



STATUTORY INSTRUMENTS.

S.I. No. 83 of 2022



LAND DEVELOPMENT AGENCY SUPERANNUATION SCHEME 2022

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I, DARRAGH O'BRIEN, Minister for Housing, Local Government and Heritage, with the consent of Michael McGrath, Minister for Public Expenditure and Reform, in exercise of the powers conferred on me by Article 7(8) of S.I. No. 352/2018, Land Development Agency (Establishment) Order 2018, hereby make the following Regulations.

Preliminary and General

Short title and commencement.

1. (1) These Regulations may be cited as the Rules for the Land Development Agency Superannuation Scheme 2022.

(2) These Regulations shall be deemed to have commenced with effect from the date the Order is signed by the Relevant Minister and the Minister.

(3) This Scheme is revoked on dissolution of the Agency and no new members shall be admitted to this Scheme after the Agency has been dissolved.

(4) Any benefits payable in respect of membership of this Scheme between the date of commencement of the Scheme and the date of dissolution of the Agency shall continue to be payable subject to these Regulations.

Definitions.

2. In these Regulations;

“Agency” means the Land Development Agency as established under S.I. No. 352/2018 - Land Development Agency (Establishment) Order 2018;

“Minister” means the Minister for Public Expenditure and Reform;

“Relevant Minister” means the Minister for Housing, Local Government and Heritage;

“Commercial Agency” means The Land Development Agency as incorporated under the Companies Act, 2014, on 20 December 2021.

Expenses.

3. The expenses incurred by the Relevant Minister in the administration of this Statutory Instrument shall be paid out of moneys provided by the Oireachtas, or where the Agency has been dissolved, shall be paid from funds provided by the Commercial Agency.

Interpretation.

4. (1) In this Scheme—

“adoption order” means an order for the adoption of a child made—

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 25th February, 2022.*

- (a) before the establishment day for the Adoption Authority of Ireland, by An Bord Uchtála under the Adoption Acts 1952 to 1998, or
- (b) on or after the establishment day for the Adoption Authority of Ireland, by that Authority under the Adoption Act 2010;

“calculation of benefits Articles” means Articles 12 to 16 or any of those Articles;

“child” means a child or step-child or lawfully adopted child of a deceased member, where the child—

- (a) has not attained the age of 16 years,
- (b) has attained the age of 16 years but has not attained the age of 22 years and—
 - (i) is receiving full-time educational or vocational instruction, or
 - (ii) is undergoing full-time instruction or training by any person for any vocation, profession or trade,
- or
- (c) 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 to whom paragraph (a) or (b) related;

“children’s pension” has the meaning given in Article 21;

“civil partner” means a civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

“contributory State Pension” means the State Pension (Contributory) payable under the Social Welfare Acts;

“CPI” means the Consumer Price Index (All Items) published by the Central Statistics Office or any equivalent index published from time to time by that Office;

“death gratuity”, except in the expression “preserved death gratuity”, means a gratuity payable in accordance with Article 16;

“deceased member” has the meaning given in Article 19;

“former Scheme member” means a former public servant who—

- (a) is entitled to or is in receipt of retirement benefits under the Scheme by virtue of his or her service as a public servant, or
- (b) is entitled to claim at some future date retirement benefits under the Scheme by virtue of his or her previous service as a public servant;

“fully insured for social welfare purposes” means holding an office or employment in respect of which the person concerned is an employed contributor within the meaning of section 12(1) of the Social Welfare Consolidation Act 2005 —

- (a) who is liable for an employment contribution payable at the rate specified in section 13(2) of that Act, not being a person to whom Article 81, 82, 83 or 88 of the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996) applies, or
- (b) to whom Article 87 of those Regulations applies;

“gratuity credit”, in relation to each calendar year or part of a calendar year, shall be read in accordance with Article 12;

“lawfully adopted child” means, subject to subsection (2), a child adopted by a Scheme member or former Scheme member (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 and includes, in relation to a deceased member, a child who had been—

- (a) in the custody of the deceased member,
- (b) in the custody of the spouse or civil partner of the deceased member, or
- (c) jointly in the custody of the deceased member and his or her spouse, but only if—
 - (i) the deceased member or, before the death of the deceased member, his or her spouse or civil partner had duly applied to adopt the child, and
 - (ii) before the adoption procedure is completed the Scheme member or former Scheme member dies and the child is subsequently adopted by the deceased member’s spouse or civil partner;

“lump sum” means an amount, other than a pension, calculated in accordance with this Scheme and due as a consequence of the retirement, resignation or death of the Scheme member or former Scheme member or where he or she otherwise ceases to be a pensionable public servant;

“net pensionable remuneration”, in relation to a Scheme member, means an amount by which the pensionable remuneration of such Scheme member in respect of a pay period or series of pay periods exceeds twice the maximum personal rate of contributory State Pension payable from time to time to a person who has no adult dependant or child dependant;

“normal pension age” shall be read in accordance with Article 9;

“normal retirement age” has the meaning given in Article 8;

“operative date” means the date the Scheme is signed by the Relevant Minister and the Minister;

“pension” means the benefit or benefits, other than any lump sum, payable periodically—

- (a) to a person, in respect of his or her service as a pensionable public servant, as a consequence of his or her retirement, discharge,

resignation, or otherwise ceasing or having ceased to be a pensionable public servant, or

- (b) in respect of such service, to another person as a consequence of death or otherwise,

but does not include payments, or so much of any payment, paid solely in respect of any injury caused as a result of such service;

“pension credit”, in relation to each calendar year or part of a calendar year, shall be read in accordance with Article 12;

“pensionable position” means a position, post or office, other than—

- (a) as a member of a local authority (being a local authority within the meaning of the Local Government Act 2001), or
- (b) as Judge Advocate-General appointed pursuant to section 15 of the Defence Act 1954,

in a public service body which is declared in the conditions of service attaching to the position, post or office to be a pensionable position for the purposes of the Scheme or which is stated in a written offer of appointment to the position, office or post to be a pensionable position for the purposes of the Scheme;

“pensionable public servant” means a public servant who—

- (a) is employed in a pensionable post by a public service body, or
- (b) holds a pensionable office or other pensionable position in a public service body;

“pensionable remuneration”, in relation to a Scheme member and in respect of a pay period or a series of pay periods, means—

- (a) basic pay (excluding overtime),
- (b) allowances to which Article 6 relates, and
- (c) emoluments to which Article 6 relates,

due to the Scheme member in respect of that pay period or series of pay periods expressed on a full-time basis;

“pre-existing public service pension scheme” means a pre-existing public service pension scheme as defined in the 2012 Act;

“preserved lump sum” has the meaning given in Article 14;

“preserved pension” has the meaning given in Article 14;

“public servant” has the same meaning as defined in the 2012 Act;

“public service body” has the same meaning as defined in the 2012 Act;

“registered medical practitioner” means—

- (a) a person whose name is for the time being entered in the register of medical practitioners established under section 43 of the Medical Practitioners Act 2007, or

- (b) in the case of a person ordinarily resident outside the State, a person who is entitled to practise medicine under the law of the place where the person so practises;

“relevant authority” has the same meaning as defined in the 2012 Act;

“retirement”, other than retirement under Articles 13 or 15, means ceasing to hold a pensionable position in a public service body, having reached normal pension age;

“Scheme” has the meaning given in Article 5;

“Scheme member” has the meaning given in Article 5;

“Superannuation Acts” has the same meaning as defined in the 2012 Act;

“survivor’s pension” has the meaning given in Article 19;

“the 2012 Act” means the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 (No. 37 of 2012);

“the Single Scheme” is the pension scheme provided under Chapter 2 of the 2012 Act;

“vesting period” means 24 months’ service as a Scheme member.

