



Circular Number 0070/2015

3 December 2015

To: The Higher Education Authority for dissemination to all Institutes of Technology and DIT

Re: All Institutes of Technology Staff & DIT Staff - Public Service Stability Agreement 2013 – 2018 (Lansdowne Road Agreement) and the Financial Emergency Measures in the Public Interest Act 2015

The Minister for Education and Skills wishes to inform of the application of revised rates of salary with effect from 1 January 2016, revisions to the thresholds for the Pension-Related Deduction with effect from 2015 and the introduction of enhanced controls in relation to terms and conditions of employment agreed between public servants and their public service body employers with effect from 30 November 2015.

The new salary rates and PRD thresholds have been introduced as a result of the Lansdowne Road Agreement and the Financial Emergency Measures in the Public Interest Act 2015.

Salary Increases with effect from 1 January 2016

In accordance with the Agreement and the legislation, the following increases are payable with effect from 1 January 2016:

- Whole-time annual basic salaries up to €24,000 are increased by 2.5%;
- Whole-time annual basic salaries from €24,001 up to €31,000 are increased by 1%.
- Part-time / hourly paid staff - the pay of part-time staff or hourly paid staff may be revised, in accordance with normal arrangements, by reference to the pay of whole-time staff to which they are related for pay purposes in accordance with this circular.

Revised salary scales for the affected grades of staff whose salary scales are sanctioned by this Department are included in an attachment with this circular.

All salary scales payable to these affected grades set out in previous Circulars are superseded by the terms of this Circular with effect from 1 January 2016.

Allowances

Allowances which are calculated as a specific percentage or specified portion of basic pay should be recalculated by reference to the revised rates of pay with effect from 1 January 2016. Fixed allowances are not affected.

National Minimum Wage Increase to €9.15 with effect from 1 January 2016

Employers should note that under the terms of the National Minimum Wage Order 2015 (S.I. No. 442 of 2015) the national minimum wage will increase to €9.15 per hour with effect from 1 January 2016. This rate of €9.15 is inclusive of the increases under the Lansdowne Road Agreement/ FEMPI Act 2015 outlined in

this Circular i.e. the 2.5% or 1% increase as applicable is applied to the individual's salary on 1 January 2016 in the first instance and if the individual's hourly rate is below €9.15 following this calculation, then the individual's hourly rate is further increased to €9.15. A worked example is included below;

Worked Example:

A Cleaner is employed for 38.5 hours per week (including meal breaks) for a full year on an annual salary of €17,377. The individual's hourly rate is therefore €8.65. On 1 January 2016, the individual's salary is increased by 2.5% under the LRA/FEMPI Act 2015. This results in an annual salary of €17,812 which equates to an hourly rate of €8.87. As this is below the national hourly minimum wage, the individual's salary must be further increased so that the hourly rate equates to €9.15, giving a total final annual salary of €18,382.

Where points on the revised scales to apply from 1 January 2016 would have been below the revised minimum wage of €9.15, these scale points have been brought in line with the minimum wage before the issuance of the revised scales attached to this letter/Circular.

Please note that under the National Minimum Wage Act 2000 specific provision regarding the payment of the minimum wage to trainee grades (a % of minimum wage) is provided for and these provisions should continue to apply to such grades. It should be remembered when complying with the National Minimum Wage Act that break periods (whether paid or not) are included for the purposes of ensuring that a person is receiving the minimum hourly rate of pay.

Overtime

Payment in respect of overtime for eligible grades rendered on or after 1 January 2016 should be calculated by reference to the revised rates of pay with effect from 1 January 2016.

Pension-Related Deduction – Threshold Adjustments in 2015 and 2016

The thresholds for the PRD will be adjusted with effect from 2015. In 2015, the rates and thresholds for the PRD will be as follows:

Amount of Remuneration	Rate of Deduction
Up to €17,500	Exempt
Greater than €17,500 but not over €20,000	2.5%
Greater than €20,000 but not over €60,000	10%
Greater than €60,000	10.5%

Where an amount was deducted from an individual's salary in 2015 in excess of the amount required to be deducted as a result of the operation of the above adjustment, the employer (or the Department as appropriate) shall repay that excess amount to the individual concerned.

The thresholds for the PRD will be further adjusted with effect from 1 January 2016. From 1 January 2016, the rates and thresholds for the PRD will be as follows:

Amount of Remuneration	Rate of Deduction
Up to €26,083	Exempt
Greater than €26,083 but not over €60,000	10%
Greater than €60,000	10.5%

Enhanced Controls in relation to Terms and Conditions of Employment Agreed with effect from 30 November 2015

Employers are advised that the Ministers and Secretaries (Amendment) Act 2011 has been amended under the FEMPI Act 2015 to introduce enhanced controls in relation to terms and conditions of employment agreed between public servants and their public service body employers with effect from 30 November 2015. The relevant sections of the Act are included in the Appendix to this Circular.

