Changes to Legislation: as of 12 March 2024, there are changes to this Act which have not been implemented by the Revised Acts editorial team, see highlighted entries **here**. Note that some amendments may not be in force until commenced by a commencement order or other provision.

Number 34 *of* 2017

PUBLIC SERVICE PAY AND PENSIONS ACT 2017

REVISED

Updated to 1 August 2023

This Revised Act is an administrative consolidation of the *Public Service Pay and Pensions Act 2017*. It is prepared by the Law Reform Commission in accordance with its function under the *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 the *Wildlife (Amendment) Act 2023* (25/2023), enacted 20 July 2023, and all statutory instruments up to and including the *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners) (Amendment) (No. 2) Regulations 2023* (S.I. No. 458 of 2023), made 18 September 2023, were considered in the preparation of this Revised Act.

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Number 34 *of* 2017

PUBLIC SERVICE PAY AND PENSIONS ACT 2017

REVISED

Updated to 1 August 2023

CONTENTS

PART 1

PRELIMINARY AND GENERAL

Section
1. Short title and commencement

2. Interpretation

3. Covered and non-covered public servants - meaning

4. Repeal

PART 2

REMUNERATION - PUBLIC SERVANTS GENERALLY

Chapter 1

PRELIMINARY

5. Interpretation (Part 2)

6. Further pay restoration and supplemental provisions concerning Part's effect

Chapter 2

RESTORATION OF COVERED PUBLIC SERVANTS' PAY

7. Restoration of covered public servants' pay: provisions for 2018

8. Covered public servants: restoration of pay provisions for 2019

9. Construction of certain references for purposes of pay restoration provisions in section 10

10. Covered public servants: restoration of pay provisions for 2020

11. Equal pay for new entrants

Chapter 3

RESTORATION OF NON-COVERED PUBLIC SERVANTS' PAY

12. Restoration of non-covered public servants' pay: provisions for 2018

13. Non-covered public servants: restoration of pay provisions for 2019

14. Construction of certain references for purposes of pay restoration provisions in section 15

15. Non-covered public servants: restoration of pay provisions for 2020 and 2021

Chapter 4

Provisions Supplementing Chapters 2 and 3

16. Correction of anomalies consequential on operation of preceding provisions of Part

17. Interaction between certain provision of section 6C of No. 2 Act of 2009 and preceding provisions

18. Provision regarding operation of section 6C(3) of No. 2 Act of 2009

Chapter 5

Completion of Pay Restoration

19. Public servants falling within certain pay range: provision to complete restoration of their pay

20. Public servants falling within certain pay range not covered by section 19: provision to complete restoration of their pay

21. Exclusion of completion of pay restoration in the case of certain officeholders

Chapter 6

Miscellaneous

22. Operation of pay scale in relation to non-covered public servant

23. Amendment of section 5 of No. 2 Act of 2009

24. Repeal of certain provisions of No. 2 Act of 2009

PART 3

Public Service Pension Reduction

25. Amendment of section 2 of Act of 2010

26. Amendment of section 2A of Act of 2010

27. Provision in respect of amounts of public service pension not restored by preceding provisions

PART 4

Additional Superannuation Contribution

28. Interpretation (Part 4)

29. Pensionable pay

30. Relevant benefit

31. Application of Part

32. Additional superannuation contribution

33. Payment of additional superannuation contribution for 2019 and 2020 (covered public servant)

34. Payment of additional superannuation contribution for 2019 and 2020 (non-covered public servant)

35. Payment of additional superannuation contribution for 2021 and subsequent years

36. Membership of multiple schemes

37. Central Bank of Ireland

38. Regulations in relation to collection arrangements, etc.

39. Obligation to make payments into Exchequer, etc.

40. Contributions made by certain persons who cease to be public servants

41. Removal of doubts

PART 5

REGULATION OF FEES AND OTHER PAYMENTS

42. Regulation of fees and other payments

PART 6

TRANSITIONAL PROVISIONS

43. Regulations under Act of 2009

44. Repayment of deductions under Act of 2009

PART 7

MISCELLANEOUS

45. Regulations and orders

ACTS REFERRED TO

Central Bank Act 1942 (No. 22)
Competition Act 2002 (No. 14)
Financial Emergency Measures in the Public Interest (No. 2) Act 2009 (No. 41)
Financial Emergency Measures in the Public Interest Act 2009 (No. 5)
Financial Emergency Measures in the Public Interest Act 2010 (No. 38)
Financial Emergency Measures in the Public Interest Act 2013 (No. 18)
Financial Emergency Measures in the Public Interest Act 2015 (No. 39)
Pensions Act 1990 (No. 25)
Public Service Pensions (Single Scheme and Other Provisions) Act 2012 (No. 37)
Taxes Consolidation Act 1997 (No. 39)



Number 34 *of* 2017

PUBLIC SERVICE PAY AND PENSIONS ACT 2017

REVISED

Updated to 1 August 2023

An Act, in the public interest, to provide for—

(A) a further restoration, that is a restoration further to that provided in consequence of legislation enacted in 2015, of the remuneration of certain persons in the public service that had been the subject of a reduction effected by legislation enacted in 2009, 2011 or 2013, and for that purpose to repeal or amend certain of the foregoing legislation;

(B) an increase in the amount of pension or other benefits, other than lump sums, (being the amount of pension or other benefits at the level at which they stand fixed, before the passing of this Act, in consequence of legislation enacted in 2010, 2013 or 2015) payable to or in respect of certain persons who were in the public service under an occupational pension scheme or arrangement (by whatever name called) and for that purpose to amend certain of the foregoing legislation;

(C) the repeal of the Financial Emergency Measures in the Public Interest Act 2009;

(D) the payment of an additional superannuation contribution by certain persons in the public service who are members of a public service pension scheme;

(E) the regulation of certain fees and other payments in respect of services rendered to or on behalf of the State;

and to provide for related matters.

[16*th December*, 2017]

WHEREAS the economic recovery has progressed to a level that the economy is now more balanced than heretofore, with a considerable improvement in the State's international competitiveness and fiscal position being witnessed (and this recital and those following it relate to Parts 2 and 3 and 5 to 7 of this Act):

AND WHEREAS the economy remains vulnerable, in significant respects, due to various factors, including, domestically, from high levels of public and private debt and, internationally, by reason of the process initiated by the United Kingdom to withdraw from membership of the European Union and the uncertainty associated with the risk of protectionist trade and taxation policies:

AND WHEREAS reductions in the remuneration and superannuation of public servants and former public servants effected by legislation enacted

in the last 8 years have materially contributed to the stabilisation of the public finances:

AND WHEREAS there is an obligation on the part of the State to have a prudent fiscal policy under the Stability and Growth Pact and the Fiscal Compact and the repeal of the foregoing legislation in one Budget year would not be sustainable in financial terms but its repeal, in a phased manner, over a number of years would be so sustainable:

Be it enacted by the Oireachtas as follows:

PART 1

Preliminary and General

Short title and commencement

1. (1) This Act may be cited as the Public Service Pay and Pensions Act 2017.

(2) Save where provided otherwise, this Act shall come into operation on 1 January 2018.

Interpretation

2. (1) In this Act—

"Act of 2009" means the Financial Emergency Measures in the Public Interest Act 2009;

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

"Act of 2013" means the Financial Emergency Measures in the Public Interest Act 2013;

"Act of 2015" means the Financial Emergency Measures in the Public Interest Act 2015;

"covered public servant" shall be construed in accordance with *section 3*;

"enactment" means an Act or a Statutory Instrument or any portion of an Act or Statutory Instrument;

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

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

"non-covered public servant" shall be construed in accordance with *section 3*;

"public servant" has the same meaning as it has in the Act of 2009;

"Public Service Stability Agreement" means the document entitled the "Public Service Stability Agreement 2018-2020" published by the Workplace Relations Commission on 8 June 2017;

"recognised trade union or staff association" means a trade union or staff association recognised by the Minister for the purposes of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions of employees.

