



IONSTRAIMÍ REACHTÚLA.

I.R. Uimh. 580 de 2009



SCÉIM AOISLIÚNTAIS AN CHOIMISINÉARA TEANGA 2009

(Prn. A9/1934)

SCÉIM AOISLIÚNTAIS AN CHOIMISINÉARA TEANGA 2009

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

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SCÉIM AOISLIÚNTAIS AN CHOIMISINÉARA TEANGA 2009

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 Aoisliúntais an Choimisinéara Teanga 2009.

Tosú.

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

Sainmhíniú.

3. Sa Scéim seo, ach amháin nuair a éilíonn an comhthéacs a mhalairt:

ciallaíonn “seirbhís iarbhrí inphinsin” seirbhís mar a shainítear í i bhfo-alt 5(1) (a) agus 5(1)(b) den scéim seo;

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;

ciallaíonn “ball faoi árachas iomlán” ball den Scéim seo atá, nó a bhí díreach sular shroich sé 66 bliain d’aois, faoi árachas don Pinsean Seanaoise (Ranníocach) faoi na hAchtanna Leasa Shóisialaigh;

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

ciallaíonn “Pinsean Seanaoise (Ranníocach) an pinsean ranníocach seanaoise atá iníoctha faoi na hAchtanna Leasa Shóisialaigh;

ciallaíonn “Na Rialachán um Ombudsman Pinsean” na Rialacháin um Ombudsman Pinsean 2003 (I.R. Uimh. 397 de 2003);

ciallaíonn “ráta pearsanta” i dtaca le haon sochar Leasa Shóisialaigh, an ráta de shochar dá leithéid 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, agus déanfar an “t-uasráta pearsanta” a fhorléiriú dá réir;

is í an chiall atá le “scéim pinsin seirbhíse poiblí” an chiall a shanntar di i bhfo-alt 1(1) den Acht um Aoisliúntas na Seirbhíse Poiblí (Forálacha Ilghnéitheacha) 2004 (Uimh. 7 de 2004).

ciallaíonn “ráta laghdaithe” i dtaca le haon sochar Leasa Shóisialaigh an ráta pearsanta de shochar dá leithéid má tá an ráta sin níos lú ná an t-uasráta pearsanta don Phinsean Seanaoise (Ranníocach);

ciallaíonn “Scéim Aoisliúntais RTÉ” an Scéim Pinsin Sochar Sainithe Ranníocach Cistithe a fheidhmíonn Radio Telefís Éireann, a dúnadh d’fhostaithe nua i mí Iúil 1989;

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 cheann nó le gach ceann de na hAchtanna nó aon rialachán, aon bharántas nó aon ordú a dhéantar fúthu;

ciallaíonn “Sochar Leasa Shóisialaigh” an Pinsean Seanaoise (Ranníocach), Pinsean Scoir, Pinsean Easláine, Sochar Míchumais nó Sochar Dífhostaíochta iníoctha faoi na hAchtanna Leasa Shóisialaigh;

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.

Tuarastal Inphinsin.

4. (1) ciallaíonn “tuarastal” an bunráta bliantúil tuarastail 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.

(2) ciallaíonn “tuarastal glan” an méid a théann an tuarastal os cionn dhá oiread uasráta pearsanta bliantúil an Phinsin Seanaoise (Ranníocach) atá iníoctha ó am go chéile le duine nach bhfuil aon chleithiúnaí aosaithe nó leanbh cáilithe aige.

(3) ciallaíonn “tuarastal scoir” tuarastal an Choimisinéara ar an dáta scoir nó bás 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.

(4) ciallaíonn “tuarastal glan inphinsin” an méid a théann an tuarastal 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.

Seirbhís Inphinsin.

5. (1) Beidh seirbhís inphinsin, faoi réir uasmhéid 40 bliain, mar chomhiomlán de—