(2) A reference in this Statutory Instrument, however expressed, to foreign adoptions recognised by the State shall be read as a reference to—

- (a) intercountry adoptions effected outside the State and recognised under the Adoption Act 2010, and
- (b) any other adoptions recognised by the State which are not intercountry adoptions so recognised,

and section 156(2) of the Adoption Act 2010 in its application to this Act shall be read accordingly.

(3) For the purposes of this Statutory Instrument “cohabitant” has the meaning assigned in subsection (1) of section 172 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 and, in determining whether or not 2 persons are cohabitants, regard shall be had to the circumstances that a court has to have regard to under subsection (2) of that section.

The Scheme

Establishment and Membership of Scheme, etc.

Scheme and membership.

5. (1) There is established a scheme, to be known as the Land Development Agency Superannuation Scheme 2022 (in these Regulations referred to as the “Scheme”) whose terms and conditions are provided for by or under these Regulations.

(2) The Scheme applies to the staff of the Agency who are not members of the Single Scheme and who

- (a) have attained the age of 16 years,
- (b) have not attained the age of 70 years.

(3) A Scheme Member means a person to whom subsection (2) applies.

Pensionability of allowances, emoluments and related payments.

6. (1) For the purposes of this Scheme, where at any time before or after the operative date the Relevant Minister, with the consent of the Minister, determined or determines in writing that—

- (a) any allowance, emolument or premium payment or its equivalent granted on a permanent basis before the operative date to persons in particular posts or kinds of employment is to be treated as permanent pensionable remuneration, or
- (b) any allowance, emolument or premium payment or its equivalent not granted on a permanent basis before the operative date is to be treated in whole or in part as pensionable remuneration,

then they are to be so treated for the purposes of pensionable remuneration.

(2) An allowance, emolument or premium payment, other than one to which subsection (1) relates, shall only be treated as pensionable remuneration if each of the following conditions are met, as determined by the Relevant Minister, with the consent of the Minister:

- (a) it is permanent in nature;
- (b) it is subject to contributions under this Scheme;
- (c) the Scheme member has been notified of it being so treated.

(3) Where any allowance, emolument or premium payment is not pensionable it shall not be subject to contributions under this Scheme.

(4) The Relevant Minister, with the consent of the Minister, may in writing reverse, amend, adjust or otherwise change a determination to which this Article relates but any such reversal, amendment, adjustment or change shall not affect rights accrued in respect of previous contributions made under this Scheme.

Pension benefits to be paid to Scheme members or former Scheme members.

7. A person who is or was a member of the Scheme shall not be paid a pension and no entitlement shall exist—

- (a) to retire or receive a pension or lump sum at a particular age or following a particular length of service, or
- (b) to remain in service beyond a particular age,

other than under this Scheme, to or in respect of service to which a pension under the Scheme relates.

Normal retirement age.

8. (1) Except where otherwise expressly provided for by this Scheme, a Scheme member may retire from being a public servant upon attaining the age of 65 years, (in the Scheme referred to as the “normal retirement age”).

(2) A public servant to whom subsection (1) applies, shall retire from being a public servant at the latest upon attaining the age of 70 years.

Normal pension age.

9. (1) A Scheme member or former Scheme member attains normal pension age when he or she has—

- (a) completed the vesting period, and
- (b) attained the normal retirement age,

and shall accordingly be eligible to receive retirement benefits under this Scheme.

Contributions by members of the Scheme, etc.

Contributions to Scheme, etc.

10. (1) Every Scheme member shall pay the appropriate contribution provided for by or under this Scheme as and from the date of commencement of his or her membership of the Scheme.

(2) The rate of contribution shall comprise 2 per cent of pensionable remuneration –

- (a) to be calculated on the basis of each calendar year, or part of such year, that the person concerned is or was a Scheme member, and
- (b) where in respect of any such period referred to in paragraph (a) that that person was not working on a full-time basis, as adjusted by reference to the proportion that the number of hours worked bears to the number of hours that would have been worked if working on a full-time basis.

(3) All contributions made under this Article shall—

- (a) be paid in such manner to, and
- (b) be collected and disposed of for the benefit of the Exchequer by,

the Agency, or where the Agency has been dissolved, the Commercial Agency in such manner as the Minister may direct.

(4) Where the contributions made under this Article have not been duly disposed of by the Scheme member, the Agency, or where the Agency has been dissolved, the Commercial Agency in accordance with a direction of the Minister under subsection (3), the Minister may recover the amount from that member or the Agency, or where the Agency has been dissolved, the Commercial Agency as a simple contract debt in any court of competent jurisdiction.

(5) If the Agency, or where the Agency has been dissolved, the Commercial Agency to whom subsection (3) relates fails or refuses to collect or dispose of contributions in accordance with a direction of the Minister under subsection (3) within 28 days after the service by post by the Minister of a notice on the Agency, or where the Agency has been dissolved, the Commercial Agency requiring it to do so, the High Court may, on an application made to it by the Minister—

- (a) make an order directing the Agency, or where the Agency has been dissolved, the Commercial Agency to dispose of the contributions for the benefit of the Exchequer—
 - (i) in accordance with the direction of the Minister, or
 - (ii) as the Court otherwise directs,
 within such time as may be specified in the order, and
- (b) in relation to any shortfall in the amounts collected due to any refusal or failure of the Agency, or where the Agency has been dissolved, the Commercial Agency to collect the contributions concerned, make an order directing the Agency, or where the Agency has been dissolved, the Commercial Agency to make good that shortfall in such manner and at such time or times as the Court directs.

(6) An order of the High Court under subsection (5) may contain such terms and conditions (if any) as to the payment of costs as the Court considers appropriate.

Return of contributions in certain cases.

11. (1) Where a Scheme member or former Scheme member has completed less than the vesting period and whose membership ceases otherwise than on medical grounds or death, his or her contributions shall be returned to him or her less an amount equal to any income tax or other statutory liability by the Agency, or where the Agency has been dissolved, the Commercial Agency, in respect of such contributions and, accordingly, the Scheme member or former Scheme member is not entitled to receive any further benefit under this Scheme in respect of the period of such membership.

