

**Reference No:** E107/36/54;     **Date:** 10/08/76

**Circular 26/1976:- Amendment of Scheme of Conciliation and Arbitration for the Civil Service**

A Dhuine Uasail

I am directed by the Minister for the Public Service to inform you that, following agreement between the Minister and the panel of staff representatives of the General Council, the scheme of conciliation and arbitration for the civil service has been further amended.

2.       The amendments set out below took effect from 31 March 1976.

(1)       The deletion in paragraphs 14(2) and 34(2) of the words "Minister for Labour" and the substitution therefor of the words "Chairman of the Labour Court".

(2)       The addition to paragraph 23(i) of the following:"Claims for grading of posts and blocks of work involving general service grades where the changes in grading involved would have service-wide implications."

(3)       The insertion after paragraph 53(c) of the following:"(d) at the request of either of the sides nominated under (b) or (c) above, one workers' member and one employers' member of the Labour Court nominated by the Chairman of the Court".

(4)       The deletion in paragraph 58 of the following sentence;"(3) The provision of sub-paragraph (2)(a)(ii) preceding and the consequential provisions elsewhere in this paragraph shall apply for the trial period of one year only, at the end of which they will lapse except by agreement between the Minister for the Public Service and the civil service staff associations".

(5)       The deletion in paragraph 60 (l)(i) of the following:-  
"pay and allowances in the nature of pay," and the substitution therefore of the following:-  
"pay and allowances in the nature of pay or otherwise,".

(6)       The deletion in paragraph 60 (l) of the followings"-  
(vi)       travelling, lodging and disturbance allowances" and the substitution therefore of the following:-  
(vi)       travelling, lodging and disturbance allowances and removal expenses".

(7)       "The deletion in paragraph 69 of the following sentence;  
"The report will contain (a) the unanimous finding of the members of the Board or, if the members are not unanimous but a majority agrees on a certain finding, (b) the finding of such a majority of the members of the Board, or if a majority of the Board is unable to agree, (c) the finding of the Chairman".

          and the substitution, therefore, of the following:-  
"The report of the Board shall set out the unanimous finding of the members of the Board or, where members are not unanimous, the finding of the Chairman. The finding of the Board (whether unanimous, or that of the Chairman) shall be based only on the statement of case, counter statement, submissions at the hearings and the considerations discussed by the Board and the finding shall be made at a meeting of the Board".

3. A fully revised version of the Conciliation and Arbitration Scheme incorporating the amendments mentioned in paragraph 2 above is attached. Additional copies of this circular or of the Scheme may be obtained, on requisition, from the Stationery Office.

Mise le meas  
S Mac Gamhna

SCHEME OF CONCILIATION AND ARBITRATION FOR THE CIVIL SERVICE  
(Revised 31 March 1976)

INDEX

Part I: General Page Paragraph

Preliminary	1	1-3
Scope of Scheme	1	4
Recognition of Associations	2	5-6
Leave for Staff Representatives	4	7
Expenses	4	8
Direct Access to Departments	4	9
Outside Organisations	4	10
Individual Officers	4	11
Appropriate Councils for Discussions	4	12
Termination and Amendment of Scheme	4	13

Part II: General Council

Constitution	5	14-18
Procedure	6	19-22
Subjects for discussion	6	23-28
Council Reports	8	29-31
Sub-Committees	8	32
Confidentiality	8	33

Part III: Departmental Councils

Constitution	9	34-38
Procedure	10	39-42
Subjects for discussion	10	43-46
Council Reports	11	47-50
Sub-Committees	12	51
Confidentiality	12	52

Part IV: Arbitration

Constitution	12	53-57
Arbitrability of claims	13	58-61

Statement of Case	14	62-65
Advocacy	16	66
Witnesses	16	67-68
Reports of Board	16	69-72

## SCHEME OF CONCILIATION AND ARBITRATION FOR THE CIVIL SERVICE

### PART I: GENERAL

#### PRELIMINARY

1 The purpose of this scheme of conciliation and arbitration is to provide means acceptable both to the State and to its employees for dealing with claims and proposals relating to the conditions of service of civil servants and to secure the fullest co-operation between the State, as employer, and civil servants, as employees, for the better discharge of public business.