- (a) sheirbhís atá tugtha mar Choimisinéir roimh 67 bliain d’aois;
 - (b) sheirbhís iarbhír a bhí ináirithe do chuspóirí Scéim Aoisliúntais RTÉ;
 - (c) dá mbeadh seirbhís inphinsin faoi aois 65 níos lú ná 40 bliain, blianta breise de chreidmheas pinsin, faoi réir uasteorainneacha a bheidh le socrú ag an Aire i gcomhairle leis an Aire Airgeadais, a roghnaíonn sé a cheannach ar a chostas féin ar bhonn táblaí achtúireacha ceadaithe ag an Aire Airgeadais.
- (2) (a) Má chuireann an Coimisinéir isteach cúig bliana nó níos mó de sheirbhís iarbhír inphinsin agus má théann sé ar scor, nó má tá sé ar scor cheana, ar chúinsí sláinte de réir na gcoinníollacha atá leagtha amach in alt 7(1) den scéim seo, is féidir leis, faoi rogha an Aire, tréimhse meas-seirbhíse (a ndéanfar tagairt de mar “mheas-seirbhís drochshláinte”) a chur lena sheirbhís inphinsin, fad is nach dtéann comhiomlán na seirbhíse inphinsin agus na meas-seirbhíse drochshláinte thar 40 bliain.
- (b) Ríomhfar an meas-seirbhís drochshláinte mar an ceann is lú de:
- (i) 6 bliana agus 243 lá, nó
 - (ii) an tseirbhís iarbhír inphinsin bhreise a bheadh aige dá mbeadh seirbhís suas go 60 bliain d’aois curtha isteach aige nó, más níos túisce a bheadh sé, suas go dtí an dáta a rachadh a chonradh fostaíochta in éag.

Sochair.

6. (1) Pinsean:

- (a) Má chuireann an Coimisinéir isteach dhá bhliain de sheirbhís iarbhír inphinsin agus má éiríonn sé as, nó má tá sé tar éis éirí as cheana féin, tar éis dó aois 60 bliain a bhaint amach, beidh sé incháilithe le pinsean a fháil arb é suim bhliantúil an phinsin sin an méid a ríomhfar ag ráta 1/80 dá thuarastal glan inphinsin do gach bliain de sheirbhís inphinsin, faoi réir uasmhéid de 40/80;

- (b) Má chuireann an Coimisinéir isteach cúig bliana de sheirbhís iarbhír inphinsin agus má théann sé ar scor, nó má tá sé ar scor cheana, ar chúinsí sláinte de réir na gcoinníollacha atá leagtha amach in alt 7(1) den scéim seo, roimh nó tar éis dó 60 bliain d’aois a shroicheadh, beidh sé incháilithe chun pinsean a fháil de mhéid per annum a bheidh ríofa ag an ráta de 1/80 dá thuarastal glan inphinsin do gach bliain de sheirbhís inphinsin, faoi réir uasmhéid de 40/80.

(2) Aiscí:

- (a) Má chuireann an Coimisinéir isteach dhá bhliain de sheirbhís iarbhír inphinsin agus má théann sé ar scor, nó má tá sé ar scor cheana, tar éis dó 60 bliain d’aois a shroicheadh, beidh sé incháilithe chun aisce a fháil ag an ráta de 3/80 dá thuarastal inphinsin do gach bliain de sheirbhís inphinsin, faoi réir uasmhéid de 120/80.

- (b) Má chuireann an Coimisinéir isteach ar a laghad cúig bliana de sheirbhís iarbhír inphinsin agus má théann sé ar scor, nó má tá sé ar scor cheana, ar chúinsí sláinte de réir na gcoinníollacha atá leagtha amach in alt 7(1), beidh sé incháilithe chun aisce a fháil ag an ráta de 3/80 dá thuarastal inphinsin do gach bliain de sheirbhís inphinsin, faoi réir uasmhéid de 120/80.

- (c) (i) Má fhaigheann an Coimisinéir bás fad is atá sé i seirbhís, beidh a ionadaí pearsanta dlí i dteideal an ceann is mó díobh seo a leanas a fháil—

(a) a thuarastal inphinsin, nó

(b) an aisce a bheadh iníoctha dá rachadh an Coimisinéir ar scor ar chúinsí sláinte ar dháta a bháis.

- (ii) Má fhaigheann an Coimisinéir bás, tar éis dó pinsean agus aisce a bheith bronnta air, agus má tá an méid iomlán atá íoctha nó iníoctha ar bhonn an phinsin agus na haisce (lena n-áirítear aon asbhaintí a rinneadh i dtaca le ranníocaíochtaí neamhthréimhsiúla faoi Scéim Pinsean Ranníocach an Choimisinéara Teanga do Chéilí agus Leanáí 2009) níos lú ná an aisce a bheadh bronnta ar a ionadaí pearsanta dlí dá mbeadh sé tar éis bás a fháil ar dháta a scoir, beidh a ionadaí pearsanta dlí incháilithe chun aisce a fháil a bheidh cothrom leis an easnamh.