(2) Where under Article 33 a Scheme member has pensionable remuneration in excess of one full-time employment (or the aggregated equivalent of one full-time employment) his or her contributions in respect of any pensionable remuneration not taken into account in computing pension credits and gratuity credits provided for in Article 12 shall be returned to the member less an amount equal to any income tax or other statutory liability by the Agency, or where the Agency has been dissolved, the Commercial Agency in respect of such contributions.

Calculation of retirement benefits.

12. (1) Where a person is a Scheme member or former Scheme member, and has completed the vesting period and reached the normal pension age, then

he or she shall, subject to section 52 of the 2012 Act and upon application being made to the Agency, or where the Agency has been dissolved, the Commercial Agency, be eligible on retirement to receive—

- (a) an annual pension equivalent to the sum of the pension credits in respect of each calendar year or part of a calendar year for the pension, and
- (b) a lump sum payment equivalent to the sum of the gratuity credits in respect of each calendar year or part of a calendar year for the lump sum.

(2) In this Article “pension credits in respect of each calendar year or part of a calendar year”, in relation to a calendar year or part of a calendar year of service, means—

in the case of a pension, an amount calculated at a rate of 1.25 per cent of the Scheme member’s net pensionable remuneration for that year or part of a year of service, in respect of such service, as adjusted when not working on a full-time basis by reference to the proportion that the number of hours worked bears to the number of hours that would have been worked if working on a full-time basis, and

(3) In this Article “gratuity credits in respect of each calendar year or part of a calendar year”, in relation to a calendar year or part of a calendar year of service, means —

in the case of a lump sum payment, an amount calculated at a rate of 3.75 per cent of the Scheme member’s pensionable remuneration for that year or part of a year of service as adjusted, when not working on a full-time basis, by reference to the proportion that the number of hours worked bears to the number of hours that would have been worked if working on a full-time basis,

and as adjusted thereafter, until payment of the pension and lump sum arises in accordance with the Scheme, by reference to such adjustments as may arise as provided for in Article 27.

Cost neutral early retirement.

13. (1) In this Article “specified age”, in relation to a Scheme member, means, subject to any order under subsection (3), the age of 55 years.

(2) Where—

- (a) a Scheme member, having completed the vesting period, resigns from the public service and on the date on which that resignation has effect he or she has not attained the normal pension age but has attained or will have attained on that date the specified age, and
- (b) before the date on which that resignation has effect the Scheme member had applied in writing to the Agency to have his or her pension and lump sum benefits paid with effect from that date, and
- (c) the Agency agrees to those benefits being so paid,

then those benefits shall be calculated by reference to the Scheme member's pension credits and gratuity credits accrued at the date of resignation and shall be payable as and from that date, but the amount of each benefit shall be reduced by reference to the Scheme member's age at date of resignation in accordance with actuarial tables approved and issued from time to time by the Minister.

(3) Where the Relevant Minister considers, having regard to—

- (a) the Agency, or
- (b) the state of the financial affairs of the Agency,

that there are circumstances, in respect of Scheme members generally or in respect of any class of those members, which, in the opinion of the Relevant Minister merit a higher age to be attained before subsection (2) applies, then the Relevant Minister, with the consent of the Minister, may by order specify for the purposes of subsection (2) a higher age to be attained than the specified age either generally or in respect of that class, as the case may be, and accordingly the age so specified by order shall apply.

(4) An order under subsection (3) may also provide for its application to be limited as regards applications made under subsection (2)(b) by a certain date.

Preservation of benefits.

14. (1) Where a person, after completing the vesting period, ceases to be a public servant other than under Articles 13 or 15, and on the date of cessation he or she has not attained normal retirement age, then he or she is entitled to a pension and lump sum payment (which pension and lump sum payment are referred to in this Scheme as a "preserved pension" and a "preserved lump sum" respectively) upon attaining the age of 65 years.

(2) A preserved pension shall be payable to the person concerned on and from his or her attaining the age determined in accordance with subsection (1) on an application being duly made in a manner provided for by the Relevant Minister.

(3) The amount of a preserved pension and preserved lump sum shall be the amount which would have been awarded to the Scheme member concerned under Article 12 if he or she had attained the age determined in accordance with subsection (1) on the date of last ceasing to be a public servant, as altered by reference to any adjustments that would have been made under Article 27 between that date and when the Scheme member attained the age so determined.

(4) If a person referred to in subsection (1) dies before attaining the age determined in accordance with subsection (1), then a preserved death gratuity equal to accrued gratuity credits as altered by reference to any adjustments that would have been made under Article 27 shall be payable to his or her legal personal representative on application by the legal personal representative.

(5) Where a person to whom subsection (1) applies incurs permanent ill-health and satisfies the Agency, or where the Agency has been dissolved, the Commercial Agency that, if still serving, he or she would be eligible to retire on medical grounds under Article 15, then a preserved pension and preserved lump sum may be paid with effect from the date (not earlier than the date of the former

member's application) on which the Agency, or where the Agency has been dissolved, the Commercial Agency is so satisfied.

(6) Regulations made under Article 15(6) shall not apply to any preserved pension or preserved lump sum payable under subsection (5).

(7) This Article is subject to Article 9.

Retirement on medical grounds.

15. (1) A Scheme member who has completed less than the vesting period who retires or is retired or discharged on medical grounds in accordance with the conditions laid down in subsection (3) shall be eligible to receive a gratuity of 8.5 per cent of actual pensionable remuneration during the period of service.

(2) A Scheme member who has completed the vesting period and retires or is retired or discharged on medical grounds in accordance with the conditions laid down in subsection (3) shall be eligible to receive retirement benefits calculated without actuarial reduction.

(3) Where a Scheme member retires or is retired on medical grounds, a benefit under subsection (1) or (2), as the case may be, shall only be paid where the following conditions are met:

- (a) medical evidence shall have been supplied which satisfies the Agency, or where the Agency has been dissolved, the Commercial Agency that—
 - (i) the Scheme member has a current ongoing medically recognised physical or mental health condition that is likely to be permanent and enduring,
 - (ii) that condition permanently renders the member medically incapable of regular and effective service in their current occupation or grade, and
 - (iii) reasonable medical treatment options and practicable changes to working arrangements (including, in exceptional cases, outside the Scheme member's current occupation or grade) which would enable or facilitate continued service by the member have been examined and are not considered practical,
- (b) due to that ongoing medically recognised physical or mental health condition, the retirement is necessary, and
- (c) when—
 - (i) first taking up a post, position, office or appointment in a public service body, or
 - (ii) subsequently, taking up another such post, position, office or appointment,

the Scheme member did not make a false declaration about his or her health or suppress any material fact about his or her health.