(2) A reference in this Act to notification in writing of assent to be bound by the terms of the Public Service Stability Agreement is a reference to notification in writing of assent to be bound, for the duration of that agreement, by its terms, however that assent is expressed in the written notification.

(3) For the purposes of *section 3*, if the Irish Congress of Trade Unions notifies, in writing, the Workplace Relations Commission, on behalf of the recognised trade union or staff association referred to in the relevant provision of that section, that the union or staff association assents to be bound as mentioned in that provision, then that notification shall be treated as a notification in writing, to that Commission, by the union or staff association that it assents to be so bound.

Covered and non-covered public servants - meaning

3. (1) A public servant shall, unless he or she is by virtue of *subsection (2)* a non-covered public servant, be a "covered public servant" for the purposes of this Act.

(2) Where *subsection (4)* or *(5)* applies to a public servant and the trade union or staff association referred to in *subsection (4)* or *(5)* has not notified to the Workplace Relations Commission, in writing, its assent to be bound by the terms of the Public Service Stability Agreement, then that public servant shall be a "non-covered public servant" for the purposes of this Act.

(3) *Subsection (2)*, so far as it provides for the case of a public servant who, as mentioned in *subsection (5)*, is not a member of a recognised trade union or staff association, is subject to *subsection (6)*.

(4) This subsection applies to a public servant who is a member of a recognised trade union or staff association.

(5) This subsection applies to a public servant who is not a member of a recognised trade union or staff association if other public servants, who fall into the grade or category of public servant into which he or she falls, are members of such a union or association.

(6) In the following circumstances, that is to say, a case of a public servant (the "first-mentioned public servant") who is not a member of a recognised trade union or staff association and the following applies in relation to other public servants who fall into the grade or category of public servant into which the first-mentioned public servant falls—

(a) some are members of one recognised trade union or staff association and some are members of another recognised trade union or staff association (whether the number of such trade unions or staff associations is 2 or is more than 2), and

(b) one, or more than one, of those recognised trade unions or staff associations has notified to the Workplace Relations Commission, in writing, its assent to be bound by the terms of the Public Service Stability Agreement,

then the first-mentioned public servant shall not, by virtue of *subsection (2)*, be a "non-covered public servant" for the purposes of this Act.

Repeal

4. (1) The Act of 2009 is repealed.

(2) *Subsection (1)*, in so far as it relates to the repeal of sections 2 to 10 of the Act of 2009, shall come into operation on 1 January 2019.

PART 2

Remuneration - Public Servants Generally

Chapter 1

Preliminary

Interpretation (*Part 2*)

5. In this Part a word or expression that is used in this Part and is also used in the No. 2 Act of 2009 shall have the meaning in this Part that it has in the No. 2 Act of 2009.

Further pay restoration and supplemental provisions concerning Part's effect

6. (1) There shall be effected, in accordance with *Chapters 2* to *4*, a further restoration of the amount of a public servant's basic salary, that is to say, a restoration further to that effected by the Act of 2015.

(2) The foregoing reference to a public servant's basic salary is a reference to that salary as it stood reduced in accordance with enactments passed prior to the passing of the Act of 2015.

(3) The restoration effected by this Part shall apply as regards payment of basic salary occurring on or after the relevant date specified in the provision concerned of this Part.

(4) Where the operation of a provision of this Part 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 enactments passed prior to the passing of the Act of 2015, such increase shall have effect notwithstanding the reference in *subsection (1)* to an amount of salary being restored.

Chapter 2

Restoration of Covered Public Servants' Pay

Restoration of covered public servants' pay: provisions for 2018

7. (1) The annualised amount of the basic salary of a covered public servant, as it stands adjusted by the relevant enactments, shall—

(a) on and from 1 January 2018, be increased by 1 per cent, and

(b) on and from 1 October 2018, be increased by 1 per cent.

(2) For the purposes of *paragraph (a)* of *subsection (1)*, the reference in that subsection to the annualised amount of the basic salary of a covered public servant, as it stands adjusted by the relevant enactments, is a reference to the annualised amount of such salary that is payable in consequence of the applicable provision of section 6A or 6C (in each case inserted by the Act of 2015) of the No. 2 Act of 2009.

(3) For the purposes of *paragraph (b)* of *subsection (1)*, the reference in that subsection to the annualised amount of the basic salary of a covered public servant, as it stands adjusted by the relevant enactments, is a reference to the annualised amount of such salary that is payable in consequence of—

(a) the applicable provision of section 6A or 6C (in each case inserted by the Act of 2015) of the No. 2 Act of 2009, and

(b) *paragraph (a)* of *subsection (1)*.

(4) *Chapter 4* contains supplementary provisions in relation to this and the following sections of this Chapter.

Covered public servants: restoration of pay provisions for 2019

8. (1) In respect of a public servant—

(a) who is a covered public servant, and

(b) the annualised amount of the basic salary of whom does not exceed €30,000,

the annualised amount of his or her basic salary shall, on and from 1 January 2019, be increased by 1 per cent.

(2) References in *subsection (1)* to the annualised amount of the basic salary of a public servant are references to the annualised amount of such salary as it stands payable in consequence of *section 7(1)*.

(3) The reference in *subsection (4)* to the annualised amount of the basic salary of a public servant is a reference to the annualised amount of such salary as it stands payable in consequence of—

(a) subject to *paragraph (b)*, *section 7 (1)*, or

(b) where *subsection (1)* of this section applies—

(i) *section 7(1)*, and

(ii) that *subsection (1)*.

(4) In respect of a covered public servant, the annualised amount of his or her basic salary shall, on and from 1 September 2019, be increased by 1. 75 per cent.

Construction of certain references for purposes of pay restoration provisions in *section 10*

9. (1) References in *section 10(1)* to the annualised amount of the basic salary of a public servant are references to the annualised amount of such salary as it stands payable in consequence of—

(a) subject to *paragraph (b)* —

(i) *section 7(1)*, and

(ii) *subsection (4)* of *section 8*,

or

(b) where *subsection (1)* of *section 8* applies—

(i) *section 7(1)*, and

(ii) *subsections (1)* and *(4)* of *section 8*.

(2) The reference in *section 10(2)* to the annualised amount of the basic salary of a public servant is a reference to the annualised amount of such salary as it stands payable in consequence of—

(a) subject to *paragraphs (b)* and *(c)* —

(i) *section 7(1)*, and

(ii) *subsection (4)* of *section 8*,

(b) subject to *paragraph (c)*, where *subsection (1)* of *section 8* applies—

(i) *section 7(1)*, and

(ii) *subsections (1)* and *(4)* of *section 8*,

or

(c) where *section 8(1)* and *section 10(1)* both apply—

(i) *section 7(1)*,

(ii) *subsections (1)* and *(4)* of *section 8*, and

(iii) *section 10(1)*.

Covered public servants: restoration of pay provisions for 2020

10. (1) In respect of a public servant—

(a) who is a covered public servant, and

(b) the annualised amount of the basic salary of whom does not exceed €32,000,

the annualised amount of his or her basic salary shall, on and from 1 January 2020, be increased by 0.5 per cent.

(2) In respect of a covered public servant, the annualised amount of his or her basic salary shall, on and from 1 October 2020, be increased by 2 per cent.

Equal pay for new entrants

11. The Minister shall, within three months of the passing of this Act, prepare and lay before the Oireachtas a report on the cost of and a plan in dealing with pay equalisation for new entrants to the public service.

Chapter 3

Restoration of Non-covered Public Servants' Pay

Restoration of non-covered public servants' pay: provisions for 2018

12. (1) The annualised amount of the basic salary of a non-covered public servant, as it stands adjusted by the relevant enactments, shall, on and from 1 October 2018, be increased by 1 per cent.

(2) The reference in *subsection (1)* to the annualised amount of the basic salary of a public servant, as it stands adjusted by the relevant enactments,

is a reference to the annualised amount of such salary that is payable in consequence of the applicable provision of section 6A or 6C (in each case inserted by the Act of 2015) of the No. 2 Act of 2009.

(3) *Chapter 4* contains supplementary provisions in relation to this and the following sections of this Chapter.

