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**PUBLIC SERVICE PENSIONS (SINGLE SCHEME AND
OTHER PROVISIONS) ACT 2012**

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**PUBLIC SERVICE PENSIONS (SINGLE SCHEME AND
OTHER PROVISIONS) ACT 2012**

AN ACT TO PROVIDE FOR A SINGLE PUBLIC SERVICE PENSION SCHEME TO BE ESTABLISHED AND TO APPLY TO NEW ENTRANTS INTO THE PUBLIC SERVICE, TO PROVIDE FOR OTHER PUBLIC SERVICE PENSION SCHEMES NOT TO APPLY TO NEW ENTRANTS, TO PROVIDE FOR PENSIONS AND OTHER BENEFITS IN RESPECT OF SERVICE IN THE PUBLIC SERVICE BY NEW ENTRANTS AND TO PROVIDE FOR PENSIONS UNDER THE SINGLE PUBLIC SERVICE PENSION SCHEME TO BE INDEX-LINKED; TO ENABLE PENSIONS UNDER OTHER PUBLIC SERVICE PENSION SCHEMES TO BE INDEX-LINKED; TO PROVIDE FOR THE PROVISION OF INFORMATION NECESSARY FOR THE PROPER OPERATION OF PUBLIC SERVICE PENSION SCHEMES; TO MODERNISE THE LAW RELATING TO THE ABATEMENT OF PENSIONS IN CERTAIN CIRCUMSTANCES; TO PROVIDE FOR THE AMENDMENT OF THE PUBLIC SERVICE SUPERANNUATION (MISCELLANEOUS PROVISIONS) ACT 2004; TO PROVIDE FOR CERTAIN OTHER CONSEQUENTIAL AMENDMENTS; TO MAKE PROVISION FOR COST NEUTRAL EARLY RETIREMENT FOR JUDGES AND CERTAIN COURT OFFICERS; TO AMEND THE FINANCIAL EMERGENCY MEASURES IN THE PUBLIC INTEREST ACT 2010; AND TO PROVIDE FOR RELATED MATTERS.

[28th July, 2012]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Public Service Pensions (Single Scheme and Other Provisions) Act 2012.

Short title,
commencement and
collective citations.

(2) *Section 3 and Part 2 (other than subsections (6) and (7) of section 52) and sections 68 (other than paragraph (a) in so far as it inserts a definition of “pension adjustment order”), 69 (other than in so far as it inserts subsection (1B) into section 2 of the Financial Emergency Measures in the Public Interest Act 2010), 70 and 71* come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular

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purpose or provision and different days may be so appointed for different purposes or different provisions.

(3) The Court Officers Acts 1926 to 2008 and *sections 63 and 64* may be cited together as the Court Officers Acts 1926 to 2012.

(4) The Courts (Supplemental Provisions) Acts 1961 to 2008 and *sections 65 and 66* may be cited together as the Courts (Supplemental Provisions) Acts 1961 to 2012.

Definition (Parts 1 and 2). **2.**—In this Part and *Part 2* “Minister” means the Minister for Public Expenditure and Reform.

Repeals. **3.**—The following provisions are repealed:

- (a) section 5 of the Presidential Establishment Act 1938;
- (b) sections 46(6) and 57(2) of the Courts (Supplemental Provisions) Act 1961;
- (c) the Pensions (Abatement) Act 1965.

Expenses. **4.**—The expenses incurred by the Minister in the administration of this Act shall be paid out of moneys provided by the Oireachtas.

PART 2

PUBLIC SERVICE PENSIONS

CHAPTER 1

Preliminary and General (Part 2)

Interpretation (Part 2). **5.**—(1) In this Part and the *Schedule*—

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

- (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 sections” means *sections 18 to 30* or any of those sections;

“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 *section 35*;

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

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

“consumer price index” 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;

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

“death gratuity”, except in the expression “preserved death gratuity”, means a gratuity payable in accordance with *section 30*;

“deceased member” has the meaning given in *section 33*;

“designated office holder” has the meaning given in *section 25*;

“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;

“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 Part 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 *section 14*;

“normal retirement age” has the meaning given in *section 13*;

“operative date” means the date the Scheme comes into operation pursuant to *section 1(2)*;

“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;

“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 *section 11* relates, and
- (c) emoluments to which *section 11* 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 an occupational pension scheme or pension arrangement, by whatever name called, for any part of the public service—

- (a) provided for by or under—
- (i) the Superannuation Acts, or
- (ii) any other enactment (other than this Act) or administrative measure for the like purpose and to the like effect as the Superannuation Acts and of either general or limited application,
- or
- (b) made by a relevant Minister or which has been approved or requires the approval or consent, however expressed, of either or both a relevant Minister and the Minister,

but does not include the Scheme or a scheme or arrangement in respect of a body specified or referred to in the *Schedule*;

“prescribed”, except in *sections 22* and *23*, means prescribed by regulations made under *section 8*;

“preserved lump sum” has the meaning given in *section 28*;

“preserved pension” has the meaning given in *section 28*;

“public servant” means—

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

- (b) a member of the Oireachtas,
- (c) the holder of a judicial office,
- (d) the Comptroller and Auditor General,
- (e) the holder of a qualifying office, or
- (f) any other person to whom the calculation of benefits sections relate;

“public service body” means—

- (a) the Civil Service,
- (b) the Garda Síochána,
- (c) the Permanent Defence Force,
- (d) a local authority for the purposes of the Local Government Act 2001,
- (e) the Health Service Executive,
- (f) a vocational education committee established under section 7 of the Vocational Education Act 1930,
- (g) subject to *section 6(1)*, the Central Bank of Ireland,
- (h) any other body (other than a body specified or referred to in the *Schedule*) established—
 - (i) by or under an enactment (other than the Companies Acts), or
 - (ii) under the Companies Acts in pursuance of powers conferred by or under another enactment, and financed wholly or partly by means of money provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government,

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

and a reference to “public service” shall be read accordingly;

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

- (a) a ministerial office within the meaning of that section (as amended by the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1973), or
- (b) a secretarial office within the meaning of that section (as amended by the Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act 1983 and the Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001),

and a reference to “qualifying office holder” shall be read accordingly;

“referable amounts”, in relation to each calendar year or part of a calendar year and without prejudice to *section 18*, shall be read in accordance with *section 19, 20, 21, 22, 23, 24, 25* or *26* as appropriate in the circumstances;

“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” means the Minister, or—

- (a) such other Minister of the Government or such public service body as the Minister may prescribe under *section 8(1)(b)* in relation to all or any part of the public service, or
- (b) any body corporate as the Minister may prescribe under *section 8(1)(b)* in relation to all or any part of the public service;

“relevant Minister”, in relation to a pre-existing public service pension scheme, means the Minister or Ministers of the Government responsible for the making or approval of, or the giving of consent to, such a scheme;

“retirement”, other than retirement under *section 20, 27* or *29*, means ceasing to hold a pensionable position in a public service body, having reached normal pension age or, for a person in receipt of or eligible to receive retirement benefits under *section 26*, upon such person attaining either or both the age and maximum service limit (however expressed) at which he or she could retire or is required to be retired or discharged;

“Scheme” has the meaning given in *section 9*;

“Scheme member” has the meaning given in *section 10*;

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

“Superannuation Acts” means—

- (a) Superannuation Acts 1834 to 1963,
- (b) Teachers’ Superannuation Acts 1928 and 1990,
- (c) Defence Forces (Pensions) Acts 1932 to 2004,
- (d) Courts of Justice and Court Officers (Superannuation) Act 1961,
- (e) Pensions (Increase) Act 1964,
- (f) Pensions (Abatement) Act 1965,
- (g) Local Government (Superannuation) Act 1980,
- (h) Superannuation and Pensions Act 1976, and
- (i) Public Service Superannuation (Miscellaneous Provisions) Act 2004;

“survivor’s pension” has the meaning given in *section 33*;

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

(2) A reference in this Act, 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 Act “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.

Application
(Part 2).

6.—(1) This Part shall only apply to the Central Bank of Ireland—

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

(2) Chapter 2 does not apply to pre-existing public service pension schemes.

7.—(1) Other than in accordance with *section 15*, no provision of a pre-existing public service pension scheme shall apply or be applied in respect of the service of a public servant to which the Scheme relates and, accordingly—

Application of certain enactments, etc., restricted.

- (a) the Superannuation Acts,
- (b) in respect of service in the Central Bank of Ireland and subject to *section 6(1)*, the enactments relating to pensions and other benefits for the like purpose and to the like effect as the Superannuation Acts, and
- (c) any other enactment or administrative measure for the like purpose and to the like effect as the Superannuation Acts and of either general or limited application,

shall be read subject to this subsection.

(2) Nothing in *subsection (1)* shall be read as limiting or restricting the performance of any function (including the making or amendment of a superannuation scheme or arrangement) in respect of the service of members of a pre-existing public service pension scheme.

8.—(1) The Minister may make regulations—

Regulations (Part 2).

- (a) for any purpose in relation to which regulations are provided for in this Part,
- (b) prescribing—
 - (i) any other Minister of the Government or a public service body, or
 - (ii) any body corporate,
to be a relevant authority for the purposes of this Act in relation to all or any part of the public service,
- (c) prescribing a position in a public service body for the purposes of it being a designated office in respect of a designated office holder,
- (d) providing for any matter or thing referred to in this Part as prescribed or to be prescribed,
- (e) providing for appeals by a Scheme member or former Scheme member, or by any other person who is or claims to be a beneficiary under the Scheme, who is aggrieved by—
 - (i) the failure or refusal of the relevant authority concerned to pay to him or her some or all of any benefit under the Scheme to which he or she alleges an entitlement,
 - (ii) the amount of any benefit paid or payable to him or her, or
 - (iii) any act or omission by a relevant authority which it is alleged affects any benefit to which *subparagraph (i)*

or (ii) relates or may affect any entitlement to such a benefit at a future date,

and

(f) generally for the purposes of this Part or for the purpose of enabling any provision of this Part to have full effect.