2 The existence of this scheme does not imply that the Government have surrendered or can surrender their liberty of action in the exercise of their constitutional authority and the discharge of their responsibilities in the public interest.

3 The conditions governing the operation of the General Council, the Departmental Councils and arbitration are set out in the succeeding Parts of this scheme.

#### SCOPE OF SCHEME

4 (l) The following classes of civil servants are wholly excluded from the scope of the scheme:

(a) civil servants, other than those indicated in sub-paragraph (2) following, serving in grades the maximum normal undifferentiated pay of which exceeds the maximum of the undifferentiated Higher Executive Officer scale

(b) the Administrative Officer grade and the grades of Third Secretary and Second Secretary in the Department of Foreign Affairs, and

(c) industrial civil servants.

(2) Any professional, scientific or technical civil servant serving in a grade the maximum normal undifferentiated pay of which exceeds the maximum of the undifferentiated Higher Executive Officer scale but does not exceed the maximum of the undifferentiated Assistant Principal Scale 2 will be regarded as coming within the scope of the scheme for the purposes of claims, other than claims affecting civil servants generally, provided he/she is not the principal professional, scientific or technical officer or a professional, scientific or technical officer next in rank to such principal professional, scientific or technical officer of a Department or Office or of a Section of a Department or Office.

(3) "Undifferentiated pay", in (l) and (2) preceding, means, in the case of pay governed by differentiation on a sex basis, the pay applicable to a male officer and, in the case of pay governed by differentiation on a marriage basis, the pay applicable to a married male officer.

(4) Civil servants excluded from the scheme by virtue of this paragraph will not be eligible to take any part on behalf of the staff in operating it. Civil servants comprehended in the scheme will not be eligible to take any part on behalf of the official side in operating it. This provision will not be regarded as

precluding any officer from appearing as a witness before the Arbitration Board or from acting as secretary to a Conciliation Council or to a sub-committee set up by a Conciliation Council.

## RECOGNITION OF ASSOCIATIONS

5 (1) Before any staff association can be recognised for the purpose of the scheme it must make application for recognition by the Minister for the Public Service. Only civil service staff associations recognised by the Minister for the Public Service for the purposes of conciliation and arbitration will be eligible to take part in the operation of the scheme. Application for such recognition must, in the case of an association representing departmental classes serving in one Department only, be made through the Department in which the classes are serving. Application for recognition by associations representing classes other than those mentioned should be made to the Department of the Public Service. The staff side of the General Council will be consulted before recognition, for the purposes of conciliation and arbitration, is granted to any staff association not so recognised on 31st March, 1955.

(2) Except as provided in sub-paragraph (3) following every application for recognition must be accompanied by a statement signed by the Chairman and the executive officers of the association concerned that the association is not affiliated to or associated in any way with any political organisation.

(3) Recognition will not be accorded to any staff association which is affiliated to, or associated in any way with, any political organisation unless such affiliation or association subsisted prior to 1st April, 1949. In the event that a staff association has been and is so affiliated or associated, the Minister for the Public Service may, with the consent of the Government, exceptionally accord recognition to such staff association for the purposes of conciliation and arbitration, subject to production by the staff association of supporting evidence. Nothing in this provision shall be construed as preventing the Government from directing the Minister for the Public Service at any time, if they see fit, to withdraw the recognition exceptionally accorded and on receipt of such direction the Minister for the Public Service shall take the necessary action and shall inform the staff association that recognition has been withdrawn with effect from the date of the communication notifying such withdrawal.

(4) Recognition will immediately be withdrawn from a staff association which, not having been affiliated to any political organisation prior to 1st April, 1949, associates officially in any way with any such organisation, e.g. utilises the machinery of the association to collect subscriptions for such political organisation. Before such withdrawal of recognition becomes effective the staff side of the General Council will be consulted.