(3) Caomhnú Sochar:

- (a) Sa chás go n-éiríonn an Coimisinéir as a bheith ina Choimisinéir roimh 60 bliain d’aois ar shlí seachas faoi réir na gcoinníollacha atá leagtha amach in alt 7.1 tar éis dhá bhliain ar a laghad de sheirbhís inphinsin, beidh sé ar shroicheadh 60 bliain d’aois dó incháilithe faoin bhfo-alt seo chun pinsean agus íocaíocht cnapshuime (ina ndéantar tagairt do phinsean agus do chnapshuim sa Scéim seo mar “pinsean

caomhnaithe” agus mar “cnapshuim chaomhnaithe” faoi seach) a fháil, ar chuntar

- (i) nach bhfaigheann sé aon sochar eile i dtaca leis an tseirbhís sin, agus
 - (ii) nach bhfuil an tseirbhís sin ináirithe aige do chuspóirí pinsin i bhfostaíocht eile faoi shocrúithe ceadaithe.
- (b) beidh pinsean caomhnaithe iníoctha leis an gCoimisinéir ar shroicheadh aois 60 bliain dó, agus as sin amach, ach iarratas faoi choinne sin a bheith déanta aige.
- (c) d’fhéadfaí pinsean breise ar na téarmaí agus na coinníollacha atá leagtha amach i bhfo-alt 6.4 den scéim seo a íoc, de réir mar is rogha leis an Aire.
- (d) ní rachaidh pinsean caomhnaithe thar an méid a thiocfadh as an bhfoirmle—

$$\frac{A \times B}{80}$$

nuair is é A líon na mblianta de sheirbhís inphinsin, faoi réir uasmhéid de 40, mar a ríomhtar faoi alt 5.1 agus nuair is é

B an figiúr a fhaightear trí thuarastal glan inphinsin an Choimisinéara ar an dáta a éiríonn sé as oifig a mhéadú trí thagairt d’arduithe pinsean bronnta faoi alt 9 den Scéim seo san eatramh idir an dáta éirí as agus an dáta ar a mbaineann an Coimisinéir aois 60 bliain amach.

- (e) Má éiríonn an Coimisinéir as oifig de réir alt 6(3)(a) agus má fhaigheann sé bás roimh shroicheadh aois 60 bliain dó, beidh suim (a ndéantar tagairt di sa Scéim seo mar “aisce chaomhnaithe báis”) iníoctha le hionadaí pearsanta dlí an Choimisinéara ina leith.
- (f) Ní rachaidh cnapshuim chaomhnaithe nó aisce chaomhnaithe báis thar an méid a bhaintear amach leis an bhfoirmle—

$$\frac{3A \times B}{80}$$

nuair is é A an bhrí a shanntar dó in alt 6(3)(d), agus nuair is é

B an tuarastal inphinsin ar an dáta a n-éiríonn an Coimisinéir as oifig agus é méadaithe trí thagairt d’arduithe pinsean bronnta faoi alt 9 den Scéim seo san eatramh idir an dáta scoir agus an dáta

- (i) ar a shroicheadh sé aois 60 bliain i gcás cnapshuim chaomhnaithe, nó
- (ii) a fhaigheann sé bás, i gcás aisce chaomhnaithe báis.

- (g) Beidh cnapshuim chaomhnaithe nó aisce chaomhnaithe báis iníochta leis an gCoimisinéir, nó ina leith, ar iarratas a bheith déanta aige leis an Aire ag aon am tar éis dó aois 60 bliain a bhaint amach nó, i gcás go bhfaigheann sé bás roimh an aois sin, a ionadaí pearsanta dlí.

(4) Pinsean Breise:

- (a) Sa chás go bhfuil an Coimisinéir ag fáil pinsean faoin scéim seo agus é dífhostaithe agus, de bharr cúinsí nach bhfuil aon neart aige orthu,

(i) go dteipeann air cáiliú do shochar Leasa Shóisialaigh, nó

(ii) go gcáilíonn sé do shochar Leasa Shóisialaigh ag ráta laghdaithe,

fad is a bheadh na réamhchoinníollacha atá leagtha amach sa bhfo-alt seo comhlíonta, d'fhéadfadh an Coimisinéir, de réir mar is rogha leis an Aire, íocaíocht de pinsean breise a fháil faoin Scéim seo.