(2) Without prejudice to the generality of *subsection (1)*, regulations under that subsection may provide for any of the following:

(a) a review of the Scheme;

(b) matters supplementary to appeals including—

(i) the manner and form in which notices and notifications relevant to an appeal are to be made,

(ii) particulars to be supplied by an appellant,

(iii) the person or class of persons by whom the determination of appeals, or any class of appeals, is to be made, and

(iv) time limits within which appeals are to be made, supplementary information or documents are to be submitted or appeals are to be determined and circumstances when those time limits may be extended;

(c) enhanced terms in cases of retirement or discharge on medical grounds;

(d) enhanced terms in the case of death in service;

(e) where a Scheme member is or has been in receipt of benefits under Part 2 (which relates to social insurance) of the Social Welfare Consolidation Act 2005 in respect of periods relating to one or more of the following:

(i) incapacity for work;

(ii) maternity;

(iii) health and safety;

(iv) adoption;

(v) occupational injuries;

the inclusion of certain money amounts as referable amounts for the purpose of the calculation of benefits sections that would, in the opinion of the Minister, be appropriate having regard to some or all of any shortfall in pensionable remuneration of the member during the period of receipt of such benefit by him or her under the Social Welfare Consolidation Act 2005;

(f) the inclusion of certain money amounts as referable amounts for the purposes of the calculation of benefits sections, including but not limited to transfer arrangements.

(3) Where a provision of this Part requires or authorises the Minister to make regulations, such regulations—

- (a) may make different provision for different circumstances or cases, classes or types, and
- (b) may contain such incidental, consequential or supplemental provisions,

as the Minister considers necessary or expedient for the purposes of this Part.

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

CHAPTER 2

Single Scheme

Establishment and Membership of Scheme, etc.

9.—(1) There is established a scheme, to be known as the Single Public Service Pension Scheme (in this Part referred to as the “Scheme”) whose terms and conditions are provided for by or under this Part. Scheme and membership.

(2) The Scheme applies to public servants other than the following—

- (a) persons who are not Scheme members by virtue of *section 10*,
- (b) any person who has not attained the age of 16 years,
- (c) except in respect of a Scheme member to whom *section 20, 21 or 24* relates, any person after he or she attains the following:
 - (i) subject to *subparagraph (ii)*, the age of 70 years;
 - (ii) where an age later than the age of 70 years is provided for by order under *section 13*, such later age.

10.—(1) Subject to *subsections (2) to (5)*, in this Part “Scheme member” means a person who is not serving in a public service body as a pensionable public servant on the day immediately preceding the operative date but becomes a pensionable public servant on or after such date. Scheme member, etc.

(2) Where—

- (a) on the day immediately preceding the operative date a pensionable public servant—

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- (i) stands seconded from the public service to a body not in the public service (whether or not within the State), or
- (ii) is absent on leave with or without pay from the public service,

and

- (b) that pensionable public servant is entitled to resume his or her office or position or another office or position within the public service,

then that pensionable public servant shall not be a Scheme member on such resumption within the public service on or after the operative date and, accordingly, the provisions applicable in respect of his or her pensionable public service shall apply in the same manner as those provisions would have applied to such a pensionable public servant if he or she had been serving in the public service on the day immediately preceding the operative date.

(3) Where—

- (a) a person duly receives a written offer of appointment as a pensionable public servant before the operative date and takes up that offer on or after that date,
- (b) subject to *section 48*, a person was serving in a public service body as a pensionable public servant before the operative date and left the relevant office or position but, subsequently, takes up appointment as a pensionable public servant—
 - (i) under the same contract of employment as he or she had been so serving under, or
 - (ii) within 26 weeks after his or her last day of service before that date,

or

- (c) a person stood admitted immediately before the operative date as a trainee Garda to the Garda College,

and where—

- (I) but for this subsection, the person concerned would be a Scheme member, and
- (II) where *paragraph (a)* applies, the terms of the offer of appointment would be contravened if *subsection (1)* were to apply,

then the person shall not be a Scheme member and the provisions applicable in respect of his or her pensionable public service shall apply in the same manner as those provisions would have applied to that person if he or she had been serving in the public service on the day immediately preceding the operative date.

(4) Where at any time before the operative date a person was a member of the Oireachtas or the European Parliament or was a holder of a qualifying office but was not such a member or holder

on the operative date, then, subject to *section 48*, such person shall not be regarded as a Scheme member for the purposes of any superannuation benefit payable in respect of any subsequent membership of the Oireachtas or the European Parliament or the holding of any qualifying office.

(5) Where on or after the operative date a pensionable public servant who is not a Scheme member ceases to serve in a public service body, then, subject to *section 48*, that person shall, if he or she subsequently takes up a pensionable office or position within the public service, be regarded as a Scheme member in respect of such subsequent service unless he or she takes up appointment—

- (a) under the same contract of employment, or
- (b) as a public servant no later than 26 weeks following the last day of service prior to cessation.

11.—(1) For the purposes of this Part, where at any time before or after the operative date the Minister determined or determines in writing that—

Pensionability of allowances, emoluments and related payments.

- (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 Minister:

- (a) it is permanent in nature;
- (b) it is subject to contributions under *Chapter 2*;
- (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 *Chapter 2*.

(4) The Minister may in writing reverse, amend, adjust or otherwise change a determination to which this section relates but any such reversal, amendment, adjustment or change shall not affect rights accrued in respect of previous contributions made under *Chapter 2*.

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

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

[No. 37.] *Public Service Pensions (Single Scheme [2012.] and Other Provisions) Act 2012.*

- (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 Chapter, to or in respect of service to which a pension under the Scheme relates.

Normal retirement age.

13.—(1) Except where otherwise expressly provided for by this Chapter or referred to in *subsection (2), (3) or (4)*, a Scheme member may retire from being a public servant upon attaining—

- (a) the age of 66 years, or
- (b) the age at which from time to time a person—
 - (i) is entitled or eligible, or
 - (ii) would be so entitled or eligible had he or she met the non-age related qualifying criteria,

to receive a contributory State Pension,

whichever last occurs (in this Part referred to as the “normal retirement age”).

(2) A public servant to whom *subsection (1)* applies, other than a person in respect of any service as a public servant to which *section 20, 21, 24 or 26* relates, shall retire from being a public servant at the latest upon attaining the age of 70 years or such later age as may be determined by the Minister by order.

(3) Where before the commencement of this Part there existed a statutory power, exercisable by a Minister of the Government or other body, to provide for either or both an age and a maximum service limit (however expressed) at which any class or classes of public servants could or is required to retire or be retired or discharged and which could differ from the general retirement age applicable to public servants who are not new entrants for the purposes of the Public Service Superannuation (Miscellaneous Provisions) Act 2004, then such Minister of the Government (unless he or she is the Minister) or other body may only exercise that power following consultation with the Minister.

(4) In the case of a Scheme member who is an employee, other than a person who holds a whole-time post, of a local authority which is a fire authority under the Fire Services Act 1981 and—

- (a) whose duties include attendance at fires, and
- (b) whose conditions of service require him or her to retire upon attaining the age of 55 years or, subject to medical examination or examinations, 58 years,

the normal retirement age for such person shall be determined in accordance with those conditions.

Normal pension age.

14.—(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 Chapter.

(2) *Subsection (1)* does not apply to a person—

(a) in respect of any service as a public servant to which *section 20* applies,

(b) in respect of any service as a public servant to which *section 26(1)* relates, except if that public servant leaves, or is retired, discharged or dismissed from, the public service body concerned before reaching pensionable age as construed and read in accordance with section 1(1)(a) of the Superannuation (Prison Officers) Act 1919 (inserted by section 5 of the Public Service Superannuation (Miscellaneous Provisions) Act 2004) or section 10 of the Public Service Superannuation (Miscellaneous Provisions) Act 2004, as the case may be, or

(c) who retires under the terms of *section 27* or *29*.

15.—(1) Where any statutory provision directly relating to and solely for the purposes of one or more than one pre-existing public service pension scheme makes provision for any matter not provided for by the Scheme and that matter is not inconsistent with the Scheme, then the Minister may by regulations apply, with or without modification, that provision to the Scheme to deal with corresponding matters or circumstances.

Application of certain provisions in Acts relating to pre-existing public service pension schemes.

(2) In making regulations under *subsection (1)*, the Minister may provide that the provisions concerned apply only to a class or classes of members of the Scheme but only if in so doing it is not inconsistent with the Scheme.

(3) A draft of any regulations proposed to be made by the Minister under *subsection (1)* shall be laid before each House of the Oireachtas and the regulations shall not be made until a motion approving of the draft has been passed by each such House.

Contributions by members of the Scheme, etc.

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

Contributions to Scheme, etc.

(2) In respect of Scheme members to whom *section 19* relates, the rate of contribution shall comprise 3.5 per cent of net pensionable remuneration together with 3 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.

[No. 37.] *Public Service Pensions (Single Scheme and Other Provisions) Act 2012.*

(3) The rate of contribution for a Scheme member to whom a section referred to in *column 1* of the Table to this subsection relates is the contribution rate (if any) in *column 2* of that Table expressed as a percentage of net pensionable remuneration opposite the reference to that section, together with the contribution rate in *column 3* of that Table expressed as a percentage of pensionable remuneration opposite the reference to that section—

- (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.

TABLE:
Rates of contribution

(1)	Contribution rate: expressed as percentage of net pensionable remuneration (2)	Contribution rate: expressed as percentage of pensionable remuneration (3)
Persons to whom <i>section 19</i> refers	3.5%	3%
Persons to whom <i>section 20</i> refers	-	13%
Persons to whom <i>section 21</i> refers	-	13%
Persons to whom <i>section 22</i> refers	-	13%
Persons to whom <i>section 23</i> refers who hold office on a basis which is fully insured for social welfare purposes	7%	6%
Persons to whom <i>section 23</i> refers who hold office on a basis which is not fully insured for social welfare purposes	-	13%
Persons to whom <i>section 24</i> refers	-	13%
Persons to whom <i>section 25</i> refers who hold office on a basis which is not fully insured for social welfare purposes	-	10%
Persons to whom <i>section 25</i> refers who hold office on a basis which is fully insured for social welfare purposes	5.7%	4.3%
Persons to whom <i>section 26</i> refers	4.2%	3.3%

(4) Where a public service body is financed wholly or mainly from sources other than directly or indirectly out of the Central Fund or the growing produce of that Fund, the Minister may require the public service body, or the relevant authority concerned where that body is not the relevant authority, to make a contribution to the Scheme of such percentage of pensionable remuneration of each scheme member concerned that—

- (a) subject to *paragraph (b)*, in the Minister's opinion represents the actuarially determined cost of providing for the benefits concerned after taking account of the individual Scheme member's contributions, and

- (b) does not exceed, by a multiple of 3, the individual Scheme member's contributions.

