



STATUTORY INSTRUMENTS.

**S.I. No. 651 of 2022**



IRISH WATER DEFINED BENEFIT SUPERANNUATION SCHEME

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## S.I. No. 651 of 2022

## IRISH WATER DEFINED BENEFIT SUPERANNUATION SCHEME

Irish Water in exercise of the powers conferred on it by section 28 of the Water Services (No. 2) Act 2013 (No. 50 of 2013) (as amended by section 9 of the Water Services Act 2014 (No. 44 of 2014)) with the approval of the Minister for Housing, Local Government and Heritage in exercise of the powers given to him under section 28 of the Water Services (No. 2) Act 2013, and with the consent of the Minister for Public Expenditure and Reform, hereby makes the following Scheme.

## 1. Short title

This Scheme may be cited as the Irish Water Defined Benefit Superannuation Scheme.

## 2. Commencement

The Scheme shall commence from the 1st January 2014 which shall be known as the date of commencement of the Scheme.

## 3. Definitions

Where under the relevant Schedule, the local authority or the Minister is referenced, then in the application of the relevant Schedule under this Scheme, the reference shall read as meaning Irish Water.

“Act of 2014” means the Water Services Act 2014;

“Civil Service Superannuation Scheme” means

- (a) the Established Civil Service Superannuation Scheme provided for by and under-
  - (i) the Superannuation Acts 1834 to 1963,
  - (ii) the Superannuation and Pensions Act 1976,
  - (iii) the Civil Service Widows’ and Children’s Contributory Pension Scheme 1977 to 1981, and
  - (iv) the Civil Service Spouses’ and Children’s Contributory Pension Scheme, and
- (b) the Non-Established Civil Service Superannuation Scheme provided for by and under—
  - (i) the Non-Contributory Pension Scheme for Non-Established State Employees,
  - (ii) the Contributory Pension Scheme for Widows and Children of Non-Established State Employees, and
  - (iii) the Contributory Pension Scheme for Spouses and

*Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 16th December, 2022.*

Children of Non-Established State Employees,

either jointly or separately;

“Irish Water” means the company incorporated pursuant to section 4 of the Water Services Act 2013;

“Irish Water (Previous Service) Superannuation Scheme 2016” means a scheme established by the Minister pursuant to section 9(4) of the Act of 2014 with the consent of the Minister for Public Expenditure and Reform.

“local authority” shall have the meaning assigned to it in section 1 of the Local Government (Superannuation) Act, 1980 (No. 8 of 1980) and, in addition, shall include a body within the meaning of section 2(9) of that Act, subject to the provisos that—

- (a) with effect from the 29th day of September, 1998, it shall not include a vocational education committee as respects a person referred to in article 3(2) of the Vocational Education Superannuation Schemes (Transfer of Departmental Administration and Ministerial Functions) Order, 1998 (S.I. No. 362 of 1998), and
- (b) with effect from the 30th day of January, 2001, it shall not include a body referred to in article 3(2) of the Education Sector Superannuation Scheme (Transfer of Departmental Administration and Ministerial Functions) Order, 2001 (S.I. No. 14 of 2001);

“Local Government Superannuation Scheme” means any scheme or regulation made under the Local Government (Superannuation) Act 1980 (No. 8 of 1980) other than the Local Government (Superannuation) (Gratuities) Regulations, 1984 (as amended);

“Member” means a pensionable employee to whom this Scheme applies;

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

“No. 2 Act of 2013” means the Water Services (No. 2) Act 2013;

“relevant person” means a member of staff accepted into the employment of Irish Water in accordance with section 19 of the No. 2 Act of 2013 or appointed under section 27 of that Act who, immediately before such acceptance or appointment, was an officer of the Minister or a member of staff of a local authority or the Local Government Management Agency (unless their contracts of employment with the local authority or the Local Government Management Agency provide for a defined contribution scheme or a payment in lieu of pension or do not provide for any pension);

“relevant Schedule” means whichever of Schedule 1, Schedule 2 or Schedule 3 as described in Article 9 applies to the member;

“Single Public Service Pension Scheme” has the meaning given in section 9 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012.

