



IONSTRAIMÍ REACHTÚLA.

I.R. Uimh. 579 de 2009



SCÉIM PINSEAN RANNÍOCACH AN CHOIMISINÉARA TEANGA DO
CHÉILÍ AGUS LEANAÍ 2009

(Prn. A9/1933)

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Déanaimse, ÉAMON Ó CUÍV, an tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta, ag feidhmiú na gcumhachtaí a bhronnann alt 20 de, agus an Dara Sceideal le, Acht na dTeangacha Oifigiúla 2003 (Uimh. 32 de 2003) orm, an Scéim seo a leanas.

Lua

1. Is féidir an Scéim seo a lua mar Scéim Pinsean Ranníocach an Choimisinéara Teanga do Chéilí agus Leanaí 2009.

Tosú.

2. Measfar an Scéim a bheith tosaithe le héifeacht ón 23 Feabhra 2004, agus gairfear an lá sin mar an dáta tosaithe.

Sainmhíniú.

3. (1) ciallaíonn “ordú uchtála” ordú uchtála déanta faoi na hAchtanna Uchtála, 1952 go dtí 1998.

(2) ciallaíonn “leanbh”, faoi réir alt 6(1), leanbh nó leasleanbh leis an gCoimisinéir nó leanbh atá uchtaithe go dleathach ag an gCoimisinéir, atá—

- (a) faoi bhun sé bliana déag d’aois, nó
- (b) faoi bhun fiche dó bliain d’aois atá i mbun teagaisc lánaimseartha in ollscoil, i gcoláiste, i scoil nó i bhforas oideachasúil eile, nó
- (c) faoi bhun fiche dó bliain d’aois atá i mbun teagaisc nó oiliúna lánaimseartha faoi choimirce duine ar bith (a ndéantar tagairt dó/di sa scéim seo mar “an fostóir”) i gcomhair aon ghairm, aon phroifisiún nó aon cheird, más teagasc nó oiliúint é atá ceadaithe ag an Aire ar mhaithe le cuspóirí an fho-ailt seo, nó
- (d) buanéagumasaithe ó aire a thabhairt dó/di féin de bharr éigléocht mheabhrach nó choirp agus a bhí ar dhuine dóibh siúd a shonraítear in aon cheann de na forálacha a tháinig roimhe seo sa bhfo-alt seo nuair a tharla a b(h)uanéagumas den chéad uair.

(3) ciallaíonn “an Coimisinéir” an Coimisinéir Teanga mar a shainítear é faoi alt 20(1) d’Acht na dTeangacha Oifigiúla 2003, mar a ceapadh ón 23ú lá de Feabhra 2004;

(4) ciallaíonn “aisce bháis”, ach amháin sna focail “aisce chaomhnaithe bháis”, aisce atá iníoctha faoi réir alt 6(2)(c)(i) den Phríomh-Scéim;

Foilsíodh fógra san “Iris Oifigiúil” an 8ú la de Eanáir, 2010 á rá go ndearnadh an Ionstraim Reachtúil seo.

(5) ciallaíonn “pinsean an éagaigh”:

- (a) i gcás scoir ar chúinsí nach cúinsí sláinte iad, an pinsean a bhronntar ar an gCoimisinéir;
- (b) i gcás, ar scor ar chúinsí sláinte, go mbronntar pinsean ar an gCoimisinéir, an pinsean a bheadh bronnta air dá dtarlódh sé go mbeadh sé ríofa trí thagairt don tseirbhís inphinsin a bheadh aige dá mbeadh sé tar éis fanacht sa tseirbhís go haois seasca cúig bliain;
- (c) i gcás go raibh pinsean caomhnaithe á íoc leis an gCoimisinéir, an pinsean caomhnaithe bronnta air ar dháta a scoir mar atá ardaithe trí thagairt d’arduithe pinsin bronnta faoi alt 9 den Phríomh-Scéim le linn na tréimhse idir scor agus bás;
- (d) i gcás, agus é i dteideal pinsean caomhnaithe nuair a scor sé, go bhfaigheann an Coimisinéir bás roimh an aois ag a mbeadh an pinsean caomhnaithe iníoctha nó sula ndéanann sé iarratas ar an bpinsean caomhnaithe, méid cothrom le—

$$\frac{D \times E}{80}$$

nuair is é D an líon blianta de sheirbhís inphinsin ar an dáta scoir, faoi réir uasmhéid de 40 bliain, agus nuair is é E

- (i) i dtaca le ball atá faoi lán árachas, a thuarastal glan inphinsin (Scéim Céilí agus Leanaí) ar an dáta scoir mar atá ardaithe trí thagairt d’arduithe pinsin bronnta faoi alt 9 den Phríomh-Scéim le linn na tréimhse idir scor agus bás;
- (e) i gcás go bhfaigheann an Coimisinéir bás fad is atá sé ina bhall den Phríomh-Scéim, an pinsean a mbeadh sé incháilithe dó dá mbainfeadh foráil (b) den fho-alt seo leis;

(6) ciallaíonn “iarbhall” an Coimisinéir más rud é gur éirigh sé as a phost mar Choimisinéir agus gur bronnadh pinsean agus cnapshuim nó pinsean caomhnaithe agus cnapshuim air;

(7) ciallaíonn “leanbh uchtaithe go dleathach” leanbh a d’uchtaigh an Coimisinéir (bíodh sin leis féin nó in éindí le haon duine eile) cibé acu tar éis ordaithe uchtála nó de réir dlí tíre nó críche nach é an Stát seo é agus é aitheanta ag dlí an Stáit seo go bhfuil sé bailí. Sa chás go raibh an Coimisinéir pósta nuair a rinne sé iarratas ar ordú uchtála i dtaca le leanbh agus gur cailleadh é sula raibh an próiseas uchtála críochnaithe agus go n-uchtaíonn céile an Choimisinéara an leanbh ina dhiaidh sin, measfar an leanbh a bheith, ón dáta a bhfuil sé faoi chúram an Choimisinéara, ar mhaithe le cuspóirí na Scéime seo, mar leanbh an Choimisinéara atá uchtaithe go dlíthiúil;

(8) ciallaíonn “Príomh-Scéim” Scéim Aoisliúntais an Choimisinéara Teanga 2009.

(9) ciallaíonn “ball” an Coimisinéir Teanga mar a shainítear é faoi alt 20(1) d’Acht na dTeangacha Oifigiúla 2003, mar a ceapadh ón 23ú lá de Feabhra 2004;

(10) ciallaíonn “Aire” an tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta;

(11) ciallaíonn “tuarastal glan inphinsin” an méid a théann an luach saothair inphinsin os cionn dhá oiread uasráta pearsanta bliantúil an Phinsin Seanaoise (Ranníocach) atá iníoctha ar an lá deireanach de sheirbhís inphinsin le duine nach bhfuil aon chleithiúnaí aosaithe nó leanbh cáilithe aige;

(12) ciallaíonn “Pinsean Seanaoise (Ranníocach)” an pinsean seanaoise atá iníoctha faoi na hAchtanna Leasa Shóisialaigh le duine singil, ach amháin aon ardú atá iníoctha ar fhoras aoise, nó de bhrí go bhfuil an faighteoir ina chónaí leis féin, nó i dtaca le duine fásta cáilithe nó leanbh cleithiúnach;

(13) ciallaíonn “seirbhís inphinsin” seirbhís ar féidir a áireamh faoi alt 5(1) den Phríomh-Scéim;

(14) ciallaíonn “aisce scoir” aisce a bhronntar faoi fhorálacha alt 6(2)(a) nó 6(2)(b) den Phríomh-Scéim;

(15) ciallaíonn “scor ar chúinsí sláinte” scor de réir na bhforálacha in alt 7 den Phríomh-Scéim;

(16) ciallaíonn “tuarastal scoir” tuarastal an Choimisinéara ar an dáta scoir nó báis sa chás go—

