INTEREST (NO. 2) ACT 2009**

**REVISED**

**Updated to 1 January 2018**

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This Revised Act is an administrative consolidation of *Financial Emergency Measures in the Public Interest (No. 2) Act 2009*. It is prepared by the Law Reform Commission in accordance with its function under *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Finance Act 2017 (41/2017)*, enacted 25 December 2017, and all statutory instruments up to and including *Legal Metrology (Measuring Instruments) Act 2017 (Commencement) Order 2018 (S.I. No. 1 of 2018)*, made 4 January 2018, were considered in the preparation of this Revised Act.

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**Introduction**

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

**Related legislation**

This Act is not collectively cited with any other Act.

**Annotations**

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

**Material not updated in this revision**

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1991, may be found linked from the page of the Act or statutory instrument at [www.irishstatutebook.ie](http://www.irishstatutebook.ie).





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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Reduction in public servants' remuneration.
  - 2A. Public servants' remuneration: reduction, with effect from 1 July 2013, for certain public servants.
  - 2B. Alteration of remuneration (other than basic salary) or working time of public servants.
3. Certain pension rights not affected.
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  - 6A. Adjustment to remuneration affected by operation of *section 2*.
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  - 6C. Restoration of remuneration affected by operation of *section 2A*.
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ACTS REFERRED TO

|   |              |
|---|--------------|
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| Defence (Amendment) Act 2007  | 2007, No. 24 |
| European Parliament (Irish Constituency Members) Act 2009   | 2009, No. 17 |
| Financial Emergency Measures in the Public Interest Act 2009  | 2009, No. 5  |
| Harbours Act 1946   | 1946, No. 9  |
| Harbours Act 1996   | 1996, No. 11 |
| Local Government Act 2001   | 2001, No. 33 |
| Ministerial and Parliamentary Offices Act 1938  | 1938, No. 38 |
| Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001  | 2001, No. 33 |
| Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1973           | 1973, No. 22 |
| Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act 1977 | 1977, No. 29 |
| Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act 1983 | 1983, No. 32 |
| Taxes Consolidation Act 1997  | 1997, No. 39 |
| Vocational Education Act 1930   | 1930, No. 29 |



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*Number 41 of 2009*

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**FINANCIAL EMERGENCY MEASURES IN THE PUBLIC INTEREST (NO. 2) ACT 2009**

**REVISED**

**Updated to 1 January 2018**

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AN ACT, IN THE PUBLIC INTEREST, TO PROVIDE FOR THE REDUCTION OF THE REMUNERATION OF CERTAIN PERSONS IN THE PUBLIC SERVICE (INCLUDING MEMBERS OF THE HOUSES OF THE OIREACHTAS AND CERTAIN OFFICE HOLDERS), AND TO PROVIDE FOR RELATED MATTERS.

[20th December, 2009]

WHEREAS a serious disturbance in the economy and a decline in the economic circumstances of the State have occurred and are continuing, which threaten the well-being of the community;

AND WHEREAS as a consequence a serious deterioration in the revenues of the State has occurred and there are significant and increasing State commitments;

AND WHEREAS it is necessary to take urgent measures to reduce the significant shortfall between expenditure and revenue and to reduce the unsustainable levels of public borrowings consequent on the deterioration in those revenues;

AND WHEREAS it is necessary to reduce State expenditure to maintain international confidence and to protect the State's credit ratings;

AND WHEREAS it is necessary to take urgent steps to help restore the State's competitiveness;

AND WHEREAS it is necessary for the State to achieve significant savings in its expenditure, both directly and indirectly, on remuneration—

BE IT THEREFORE ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.      1.— In this Act—

“Civil Service” means the Civil Service of the Government and the Civil Service of the State;

“Minister” means the Minister for Finance;

“public servant”[, **subject to section 2A (inserted by the Financial Emergency Measures in the Public Interest Act 2013),**] means—

(a) a person who is employed by, or who holds any office or other position in, a public service body,

