

File Ref: DPE101/002/2017

11 December 2018

Section 9 of the FEMPI Act 2010 (“Pensionable Rate of Pay”)

Dear HR Manager / Personnel Officer,

I refer to this Department’s letter of 23 January 2018 regarding the application of the Pensionable Rate of Pay, in accordance with section 9 of the FEMPI Act 2010. This letter addresses a number of important policy updates, namely:

- The calculation of retirement benefits for grades to whom a Pensionable Rate of Pay applies after the expiration of the FEMPI “grace period” on 1 April 2019;
- The treatment of the Additional Superannuation Contribution (ASC) for grades to whom a Pensionable Rate of Pay applies;
- The cessation of the requirement to maintain a Pensionable Rate of Pay;
- The application of pension increase policy in the public service until end-2020 to Pensionable Rate of Pay-affected grades;

1. Background

Section 2 of the FEMPI (No. 2) Act 2009 reduced the remuneration of public servants with effect from 1 January 2010. Certain grades across the public service were impacted by a Ministerial determination under section 6 of the Act to modify this reduction in remuneration. This determination arose as a result of the decision to also terminate the Performance-Related Award schemes that applied to these grades.

In accordance with section 9A of that Act (as inserted by Section 9 of the FEMPI Act 2010), any such modification does not apply in respect of the calculation of retirement benefits (pension and lump sum). Rather, a “Pensionable Rate of Pay” is used for superannuation purposes for these grades. This Pensionable Rate of Pay is calculated through the full application of the FEMPI (No. 2) Act 2009 cut.

An indicative list of senior grades across the public service to whom a Pensionable Rate of Pay applies is outlined below:

Sector	Grades
Civil Service	Deputy Secretary (appointed prior to 1 July 2010) Assistant Secretary
Local Authorities	Chief Executives
An Garda Síochána	Deputy Commissioner Assistant Commissioner
Defence	Brigadier-General Major-General
HSE	National Directors
Non-Commercial State Bodies	Certain Chief Executives and other senior staff who met the criteria (including the termination of a Performance-Related Award Scheme) and received the specific sanction of the Department of Finance / Public Expenditure and Reform to apply the modified cut.

2. Calculation of retirement benefits to Pensionable Rate of Pay-affected grades

A Pensionable Rate of Pay is used for the calculation of pension entitlements (pension and lump sum) for those who retire on or after 1 March 2012.

2.1 For individuals who retired or retire up to 1 April 2019:

Pension entitlements are calculated in accordance with the FEMPI “grace period”, which means that the Pensionable Rate of Pay used in the pension calculation does not reflect the additional reduction in remuneration in 2013 under the Haddington Road Agreement (“the HRA reduction”).

2.2 For individuals who retire on or after 1 April 2019:

Pension entitlements will be calculated by reference to the Pensionable Rate of Pay applicable at the date of retirement.

Because of the fact that the HRA reduction will be completely restored at that point, and that pay increases will have been applied under the Public Service Pay and Pensions Act 2017, the Pensionable Rate of Pay used after 1 April 2019 will be higher than the Pensionable Rate of Pay used during the “grace period”.

For the avoidance of doubt, the Pensionable Rate of Pay for these grades will attract the same increases as apply to the gross (i.e. modified cut) salary as outlined in the Public Service Pay and Pensions Act 2017.

These arrangements will continue until such time as the Pensionable Rate of Pay ceases to apply to that grade (**section 4 of this letter refers**).

3. Treatment of Pension Contributions and Additional Superannuation Contribution

For grades to whom a Pensionable Rate of Pay applies, pension contributions (Main Scheme, if applicable, and Spouses’ and Children Scheme) are collected on this Pensionable Rate of Pay, rather than the entire gross (i.e. modified cut) salary.

In accordance with the Public Service Pay and Pensions Act 2017, public servants are required to pay an Additional Superannuation Contribution (ASC) on “pensionable pay” with effect from 1 January

2019. That Act defines “pensionable pay” as basic pay (excluding overtime) and any pensionable allowances. (A detailed circular is to issue on ASC shortly).

For grades to whom a Pensionable Rate of Pay applies, ASC should be calculated by reference to the Pensionable Rate of Pay rather than the gross (i.e. modified cut) salary.

These arrangements will continue until such time as the Pensionable Rate of Pay ceases to apply to that grade (**section 4 of this letter refers**).

4. Cessation of the Pensionable Rate of Pay

Once the gross (i.e. modified cut) salary of a grade surpasses its corresponding pre-FEMPI level, the requirement to maintain a lower Pensionable Rate of Pay for that grade will cease to apply.

Pension entitlements for individuals who retire after the cessation of the Pensionable Rate of Pay for that grade will be calculated, as normal, by reference to the pensionable salary in effect on the date of retirement.

In the Civil Service, the Pensionable Rate of Pay will cease to apply with effect from 1 September 2019 for Assistant Secretaries. For Deputy Secretaries (appointed prior to 1 July 2010), it will cease to apply from 1 October 2020.