- (a) bhfuil trí bliana de sheirbhís iarbhír inphinsin curtha isteach mar Choimisinéir ag an gCoimisinéir ar an dáta a n-éiríonn sé as oifig;
- (b) bhfaigheann an Coimisinéir bás i seirbhís le seirbhís iarbhír agus inphinsin de níos mó ná 3 bliana;
- (c) n-éiríonn an Coimisinéir as oifig ar chúinsí sláinte roimh 60 bliain d’aois le seirbhís iarbhír agus féideartha go haois 60 bliain de níos mó ná 3 bliana;

In aon chás eile glacfar le tuarastal scoir mar an t-iomlán a ríomhtar tríd an ráta tuarastail bhliantúil atá iomchuí ar an lá deireanach seirbhíse inphinsin do gach grád inar fheidhmigh an Coimisinéir sna trí bliana de sheirbhís inphinsin atá caite a mhéadú faoi 1/1095, agus an toradh a mhéadú faoin líon laethanta dá chuid fostaíochta i ngach grád le linn na mblianta sin, faoi réir an tuarastail scoir a fhaightear gan a bheith ag dul thar an bunráta tuarastail bhliantúil a bheidh iníoctha ag am an scoir nó an bháis;

(17) ciallaíonn “tuarastal” an bunráta bliantúil luach saothair iníoctha ó am go chéile mar a shocraíonn an tAire Airgeadais go dlíthiúil nó mar a cheadaíonn an tAire Airgeadais go dlíthiúil, ach amháin aon suimeanna a íoctar i dtaca le ragobair, coimisiún, aisce, táillí speisialta, liúntas taistil, liúntas cothaithe agus a leithéid, macasamhail airgid aon luach saothair nó aon sochar comhchineáil

(lena n-áirítear carr nó aon fheithicil eile) nó aon íocaíocht i dtreo nó i dtaca lena leithéid de luach saothair;

(18) ciallaíonn “na hAchtanna Leasa Shóisialaigh” na hAchtanna Leasa Shóisialaigh 1981 go 2008 lena n-áirítear aon achtú a leasaíonn nó a chuireann síneadh le haon ceann nó le gach ceann de na hAchtanna nó aon rialachán, aon bharántas nó a aon ordú a dhéantar fúthu;

(19) ciallaíonn “céile” páirtí i bpósadh atá aitheanta ag dlí an Stáit mar phósadh bailí agus nach bhfuil aon cholscaradh bronnta agus aitheanta mar bhailí ag dlí an Stáit i dtaca leis an bpósadh sin;

(20) ciallaíonn “blianta” figiúr a dhéantar amach leis an bhfoirmle $A + B/365$ sa chás gurb é A líon na mblianta atá comhlánaithe sa tréimhse atá i gceist agus gurb é B aon líon laethanta breise ar bhliain chomhlánaithe nó líon blianta comhlánaithe sa tréimhse sin, agus déanfar “bliain” a fhorléiriú dá réir;

Cumhacht chun Pinsin Chéilí agus Leanaí a bhronnadh.

4. Faoi réir fhorálacha na Scéime seo, is féidir leis an Aire ar bhás an Choimisinéara nó iarbhaill (a ndéantar tagairt dó sa Scéim seo mar an t-éagach) ar bronnadh pinsean nó aisce bháis, nó pinsean caomhnaithe nó aisce chaomhnaithe bháis, air nó i dtaca leis, nó atá á bhronnadh air—

- (a) sa chás go bhfágann sé céile, pinsean (ar a dtabharfar “pinsean céile” as seo amach sa Scéim seo) a bhronnadh ar an gcéile sin i dtaca le seirbhís an Choimisinéara, agus
- (b) sa chás go bhfágann sé leanbh nó leanaí (bíodh pinsean céile á bhronnadh nó le bronnadh nó ná bíodh), pinsean (ar a dtabharfar “pinsean leanaí” as seo amach sa Scéim seo) a bhronnadh ar an leanbh nó na leanaí sin i dtaca le seirbhís an Choimisinéara.

Pinsean Céile

5. (1) Ní íocfar nó ní bhronnfar pinsean céile faoin Scéim seo—

- (a) má bhí an céile ag am báis an Choimisinéara ina cónaí le duine, mar fhear agus mar bhean chéile, nach é an Coimisinéir é, nó
- (b) i dtaca le haon am tar éis an bháis sin nuair atá an céile pósta arís nó ina comhchónaí le haon duine eile.

(2) D’ainneoin alt 5(1), sa chás—

- (a) nach mbronntar pinsean faoin Scéim seo nó go gcuirtear stop le pinsean faoin Scéim seo faoin alt sin 5(1), agus
- (b) ag dáta tar éis dáta an phósta nó an chomhchónaithe a mba chúis le coinneáil siar nó stop an phinsin, go bhfuil an tAire sásta go bhfuil an pósadh nó an comhchónaí tagtha chun críche, go bhfuil cúinsí atruacha chun an pinsean a íoc, d’fhéadfadh an tAire má cheapann

sé é a bheith oiriúnach, an pinsean a bhronnadh nó a athbhronnadh, cibé acu is cuí, ó—

- (i) i gcás pósadh nó comhchónaí atá tagtha chun críche, an dáta ar chríochnaigh an pósadh nó an comhchónaí,
- (ii) in aon chás eile, dáta nach luaithe ná an dáta ar a bhfaigheann an tAire an t-iarratas ábhartha,

ar chuntar, sa chás is go bhfuil an céile i dteideal sochar faoin scéim pinsean seo nó aon cheann eile do chéilí agus do leanaí na hearnála poiblí de bhua go raibh a céile ón dara pósadh ina bhall den Scéim seo nó d'aon scéim eile dá leithéid, nach mbeidh pinsean céile iníoctha faoin scéim seo mura bhfuil an pinsean céile atá iníoctha de bhua an dara pósadh nó pósadh eile ina dhiaidh níos lú ná an pinsean céile atá iníoctha faoin scéim seo.

(3) De réir alt 5(1) agus 5(2) is féidir pinsean céile a íoc don tréimhse iomlán a thosaíonn ar bhás an Choimisinéara agus a chríochnaíonn ar bhás an chéile.

(4) Aon leath de ráta pinsin an éagaigh a bheidh i ráta pinsin an chéile.

(5) D'ainneoin alt 5(4), sa chás go bhfaigheann an Coimisinéir bás le linn seirbhíse nó fad is atá sé ag fáil pinsean atá bronnta faoi alt 6(1) den Phríomh-Scéim agus go mbíonn a phinsean iníoctha lena chéile, d'fhéadfadh ráta an phinsin sin, i dtaca leis an gcéad mhí tar éis a bháis, bheith ardaithe go—

- (a) sa chás go bhfaigheann sé bás le linn seirbhíse, aon dódhéagú dá luach saothair inphinsin.
- (b) sa chás go bhfaigheann sé bás tar éis pinsean a bheith bronnta air, sa chás go bhfuil an ráta pinsin atá iníoctha leis ar dháta a bháis níos mó ná an ráta pinsin céile a bheadh iníoctha murach sin faoin Scéim, aon dódhéagú den ráta sin pinsin,

ar chuntar go laghdófar an ráta a ardaíodh faoi réir ráta aon phinsean leanaí iníoctha faoin Scéim seo, agus ar chuntar freisin go bhféadfaí an méid atá iníoctha leis an gcéile faoin Scéim seo i dtaca leis an tréimhse de mhí amháin ag tosú ar an lá díreach i ndiaidh bás an éagaigh a íoc ag aon am ar nó tar éis an gcéad lá den tréimhse sin.

Pinsin Leanaí; Tairbhithe

6. (1) Ní mheasfar mar leanbh, laistigh de bhrí na Scéime seo, na daoine seo a leanas eadhon:

- (a) duine nach raibh go hiomlán nó go príomha ag brath ar an gCoimisinéir díreach roimh a bháis
- (b) duine atá pósta nó ag comhchónaí le duine eile mar fhear agus mar bhean chéile, nó

- (c) duine a ndéantar tagairt dó in alt 3(2)(b) faoin sainmhíniú “leanbh” lena bhfuil díolachtaí iníoctha leis, nó i dtaca leis, maidir le teagasc nó oiliúint ag, nó thar ceann, an fhostóra agus atá ar mhéid a fhágann go bhfuil an té sin féinchothaithe,

ar chuntar go bhféadfadh an tAire, dá mbeadh cúinsí atruacha lena leithéid a dhéanamh, treoir a thabhairt d’ainneoin an fho-ailt seo, i dtaca lena leithéid de dhuine a bheadh ar leith ón bhfo-alt seo ina leanbh, go measfaí an té sin, le héifeacht ó dháta a bheadh sonraithe sa treoir, mar leanbh agus i gcás go ndéanfadh an tAire treoir faoin bhfo-alt seo, fad is a bheadh an treoir sin i bhfeidhm i dtaca leis an duine lena mbaineann an treoir, forléireofar an Scéim seo agus beidh héifeacht aici faoi réir na treorach.

