



STATUTORY INSTRUMENTS.

S.I. No. 422 of 2009



LAW REFORM COMMISSION SUPERANNUATION
(CONSOLIDATION) (AMENDMENT) SCHEME 2009

(Prn. A9/1469)

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By virtue of section 12(4) of the Law Reform Commission Act, 1975, I, Paul Gallagher, Attorney General, with the concurrence of the Minister for Finance, hereby approve the following Scheme.

Short Title

1. (1) This Scheme may be cited as the Law Reform Commission (Superannuation) (Consolidation) (Amendment) Scheme, 2009.

(2) This Scheme and the Law Reform Commission Superannuation Scheme 1982, shall be construed as one and may be cited together as the Law Reform Commission (Superannuation) (Consolidation) Scheme, 1982 to 2009.

Commencement

2. This Scheme shall be deemed to have come into operation on the 2nd day of June, 2002, which shall be known as the commencement date.

Interpretation

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

“the Act” means the Public Service Superannuation (Miscellaneous Provisions) Act of 2004 (No. 7 of 2004);

“actual pensionable service” means service as defined in sub paragraphs 7.1(a), (b) and (c);

“fully insured member” means a member of this Scheme who is, or was during membership of this scheme, insured for State Pension (Contributory) under the Social Welfare Acts;

“Minister” means the Minister for Finance;

“the Original Scheme” means the Law Reform Commission Superannuation Scheme, 1982;

“new entrant” shall be construed in accordance with section 2 of the Act;

“part-time employee” means an employee who works less than the standard hours of a comparable employee in a whole-time post;

“Pensions Ombudsman Regulations” means the Pensions Ombudsman Regulations 2003 to 2007 including any enactment which amends or extends any or all of those Regulations;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 23rd October, 2009.*

“personal rate”, in relation to any Social Welfare benefit, means the rate of such benefit which is payable under the Social Welfare Acts to a single person excluding any increase that is payable on age grounds, or by virtue of the recipient living alone, or in respect of a qualified adult or child dependant, and “maximum personal rate” shall be construed accordingly;

“public service pension scheme” has the meaning assigned thereto in subsection 1(1) of the Act;

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

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

“Social Welfare Benefit” means State Pension (Contributory), State Pension (Transition), Invalidity Pension, Illness Benefit or Jobseeker’s Benefit payable under the Social Welfare Acts;

"State Pension (Contributory)" means the State Pension (Contributory) payable under the Social Welfare Acts;

“transfer value payment” means a payment calculated in accordance with such tables as are approved and in such manner as is determined by the Minister or the Minister for the Environment, Heritage and Local Government under the Local Government Superannuation Code;

“work-sharer” means a whole-time employee who, under an arrangement which has been approved by the Minister, works less than the standard hours of the whole-time post;

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

Amendment of Article 3 of the Principal Scheme

4. Article 3 of the Principal Scheme is hereby amended by the deletion of the definition of “pensionable post”;

by the substitution of the following for the definition of “*pensionable officer*”

“pensionable officer” means a person other than a civil servant who is or has been employed by the Commission and who satisfies the requirements for membership of the Scheme; and

by the substitution of the following for the definition of “pensioner”

“pensioner” means a person who is in receipt of a pension or preserved pension under this Scheme;

Amendment of Article 4 of the Principal Scheme

5. Article 4 of the Principal Scheme is hereby amended by the substitution of the following Article for Article 4;

Membership

4.1 For the purposes of membership of this Scheme

“pensionable officer” means a person employed by the Commission

- (i) in a post which is declared in the Conditions of Service attaching to it to be a pensionable post
- (ii) in a part-time capacity
- (iii) in a temporary capacity or
- (iv) on a fixed term contract.

4.2 Membership of this Scheme shall not apply to

- (a) persons who are under 16 years of age
- (b) persons employed on a fixed term contract whose employment terminated before July 2003
- (c) civil servants employed by the Commission

4.3 Subject to the provisions of paragraph 4.4, membership shall be compulsory for all pensionable employees.

4.4 The Commission shall decide upon the eligibility for membership of the Scheme. The Commission shall notify an employee of his or her admission to membership of the Scheme and shall furnish him or her with a copy of the terms of the Scheme.