- (b) a member of either House of the Oireachtas or of a local authority (within the meaning of the Local Government Act 2001),
- (c) a member of the European Parliament for a constituency in the State, being a member who is in receipt of the salary specified in section 2(2) of the European Parliament (Irish Constituency Members) Act 2009, [...]
- (d) the holder of a qualifying office,

but does not include the President [...]);

“public service body” means—

- (a) the Civil Service,
- (b) the Garda Síochána,
- (c) the Permanent Defence Force,
- (d) a local authority for the purposes of the Local Government Act 2001,
- (e) the Health Service Executive,
- [(f) an education and training board,]
- (g) a body (other than a body specified or referred to in the Schedule) established—
  - (i) by or under an enactment (other than the Companies Acts), or
  - (ii) under the Companies Acts in pursuance of powers conferred by or under another enactment, and financed wholly or partly by means of money provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government,

in respect of which a public service pension scheme exists or applies or may be made,

- (h) a body (other than a body specified or referred to in the Schedule) that is wholly or partly funded directly or indirectly out of money provided by the Oireachtas or from the Central Fund or the growing produce of that Fund and in respect of which a public service pension scheme exists or applies or may be made,
- (i) any subsidiary of, or company controlled (within the meaning given by section 10 of the Taxes Consolidation Act 1997) by, a body to which *paragraph (d), (e), (f), (g) or (h)* relates and in respect of which a public service pension scheme exists or applies or may be made;

“public service pension scheme” has the same meaning as in the Financial Emergency Measures in the Public Interest Act 2009;

“qualifying office” has the same meaning as it has in section 13 (inserted by the Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act 1977) of the Ministerial and Parliamentary Offices Act 1938, that is to say—

- (a) a ministerial office within the meaning of that section (as amended by the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1973), or
- (b) a secretarial office within the meaning of that section (as amended by the Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act 1983 and the Ministerial, Parliamentary



and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001);

“relevant provision” means—

- (a) a provision of any Act other than this Act,
- (b) a provision made under any Act, including any instrument, circular or other document,
- (c) a provision of or made under any statute or other document to like effect of a university or other third level institution,
- (d) a provision of any circular, instrument or other document, not made pursuant to an enactment, and
- (e) a provision of any agreement or contractual arrangement, whether written or not;

“remuneration” means emoluments to which Chapter 4 of Part 42 of the Taxes Consolidation Act 1997 applies or is applied and payable by or on behalf of a public service body to a public servant for his or her services as a public servant;

“subsidiary” means a subsidiary within the meaning of the Companies Acts.

Reduction in public servants' remuneration.

2.— (1) A relevant provision that fixes the remuneration, or any part of the remuneration, of [a public servant, other than a public servant referred to in paragraph (e) or (f) of the definition of that term in section 1,] shall be taken to have been amended, with effect on and from 1 January 2010, in accordance with this section.

(1A) A relevant provision that fixes the remuneration, or any part of the remuneration, of a public servant referred to in paragraph (e) of the definition of that term in section 1 shall be taken to have been amended, with effect on and from 1 January 2012, in accordance with this section.

(2) Where the remuneration of a public servant is fixed by a relevant provision, then, subject to *subsections (3) and (4)*, the relevant provision shall be taken to have been amended so that the remuneration is—

- (a) in the case of persons to whom Table 1 to this section relates, reduced in accordance with that Table, and
- (b) in any other case, subject to *subsection (7)*, reduced in accordance with Table 2 or Table 3 (as the case requires) to this section.

(2A) The provisions of subsections (1) and (2) and Table 1 to this section shall, for the purpose of the application of those provisions to the remuneration of the holders of certain offices specified in this subsection, have effect on and from 1 January 2011 as if the reductions provided for in subsection (2) and that Table were as follows and a relevant provision that fixes the remuneration, or any part of the remuneration, of the holders of any of those offices shall be taken to have been so amended with effect on and from that date:

- (a) in the case of the Taoiseach, a 25 per cent reduction of remuneration in lieu of a reduction of 20 per cent of remuneration;
- (b) in the case of the Tánaiste, a 19.5 per cent reduction of remuneration in lieu of a reduction of 15 per cent of remuneration; and
- (c) in the case of a Minister of the Government, a 19.5 per cent reduction of remuneration in lieu of a reduction of 15 per cent of remuneration.