(5) When an association makes application for recognition it must submit copies of its rules, particulars of its membership and any other relevant information. If a staff association which has been recognised for the purposes of the conciliation and arbitration scheme subsequently amends its constitution or rules it shall immediately notify the Minister accordingly. If the Minister regards the amendment as substantial the recognition granted will lapse and the Minister will inform the staff association to this effect. It will then be necessary for the staff association to make application for fresh recognition on the basis of its new constitution and rules.

6 (1) Subject to the provisions of sub-paragraph (2) following, should a staff association, recognised for the purposes of this scheme, sponsor or resort to any form of public agitation as a means of furthering claims or seeking redress for grievances which are appropriate to be dealt with through the scheme, recognition may be withdrawn from such association, but the staff side of the General Council will be consulted before such withdrawal becomes effective.

(2) The provisions of sub-paragraph (1) will not, in relation to (a) a non-arbitrable matter on which discussions at the General Council or at a Departmental Council have been concluded without agreement having been reached, or (b) a matter which has been the subject of a motion introduced in accordance with the provisions of paragraph 71 or paragraph 72 of the scheme and carried in Dail

Eireann, preclude staff associations - subject to the rules and regulations in force from time to time governing the conduct of civil servants - from publishing factual information or comment or holding public meetings of members of the Civil Service or officers of staff associations for the purpose of expressing their viewpoint.

#### LEAVE FOR STAFF REPRESENTATIVES

7 Staff representatives, if serving civil servants, will be allowed special leave with pay (a) to attend meetings of the General Council, of a Departmental Council or of any sub-committee set up by any such council to report to it, provided that they are members of or secretaries to such councils or sub-committees, or (b) to act as members of or appear as witnesses, as advocates or otherwise to give evidence before the Arbitration Board.

#### EXPENSES

8 The official and staff sides, i.e. panels or associations, as may be appropriate, will each be responsible for their own expenses and will bear half any common expenses.

#### DIRECT ACCESS TO DEPARTMENTS

9 Where reference of a subject to a Council would clearly be inappropriate, recognised staff associations will not be precluded by the existence of the scheme from approaching Departments on the subject matter in question.

#### OUTSIDE ORGANISATIONS

10 Where a civil service staff association is associated with an outside organisation, it will not move the outside organisation to make representations on behalf of civil servants in respect of matters which could be dealt with through the scheme. Representations from outside organisations on behalf of civil servants will not accordingly be entertained.

#### INDIVIDUAL OFFICERS

11 (1) An individual officer will continue to have the right to submit in writing through the normal channels any statement he may wish to make to the Head of his Department on any matter affecting his official position. Accordingly, claims affecting individual officers are excluded from the scope of the scheme.

(2) A claim affecting an individual officer (A) who constitutes a class in himself or (b) who, though he is the only officer serving in his grade, can be identified as belonging to a homogeneous group, will not be regarded as being excluded from the scheme by reason of being a claim affecting an individual officer.

#### APPROPRIATE COUNCILS FOR DISCUSSIONS

12 General service matters appropriate for discussion at the General Council may not be discussed at Departmental Council nor may departmental matters appropriate for discussion at a Departmental Council be discussed at the General Council.

#### TERMINATION AND AMENDMENT OF SCHEME

13 (1) The agreement to operate the scheme shall continue in force unless and until it is terminated by six months notice given by the Minister for the Public Service or by the panel of staff representatives of the General Council.

(2) Amendments to the scheme may be proposed from time to time by either the Minister for the Public Service or the panel of staff representatives of the General Council.

(3) If and when agreement is reached between the Minister for the Public Service and the said panel of staff representatives on an amendment to the scheme, such amendment shall be formally incorporated in the scheme by means of an addendum, the original of which shall bear the signatures of the Chairman and the principal staff representative for the time being, of the General Council.

## PART II: GENERAL COUNCIL

### CONSTITUTION

14 (1) The Council will consist of

(a) a Chairman, nominated by the Minister for the Public Service, and not more than 5 other official representatives;

(b) a principal staff representative and not more than 5 other staff representatives.

(2) Discussions at the General Council may be continued under a mediator should both sides so agree, where the claim under discussion is arbitrable, or at the request of either side, where the claim under discussion is not arbitrable, or where there is doubt as to whether or not the claim is arbitrable. The mediator shall be nominated by the Chairman and of the Labour Court and he shall act for the purpose of claims referred to mediation as if he were Chairman of the Council.