4.5 A member who is not a new entrant may not continue in membership after he or she has attained the age of 65.

Amendment of Article 5 of the principal scheme

6.1 Article 5 of the Principal Scheme is hereby amended by the substitution of the following for Article 5

5. Remuneration

5.1 Salary

“Salary” means the annual basic rate (or the weekly basic rate multiplied by 52.18) of remuneration payable from time to time as lawfully determined or lawfully approved by the Commission excluding any sums paid in respect

of overtime, commission, gratuity, special fees, travelling allowance, subsistence allowance and the like, the money equivalent of any emolument or benefit in kind (including motor car or other vehicle) or any payment toward or in respect of such emoluments.

5.2 Retiring Salary

“Retiring salary” means the salary of the member at the date of retirement or death where—

- (a) a member has had the same scale of salary and has been in the same grade for the last three 3 years of his or her pensionable service, or
- (b) a member who is under 62 years of age dies in service, or
- (c) a member retires or is retired on medical grounds before 60 years of age with sufficient potential service to age 60 to avoid averaging.

In any other case retiring salary shall be taken as the total calculated by multiplying by 1/1095 the annual rate of salary appropriate on the last day of pensionable service for each grade in which the member served during the last 3 years of pensionable service, and multiplying the result by the number of days of his or her employment in each grade during those years, subject to the retiring salary so taken not exceeding the annual basic rate of salary payable at the time of retirement or death.

5.3 Allowances

“Allowances” means such allowances in the nature of pay lawfully determined or lawfully approved by the Commission, which are designated as pensionable by the Commission, but excluding any sums paid in respect of overtime, commission, gratuity, special fees, travelling allowance, subsistence allowance and the like, the money equivalent of any emolument or benefit in kind (including motor car or other vehicle) or any payment toward or in respect of such emoluments.

5.4 Pensionable Allowances

“Pensionable allowances” means the annual average of any allowances paid to a member during his last three years of pensionable service.

6.2 With effect from 1 April 2004, the following is substituted for paragraph 5.4 of the Principal Scheme as inserted by paragraph 6.1 of this scheme.

5.4 Pensionable Allowances

“Pensionable allowances” means the average of any allowances paid to the member calculated in accordance with the provisions of Department of Finance Circular 10/2008.

Amendment of Article 6 of the Principal Scheme

7.1 Article 6 of the Principal Scheme is hereby amended by the substitution of the following for Article 6;

6. Remuneration

6.1 “Remuneration” means the aggregate of salary and allowances (multiplied by 52.18 in the case of weekly allowances).

6.2 Pensionable Remuneration

(a) “Pensionable remuneration” means the aggregate of retiring salary and pensionable allowances.

(b) In the calculation of benefits payable on retirement to a member who, at retirement, is a part-time employee or a work-sharer, pensionable remuneration shall be deemed to be the pensionable remuneration applicable if he or she were working in a whole-time capacity.

6.3 Nett Pensionable Remuneration

Net pensionable remuneration is the amount by which pensionable remuneration exceeds twice the annual maximum personal rate of State Pension (Contributory) payable on the last day of pensionable service to a person who has no adult dependant or qualified children.

Amendment of Article 7 of the Principal Scheme

8. Article 7 of the Principal Scheme is hereby amended by the substitution of the following for Article 7

7. Pensionable Service

7.1 For the purpose of calculating benefits under this scheme, pensionable service is the aggregate of—

(a) (i) in the case of members who are new entrants, paid service as a pensionable employee, other than service in respect of which, in accordance with the provisions of paragraph 17, the employee has opted to retain entitlement to preserved benefits provided that any period during which a member was or is a part-time employee or a work-sharer shall be reckonable in the proportion which the hours worked bear to comparable whole-time service;

(ii) in the case of members who are not new entrants, paid service as a pensionable employee (other than service in respect of which, in accordance with the provisions of paragraph 17, the employee has opted to retain entitlement to preserved benefits) given while the member was under 65 years of age, provided that any period during which a member was or is a

part-time employee or a work-sharer shall be reckonable in the proportion which the hours worked bear to comparable whole-time service;