[(2B) The provisions of subsections (1) and (2) and Table 1 to this section shall, for the purpose of the application of those provisions to the remuneration of the holders of certain offices specified in this subsection, have effect on and from the commencement of section 6(c) of the Financial Emergency Measures in the Public Interest (Amendment) Act 2011 as if the reductions provided for in subsections (2) and (2A) (in the case of the holders of the offices referred to in paragraphs (a), (b) and (c)) and that Table were as follows and a relevant provision that fixes the remuneration, or any part of the remuneration, of the holders of any of the offices specified in this subsection shall be taken to have been so amended with effect on and from that commencement:

- (a) in the case of the Taoiseach, a 29.96 per cent reduction of remuneration in lieu of a reduction of 25 per cent of remuneration;
- (b) in the case of the Tánaiste, a 24.83 per cent reduction of remuneration in lieu of a reduction of 19.5 per cent of remuneration;
- (c) in the case of a Minister of the Government, a 24.83 per cent reduction of remuneration in lieu of a reduction of 19.5 per cent of remuneration;
- (d) in the case of a Minister of State, a 15.96 per cent reduction of remuneration in lieu of a reduction of 10 per cent of remuneration;
- (e) in the case of the Ceann Comhairle, a 24.83 per cent reduction of remuneration in lieu of a reduction of 15 per cent of remuneration;
- (f) in the case of the Leas-Ceann Comhairle, a 15.96 per cent reduction of remuneration in lieu of a reduction of 10 per cent of remuneration;
- (g) in the case of the Attorney General, a 24.83 per cent reduction of remuneration in lieu of a reduction of 15 per cent of remuneration; and
- (h) in the case of the Comptroller and Auditor General, a 21.15 per cent reduction of remuneration in lieu of a reduction of 15 per cent of remuneration.]

(3) Where the remuneration of a public servant, other than a person to whom Table 1 to this section relates, is fixed by a relevant provision and that remuneration includes a fixed periodic allowance which is not a reimbursement of any expense actually incurred, then the relevant provision that fixes each such allowance shall be taken to have been amended so that the allowance is, subject to *subsection (7)*, reduced in accordance with Table 4 to this section.

(4) Subject to *subsection (7)*, where a public servant is entitled as part of his or her 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 section, including the Tables, 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 *subsection (2)* and Table 2 or Table 3 (as the case requires) to this section.

(5) Nothing in this section affects any allowance or payment which is a reimbursement of an expense actually incurred.

(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.

(7) Where the application to a public servant of *subsections (1) to (6)* and Table 2 to this section would, because of the varying percentage rates provided for by that Table, result in his or her annual remuneration being lower than would be the case if he or she had been on a lower level of remuneration, then his or her annual remuneration shall after the reduction not be less than the highest it would have been had his or her annual remuneration, before such reduction, been on the lower level of remuneration. For the purposes of this subsection, the Minister may by direction modify the application of the reduction in the remuneration of a public servant concerned in such manner as the Minister thinks fit to avoid a substantial inequity arising from the application of *subsection (2)* and that Table.

**Table 1**

**Holders of certain offices and other public servants**

| Office   | Reduction                    |
|--|------------------------------|
| Taoiseach  | 20 per cent of remuneration  |
| Tánaiste   | 15 per cent of remuneration  |
| Minister   | 15 per cent of remuneration  |
| Minister of State  | 10 per cent of remuneration  |
| Ceann Comhairle  | 15 per cent of remuneration  |
| Leas-Cheann Comhairle  | 10 per cent of remuneration  |
| Cathaoirleach  | 7.9 per cent of remuneration |
| Leas-Chathaoirleach  | 7.4 per cent of remuneration |
| Leader of the Seanad   | 7.2 per cent of remuneration |
| Attorney General   | 15 per cent of remuneration  |
| Comptroller and Auditor General  | 15 per cent of remuneration  |
| Secretary General of the Department of the Taoiseach and Secretary General to the Government | 20 per cent of remuneration  |
| Secretary General, the Department of Finance   | 20 per cent of remuneration  |