“Wrap around benefits” has the meaning given in Article 10(2).

#### 4. Membership

(1) For the purposes of this Scheme “pensionable employee” means a relevant person.

(2) This Scheme is restricted to pensionable employees.

(3) Membership shall be compulsory for all pensionable employees.

#### 5. Pensionable Remuneration and Net Pensionable Remuneration

For the purposes of calculating benefits under this Scheme, pensionable remuneration and net pensionable remuneration are as set out in the relevant Schedule applicable to each member except for the purposes of calculating any wrap around benefits under Article 10(2).

#### 6. Pensionable Service

For the purposes of calculating benefits under this Scheme, pensionable service in respect of each member is any service with Irish Water with effect on and from becoming a relevant person, and amended as necessary to conform to the conditions set out in Article 10 but does not include any period while on secondment to Irish Water or any other period prior to becoming a relevant person.

#### 7. Preserved Pension

Pensions under this Scheme shall be preserved when the member ceases employment with Irish Water or until the member reaches the age at which preserved pension is paid in accordance with the relevant provisions under Article 9.

#### 8. Retirement on Medical Grounds

Where a member retires or is retired on medical grounds from Irish Water in accordance with relevant provisions under Article 9, he/she may have his or her pension and lump sum payable from a date determined by Irish Water.

#### 9. Scheme Rules

For the purpose of calculating benefits for a Member under this Scheme, the provisions of whichever of Schedule 1, Schedule 2, or Schedule 3, as described below, shall apply to the Member but in each case as varied by these Articles.

(1) The instruments or provisions listed in Schedule 1 shall comprise the Scheme rules for the Irish Water Defined Benefit Superannuation Scheme for relevant persons other than members of the Civil Service Superannuation Scheme or the Single Public Service Pension Scheme.

(2) The instruments or provisions listed in Schedule 2 shall comprise the

Scheme rules for the Irish Water Defined Benefit Superannuation Scheme for relevant persons who were previously an officer of the Minister and a member of the Civil Service Superannuation Scheme.

(3) The instruments or provisions listed in Schedule 3 shall comprise the Scheme rules for the Irish Water Defined Benefit Superannuation Scheme for relevant persons who were previously members of the Single Public Service Pension Scheme.

#### 10. Inter-scheme Linkages

##### (1) Single benefits payment

Irish Water may agree with the Minister, with the consent of the Minister for Public Expenditure and Reform, such appropriate arrangements as may be necessary so that benefits shall be paid from the same source as and, where possible, in conjunction with benefits payable under the Irish Water (Previous Service) Superannuation Scheme 2016.

##### (2) Wrap Around Benefits

- (a) In respect of a Member entitled to benefits under Schedule 1 or 2, in the event that either a Member's pensionable remuneration or net pensionable remuneration at retirement, death or leaving service is higher than that Member's pensionable remuneration or net pensionable remuneration (as uprated under the relevant Schedule) respectively under the Irish Water (Previous Service) Superannuation Scheme 2016, there shall be payable under and in accordance with the terms of this Scheme (including the terms relating to date of payment) additional wrap around benefits calculated in accordance with the relevant Schedule applicable to the Member using:
  - (i) the Member's pensionable service under the Irish Water (Previous Service) Superannuation Scheme 2016); and
  - (ii) "wrap around pensionable remuneration" in place of pensionable remuneration (or the equivalent term); and
  - (iii) "wrap around CSP" in place of current rate of CSP (or the equivalent term);

where for the purposes of this paragraph 10(2)(a):

"wrap around pensionable remuneration" means the difference between pensionable remuneration under this Scheme and pensionable remuneration under the Irish Water (Previous Service) Superannuation Scheme 2016 uprated in accordance with the terms of the relevant Schedule, and