(4) The medical evidence required by subsection (3) shall be based on a medical assessment carried out by a registered medical practitioner—

- (a) who is qualified to assess the fitness for work of the Scheme member concerned, and
- (b) to whom subsection (5) relates,

and where the Scheme member is not otherwise a patient of that registered medical practitioner.

(5) For the purposes of subsection (4) the certificate of a registered medical practitioner shall only be admissible if subsection (4)(a) is complied with and, for the purposes of subsection (4)(b), the practitioner satisfies the Agency, or where the Agency has been dissolved, the Commercial Agency that he or she has practised medicine for a period of 6 years since—

- (a) his or her name was entered in the register of medical practitioners, or
- (b) where the medical assessment to which the certificate relates has been carried out in a place outside the State, being entitled to practise medicine under the law of such place.

(6) In respect of subsection (2), the Relevant Minister, with the consent of the Minister, may make regulations for the purposes of enhancing the rate of pension and lump sum having regard to—

- (a) a Scheme member's age at the time of his or her retirement or discharge on medical grounds,
- (b) a Scheme member's potential or expected future career as a public servant or otherwise at the time of his or her retirement or discharge on medical grounds,
- (c) the quantum of pension and lump sum that would be payable to a Scheme member under subsection (2) but for regulations made under this subsection, and
- (d) such other matters as the Relevant Minister, with the consent of the Minister considers relevant in relation to a Scheme member's terms and conditions of employment,

and regulations under this subsection may be made in respect of all or a class or classes of Scheme members.

(7) The gross amount of an enhancement to any pension and lump sum that may be made by virtue of regulations under subsection (6) shall not exceed 10 times the value of the most recent full year pension credit and gratuity credit calculated for the relevant Scheme member.

(8) Where a person—

- (a) having or having been retired or discharged on medical grounds, was awarded a pension and lump sum under the Scheme, and
- (b) is subsequently re-appointed as a pensionable public servant and Scheme member, then—

- (i) the pension shall cease to be paid in respect of any period after such re-appointment,
 - (ii) upon repaying to the Agency, or where the Agency has been dissolved, the Commercial Agency the lump sum so awarded together with compound interest to the date of payment or final payment where subsection (9)(a) applies, such person shall have restored to him or her the sum of the pension credits and gratuity credits that he or she had accumulated at the date he or she had ceased to be a Scheme member, and
 - (iii) the amount restored under paragraph (ii) shall be limited to the actual value of the pension credits and gratuity credits at the time of retirement or discharge on medical grounds.
- (9) For the purposes of subsection (8)—
- (a) the Agency, or where the Agency has been dissolved, the Commercial Agency may at its discretion agree to accept payment of the amount concerned in more than one payment,
 - (b) compound interest shall be calculated at such rate per annum as may be specified by the Agency, or where the Agency has been dissolved, the Commercial Agency with the approval of the Relevant Minister and consent of the Minister.

Death in service.

16. (1) If a Scheme member dies while serving as a pensionable public servant, his or her legal personal representative shall, subject to subsection (2), be eligible to receive as a lump sum payment an amount, in the Scheme referred to as a “death gratuity”, equal to three times the Scheme member’s pensionable remuneration in the 12 months prior to his or her death less—

- (a) any superannuation lump sum payable or already paid either from the Scheme or from a pre-existing public service pension scheme, and
- (b) any other death gratuity payable or already paid from a pre-existing public service pension scheme.

(2) Where the aggregate amount payable or already paid and to which paragraphs (a) and (b) of subsection (1) relate is equal to or greater than three times the Scheme member’s pensionable remuneration in the 12 months prior to his or her death, then the legal personal representative of the deceased member shall not be eligible to receive any amount in addition to that so payable or already paid.

Obligation to pay benefits under this Scheme.

17. (1) The calculation and payment of any retirement benefit which falls due to be paid under this Scheme, shall be a function of—

- (a) the Agency, or where the Agency has been dissolved, the Commercial Agency, or
- (b) such other relevant authority that the Relevant Minister, with the consent of the Minister has directed in writing to carry out such function, either generally or in respect of any class or classes of former Scheme members.

(2) Nothing in subsection (1) shall be read so as to prevent the Agency, or where the Agency has been dissolved, the Commercial Agency making arrangements for the payment as its agent of any retirement benefit through another relevant authority or a third party.

Payment of pension, etc.

18. (1) In respect of the service of a Scheme member, pension benefit and lump sum benefit (including any such benefit that is a preserved pension or a preserved lump sum) accrued under the Scheme shall only be paid in accordance with this Article.

(2) Pensions payable under this Article shall be paid in arrears by the Agency, or where the Agency has been dissolved, the Commercial Agency and shall continue—

- (a) throughout the life of the former Scheme member concerned, or
- (b) where, in the case of a former scheme member who retired in accordance with Articles 12, 13, or 15 and who dies within five (5) years of retirement, for five (5) years from the date of retirement and
- (c) where appropriate, after the former Scheme member's death or after the five (5) year period referred to in subsection 2(b), whichever is the later, during the period of entitlement in respect of any other person concerned.

(3) Where either or both a pension and lump sum benefit are payable under the Scheme to a relevant person with respect to whom the Agency, or where the Agency has been dissolved, the Commercial Agency is satisfied, on the certificate of a registered medical practitioner to whom subsection (6) applies, that the relevant person is unable by reason of mental or physical disability to give a receipt for the amount, the Agency, or where the Agency has been dissolved, the Commercial Agency may, unless a court of competent jurisdiction has otherwise ordered, pay either or both the pension and lump sum benefit—

- (a) wholly or partly to any institution or person having care of the relevant person, or
- (b) as to part thereof, to any institution or person having care of the relevant person and, as to the remainder, wholly or partly to either or both—
 - (i) the spouse or civil partner of the relevant person, and

- (ii) such persons as the Agency, or where the Agency has been dissolved, the Commercial Agency considers to be dependants of the relevant person,

and in such manner as the Agency, or where the Agency has been dissolved, the Commercial Agency thinks fit.

(4) Nothing in subsection (3) affects any enduring power of attorney provided for in accordance with Part II of the Powers of Attorney Act 1996.

(5) Any payments made under this Article shall discharge the Agency, or where the Agency has been dissolved, the Commercial Agency, as makes them as fully as if they were made directly to the relevant person.

(6) For the purposes of subsection (3) the certificate of a registered medical practitioner shall only be admissible if the practitioner satisfies the Agency, or where the Agency has been dissolved, the Commercial Agency that he or she has practised medicine for a period of 6 years since—

- (a) his or her name was entered in the register of medical practitioners, or
- (b) where the medical assessment to which the certificate relates has been carried out in a place outside the State, being entitled to practise medicine under the law of such place.

(7) In this Article “relevant person” means a person in receipt of a pension under the Scheme.

Survivor’s pension.