- (b) periods of whole-time temporary service with the Commission prior to becoming a pensionable employee;
 - (c) actual service transferred in accordance with arrangements approved by the Minister and/or the Minister for the Environment, Heritage and Local Government.
 - (d) notional service purchased by a member and transferred in accordance with arrangements approved by the Minister and/or the Minister for the Environment, Heritage and Local Government.
 - (e) notional service purchased by a member in accordance with provisions determined by the Commission with the approval of the Attorney General and the consent of the Minister.
 - (f) in the case of a member in respect of whom a transfer value in respect of superannuation benefits in a former employment other than employment referred to in subparagraphs 7.1(b) is received by the Commission, such additional service as the amount of the transfer value will purchase on the basis of actuarial tables approved by the Minister.
 - (g) such additional period of notional service (to be referred to as “professional added years”) as may be granted by the Commission in accordance with conditions determined by the Commission with the approval of the Attorney General and the consent of the Minister.
- 7.2 (a) A member who has completed 5 or more years of actual pensionable service and who retires, or is retired, on grounds of ill-health that, in the opinion of the Commission, is likely to be permanent, may, at the discretion of the Commission have a period of notional service (to be referred to as “ill-health notional service”) added to his or her pensionable service, provided that the aggregate of pensionable service and ill-health notional service does not exceed 40 years.
- (b) The ill-health notional service shall be calculated on the following basis:
 - (i) members whose actual pensionable service is between 5 and 10 years will be allowed an equivalent amount of ill-health notional service, such amount of notional service not to exceed the amount of additional actual pensionable service he or she would have had if he or she served to age 65 or, if

earlier, to the date on which his or her contract of employment would expire;

(ii) members whose actual pensionable service is between 10 and 20 years will be allowed the more favourable of:

(a) an amount of service equal to the period by which 20 years exceeds the said actual pensionable service, the added service not to exceed the amount of additional actual pensionable service he or she would have had if he or she served to age 65 or, if earlier, to the date on which his or her contract of employment would expire, or

(b) 6 years and 243 days, the ill-health notional service not to exceed the amount of additional actual pensionable service he or she would have had if he or she had served to age 60 or, if earlier, to the date on which his or her contract of employment would expire;

(iii) members with more than 20 years of actual pensionable service at retirement will be allowed to add whichever is the lesser of:

(a) 6 years and 243 days, or

(b) the additional actual pensionable service he or she would have had if he or she had served to age 60 or, if earlier, to the date on which his or her contract of employment would expire.

7.3 The maximum service reckonable for benefits under this scheme is 40 years, subject in the case of

(a) employees who have retained an entitlement to benefit under the provisions of Article 17

(b) employees whose pensions were suspended under the provisions of Article 10

maximum service not exceeding the amount arrived at by the formula $40 - \text{PBS}$, where PBS is the amount of the reckonable service by reference to which the original benefits, whether preserved or in payment, are calculated.

Amendment of Article 8 of the Principal Scheme

9.1 Article 8 of the Principal Scheme is amended by the substitution of the following for Article 8;

Pensions

- 8.1 (a) A new entrant who has completed 2 years' actual pensionable service and who retires, or is retired, after attaining the age of 65 years shall be eligible to receive a pension of an amount per annum calculated at the rate of 1/80th of his or her net pensionable remuneration for each year of pensionable service,
- (b) A member who is not a new entrant and who has completed 2 years' actual pensionable service and who retires, or is retired, after attaining the age of 60 years shall be eligible to receive a pension of an amount per annum calculated at the rate of 1/80th of his or her net pensionable remuneration for each year of pensionable service, subject to a maximum of 40/80ths,
- (c) A member who has completed 5 years' actual pensionable service and who retires, or is retired on grounds of ill-health that, in the opinion of the Commission is likely to be permanent, shall be eligible to receive a pension of an amount per annum calculated at the rate of 1/80th of his or her pensionable remuneration for each year of pensionable service, subject to a maximum of 40/80ths,

9.2 With effect from 1 January 2004, Article 8 of the Principal Scheme is amended by the substitution of the following for Article 8

Pensions

- 8.1 (a) A new entrant who has completed 2 years' actual pensionable service and who retires, or is retired, after attaining the age of 65 years shall be eligible to receive a pension of an amount per annum calculated in accordance with the formula $[A \times C \div 200] + [B \times C \div 80]$, where