15 (1) A panel of staff representatives will be formed to which representatives of each recognised association or group of associations will be appointed on the following basis:

1 representative for each complete 500 members up to 2,000;  
1 representative thereafter for each further complete 2,000 members.

(2) The staff representatives to attend meetings of the Council will be selected by the members of the panel and may be varied at such times in such a manner as the members may determine, including the selection of different representatives to attend different parts of a meeting.

16 The Council will have two secretaries, both to be serving civil servants, one of whom will be nominated by the official representatives and one by the staff representatives.

17 All members of the Council must be serving civil servants or staff association officials.

18 The number of official representatives and of staff representatives to be appointed under subparagraph (2) of paragraph 15 preceding may exceptionally be increased by agreement between both sides

### PROCEDURE

19 Meetings will be held not less frequently than once every two months unless in any such period there is no subject for discussion when, by agreement between the official and staff side secretaries it will be recorded that no meeting was required. Not more than one meeting will be held in any month except by agreement between the Chairman and the staff representatives.

20 Subject to the provisions of paragraph 19 preceding all meetings will be summoned on the direction of the Chairman jointly by the official and staff side secretaries, at the request of either official or staff representatives.

21 It will be open to the panel of staff representatives to request the placing of any matter which they believe to be within the province of the Council on the agenda for the next meeting of the Council. The question whether items so put forward come within the province of the Council will be a matter for the Chairman to decide. Before any item is excluded, the Council will be given an opportunity of expressing its views as to whether it should be included or excluded.

22 The Minister for the Public Service may cause to be placed on the agenda of the General Council any matter on which he desires to obtain the views of the staff representatives provided the matter is among the subjects listed in paragraph 23 as appropriate for discussion by the Council, or, if it is not among the subjects so listed that the Minister for the Public Service considers that it may appropriately be discussed by the Council.

#### SUBJECTS FOR DISCUSSION

23 The subjects appropriate for discussion by the General Council will be:

- (a) Principles governing recruitment to general service classes and to professional, scientific and technical classes common to two or more Departments;
- (b) Claims for increase or decrease of pay of the civil service as a whole;
- (c) Claims relating to general service classes and to professional, scientific and technical classes common to two or more Departments in relation to (i) pay and allowances whether in the nature of pay or otherwise, (ii) overtime rates, (iii) subsistence allowances, (iv) travelling, lodging and disturbance allowances, (v) removal expenses;
- (d) Principles governing remuneration and form of payment of additional remuneration, vis, whether by way of continuing allowance or periodic gratuity;
- (e) Hours of weekly attendance of general service classes;
- (f) Principles of promotion in the general service classes and in professional, scientific and technical classes which are common to two or more Departments;
- (g) Principles governing discipline;
- (h) Suggestions by the staff of general application for promoting efficiency in the civil service;
- (i) General considerations in regard to the grading of general service classes and of professional, scientific and technical classes common to two or more Departments; claims for grading of posts and blocks of work involving general service grades where the changes in grading involved would have service-wide implications;
- (j) Principles governing superannuation;
- (k) Principles governing the grant of annual, sick and special leave;
- (l) Claims relating to establishment of a proportion of unestablished general service and professional, scientific and technical classes common to two or more Departments;

(m) Questions of doubt or difficulty in relation to the subjects appropriate for discussion at Departmental Councils.

24. The staff side may bring forward for discussion subjects not listed in paragraph 23 if the Minister for the Public Service agrees that they are appropriate for discussion by the Council.

25. Where the staff side bring forward for discussion a claim which, if conceded, would involve extra expenditure, they will give an estimate of the annual cost of conceding the claim and will indicate the estimated ultimate annual cost where this differs from estimated immediate annual cost.

26. Where any doubt has arisen as to the interpretation of a recommendation of the Council the matter may be resubmitted to the Council for clarification.

27. The Minister for the Public Service will cause to be brought before the Council prior to decision any proposals for changes in the remuneration of civil servants generally or of general service classes or of professional, scientific and technical classes common to two or more Departments.