Non-covered public servants: restoration of pay provisions for 2019

13. (1) In respect of a non-covered public servant, the annualised amount of his or her basic salary, as it stands payable in consequence of *section 12 (1)*, shall, on and from 1 July 2019, be increased by 1 per cent.

(2) References in *subsection (3)* to the annualised amount of the basic salary of a public servant are references to the annualised amount of such salary as it stands payable in consequence of—

(a) *section 12(1)*, and

(b) *subsection (1)* of this section.

(3) In respect of a public servant—

(a) who is a non-covered public servant, and

(b) the annualised amount of the basic salary of whom does not exceed €30,000,

the annualised amount of his or her basic salary shall, on and from 1 October 2019, be increased by 1 per cent.

Construction of certain references for purposes of pay restoration provisions in *section 15*

14. (1) The reference in *section 15(1)* to the annualised amount of the basic salary of a public servant is a reference to the annualised amount of such salary as it stands payable in consequence of—

(a) *section 12(1)*, and

(b) *subsection (1)* and, as the case may be, *subsection (3)* of *section 13*.

(2) References in *section 15(2)* to the annualised amount of the basic salary of a public servant are references to the annualised amount of such salary as it stands payable in consequence of—

(a) *section 12(1)*,

(b) *subsection (1)* and, as the case may be, *subsection (3)* of *section 13*, and

(c) *section 15(1)*.

(3) The reference in *section 15(3)* to the annualised amount of the basic salary of a public servant is a reference to the annualised amount of such salary as it stands payable in consequence of—

(a) *section 12(1)*,

(b) *subsection (1)* and, as the case may be, *subsection (3)* of *section 13*, and

(c) *subsection (1)* and, as the case may be, *subsection (2)* of *section 15*.

Non-covered public servants: restoration of pay provisions for 2020 and 2021

15. (1) In respect of a non-covered public servant, the annualised amount of his or her basic salary shall, on and from 1 June 2020, be increased by 1. 75 per cent.

(2) In respect of a public servant—

(a) who is a non-covered public servant, and

(b) the annualised amount of the basic salary of whom does not exceed €32,000,

the annualised amount of his or her basic salary shall, on and from 1 October 2020, be increased by 0.5 per cent.

(3) In respect of a non-covered public servant, the annualised amount of his or her basic salary shall, on and from 1 July 2021, be increased by 2 per cent.

Chapter 4

Provisions Supplementing Chapters 2 and 3

Correction of anomalies consequential on operation of preceding provisions of Part

16. (1) Where the operation of *section 7*, *8*, *10*, *12*, *13* or *15* results in the basic salary of a public servant to whom the particular 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.

(2) In the case of a public servant who is an employee or officer of the Central Bank of Ireland, a reference in *subsection (1)* to the "Minister" shall be construed as a reference to the "Central Bank Commission".

Interaction between certain provision of section 6C of No. 2 Act of 2009 and preceding provisions

17. (1) This section is without prejudice to the generality of the provisions of *Chapter 2* or *3* and the respects in which those provisions operate to effect a cumulative increase in the annualised amount of the basic salary of a public servant.

(2) In a case in which the particular public servant is a public servant to whom section 6C(2)(b) of the No. 2 Act of 2009 applies, the operation, on 1 January 2018, of that section 6C(2)(b) shall be taken account of, and the necessary computation of the annual remuneration of that public servant by virtue of that provision made, before the operation, required by *section 7(1)(a)*, is performed of applying, on the foregoing date, the percentage increase specified in *section 7(1)(a)* to that public servant's basic salary.

Provision regarding operation of section 6C(3) of No. 2 Act of 2009

18. (1) Notwithstanding anything in *Chapter 2* or *3*, for the purposes of the operation of any provision of either Chapter in relation to a public servant to whom section 6C(3) of the No. 2 Act of 2009 applies, every one of the restorations of the amounts of the annual remuneration provided for in that section 6C(3) shall be deemed to have taken effect—

(a) in the case of a provision of *Chapter 2*, before 1 January 2018, and

(b) in the case of a provision of *Chapter 3*, before 1 October 2018,

and with the effect that it is by reference to the notional amount of the annual remuneration which that public servant, by virtue of such deeming, enjoys (the "notional annual remuneration") - rather than the actual annualised amount of his or her basic salary at the particular time - that the computation of the percentage increase specified in *section 7* or *12*, as the case may be, is to be made.

(2) In particular, *subsection (1)*, as it applies to *section 7*, has effect so that the operation, required by *section 7(1)(b)*, of applying, on 1 October 2018, the percentage increase specified in *section 7(1)(b)* is performed by reference to the amount of the notional annual remuneration as that remuneration stands increased by the percentage specified in *section 7(1)(a)*.

Chapter 5

Completion of Pay Restoration

Public servants falling within certain pay range: provision to complete restoration of their pay

19. (1) In this section, references to—

(a) the relevant restoration enjoyed by a public servant are references to the restoration of amounts to the public servant, by way of the annualised amount of his or her basic salary, that results from the operation of the preceding provisions of this Part, and

(b) the relevant date are references to—

(i) in the case of a covered public servant, 1 October 2020, and

(ii) in the case of a non-covered public servant, 1 July 2021.

(2) Subject to *subsection (3)* and *section 21*, this section shall apply to a public servant in a case in which the relevant restoration enjoyed by the public servant is such that the annualised amount of his or her basic salary, on the relevant date, is not more than €150,000.

(3) However where the relevant restoration enjoyed by a public servant is such that the annualised amount of his or her basic salary, on the relevant date, is equal to or exceeds the amount at which it stood immediately before the enactment of section 2 of the No. 2 Act of 2009, then this section shall not apply to the public servant.

(4) Where this section applies to a public servant, the Minister shall, by order, provide that, on and from—

(a) in the case of a covered public servant, a date specified in the order, or

(b) in the case of a non-covered public servant, 1 July 2021,

the annualised amount of the public servant's basic salary shall stand at the amount at which it stood immediately before the enactment of section 2 of the No. 2 Act of 2009.

(5) The date specified in an order under *subsection (4)* with respect to the matter referred to in *paragraph (a)* of that subsection shall be a date that falls after 1 October 2020 but does not fall later than 1 July 2021.

Annotations

Editorial Notes:

E1 Power pursuant to subs. (4) exercised (1.07.2021) by *Public Service Pay and Pensions Act 2017 (section 19(4)) Order 2021* (S.I. No. 308 of 2021), in effect as per art. 3.

Public servants falling within certain pay range not covered by *section 19*: provision to complete restoration of their pay

20. (1) In this section, references to the relevant restoration enjoyed by a public servant and the relevant date shall be construed in accordance with *section 19(1)*.

(2) Subject to *subsection (3)* and *section 21*, this section shall apply to a public servant in a case in which the relevant restoration enjoyed by the public servant is such that the annualised amount of his or her basic salary, on the relevant date, is more than €150,000.

(3) However where the relevant restoration enjoyed by a public servant is such that the annualised amount of his or her basic salary, on the relevant date, is equal to or exceeds the amount at which it stood immediately before the enactment of section 2 of the No. 2 Act of 2009, then this section shall not apply to the public servant.

(4) Where this section applies to a public servant, the Minister shall, by order, provide that, on and from a date specified in the order, the annualised amount of the public servant's basic salary shall stand at the amount at which it stood immediately before the enactment of section 2 of the No. 2 Act of 2009; with respect to a covered public servant and a non-covered public servant a different day may be specified in such an order on which the annualised amount of his or her basic salary is to stand at the foregoing amount.

(5) The date specified in an order under *subsection (4)* with respect to—

(a) the matter referred to in that subsection as it relates to a covered public servant, shall be a date that falls after 1 October 2020 but does not fall later than 1 July 2022, and

(b) the matter referred to in that subsection as it relates to a non-covered public servant, shall be a date that falls after 1 July 2021 but does not fall later than 1 July 2022.

Annotations

Editorial Notes:

E2 Power pursuant to subs. (4) exercised (1.07.2022) by *Public Service Pay and Pensions Act 2017 (Section 20(4)) Order 2022* (S.I. No. 316 of 2022), in effect as per art. 3.