**Table 2**

**Public servants with rates of basic salary over €125,000**

| Annualised amount of basic salary       | Reduction                   |
|---|-----------------------------|
| Over €125,000 but less than €165,000    | 8 per cent of basic salary  |
| €165,000 or more but less than €200,000 | 12 per cent of basic salary |
| €200,000 or more                        | 15 per cent of basic salary |

**Table 3**

**Public servants with rates of basic salary not over €125,000**

| Annualised amount of basic salary             | Reduction in basic salary |
|---|---------------------------|
| Up to €30,000                                 | 5 per cent                |
| Any amount over €30,000 but not over €70,000  | 7.5 per cent              |
| Any amount over €70,000 but not over €125,000 | 10 per cent               |

Table 4

**Allowances to which section 2(3) relates**

| Allowances and basic pay  | Reduction in allowances |
|---|-------------------------|
| Allowances to which section 2(3) relates that are paid as part of annual remuneration to public servants in receipt of annualised basic salary not exceeding €125,000 | 5 per cent              |
| Allowances to which section 2(3) relates that are paid as part of annual remuneration to public servants in receipt of annualised basic salary exceeding €125,000     | 8 per cent              |

[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.—[...]**

Certain pension rights not affected.

**3.— (1) This section applies to—**

- (a) a person who was at some time before 31 December 2009 a public servant but is on 1 January 2010 [in receipt of a pension under a public service pension scheme]
- (b) a person who was a public servant on 1 January 2010, but ceases to be a public servant on or before—
  - (i) 31 December 2010, 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 the date 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 amendments taken to have been made by *section 2* 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.

(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 person or body 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.

Further amendment, etc., of relevant provisions.

4.— (1) Subject to *subsection (2)* and *section 6*, a purported amendment (other than an amendment by Act of the Oireachtas) of a relevant provision amended by *section 2 [or 2A]* that would have the effect of increasing the remuneration payable to a public servant is of no effect.

(2) An amendment of a relevant provision may be made—

(a) for the purposes of complying with any order of a court in respect of which there is no stay in being,

(b) for the purposes of complying with any enforceable determination of the Labour Court in respect of which there is no stay in being, or

(c) where the Minister is satisfied that a legal entitlement exists in respect of any position held by a public servant or by a group or class of public servants to a higher rate of remuneration, and the Minister has certified accordingly in writing to the public service body concerned.

(3) Every order or determination to which *subsection (2)* relates shall be deemed to be stayed—

(a) until the expiration of the period for appeal, including any period of extension duly ordered,

(b) in the case where an appeal is instituted, until that appeal is withdrawn, determined or otherwise disposed of,

unless for stated reasons the High Court considers it just and equitable to direct otherwise having regard to the exceptional circumstances of the case and having taken into account the public interest.

No power to pay remuneration above rate determined in accordance with *section 2*, etc.

5.— (1) Where a relevant provision is taken to have been amended by *section 2 [or 2A]*—

- (a) a public servant whose remuneration falls to be determined in accordance with the relevant provision is not entitled to receive remuneration of an amount greater than the amount so determined, and
- (b) no person or body responsible for paying the remuneration of such a public servant is entitled to pay remuneration to the public servant of an amount greater than the amount so determined.

(2) If a public service body pays remuneration to a public servant at a rate higher than that provided for by the appropriate relevant provision, as taken to have been amended in accordance with *section 2 [or 2A]*, 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.

(3) *Subsection (2)* shall not be taken as limiting the liability under statute of any person to account for such overpayment.

(4) Where an overpayment of an amount to which *subsection (2)* 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 (2)(b)* 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.