A is

- (I) if the member's pensionable remuneration is less than or equal to 3 and 1/3rd times the annual maximum personal rate of State Pension (Contributory) payable on the last day of the member's pensionable service, the amount of the member's pensionable remuneration; or
- (II) if the member's pensionable remuneration exceeds 3 and 1/3rd times the annual maximum personal rate of State Pension (Contributory) payable on the last day of the member's pensionable service, that part of the member's pensionable remuneration which equals 3 and 1/3rd times the said rate of State Pension (Contributory);

B is that part (if any) of the member's pensionable remuneration which exceeds 3 and 1/3rd times the annual maximum personal rate of State Pension (Contributory) payable on the last day of the member's pensionable service; and

C is the amount of the member's pensionable service, subject to a maximum of 40 years.

- (b) A member who is not a new entrant and who has completed 2 years' actual pensionable service and who retires, or is retired, after attaining the age of 60 years shall be eligible to receive a pension of an amount per annum calculated in accordance with the formula $[A \times C \div 200] + [B \times C \div 80]$, where

A is

- (I) if the member's pensionable remuneration is less than or equal to 3 and 1/3rd times the annual maximum personal rate of State Pension (Contributory) payable on the last day of the member's pensionable service, the amount of the member's pensionable remuneration; or
- (II) if the member's pensionable remuneration exceeds 3 and 1/3rd times the annual maximum personal rate of State Pension (Contributory) payable on the last day of the member's pensionable service, that part of the member's pensionable remuneration which equals 3 and 1/3rd times the said rate of State Pension (Contributory);

B is that part (if any) of the member's pensionable remuneration which exceeds 3 and 1/3rd times the annual maximum personal rate of State Pension (Contributory) payable on the last day of the member's pensionable service; and

C is the amount of the member's pensionable service, subject to a maximum of 40 years.

- (c) A member who has completed 5 years' actual pensionable service and who retires, or is retired on grounds of ill-health that, in the opinion of the Commission is likely to be permanent, shall be eligible to receive a pension of an amount per annum calculated in accordance with the formula $[A \times C \div 200] + [B \times C \div 80]$, where

A is

- (I) if the member's pensionable remuneration is less than or equal to 3 and 1/3rd times the annual maximum personal rate of State Pension (Contributory) payable on the last day of the member's pensionable service, the amount of the member's pensionable remuneration; or
- (II) if the member's pensionable remuneration exceeds 3 and 1/3rd times the annual maximum personal rate of State Pension (Contributory) payable on the last day of the member's pensionable service, that part of the member's

pensionable remuneration which equals 3 and 1/3rd times the said rate of State Pension (Contributory);

B is that part (if any) of the member's pensionable remuneration which exceeds 3 and 1/3rd times the annual maximum personal rate of State Pension (Contributory) payable on the last day of the member's pensionable service; and

C is the amount of the member's pensionable service, subject to a maximum of 40 years.

Amendment of Article 9 of the Principal Scheme

10.1 Article 9 of the Principal Scheme is hereby amended by the substitution of the following for Article 9

Gratuities

- 9.1 (a) A member who has completed at least one year and less than two years' actual pensionable service who retires or is retired on grounds of ill-health that, in the opinion of the Commission is likely to be permanent, shall be eligible to receive a gratuity of 1/12th of pensionable remuneration for each year of pensionable service.
- (b) A member who has completed between two and five years' actual pensionable service who retires or is retired on grounds of ill-health that, in the opinion of the Commission is likely to be permanent, shall be eligible to receive a gratuity at the rate of 1/12th of pensionable remuneration for each year of pensionable service and, in addition, a gratuity equal to 3/80ths of his or her pensionable remuneration for each year of pensionable service, provided he or she opts in writing to accept such gratuities in lieu of any other benefits for which he or she may be eligible under this scheme.
- (c) A new entrant who has completed two years' actual pensionable service and who retires or is retired after attaining the age of 65 shall be eligible to receive a gratuity at the rate of 3/80ths of pensionable remuneration for each year of pensionable service subject to a maximum of 120/80ths.
- (d) A member who is not a new entrant and has completed two years' actual pensionable service and who retires or is retired after attaining the age of 60 shall be eligible to receive a gratuity at the rate of 3/80ths of pensionable remuneration for each year of pensionable service subject to a maximum of 120/80ths.
- (e) A member who has completed at least five years' actual pensionable and retires or is retired on grounds of ill-health that, in the opinion of the Commission is likely to be permanent, shall be eligible to receive a gratuity at the rate of 3/80ths of for each year of pensionable service subject to a maximum of 120/80ths.