(5) Subject to *subsection (9)*, all contributions made under this section shall—

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

a relevant authority in such manner as the Minister may direct.

(6) Where the contributions made under this section have not been duly disposed of by the Scheme member or relevant authority concerned in accordance with a direction of the Minister under *subsection (5)*, the Minister may recover the amount from that member or authority as a simple contract debt in any court of competent jurisdiction.

(7) If a relevant authority to whom *subsection (5)* relates fails or refuses to collect or dispose of contributions in accordance with a direction of the Minister under *subsection (5)* within 28 days after the service by post by the Minister of a notice on the relevant authority concerned requiring it to do so, the High Court may, on an application made to it by the Minister—

- (a) make an order directing the authority 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 authority to collect the contributions concerned, make an order directing the authority to make good that shortfall in such manner and at such time or times as the Court directs.

(8) An order of the High Court under *subsection (7)* may contain such terms and conditions (if any) as to the payment of costs as the Court considers appropriate.

(9) Where this Part has been applied to the Central Bank of Ireland in accordance with *section 6*, then—

- (a) contributions made under this section in respect of Scheme members who are employed by, or hold any office or other position in the Central Bank of Ireland shall be dealt with in such manner so as to ensure that those contributions are only available for the purposes of the payment of any pension or lump sum to or in respect of the service with the Central Bank of Ireland by such Scheme members, and
- (b) the Central Bank of Ireland shall not be liable for any pension or lump sum in respect of any employment by, or holding of any office or other position in, a public service body other than the Central Bank of Ireland.

Return of contributions in certain cases.

17.—(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 relevant authority in respect of such contributions and, accordingly, the Scheme member or former Scheme member is, except where *subsection (3)* applies, not entitled to receive any further benefit under this Chapter in respect of the period of such membership.

(2) Where under *section 46* 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 referable amounts provided for in the calculation of benefits sections shall be returned to the member less an amount equal to any income tax or other statutory liability by the relevant authority in respect of such contributions.

(3) Where a person—

- (a) has had contributions returned to him or her under *subsection (1)*,
- (b) is subsequently re-employed as a pensionable public servant within 24 months of ceasing to be a public servant, and
- (c) pays such amount to the relevant authority concerned as would, on the date of payment or of the final payment where *subsection (4)* applies, represent the amount of the contributions paid to him or her with compound interest on such amount at such rate per annum as may be specified by the relevant authority with the approval of the Minister,

then he or she shall be regarded as not having ceased to be a Scheme member and shall have restored to him or her the sum of the referable amounts that he or she had accumulated at the date he or she had ceased to be a Scheme member.

(4) For the purposes of *subsection (3)*, the relevant authority concerned may at its discretion agree to accept payment of the amount concerned in more than one payment.

Calculation of benefits and circumstances for payments under the Scheme

Referable amounts.

18.—In this Part the definition of “referable amounts in respect of each calendar year or part of a calendar year” in *section 19, 20, 21, 22, 23, 24, 25 or 26* shall be read as including—

- (a) such money as represents the transfer value of certain amounts in respect of service that are transferred from the European Commission, the European Council, the European Parliament, the European Court of Auditors, the European Economic and Social Committee or Eurocontrol and such money shall be accepted on terms approved by the Minister, or
- (b) any other money as represents the transfer value of certain amounts that may be accepted on terms approved by the Minister.

19.—(1) Where a person is a Scheme member or former Scheme member, other than one to whom *section 20, 21, 22, 23, 24, 25, 26, 27 or 29* relates, and has completed the vesting period and reached the normal pension age, then he or she shall, subject to *section 52* and upon application being made to the relevant authority, be eligible on retirement to receive—

Calculation of retirement benefits.

- (a) an annual pension equivalent to the sum of the referable amounts 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 referable amounts in respect of each calendar year or part of a calendar year for the lump sum.

(2) In this section “referable amounts 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—

- (a) in the case of a pension, an amount calculated at a rate of—
 - (i) 0.58 per cent of the Scheme member’s pensionable remuneration for that year or part of a year of service that is less than or equal to 3.74 times the value of the contributory State Pension at that time and, 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
 - (ii) 1.25 per cent of the Scheme member’s pensionable remuneration for that year or part of a year of service that is greater than 3.74 times the value of the contributory State Pension at that time and, 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

- (b) 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 this Part, by reference to such adjustments as may arise as provided for in *section 40*.

20.—(1) Every person who, having held the office of President of Ireland, ceases to hold that office for any reason other than death shall, subject to *section 52* and upon application being made to the relevant authority, be eligible to receive a pension in accordance with this section.

Calculation of retirement benefits — President.

(2) No vesting period shall apply in a case to which this section applies.

(3) The rate of pension under this section shall, at any time, be the equivalent of an annualised amount that is equal to the lesser of—

- (a) one-half of the annualised rate at that time of the pensionable remuneration that stands provided for the person holding the office of President, or
- (b) the sum of the referable amounts in respect of each calendar year or part of a calendar year which the Scheme member or former Scheme member has accrued.

(4) In *subsection (3)* “referable amounts 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 an amount calculated at a rate of 7.14 per cent of the Scheme member’s pensionable remuneration as President until payment of the pension arises in accordance with this Part by reference to such adjustments as may arise as provided for in *section 40*.

Calculation of retirement benefits — qualifying office holders.

21.—(1) A person having completed the vesting period and been the holder of a qualifying office who has attained normal pension age, shall, subject to *section 52* and upon application being made to the relevant authority, be eligible to receive a pension as provided for by this section—

- (a) if he or she no longer holds a qualifying office, or
- (b) if he or she ceases, other than by death, to hold office—
 - (i) as a qualifying office holder other than as Attorney General, or
 - (ii) as Attorney General by resigning, by having his or her appointment terminated or by ceasing to carry out duties pursuant to Article 30.5.4° of the Constitution.

(2) Subject to *subsection (3)*, a person to whom *subsection (1)* relates shall be eligible to receive an annual pension equivalent to the sum of the referable amounts in respect of each calendar year or part of a calendar year in a qualifying office, subject to—

- (a) a maximum of one-half of the annualised rate at that time of the pensionable remuneration that stands provided for the qualifying office that person last held, or
- (b) where, previous to the last qualifying office held, the person had held any other qualifying office for a period aggregating to not less than the vesting period and the pensionable remuneration in respect of such other office would be higher than the pensionable remuneration for the office last held, a maximum of one-half of the annualised rate at that time of the pensionable remuneration that stands provided for that higher remunerated office.

(3) Where a person, immediately before becoming eligible for a pension under this section, is or had previously been Attorney General but is or was a member of either House of the Oireachtas at the same time as being Attorney General, then the person may elect to have the sum of the referable amounts in respect of each calendar year or part of a

calendar year as such a member while Attorney General treated instead as part of the referable amounts in respect of each calendar year or part of a calendar year as Attorney General.

(4) Subject to *subsection (2)*, a Scheme member or former Scheme member's annual pension under this section shall equal the sum of the referable amounts at retirement, as determined under this section.

(5) Pension benefits under this section shall not be payable to a person while that person is a member of either House of the Oireachtas or of the European Parliament or is Attorney General or holds the office of President or is a designated office holder.

(6) Subject to *subsection (3)*, nothing in this section otherwise affects the pension earned as a member of either House of the Oireachtas or as a public servant.

(7) In *subsections (2) and (3)* "referable amounts 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 an amount calculated at a rate of 5 per cent of the Scheme member's pensionable remuneration as a holder of a qualifying office until payment of the pension arises in accordance with this Part by reference to such adjustments as may arise as provided for in *section 40*.

22.—(1) A person having completed the vesting period and having been a holder of a judicial office shall, subject to *section 52*, be eligible to receive a pension and a lump sum as provided for by this section if he or she either—

Calculation of retirement benefits — holders of judicial offices.

(a) has attained the normal pension age and has ceased to be a holder of a judicial office before reaching the retirement age for such a holder prescribed by law, or

(b) has attained the retirement age for such a holder as so prescribed.

(2) A person who is a Scheme member or former Scheme member to whom *subsection (1)* relates shall, upon application being made to the relevant authority, be eligible to receive upon his or her retirement—

(a) an annual pension equivalent to the sum of the referable amounts in respect of each calendar year or part of a calendar year as a holder of a judicial office, subject to a maximum equivalent to one-half of the annualised rate at that time of the pensionable remuneration that stands provided for the person concerned at the time he or she ceased to be a holder of a judicial office, and

(b) a lump sum payment equivalent to the sum of the referable amounts in respect of each calendar year or part of a calendar year as a holder of a judicial office, subject to a maximum equivalent to one and a half times the annualised rate at that time of the pensionable remuneration that stands provided for the person concerned at the time he or she ceased to be a holder of a judicial office.

(3) In this section "referable amounts 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—

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- (a) in the case of an annual pension an amount calculated at a rate of 2.5 per cent of the Scheme member's pensionable remuneration for that year or part of a year as a holder of a judicial office, and
- (b) in the case of a lump sum payment an amount calculated at a rate of 7.5 per cent of the Scheme member's pensionable remuneration for that year or part of a year as a holder of a judicial office,

as adjusted thereafter, until payment of the pension and lump sum arises in accordance with this Part, by reference to such adjustments as may arise as provided for in *section 40*.

Calculation of retirement benefits — Comptroller and Auditor General.

23.—(1) A person having completed the vesting period and having been a holder of the office of Comptroller and Auditor General shall, subject to *section 52*, be eligible to receive a pension and a lump sum as provided for by this section if he or she either—

- (a) has attained the normal pension age and has ceased to be a holder of that office before reaching the retirement age for such a holder prescribed by law, or
- (b) has attained the retirement age for such a holder as so prescribed.