- (b) Is é méid an phinsin bhreise a bheadh iníochta de bhun fho-alt (a) den alt seo an méid, más tada é, a ríomhfaí leis an bhfoirmle $A - (B+C)$, nuair is é A méid an phinsin nó méid an phinsin chaomhnaithe a bheadh iníochta leis an gCoimisinéir faoi alt 6(1) den Scéim seo dá mbeadh a leithéid de pinsean ríofa trí thagairt do thuarastal inphinsin seachas do thuarastal glan inphinsin, is é B méid iarbhír an phinsin atá iníochta leis an gCoimisinéir faoi alt sin 6(1) agus is é C méid bliantúil ráta laghdaithe an tsochair Leasa Shóisialaigh, más tada é, atá iníochta leis an gCoimisinéir.

Scor ar Chúinsí Sláinte.

7. (1) Sa chás go dtéann an Coimisinéir ar scor, nó go bhfuil sé ar scor cheana, ar chúinsí sláinte, ní íocfar sochar faoi ailt 6(1) agus/nó 6(2) den Scéim seo ach amháin nuair a bheidh na coinníollacha seo a leanas comhlíonta:

- (a) Is gá fianaise dochtúra a chur ar fáil, a shásóidh an tAire nach bhfuil ar chumas an Choimisinéara de bharr éagumas colainne nó intinne dualgais a phoist a chomhlíonadh agus go bhfuil gach dealramh air go bhfuil an míchumas sin buan. I dtaca leis seo, is gá don Choimisinéir, má iarrann an tAire a leithéid air, dul faoi scrúdú dochtúra a dhéanfaidh liachleachtóir cláraithe a bheidh ainmnithe ag an Aire.

(b) Is gá gur de thoradh iomlán an éagumais a bheadh an scor.

(2) Sa chás nach gcomhlíonfaí an dá choinníoll thuas, nó ceachtar acu, bainfidh alt 6.3 in áit sochar faoi ailt 6(1) agus 6(2).

Íocaíocht Pinsin nó Pinsin Chaomhnaithe.

8. Seachas mar a foráiltear a athrach sa Scéim, íocfaidh an tAire pinsin agus pinsin chaomhnaithe, atá iníochta faoin Scéim seo, gach coicís ina riaráistí agus leanfar leis seo ar feadh saoil an Choimisinéara.

Arduithe pinsean.

9. Ardófar pinsean agus pinsean chaomhnaithe, atá iníoctha faoin Scéim seo, i méideanna ar féidir a bheith údaraithe le cead ón Aire Airgeadais.

Ranníocaíochtaí.

10. (1) Íocfaidh an Coimisinéir ranníocaíocht ar an dáta tosaithe agus as sin amach.

(2) Cuimseoidh an ranníocaíocht

(a) 3.5% de thuarastal glan agus

(b) 1.5% den tuarastal.

(3) Sa chás go bhfuil an Coimisinéir ag fáil ráta laghdaithe pá de bharr neamhláithreachta ón obair, ríomhfar na ranníocaíochtaí i dtaca leis an tréimhse sin le tagairt don ráta pá a bheadh iníoctha leis mura mbeadh sé as láthair.

Foirceannadh nó Laghdú Sochair.

11. (1) Sa chás go mbristear 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, aon íocaíocht a bheadh iníoctha murach sin faoi alt 6 den Scéim seo a dhiúltú nó a laghdú chun a leithéid de chailteanas a chúiteamh.

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

Coinníollacha a Rialáíonn Íocaíochtaí.

12. (1) Dearbhuithe

Beidh íocaíochtaí pinsean agus pinsean caomhnaithe faoin Scéim seo faoi réir dhearbhuí ábhartha a dhéanfaidh an Coimisinéir in a leithéid d'fhoirm agus ag a leithéid d'am a d'fhéadfadh an tAire a éileamh.

(2) Cruthúnas aoise

Is gá don Choimisinéir cruthúnas dá dháta breithe a chur ar fáil agus é ag dul isteach sa Scéim nó sular féidir aon íocaíocht sochair a dhéanamh.

Sannacháin.

13. Ní féidir le pinsean nó pinsean caomhnaithe faoin Scéim seo a bheith sannta nó muirearaithe. Má tharlaíonn sé nach mbeidh ar chumas an Choimisinéara 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 Coimisinéir 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.