Amendment of Article 10 of the Principal Scheme

11.1 Article 10 of the Principal Scheme is hereby amended by the substitution of the following for paragraph 10.2 thereof;

10.2 If a former member who has been granted a pension and a gratuity dies and the total paid or payable on foot of the pension (including any amount which would have been payable had the provisions of paragraph 12.2 not applied in his or her case) and gratuity (including any deductions made in respect of non-periodic contributions under any scheme for the provision of pensions for the spouses and children of members of this scheme made under the provisions of section 12(4) of the Law Reform Commission Act, 1975) is less than the gratuity which could have been granted to his or her legal personal representative if he or she had died on the date of his or her retirement, his or her legal personal representative shall be eligible to receive a gratuity equal to the deficiency.

Amendment of Article 11 of the Principal Scheme

12.1 Article 11 of the Principal Scheme is hereby amended by the substitution of the following for Article 11

Preservation of Benefits

11.1 New Entrants

(a) Where a member who is a new entrant

- (i) ceases to be a member before age 65 other than on grounds of ill-health that, in the opinion of the Commission is likely to be permanent, after at least two years' actual pensionable service or
- (ii) ceases to be a member before age 65 on grounds of ill-health that, in the opinion of the Commission is likely to be permanent, after at least two years and less than five years' actual pensionable service and does not opt, in writing, for the benefits of subparagraph 9.1(b)

he or she will, on attaining the age of 65, qualify under this subparagraph for a pension and lump sum payment (which pension and lump sum are in this Scheme referred to as a "preserved pension" and "preserved lump sum" respectively), provided

- (I) he or she does not receive any other benefit in respect of that service, and
 - (II) that service is not reckoned for pension purposes by him or her in another employment under approved arrangements.
- (b) A preserved pension shall be awarded to the person concerned on his or her attaining the age of 65 on an application being made by him or her in that behalf. Where the person concerned dies

on or after attaining age 60 without applying for the preserved pension, an amount equal to the preserved pension payable between age 65 and the date of death of the person concerned shall be payable to the legal personal representative of the person concerned on an application being made.

- (c) the amount of a preserved pension shall be the amount which would have been awarded to the member concerned under paragraph 8.1 of this scheme if he or she had attained age 65 on the date of resignation, as increased by reference to pensions increases granted under paragraph 21 of this Scheme in the interval between the date of resignation and the date on which the member attains age 65.
- (d) If a person referred to in subparagraph 11.1 dies before attaining the age of 65, a sum (in this Scheme referred to as a preserved death gratuity”) shall be payable to the person’s legal personal representative by the Commission in respect of him or her.
- (e) The amount of a preserved lump sum or preserved death gratuity shall be the amount which would have been awarded to the member concerned under paragraph 9.1 of this scheme if he or she had attained age 65 on the date of resignation, as increased by reference to pensions increases granted under paragraph 21 of this Scheme in the interval between the date of resignation and the date
 - (i) on which he or she attains age 65, in the case of a preserved lump sum, or
 - (ii) of his or her death, in the case of a preserved death gratuity.
- (f) A preserved lump sum or preserved death gratuity shall be payable to or in respect of the person concerned on an application being made to the Commission at any time after he or she reaches the age of 65 or, in case he or she dies before reaching that age, by his or her legal personal representative on an application being made.
- (g) A member to whom this paragraph applies who, on the date of his or her resignation, would be aged 55 or over may apply in writing before the date of resignation to have his or her preserved pension and lump sum benefits paid with effect from the date of resignation and if the Commission agrees, those benefits shall be calculated by reference to the member’s pensionable remuneration 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 member’s age at date of resignation, in accordance with actuarial tables approved by the Minister.

- (h) The Commission may at its discretion pay a supplementary pension on the terms and conditions set out in Article 20 of this scheme.