[(5) Notwithstanding *section 4* or anything in this section, an existing power to fix terms and conditions of public servants may be exercised so as to effect an increase (whether generally or in respect of a specified class of public servant) in remuneration as provided for in—

- (a) a collective agreement registered for the purposes of *section 7* of the *Financial Emergency Measures in the Public Interest Act 2013*, or
- (b) the *Public Service Stability Agreement* (within the meaning of the *Public Service Pay and Pensions Act 2017*).

(6) The following shall have effect notwithstanding anything in this section—

- (a) any subsequent provision of this Act, being a provision inserted by the *Financial Emergency Measures in the Public Interest Act 2015*, and
- (b) *Part 2 of the Public Service Pay and Pensions Act 2017*.]

Exemption, etc., from operation of *section 2* or *6* in certain circumstances.

6.— 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 this Act, result in the amendment of a relevant provision,

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 2 [or 2A]*, either entirely or to such extent as the Minister considers appropriate, or
- (ii) modify the operation of *section 2 [or 2A]* to make deductions from their remuneration in such manner as the Minister thinks fit,

and the provisions of this Act, and of any regulations made under any of those provisions, shall be read subject to any such direction.

[Adjustment to remuneration affected by operation of section 2

**6A.** (1) The amount by which the basic salary of a public servant stands reduced by virtue of *section 2*, being the basic salary the annualised amount of which, as so reduced, does not exceed €24,000, €31,000 or €65,000, as the case may be, shall—

- (a) in accordance with this section, and
- (b) as regards payment of that salary occurring on or after the relevant date specified in this section,

be restored in part, or (if such is this section's effect) in whole, to the public servant.

(2) References in *subsections (3), (4) and (5)* to basic salary are references to basic salary as it stands reduced by virtue of *section 2*.

(3) The annualised amount of the basic salary of a public servant that is not greater than €24,000 shall, on and from 1 January 2016, be increased by 2.5 per cent.

(4) The annualised amount of the basic salary of a public servant that is greater than €24,000 but not greater than €31,000 shall, on and from 1 January 2016, be increased by 1 per cent.

(5) The annualised amount of the basic salary of a public servant that is not greater than €65,000 (including a public servant referred to in *subsections (3) and (4)*, but excluding a public servant referred to in *section 2A(4)*) shall, on and from 1 September 2017, be increased by €1,000.

(6) For the avoidance of doubt, where *subsection (5)* results in the annualised amount of the basic salary of a public servant being greater than €65,000 after 1 September 2017, *section 2A* does not affect that remuneration.

(7) Where the operation of *subsections (3), (4) or (5)* results in the basic salary of a public servant being increased above the amount of his or her basic salary as it stood before it was reduced in accordance with *section 2*, such increase shall have effect, notwithstanding the reference in *subsection (1)* to an amount of salary being restored.]

[Correction of anomalies consequential on operation of section 6A

**6B.** Where the operation of *section 6A* results in the basic salary of a public servant to whom *subsection (3), (4) or (5)* of that section applies being higher than the basic salary applicable to the next immediate point, or (if such is the case) any higher point, on the pay scale that applies to the public servant, the Minister may, having taken into account all of the circumstances that relate to the existence of the differential between the points on that scale—

- (a) by direction, increase the basic salary applicable to, as the case may be—

- (i) that next immediate point, or



(ii) that higher point, and, if appropriate, one or more of the points below that point,

on that scale to such extent as the Minister thinks fit so as to maintain an equitable differential between the points on that scale, or

- (b) determine that in respect of certain categories of public servant to whom that scale applies, the basic salary to be paid, for the time being, to those public servants shall, to such extent as the Minister thinks fit so as to maintain an equitable differential between the various salaries payable to the several public servants to whom that scale applies, be greater or less than an amount provided by a particular point on that scale.]

[Restoration of remuneration affected by operation of section 2A

**6C.** (1) The amount by which the annual remuneration of a public servant stands reduced by virtue of *section 2A*, being the annual remuneration the amount of which, as so reduced, is not less than €65,000 or €110,000, as the case may be, shall—

(a) in accordance with this section, and

(b) as regards payment of that remuneration occurring on or after the relevant date specified in this section,

be restored to the public servant.