Exclusion of completion of pay restoration in the case of certain officeholders

21. *Section 19* or, as the case may be, *section 20* shall not apply to:

(a) the Taoiseach;

(b) the Tánaiste;

(c) any other Minister of the Government;

(d) a Minister of State; or

(e) the Attorney General.

Chapter 6

Miscellaneous

Operation of pay scale in relation to non-covered public servant

22. (1) Subject to the provisions of this section, for the period beginning on 1 January 2018 and ending on 31 December 2020—

(a) no increment shall be awarded to a non-covered public servant, and

(b) the operation of the pay scale that applies in respect of a non-covered 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 non-covered public servant on 1 January 2021 shall be that which was applicable on 1 January 2018 in respect of him or her, and

(ii) the operation of that pay scale, on and from 1 January 2021, shall be by reference to service of the public servant on and from 1 January 2021, but this is subject to *subsection (2)*.

(2) *Subsection (1)(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 January 2018, 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 January 2018.

(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 No. 2 Act of 2009 made by the Act of 2013 and the Act of 2015.

(4) For the avoidance of doubt, *subsection (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 January 2018 (but before 1 January 2021), falls to be applied subsequent to 1 January 2018 as it has effect in relation to a pay scale that applies to a public servant on 1 January 2018, but with the substitution in that subsection for the reference to 1 January 2018 (where it secondly occurs) of a reference to the date of such appointment or promotion of the public servant.

(5) References in this section—

(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 construed accordingly.

Amendment of section 5 of No. 2 Act of 2009

23. Section 5 of the No. 2 Act of 2009 is amended by the substitution of the following for subsections (5) and (6):

"(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*.".

Repeal of certain provisions of No. 2 Act of 2009

24. (1) The following provisions of the No. 2 Act of 2009 are repealed:

(a) section 2(3); and

(b) section 5(1).

(2) *Subsection (1)(a)* shall come into operation on 1 October 2020.

(3) *Subsection (1)(b)* shall come into operation on 1 January 2021.

PART 3

Public Service Pension Reduction

Amendment of section 2 of Act of 2010

25. (1) Section 2 (inserted by the Act of 2015) of the Act of 2010 is amended in subsection (2)—

(a) by the substitution of " €39,000" for " €34,132",

(b) by the substitution, in subparagraph (i), of "the following subparagraphs" for "subparagraphs (ii) and (iii)",

(c) by the substitution, in subparagraph (ii), of "the following subparagraphs" for "subparagraph (iii)" and the substitution of "subsection," for "subsection, and",

(d) in subparagraph (iii)—

(i) by the insertion, after "1 January 2018", of "and subject to the following subparagraphs", and

(ii) by the substitution of "subsection," for "subsection.",

(e) by the insertion of the following after subparagraph (iii)—

"(iv) with effect on and from 1 January 2019 and subject to subparagraph (v), in accordance with Table D to this subsection, and

(v) with effect on and from 1 January 2020, in accordance with Table E to this subsection.",

and

(f) by the insertion of the following after Table C to that subsection:

"TABLE D

Annualised amount of public service pension	Reduction
Up to €39,000	Exempt
Any amount over €39,000 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

TABLE E

Annualised amount of public service pension	Reduction
Up to €54,000	Exempt
Any amount over €54,000 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) This section shall come into operation on 1 January 2019.

Amendment of section 2A of Act of 2010

26. Section 2A (amended by the Act of 2015) of the Act of 2010 is amended in Table C to subsection (3)—

(a) with effect on and from 1 January 2019, by the substitution of “3 per cent” for “5 per cent”, and

(b) with effect on and from 1 January 2020, by the substitution of—

(i) “1 per cent” for “3 per cent” (inserted by *paragraph (a)*), and

(ii) “6 per cent” for “8 per cent”.

Provision in respect of amounts of public service pension not restored by preceding provisions

27. (1) So far as the operation of the preceding provisions of this Part does not, by 31 December 2020, have the effect specified in *subsection (2)(a)* or *(b)*, then *subsection (3)* shall apply.

(2) The effect referred to in *subsection (1)* is that the annualised amount of the public service pension of the person concerned, payable in accordance with his or her entitlement, stands—

(a) subject to *paragraph (b)*, at the amount at which it would have stood, on the date of its award, if the Act of 2010 had not been enacted, or

(b) where the person concerned is a person to whom section 2A of the Act of 2010 applies, at the amount at which it would have stood, on the date of its award, if the Act of 2013 had not been enacted,

and the reference in *subsection (3)* to the relevant original amount is a reference to the amount referred to in *paragraph (a)* or *(b)*, as the case may be.

(3) Where this subsection applies, the Minister shall, by order, made not later than 31 December 2020, provide that on and from a date specified in the order (and the date so specified may be a date falling after 31 December 2020) the annualised amount of the public service pension of the person concerned, payable in accordance with his or her entitlement, shall not be less than the relevant original amount.

(4) For the purposes of *paragraph (a)* of *subsection (2)*, the reference in that subsection to the amount at which the public service pension of the person concerned, payable in accordance with his or her entitlement, would have stood, on the date of its award, if the Act of 2010 had not been enacted shall, in a case where the amount of that person’s pension was increased, subsequent to its award, on one or more occasions prior to 1 January 2011, be construed as a reference to the amount at which the public service pension of the person concerned, payable in accordance with his or her entitlement, would have continued to stand in consequence of the increase or the last of the increases concerned, as the case may be, if the Act of 2010 had not been enacted.

(5) In this section a word or expression that is used in this section and is also used in the Act of 2010 shall have the meaning in this section that it has in the Act of 2010.

Annotations

Editorial Notes:

E3 Power pursuant to subs. (3) exercised (15.12.2020) by *Public Service Pay and Pensions Act 2017 (Section 27(3)) Order 2020* (S.I. No. 632 of 2020).

PART 4

Additional Superannuation Contribution

Interpretation (*Part 4*)

28. (1) In this Part—

"certified pension scheme" means a scheme or arrangement referred to in *paragraph (c)* of the definition of "public service pension scheme";

"core member" means a Core scheme Member, as that term is defined in the rules of the North/South Pension Scheme, who pays contributions under that scheme at the rate agreed between the Minister, the Minister of Finance for Northern Ireland and the North/South Ministerial Council;

"defined contribution scheme" has the same meaning as it has in the Pensions Act 1990;

"fast accrual pension scheme" means a pre-existing public service pension scheme or certified pension scheme in accordance with the terms of which a member qualifies for the maximum pension benefit to which the member is entitled under the scheme on completion by that member of less than 40 years of service;

"NILGOSC member" means a public servant—

(a) who is a "Reserved Rights scheme Member", as that term is defined in Rule A10 of the North/South Pension Scheme, and

(b) to whom the terms of the scheme constituted by the Local Government Pension Scheme Regulations (Northern Ireland) 2000, the Local Government Pension Scheme (Amendment No. 2 and Transitional Provisions) Regulations (Northern Ireland) 2002 and the Local Government Pension Scheme Regulations (Northern Ireland) 2002 applied on 28 April 2005;

"North/South Pension Scheme" means the superannuation scheme established pursuant to paragraph 3. 2 of Part 7 of Annex 2 to the Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland Establishing Implementation Bodies done at Dublin on the 8th day of March 1999;

"pensionable pay" shall be construed in accordance with *section 29*;

"pre-existing public service pension scheme" has the same meaning as it has in section 5 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012;

"public servant" has the same meaning as it has in the Act of 2009, subject to the modification that a President holding office at any time following the cessation (whether as a result of the expiration by effluxion of time or as a result of any of the circumstances described in Article 12. 3.1° of the Constitution) of the term of office of the President holding office on the date of passing of this Act shall be a public servant;

"public service pension scheme" means—

(a) a pre-existing public service pension scheme,

(b) the Single Public Service Pension Scheme, or

(c) any other pension scheme or arrangement certified by the Minister as being such a scheme;

"standard accrual pension scheme" means a pre-existing public service pension scheme or certified pension scheme that is not a fast accrual pension scheme.