(2) A person who is a Scheme member or former Scheme member to whom *subsection (1)* relates shall, upon application being made to the relevant authority, be eligible to receive upon his or her retirement—

- (a) an annual pension equivalent to the sum of the referable amounts in respect of each calendar year or part of a calendar year as a holder of the office of Comptroller and Auditor General, subject to a maximum equivalent to one-half of the annualised rate at that time of the pensionable remuneration that stands provided for the person concerned at the time he or she ceased to be a holder of that office, and
- (b) a lump sum payment equivalent to the sum of the referable amounts in respect of each calendar year or part of a calendar year as a holder of the office of Comptroller and Auditor General, subject to a maximum equivalent to one and a half times the annualised rate at that time of the pensionable remuneration that stands provided for the person concerned at the time he or she ceased to be a holder of that office.

(3) In this section “referable amounts 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,

- (a) where the office of Comptroller and Auditor General is held on a basis which is not fully insured for social welfare purposes, means—
 - (i) in the case of an annual pension an amount calculated at a rate of 2.5 per cent of the Scheme member's pensionable remuneration for that year or part of a year as a holder of the office of Comptroller and Auditor General, and

- (ii) in the case of a lump sum payment an amount calculated at a rate of 7.5 per cent of the Scheme member's pensionable remuneration for that year or part of a year as a holder of the office of Comptroller and Auditor General,

as adjusted thereafter, until payment of the pension and lump sum arises in accordance with this Part, by reference to such adjustments as may arise as provided for in *section 40*,

- (b) where the office of Comptroller and Auditor General is held on a basis which is fully insured for social welfare purposes, means—

- (i) in the case of an annual pension, an amount calculated at a rate of—

- (I) 0.58 per cent of the Scheme member's pensionable remuneration for that year or part of a year as a holder of the office of Comptroller and Auditor General that is less than or equal to 3.74 times the value of the contributory State Pension at that time, and

- (II) 2.5 per cent of the Scheme member's pensionable remuneration for that year or part of a year as a holder of the office of Comptroller and Auditor General that is greater than 3.74 times the value of the contributory State Pension at that time,

and

- (ii) in the case of a lump sum payment an amount calculated at a rate of 7.5 per cent of the Scheme member's pensionable remuneration for that year or part of a year as a holder of the office of Comptroller and Auditor General,

as adjusted thereafter, until payment of the pension and lump sum arises in accordance with this Part, by reference to such adjustments as may arise as provided for in *section 40*.

24.—(1) A person having completed the vesting period and having been a member of either House of the Oireachtas shall, subject to *section 52*, be eligible to receive a pension and a lump sum as provided for by this section if he or she either—

Calculation of retirement benefits — members of either House of the Oireachtas.

- (a) has attained normal pension age and is no longer a member of either such House, or
- (b) after attaining normal pension age ceases, other than by death, to be a member of either such House,

and is not serving as President or as a member of the European Parliament or does not hold a pensionable public service position on the appointment or nomination of the Government or of a member of the Government.

(2) A person who is a Scheme member or former Scheme member to whom *subsection (1)* relates shall, upon application being made to the relevant authority, be eligible to receive—

- (a) an annual pension equivalent to the sum of the referable amounts in respect of each calendar year or part of a calendar year as a member of either House of the Oireachtas, subject to a maximum equivalent to one-half of the annualised rate at that time of the pensionable remuneration that stands provided for the person concerned as a member of either such House, and
- (b) a lump sum payment equivalent to the sum of the referable amounts in respect of each calendar year or part of a calendar year as a member of either House of the Oireachtas, subject to a maximum equivalent to one and a half times the annualised rate at that time of the pensionable remuneration that stands provided for the person concerned as a member of either such House.

(3) In this section “referable amounts 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—

- (a) in the case of an annual pension an amount calculated at a rate of 2.5 per cent of the Scheme member’s pensionable remuneration for that year or part of a year as a member of either House of the Oireachtas, and
- (b) in the case of a lump sum payment an amount calculated at a rate of 7.5 per cent of the Scheme member’s pensionable remuneration for that year or part of a year as a member of either House of the Oireachtas,

as adjusted thereafter, until payment of the pension and the lump sum arises in accordance with this Part, by reference to such adjustments as may arise as provided for in *section 40*.

Calculation of retirement benefits — designated office holders.

25.—(1) A person having completed the vesting period and having been a designated office holder shall, subject to *section 52* and upon application being made to the relevant authority, be eligible to receive a pension and a lump sum as provided for by this section if he or she either—

- (a) has attained normal pension age and is no longer a designated office holder, or
- (b) after attaining normal pension age ceases, other than by death, to be a designated office holder.

(2) A person who is a Scheme member or former Scheme member to whom *subsection (1)* relates shall be eligible to receive—

- (a) an annual pension equivalent to the sum of the referable amounts in respect of each calendar year or part of a calendar year as a designated office holder, subject to a maximum of one-half of the annualised rate at that time of the pensionable remuneration that stands provided for the person concerned at the time of his or her retirement, and
- (b) a lump sum payment equivalent to the sum of the referable amounts in respect of each calendar year or part of a calendar year but—

- (i) in the case of a designated office holder who last held one of the designated offices set out in *paragraphs (e), (f), (g) or (h)* of the definition of “designated office holder” in *subsection (3)*, subject to a maximum equivalent to three-quarters of the annualised rate at that time of the pensionable remuneration that stands provided for the designated office holder at the time of his or her retirement, and
- (ii) in the case of any other designated office holder, subject to a maximum equivalent to one and a half times the annualised rate at that time of the pensionable remuneration that stands provided for that designated office holder at the time of his or her retirement.

(3) In this section—

“designated office holder” means each of the following:

- (a) the Director of Public Prosecutions;
- (b) the Ombudsman;
- (c) the Master of the High Court;
- (d) a county registrar, being a person appointed as such under section 35 of the Court Officers Act 1926;
- (e) a member of the Labour Court;
- (f) a member of An Bord Pleanála;
- (g) a member of the Competition Authority;
- (h) a director of the Environmental Protection Agency;
- (i) a Revenue Appeals Commissioner;
- (j) a person holding any other office or other position in a public service body that, in the opinion of the Minister, having consulted with such other persons (if any) as the Minister considers appropriate in the circumstances, is analogous to a position to which *paragraph (a), (b), (c), (d), (e), (f), (g), (h) or (i)* relates and which has been prescribed by the Minister for the purposes of this definition;

“referable amounts 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 for a designated office holder—

- (a) who holds office on a basis which is not fully insured for social welfare purposes, means—
 - (i) for the purpose of the calculation of an annual pension, an amount calculated at a rate of 1.67 per cent of the Scheme member’s pensionable remuneration for that year or part of a year as a designated office holder 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,

(ii) for the purpose of the calculation of a lump sum payment, an amount calculated—

(I) in the case of a designated office holder to whom *subsection (2)(b)(i)* relates, at a rate of 2.5 per cent, and

(II) in the case of a designated office holder to whom *subsection (2)(b)(ii)* relates, at a rate of 5 per cent,

of the Scheme member's pensionable remuneration for that year or part of a year as a designated office holder 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 the lump sum arises in accordance with this Part, by reference to such adjustments as may arise as provided for in *section 40*,

(b) who holds office on a basis which is fully insured for social welfare purposes, means—

(i) for the purpose of the calculation of an annual pension, an amount calculated at a rate of—

(I) 0.58 per cent of the Scheme member's pensionable remuneration for that year or part of a year as a designated office holder that is less than or equal to 3.74 times the value of the contributory State Pension at that time, 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

(II) 1.67 per cent of the Scheme member's pensionable remuneration for that year or part of a year as a designated office holder that is greater than 3.74 times the value of the contributory State Pension at that time, 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,

(ii) for the purpose of the calculation of a lump sum payment, an amount calculated—

(I) in the case of a designated office holder to whom *subsection (2)(b)(i)* relates, at a rate of 2.5 per cent, and

(II) in the case of a designated office holder to whom *subsection (2)(b)(ii)* relates, at a rate of 5 per cent,

of the Scheme member's pensionable remuneration for that year or part of a year as a designated office holder 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 lump sum arises in accordance with this Part, by reference to such adjustments as may arise as provided for in *section 40*.

26.—(1) This section has effect in respect of service as a pensionable public servant by a Scheme member or former Scheme member in any of the following cases:

Calculation of retirement benefits — Scheme members who may be required to retire early.

- (a) as a member of the Garda Síochána in a pensionable position that requires retirement, or gives an entitlement to retire, upon attaining 55 years of age;
- (b) as a member of the Permanent Defence Force in a pensionable position that—
 - (i) requires retirement or discharge or gives an entitlement on retirement or discharge to immediate payment of retirement benefits upon attaining 50 years of age, or
 - (ii) is subject to compulsory retirement or discharge on completion of a specified period of service or on age grounds or otherwise in accordance with that person's terms and conditions of service and which requires him or her to be retired or discharged before attaining the age of 50 years;
- (c) as a prison officer in a pensionable position that requires retirement, or gives an entitlement to retire, upon attaining 55 years of age;
- (d) as a specified fire brigade employee.

(2) A person who is a Scheme member or former Scheme member to whom *paragraph (a), (b)(i), (c) or (d) of subsection (1)* relates and who—

- (a) has completed the vesting period, and
- (b) attains the age to which that paragraph relates,

shall, subject to *section 52* and upon application being made to the relevant authority, be eligible to receive upon commencement of retirement or discharge—

- (i) an annual pension equivalent to the sum of the referable amounts in respect of each calendar year or part of a calendar year as a Scheme member to whom *subsection (1)* applies, and
 - (ii) a lump sum payment equivalent to the sum of the referable amounts in respect of each calendar year or part of a calendar year as a Scheme member to whom *subsection (1)* applies.
- (3) (a) A person who is a Scheme member or former Scheme member to whom *paragraph (b)(ii) of subsection (1)* relates and who has completed the vesting period shall, subject to *paragraph (b)* and upon application being made to the relevant authority, be eligible to receive—

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- (i) an annual pension equivalent to the sum of the referable amounts in respect of each calendar year or part of a calendar year as a Scheme member to whom *subsection (1)* applies, and
- (ii) a lump sum payment equivalent to the sum of the referable amounts in respect of each calendar year or part of a calendar year as a Scheme member to whom *subsection (1)* applies.