28. The Minister for the Public Service will ascertain and give due weight to the views of the Council on proposals for legislation which, in the Ministers view peculiarly affects the position of civil servants or any class of civil servants as distinct from the general public

#### COUNCIL REPORTS

29. It will not be within the competence of the Council to make agreements binding on the Minister for the Public Service but the Council may make agreed recommendations or may, at the request of either side, record disagreement.

30. (1) Reports of all discussions which take place at meetings of the General Council will on approval by the official and staff sides, be signed by the secretaries of the Council. On signature the reports will be deemed to be agreed reports of the Council.

(2) Agreed reports of all discussions which take place at meetings of the General Council will be submitted to the Minister for the Public Service and copies of each such report will be forwarded to the secretary of the staff side of the Council.

31. Decisions of the Minister for the Public Service on matters discussed at the General Council will be conveyed to the staff side secretary of the Council.

#### SUB-COMMITTEES

32. The Council may, if it considers such a course desirable, set up a sub-committee of official and staff representatives to consider and report to it on any subject which is appropriate for discussion by the Council.

#### CONFIDENTIALITY

33. The proceedings of the Council will be confidential and no statements concerning them will be issued except with the authority of the Council. Where an agreed report of the General Council contains an agreed recommendation, the Council will not authorise any publication of the relevant proceedings until the decision of the Minister for the Public Service has been conveyed on such agreed recommendation.

#### PART III: DEPARTMENTAL COUNCILS



## CONSTITUTION

34 (1) A Departmental Council will be set up in each Department and will consist of:-

(a) a Chairman, nominated by the Minister having charge of the Department, and not more than three other official representatives;

(b) a principal staff representative and not more than three other staff representatives.

(2) Discussions at a Departmental Council may be continued under a mediator should both sides so agree, where the claim under discussion is arbitrable, or at the request of either side, where the claim under discussion is not arbitrable or there is doubt as to whether or not the claim is arbitrable. The mediator shall be nominated by the Chairman of the Labour Court and he shall act for the purpose of the claims referred to mediation as if he were Chairman of the Council.

35 (1) The number of representatives of each recognised association (i.e. each association recognised for the purpose of departmental representation and representing staff employed in the Department) to be appointed to a panel of staff representatives will be settled by agreement among such associations or Sailing agreement, by the panel of staff representatives attached to the General Council.

(2) The staff representatives to attend meetings of the Council will be selected by the members of the panel and may be varied at such times and in such manner as the members may determine including the selection of different representatives to attend different parts of a meeting.

36 The staff representatives must be (a) civil servants serving in the Department who are members of the classes represented by associations recognised for the purpose of staff representation in the Department, or (b) whole-time officials of such associations, or (c) subject on the occasion of each attendance to the consent of the Head of the officer's Department where it is proposed to take special leave, part-time officials of such associations serving in other Departments.

37 The Council will have two secretaries, one nominated by the official representatives and one by the staff representatives. The secretaries will be civil servants serving in the Department.

38. The number of official representatives and of staff representatives to be appointed under sub-paragraph (2) of paragraph 35 preceding may exceptionally be increased by agreement between both sides.

## PROCEDURE

39. Meetings will be held not less frequently than once every two months unless in any such period there is no subject for discussion when, by agreement between the official and staff side secretaries, it will be recorded that no meeting was required. Not more than one meeting will be held in any month except by agreement between the Chairman and the staff representatives.

40. Subject to the provisions of paragraph 39 preceding all meetings will be summoned on the direction of the Chairman jointly by the official and staff side secretaries, at the request of either official or staff representatives.

41. It will be open to the panel of staff representatives to request the placing of any matter which they believe to be within the province of the Council on the agenda for the next meeting of the Council. The question whether items so put forward come within the province of the Council will be a matter for the Chairman to decide. Before any item is excluded, the Council will be given an opportunity of expressing

its views as to whether it should be excluded or included. In the event of disagreement the staff side may arrange with the panel of staff representatives of the General Council to have the matter entered on the agenda of the General Council.