19. (1) Subject to subsection (3), consequent on the death of a Scheme member or former Scheme member (in the Scheme referred to as the “deceased member”) and to whom or in respect of whom a pension or death gratuity or preserved pension or lump sum payment has been or may be awarded, the Relevant Minister with the consent of the Minister may, where the deceased member is survived by a spouse or civil partner and subject to the other provisions of the Scheme, grant to that spouse or civil partner a pension (in the Scheme referred to as a “survivor’s pension”) in respect of the deceased member’s service as a public servant.

(2) The survivor’s pension shall be payable at one-half of the rate of the pension or preserved pension of the deceased member concerned, except where a Scheme member dies while serving as a public servant then it shall be one-half of the pension that would have been payable to the member in accordance with Article 15 had he or she retired or been retired or discharged on medical grounds on the date of his or her death.

(3) The benefit payable under this Article shall not commence until after any benefit payable under Article 18(2)(b) has ceased.

Grant and payment of survivor’s pension.

20. (1) The spouse or civil partner of a deceased member who survives that member—

- (a) shall not be granted or paid a survivor's pension under the Scheme if that spouse or civil partner was, at the time of the death of the Scheme member, cohabiting with a person other than the deceased member, or
 - (b) shall not be paid a survivor's pension under the Scheme in respect of any period after the death of the Scheme member during which the spouse or civil partner is married, in a civil partnership or cohabiting with any person.
- (2) Notwithstanding subsection (1), where—
- (a) a survivor's pension was not granted to a person by virtue of subsection (1)(a) or, if granted, is not being paid to a person by virtue of subsection (1)(b), and
 - (b) (i) at a date subsequent to the date of any marriage or civil partnership to which subsection (1)(b) relates, the marriage or civil partnership—
 - (I) has ceased because of the death of the other person concerned, or
 - (II) has been duly dissolved,
 - (ii) in the case of any cohabitation to which subsection (1) relates, the Relevant Minister is satisfied that cohabitation has ceased, or
 - (iii) there are, in the opinion of the Relevant Minister, having considered an application, compassionate grounds for the payment of a survivor's pension,

then, the Relevant Minister, with the consent of the Minister, may, if it is considered to be just and equitable in all the circumstances by the Relevant Minister, grant or re-grant, as the case may be, a survivor's pension as from the date determined in accordance with subsection (5).

(3) Without prejudice to the exercise of his or her function under subsection (2)(b)(iii) at any time, the Relevant Minister with the consent of the Minister may delegate in writing that function to the Agency, or where the Agency has been dissolved, the Commercial Agency in respect of the survivors of deceased members or of a class of deceased members. A delegation under this subsection may be revoked at any time by the Relevant Minister, with the consent of the Minister, in writing.

(4) Any delegation under subsection (3) may include directions or other instructions to the Agency, or where the Agency has been dissolved, the Commercial Agency regarding the determination of the circumstances in which compassionate grounds may or may not exist. Directions or other instructions to which this subsection relates may be amended from time to time by the Relevant Minister, with the consent of the Minister, in writing.

- (5) The date to be determined for the purposes of subsection (2), shall be—
- (a) in the case of a marriage or civil partnership, the date on which the marriage or civil partnership ceased because of the death of

the other person concerned or the date on which the marriage or civil partnership was dissolved,

- (b) in the case of cohabitation, the date on which the cohabitation ended or, where such date cannot be established with certainty by the Agency, or where the Agency has been dissolved, the Commercial Agency, such date as appears to the Agency, or where the Agency has been dissolved, the Commercial Agency to be a date from which in its opinion cohabitation is likely to have ceased, and
- (c) in a case to which subsection (2)(b)(iii) relates, the date decided on by the Relevant Minister, being a date not earlier than the date on which the relevant application is received by the Relevant Minister.

(6) Subject to subsections (1) to (4), a survivor's pension may only be paid in respect of the period commencing on the day following the date of the death of the Scheme member concerned or after any benefit payable under Article 18(2)(b) has ceased, whichever is later, and ending on the day of the death of the spouse or civil partner of that deceased member.

Children's pension - grant.

21. Consequent on the death of a Scheme member or former Scheme member and to whom or in respect of whom a pension or death gratuity, or preserved pension or lump sum payment has been or may be awarded, and provided any benefit payable under Article 18(2)(b) has ceased, the Relevant Minister with the consent of the Minister may, where the deceased member is survived by one or more dependent children, grant for such children a pension (in the Scheme referred to as a "children's pension") in respect of the deceased member's service as a pensionable public servant.

Children's pension - beneficiaries.

22. (1) Subject to subsections (2) to (7), a person who is a child of a deceased member shall not be regarded as a child for the purposes of the payment of a children's pension in any of the following cases:

- (a) a person, other than a person to whom paragraph (c) relates, who was not wholly or mainly financially dependent on the deceased member immediately before the deceased member's death;
- (b) a person who is married, in a civil partnership or cohabiting with another person;
- (c) a person to whom or in respect of whom emoluments or grants for education, instruction or training are payable and where those emoluments made the person, immediately before the deceased member's death, not financially dependent on the deceased member.

(2) In respect of a person to whom paragraph (b) of subsection (1) relates and where in the opinion of the Relevant Minister there are compassionate grounds for so doing, the Relevant Minister, with the consent of the Minister, may, if he or she considers it just and equitable in all the circumstances, direct that, notwithstanding that paragraph, the person shall be regarded from a date specified in the direction as being a child to whom that paragraph does not relate and, accordingly, for so long as the direction is in force the Scheme shall, as regards the person to whom the direction relates, be construed and have effect in accordance with the direction.

(3) Without prejudice to exercising his or her function under subsection (2) at any time, the Relevant Minister, with the consent of the Minister, may delegate in writing that function to the Agency, or where the Agency has been dissolved, the Commercial Agency in respect of any children of deceased members or of a class or classes of deceased members. A delegation under this subsection may be revoked at any time by the Relevant Minister, with the consent of the Minister, in writing.

(4) Any delegation under subsection (3) may include directions or other instructions to the Agency, or where the Agency has been dissolved, the Commercial Agency regarding the determination of the circumstances in which compassionate grounds may or may not exist. Directions or other instructions to which this subsection relates may be amended from time to time by the Relevant Minister, with the consent of the Minister, in writing.

(5) In making a determination under this Article by virtue of subsection (3), the Agency, or where the Agency has been dissolved, the Commercial Agency shall do so in accordance with any subsisting directions or other instructions referred to in subsection (4).

(6) Where in respect of a person to whom subsection (1)(c) relates, a break occurs in his or her education, instruction or training, then unless the Agency, or where the Agency has been dissolved, the Commercial Agency otherwise directs, he or she shall, for the duration of such break, be regarded as a child for the purposes of the Scheme.

(7) A child shall not be eligible for a children's pension in respect of more than 2 deceased members. Where a child would, but for this subsection, be eligible for a children's pension in respect of more than 2 deceased members, then he or she shall only be eligible for the 2 children's pensions that are most favourable to him or her.