(2) I gcás i dtaca le duine a ndéantar tagairt dó in alt 3(2)(b) nó (c), go dtarlaíonn briseadh ina chuid teagaisc nó oiliúna lánaimseartha, mura dtugann an tAire treoir dá mhalairt, measfar nach bhfuil sé nó sí, do thréimhse a leithéid de bhriseadh, ina leanbh a thuilleadh ar mhaithe le cuspóirí na Scéime seo.

Pinsin Leanaí; ráta agus modh íocaíochta.

7. (1) Íocfar pinsean leanaí faoin Scéim seo le máthair nó le leatuismitheoir na leanaí má tá na leanaí incháilithe faoina c(h)úram, agus i gcás nach mbeadh leanbh a mbeadh pinsean iníoctha leis faoina leithéid de chúram, íocfar an pinsean le cibé acu an leanbh nó duine eile a shocróidh an tAire. Má tá na leanaí faoi chúram níos mó ná duine amháin, íocfar páirteanna difriúla den pinsean leanaí leis na daoine sin i gcodanna a shocróidh an tAire.

(2) I ngach cás, tá an pinsean le cur i dtreo leas na leanaí ar a bhfuil sé bronnta.

(3) Ní féidir pinsean leanaí a íoc ach i dtaca leis an tréimhse nó na tréimhsí tar éis dháta báis an Choimisinéara.

(4) Seo a leanas mar a bheidh ráta an phinsin leanaí faoin Scéim seo—

(a) sa chás nach bhfágann an Coimisinéir aon chéile ina dhiaidh nó, go bhfágann sé céile agus go bhfaigheann an céile sin bás tar éis a bháis:

(i) sa chás nach bhfuil ann ach leanbh amháin, aon trian de phinsean an éagaigh,

(ii) sa chás go bhfuil beirt nó níos mó leanaí, ráta i dtaca le chaon leanbh cothrom le leath de phinsean an éagaigh roinnte ar líon na leanaí.

(b) faoi réir alt 7(5), sa chás go bhfágann an Coimisinéir céile:

(i) sa chás nach bhfuil níos mó ná triúr leanbh i gceist, aon séú cuid de phinsean an éagaigh do gach leanbh,

(ii) sa chás go bhfuil níos mó ná triúr leanbh i gceist, ráta i dtaca le chaon leanbh cothrom le leath de phinsean an éagaigh roinnte ar líon na leanaí.

(5) (a) Sa chás go bhfuil leanaí an Choimisinéara ag am a bháis, nó ag aon am ina dhiaidh sin, faoi chúram duine éigin nach é an céile nó an leastuismitheoir atá i gceist, is féidir leis an Aire má mheasann sé é a bheith oiriúnach, treoir a thabhairt go mbainfidh alt 7(4)(a) chomh fada is a bhíonn siad faoin a leithéid de chúram, d'ainneoin go bhfuil an céile fós beo agus sa chás go dtugann an tAire a leithéid de threoir, forléireofar an fo-alt seo agus beidh éifeacht aige de réir na treorach.

(b) Sa chás go bhfuil roinnt de leanaí an Choimisinéara, ach ní na leanaí ar fad, ag am a bháis, nó ag aon am ina dhiaidh sin, faoi chúram duine éigin nach é an céile nó an leastuismitheoir atá i gceist, is féidir an ráta den sciar sin den phinsean leanaí atá iníoctha i dtaca leis na leanaí sin atá faoi chúram an té sin a ríomh le tagairt do na rátaí a shonraítear in alt 7(4)(a); ar chuntar nach rachaidh méid an phinsin leanaí atá iníoctha i dtaca leis an gCoimisinéir thar aon leath de ráta phinsean an éagaigh.

(6) D'ainneoin na bhforálacha a chuaigh roimhe seo san alt seo, sa chás go bhfágann an Coimisinéir céile agus nach bhfuil aon phinsean céile bronnta air faoin Scéim seo, nó má tá ceann bronnta air agus go stoptar á íoc roimh a bhás, ní bheidh aon phinsean iníoctha faoin Scéim seo do leanaí an chéile sin i dtaca le haon tréimhse a chuimsítear i saol an chéile nó le linn na hama sin nach bhfuil aon phinsean céile iníoctha, de réir mar is cuí, mura dtugann an tAire treoir dá rogha iomlán féin go mbeidh a leithéid de phinsean iníoctha, agus sa chás go dtugann an tAire treoir faoin alt seo is féidir leis/léi, má mheasann sé/sí é a bheith oiriúnach, treoir a thabhairt freisin go mbainfidh alt 7(5) i dtaca le haon tréimhse dá leithéid.

Íocaíocht an Phinsin.

8. Íocfar pinsin atá iníoctha faoin Scéim seo gach coicís amháin nuair a bheidh feidhm ag alt 5(5) i dtaca leis an gCoimisinéir, d'fhéadfadh an tAire cinneadh a dhéanamh go bhféadfaí an méid pinsin i dtaca leis an mhí atá i gceist a bheith íoctha roimh dháta éaga na míosa sin.

Ranníocaíochtaí tréimhsiúla.

9. (1) Beidh ranníocaíochtaí iníoctha ag an ráta aon faoin gcéad go leith de mhéid an tuarastail iníoctha leis an gCoimisinéir ó am go chéile (nó sa chás go bhfuil sé ag fáil tuarastal laghdaithe de bharr neamhláithreachta ón obair, de mhéid an tuarastail a bheadh iníoctha leis mura mbeadh sé as láthair).

(2) Íocfar an ranníocaíocht i dtaca leis an tréimhse a thosaíonn ar an dáta tosaithe agus a chríochnaíonn nuair a stadann sé de bheith ina bhall ranníocach den Phríomh-Scéim agus ag a leithéidí d'amanna agus ar a leithéid de bhealach a chinnfidh an tAire.

(3) Ní bheidh aon ranníocaíochtaí iníoctha ag an gCoimisinéir faoin Scéim seo as aon tréimhse nach gcuimsíonn seirbhís inphinsin.

(4) Déantar tagairt sa Scéim seo do ranníocaíochtaí atá iníoctha faoin alt seo mar “ranníocaíochtaí tréimhsiúla”.

Aisíoc Ranníocaíochtaí.

10. (1) Má stadann an Coimisinéir de bheith ina bhall ranníocach ar aon chúinse seachas ar a bhás agus, ar stadadh dó, nach bhfuil sé incháilithe do bhronnadh pinsin agus aisce scoir, nó pinsean caomhnaithe agus cnapshuim chaomhnaithe, mura n-aistrítear a sheirbhís pinsin go heagraíocht nó seirbhís eile, tabharfar ar ais iomlán a chuid ranníocaíochtaí tréimhsiúla dó.

(2) D’fhéadfadh ball, ar stadadh dó bheith ina bhall ranníocach, a bhfuil ranníocaíochtaí tréimhsiúla íoctha aige ar feadh tréimhse níos mó ná 40 bliain na ranníocaíochtaí sin ag tosú lena chéad ranníocaíocht agus ag bogadh ar aghaidh, de réir mar is cuí chun a chinntiú nach dtéann an tréimhse i dtaca leis na ranníocaíochtaí a d’íoc sé, gan iad a fháil ar ais, thar 40 bliain, a fháil ar ais nó má stadann ballraíocht de bharr báis, gheobhadh a ionadaí pearsanta dlí ar ais iad.

(3) Sa chás go n-íoctar aon ranníocaíochtaí ar ais faoin alt seo, íocfar ar ais iad gan ús agus lúide méid a bheadh cothrom le haon dhliteanas cánach a bheadh ar an mball i dtaca lena leithéidí de ranníocaíochtaí.