(b) For the purposes of *paragraph (a)*—

- (i) where the person concerned is retired or discharged from the Permanent Defence Force on completion of a specified period of service or on age grounds or in accordance with *subsection (1)(b)(ii)*, then, without prejudice to *section 28(5)* or *29*, the commencement of payment of retirement benefits shall not be earlier than the age at which a person is entitled to the pension and lump sum payment under *section 28(1)(a)*,
- (ii) where the person concerned retires, resigns or is dismissed or discharged from the Permanent Defence Force—
 - (I) as a consequence of any fault, omission or action of that person, or
 - (II) otherwise than in accordance with *subsection (1)(b)(ii)*,

then, without prejudice to *section 28(5)* or *29*, the commencement of payment of retirement benefits shall not be earlier than the age at which a person is entitled to the pension and lump sum payment under *section 28(1)(b)*.

(4) *Section 13* shall be read subject to this section.

(5) In this section—

“prison officer” means a person to whom, but for this Part, a superannuation allowance might be granted (without a medical certificate) upon his or her attaining the age of 55 years, by virtue of being a person to whom *paragraph (a)* (inserted by section 5 of the Public Service Superannuation (Miscellaneous Provisions) Act 2004) of section 1(1) of the Superannuation (Prison Officers) Act 1919 relates;

“referable amounts 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—

- (a) for the purpose of the calculation of an annual pension, an amount calculated at a rate of—
 - (i) 0.58 per cent of the Scheme member’s pensionable remuneration for that year or part of a year as a Scheme member to whom *subsection (1)* applies that is less than or equal to 3.74 times the value of the contributory State Pension at that time, 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

- (ii) 1.43 per cent of the Scheme member's pensionable remuneration for that year or part of a year as a Scheme member to whom *subsection (1)* applies that is greater than 3.74 times the value of the contributory State Pension at that time, 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

- (b) for the purpose of the calculation of the lump sum payment, an amount calculated at a rate of 4.29 per cent of the Scheme member's pensionable remuneration for that year or part of a year as a Scheme member to whom *subsection (1)* applies, adjusted by reference to the proportion of full-time hours worked by the person where not working on a full-time basis,

and as adjusted thereafter, until payment of the pension and lump sum arises in accordance with this Part, by reference to such adjustments as may arise as provided for in *section 40*;

“specified fire brigade employee” means a person who holds a whole-time post under a local authority which is a fire authority under the Fire Services Act 1981 whose duties include the attendance at fires and whose conditions of employment, as determined by a local authority under *section 158(1)(b)* of the Local Government Act 2001, require him or her to retire upon attaining the age of 55 years.

27.—(1) In this section “specified age”, in relation to a Scheme member, means, subject to any order under *subsection (3)*, the age of 55 years. Cost neutral early retirement.

(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 relevant authority responsible for paying the pension and lump sum to have his or her pension and lump sum benefits paid with effect from that date, and
- (c) the relevant authority for the public service body where the Scheme member is serving agrees to those benefits being so paid,

then those benefits shall be calculated by reference to the Scheme member's referable amounts 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 Minister considers, having regard to—
- (a) the requirements of the public service generally or any part of the public service, or
 - (b) the state of the financial affairs of the public service generally or any part of the public service,

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 Minister, merit a higher age to be attained before *subsection (2)* applies, then 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.

28.—(1) Except in respect of the office to which *section 20* applies, where a person, after completing the vesting period, ceases to be a public servant other than under *section 27* or *29*, 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 Part as a “preserved pension” and a “preserved lump sum” respectively)—

- (a) in the case of a person to whom *section 26(1)(b)(ii)* applies other than where *section 26(3)(b)(ii)* also applies, upon attaining the age of 60 years, and
- (b) in any other case (including a case to which *section 26(3)(b)(ii)* applies)—
 - (i) upon attaining the age of 66 years, or
 - (ii) upon attaining the age at which from time to time a person is entitled to or eligible to receive a contributory State Pension, or would be so entitled or eligible to receive a contributory State Pension had he or she met the non-age related qualifying criteria,

whichever last occurs.

(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 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 the calculation of benefits sections 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 *section 40* 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 referable lump sum amounts as altered by reference to any adjustments that would have been made under *section 40* 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 relevant authority that, if still serving, he or she would be eligible to retire on medical grounds under *section 29*, 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 relevant authority is so satisfied.

(6) Regulations made under *section 29(6)* shall not apply to any preserved pension or preserved lump sum, payable under *subsection (5)*.

(7) This section is subject to *section 14*.

29.—(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)* or to whom *subsection (10)* applies, as the case may be, shall be eligible to receive a gratuity of 8.5 per cent of actual pensionable remuneration during the period of service. Retirement on medical grounds.

(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)* or to whom *subsection (10)* applies, as the case may be, 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 relevant authority 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

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- (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 relevant authority 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 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 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 referable amount 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 this Part, 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 relevant authority concerned 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 referable amounts 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 referable amounts at the time of retirement or discharge on medical grounds.

(9) For the purposes of *subsection (8)*—

- (a) the relevant authority concerned 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 relevant authority with the approval of the Minister.

(10) *Subsections (3), (4) and (5)* do not apply to a member of the Permanent Defence Force who is, in accordance with the regulations made under the Defence Acts 1954 to 2007 or other administrative measure duly made by the Minister for Defence, compulsorily discharged or retired on medical grounds from the Permanent Defence Force having been found unfit for further service.

30.—(1) If a Scheme member, other than the President or a qualifying office holder but including an Attorney General who is not a member of either House of the Oireachtas, 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 this Part referred to as a “death gratuity”, equal to twice the Scheme member’s pensionable remuneration in the 12 months prior to his or her death less—

Death in service.

- (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 twice 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 Chapter.

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

- (a) the relevant authority for the public service body in which the person concerned was last serving before retirement as a public servant and in respect of which he or she was a Scheme member, or
- (b) such other relevant authority that 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 relevant authority making arrangements for the payment as its agent of any retirement benefit through another relevant authority or a third party.

Payment of pension, etc.

32.—(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 Part.

(2) Pensions payable under this Part shall be paid in arrears by a relevant authority and shall continue—

- (a) throughout the life of the former Scheme member concerned, and
- (b) where appropriate, after the former Scheme member's death, 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 relevant authority 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, that authority 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 relevant authority considers to be dependants of the relevant person,

and in such manner as the relevant authority 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 section shall discharge such relevant authority 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 relevant authority 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 section “relevant person” means a person in receipt of a pension under the Scheme.

33.—(1) Consequent on the death of a Scheme member or former Scheme member (in this Part 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 Minister may, where the deceased member is survived by a spouse or civil partner and subject to the other provisions of this Part, grant to that spouse or civil partner a pension (in this Part referred to as a “survivor’s pension”) in respect of the deceased member’s service as a public servant. Survivor’s pension.

(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 *section 29* had he or she retired or been retired or discharged on medical grounds on the date of his or her death.

34.—(1) The spouse or civil partner of a deceased member who survives that member— Grant and payment of survivor’s pension.

- (a) shall not be granted or paid a survivor’s pension under this Part 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 this Part 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—

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- (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 Minister or other relevant authority concerned is satisfied that cohabitation has ceased, or
- (iii) there are, in the opinion of the Minister, having considered an application, compassionate grounds for the payment of a survivor's pension,

then, the Minister or other relevant authority, with the consent of the Minister, may, if it is considered to be just and equitable in all the circumstances by the Minister or other relevant authority (as appropriate), 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 Minister may delegate in writing that function to any relevant authority 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 Minister in writing.

(4) Any delegation under *subsection (3)* may include directions or other instructions to the relevant authority concerned 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 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 relevant authority, such date as appears to the relevant authority 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 Minister, being a date not earlier than the date on which the relevant application is received by the 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 and ending on the day of the death of the spouse or civil partner of that deceased member.

Children's pension
— grant.

35.—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, the Minister may, where the deceased member is survived by one or more dependent children, grant for such children a pension (in

this Part referred to as a “children’s pension”) in respect of the deceased member’s service as a pensionable public servant.

36.—(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: Children’s pension — beneficiaries.

- (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 Minister there are compassionate grounds for so doing, 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 this Part 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 Minister may delegate in writing that function to any relevant authority 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 Minister in writing.

(4) Any delegation under *subsection (3)* may include directions or other instructions to the relevant authority concerned 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 Minister in writing.

(5) In making a determination under this section by virtue of *subsection (3)*, a relevant authority 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 relevant authority otherwise directs, he or she shall, for the duration of such break, be regarded as a child for the purposes of this Part.

(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.

37.—(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 relevant authority 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 relevant authority may determine.

(4) The Minister may, from time to time issue directions or other instructions in writing to all relevant authorities or to a class or classes of relevant authorities 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 Minister in writing.

(5) In making a determination under this section, a relevant authority shall do so in accordance with any subsisting directions or other instructions referred to in *subsection (4)*.

Children's pension
— conditions for
payment, etc.

38.—(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 this Part 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 this Part 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 Minister or the relevant authority concerned may in the absolute discretion of the Minister or, subject to *subsections (5) and (6)*, the relevant authority, as the case may be, direct that a children's pension be payable and, where such a direction is made, the Minister or the relevant authority (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 Minister may, from time to time, issue directions or other instructions in writing to all relevant authorities or to a class or classes of relevant authorities 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 Minister in writing.

(6) In exercising or not exercising a discretion under this section, a relevant authority shall do so in accordance with any subsisting directions or other instructions issued to the authority under *subsection (5)*.

39.—(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.

Children's pension
— calculation of rate
and payment.

(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.

Pension and other adjustments

40.—(1) The Minister shall cause the consumer price index to be examined as follows to establish whether or not there has been any increase in that index.

Adjustment of
pension and
referable amounts.

(2) In respect of referable amounts—

- (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 referable amounts accrued under the Scheme shall be increased to reflect any such increase.

(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 Minister 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 payable under the Scheme shall be increased to reflect any such increase.

(4) The Minister shall decide when any increase in pensions under this section 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 this Part, or
- (b) generally in respect of all pensions payable under this Part.