Children's pension - to whom paid.

23. (1) Subject to subsection (3), a children's pension shall be paid to the parent, step-parent or guardian of the child if that child is in his or her care.

(2) Where a child in respect of whom a children's pension is payable is not in the care of his or her parent, step-parent or guardian, the pension shall be paid either to the child or to such other person as the Agency, or where the Agency has been dissolved, the Commercial Agency may determine.

(3) Where a child in respect of whom a children's pension is payable is in the care of more than one person, the children's pension concerned may be paid

to each of those persons in such proportions as the Agency, or where the Agency has been dissolved, the Commercial Agency may determine.

(4) The Relevant Minister, with the consent of the Minister, may, from time to time issue directions or other instructions in writing to the Agency, or where the Agency has been dissolved, the Commercial Agency regarding the determination of the class or classes of persons to whom a children's pension may be paid. Directions or other instructions to which this subsection relates may be amended from time to time by the Relevant Minister, with the consent of the Minister, in writing.

(5) In making a determination under this Article, the Agency, or where the Agency has been dissolved, the Commercial Agency shall do so in accordance with any subsisting directions or other instructions referred to in subsection (4).

Children's pension - conditions for payment, etc.

24. (1) A children's pension is granted and payments made on the condition that payments shall be applied for the benefit of the child or children for whom the pension was granted.

(2) Where—

- (a) the deceased member leaves a surviving spouse or civil partner and in respect of the spouse or civil partner—
 - (i) no survivor's pension was applied for,
 - (ii) if applied for, no entitlement to a survivor's pension arose, or
 - (iii) if a survivor's pension has been granted, it had ceased to be payable under the Scheme during the lifetime of the spouse or civil partner,
- (b) no children's pension was applied for by the spouse or civil partner in respect of any child of the deceased member who was in the custody of the spouse or civil partner, and
- (c) subsequently the spouse or civil partner of the deceased member dies,

then no children's pension is payable under the Scheme for a child to whom paragraph (b) relates in respect of the periods referred to in subsection (3) in respect of subparagraphs (i) to (iii) of paragraph (a).

(3) For the purposes of subsection (2) the periods are the following:

- (a) where subparagraph (i) or (ii) of subsection (2)(a) applies, the period beginning on the date of the death of the deceased member concerned and ending on the date of the death of the spouse or civil partner;
- (b) where subparagraph (iii) of subsection (2)(a) applies, the period beginning on the date the survivor's pension ceased to be payable and ending on the date of the death of the spouse or civil partner.

(4) Where, but for this subsection, a children's pension would not be payable because of subsections (2) and (3), the Relevant Minister, may in the absolute discretion of the Relevant Minister, with the consent of the Minister, or, subject to subsections (5) and (6), the Agency, or where the Agency has been dissolved, the Commercial Agency, as the case may be, direct that a children's pension be payable and, where such a direction is made, the Relevant Minister, with the consent of the Minister, or the Agency, or where the Agency has been dissolved, the Commercial Agency (as the case may be) may, if considered just and equitable in all the circumstances, further direct that the children's pension shall be paid as respects the whole of the period concerned or as respects part of that period.

(5) The Relevant Minister, with the consent of the Minister, may, from time to time, issue directions or other instructions in writing to the Agency, or where the Agency has been dissolved, the Commercial Agency regarding or relating to the conditions under which a children's pension may be paid. Directions or other instructions to which this subsection relates may be amended from time to time by the Relevant Minister, with the consent of the Minister, in writing.

(6) In exercising or not exercising a discretion under this Article, the Agency, or where the Agency has been dissolved, the Commercial Agency shall do so in accordance with any subsisting directions or other instructions issued to the Agency, or where the Agency has been dissolved, the Commercial Agency under subsection (5).

Children's pension - calculation of rate and payment.

25. (1) A children's pension may be paid only in relation to the period or periods subsequent to the date of death of the member or former member concerned, as the case may be.

(2) The rate of children's pension is—

- (a) where the deceased member or former member leaves neither a spouse nor a civil partner or, if he or she is survived by a spouse or civil partner who dies after his or her death—
 - (i) where there is only one child, one-third of the deceased member's pension, or
 - (ii) where there are 2 or more children, at a rate for each child equal to one-half of the deceased member's pension divided by the number of children,
- (b) where the deceased member leaves a spouse or a civil partner—
 - (i) where there are 3 or fewer children, one-sixth of the deceased member's pension for each child,
 - (ii) where there are 4 or more children, at a rate for each child equal to one-half of the deceased member's pension divided by the number of children.

Appeals.

26. If a member or former member is aggrieved by the failure or refusal of the Agency, or where the Agency has been dissolved, the Commercial Agency to make an award under this scheme or by the amount of any award made, he or she may appeal to the Relevant Minister who shall issue a determination. The Relevant Minister's decision shall be final.

Pension and other adjustments.**Adjustment of pension, pension credits and gratuity credits.**

27. (1) The Commercial Agency, shall cause the consumer price index to be examined as follows to establish whether or not there has been any increase in that index.

(2) In respect of pension credits and gratuity credits—

- (a) the first examination under subsection (1) shall be undertaken to establish if there has been any increase in the consumer price index between the index figure current at the operative date and index figure current in respect of the end of the calendar year in which the operative date occurred, and
- (b) subsequent examinations under subsection (1) shall be undertaken to establish if there has been any increase in the consumer price index since the immediately preceding increase in a calendar year for that index,

and the pension credits and gratuity credits accrued under the Scheme shall be increased to reflect any such increase in CPI, subject to a maximum increase of 5%.

(3) In respect of pensions payable under the Scheme—

- (a) the first examination under subsection (1) shall be undertaken between the 13th and the 24th month after the operative date to establish if there has been any increase in the consumer price index in respect of a one-year period which shall be specified by the Commercial Agency but that period shall start not earlier than 2 years before the date of the examination, and
- (b) the second and subsequent examinations shall be undertaken annually in respect of each successive one-year period (commencing after the one-year period referred to in paragraph (a)) to establish if there has been any increase in the consumer price index since the immediately preceding increase in a one-year period for that index or, if there has been no such increase, since the first examination under paragraph (a),

and, subject to subsection (4), pensions in payment under the Scheme shall be increased to reflect any such increase in CPI, subject to a maximum increase of 4%.

(4) The Relevant Minister, with the consent of the Minister, shall decide when any increase in pensions under this Article is to be paid having regard to

movements in the consumer price index, including the timing and the means by which any increase is paid—

- (a) to all or any class of pensions payable under the Scheme, or
- (b) generally in respect of all pensions payable under the Scheme.

Review of Scheme, etc.

Review of Scheme.