(4) Sa chás go n-íoctar ranníocaíochtaí tréimhsiúla ar ais faoi réir an ailt seo le duine a bhíonn ina bhall den Scéim seo ina dhiaidh sin, íocfaidh sé nó sí an méid ranníocaíochtaí tréimhsiúla a íocadh ar ais leis nó léi leis an Aire, chomh maith le hús iolraithe ar an méid sin ag ráta sé faoin gcéad per annum, le sosanna leathbliana ón dáta ar íocadh leis é.

Iarrbhaill ag teacht le bheith ina mbaill ranníocach.

11. (1) Faoi réir alt 11(2), sa chás go dtagann iarbhall le bheith ina bhall ranníocach den Scéim seo, cuirfear stad le haon teidlíocht do phinsean céilí nó do phinsean leanaí faoin Scéim seo i dtaca lena bhallraíocht roimhe seo.

(2) Sa chás go raibh duine, ar theacht dó/di bheith ina b(h)all den Scéim seo, ina b(h)all den Scéim seo ag aon am roimhe seo agus gur íoc sé/sí ranníocaíochtaí tréimhsiúla le linn a leithéid de thréimhse ballraíochta, ní áireofar an tréimhse i dtaca lena íoc sé na ranníocaíochtaí tréimhsiúla sin nuair atá líon na mblianta ábharta faoi alt 12(8) á socrú ar chuntar—

(a) nach bhfuil nó nach raibh aon aisíoc déanta ar na ranníocaíochtaí sin, nó

(b) go mbaineann alt 10(4).

Ranníocaíochtaí Neamhthréimhsiúla.

12. (1) Sa chás go raibh an Coimisinéir pósta le linn na tréimhse, nó le linn cuid den tréimhse, ar bhain an Scéim seo leis agus go stadann sé de bheith dlite ranníocaíochtaí a dhéanamh faoin Scéim seo agus go bhfuil stad dá leithéid mar thoradh ar—

(a) bhás, nó

(b) scor ar phinsean nó éirí as le teidlíocht do phinsean caomhnaithe,

ansin, murab é neamhní líon na mblianta ábhartha, beidh ranníocaíocht faoin alt seo iníoctha trí laghdú ar mhéid a aisce scoir nó a aisce bháis nó a cnapshuim nó a aisce chaomhnaithe bháis, nó ar bhealach éigin eile a d'fhéadfadh an tAire a iarraidh.

(2) Beidh ranníocaíocht faoin alt seo cothrom le aon faoin gcéad de thuarastal scoir an Choimisinéara méadaithe faoi líon na mblianta ábhartha.

(3) Sa chás go bhfuil ranníocaíocht faoin alt seo á bhaint as cnapshuim chaomhnaithe nó aisce chaomhnaithe bháis, ríomhfar an ranníocaíocht le tagairt do mhéid a bheidh cothrom le tuarastal scoir an Choimisinéara ar a dháta scoir agus é ardaith le tagairt d'arduithe pinsin bronnta faoi alt 9 den Phríomh-Scéim sa tréimhse idir an dáta scoir agus an dáta—

(a) ar a shroicheann sé an aois ag a mbeadh an pinsean iníoctha, nó i gcás cnapshuim chaomhnaithe, nó

(b) ar a bhfaigheadh sé bás, i gcás aisce chaomhnaithe bháis.

(4) Sa chás, tar éis an dáta ar a stadann an Coimisinéir de bheith dlite ranníocaíochtaí a dhéanamh faoin Scéim seo, go dtarlaíonn sé go mbeidh an pinsean atá iníoctha leis nó lena chéile (ach ní an aisce scoir, an aisce bháis, an cnapshuim chaomhnaithe nó an aisce chaomhnaithe bháis) le hardú mar gheall ar ardú i seirbhís inphinsin an Choimisinéara, is féidir leis an Aire méid na ranníocaíochta faoin alt seo a cheartú chun an t-ardú a áireamh.

(5) De réir mar is rogha leis an Aire agus de réir coinníollacha a shonróidh an tAire, is féidir leis an gCoimisinéir cinneadh a dhéanamh ranníocaíochtaí breise a íoc, thar thréimhse dhá mhí dhéag ag tosú ar dháta a shonróidh an tAire, ar dáta é nach bhfuil tada níos luaithe ná dáta an chinnidh, agus na ranníocaíochtaí sin a bheith cothrom i ngach cás le méid na ranníocaíochtaí tréimhsiúla a bheidh iníoctha i dtaca leis an tréimhse sin agus sa chás go n-íocfar ranníocaíocht amháin bhreise nó níos mó, beidh feidhm ag an alt seo i dtaca leis an gCoimisinéir faoi réir an bhunathraithe go dtarlóidh sé, agus líon na mblianta ábhartha á ríomh, go laghdófar an uimhir sin faoi cheann amháin do gach ranníocaíocht a dhéanfaidh an Coimisinéir faoin alt seo.

(6) Sa chás gur thug an Coimisinéir seirbhís, seachas mar Choimisinéir, ar seirbhís inphinsin í faoi alt 5(1) den Phríomh-Scéim, d'fhéadfaí aon chuid den tseirbhís sin ar íoc sé ranníocaíochtaí tréimhsiúla lena linn faoi scéim atá cosúil leis an Scéim seo, fad is nach raibh na ranníocaíochtaí sin íoctha ar ais leis nó má fuair sé aisíoc orthu go bhfuil siad íoctha ar ais arís aige féin leis an ús iolraithe ábhartha curtha leis, bheith fágtha ar lár agus líon na mblianta ábharta faoin alt seo á ríomh.

(7) San alt seo, ciallaíonn “líon na mblianta ábhartha”—

(a) i gcás an Choimisinéara atá pósta ag an am, agus go stadann de bheith ina bhall ranníocach,

- (i) má tharlaíonn a leithéid de stad ar chúis seachas bás nó scor ar chúinsí sláinte, líon na mblianta seirbhíse inphinsin a bhí aige an uair sin,
- (ii) más tharlaíonn a leithéid de stad mar gheall ar bhás nó ar chúinsí sláinte, líon na mblianta seirbhíse inphinsin a bheadh aige dá mbeadh sé fanta i mbun seirbhíse go haois 67 bliain, nó más níos luaithe, an dáta ar a rachadh a chonradh fostaíochta in éag,

laghdaithe i ngach cás faoi líon na mblianta, más aon bhliain é, as ar íoc sé ranníocaíochtaí tréimhsiúla agus nach bhfuil siad inchurtha ar ais.

- (b) sa chás go stadann an Coimisinéir, nach bhfuil pósta ag an am, de bheith dlite ranníocaíochtaí a íoc, líon na mblianta seirbhíse inphinsin a bhí aige ar an dáta ar cuireadh críoch lena phósadh deireanach roimh a leithéid de stad, laghdaithe i ngach cás faoi líon na mblianta, más aon bhliain é, as ar íoc sé ranníocaíochtaí tréimhsiúla agus nach bhfuil siad inchurtha ar ais.

(8) Sa chás go dtagann duine, lena mbaineann alt 11(1), le bheith ina iarbhall trí scor ar phinsean, bíodh sé ar scor ar chúinsí sláinte nó ar chúis eile nach é, laghdófar mar sin an ranníocaíocht a bheidh iníoctha faoi alt 12(2) ar chríoch a thréimhse deiridh de bhallraíocht ranníocach le méid na ranníocaíochtaí a bheidh iníoctha faoi alt 12(2) nuair a thagann sé le bheith ina iarbhall, fad is nach raibh aon aisíoc ar an ranníocaíocht sin.

(9) Cuirfear seirbhís inphinsin de níos mó ná 40 bliain as an áireamh ar mhaithe le cuspóirí an ailt seo.

Pósadh ball ar féidir a mbás luath a thuar.