Ní Cheadófar Dúbailt Sochair.

14. (1) (a) Ní bheidh an Coimisinéir i dteideal an tréimhse chéanna seirbhíse a áireamh níos mó ná uair amháin ar mhaithe le pinsean nó le haisce, mura raibh sé, i gcás aisce, i dteideal a leithéid d'aisce a aisíoc agus go bhfuil sin déanta aige.
- (b) Ní bheidh an Coimisinéir i dteideal an tréimhse chéanna ama a áireamh ar mhaithe leis an Scéim seo agus ar mhaithe le haon scéim phinsin seirbhíse poiblí eile araon.

Achomhairc.

15. (1) Más ábhar éagóra don Choimisinéir 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 achomharc a dhéanamh leis an Aire a dhéanfaidh cinneadh, laistigh de thrí mhí ón aighneas a bheith curtha faoina bhráid, de réir Alt 5.1 de na Rialacháin um Ombudsman Pinsean 2003 (I.R. Uimh. 397 de 2003).

Foirceannadh nó Leasú na Scéime.

16. (1) Coimeádann an tAire an ceart aige féin an Scéim seo a leasú nó a fhoirceannadh ag aon am ach fógra trí mhí de na hathruithe atá le teacht a bheith tugtha don Choimisinéir. Ní chuirfear as do na sochair atá bainte amach ag an gCoimisinéir 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 an Choimisinéara Teanga a ceapadh ar an 23ú lá de Feabhra 2004.



STATUTORY INSTRUMENTS.

S.I. No. 580 of 2009

AN COIMISINÉIR TEANGA SUPERANNUATION SCHEME 2009

S.I. No. 580 of 2009

AN COIMISINÉIR TEANGA SUPERANNUATION SCHEME 2009

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

S.I. No. 580 of 2009

AN COIMISINÉIR TEANGA SUPERANNUATION SCHEME 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 Superannuation Scheme 2009.

Commencement.

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

Definitions.

3. In this Scheme save where the context otherwise requires:

“actual pensionable service” means service as defined in subparagraph 5(1)(a) and 5(1)(b) of this scheme;

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

“fully insured member” means a member of this Scheme who is, or was immediately before attaining the age of 66, insured for the Old Age (Contributory) Pension under the Social Welfare Acts;

“Minister” means the Minister for Community, Rural and Gaeltacht Affairs;

“Old Age (Contributory) Pension” means the contributory old age pension payable under the Social Welfare Acts;

“Pensions Ombudsman Regulations” means the Pensions Ombudsman Regulations, 2003 (S.I. No. 397 of 2003);

“personal rate” in relation to any Social Welfare benefit, means the rate of such benefit which is 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, and “maximum personal rate” shall be construed accordingly;

“public service pension scheme” has the meaning assigned thereto in subsection 1(1) of the Public Service Superannuation (Miscellaneous Provisions) Act of 2004 (No. 7 of 2004);

“reduced rate” in relation to any Social Welfare benefit, means the personal rate of such benefit if that rate is less than the maximum personal rate of the Old Age (Contributory) Pension;

“RTÉ Superannuation Scheme” means the Contributory Funded Defined Benefit Pension Scheme operated by Radió Teilifís Éireann, which was closed to new employees in July 1989;

“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;

“Social Welfare Benefit” means the Old Age (Contributory) Pension, Retirement Pension, Invalidity Pension, Disability Benefit or Unemployment Benefit payable under the Social Welfare Acts;

“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.

Pensionable salary.

4. (1) “Salary” means the annual basic rate of salary 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.

(2) “Net Salary” means the amount by which salary exceeds twice the annual maximum personal rate of the Old Age (Contributory) Pension payable from time to time to a person who has no adult dependent or qualified children.

(3) “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.

(4) “Net pensionable salary” means the amount by which pensionable salary 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.

Pensionable service.