(2) The amount by which the annual remuneration of a public servant stands reduced by virtue of *section 2A*, the amount of which, as so reduced, is not less than €65,000 and not more than €110,000, shall—

(a) as to one half of the amount of that reduction, be restored to the public servant on 1 April 2017, and

(b) as to the other half of the amount of that reduction, be restored to the public servant on 1 January 2018.

(3) The amount by which the annual remuneration of a public servant stands reduced by virtue of *section 2A*, the amount of which, as so reduced, is in excess of €110,000, shall—

(a) as to one third of the amount of that reduction, be restored to the public servant on 1 April 2017,

(b) as to another one third of the amount of that reduction, be restored to the public servant on 1 April 2018, and

(c) as to the remaining one third of that reduction, be restored to the public servant on 1 April 2019.

(4) In this section, “annual remuneration” shall be construed in accordance with *section 2A(1)(b)*.]

Review of Act.

**7.—**[...]

Regulations.

**8.—** (1) The Minister may make regulations for the purposes of this Act or in consequence of any of its provisions or for the purpose of enabling any provision to have full effect.

(2) Regulations made by the Minister under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

(3) Regulations under this section shall be laid before each House of the Oireachtas as soon as may be after they are made and if a resolution annulling the regulations is passed by either such House within the next 21 days on which that House has sat after the regulations are laid before it, the regulations shall be annulled accordingly but without prejudice to the validity of anything previously done under the regulations.

Removal of doubts.

**9.**— Where a doubt, question or dispute arises in the operation of this Act in respect of whether a person is or is not a person whose remuneration is subject to *section 2*, then such doubt, question or dispute shall—

(a) be submitted to the Minister by the person who authorises or would authorise the payment of the remuneration concerned, and

(b) be determined by the Minister after consulting such persons (if any) as the Minister considers appropriate in the circumstances,

and the determination of the doubt, question or dispute by the Minister shall be final.

Restriction on application of direction given by Minister.

**9A.**— The direction given by the Minister under section 6 in respect of a particular class or group of public servants to whom Table 2 to section 2 applies shall apply only in relation to the remuneration payable to that class or group and shall not apply for the purposes of calculating the pension entitlements (including an entitlement to a lump sum and an entitlement to periodic payments of pension or other benefits) of members of that class or group at any time after the date specified in an order made under section 3(1)(b)(ii).

Short title and commencement.

**10.**— (1) This Act may be cited as the Financial Emergency Measures in the Public Interest (No. 2) Act 2009.

(2) This Act shall come into operation on such day or days as the Minister appoints by order or orders either generally or with reference to any particular purpose or provision. Different days may be so appointed for different purposes or provisions.

*Section 1.*

## SCHEDULE

## BODIES TO WHICH THE DEFINITION OF "PUBLIC SERVICE BODY" DOES NOT APPLY

1. Any body corporate established by Act of Parliament before 6 December 1922 that, upon its establishment, was of a commercial character.
2. Dublin Airport Authority, public limited company.
3. Cork Airport Authority, public limited company.
4. Shannon Airport Authority, public limited company.
5. Bord Gáis Éireann.
6. Bord na gCon.
7. Bord na Móna.
8. Córas Iompair Éireann.
9. Coillte Teoranta.
10. Electricity Supply Board.
11. Eirgrid.
12. A harbour authority within the meaning of the Harbours Act 1946 or company to which section 7 of the Harbours Act 1996 relates.
13. Horse Racing Ireland.
14. Irish National Stud Company Limited.
15. Irish Aviation Authority.
16. An Post.
17. An Post National Lottery Company.
18. Raidió Teilifís Éireann.
19. Teilifís na Gaeilge.
20. Voluntary Health Insurance Board.
- 21.[...]
- 22.[...]
23. A subsidiary of a body to which this Schedule relates, including a subsidiary of any such subsidiary.