13. Sa chás go bpósann ball nó iarbhall agus—

- (a) go bhfaigheann sé bás laistigh den bhliain ag tosú ó dháta an phósta, agus
- (b) nach bhfuil aon leanaí tagtha as an bpósadh, agus
- (c) go bhfuil an tAire den tuairim go raibh a bhás laistigh den bhliain ag tosú ó dháta an phósta, ar an dáta sin, le tuar aige féin nó ag a chéil,

ar mhaithe le cuspóirí na Scéime seo is féidir leis an Aire an pósadh a mheas mar phósadh nár tharla riamh, agus sa chás go measfar a leithéid, déanfar gach ceartú is cúí (lena n-áirítear, más gá, aisíocaíocht leis an Roinn seo de na suimeanna a íocadh i dtaca le pinsin a bronnadh cheana féin faoin Scéim seo) dá réir sin.

Dualgas eolas a thabhairt agus dearbhú a dhéanamh.

14. (1) Tabharfaidh an Coimisinéir don Aire an t-eolas sin atá riachtanach d'fheidhmiú ceart na Scéime seo i dtaca leis an gCoimisinéir.

(2) Tabharfaidh céile an Choimisinéara don Aire an t-eolas sin atá riachtanach d'fheidhmiú ceart na Scéime seo i dtaca le haon iarratas a dhéanann sí ar phinsean céile nó ar phinsean do leanaí an Choimisinéara.

(3) Tabharfaidh duine a bhfuil leanbh de chuid an Choimisinéara faoina c(h)úram agus a dhéanann iarratas ar phinsean leanaí i dtaca leis an leanbh sin an t-eolas sin don Aire atá riachtanach d'fheidhmiú ceart na Scéime seo i dtaca leis an leanbh sin.

Dearbhuithe.

15. Beidh íocaíocht pinsean faoin Scéim seo faoi réir dhearbhuí ón gcéile agus, sa chás nach bhfuil an pinsean leanaí iníoctha leis an gcéile, ón duine a bhfuil na leanaí atá i gceist faoina chúram, in a leithéid d'fhoirm agus ag a leithéid d'amanna a d'fhéadfadh an tAire a chinneadh.

Aisíocaíocht pinsean a ró-íocadh.

16. Má tharlaíonn sé ag aon am go bhfaigheann duine íocaíochtaí ar scór pinsin agus nach bhfuil an duine sin i dteideal na n-íocaíochtaí sin faoin Scéim seo, nó má fhaigheann duine íocaíochtaí ar scór pinsin a théann os cionn na n-íocaíochtaí atá cuí faoin Scéim seo, íocfaidh an duine sin nó, i gcás go bhfuil an duine básaithe, ionadaí pearsanta dlí an duine sin, ná híocaíochtaí sin nó na ró-íocaíochtaí de réir mar is cuí leis an Aire nuair a iarrfaidh sé/sí sin, agus ar loiceadh íocaíochta d'fhéadfadh na híocaíochtaí nó na ró-íocaíochtaí sin a bheidh inghnóthaithe ag an Aire mar fhiach conartha shimplí in aon chúirt dlínse inniúla.

Lacáiste trí thagairt do shochair eile.

17. (1) Sa chás, go díreach nó go hindíreach, go gcuireann an tAire sochar airgeadais ar fáil, nó go dtacaíonn sé/sí le sochar airgeadais a chur ar fáil nó go n-íocann sé/sí i dtreo sochar airgeadais do chéile agus/nó leanaí le ball, seachas faoi

- (a) an Scéim seo, nó
- (b) fhorálacha na Príomh-Scéime, nó
- (c) na hAchtanna Leasa Shóisialaigh, nó
- (d) an tAcht Leasa Shóisialaigh (Díobhálacha Ceirde) 1966,

ní dhéanfar aon bhronnadh faoin Scéim mura n-údaráíonn an tAire a leithéid a dhéanamh. Agus é/í ag údarú a leithéid de bhronnta in a leithéid de chás, is féidir leis an tAire méid an bhronnta a athrú chun cuntas a thógáil, mar a mheasann sé/sí a bheith oiriúnach, den sochar airgeadais atá i gceist.

(2) Sa chás, mar a eascraíonn as feidhmiú alt 17(1), nach ndéantar bronnadh faoin Scéim seo, íocfar ar ais na ranníocaíochtaí tréimhsiúla ar fad a rinne an ball, lena ionadaí pearsanta dlí agus ní bheidh feidhm ag alt 13 den Scéim seo sa chás seo.

(3) Sa chás, mar a eascraíonn as feidhmiú alt 17(1), go n-athraítear méid an bhronnta, is féidir leis an Aire a leithéid de sciar de na ranníocaíochtaí tréimhsiúla a d'íoc an ball mar atá ceadaithe ag an Aire a íoc ar ais le hionadaí pearsanta dlí an bhaill agus is féidir leis an Aire athrú a dhéanamh ar aon ranníocaíocht a bheadh dlite marach sin faoi alt 13 den Scéim seo mar atá ceadaithe ag an Aire.

Sannacháin.

18. Beidh gach sannachán de, nó muirear ar, agus gach comhaontú chun sannadh nó muirearú a dhéanamh ar, phinsean faoin Scéim seo ar neamhní agus, ar fhéimheacht aon duine atá i dteideal pinsin faoin Scéim seo, ní rachaidh an pinsean sin chuig aon iontaobhaí nó aon duine eile a bheidh ag feidhmiú thar ceann na gcreidiúnaithe. Má tharlaíonn sé nach mbeidh ar chumas an phinsinéara admháil a thabhairt ar íocaíochtaí dlite, beidh de rogha ag an Aire a leithéidí d'íocaíochtaí a dhéanamh ina n-iomláine nó i bpáirt leis na daoine sin, lena n-áirítear na húdaráis in aon institiúid a mbeadh an pinsinéir faoina cúram, de réir mar a mheasann an tAire é a bheith cuí, agus beidh an tAire urscaoilte ó gach dliteanas i dtaca le haon suim a íoctar.

Arduithe Pinsean.

19. D'fhéadfaí arduithe a bheith ceadaithe i bpinsin faoin Scéim seo de réir mar a bheidís údaraithe ó am go chéile ag an Aire Airgeadais.

Foirceannadh nó Laghdú Sochair.

20. (1) Má bhristear an Coimisinéir as a phost nó go n-éiríonn sé as nó go dtagann stop lena chuid fostaíochta ar chaoi eile agus go bhfuil sé ciontach as mí-iompar a bhaineann le cailteanas airgid don Stát, is féidir leis an Aire, de réir mar is rogha leis/léi féin, aon íocaíocht a bheadh iníoctha murach sin faoin Scéim seo a dhiúltú nó a laghdú (lena n-áirítear aisíoc ranníocaíochtaí) chun a leithéid de chailteanas a chúiteamh.

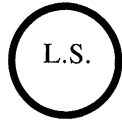
(2) Is féidir leis an Aire, de réir mar is rogha leis/léi féin, laghdú nó stop a chur le híocaíocht pinsin a bhronntar faoin Scéim seo má tá an pinsinéir ciontach as mí-iompar a bhaineann le cailteanas airgeadais don Stát chun a leithéid de chailteanas a chúiteamh.

Achomhairc.

21. Más ábhar éagóra do dhúine aon teip nó diúltú íocaíocht a dhéanamh faoin Scéim seo nó más ábhar éagóra dó méid na híocaíochta (lena n-áirítear íocaíocht arduithe pinsin) atá déanta, is féidir leis/léi achomharc a dhéanamh leis an Aire a dhéanfaidh cinneadh de réir Alt 5(1) de na Rialacháin um Ombudsman Pinsean 2003 (I.R. Uimh. 397 de 2003).

Foirceannadh nó Leasú na Scéime.

22. Coimeádann an tAire an ceart aige féin an Scéim seo a leasú nó a fhoirceannadh ag aon aom ach fógra trí mhí de na hathruithe atá le teacht a bheith tugtha do bhaill na Scéime. Ní chuirfear as do na sochair atá bainte amach ag an mball nó ag an iarrbhall nó i dtaca leis an mball nó an iarrbhall roimh dháta an leasaithe nó an fhoirceanta.



ARNA THABHAIRT faoi mo Shéala Oifigiúil,
22 Nollaig 2009.