Anomalies

Where the operation of the increases set out in this Circular results in the basic salary of a public servant being higher than the basic salary applicable to the next immediate point on the pay scale (or any higher point), this should be notified to the Department so that the anomaly can be addressed.

Any queries in relation to anomalies identified in relation to this circular should be forwarded by email to esr@education.gov.ie. Any other queries in relation to this circular should also be forwarded by email to this address.

I would be grateful if you could bring this letter to the attention of all relevant staff in Institutes of Technology and DIT to allow them the maximum time to prepare for these changes.

Philip Crosby
Principal Officer
External Staff Relations

Section 12 of the Financial Emergency Measures in the Public Interest Act 2015

Amendment of Ministers and Secretaries (Amendment) Act 2011

The Ministers and Secretaries (Amendment) Act 2011 is amended by the insertion of the following section after section 16:

“Control of terms and conditions of public servants

16A. (1) Where—

(a) the Minister has approved a term or condition as being a term or condition that shall apply for the time being in respect of the employment of a class or category of public servant (whether that approval takes the form of an approval as such, any other form of sanction or the giving of consent by the Minister to a decision of another person in the matter), and

(b) a contract of employment in respect of a public servant falling within that class or category is entered into that contains a term or condition that corresponds or is equivalent to the term or condition standing so approved but which is more favourable to the public servant than that term or condition,

the contract shall have effect as if the term or condition standing so approved (referred to in subsections (2) and (3) as the ‘approved term or condition’) were substituted for the first-mentioned term or condition in paragraph (b) (referred to in subsections (2) and (3) as the ‘unapproved term or condition’).

(2) Any amount paid to the public servant concerned in purported compliance with the unapproved term or condition that is in excess of the amount payable to the public servant under the approved term or condition shall be disregarded for the purpose of calculating any pension entitlement (including an entitlement to a lump sum and an entitlement to periodic payments of pension) of that public servant.

(3) Where an amount is paid to the public servant concerned in purported compliance with the unapproved term or condition that is in excess of the amount payable to the public servant under the approved term or condition then—

(a) the public servant shall hold the overpayment in trust for the public service body, and

(b) the public service body shall recover the amount of the overpayment from the public servant, either directly or by a deduction taken from remuneration subsequently payable to that public servant or otherwise.

(4) Where—

(a) a contract of employment is entered into in respect of a public servant, and

(b) the contract contains a term or condition in relation to remuneration that does not correspond or is not equivalent to any term or condition standing approved by the Minister in respect of the employment of a class or category of public servant into which the first-mentioned public servant falls (whether that approval

takes the form of an approval as such, any other form of sanction or the giving of consent by the Minister to a decision of another person in the matter),

the term or condition shall be void.

(5) Any amount paid to the public servant concerned in purported compliance with a term or condition voided under subsection (4) shall be disregarded for the purpose of calculating any pension entitlement (including an entitlement to a lump sum and an entitlement to periodic payments of pension) of that public servant.

(6) Where an amount is paid to the public servant concerned in purported compliance with a term or condition voided under subsection (4) then—

(a) the public servant shall hold the amount in trust for the public service body, and

(b) the public service body shall recover the amount from the public servant, either directly or by a deduction taken from remuneration subsequently payable to that public servant or otherwise.

(7) Subsections (3) and (6) shall not be taken as limiting the liability under statute of any person to account for such overpayment.

(8) Where an amount to which subsection (3) or (6) relates has not been recovered by the public service body concerned, the Minister may direct in writing that body to recover, by a specified date, the amount in accordance with subsection (3)(b) or (6)(b), as the case may be, and, where that body fails to so recover the amount, the Minister may deduct the amount from any grant or vote of, or other payment to, that body out of money provided directly or indirectly by the Oireachtas or from the Central Fund or the growing produce of that Fund.

(9) This section applies to a term or condition agreed after the commencement of section 12 of the Financial Emergency Measures in the Public Interest Act 2015.

(10) This section has effect notwithstanding—

(a) any other enactment,

(b) any pension scheme or arrangement,

(c) any other agreement or contractual arrangement, or

(d) any understanding, expectation, circular or instrument or other document.

(11) In this section—

“public servant” means a person who is employed by, or who holds any office or other position in, a public service body;

“remuneration” means emoluments to which Chapter 4 of Part 42 of the Taxes Consolidation Act 1997 applies or is applied.”