"CSP" means that maximum rate of Contributory State Pension payable by the Department of Social Protection to a single person without dependants from time to time; and

“wrap around CSP” means the difference between the rate of CSP under this Scheme and the rate of CSP used in calculating net pensionable remuneration under the Irish Water (Previous Service) Superannuation Scheme 2016 updated in accordance with the terms of the relevant Schedule,

**PROVIDED THAT** any wrap around benefits payable in accordance with this paragraph 10(2)(a) shall be reduced so that the aggregate of benefits provided by: (i) this Scheme; and (ii) the Irish Water (Previous Service) Superannuation Scheme 2016, do not exceed an amount equal to the benefits that would be payable in respect of the Member if calculated by reference solely to the provisions of the relevant Schedule of this Scheme using the aggregate of pensionable service under this Scheme plus pensionable service under the Irish Water (Previous Service) Superannuation Scheme 2016.

(b) For the avoidance of doubt, this Article 10(2) shall not apply in respect of a Member whose benefits are determined in accordance with Schedule 3.

(3) Professional Added Years

(a) A pensionable employee shall be entitled to be considered for professional added years if, immediately before appointment to Irish Water, he/she was in a post which met the conditions as set out under Article 9 of the Irish Water (Previous Service) Superannuation Scheme 2016 for the grant of professional added years. For the avoidance of doubt, no entitlement to professional added years shall be lost or gained as a result of the member's appointment to Irish Water.

(b) For the purposes of calculating professional added years, pensionable service shall be calculated on the aggregate of actual pensionable service under this Scheme and actual pensionable service under the Irish Water (Previous Service) Superannuation Scheme 2016.

(c) Any addition to service under sub paragraph 10(3)(b) shall be divided between this Scheme and the Irish Water (Previous Service) Superannuation Scheme 2016 on a pro-rata basis based on the member's actual pensionable service under each Scheme.

(d) Where the provisions of a superannuation scheme or arrangement referred to in sub-paragraph (a) confer a power to exercise a discretion in relation to the grant of professional added years, on the retirement of a member of this Scheme, that power shall continue to be exercisable by the person or body on whom it is conferred under Article 9 of the Irish Water (Previous Service) Superannuation Scheme 2016.

(4) Purchased service

Any notional service purchased by a member prior to employment by Irish

Water shall reckon as pensionable service under the Irish Water (Previous Service) Superannuation Scheme 2016. The purchase agreement shall transfer to Irish Water on employment by Irish Water as a relevant person and any future notional service purchased under that agreement shall reckon as pensionable service under this Scheme.

(5) Ill-health notional service

- (a) For the purposes of calculating ill-health notional service, pensionable service shall be calculated on the aggregate of actual pensionable service under this Scheme and actual pensionable service under the Irish Water (Previous Service) Superannuation Scheme 2016.
- (b) Any addition to service under sub-paragraph 10(5)(a) shall be divided between this Scheme and the Irish Water (Previous Service) Superannuation Scheme 2016 on a pro-rata basis based on the member's actual pensionable service under each scheme.

(6) Death in service

- (a) For the purposes of calculating death in service benefits, pensionable service shall be calculated on the aggregate of actual pensionable service under this Scheme and actual pensionable service under the Irish Water (Previous Service) Superannuation Scheme 2016.
- (b) Any addition to service under sub-paragraph 10(6)(a) shall be divided between this Scheme and the Irish Water (Previous Service) Superannuation Scheme 2016 on a pro-rata basis based on the member's actual pensionable service under each scheme.
- (c) Any death gratuity on death in service shall be calculated in line with the conditions set out in Article 9 and the equivalent provision in the Irish Water (Previous Service) Superannuation Scheme 2016 and shall be divided between this Scheme and the Irish Water (Previous Service) Superannuation Scheme 2016 on a pro-rata basis based on the member's actual pensionable service under each scheme.