42 The Minister in charge of a Department may cause to be placed on the agenda of a Departmental Council meeting any matter on which he desires to obtain the views of the staff representatives provided the matter is among the subjects listed in paragraph 43 as appropriate for discussion by the Council, or, if it is not among the subjects so listed, that the Minister for the Public Service agrees that it may be placed on the agenda.

#### SUBJECTS FOR DISCUSSION

43 The subjects appropriate for discussion by the Council will be:

- (a) Principles governing recruitment to departmental classes;
- (b) Claims, relating to departmental classes only, in relation to (i) pay and allowances whether in the nature of Day or otherwise, (ii) overtime rates, (iii) subsistence allowances, (iv) travelling, lodging and disturbance allowances;
- (c) Allowances and claims for allowances of purely departmental application payable to general service grades and professional, scientific or technical classes;
- (d) Hours of weekly attendance of departmental classes and time-unit system of attendances;
- (e) Principles governing promotion of members of departmental classes;
- (f) Claims for grading of posts and blocks of work;
- (g) Accommodation on and working conditions affecting the health and safety of the staff;
- (h) Annual leave of departmental classes;
- (i) Suggestions by the staff for promoting efficiency in the Department;
- (j) Acting appointments;
- (k) Claims relating to establishment of a proportion of unestablished departmental classes;
- (l) The application departmentally of general principles formulated at the General Council;
- (m) Principles affecting existing departmental disciplinary codes.

44. The staff side may bring forward for discussion subjects not listed in paragraph 43 if the Minister of the Department and the Minister for the Public Service agree that they are appropriate for discussion by the Council.

45. Where the staff side bring forward for discussion a claim which, if conceded, would involve extra expenditure, they will give an estimate of the annual cost of conceding the claim and will indicate the estimated ultimate annual cost where this differs from the estimated immediate annual cost.

46. Where any doubt has arisen as to the interpretation of a recommendation of the Council the matter may be re-submitted to the Council for clarification.

## COUNCIL REPORTS

47. It will not be within the competence of the Council to make binding agreements but the Council may make agreed recommendations or may, at the request of either side, record disagreement.

48 (1) Reports of all discussions which take place at meetings of a Departmental Council will, on approval by the official and staff sides, be signed by the secretaries of the Council. On signature the reports will be deemed to be agreed reports of the Council.

(2) Agreed reports of all discussions which take place at a Departmental Council will be submitted to the Minister in charge of the Department, and through him to the Minister for the Public Service before a decision is announced, and copies of each such report will be forwarded to the secretary of the staff side of the Departmental Council.

49. The decisions of the appropriate Minister or Ministers on matters discussed by the Council will be conveyed to the staff side secretary by the Council.

50. The Minister for the Public Service will not reject the agreed recommendation of a Departmental Council without prior consultation on the part of representatives of his Department with the official side of the Departmental Council in question.

## SUB-COMMITTEES

51. The Council may, if it considers such a course desirable, set up a sub-committee of official and staff representatives to consider and report to it on any subject which is appropriate for discussion by the Council.

## CONFIDENTIALITY

52. The proceedings of the Council will be confidential and no statements concerning them will be issued except with the authority of the Council. Where an agreed report of a Departmental Council contains an agreed recommendation the Council will not authorise any publication or the relevant proceedings until the decision of the appropriate Minister or Ministers has been conveyed on such agreed recommendation.

## PART IV: ARBITRATION

### CONSTITUTION

53. The Arbitration Board will consist or

(a) a Chairman;

(b) two members, being serving civil servants, to be nominated by the Minister for the Public Service for the hearing of each case;

(c) two members, being serving civil servants or whole-time officials of staff associations recognised for the purpose of the scheme, to be nominated by the staff panel of the General Council for the hearing of each case;

(d) at the request of either of the sides nominated under (b) or (c) above, one workers' member and one employers' member of the Labour Court nominated by the Chairman of the Court.

54. The Chairman will, on the nomination of the Minister for the Public Service in agreement with the staff side of the General Council, be appointed by the Government. He will hold office for such term as may be fixed by the Government at the time of his appointment.