ÉAMON Ó CUÍV,
Aire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

NÓTA MÍNITHEACH:

(Ní cuid den ionstraim é an nóta seo ná ní ceart a mheas gur míniú dlíthiúil uirthi é.)

Forálann an Scéim seo do shochair aoisliúntais chéilí agus leanaí an Choimisinéara Teanga a ceapadh ar an 23ú lá de Feabhra 2004.



STATUTORY INSTRUMENTS.

S.I. No. 579 of 2009

AN COIMISINÉIR TEANGA CONTRIBUTORY PENSION SCHEME
FOR SPOUSES AND CHILDREN 2009

(Prn. A9/1933)

S.I. No. 579 of 2009

AN COIMISINÉIR TEANGA CONTRIBUTORY PENSION SCHEME
FOR SPOUSES AND CHILDREN 2009

I, ÉAMON Ó CUÍV, Minister for Community, Rural and Gaeltacht Affairs, in exercise of the powers conferred on me by section 20 of, and the Second Schedule to, the Official Languages Act 2003 (No. 32 of 2003) hereby make the following Scheme.

Citation.

1. This Scheme may be cited as An Coimisinéir Teanga Contributory Pension Scheme for Spouses and Children 2009.

Commencement.

2. The Scheme shall be deemed to have commenced with effect from the 23 February 2004, which shall be known as the date of commencement.

Definitions.

3. (1) “adoption order” means an adoption order made under the Adoption Acts, 1952 to 1998.

(2) “child”, subject to paragraph 6(1), means a child or step-child or lawfully adopted child of the Commissioner, who is—

- (a) a person under sixteen years of age, or
- (b) a person under twenty-two years of age who is receiving full-time instruction at any university, college, school or other educational establishment, or
- (c) a person under twenty-two years of age who is undergoing full-time instruction or training by any person (in this Scheme referred to as “the employer”) for any vocation, profession or trade, being instruction or training approved of by the Minister for the purposes of this subparagraph, or
- (d) a person who is permanently incapacitated by reason of mental or physical infirmity from maintaining himself or herself and who, when his or her permanent incapacity first occurred, was a person described in any of the foregoing clauses of this subparagraph.

(3) “Commissioner” means An Coimisinéir Teanga as defined under paragraph 20(1) of the Official Languages Act 2003, as appointed from 23rd day of February 2004;

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 8th January, 2010.

(4) “death gratuity”, except in the expression “preserved death gratuity”, means a gratuity payable in accordance with paragraph 6(2)(c)(i) of the Main Scheme;

(5) “deceased’s pension” means:

- (a) in case of retirement otherwise than on medical grounds, the pension granted to the Commissioner;
- (b) in case, on retirement on medical grounds, the Commissioner is awarded a pension, the pension which would have been granted to him if it fell to be calculated by reference to the pensionable service which he would have had if he had served to the age of sixty-five years;
- (c) in case a preserved pension was in payment to the Commissioner, the preserved pension granted to him at the date of resignation as increased by reference to pension increases granted under paragraph 9 of the Main Scheme during the period between resignation and death;
- (d) in case, having resigned with entitlement to a preserved pension, the Commissioner dies before the age at which the preserved pension became payable or before making application for the preserved pension, an amount equal to—

$$\frac{D \times E}{80}$$

where D is the number of years of pensionable service at the date of resignation, subject to a maximum of 40 years, and E is

- (i) in relation to a member who is fully insured, his net pensionable salary (Spouses and Children’s Scheme) at the date of resignation as increased by reference to pension increases granted under paragraph 9 of the Main Scheme during the period between resignation and death;
 - (e) in case the Commissioner dies while serving as a member of the Main Scheme, the pension for which he would be eligible if clause (b) of this subparagraph applied to him;
- (6) “former member” means the Commissioner if he retired from his position as Commissioner and was awarded a pension and lump sum or preserved pension and lump sum;
- (7) “lawfully adopted child” means a child adopted by the Commissioner (whether alone or jointly with any other person) either in pursuance of an adoption order or in accordance with the law of a country or territory other than the State and recognised by the law of the State as valid. Where the Commissioner was married when he applied for an adoption order in respect of a child and

died before the adoption procedure is completed and the child is subsequently adopted by the Commissioner's spouse, the child shall, from the date on which the Commissioner has custody of him or her, be deemed, for the purposes of this Scheme, to be the Commissioner's lawfully adopted child;

(8) "Main Scheme" means An Coimisinéir Teanga Superannuation Scheme 2009.

(9) "member" means An Coimisinéir Teanga as defined under paragraph 20(1) of the Official Languages Act 2003, as appointed from 23rd day of February 2004;

(10) "Minister" means the Minister for Community, Rural and Gaeltacht Affairs;

(11) "Net pensionable salary" means the amount by which pensionable remuneration exceeds twice the annual maximum personal rate of Old Age (Contributory) Pension payable on the last day of pensionable service to a person who has no adult dependant or qualified children;

(12) "Old Age (Contributory) Pension" means the contributory old age pension payable under the Social Welfare Acts to a single person excluding any increase that is payable on age grounds, or by virtue of the recipient living alone, or in respect of a qualified adult or child dependant;

(13) "pensionable service" means service reckonable under paragraph 5(1) of the Main Scheme;

(14) "retirement gratuity", means a gratuity awarded under the provisions of paragraph 6(2)(a) or 6(2)(b) of the Main Scheme;

(15) "retirement on medical grounds" means retirement in accordance with the provisions of paragraph 7 of the Main Scheme;

(16) "Retiring salary" means the salary of the Commissioner at the date of retirement or death where—

- (a) the Commissioner has completed three years actual pensionable service as Commissioner at his date of resignation;
- (b) the Commissioner dies in service with actual and pensionable service of more than 3 years;
- (c) the Commissioner retires on health grounds before age 60 with actual and potential service to age 60 of more than 3 years.

In any other case retiring salary shall be taken as the total calculated by multiplying by 1/1095 the annual rate of salary appropriate on the last day of pensionable service for each grade in which the Commissioner served during the last three years of pensionable service, and multiplying the result by the number of days of his employment in each grade during those years, subject to the retiring

salary so taken not exceeding the annual basic rate of salary payable at the time of retirement or death;

(17) “Salary” means the annual basic rate of remuneration payable from time to time as lawfully determined or lawfully approved by the Minister for Finance, excluding any sums paid in respect of overtime, commission, gratuity, special fees, travelling allowance, subsistence allowance and the like, the money equivalent of any emolument or benefit in kind (including motor car or other vehicle) or any payment toward or in respect of such emoluments;

(18) “Social welfare Acts” means the Social Welfare Acts 1981 to 2008 including any enactment which amends or extends any or all of those Acts and any regulation, warrant or order made thereunder;

(19) “spouse” means a partner to a marriage, recognised by the law of the State as valid, in respect of which no divorce recognized as valid by the law of the State has been granted;

(20) “years” means a figure determined by the formula $A + B/365$ where A is the number of completed years in the period in question and B is any number of days additional to a completed year or a number of completed years in that period, and “year” shall be construed accordingly.

Power to grant Spouses and Children’s Pensions.

4. Subject to the provisions of this Scheme, the Minister may on the death of the Commissioner or former member (in this scheme referred to as the deceased) to whom or in respect of whom a pension or death gratuity, or preserved pension or preserved death gratuity has been, or is awarded, grant in respect of his service—

- (a) where he leaves a spouse, a pension to that spouse (hereafter in this Scheme referred to as a “spouse’s pension”), and
- (b) where he leaves a child or children (whether or not a spouse’s pension is, or may be, granted) a pension for such child or children (in this Scheme referred to as a “children’s pension”).

Spouse’s Pension.

5. (1) A spouse’s pension shall not be granted or paid under this Scheme—

- (a) if the spouse was at the time of the death of the Commissioner cohabiting with a person other than the Commissioner as man and wife, or
- (b) in respect of any time after the said death when the spouse is remarried or is so cohabiting with any person.