Review of Scheme, etc.

Review of Scheme.

41.—(1) 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 section 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 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 to whom *section 20* relates and the contributions paid by those persons and the contribution made by the State in respect of those persons;
- (c) the cost of the membership of persons or any class of persons to whom *section 19, 21, 22, 23, 24, 25, 26, 27, 28 or 29* 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;
- (d) the cost of the membership of persons or any class of persons in respect of whom—
 - (i) a lump sum is paid under *section 30*, or
 - (ii) benefits are paid under *section 33 or 39*,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;
- (e) any statutory deductions;
- (f) any other matter that 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), (e) or (f)*, as the case may be, relates as the Minister directs.

42.—(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 *section 41* the 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), (e) or (f)* of *section 41(4)* relates should be revised, then the Minister

Alteration of contribution rates.

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 this Chapter 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 this Chapter 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 this Chapter or by order under this section, 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 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 of relevant authority to keep records, calculate contributions, etc.

43.—(1) The relevant authority that is responsible for, or authorises, the payment of pensionable remuneration to a Scheme member shall keep full and proper account of—

- (a) the contributions paid by the Scheme member concerned in each pay period, and
- (b) the referable amounts 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 section referred to as a “tax year”) but not later than 6 months after the end of such tax year, the relevant authority that is responsible for, or authorises, the payment of pensionable remuneration to a Scheme member 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 referable amounts accrued by the Scheme member in such tax year, and

- (c) the total referable amounts 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 *section 40*.

(3) Notwithstanding *subsection (2)*, where a Scheme member ceases to be employed in a public service body 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 person who is responsible for, or authorises, the payment of remuneration to a Scheme member shall provide a statement to the Scheme member and, where relevant, to the Scheme member's relevant authority at that time 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 referable amounts 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 referable amounts 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 *section 40*.

(4) A failure by a relevant authority 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 Pensions Ombudsman may investigate and determine under section 131 of the Pensions Act 1990 and the other provisions of Part XI of that Act which relate to a complaint or dispute shall apply.

44.—(1) All payments under this Chapter in respect of the service of Scheme members and deceased members and accrued under the Scheme shall— Payments out of Central Fund, etc.

- (a) in respect of any Scheme member to whom *section 20, 21, 22 or 23* applies, be paid out of the Central Fund or the growing produce of that fund by or on behalf of the Minister, and
- (b) in any other case, be paid from funds provided by the Oireachtas for that purpose.

(2) Payments made under *subsection (1)* may include money amounts representing referable amounts that may be transferred to bodies specified in *section 18(a)*.

45.—(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 this Chapter, 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 this Chapter,

Repayment of retirement benefits, etc., overpaid.

then the person or, where he or she has died, his or her legal personal representative, shall repay to the relevant authority concerned 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 Minister.

(3) In default of any repayment in accordance with this section, the full amount of the excess payment outstanding may be recovered by the relevant authority concerned as a simple contract debt in any court of competent jurisdiction.

Pensionable remuneration and simultaneous employment in more than one position, etc.

46.—(1) 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 referable amounts provided for in the calculation of benefits sections.

(2) *Subsection (1)* does not apply where a person holds more than one office or employment to which *sections 21* and *24* relate and, for the purposes of the application of *subsection (1)*, the offices and employments to which this subsection relates shall be treated as if they were one office or employment.

CHAPTER 3

Pre-existing Public Service Pension Schemes

Extension of *section 40* to pre-existing public service pension schemes.

47.—(1) The Minister may, by order, extend the application of *section 40*—

- (a) to one or more than one pre-existing public service pension scheme, or
- (b) generally to all pre-existing public service pension schemes.

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

- (a) a draft of the order has been laid before both Houses of the Oireachtas, and
- (b) the draft has been approved by resolution passed by each of those Houses.

Application of Scheme to certain persons.

48.—(1) Where the Minister considers it appropriate in the circumstances, the Minister may, at his or her discretion, by order set a date or dates beyond which the provisions of either or both—

- (a) *subsections (3)(b), (4) and (5) of section 10*, and
- (b) *subsections (3), (4) and (5) of section 2 of the Public Service Superannuation (Miscellaneous Provisions) Act 2004*,

shall not apply having regard to—

- (i) the orderly cesser of a pre-existing public service pension scheme either generally or in respect of any class or classes of persons, or

- (ii) providing for efficiencies in the management and administration of the public service generally or any part of it.

(2) Where an order is made under *subsection (1)* that relates to a person, then nothing in this section shall be read so as to detrimentally affect any entitlements of such person that accrued before the order was made.

CHAPTER 4

Provisions Applicable to all Public Service Pension Schemes

49.—(1) A person who applies for or is in receipt of a pension under the Scheme or a pension under a pre-existing public service pension scheme shall, in relation to him or her, give to the relevant authority or other body concerned (being the authority or body that is or would be responsible for or authorises or would authorise the payment of a pension to the person) such information as is necessary for the proper operation of the Scheme or of a pre-existing public service pension scheme as the case may be. Duty to give information, etc.

(2) The spouse or civil partner of a deceased member or a deceased member of a pre-existing public service pension scheme, as the case may be, who applies or has applied for a survivor's pension or a pension for the children of that deceased member shall, in relation to him or her or any of those children, give to the relevant authority or other body concerned (being the authority or body that is or would be responsible for, or authorises or would authorise, the payment of a survivor's pension or a pension for the children of any such deceased member) such information as is necessary for the proper operation of the Scheme or of a pre-existing public service pension scheme, as the case may be.

(3) A person having the care of a child of a deceased member or a deceased member of a pre-existing public service pension scheme, as the case may be, who applies or has applied for a children's pension in respect of that child shall give to the relevant authority or other body concerned (being the authority or body that is or would be responsible for, or authorises or would authorise, the payment of a pension in respect of that child) such information as is necessary for the proper operation of the Scheme or of a pre-existing public service pension scheme, as the case may be, in relation to that child.

(4) The legal personal representative of a deceased member or a deceased member of a pre-existing public service pension scheme, as the case may be, shall give to a relevant authority such information as is necessary for the proper operation of the Scheme or of a pre-existing public service pension scheme in relation to any payments under it to the legal personal representative.

(5) Any person to whom *subsections (1) to (4)* do not apply—

- (a) who applies for a pension under the Scheme or a pre-existing public service pension scheme shall give to a relevant authority or other body concerned (being the authority or body that would be responsible for, or would authorise, the payment of the pension concerned) such information as is necessary for the proper operation of the Scheme or the pre-existing public service pension scheme by the relevant authority, or

(b) who is in receipt of a pension (whether in respect of himself or herself or otherwise) under the Scheme or a pre-existing public service pension scheme shall give to a relevant authority or other body concerned (being the authority or body that is responsible for, or authorises, the payment of the pension concerned) such information as is necessary for the proper operation of the Scheme or the pre-existing public service pension scheme in respect of the pension concerned.

(6) Any person who—

(a) applies for or is in receipt of more than one pension under either or both the Scheme and a pre-existing public service pension scheme (whether in respect of himself or herself or otherwise), or

(b) applies for one or more than one such pension while in receipt of one or more than one such pension,

shall give to the relevant authority or other body concerned (being the authority or body that is or would be responsible for, or authorises or would authorise, the payment of any of the pensions concerned) such information as is necessary to identify, in relation to him or her or any other person in respect of whom the pension is payable or applied for, all such pensions and applications for pensions.

(7) A relevant authority that is responsible for or authorises the payment of pensionable remuneration to a Scheme member or to a member of a pre-existing public service pension scheme shall give the Minister or another relevant authority such information—

(a) as that relevant authority considers necessary for the proper operation of *Part 2* or of the pre-existing public service pension scheme concerned,

(b) as may be requested by the Minister, or

(c) as may be requested by any other relevant authority for the proper operation of *Part 2* or of the pre-existing public service pension scheme concerned,

in respect of any matter to which *subsection (1), (2), (3), (4), (5) or (6)* relates.

Use of Personal
Public Service
Number (PPSN).

50.—(1) The identifying series, known as the Personal Public Service Number (PPSN), of a Scheme member 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 a pre-existing public service pension scheme—

(a) shall be supplied by the member or that other person to the relevant authority 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 relevant authority or other body as a unique identifier—

- (i) to record details in respect of the pension contributions, referable amounts and other benefits under the 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 this Part,

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.

51.—(1) Any person who—

Duty to make declarations, etc.

- (a) takes up employment in a public service body, and
- (b) either—

- (i) has an entitlement to any preserved pension or any preserved lump sum or any other retirement benefit, or
- (ii) has received or is in receipt of retirement benefits, under the Scheme or a pre-existing public service pension scheme of which he or she was or is a member,

shall provide a declaration to that effect to the relevant authority.

(2) Any person who applies for a benefit from the Scheme or a pre-existing public service pension scheme shall make a declaration to the relevant authority concerned of any preserved pension 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 to whom *section 52* applies shall upon application for a public service pension from any public service body make a declaration to the relevant authority 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 authority for the purposes of that section.

52.—(1) Where—

Abatement and reckoning of pensionable service.

- (a) a pension is duly payable by a public service body 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 no more of the pension shall be paid, in respect of any specified period of receipt of the remuneration to which *paragraph (b)* relates, than so much as, with that remuneration, equals the pensionable

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remuneration which the pensioner would have received in respect of that period if, during it, he or she—

- (i) held the office, position or employment in which he or she served on the last day of his or her service, but,
- (ii) was remunerated—
 - (I) at the rate of pensionable remuneration for that office, position or employment on that day, or
 - (II) at that rate of pensionable remuneration as amended to take account of so much of any change in that rate from the current rate for that office, position or employment since that day as may be specified by the Minister.

(2) For the purposes of *subsection (1)*—

“current rate for that office” includes, where that office, position or employment has ceased to exist, the rate that would be the current rate for that office, position or employment if it had not ceased to exist;

“pensionable remuneration”, in relation to a member of a pre-existing public service pension scheme, means remuneration which corresponds to pensionable remuneration of a former Scheme member;

“specified period” means specified by the Minister, which may be specified by reference to a period of time or the happening of an event.

(3) Any doubt, question or dispute arising under this section shall be decided by the Minister whose decision thereon shall be final and conclusive.