5. Application of pension increase policy in the public service until end-2020 to Pensionable Rate of Pay-affected grades

For individuals who retired (or will retire) on or after 1 March 2012 but before 1 April 2019, their pension should be revised in line with the increases to the Pensionable Rate of Pay of affected grades. The pension of retired individuals should also be increased following the cessation of the Pensionable Rate of Pay for that grade.

The pension of individuals who retired on or before 29 February 2012 should also be revised accordingly, once the corresponding salary of the grade exceeds its pre-FEMPI level.

More detailed instructions are set out in this Department’s Circular 02/2018. Further guidance will be issued by this Department on this matter.

6. Members of the Single Public Service Pension Scheme (“Single Scheme”)

Departments / Offices are reminded that the above provisions related to the Pensionable Rate of Pay do not apply to members of the Single Scheme.

7. Application

7.1 Application to Departments / Offices

The rates for those general Civil Service grades to whom a Pensionable Rate of Pay applies are set out at **Appendix 1**. These general service grades include **Assistant Secretaries** and **Deputy Secretaries**

appointed prior to 1 July 2010. These rates are progressed out until the cessation of the Pensionable Rate of Pay for both grades.

As the provisions of this letter (most notably, the cessation of the Pensionable Rate of Pay as outlined in section 4) could impact on when an officer decides to retire, Departments / Offices are requested to bring this letter to the attention of all staff in the Department / Office who are serving in a grade to whom a Pensionable Rate of Pay applies. To assist Departments, an illustrative example of the potential impact of these changes is outlined at **Appendix 2**.

7.2 Application to public service bodies

Departments / Offices are requested to bring the contents of this letter to the attention of all public service bodies under their aegis.

Departments / Offices and public service employers should also ensure that individuals considering retirement and who may be affected by the measures contained within this letter are made aware of the possible implications of their retirement date. This is particularly important in the context of the cessation of the Pensionable Rate of Pay.

8. Queries

Individual queries from civil servants should be raised with local HR units or, where appropriate, HR Shared Services (PeoplePoint) in the first instance.

Queries from public service bodies should be raised with their parent Department in the first instance.

Departments/Offices with queries, including queries as to the applicability of a Pensionable Rate of Pay for any particular grade across the public service, should raise the matter with this Department via email to payscales@per.gov.ie with the subject line "Pensionable Rate of Pay".

Queries in respect of the application of the public service pension increase policy (section 5 of this letter) may be raised to this Division's Public Service Pension Policy Unit via email to pensions@per.gov.ie.

Yours sincerely,



Peter Brazel
Principal
Public Service Pay and Pensions Division

Appendix 1

Gross (i.e. modified cut) salary and Pensionable Rate of Pay (PRP) for Civil Service grades

PPC						
Date		Assistant Secretary				Deputy Secretary (pre-1 July 2010)
		1	2	3	NMAX	
Apr-19	Gross	€137,227	€143,463	€150,222	€156,978	€180,354
	PRP	€130,153	€136,068	€142,478	€148,886	€167,770
Sep-19	Gross	€139,628	€145,973	€152,851	€159,725	€183,510
	PRP	No longer applicable				€170,706
Oct-20	Gross	€142,421	€148,893	€155,908	€162,920	€187,180
	PRP	No longer applicable				No longer applicable

NON-PPC						
Date		Assistant Secretary				Deputy Secretary (pre-1 July 2010)
		1	2	3	NMAX	
Apr-19	Gross	€130,365	€136,290	€142,710	€149,129	€171,377
	PRP	€123,644	€129,265	€135,354	€141,442	€159,381
Sep-19	Gross	€132,646	€138,676	€145,207	€151,739	€174,376
	PRP	No longer applicable				€162,170
Oct-20	Gross	€135,299	€141,449	€148,112	€154,774	€177,864
	PRP	No longer applicable				No longer applicable

Worked Example: Calculation of gross pension and lump sum based on date of retirement.

Assumptions:

- Grade: Assistant Secretary at the Normal Maximum of the scale (Non-PPC rate);
- Service: Maximum pensionable service of 40 years;
- Category: Non-integrated “pre-1995” pension terms;
- Other: No pensionable allowances;

Retirement Date	1 March 2012 – 31 March 2019	1 April 2019 – 31 Aug 2019	1 Sept 2019 – 30 Sept 2020
Salary for pension purposes	€138,655	€141,442	€151,739
Salary basis	Pensionable Rate of Pay applicable 1 Jan 2010 ("FEMPI grace period")	Pensionable Rate of Pay applicable 1 April 2019	Final pensionable salary applicable 1 September 2019
Gross Pension ¹	€69,328	€70,721	€75,870
Lump sum	€207,983	€212,163	€227,609

Note 1: Public Service Pension Reduction (PSPR) is not included in the above calculations. PSPR will not apply to pensions awarded after 1 April 2019.

Disclaimer: Every effort has been made to ensure the accuracy of this statement. However, as this is not a contractual document, it bears no right to benefit. All benefits from the superannuation scheme are governed by the scheme rules as set out as appropriate in the Superannuation Acts, Circulars and/or other instruments which comprise the scheme and are also subject to any other relevant legislation. Please note that the above information is issued for general guidance purposes only and does not purport to confer any pension benefits or expectation thereof.