(2) There is, by virtue of this subsection, conferred on the Minister the power to certify a pension scheme or arrangement in the manner as mentioned in *paragraph (c)* of the definition of "public service pension scheme" in *subsection (1)*.

Pensionable pay

29. F1**[**(1) In this Part, "pensionable pay", in relation to a public servant and in respect of a specified period, means—

(a) basic pay (excluding overtime) due to the public servant in respect of that period, and

(b) allowances, emoluments or premium pay (or its equivalent) so due to him or her which, by virtue of subsection (2), are treated as pensionable pay,

but does not include the amount of any such basic pay, allowances, emoluments or premium pay (or its equivalent) forgone under any salary sacrifice arrangement specifically approved by the Revenue Commissioners in relation to the provision to that public servant of an exempt employee benefit.**]**

(2) Where either—

(a) the Minister determines in writing that any allowance, emolument or premium pay (or its equivalent), as the case may be, granted to persons in particular posts or kinds of employment is to be taken into account in the calculation of the pension entitlement of such persons, or

(b) immediately before the commencement of this section, there is in existence a determination made by the Minister concerning any foregoing allowance, emolument or premium pay (or its equivalent) to the effect as mentioned in *paragraph (a)*,

then that allowance, emolument or premium pay (or its equivalent), as the case may be, shall—

(i) be treated as pensionable pay for the purposes of this Part from the date from which the determination has effect, or

(ii) continue to be so treated,

as appropriate.

(3) Where a determination referred to in *subsection (2)* is reversed, amended, adjusted or otherwise changed by a subsequent determination of the Minister in writing, such that the allowance, emolument or premium pay (or its equivalent) concerned is to cease to be taken into account in the calculation of the pension entitlement of the persons concerned, then that allowance, emolument, premium pay (or its equivalent), as the case may be, shall cease to be treated as pensionable pay for the purposes of this Part from the date from which the subsequent determination has effect.

(4) *Paragraph (b)* of *subsection (2)* extends to cases in which the determination referred to in that paragraph was not embodied in writing and, accordingly, the continued effect provided for a determination by *paragraph (ii)* of that subsection shall apply notwithstanding the absence of a written record in respect of it but, on request being made of the Minister in that behalf by any person affected, the Minister shall provide to the person a statement in writing of the determination's effect.

F2**[**(5) In this section—

"Act of 1997" means the Taxes Consolidation Act 1997;

"exempt employee benefit" means a benefit specifically approved by the Revenue Commissioners which is referred to in section 118B(2)(a)(i) or (iii) of the Act of 1997;

"salary sacrifice arrangement" has the same meaning as it has in section 118B of the Act of 1997.**]**

Annotations

Amendments:

F1 Substituted (26.12.2018) by *Public Service Superannuation (Age of Retirement) Act 2018* (39/2018), s. 8(a), commenced on enactment.

F2 Inserted (26.12.2018) by *Public Service Superannuation (Age of Retirement) Act 2018* (39/2018), s. 8(b), commenced on enactment.

Relevant benefit

30. (1) In this Part, "relevant benefit" means a gratuity or annual payment payable to a public servant in accordance with a statutory instrument or circular or with an undertaking given by a Minister of the Government, if the gratuity or annual payment—

(a) is not pensionable pay, and

(b) is payable on the public servant's—

(i) attaining the age at which he or she is required to retire, or

(ii) resigning from (or otherwise ceasing to hold) his or her position before attaining the age at which he or she is required to retire.

(2) A reference in this Part to—

(a) a member of a public service pension scheme, or

(b) a member of a standard accrual pension scheme,

shall be deemed to include a reference to a public servant who, on either of the future occasions referred to in *paragraph (b)* of the definition of

that expression in *subsection (1)*, shall be entitled to receive a relevant benefit.

(3) A relevant benefit shall be deemed to be a pension entitlement for the purposes of *section 29(2)(a)*.

Application of Part

31. This Part does not apply to a public servant who is—

(a) a member of a public service pension scheme that is a defined contribution scheme,

(b) a core member, or

(c) a NILGOSC member.

Additional superannuation contribution

32. (1) In respect of the year 2019 and each subsequent year, there shall be chargeable and payable, in accordance with this Part, a superannuation contribution, to be known as the "additional superannuation contribution" and in this Part referred to as the "contribution", in respect of the pensionable pay of a relevant person.

(2) The contribution shall be in addition to, and not in substitution for, any amount, whether expressed to be a contribution or otherwise, payable, by virtue of any enactment, that makes provision in respect of the superannuation of a public servant.

(3) The contribution shall be payable by the relevant person and shall be of an amount that is calculated in accordance with *section 33*, *34* or *35*, as the case may be.

(4) In this section, "relevant person" means a person to whom *section 33*, *34* or *35* applies.

Payment of additional superannuation contribution for 2019 and 2020 (covered public servant)

33. (1) This section applies to a person—

(a) who—

(i) is a public servant on 1 January 2019, or

(ii) is not a public servant on that date but after that date is appointed or otherwise becomes a public servant,

(b) who, on 1 January 2019 or at any time afterwards, is a member of a public service pension scheme, and

(c) who is a covered public servant.

(2) In this section, a person to whom this section applies is referred to as a "relevant person".

(3) In the case of the year 2019, the contribution shall be payable—

(a) by a relevant person who is a member of a standard accrual pension scheme as follows:

(i) where the pensionable pay of the person in that year is less than or equal to €60,000, at the rate of 10 per cent of the amount by which the pensionable pay of that person exceeds €32,000;

(ii) where the pensionable pay of the person in that year is greater than €60,000, at the rate of €2,800 plus 10.5 per cent of the amount by which the pensionable pay of that person exceeds €60,000,

(b) by a relevant person who is a member of a fast accrual pension scheme as follows:

(i) where the pensionable pay of the person in that year is less than or equal to €60,000, at the rate of 10 per cent of the amount by which the pensionable pay of that person exceeds €28,750;

(ii) where the pensionable pay of the person in that year is greater than €60,000, at the rate of €3,125 plus 10.5 per cent of the amount by which the pensionable pay of that person exceeds €60,000,

and

(c) by a relevant person who is a member of the Single Public Service Pension Scheme as follows:

(i) where the pensionable pay of the person in that year is less than or equal to €60,000, at the rate of 6.66 per cent of the amount by which the pensionable pay of that person exceeds €32,000;

(ii) where the pensionable pay of the person in that year is greater than €60,000, at the rate of €1,864.80 plus 7 per cent of the amount by which the pensionable pay of that person exceeds €60,000.

(4) In the case of the year 2020, the contribution shall be payable—

(a) by a relevant person who is a member of a standard accrual pension scheme as follows:

(i) where the pensionable pay of the person in that year is less than or equal to €60,000, at the rate of 10 per cent of the amount by which the pensionable pay of that person exceeds €34,500;

(ii) where the pensionable pay of the person in that year is greater than €60,000, at the rate of €2,550 plus 10.5 per cent of the amount by which the pensionable pay of that person exceeds €60,000,

(b) by a relevant person who is a member of a fast accrual pension scheme as follows:

(i) where the pensionable pay of the person in that year is less than or equal to €60,000, at the rate of 10 per cent of the amount by which the pensionable pay of that person exceeds €28,750;

(ii) where the pensionable pay of the person in that year is greater than €60,000, at the rate of €3,125 plus 10.5 per cent of the amount by which the pensionable pay of that person exceeds €60,000,

and

(c) by a relevant person who is a member of the Single Public Service Pension Scheme as follows:

(i) where the pensionable pay of the person in that year is less than or equal to €60,000, at the rate of 3.33 per cent of the amount by which the pensionable pay of that person exceeds €34,500;

(ii) where the pensionable pay of the person in that year is greater than €60,000, at the rate of €849.15 plus 3.5 per cent of the amount by which the pensionable pay of that person exceeds €60,000.