28. (1) The Relevant Minister, with the consent of the Minister, may, from time to time, cause to be carried out either—

- (a) an actuarial review or an actuarial review and revaluation of the Scheme or any part of it, or
- (b) any other review of the Scheme, or any part of it.

(2) An actuarial review or an actuarial review and revaluation to which subsection (1)(a) relates shall be carried out by a person who—

- (a) is qualified to provide actuarial services and is a fellow of the Society of Actuaries in Ireland or any successor body,
- (b) is qualified to provide actuarial services in another Member State of the European Union, and whose qualification corresponds to that of a person to whom paragraph (a) relates, or
- (c) is qualified to provide actuarial services in another state and is entitled to be a fellow of that Society or any equivalent or successor body by virtue of any mutual recognition agreements of that Society or of any successor body, respectively.

(3) A person carrying out an actuarial review or an actuarial review and revaluation to which this Article relates shall be independent in the exercise of that function.

(4) Subject to subsection (2), a review or an actuarial review or an actuarial review and revaluation for the purposes of subsection (1) shall have regard to such and so many of the following matters as the Relevant Minister, with the consent of the Minister, considers appropriate:

- (a) the overall cost of the Scheme and the contributions paid by the Scheme members and the contribution made by the State in respect of the Scheme members;
- (b) the cost of the membership of persons or any class of persons to whom Article 12 relates and the contributions paid by those persons or that class of persons and the contribution made by the State in respect of those persons or that class of persons;
- (c) the cost of the membership of persons or any class of persons in respect of whom—
 - (i) a lump sum is paid under Article 16, or
 - (ii) benefits are paid under Articles 19 or 25,

and the contributions paid by those persons or that class of persons and the contribution made by the State in respect of those persons or that class of persons;

- (d) any statutory deductions;
- (e) any other matter that the Relevant Minister, with the consent of the Minister, considers to be of relevance in the circumstances,

and, accordingly, a review or an actuarial review or an actuarial review and revaluation may be in respect of all Scheme members or of the persons, or any class of persons, to whom paragraph (b), (c), (d) or (e), as the case may be, relates as the Relevant Minister, with the consent of the Minister, directs.

Alteration of contribution rates.

29. (1) Subject to subsection (3), where after consideration of an actuarial review and revaluation of the Scheme, or the part of it that has been reviewed, or reviewed and revalued, under Article 28 the Relevant Minister is of the opinion that the amount of contributions paid by the State in respect of the employment concerned, by Scheme members generally or by the persons, or any class of persons, to whom paragraph (b), (c), (d) or (e) of Article 28 (4) relates should be revised, then the Relevant Minister, with the consent of the Minister, may by order revise the rate of contribution from the Scheme members concerned, subject to—

- (a) where a rate determined on the basis of the actuarial review and revaluation would be higher than that standing provided for in the Scheme or by order under this subsection, as the case may be, the revised rate shall be neither higher than a rate so determined nor lower than the subsisting rate, and
- (b) where a rate determined on the basis of the actuarial review and revaluation would be lower than that standing provided for in the Scheme or by order under this subsection, as the case may be, the revised rate shall be neither higher than the subsisting rate nor lower than a rate so determined.

(2) Where a rate determined on the basis of the actuarial review and revaluation would be lower than the relevant rate standing provided for in the Scheme or by order under this Article, as the case may be, then an order under subsection (1) may have retrospective effect but shall not have retrospective effect to any date earlier than—

- (a) any date referred to in the actuarial review and revaluation as the effective date for the purposes of the revaluation, or
- (b) in the absence of any such date being so referred to, the date the actuarial review and revaluation was completed and sent to the Relevant Minister.

(3) An order under subsection (1) may be made only if—

- (a) a draft of the order has been laid before each House of the Oireachtas, and

- (b) the draft has been approved by resolution passed by each of those Houses.

Other provisions.

Duty to keep records, calculate contributions, etc.

30. (1) The Agency, or where the Agency has been dissolved, the Commercial Agency shall keep full and proper account of—

- (a) the contributions paid by the Scheme member concerned in each pay period, and
- (b) the pension credits and gratuity credits accrued by the Scheme member in each pay period.

(2) As soon as practicable after the end of a year of assessment for income tax purposes (in this Article referred to as a “tax year”) but not later than 6 months after the end of such tax year, the Agency, or where the Agency has been dissolved, the Commercial Agency shall provide a statement to each Scheme member concerned setting out—

- (a) the total amount of contributions paid by the Scheme member concerned in such tax year,
- (b) the total pension credits and gratuity credits accrued by the Scheme member in such tax year, and
- (c) the total pension credits and gratuity credits accrued by the Scheme member in previous tax years (including any periods in previous employments in respect of which he or she was a Scheme member) as adjusted in accordance with Article 27.

(3) Notwithstanding subsection (2), where a Scheme member ceases to be employed in the Agency before the end of a tax year then, as soon as may be after the member’s last day being so employed, but not later than 6 months after that day, the Agency, or where the Agency has been dissolved, the Commercial Agency shall provide a statement to the Scheme member which sets out—

- (a) the total amount of contributions paid by the Scheme member in such tax year in respect of the period during which he or she was so employed,
- (b) the total pension credits and gratuity credits accrued by the Scheme member in such tax year in respect of the period during which he or she was so employed, and
- (c) the total pension credits and gratuity credits accrued by the Scheme member in previous tax years (including any periods in previous employments in respect of which he or she was a Scheme member) as adjusted in accordance with Article 27.

(4) A failure by the Agency, or where the Agency has been dissolved, the Commercial Agency to provide a statement in accordance with subsection (2) or (3) shall be a ground for a complaint or dispute in respect of which the Financial Services and Pensions Ombudsman may investigate.

Payments out of Funds provided by the Oireachtas.

31. All payments under the Scheme in respect of the service of Scheme members and deceased members and accrued under the Scheme shall be paid from funds provided by the Oireachtas for that purpose, or where the Agency has been dissolved, shall be paid from funds provided by the Commercial Agency.

Repayment of retirement benefits, etc., overpaid.

32. (1) If at any time a person receives—

- (a) retirement benefits, or other benefits under the Scheme, to which the person is not entitled under the Scheme, or
- (b) an amount in respect of retirement benefits, or other benefits under the Scheme, which is greater than that which the person is entitled to under the Scheme,

then the person or, where he or she has died, his or her legal personal representative, shall repay to the Agency, or where the Agency has been dissolved, the Commercial Agency such payments or excess payments, as may be appropriate.

(2) Repayments for the purposes of subsection (1) may be in a form, including a reduction in any benefits payable under the Scheme at that time, or be in accordance with a payment schedule, as may be agreed between the parties concerned with the consent of the Relevant Minister and the Minister.

(3) In default of any repayment in accordance with this Article, the full amount of the excess payment outstanding may be recovered by the Agency, or where the Agency has been dissolved, the Commercial Agency concerned as a simple contract debt in any court of competent jurisdiction.