(2) Notwithstanding paragraph 5(1), where—

- (a) a pension under this Scheme is not granted or ceases under the said paragraph 5(1), and

- (b) at a date subsequent to the date of the marriage or cohabitation by reason of which the pension was withheld or ceased the Minister is satisfied that the marriage or cohabitation has come to an end, or that there are compassionate grounds for the payment of pension, the Minister may, if he or she thinks fit, grant or regrant, as may be appropriate, the pension as from,
 - (i) in case the marriage or cohabitation has come to an end, the date on which the marriage or cohabitation ended,
 - (ii) in any other case, a date not earlier than the date on which the relevant application is received by the Minister,

provided that, where the spouse is entitled to benefit under this or any other public sector spouses' and children's pension scheme by virtue of the fact that her spouse of the second marriage was a member of this or of any other such Scheme, a spouse's pension shall not be payable under this scheme unless the spouse's pension payable by virtue of the second or later marriage is less than the spouse's pension payable under this scheme.

(3) Subject to paragraph 5(1) and 5(2) a spouse's pension may be paid for the whole of the period beginning on the death of the Commissioner and ending with the death of the spouse.

(4) The rate of a spouse's pension shall be one-half of the rate of the deceased's pension.

(5) Notwithstanding paragraph 5(4), where the Commissioner dies in service or while in receipt of a pension awarded under paragraph 6(1) of the Main Scheme and a spouse's pension becomes payable to his spouse, the rate of that pension may, in respect of the first month after his death, be increased to—

- (a) in case he dies in service, one twelfth of his pensionable remuneration.
- (b) in case he dies after being granted a pension, where the rate of pension payable to him on the date of his death is greater than the rate of spouse's pension otherwise payable under the Scheme, one twelfth of the said rate of pension,

provided that the rate as so increased shall be reduced by the rate of any children's pensions payable under this Scheme, and provided also that the amount payable to the spouse under this Scheme in respect of the period of one month commencing on the day immediately following that of the deceased's death may be paid at any time on or after the first day of the said period.

Children's Pensions; Beneficiaries.

6. (1) The following shall not be regarded as a child within the meaning of this Scheme namely:

- (a) a person who was not wholly or mainly dependent on the Commissioner immediately prior to his death,

- (b) a person who is married or cohabiting with another person as man and wife, or
- (c) a person referred to in paragraph 3(2)(c) of the said definition of “child” to, or in respect of, whom emoluments in respect of such instruction or training are payable by, or on behalf of, the employer and which are of such an amount as makes the person self-supporting,

provided that if there are compassionate grounds for so doing, the Minister may, as regards a person who apart from this sub-paragraph would be such a child, direct that notwithstanding this sub-paragraph the person shall, with effect from such date as is specified in the direction, be regarded as being such a child and in case the Minister makes a direction under this sub-paragraph, then for so long as the direction is in force this Scheme shall, as regards the person to whom the direction relates, be construed and have effect in accordance with the direction.

(2) Where in relation to a person referred to in paragraph 3(2)(b) or (c), a break occurs in his or her full-time instruction or training, then unless the Minister otherwise directs, he or she shall, for the duration of such break, be regarded as having ceased to be a child for the purposes of this Scheme.

Children’s Pensions; rate and mode of payment.

7. (1) A children’s pension under this Scheme will be paid to the mother or step-parent of the children if the eligible children are in her care, and in case any child in respect of whom a pension is payable is not in such care, the pension will be paid either to the child or to such other person as the Minister may determine. If the children are in the care of more than one person, different parts of the children’s pension will be paid to those persons in such proportions as the Minister may determine.

(2) In all cases, the pension is to be applied for the benefit of the children for whom it is granted.

(3) A children’s pension may be paid only in relation to the period or periods subsequent to the date of death of the Commissioner.

(4) The rate of children’s pension under this Scheme shall be—

- (a) where the Commissioner leaves no spouse or, if he leaves a spouse and the spouse dies, after his death,
 - (i) where there is only one child, one-third of the deceased’s pension,
 - (ii) where there are two or more children, a rate in respect of each child equivalent to one-half of the deceased’s pension divided by the number of children.
- (b) subject to paragraph 7(5), where the Commissioner leaves a spouse,

- (i) where there are not more than three children, one-sixth of the deceased's pension for each child,
 - (ii) where there are more than three children, a rate in respect of each child equivalent to one-half of the deceased's pension divided by the number of children.
- (5) (a) Where the children of the Commissioner are at the time of, or at any time after, his death in the care of some person other than the spouse or step-parent, the Minister may, if he or she thinks fit, direct that for so long as they are in such care, paragraph 7(4)(a) shall apply notwithstanding that the spouse is still alive, and in case the Minister so directs this subparagraph shall be construed and shall have effect in accordance with the direction.
- (b) Where some but not all of the children of the Commissioner are at the time of, or at any time after, his death in the care of a person other than the spouse or step-parent, the rate of that portion of the children's pension which is payable in respect of the children who are in the care of that person may be calculated by reference to the rates specified in paragraph 7(4)(a); provided that the amount of the children's pension payable in respect of the Commissioner shall not exceed one-half of the rate of the deceased's pension.

(6) Notwithstanding the foregoing provisions of this paragraph, where the Commissioner leaves a spouse and no spouse's pension is granted to her under this Scheme, or, if one is so granted to her and it ceases to be paid before her death, no pension shall be payable under this Scheme to the children of that spouse as respects any period comprised within the lifetime of the spouse or within the time in respect of which no spouse's pension is payable, as may be appropriate, unless the Minister in his or her absolute discretion directs that such a pension shall be so payable, and in case the Minister gives a direction under this paragraph he or she may, if he or she thinks fit, further direct that paragraph 7(5) shall apply as respects any such period.

Payment of Pension.

8. Pensions payable under this Scheme shall be paid fortnightly except that where paragraph 5(5) applies in respect of the Commissioner, the Minister may decide that the amount of pension in respect of the month in question may be paid before the expiry of that month.

Periodic Contributions.

9. (1) Contributions shall be payable at the rate of one and one-half per cent of the amount of the salary from time to time payable to the Commissioner (or where he is in receipt of reduced salary because of absence from employment, of the amount of the salary that would be payable to him if he were not so absent).

(2) The contribution shall be paid in respect of the period commencing on the date of commencement and ending when he ceases to be a contributing

member of the Main Scheme and at such times and in such manner as the Minister may determine.

(3) No contributions shall be payable under this Scheme by the Commissioner for any period which does not constitute pensionable service.

(4) Contributions payable under this paragraph are in this Scheme referred to as “periodic contributions”.

Refund of Contributions.

10. (1) If the Commissioner ceases to be a contributing member other than on death and on so ceasing is not eligible for the grant of a pension and retirement gratuity, or preserved pension and preserved lump sum, then, if his pensionable service is not transferred to another organisation or service, the whole of his periodic contributions shall be returned to him.

(2) A member who, on ceasing to be a contributing member, has paid periodic contributions for a period in excess of 40 years may have returned to him, or, if membership ceases due to death, to his legal personal representative, such of those contributions beginning with his initial contribution and working forward, as is necessary to secure that the period in respect of which such contributions are paid by him without being returned does not exceed 40 years.

(3) Where any contributions are returned under this paragraph they shall be returned without interest and less an amount equal to any income tax liability of the member in respect of such contributions.

(4) Where periodic contributions are returned in accordance with this paragraph to a person who subsequently becomes a member of this Scheme, he or she shall refund to the Minister the amount of the periodic contributions so returned to him, together with compound interest on that amount at the rate of six per cent per annum, with half-yearly rests from the date of payment to him.

Former Members becoming contributing members.

11. (1) Subject to paragraph 11(2), where a former member becomes a contributing member of this Scheme, any entitlement to spouse’s pension or children’s pension under this Scheme in respect of his previous membership shall cease.

(2) Where a person, on becoming a contributing member of this Scheme, had at any time previously been a member of this Scheme and had paid periodic contributions during such period of membership, the period in respect of which he or she paid such periodic contributions shall be excluded in determining the number of relevant years under paragraph 12(8) provided—

- (a) no refund of those contributions is, or was, paid, or
- (b) paragraph 10(4) applies.

Non-periodic Contributions.