11.2 Members who are not New Entrants

- (a) Where a member who is not a new entrant

(i) ceases to be a member before age 60 other than on grounds of ill-health that, in the opinion of the Commission is likely to be permanent, after at least two years' actual pensionable service or

(ii) ceases to be a member before age 60 other than on grounds of ill-health that, in the opinion of the Commission is likely to be permanent, after at least two years' and less than five years' actual pensionable service and does not opt, in writing, for the benefits of paragraph 9.1 (b),

he or she will, on attaining the age of 60, qualify under this paragraph for a pension and lump sum payment (which pension and lump sum are in this Scheme referred to as a "*preserved pension*" and "*preserved lump sum*" respectively), provided

(I) he or she does not receive any other benefit in respect of that service, and

(II) that service is not reckoned for pension purposes by him or her in another employment under approved arrangements.

(b) A preserved pension shall be awarded to the person concerned on his or her attaining the age of 60 on an application being made by him or her in that behalf. Where the person concerned dies on or after attaining age 60 without applying for the preserved pension, an amount equal to the preserved pension payable between age 60 and the date of death of the person concerned shall be payable to the legal personal representative of the person concerned.

(c) The amount of a preserved pension shall be the amount which would have been awarded to the member concerned under paragraph 8.2 of this scheme if he or she had attained age 60 on the date of resignation, as increased by reference to pensions increases granted under paragraph 10 of this Scheme in the interval between the date of resignation and the date on which the member attains age 60.

(d) If a person referred to in paragraph 11.2 (a) dies before attaining the age of 60, a sum (in this Scheme referred to as a *preserved*

death gratuity”) shall be payable to the person’s legal personal representative by the Commission in respect of him or her.

- (e) The amount of a preserved lump sum or preserved gratuity shall be the amount which would have been awarded to the member concerned under paragraph 8.2 of this scheme if he or she had attained age 60 on the date of resignation, as increased by reference to pensions increases granted under paragraph 10 of this Scheme in the interval between the date of resignation and the date
 - (i) on which he or she attains age 60, in the case of a preserved lump sum, or
 - (ii) of his or her death, in the case of a preserved death gratuity.
- (f) A preserved lump sum or preserved death gratuity shall be payable to or in respect of the person concerned on an application being made to the Commission by him or her at any time after he or she reaches the age of 60 or, in case he or she dies before reaching that age, by his or her legal personal representative.
- (g) A member to whom this subparagraph applies who, on the date of his or her resignation, would be aged 50 or over may apply in writing before the date of resignation to have his or her preserved pension and lump sum benefits paid with effect from the date of resignation and if the Commission agrees, those benefits shall be calculated by reference to the member’s pensionable remuneration 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 member’s age at date of resignation, in accordance with actuarial tables approved by the Minister.
- (h) The Commission may at its discretion pay a supplementary pension on the terms and conditions set out in subparagraph 20 of this scheme.

Amendment of Article 12 of the Principal Scheme

13. Article 12 of the Principal Scheme is amended by the substitution of the following for Article 12

12. Employment subsequent to Retirement or Resignation

12.1 If a member was awarded a pension and gratuity or gratuity only on initial retirement on medical grounds pension, where payable, shall be cancelled on his or her entry to membership of this scheme and, on subsequent retirement, the actual pensionable service on which the pension was based may, if the member so opts, be aggregated with subsequent pensionable service for the purposes of this scheme. The amount of any gratuity awarded on eventual retirement or death shall be reduced by the amount of the gratuity paid to him or her on initial retirement.

12.2 If a pensioner under this Scheme receives payment in respect of employment by the Commission or by any person or firm resident in the Republic of Ireland and associated with or directly or indirectly controlled by the Commission no more of the pension or preserved pension shall be paid for any period of receipt of the payment as may be specified by the Commission than so much as, with the payment, equals the pay which the person would have received in respect of that period if during it he or she

- (a) held the position in which he or she served on the last day of his or her pensionable service, but
- (b) was remunerated at the rate of pay of which he or she was in receipt on that date (including the money value of apartments, rations or other perquisites in kind) subject, however, in case changes have taken place, (or, if the position has ceased to exist would have taken place if it had not ceased to exist), in that rate, to treating that rate as being varied by taking account of so much of those changes as may be specified by the Commission.