5. (1) Pensionable service shall, subject to a maximum of 40 years, be the aggregate of—

- (a) Service as a Commissioner given before the age of 67;
 - (b) actual service which was reckonable for the purposes of the RTÉ Superannuation Scheme;
 - (c) if pensionable service by age 65 would be less than 40 years, extra years of pension credit, subject to limits to be determined by the Minister in consultation with the Minister for Finance, which he opts to purchase at full cost to himself on the basis of actuarial tables approved by the Minister for Finance.
- (2) (a) If the Commissioner completes five or more years of actual pensionable service and retires, or is retired, on medical grounds in accordance with the conditions laid down in paragraph 7(1) of this scheme, he may, at the discretion of the Minister, have a period of notional service (to be referred to as “ill-health notional service”) added to his pensionable service, provided that the aggregate of pensionable service and ill-health notional service does not exceed 40 years.
- (b) The ill-health notional service shall be calculated as the lesser of:
- (i) 6 years and 243 days, or
 - (ii) the additional actual pensionable service he would have had if he had served to age 60 or, if earlier, to the date on which his contract of employment would expire.

Benefits.

6. (1) Pension:

- (a) If the Commissioner completes two years’ actual pensionable service and retires, or is retired, after attaining the age of 60 years he shall be eligible to receive a pension of an amount per annum calculated at the rate of 1/80th of his net pensionable salary for each year of pensionable service, subject to a maximum of 40/80ths;
- (b) If the Commissioner completes five years’ actual pensionable service and retires, or is retired, before or after reaching the age of 60 on medical grounds in accordance with the conditions laid down paragraph 7(1) of this scheme he shall be eligible to receive a pension of

an amount per annum calculated at the rate of 1/80th of his net pensionable salary for each year of pensionable service, subject to a maximum of 40/80ths.

(2) Gratuities:

- (a) If the Commissioner completes two years actual pensionable service and retires or is retired after attaining the age of 60, he shall be eligible to receive a gratuity at the rate of 3/80ths of pensionable salary for each year of pensionable service subject to a maximum of 120/80ths.
- (b) If the Commissioner completes at least five years actual pensionable service and retires or is retired on medical grounds in accordance with the conditions laid down in paragraph 7(1), he shall be eligible to receive a gratuity at the rate of 3/80ths of pensionable salary for each year of pensionable service subject to a maximum of 120/80ths.
- (c) (i) If the Commissioner dies while serving, his legal personal representative shall be eligible to receive the greater of—
 - (a) his pensionable salary or
 - (b) the gratuity that would have been payable had the Commissioner retired on medical grounds on the date of his death.
- (ii) If the Commissioner, having been granted a pension and a gratuity, dies and the total paid or payable on foot of the pension and gratuity (including any deductions made in respect of non-periodic contributions under An Coimisinéir Teanga Contributory Pension Scheme for Spouses and Children 2009 is less than the gratuity which would have been granted to his legal personal representative if he had died on the date of his retirement, his legal personal representative shall be eligible to receive a gratuity equal to the deficiency.

(3) Preservation of Benefits:

- (a) Where the Commissioner ceases to be the Commissioner before age 60 otherwise than in accordance with the conditions laid down in paragraph 7(1) after at least two years' actual pensionable service he will, on attaining the age of 60, qualify under this subparagraph for a pension and lump sum payment (which pension and lump sum are in this Scheme referred to as a "preserved pension" and "preserved lump sum" respectively), provided
 - (i) he does not receive any other benefit in respect of that service, and
 - (ii) that service is not reckoned for pension purposes by him in another employment under approved arrangements.

- (b) a preserved pension shall be payable to the Commissioner on and from his attaining the age of 60 on an application being made by him in that behalf.
- (c) a supplementary pension on the terms and conditions set out in subparagraph 6(4) of this scheme may be paid at the discretion of the Minister.
- (d) a preserved pension may not exceed an amount obtained by the formula—

$$\frac{A \times B}{80}$$

where A is the number of years of pensionable service, subject to a maximum of 40, as calculated under paragraph 5(1) and

B is the figure arrived at by increasing his net pensionable salary at date of resignation by reference to pensions increases granted under paragraph 9 of this Scheme in the interval between the date of resignation and the date on which the Commissioner attains the age of 60.

- (e) If the Commissioner retires in accordance with paragraph 6(3)(a) and dies before attaining the age of 60 a sum (in this Scheme referred to as a “preserved death gratuity”) shall be payable to the Commissioner’s legal personal representative in respect of him.
- (f) A preserved lump sum or preserved death gratuity may not exceed an amount obtained by the formula—

$$\frac{3A \times B}{80}$$

where A has the meaning assigned to it by paragraph 6(3)(d), and

B is the pensionable salary at date of resignation of the Commissioner as increased by reference to pensions increases granted under paragraph 9 of this Scheme in the interval between the date of resignation and the date

- (i) on which he attains the age of 60 in the case of a preserved lump sum, or
 - (ii) of his death, in the case of a preserved death gratuity.
- (g) A preserved lump sum or preserved death gratuity shall be payable to or in respect of the Commissioner on an application being made to the Minister by him at any time after he reaches the age of 60 or, in case he dies before reaching that age, by his legal personal representative.