(7) Supplementary Pensions

- (a) Where a person who was a fully insured member is in receipt of a combined pension under this Scheme and the Irish Water (Previous Service) Superannuation Scheme 2016, is unemployed, and, due to causes outside his or her own control, fails to qualify for Social Welfare benefits or qualifies for Social Welfare benefits at a reduced rate, then he/she may be paid a supplementary pension provided he/she meets the conditions regarding the payment of supplementary pensions under Article 9 of this Scheme and the conditions regarding the payment of supplementary pensions under the Irish Water (Previous Service) Superannuation Scheme 2016.



- (b) The cost of the supplementary pension under sub-paragraph 10(7)(a), save for the part corresponding to the wrap around benefit, shall be divided between this Scheme and the Irish Water (Previous Service) Superannuation Scheme 2016 on a pro-rata basis based on the member's actual pensionable service under each scheme.
- (c) A person who receives a supplementary pension under this sub-paragraph 10(7), is obliged to inform Irish Water if circumstances change which would affect his or her eligibility for a supplementary pension or which would impact on the amount of supplementary pension for which he or she is eligible.
- (d) Irish Water will review supplementary pension annually or at more frequent intervals if it sees fit and shall confirm whether or not a supplementary pension should continue in payment and the rate of such payment (if any).

(8) Cap of 40 years' service between schemes

The aggregate of reckonable pensionable service under this Scheme and the Irish Water (Previous Service) Superannuation Scheme 2016 cannot exceed 40 years. Where the aggregate of service exceeds 40 years, reckonable pensionable service shall be divided between this Scheme and the Irish Water (Previous Service) Superannuation Scheme 2016 on a pro-rata basis based on the member's actual pensionable service under each scheme.

(9) Abatement

If circumstances arise such that section 52 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 applies to a Member under the Irish Water (Previous Service) Superannuation Scheme 2016, then it shall likewise apply to the Member under this Scheme in the same manner as if that legislation applied to this Scheme.

**Schedule 1**

All instruments made or made in the future, under the Local Government (Superannuation) Act 1980, including the Local Government (Superannuation) (Consolidation) Scheme, 1998 to 2014, other than the Local Government (Superannuation) (Gratuities) Regulations, 1984.

All instruments, circulars and other documents and instructions issued, or issued in the future, by the Department of Housing, Local Government and Heritage and predecessor Departments regarding the Local Government Superannuation Scheme.

**Schedule 2**

- (i) The Superannuation Acts 1834 to 1963,
  - (ii) the Superannuation and Pensions Act 1976,
  - (iii) the Civil Service Widows' and Children's Contributory Pension Scheme 1977 to 1981,
  - (iv) the Civil Service Spouses' and Children's Contributory Pension Scheme,
  - (v) the Non-Contributory Pension Scheme for Non-Established State Employees,
  - (vi) the Contributory Pension Scheme for Widows and Children of Non-Established State Employees,
  - (vii) the Contributory Pension Scheme for Spouses and Children of Non-Established State Employees, and
  - (viii) all instruments, circulars and other documents and instructions issued by the Department of Public Expenditure and Reform and predecessor Departments regarding the Civil Service Superannuation Scheme,
- either jointly or separately,
- including all future amendments to such Acts and documents and any such documents issued in the future.

**Schedule 3**

Legislative basis for the Single Public Service Pension Scheme—

Public Service Pensions (Single Scheme and Other Provisions) Act 2012 (including all future amendments to such Act) and all instruments, circulars and other documents and instructions issued, or issued in the future, by the Department of Public Expenditure and Reform relating to the Single Public Service Pension Scheme

The Minister for Housing, Local Government and Heritage with the consent of the Minister for Public Expenditure and Reform, approves the foregoing Scheme.



GIVEN under my Official Seal,  
29 November, 2022.

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

The Minister for Public Expenditure and Reform hereby consents to the making of the above Scheme.



GIVEN under my Official Seal,  
6 December, 2022.

MICHAEL MCGRATH,  
Minister for Public Expenditure and Reform.

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