Amendment of Article 13 of the Principal Scheme

14. Article 13 of the Principal Scheme is hereby amended by the substitution of the following for Article 13

Assignments

13.1 A pension or preserved pension under this Scheme may not be assigned or charged. If the pensioner becomes incapable of giving a receipt for payments due, the Commission shall have discretion to make such payments in whole or in part to such persons, including any care-provider having care of the pensioner, as the Commission thinks fit, and the Commission shall be discharged from all liability in respect of any sum so paid.

Amendment of Article 15 of the Principal Scheme

15. Article 15 of the Principal Scheme is hereby amended by the substitution of the following for Article 15

Proof of age

15.1 A member must submit evidence of his or her date of birth on entry into the Scheme or before any payment of benefit can be made.

Amendment of Article 16 of the Principal Scheme

16. Article 16 of the Principal Scheme is hereby amended by the substitution of the following for Article 16;

Cesser or Reduction of Benefit

16.1 Where a member is dismissed or resigns or otherwise ceases to hold employment and has been guilty of misconduct involving a financial loss to the Commission or the State, the Commission may, at its discretion, refuse or reduce any award which might otherwise be payable under paragraphs 8, 9 or 10 of this Scheme in order to make good such a loss.

16.2 The Commission may, at its discretion, reduce or cease paying a pension awarded under this Scheme if the pensioner has been guilty of misconduct involving a financial loss to the Commission or the State, in order to make good such a loss.

Amendment of Article 17

18. Article 17 is hereby amended by the substitution of the following for Article 17

Optional Retention of preserved Benefits

17.1 A member who is a new entrant with an entitlement to preserved benefits payable at age 60 arising from earlier membership of this Scheme may opt to retain entitlement to the said preserved benefits, subject to

- (a) payment of the preserved pension not commencing before the date on which membership of this scheme ceases
- (b) in the event of death in service, the deduction of the preserved death gratuity from any death gratuity payable under paragraph 10.

17.2 A member whose pension was cancelled under the provisions of paragraph 12.1 may opt for entitlement to a preserved pension based on the actual pensionable service on which the cancelled pension was based in lieu of aggregation of service subject to payment of the preserved pension not commencing before the date on which membership of this scheme ceases.

Amendment of Article 18

19. Article 18 is hereby amended by the substitution of the following for Article 18;

Appeals

18.1 If a member or former member is aggrieved by the failure or refusal of the Commission to make an award under this Scheme or by the amount of any award (including the award of pension increases) made, he or she may appeal to the Minister who shall, within three months of the dispute being referred to him or her, issue a determination in accordance with Article 5.1 of the Pensions Ombudsman Regulations 2003 (S.I. no. 397 of 2003).

Supplementary Pension

20.1 Where a pensioner is unemployed, and, due to causes outside his or her own control

- (i) fails to qualify for Social Welfare benefit, or
- (ii) qualifies for Social Welfare benefit at a reduced rate and
- (iii) in the case of a person mentioned in paragraph 11.1 (g), has attained the age of 65 years, or

(iv) in the case of a person mentioned in subparagraph 11.2 (g), has attained the age of 60 years

then for so long as the preconditions set out in this paragraph are met, the person concerned may, at the discretion of the Commission, be paid a supplementary pension under this Scheme.

20.2 The amount of a supplementary pension payable pursuant to paragraph 1 of this Article shall be the amount, if any, arrived at by the formula

$A - (B+C)$, where

A is the amount of the pension which would be payable to the former member under paragraph 8.1 of this Scheme if pension had been calculated by reference to pensionable remuneration instead of net pensionable remuneration,

B is the amount of the pension actually payable to the former member under the said paragraph, and

C is the annual amount of the reduced rate of the Social Welfare benefit, if any, which is payable to the former member.

Pensions Increases

21.1 The Commission may grant such increases in such pensions and preserved pensions under this Scheme as may be authorised from time to time by the Minister.

Given under my hand,
22 October 2009.

PAUL GALLAGHER,
Attorney General.

Given under my hand,
22 October 2009.

BRIAN LENIHAN,
Minister for Finance.

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