(4) The Minister may, at his or her discretion waive the application of *subsection (1)* in any particular case, including a case involving a class of person or persons, if the Minister is satisfied that—

- (a) persons with particular training and experience are required for particular work in the public service body concerned,
- (b) the pensioner has that training and experience, is being employed for that work and is otherwise suitable for employment in all respects, and
- (c) it is not practicable to meet that requirement otherwise than by the employment of the pensioner.

(5) Nothing in *section 3* or *subsection (4)* affects any discretion exercised by the Minister under *section 1(2)* of the Pensions (Abatement) Act 1965 in respect of a person where the person continues to hold the position to which the discretion relates.

(6) If pensionable remuneration is being or has been earned under one or more than one pre-existing public service pension scheme in respect of employment by a person as a public servant in one or more than one public service body then, subject to *subsection (7)*, no more than the equivalent of 40 years’ service in total may be taken into account in calculating any pensions or lump sums payable under that scheme or those schemes.

(7) Where before the passing of this Act a person—

- (a) is entitled to have reckoned more than the equivalent of 40 years' service in aggregate under pre-existing public service pension schemes when calculating the aggregate of any pensions or lump sums payable under those schemes, and
- (b) has accrued more than the equivalent of 40 years' service,

then nothing in *subsection (6)* shall affect such entitlement and that subsection shall apply to him or her as if the reference to the equivalent of 40 years' service were a reference to the service to which *paragraph (b)* relates.

(8) Nothing in this section affects the provisions of the Oireachtas (Allowances to Members) Act 1938, in particular in respect of any person to whom either or both subsection (2) of section 4 and subsection (2) of section 16 of that Act (as amended by the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices Act 2009) applies or apply, as the case may be, and those subsections shall apply to Scheme members to whom the Oireachtas (Allowances to Members) Act 1938 relates.

53.—(1) Where a Scheme member or a member of a pre-existing public service pension scheme— Cesser or reduction of benefit.

- (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 relevant authority 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 relevant authority may—

- (a) where contributions would, but for this section, be returned to—
 - (i) a Scheme member under *section 17*, or
 - (ii) a member of a pre-existing public service pension scheme,

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.

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(3) Where a pension is being paid to a person under this Part 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 Minister or any other relevant authority concerned may reduce or cease paying a pension awarded under this Part 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 section 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.

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

- (a) more than one survivor's pension to which *section 33* relates, or
- (b) more than one survivor's pension (by whatever name called) paid under 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 any pre-existing public service pension scheme, or
- (c) a deceased person to whom both *paragraphs (a)* and *(b)* 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.

CHAPTER 5

Consequential Amendments (Part 2)

Amendment of Public Service Superannuation (Miscellaneous Provisions) Act 2004.

55.—The Public Service Superannuation (Miscellaneous Provisions) Act 2004 is amended—

(a) in section 3 by substituting the following for subsection (1):

“(1) A person who is a new entrant to the public service shall not be obliged to retire on age grounds unless—

- (a) otherwise provided for by this Act, or

(b) he or she is a member of the Single Public Service Pension Scheme other than a member of that Scheme who is the President, a member of either House of the Oireachtas or a qualifying office holder for the purposes of the *Public Service Pensions (Single Scheme and Other Provisions) Act 2012.*,”

and

(b) in section 5 by substituting the following for subsection (2):

“(2) The Superannuation Acts 1834 to 1963 shall have effect in respect of—

(a) with effect from 16 February 1988, the class of officers who are prison governors, and

(b) with effect from 1 March 2012, the class of officers, who are appointed to the position of Prison Campus Governor by the Minister for Justice and Equality,

subject to the Superannuation (Prison Officers) Act 1919 as if each class of officers concerned had been prescribed under and for the purposes of section 1(1) (as adapted by the Superannuation (Prison Officers) Act 1919, Adaptation Order 1933 (S.R. & O. No. 71 of 1933)) of the Superannuation (Prison Officers) Act 1919.”.

56.—Section 14 of the Teaching Council Act 2001 is amended by inserting the following after subsection (4):

Amendment of section 14 of Teaching Council Act 2001.

“(5) Subsection (4) shall not apply to employees who are members of the Single Public Service Pension Scheme.”.

57.—Section 41 of the Education (Welfare) Act 2000 is amended—

Amendment of section 41 of Education (Welfare) Act 2000.

(a) by substituting the following for subsection (6):

“(6) Subject to section 41A, no superannuation benefit shall be granted by the Board to or in respect of any of its staff (including the Chief Executive) who are members of a scheme under this section, nor shall any other arrangement be entered into for the provision of any superannuation benefit to such persons on their ceasing to hold office, other than in accordance with such scheme or schemes submitted and approved under this section.”,

and

(b) by inserting the following after subsection (7):

“(8) Subsections (1) to (7) shall not apply to any of the staff (including the Chief Executive) of the Board who are members of the Single Public Service Pension Scheme and no superannuation benefit shall be granted by the Board to such staff other than in accordance with that Scheme.”.

Amendment of sections 105 and 106 of Planning and Development Act 2000.

58.—The Planning and Development Act 2000 is amended—

- (a) in section 105 (as amended by the Public Service Superannuation (Miscellaneous Provisions) Act 2004) by substituting the following for paragraph (b) of subsection (13):

“(b) The chairperson shall vacate the office of chairperson on attaining the age of 65 years but where the chairperson is either—

- (i) a new entrant (within the meaning of the Public Service Superannuation (Miscellaneous Provisions) Act 2004) appointed on or after 1 April 2004, or
- (ii) a Scheme member (within the meaning of the *Public Service Pensions (Single Scheme and Other Provisions) Act 2012*,

then the requirement under this subsection to vacate office on grounds of age shall not apply.”,

and

- (b) in section 106 (as so amended) by substituting the following for paragraph (b) of subsection (13):

“(b) A person shall vacate the office of ordinary member on attaining the age of 65 years but where the ordinary member is either—

- (i) a new entrant (within the meaning of the Public Service Superannuation (Miscellaneous Provisions) Act 2004) appointed on or after 1 April 2004, or
- (ii) a Scheme member (within the meaning of the *Public Service Pensions (Single Scheme and Other Provisions) Act 2012*),

then the requirement under this subsection to vacate office on grounds of age shall not apply.”.

Amendment of sections 21 and 24 of Environmental Protection Agency Act 1992.

59.—The Environmental Protection Agency Act 1992 (as amended by the Public Service Superannuation (Miscellaneous Provisions) Act 2004) is amended—

- (a) in section 21 by substituting the following for paragraph (b) of subsection (14):

“(b) The Director General shall vacate the office of Director General on attaining the age of 65 years but where the Director General is either—

- (i) a new entrant (within the meaning of the Public Service Superannuation (Miscellaneous Provisions) Act 2004) appointed on or after 1 April 2004, or

- (ii) a Scheme member (within the meaning of the *Public Service Pensions (Single Scheme and Other Provisions) Act 2012*),

then the requirement under this subsection to vacate office on grounds of age shall not apply.”,

and

- (b) in section 24 (as so amended) by substituting the following for paragraph (b) of subsection (10):

“(b) A director shall vacate his office of director on attaining the age of 65 years but where the director is either—

- (i) a new entrant (within the meaning of the *Public Service Superannuation (Miscellaneous Provisions) Act 2004*) appointed on or after 1 April 2004, or
- (ii) a Scheme member (within the meaning of the *Public Service Pensions (Single Scheme and Other Provisions) Act 2012*),

then the requirement under this subsection to vacate office on grounds of age shall not apply.”.

60.—Section 13 of the *Dublin Institute of Technology Act 1992* is amended by substituting the following for subsection (3)(c)(iii) (inserted by the *Institutes of Technology Act 2006*):

Amendment of section 13 of *Dublin Institute of Technology Act 1992*.

“(iii) shall not be reckoned as salary or emolument for the purposes of the *Education Sector Superannuation Scheme* or the *Single Public Service Pension Scheme*, as the case may be.”.

61.—Section 2 of the *Ombudsman Act 1980* (as amended by the *Public Service Superannuation (Miscellaneous Provisions) Act 2004*) is amended—

Amendment of section 2 of *Ombudsman Act 1980*.

- (a) by substituting the following for paragraph (c) of subsection (3):

“(c) shall in any case vacate the office on attaining the age of 67 years except where the person is either—

- (i) a new entrant (within the meaning of the *Public Service Superannuation (Miscellaneous Provisions) Act 2004*) appointed on or after 1 April 2004, or
- (ii) a Scheme member (within the meaning of the *Public Service Pensions (Single Scheme and Other Provisions) Act 2012*),

in which case the requirement under this subsection to vacate office on grounds of age shall not apply.”.

and

(b) by substituting the following for subsection (7):

“(7) A person shall be not more than 61 years of age upon first being appointed to the office of Ombudsman, but where the person is either—

(a) a new entrant (within the meaning of the Public Service Superannuation (Miscellaneous Provisions) Act 2004) appointed on or after 1 April 2004, or

(b) a Scheme member (within the meaning of the *Public Service Pensions (Single Scheme and Other Provisions) Act 2012*),

then this subsection shall not apply.”.

PART 3

COST NEUTRAL EARLY RETIREMENT PROVISIONS FOR JUDGES AND CERTAIN COURT OFFICERS

Definitions (*Part 3*).

62.—In this Part—

“Act of 1961” means the Courts of Justice and Court Officers (Superannuation) Act 1961;

“Act of 1991” means the Courts (Supplemental Provisions) (Amendment) Act 1991.

Amendment of section 2 of Act of 1961.

63.—Section 2 of the Act of 1961 is amended—

(a) in subsection (2), by substituting “Subject to subsection (2A) of this section, upon the grant of a pension” for “Upon the grant of a pension”, and

(b) by inserting the following subsection after subsection (2):

“(2A) Upon the grant of a pension, to any person to whom this section applies, pursuant to regulations under section 5 of the Courts (Supplemental Provisions) (Amendment) Act 1991 where the amount of the pension payable is actuarially reduced by reason of that person not having reached the appropriate age within the meaning of section 6 of that Act, the amount of a gratuity granted to that person under subsection (2) of this section shall be actuarially reduced by reference to—

(a) the age of that person on the date on which he or she ceases to hold office as a judge of the Supreme Court, the High Court, the Circuit Court or the District Court, as the case may be, and

(b) the appropriate age as aforesaid of that person,

in accordance with actuarial tables approved and issued from time to time by the Minister.”.