Payment of additional superannuation contribution for 2019 and 2020 (non-covered public servant)

34. (1) This section applies to a person—

(a) who—

(i) is a public servant on 1 January 2019, or

(ii) is not a public servant on that date but after that date is appointed or otherwise becomes a public servant,

(b) who, on 1 January 2019 or at any time afterwards, is a member of a public service pension scheme, and

(c) who is a non-covered public servant.

(2) In this section, a person to whom this section applies is referred to as a "relevant person".

(3) In the case of the years 2019 and 2020, the contribution shall be payable—

(a) by a relevant person who is a member of a standard accrual pension scheme as follows:

(i) where the pensionable pay of the person for the year is less than or equal to €60,000, at the rate of 10 per cent of the amount by which the pensionable pay of that person exceeds €28,750;

(ii) where the pensionable pay of the person for the year is greater than €60,000, at the rate of €3,125 plus 10.5 per cent of the amount by which the pensionable pay of that person exceeds €60,000,

(b) by a relevant person who is a member of a fast accrual pension scheme as follows:

(i) where the pensionable pay of the person for the year is less than or equal to €60,000, at the rate of 10 per cent of the amount by which the pensionable pay of that person exceeds €24,869;

(ii) where the pensionable pay of the person for the year is greater than €60,000, at the rate of €3,513.10 plus 10.5 per cent of the amount by which the pensionable pay of that person exceeds €60,000,

and

(c) by a relevant person who is a member of the Single Public Service Pension Scheme as follows:

(i) where the pensionable pay of the person for the year is less than or equal to €60,000, at the rate of 6.66 per cent of the amount by which the pensionable pay of that person exceeds €28,750;

(ii) where the pensionable pay of the person for the year is greater than €60,000, at the rate of €2,081.25 plus 7 per cent of the amount by which the pensionable pay of that person exceeds €60,000.

Payment of additional superannuation contribution for 2021 and subsequent years

35. (1) This section applies to a person—

(a) who—

(i) is a public servant on 1 January 2021, or

(ii) is not a public servant on that date but after that date is appointed or otherwise becomes a public servant,

and

(b) who, on 1 January 2021 or at any time afterwards, is a member of a public service pension scheme.

(2) In this section, a person to whom this section applies is referred to as a "relevant person".

(3) In the case of the year 2021 and each subsequent year, the contribution shall be payable—

(a) by a relevant person who is a member of a standard accrual pension scheme as follows:

(i) where the pensionable pay of the person for the year is less than or equal to €60,000, at the rate of 10 per cent of the amount by which the pensionable pay of that person exceeds €34,500;

(ii) where the pensionable pay of the person for the year is greater than €60,000, at the rate of €2,550 plus 10.5 per cent of the amount by which the pensionable pay of that person exceeds €60,000,

(b) by a relevant person who is a member of a fast accrual pension scheme as follows:

(i) where the pensionable pay of the person for the year is less than or equal to €60,000, at the rate of 10 per cent of the amount by which the pensionable pay of that person exceeds €28,750;

(ii) where the pensionable pay of the person for the year is greater than €60,000, at the rate of €3,125 plus 10.5 per cent of the amount by which the pensionable pay of that person exceeds €60,000,

and

(c) by a relevant person who is a member of the Single Public Service Pension Scheme as follows:

(i) where the pensionable pay of the person for the year is less than or equal to €60,000, at the rate of 3.33 per cent of the amount by which the pensionable pay of that person exceeds €34,500;

(ii) where the pensionable pay of the person for the year is greater than €60,000, at the rate of €849.15 plus 3.5 per cent of the amount by which the pensionable pay of that person exceeds €60,000.

Membership of multiple schemes

36. For the purposes of *sections 33*, *34* and *35*, in a case in which a person is a member of more than one public service pension scheme in a particular year, then—

(a) where the person is a member of the Single Public Service Pension Scheme in that year, the person shall be deemed to be a member of the Single Public Service Pension Scheme for that year to the exclusion of membership of the other scheme or schemes,

(b) where the person is a member of a standard accrual pension scheme in that year, but is not a member of the Single Public Service Pension Scheme in that year, the person shall be deemed to be a member of a standard accrual pension scheme for that year to the exclusion of membership of the other scheme or schemes, and

(c) where the person is not a member of the Single Public Service Pension Scheme or a standard accrual pension scheme in that year, the person shall be deemed to be a member of a fast accrual pension scheme for that year to the exclusion of membership of the other scheme or schemes.

Central Bank of Ireland

37. (1) This Part shall only apply to the officers and employees of the Central Bank of Ireland—

(a) to the extent provided for in a consent, given in writing to the Minister by the Governor of that Bank, and

(b) with the consent, given in writing to the Minister by the Minister for Finance, to the application of this Part to the extent provided for in the consent given under *paragraph (a)*.

(2) Where the consents referred to in *subsection (1)* have been given to the Minister, the Minister shall cause a notice to that effect to be published in Iris Oifigiúil and shall specify in the notice the date from which this Part applies to the officers and employees concerned, which date shall not be earlier than the date on which the most recent consent under *subsection (1)(b)* was given.

Regulations in relation to collection arrangements, etc.

38. (1) The Minister may make regulations for the purposes of the calculation, making, collection, disposal and recovery of the contribution.

(2) Without prejudice to the generality of *subsection (1)*, the Minister may make provision in regulations under this section for any of the following:

(a) the calculation, deduction and collection of the contribution to be made on the basis of the best estimate that can reasonably be made of remuneration likely to be chargeable to tax under the schedule referred to as Schedule E in the Taxes Consolidation Act 1997 during the period concerned and the averaging of the contribution from each public servant over that period;

(b) the deduction, from any grant or vote of, or other payment to, a public service body out of money provided directly or indirectly by the Oireachtas or from the Central Fund or the growing produce of that Fund, of such sum as nearly as can be estimated represents all or some of the contribution that will fall due during the period to which the grant, vote or other payment relates and for the issuing of directions by the Minister to the persons concerned;

(c) dealing with any overpayment or underpayment of the contribution;

(d) subject to *sections 33(3)* and *(4)*, *34(3)*, *35(3)* and *39*, the manner in which, and the periods within which, the contribution is to be made and the contribution is to be paid into or disposed of for the benefit of the Exchequer;

(e) designating the persons or classes of persons liable to account for the contribution;

(f) providing details on a periodic basis to persons concerned of the contribution;

(g) where a person fails to deduct or remit the contribution in accordance with this Act and regulations made under this section, the deduction from any grant or vote of, or other payment to, a public service body out of money provided directly or indirectly by the Oireachtas or from the Central Fund or the growing produce of that Fund.

Obligation to make payments into Exchequer, etc.

39. (1) Without prejudice to *subsection (2)*, and subject to—

(a) any requirement under any regulations made under *section 38* to repay any overpayment, or

(b) any requirement arising under *section 40* to repay any deduction,

the contribution shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister or otherwise paid or disposed of as the Minister may direct.

(2) Where any amount of the contribution (other than an amount referred to in *paragraph (a)* or *(b)* of *subsection (1)*) has not been duly remitted in accordance with any regulations under *section 38*, then the Minister may, in addition to any means of recovery provided for by regulations under that section, recover the amount from the person obliged to remit it as a simple contract debt in any court of competent jurisdiction.

(3) Notwithstanding *subsection (1)* and subject to—

(a) any requirement under any regulations made under *section 38* to repay any overpayment, or

(b) any requirement arising under *section 40* to repay any deduction,

a contribution of a public servant who is a member of a superannuation scheme established under section 33AG(2) of the Central Bank Act 1942 shall be paid into the trust fund established under section 33AG(4) of that Act in respect of that superannuation scheme.

(4) A reference in *subsection (3)* to a superannuation scheme established under section 33AG(2) of the Central Bank Act 1942 includes a reference to a scheme resulting from the merger under section 33AH(3) of that Act of such a scheme and a scheme referred to in section 33AH(1) of that Act.

Contributions made by certain persons who cease to be public servants

40. (1) Where a payment is made, in accordance with this Part, in respect of a person—

(a) who ceases to be a public servant,

(b) to whom no superannuation benefit (including preserved benefit, within the meaning given by section 28 of the Pensions Act 1990) or relevant benefit has accrued, and

(c) whose service is not transferred to another public service body in accordance with arrangements approved by the Minister for Housing, Planning and Local Government or the Minister,

that payment shall not be treated as a payment of the contribution under this Part.