Pensionable remuneration and simultaneous employment in more than one position.

33. If pensionable remuneration is being earned in respect of simultaneous employment by a person as a public servant in one or more than one public service body, then the public servant's pensionable remuneration in respect of one full-time employment only or the aggregated equivalent of one full-time employment only shall be taken into account to compute the pension credits and gratuity credits provided for in the calculation of benefits Articles.

Duty to give information.

34. A person who—

- (a) becomes a Scheme member,
- (b) applies for a Scheme benefit,
- (c) is the legal personal representative of a deceased member, or

- (d) the representative of any beneficiary or potential beneficiary of the Scheme

shall give to the Agency, or where the Agency has been dissolved, the Commercial Agency all information necessary to administer the pension scheme and to process the payment of any pension benefit, including information relating to any public service pensions to which a member may be entitled other than a pension from this Scheme. This includes, where required, proof of age and marital and civil partnership status.

Use of Personal Public Service Number (PPSN).

35. (1) The identifying series, known as the Personal Public Service Number (PPSN), of a Scheme member, a member of the Single Scheme and of a member of a pre-existing public service pension scheme and of any other person in receipt of a survivor's pension or a children's pension under the Scheme or of a similar or corresponding pension under the Single Scheme or a pre-existing public service pension scheme—

- (a) shall be supplied by the member or that other person to the Agency, or where the Agency has been dissolved, the Commercial Agency or other body concerned (being the authority or body that is responsible for or authorises the payment to the person of the pension or of any lump sum that relates to that pension entitlement), and
- (b) may be used by that Agency, or where the Agency has been dissolved, the Commercial Agency or other body concerned as a unique identifier—
- (i) to record details in respect of the pension contributions, pension credits and gratuity credits and other benefits under the Scheme, the Single Scheme or a pre-existing public service pension scheme, and
- (ii) to transfer or exchange such information to another relevant authority or body that is responsible for or authorises the payment of the pension or any part of it as required under the Scheme,

and where information has been so transferred or exchanged, that number shall, where appropriate, be deemed to have been supplied in accordance with paragraph (a).

(2) In subsection (1) “Personal Public Service Number (PPSN)” includes any other identifying series that is unique to the person concerned and that may generally replace the Personal Public Service Number (PPSN) system.

Duty to make declarations, etc.

36. (1) Any active member or anyone who applies for a Scheme benefit or a person who is appointed to a position in a public service body who has—

- (a) an entitlement to or is in receipt of any superannuation benefit from a public service pension scheme, or
- (b) is in receipt of any remuneration from a public service body, shall provide a declaration to that effect to the Agency, or where the Agency has been dissolved, the Commercial Agency.

(2) Any person who applies for a benefit from this Scheme shall make a declaration to the Agency, or where the Agency has been dissolved, the Commercial Agency of any preserved benefit or any preserved lump sum or any other retirement benefit from any other public service pension scheme that he or she is in receipt of or to which he or she has an entitlement.

(3) Any person who is appointed to a position in a public service body shall upon application for a public service pension from a relevant body or another public service body make a declaration to the body concerned as to whether or not he or she is in receipt of any remuneration from any public service body and provide any relevant information required by the relevant body or other public service body.

Abatement.

37. Where—

- (a) a pension is duly payable under the Scheme to a person in respect of his or her service as a public servant (in this section referred to as the “pensioner”), and
- (b) the pensioner is appointed to a position in respect of which remuneration is paid by a public service body,

then Section 52(1) to (5) of the 2012 Act shall apply.

Cesser or reduction of benefit.

38. (1) Where a Scheme member

- (a) is dismissed, retired or discharged, or resigns or retires, as a consequence of misconduct involving a finding of a financial loss to the public service body or the State, or
- (b) otherwise ceases to hold employment—
 - (i) as a consequence of misconduct involving a finding of a financial loss to the public service body or the State, or
 - (ii) in contemplation of such a finding which is subsequently made,

then the Agency, or where the Agency has been dissolved, the Commercial Agency may, in order to make good the loss together with compound interest at a rate as may be determined by the Minister from time to time for the purpose of making good the value of the loss, take any action set out in subsection (2).

(2) For the purposes of subsection (1), the Agency, or where the Agency has been dissolved, the Commercial Agency may—

- (a) where contributions would, but for this section, be returned to a Scheme member under Article 11, reduce or not return the amount of such returnable contributions,
- (b) in any other case (including a case to which provisions relating to death in service or retirement on medical grounds relate), refuse or reduce any preserved pension, any preserved lump sum or any other benefit with effect on and from the date the person ceases to hold employment which might otherwise be duly payable.

(3) Where a pension is being paid to a person under the Scheme, the Single Scheme or under a pre-existing public service pension scheme in respect of his or her service in one or more than one public service body and that person is convicted by any court of an offence in the commission of which a financial loss to a public service body or the State has occurred, then the Relevant Minister may reduce or cease paying a pension awarded under the Scheme in order to make good such loss together with compound interest at a rate as may be determined by the Minister from time to time for the purpose of making good the value of the loss.

(4) Interest to which this Article relates shall be charged in respect of the period between the date on which the loss was incurred and the date of the final payment.

Survivor's entitlement to pension.

39. (1) Where a person would, but for this subsection, be eligible to receive—

- (a) more than one survivor's pension to which section 19 relates, or
- (b) more than one survivor's pension (by whatever name called) paid under the Single Scheme or a pre-existing public service pension scheme, or
- (c) one or more than one pension to which paragraph (a) relates and one or more than one pension to which paragraph (b) relates,

then, subject to subsection (2), that person shall be eligible to receive only one of those pensions.

(2) Where—

- (a) a deceased member,
- (b) a deceased member of the Single Scheme,
- (c) a deceased member of any pre-existing public service pension scheme, or
- (d) a deceased person to whom paragraphs (a), (b) and (c) relate,

was duly in receipt of, or eligible to receive, more than one pension in respect of his or her public service, then the person eligible to receive in respect of such service a survivor's pension to which subsection (1) relates shall be eligible to receive each such pension as relates to the public service of any one such deceased member.

The Minister for Housing, Local Government and Heritage approves the foregoing Order.



GIVEN under the Official Seal of the Minister for Housing,
Local Government and Heritage,
24 February, 2022.

DARRAGH O'BRIEN,
Minister for Housing, Local Government and Heritage.

The Minister for Public Expenditure and Reform, consents to the making of the foregoing Order.



GIVEN under the Official Seal of the Minister for Public
Expenditure and Reform,
24 February, 2022.

MICHAEL MCGRATH,
Minister for Public Expenditure and Reform.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The purpose of these Regulations is to adopt a scheme for the granting of superannuation benefits to the staff of the Land Development Agency, established under S.I. No. 352/2018 - Land Development Agency (Establishment) Order 2018 - and who are not members of the Single Public Service Pension Scheme.

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