(4) Supplementary Pension

(a) Where the Commissioner is in receipt of a pension under this scheme and is unemployed and due to causes outside his own control

(i) fails to qualify for Social Welfare benefit, or

(ii) qualifies for Social Welfare benefit at a reduced rate,

then for so long as the preconditions set out in this subparagraph are met, the Commissioner may, at the discretion of the Minister, be paid a supplementary pension under this Scheme.

(b) The amount of a supplementary pension payable pursuant to subparagraph (a) of this paragraph shall be the amount, if any, arrived at by the formula $A - (B + C)$, where A is the amount of the pension or preserved pension which would be payable to the Commissioner under paragraph 6(1) of this scheme if such pension had been calculated by reference to pensionable salary rather than net pensionable salary, B is the amount of the pension actually payable to the Commissioner under the said paragraph 6(1) and C is the annual amount of the reduced rate of the Social Welfare benefit, if any, which is payable to the Commissioner.

Retirement on medical grounds.

7. (1) Where the Commissioner retires or is retired on medical grounds, a benefit under paragraphs 6(1) and/or 6(2) of this scheme shall only be made where the following conditions are met:

(a) Medical evidence must be supplied, having regard to which the Minister is satisfied that the Commissioner is incapable from infirmity of mind or body of discharging the duties of his post and that that infirmity is likely to be permanent. In this connection, the Commissioner must, if requested by the Minister, undergo medical examination by a registered medical practitioner nominated by the Minister

(b) The retirement must be wholly due to the infirmity.

(2) Where either or both of the above conditions are not met, paragraph 6(3), shall apply in lieu of benefit under paragraphs 6(1) and 6(2).

Payment of pension or preserved pension.

8. Save as is otherwise provided in the scheme, pensions and preserved pensions payable under this Scheme shall be paid by the Minister fortnightly in arrears and shall continue throughout the life of the Commissioner.

Pensions increases.

9. Pensions and preserved pensions payable under this scheme shall be increased by such amounts as may be authorised with the consent of the Minister for Finance.

Contributions

10. (1) The Commissioner shall pay a contribution as from the date of commencement.

(2) The contribution shall comprise

(a) 3.5% of net salary and

(b) 1.5% of salary.

(3) Where the Commissioner is in receipt of a reduced rate of pay because of absence from employment, the contributions in respect of that period will be calculated by reference to the rate of pay that would be payable to him if he were not so absent.

Cesser or reduction of benefit.

11. (1) Where 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 paragraph 6 of this Scheme 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 Commissioner has been guilty of misconduct involving a financial loss to the State in order to make good such a loss.

Conditions governing awards.

12. (1) Declarations

Payments of pension or preserved pension under this Scheme shall be subject to the making by the Commissioner of a relevant declaration in such form and at such time as the Minister may require.

(2) Proof of age

The Commissioner must submit evidence of his date of birth on entry into the Scheme or before any payment of benefit can be made.

Assignments.

13. A pension or preserved pension under this Scheme may not be assigned or charged. If the Commissioner 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 Commissioner, as the Minister thinks fit, and the Minister shall be discharged from all liability in respect of any sum so paid.

Duplication of benefit not to be allowed.

14. (1) (a) The Commissioner shall not be entitled to reckon the same period of service more than once for the purposes of a pension or gratuity, unless in the case of a gratuity, having been entitled to repay such gratuity, he has done so.

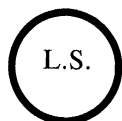
- (b) The Commissioner shall not be entitled to reckon the same period of time both for the purposes of this scheme and also for the purposes of any other public service pension scheme.

Appeals.

15. If the Commissioner 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 may appeal to the Minister who shall, within three months of the dispute being referred to him or her, 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.

16. The Minister reserves the right to amend or terminate the Scheme at any time subject to giving three months' notice of impending changes to the Commissioner. Benefits secured for the Commissioner 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 the Coimisinéir Teanga appointed on the 23rd day of February 2004.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
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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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