(2) The person liable to account for any payment referred to in *subsection (1)* shall repay it, as soon as practicable, to the person from whose remuneration it was deducted.

(3) If a person receives a repayment under *subsection (2)* on ceasing to be a public servant and subsequently wishes to have the service in respect of which that repayment was made reckoned for superannuation purposes, then—

(a) the person shall refund the repayment plus compound interest (in accordance with arrangements determined by the Minister) to the person who made the repayment to him or her, and

(b) that refund plus the amount of interest payable under *paragraph (a)* is to be treated as a payment of the contribution under this Part.

Removal of doubts

41. Where a doubt, question or dispute arises in the operation of this Part in respect of whether a person is or is not a person subject to payment of the contribution under *section 33*, *34* or *35*, 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.

PART 5

Regulation of Fees and Other Payments

Regulation of fees and other payments

42. (1) A Minister of the Government may, with the consent of the Minister, by regulation, set or vary, whether by formula or otherwise, the amount or the rate of payment to be made to persons or classes of persons (in this section referred to as "service providers"), in respect of a service that the service providers render—

(a) to or on behalf of that Minister of the Government or a public service body under the aegis of that Minister, and

(b) under or in accordance with any contract, arrangement, understanding, circular, instrument or other document or other enactment.

(2) For the purposes of this Act, any service rendered to the State that is not rendered to or on behalf of a Minister of the Government or a public service body under the aegis of such a Minister is to be taken to be rendered to the Minister.

(3) The Minister may exercise the powers conferred by *subsection (1)* in relation to the service providers rendering the services referred to in *subsection (2)*.

(4) Where the Minister of the Government by whom regulations are to be made under *subsection (1)* is the Minister, the reference in *subsection (1)* to obtaining the consent of the Minister is to be disregarded.

(5) *Subsection (1)* shall apply to the services rendered from the date of the regulation, notwithstanding that the service provider concerned may have commenced the rendering of the service prior to the date of the regulation.

(6) A regulation made under *subsection (1)* shall not apply to a contract unless the contract provides that the amount or rate of payment under the contract may be set or varied by the Minister of the Government concerned or by means of a regulation.

(7) A regulation made under *subsection (1)* may fix different amounts or rates for different services, and as and from the date of the regulation, there shall be no entitlement to payment in excess of the amounts and rates so specified, although nothing in this section shall prevent service providers from providing a service for a lesser amount or at a lower rate.

(8) A regulation made under *subsection (1)* may contain such incidental, supplementary and consequential provisions as appear to the Minister of the Government concerned to be necessary or expedient for the purposes of the regulations.

(9) Prior to making a regulation under *subsection (1)*, the Minister of the Government concerned, or, at that Minister's direction, the public service body concerned, shall engage in such consultations as that Minister considers appropriate.

(10) A regulation made under *subsection (1)* shall fix amounts or rates that the Minister of the Government concerned considers to be fair and reasonable, having regard to the matters which that Minister considers appropriate, including any or all of the following:

(a) the terms of any existing contractual arrangements or understandings with the service provider concerned;

(b) the terms of any circular, instrument, or document which apply to the service providers concerned;

(c) any submissions made and views expressed during the consultations under *subsection (9)*;

(d) the nature of the services rendered by different classes of service providers and the general nature of expenses and commitments of the service providers providing those services;

(e) the obligation on the part of the State to have a prudent fiscal policy under the Stability and Growth Pact and the Fiscal Compact.

(11) The powers conferred on or exercised by a Minister of the Government under this section shall not affect any existing right to negotiate or amend rates or contracts generally which that Minister or the public service body concerned enjoys apart from this section, and those rights may be exercised

in conjunction with, in addition to or instead of the powers conferred by this section.

(12) Consultations under *subsection (9)* shall be completed no later than 30 days after the Minister of the Government concerned gives notice of the commencement of the consultations.

(13) A Minister of the Government may define the manner in which consultations under *subsection (9)* are to be conducted and conduct them in such manner, and with such representatives of service providers or otherwise, as he or she considers appropriate, and nothing in the Competition Act 2002 shall prevent participation by that Minister or any such representative in such consultations, or the communication and discussion of the outcome of such consultations by the representatives with the service providers they represent.

(14) A Minister of the Government may from time to time and shall, before 30 June in 2020 and every third year after 2020, carry out a review of the operation, effectiveness and impact of the amounts and rates fixed by regulation made by that Minister under this section and consider the appropriateness of those amounts and rates, having regard to any change of circumstances and in particular any alteration of any of the matters mentioned in *subsection (10)*.

(15) In this section, payment in respect of a service rendered by a service provider includes payment in respect of goods provided by that service provider as part of the service.

Annotations

Editorial Notes:

E4 Power pursuant to section exercised (1.08.2023) by *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners) (Amendment) (No. 2) Regulations 2023* (S.I. No. 458 of 2023), in effect as per reg. 2.

E5 Power pursuant to section exercised (2.02.2023) by *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners) (Amendment) Regulations 2023* (S.I. No. 30 of 2023).

E6 Power pursuant to section exercised (9.12.2022 to 1.04 2023) by *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners for the Clinical Assessment and Treatment of Patients Including Prescription of Covid-19 Antiviral Medication) Regulations 2022* (S.I. No. 676 of 2022), in effect as per reg. 2.

E7 Power pursuant to section exercised (28.11.2022 to 1.04.2023) by *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners and Pharmacists for the Administration of Vaccines Against Covid-19) Regulations 2022* (S.I. No. 604 of 2022), in effect as per reg. 2.

E8 Power pursuant to section exercised (1.09.2022) by *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners) (Amendment) (No. 2) Regulations 2022* (S.I. No. 406 of 2022), in effect as per reg. 2.

E9 Power pursuant to section exercised (1.01.2022) by *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners) (Amendment) Regulations 2022* (S.I. No. 23 of 2022), in effect as per reg. 2.

E10 Power pursuant to section exercised (19.02.2021) by *Public Service Pay and Pensions Act 2017 (Payments to Community Pharmacy Contractors) (Amendment) Regulations 2021* (S.I. No. 51 of 2021).

E11 Power pursuant to section exercised (1.01.2021) by *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners) (Amendment) (No. 2) Regulations 2020* (S.I. No. 685 of 2020), in effect as per reg. 2.

E12 Power pursuant to section exercised (19.08.2020) by *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners) (Amendment) Regulations 2020* (S.I. No. 311 of 2020).

E13 Power pursuant to section exercised (19.06.2020) by *Public Service Pay and Pensions Act 2017 (Section 42) (Payments in Respect of Certain Services Rendered in Response to the Risk to Public Health Posed by Covid-19) (Amendment) Regulations 2020* (S.I. No. 220 of 2020).

E14 Power pursuant to section exercised (1.01.2020) by *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners) Regulations 2019* (S.I. No. 692 of 2019), in effect as per reg. 2.

E15 Power pursuant to section exercised (1.01.2020) by *Public Service Pay and Pensions Act 2017 (Payments to Community Pharmacy Contractors) Regulations* (S.I. No. 639 of 2019), in effect as per reg. 1(2).

E16 Power pursuant to section exercised (1.03.2019) by *Public Service Pay and Pensions Act 2017 (Payments in respect of Certain Medical Certification and Reports under the Social Welfare Consolidation Act 2005) Regulations 2019* (S.I. No. 73 of 2019), in effect as per reg. 1(2).

E17 Power pursuant to section exercised (1.01.2019) by *Public Service Pay and Pensions Act 2017 (Payments in Respect of Certain Services under Section 62A of the Health Act 1970) Regulations 2018* (S.I. No. 598 of 2018), in effect as per reg. 1(2).