64.—Section 4 of the Act of 1961 is amended—

Amendment of section 4 of Act of 1961.

- (a) in subsection (2), by substituting “Subject to subsection (2A) of this section, upon the grant of a pension” for “Upon the grant of a pension”, and
- (b) by inserting the following subsection after subsection (2):

“(2A) Upon the grant of a pension, to any person to whom this section applies, pursuant to regulations under section 5 of the Courts (Supplemental Provisions) (Amendment) Act 1991 where the amount of the pension payable is actuarially reduced by reason of that person not having reached the appropriate age within the meaning of section 6 of that Act, the amount of a gratuity granted to that person under subsection (2) of this section shall be actuarially reduced by reference to—

- (a) the age of that person on the date on which he or she ceases to hold office as the Master of the High Court or Taxing Master, as the case may be, and
- (b) the appropriate age as aforesaid of that person,

in accordance with actuarial tables approved and issued from time to time by the Minister.”.

65.—Section 5(1) of the Act of 1991 is amended—

Amendment of section 5(1) of Act of 1991.

- (a) in paragraph (a), by substituting “2 or more years of service” for “five years’ service or upwards”, and
- (b) in paragraph (b), by substituting “2 or more years of service” for “five or more years of service”.

66.—Section 6 of the Act of 1991 is amended—

Amendment of section 6 of Act of 1991.

- (a) in subsection (1), by substituting the following paragraphs for paragraphs (a) and (b):
 - “(a) to or in respect of a judge, including a judge of the District Court, otherwise than on his or her having reached the appropriate age or upon his or her death, and
 - (b) to or in respect of a person holding the office of Master of the High Court, Taxing Master or county registrar otherwise than on his or her having reached the appropriate age or upon his or her death.”,

- (b) by inserting the following subsection after subsection (1):

“(1A) Notwithstanding the provisions of subsection (1) of this section as to age or lapse of time, regulations under

section 5 of this Act providing for the grant of a pension mentioned in subsection (1)(a) or (1)(b) of that section to or in respect of a judge, including a judge of the District Court, or the Master of the High Court or Taxing Master may provide for the grant of such a pension to or in respect of such a judge or such officer who vacates or ceases to hold office having reached the specified age but before reaching the appropriate age, provided that the pension payable in such circumstances is actuarially reduced by reference to—

- (a) the age of such a judge or such officer on the date of such vacation of office or ceasing to hold office, as the case may be, and
- (b) the appropriate age of such a judge or such officer, as the case may be,

in accordance with actuarial tables approved and issued from time to time by the Minister.”,

and

- (c) by adding the following subsection after subsection (5):

“(6) In this section—

‘appropriate age’ means—

- (a) in relation to a judge of the Supreme Court, the High Court or the Circuit Court—
 - (i) 70 years of age, or
 - (ii) the earliest age (being not less than 65 years of age) at which 15 years have elapsed since—
 - (I) the date of his or her appointment to the office which he or she vacated, or
 - (II) the date of his or her appointment to the first office in which he or she served (where his or her service consists of service in more than one office),

whichever age is reached first,

- (b) in relation to a judge of the District Court, 65 years of age, and
- (c) in relation to a holder of the office of Master of the High Court, Taxing Master or county registrar, 65 years of age;

‘pension’ includes gratuity upon death;

‘specified age’ means—

- (a) in relation to a judge, including a judge of the District Court, 60 years of age, and
- (b) in relation to a holder of the office of Master of the High Court or Taxing Master, 60 years of age.”.

[2012.] *Public Service Pensions (Single Scheme [No. 37.] and Other Provisions) Act 2012.*

PART 4

AMENDMENT OF FINANCIAL EMERGENCY MEASURES IN THE PUBLIC INTEREST ACT 2010

67.—In this Part “Act of 2010” means the Financial Emergency Measures in the Public Interest Act 2010. Definition (*Part 4*).

68.—Section 1 of the Act of 2010 is amended—

Amendment of section 1 of Act of 2010.

(a) by inserting the following definitions:

“ ‘aggregation of public service pensions’ means the aggregation under subsection (1A) of section 2 of two or more public service pensions payable to a pensioner for the purposes of the application of subsection (1) of that section in relation to the pensioner;

‘pension adjustment order’ means an order under—

(a) section 12 of the Family Law Act 1995,

(b) section 17 of the Family Law (Divorce) Act 1996,

(c) section 121 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, or

(d) section 187 of that Act;”

and

(b) in the definition of “public service pension scheme”, by substituting “but, other than a scheme made in respect of the Central Bank of Ireland, does not include” for “but does not include”.

69.—Section 2 of the Act of 2010 is amended by inserting the following subsections after subsection (1):

Amendment of section 2 of Act of 2010.

“(1A) If two or more public service pensions are payable to a pensioner, all such pensions shall be aggregated for the purposes of applying subsection (1) in relation to the pensioner.

(1B) Where a pension adjustment order has been made in relation to a public service pension, the annualised amount of the public service pension shall be reduced under this section before it is paid in accordance with the provisions of the pension adjustment order.”

70.—Section 4 of the Act of 2010 is amended by substituting the following subsection for subsection (1):

Amendment of section 4 of Act of 2010.

“(1) Without prejudice to subsection (2), reductions of public service pensions under section 2 shall be paid or disposed of as the Minister may direct and, in particular, the Minister may, for the purposes of the aggregation of public service pensions, direct a paying authority—

- (a) to reduce the annualised amount of a public service pension payable by the paying authority to a pensioner by the total amount of the reduction that applies in relation to the pensioner under section 2 in respect of all public service pensions payable to him or her, or
- (b) not to reduce the annualised amount of a public service pension payable by the paying authority to a pensioner in accordance with section 2.”.

Amendment of section 5 of Act of 2010.

71.—Section 5 of the Act of 2010 is amended—

- (a) in subsection (1)(b), by inserting “subject to a direction given by the Minister under section 4(1) for the purposes of the aggregation of public service pensions,” before “no paying authority is entitled to pay”, and
- (b) in subsection (2), by substituting “Subject to a direction given by the Minister under section 4(1) for the purposes of the aggregation of public service pensions, if a paying authority pays to a pensioner” for “If a paying authority pays to a pensioner”.

Duty to give information, etc.

72.—The Act of 2010 is amended by inserting the following section after section 6:

“6A.—(1) A pensioner shall, in relation to himself or herself, provide to a paying authority such information as is necessary for the purposes of the aggregation of public service pensions in relation to that pensioner.

(2) Any person, other than a pensioner, who is in receipt (whether in respect of himself, herself or otherwise) of a public service pension, or a part thereof, payable to the pensioner shall provide to a paying authority such information as is necessary for the purposes of the aggregation of public service pensions in relation to that pensioner.

(3) A paying authority may transfer to the Minister or any other paying authority such information that is provided to the paying authority under subsection (1) or (2)—

- (a) as the paying authority considers necessary,
- (b) as may be requested by the Minister, or
- (c) as may be requested by that other paying authority,

for the purposes of the aggregation of public service pensions in relation to the pensioner concerned.”.

Use of Personal Public Service Number (PPSN).

73.—The Act of 2010 is amended by inserting the following section after section 6A (inserted by *section 72*):

“6B.—(1) A pensioner shall, in relation to a public service pension, supply his or her personal public service number to the paying authority concerned.

(2) A person, other than a pensioner, who is in receipt (whether in respect of himself, herself or otherwise) of a public service pension, or a part thereof, payable to the pensioner shall, in relation to the public service pension, supply the personal public service number of the pensioner to the paying authority concerned.

(3) A paying authority may use the personal public service number of a pensioner as a unique identifier to record information in respect of a public service pension payable to the pensioner and, whenever it transfers information in relation to that pensioner to the Minister or another paying authority, it may use that number which shall, where appropriate, be deemed to have been supplied under subsection (1) or (2), as the case may be.

(4) In this section ‘personal public service number’, in relation to a pensioner, has the meaning it has in section 262 of the Social Welfare Consolidation Act 2005.”.

74.—The Act of 2010 is amended by substituting the following section for section 12: Removal of doubts.

“12.—(1) Subsection (2) applies where a doubt, question or dispute arises in the operation of this Act in respect of—

- (a) whether a person is or is not a person whose public service pension is subject to section 2, or
 - (b) a case in which section 2 applies to a public service pension, the manner in which it so applies, including in circumstances where a pension adjustment order has been made in relation to the public service pension.
- (2) The doubt, question or dispute concerned shall—
- (a) be submitted to the Minister by the paying authority in relation to the public service pension concerned, and
 - (b) be determined by the Minister after consulting such persons (if any) as the Minister considers appropriate in the circumstances,

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

SCHEDULE

BODIES TO WHICH THE DEFINITION OF “PUBLIC SERVICE BODY” DOES NOT APPLY

1. Any body corporate established by Act of Parliament before 6 December 1922 that, upon its establishment, was of a commercial character.
2. Irish Bank Resolution Corporation Limited.
3. Bord Gáis Éireann.
4. Bord na gCon.
5. Bord na Móna.
6. Córas Iompair Éireann.
7. Coillte Teoranta (being a company formed and registered under the Companies Acts as provided for by section 9 of the Forestry Act 1988).
8. Cork Airport Authority, public limited company.
9. Dublin Airport Authority, public limited company.
10. Electricity Supply Board.
11. EirGrid.
12. A harbour authority within the meaning of the Harbours Act 1946 or company to which section 7 of the Harbours Act 1996 relates.
13. Horse Racing Ireland.
14. Irish National Stud Company Limited.
15. Irish Aviation Authority.
16. An Post.
17. An Post National Lottery Company.
18. Raidió Teilifís Éireann.
19. Shannon Airport Authority, public limited company.
20. Teilifís na Gaeilge.
21. Railway Procurement Agency.
22. Voluntary Health Insurance Board.
23. A subsidiary of a body to which this Schedule relates, including a subsidiary of such a subsidiary.