12. (1) Where the Commissioner was married throughout the period or for a portion of the period during which this Scheme applied to him and he ceases to be liable for contributions under this scheme and such cesser is due to—

- (a) death, or
- (b) retirement on pension or resignation with entitlement to a preserved pension,

then, unless the number of relevant years is nil, a contribution under this paragraph shall be payable by way of reduction in the amount of his retirement gratuity or death gratuity or preserved lump sum or preserved death gratuity, or in such other manner as the Minister may require.

(2) A contribution under this paragraph shall be one per cent of the Commissioner's retiring salary multiplied by the number of relevant years.

(3) Where a contribution under this paragraph is being deducted from a preserved lump sum or preserved death gratuity, the contribution shall be calculated by reference to an amount equal to the Commissioner's retiring salary at date of resignation as increased by reference to pension increases granted under paragraph 9 of the Main Scheme in the interval between the date of resignation and the date—

- (a) on which he attains the age at which the pension would become payable, in the case of a preserved lump sum, or
- (b) of his death, in the case of a preserved death gratuity.

(4) Where, subsequent to the date on which the Commissioner ceases to be liable for contributions under this scheme, the pension payable to him or to his spouse (but not the retirement gratuity death gratuity, preserved lump sum or preserved death gratuity) falls to be increased because of an increase in the pensionable service of the Commissioner, the Minister may adjust the amount of the contribution under this paragraph to take account of the increase.

(5) At the discretion of the Minister and subject to conditions specified by the Minister, the Commissioner may elect to pay, over a period of twelve months beginning on a date specified by the Minister, being a date not earlier than the date of the election, additional contributions equal in each case to the amount of the periodic contributions payable in respect of that period and in case one or more such additional contributions are made, this paragraph shall apply to the Commissioner subject to the modification that, in calculating what is the number of relevant years, that number shall be reduced by one for every contribution made by the Commissioner under this paragraph.

(6) Where the Commissioner gave service, otherwise than as Commissioner, which is pensionable service under paragraph 5(1) of the Main Scheme, any portion of that service during which he paid periodic contributions under a scheme similar to this Scheme may, provided those contributions were not refunded to him, or having been so refunded have been repaid by him with appropriate compound interest applied, be excluded in determining the number of relevant years under this paragraph.

(7) In this paragraph, “the number of relevant years” means—

(a) in case the Commissioner who being then married, ceases to be a contributing member,

(i) if such cesser is caused otherwise than by death or retirement on medical grounds, the number of years of pensionable service which he then had,

(ii) if such cesser is due to death or retirement on medical grounds, the number of years of pensionable service which he would have if he had served to age 67, or if earlier, to the date on which his contract of employment would expire,

reduced in each case by the number of years if any, for which periodic contributions have been paid by him and are not returnable.

(b) in case the Commissioner, being then unmarried, ceases to be liable for contributions, the number of years of pensionable service which he had on the date of termination of his last marriage before such cesser, reduced by the number of years if any, for which periodic contributions have been paid by him and are not returnable.

(8) Where a person to whom paragraph 11(1) applies became a former member by retiring on pension, whether on retirement on medical grounds, or otherwise, then the contribution payable under paragraph 12(2) at the termination of his final period of contributing membership shall be reduced by the amount of the contributions paid under paragraph 12(2) when he or she became a former member, provided there was no refund of that contribution.

(9) Pensionable service in excess of 40 years shall be left out of account for the purposes of this paragraph.

Marriage of members whose early death is to be foreseen.

13. Where a member or a former member marries and—

(a) he dies within the year beginning on the date of the marriage, and

(b) there are no children born of the marriage, and

(c) the Minister is of the opinion that his death within the year beginning with the date of the marriage was, at that date, to be foreseen by him or his spouse,

for the purposes of this Scheme the marriage may be regarded by the Minister as not having taken place, and in case the marriage is so regarded all necessary adjustments (including, if need be, repayment to the Department of the sums paid in respect of pensions already granted under this Scheme) shall be made accordingly.

Duty to give information and make declaration.

14. (1) The Commissioner shall give to the Minister such information as is necessary for the proper operation of this Scheme in relation to the Commissioner.

(2) The spouse of the Commissioner shall give to the Minister such information as is necessary for the proper operation of this Scheme in relation to any application by her for a spouse's pension or for a pension for the children of the Commissioner.

(3) A person having the care of a child of the Commissioner who applies for a children's pension in respect of that child shall give to the Minister such information as is necessary for the proper operation of this Scheme in relation to that child.

Declarations.

15. Payment of pension under this Scheme shall be subject to the making by the spouse and, where children's pension is not payable to the spouse, the person having the care of the children in question, of a declaration in such form and at such times as the Minister may determine.

Repayment of pensions overpaid.

16. If at any time a person receives payments on foot of a pension and such person is not entitled under this Scheme to such payments, or if a person receives payments on foot of a pension which exceed those which are appropriate under this Scheme, such person or, in case such a person is dead, the legal personal representative of such person, shall pay to the Minister on demand such payments or excess payments, as may be appropriate, and such payments or excess payments may, in default of payment, be recoverable by the Minister as a simple contract debt in any court of competent jurisdiction.

Abatement by reference to other benefits.

17. (1) Where, either directly or indirectly, the Minister provides, or helps to provide, or contributes towards, a financial benefit for the spouse and/or children of a member, other than under

(a) this Scheme, or

(b) the provisions of the Main Scheme, or

(c) the Social Welfare Acts, or

(d) the Social Welfare (Occupational Injuries) Act 1966,

no award shall be made under this Scheme unless it is authorised to do so by the Minister. In authorising an award in such a case, the Minister, may adjust the amount of an award to take such account as he or she considers appropriate of the financial benefit in question.

(2) Where, arising from the application of paragraph 17(1), an award is not made under this Scheme, the whole of the periodic contributions paid by the member shall be returned to his legal personal representative and paragraph 13 of this Scheme will not apply in his case.

(3) Where, arising from the application of paragraph 17(1), the amount of an award is adjusted the Minister may return to the member's legal personal representative such proportion of the periodic contributions paid by the member as is authorised by the Minister and may make such adjustment in any contribution which would otherwise be due under paragraph 13 of this Scheme as is authorised by the Minister.

Assignments.

18. Every assignment of, or charge on, and every agreement to assign or charge, a pension under this Scheme shall be void and, on the bankruptcy of any person entitled to a pension under this Scheme, that pension shall not pass to any trustee or other person acting on behalf of the creditors. If the pensioner becomes incapable of giving a receipt for payments due, the Minister shall have discretion to make such payments in whole or in part to such persons, including the authorities of any institution having care of the pensioner, as the Minister thinks fit, and the Minister shall be discharged from all liability in respect of any sum so paid.

Increases in Pensions.

19. Increases may be granted in such pensions under this Scheme as may be authorised from time to time by the Minister for Finance.

Cesser or Reduction of Benefit.

20. (1) If the Commissioner is dismissed or resigns or otherwise ceases to hold employment and has been guilty of misconduct involving a financial loss to the State, the Minister may, at his or her discretion, refuse or reduce any award which might otherwise be payable under this Scheme (including a refund of contributions) in order to make good such a loss.

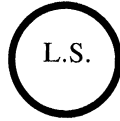
(2) The Minister may, at his or her discretion, reduce or cease paying a pension awarded under this Scheme if the pensioner has been guilty of misconduct involving a financial loss to the State in order to make good such a loss.

Appeals.

21. If a person is aggrieved by the failure or refusal to make an award under this Scheme or by the amount of any award (including the award of pension increases) made, he or she may appeal to the Minister who shall issue a determination in accordance with Article 5(1) of the Pensions Ombudsman Regulations 2003 (S.I. No. 397 of 2003).

Termination or amendment of Scheme.

22. The Minister reserves the right to amend or terminate this Scheme at any time subject to giving three months' notice of impending changes to members of the Scheme. Benefits secured for or in respect of a member or former member prior to the date of amendment or termination will not be affected.



GIVEN under my Official Seal,
22 December 2009

ÉAMON Ó CUÍV,
Minister for Community, Rural and Gaeltacht Affairs.

EXPLANATORY NOTE

This scheme provides for the superannuation benefits of spouses and children of the Coimisinéir Teanga appointed on the 23rd day of February 2004.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
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Wt. (B27374). 300. 1/10. Cahill. Gr. 30-15.