E18 Previous affecting provision: power pursuant to section exercised (24.11.2021 to 1.02.2022) by *Public Service Pay and Pensions Act 2017 (Section 42) (Payments in Respect of Certain Services Rendered in Response to the Risk to Public Health Posed by Covid-19) (No. 2) Regulations 2021* (S.I. No. 620 of 2021), ceased as per reg. 2.

E19 Previous affecting provision: power pursuant to section exercised (7.10.2021 to 1.11.2021) by *Public Service Pay and Pensions Act 2017 (Section 42) (Payments in Respect of Certain Services Rendered in Response to the Risk to Public Health Posed by Covid-19) Regulations 2021* (S.I. No. 509 of 2021), ceased as per reg 2.

E20 Previous affecting provision: power pursuant to section exercised (1.08.2021 to 1.01.2022) by *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners and Pharmacists for the Administration of Vaccines Against Covid-19) (No. 2) Regulations 2021* (S.I. No. 464 of 2021), in effect and ceased as per reg. 2.

E21 Previous affecting provision: power pursuant to section exercised (11.02.2021 to 1.08.2021) by *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners and Pharmacists for the Administration of Vaccines against Covid-19) Regulations 2021* (S.I. No. 60 of 2021), ceased as per reg. 2.

E22 Previous affecting provision: power pursuant to section exercised (30.03.2020) by *Public Service Pay and Pensions Act 2017 (Section 42) (Payments in Respect of Certain Services Rendered in Response to the Risk to Public Health Posed by Covid-19) Regulations 2020* (S.I. No. 101 of 2020); revoked (10.08.2020) by *Public Service Pay and Pensions Act 2017 (Section 42) (Payments in Respect of Certain Services Rendered in Response to the Risk to Public Health Posed by Covid-19) (Amendment) Regulations 2020* (S.I. No. 220 of 2020), reg. 5.

E23 Power pursuant to section exercised (1.07.2019 and 1.01.2020) by *Public Service Pay And Pensions Act 2017 (Payments In Respect Of Certain Services Under The Health Act 1970) Regulations 2019* (S.I. No. 290 of 2019), in effect as per reg. 2; revoked (1.01.2020) by *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners) Regulations 2019* (S.I. No. 692 of 2019), reg. 7, in effect as per reg. 2.

PART 6

Transitional Provisions

Regulations under Act of 2009

43. (1) Regulations made under section 9(1) or 10 of the Act of 2009 shall remain in operation for a period of one year following the repeal of that section.

(2) The Minister shall, prior to the expiry of the period referred to in *subsection (1)*, consult with such representative bodies as the Minister considers appropriate.

(3) The Minister may, after consulting in accordance with *subsection (2)*, make such regulations under *section 42* as the Minister considers necessary.

Repayment of deductions under Act of 2009

44. (1) Where a deduction was made pursuant to section 2 (other than in respect of a person to whom subsection (1)(b)(iii) of that section relates) of the Act of 2009 from the remuneration as a public servant of a person—

(a) who ceases to be a public servant,

(b) to whom no superannuation benefit (including preserved benefit, within the meaning given by section 28 of the Pensions Act 1990) has accrued, and

(c) whose service is not transferred to another public service body in accordance with arrangements approved by the Minister for Housing, Planning and Local Government or the Minister,

that deduction shall not be treated as a deduction for the purposes of the Act of 2009.

(2) The person liable to account for any deduction referred to in *subsection (1)* shall repay it, as soon as practicable, to the person from whose remuneration it was deducted.

(3) If a person receives a repayment under section 6(2) of the Act of 2009 or *subsection (2)* on ceasing to be a public servant and subsequently wishes to have the service in respect of which that repayment was made reckoned for superannuation purposes, then—

(a) the person shall refund the repayment plus compound interest (in accordance with arrangements determined by the Minister) to the person who made the repayment to him or her, and

(b) that refund plus the amount of interest payable under *paragraph (a)* is to be treated as a deduction under section 2 of the Act of 2009.

PART 7

Miscellaneous

Regulations and orders

45. (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) Every order or regulation under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Number 34 *of* 2017

PUBLIC SERVICE PAY AND PENSIONS ACT 2017

REVISED

Updated to 1 August 2023

About this Revised Act

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

Related legislation

This Act is not collectively cited with any other Act.

Annotations

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

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

Material not updated in this revision

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

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

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

• *Public Service Superannuation (Age of Retirement) Act 2018* (39/2018)

All Acts up to and including *Wildlife (Amendment) Act 2023* (25/2023), enacted 20 July 2023, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners) (Amendment) (No. 2) Regulations 2023* (S.I. No. 458 of 2023)
- *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners) (Amendment) Regulations 2023* (S.I. No. 30 of 2023)
- *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners for the Clinical Assessment and Treatment of Patients Including Prescription of Covid-19 Antiviral Medication) Regulations 2022* (S.I. No. 676 of 2022)
- *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners and Pharmacists for the Administration of Vaccines Against Covid-19) Regulations 2022* (S.I. No. 604 of 2022)
- *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners) (Amendment) (No. 2) Regulations 2022* (S.I. No. 406 of 2022)
- *Public Service Pay and Pensions Act 2017 (Section 20(4)) Order 2022* (S.I. No. 316 of 2022)
- *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners) (Amendment) Regulations 2022* (S.I. No. 23 of 2022)
- *Public Service Pay and Pensions Act 2017 (Section 42) (Payments in Respect of Certain Services Rendered in Response to the Risk to Public Health Posed by Covid-19) (No. 2) Regulations 2021* (S.I. No. 602 of 2021)
- *Public Service Pay and Pensions Act 2017 (Section 42) (Payments in Respect of Certain Services Rendered in Response to the Risk to Public Health Posed by Covid-19) Regulations 2021* (S.I. No. 509 of 2021)
- *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners and Pharmacists for the Administration of Vaccines Against Covid-19) (No. 2) Regulations 2021* (S.I. No. 464 of 2021)
- *Public Service Pay and Pensions Act 2017 (section 19(4)) Order 2021* (S.I. No. 308 of 2021)
- *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners and Pharmacists for the Administration of Vaccines against Covid-19) Regulations 2021* (S.I. No. 60 of 2021)
- *Public Service Pay and Pensions Act 2017 (Payments to Community Pharmacy Contractors) (Amendment) Regulations 2021* (S.I. No. 51 of 2021)
- *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners) (Amendment) (No. 2) Regulations 2020* (S.I. No. 685 of 2020)
- *Public Service Pay and Pensions Act 2017 (Section 27(3)) Order 2020* (S.I. No. 632 of 2020)
- *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners) (Amendment) Regulations 2020* (S.I. No. 311 of 2020)
- *Public Service Pay and Pensions Act 2017 (Section 42) (Payments in Respect of Certain Services Rendered in Response to the Risk to Public Health Posed by Covid-19) (Amendment) Regulations 2020* (S.I. No. 220 of 2020)
- *Public Service Pay and Pensions Act 2017 (Section 42) (Payments in Respect of Certain Services Rendered in Response to the Risk to Public Health Posed by Covid-19) Regulations 2020* (S.I. No. 101 of 2020)
- *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners) Regulations 2019* (S.I. No. 692 of 2019)
- *Public Service Pay and Pensions Act 2017 (Payments to Community Pharmacy Contractors) Regulations 2019* (S.I. No. 639 of 2019)
- *Public Service Pay And Pensions Act 2017 (Payments In Respect Of Certain Services Under The Health Act 1970) Regulations 2019* (S.I. No. 290 of 2019)
- *Public Service Pay and Pensions Act 2017 (Payments in respect of Certain Medical Certification and Reports under the Social Welfare Consolidation Act 2005) Regulations 2019* (S.I. No. 73 of 2019)
- *Public Service Pay and Pensions Act 2017 (Payments in Respect of Certain Services under Section 62A of the Health Act 1970) Regulations 2018* (S.I. No. 598 of 2018)

All statutory instruments up to and including *Public Service Pay and Pensions Act 2017 (Section 42) (Payments to General Practitioners) (Amendment) (No. 2) Regulations 2023* (S.I. No. 458 of 2023), made 18 September 2023, were considered in the preparation of this revision.