55. Whenever the Chairman is through ill-health or other cause temporarily unable to perform the duties of his Office a Deputy Chairman may be appointed by the Government on the nomination of the Minister for the Public Service in agreement with the staff side of the General Council to hold office during the period of absence of the Chairman. The Deputy Chairman will while his appointment continues have all the duties and powers of the Chairman.

56. Members of the Oireachtas, persons serving in the civil service, and officials of civil service staff organisations will be ineligible for appointment as Chairman or Deputy Chairman. Members of the Oireachtas will also be ineligible to act as members Of the Board.

57. The secretary to the Board will be a serving civil servant and will be appointed by the Minister for the Public Service after consultation with the Chairman of the Board and the staff side of the General Council.

#### ARBITRABILITY OF CLAIMS

58 (1) Subject to the remaining sub-paragraphs of this paragraph, only such staff claims as are made on behalf of a grade or grades comprehended by the scheme and represented by a recognised staff association are appropriate for reference to the Arbitration Board.

(2) A claim on behalf of a section of a grade may be regarded as appropriate for reference to the Arbitration Board where

(a) (i) differentiation exists between the conditions of service (excluding duties) of such section and those common to the rest of the grade

or

(ii) the duties of such section are superior in quality to the highest duties appropriate to the grade

or

(iii) the Minister for the Public Service is satisfied that differentiation exists between the method of recruitment to the civil service of such section and that of the rest of the grade

and

(b) the claim arises out of such differentiation or of such superior duties.

59. To be referable to the Arbitration Board a claim must (a) be arbitrable (b) have been discussed at either the General Council or at a Departmental Council as may be appropriate, and (c) have been the subject of either (i) recorded disagreement by the Council following such discussion or (ii) an agreed recommendation which has not been accepted by the Minister for the Public Service.

60 (1) Subject to the provisions of sub-paragraph (2) hereunder, the following claims relating to classes of civil servants will be arbitrable, vis. claims for, or in regard to, the rates or the amount of (i) pay and allowances in the nature of pay or otherwise, (ii) overtime, (iii) total weekly hours of work, (iv) annual and sick leave, (v) subsistence allowances, (vi) travelling, lodging and disturbance allowances and removal expenses.

(2) Claims for the extension of children's allowances will not be arbitrable.

61 Where, in accordance with paragraph 59 preceding, a claim becomes referable to the Arbitration Board, the staff association recognised as representing the class or classes of civil servants concerned or the Minister for the Public Service on his own initiative may request arbitration provided that, in the case of a claim to which sub-paragraph 59(o) (i) applies, the agreed report of the Council has been submitted to the Minister for the Public Service.

#### STATEMENT OF CASE

62 (1) Where arbitration is requested by a civil service staff association, the staff association concerned will forward a statement of case, including proposed terms of reference, to the Secretary, Department of the public Service.

(2) Where the arbitrability of the claim is not disputed, the staff statement of case will be transmitted to the secretary to the Arbitration Board together with the official sides counter statement and at the same time the secretary to the Arbitration Board will be informed whether the Minister for the Public Service agrees with the terms of reference proposed by the claimants. (Failing agreement, the respective statements of case together will, subject to the provisions of this scheme and to the rules of procedure of the Arbitration Board, constitute the term of reference.) A copy of the official side's counter-statement will also be sent to the staff association making the claim.

(3) Where the arbitrability of a claim is disputed, the staff association making the claim will be so informed within one month of lodgement of the claim with the Department of the Public Service and the grounds on which arbitrability is disputed will be stated. The staff association may then request that the question of arbitrability be referred to the Arbitration Board for determination, in accordance with the provisions of paragraph 64 following, and will set out the grounds on which it claims that the matter comes within the category of arbitrable subjects. The secretary to the Arbitration Board will be furnished with a factual statement, agreed beforehand between the parties, of the matter in dispute together with statements setting out the contentions of each party on the question of the arbitrability or otherwise of the issue. If the Arbitration Board determines that the claim comes within the category of arbitrable subjects the procedure prescribed in sub-paragraph (2) preceding will subsequently be followed.

63 (1) Where arbitration is requested by the Minister for the Public Service, he will cause to be transmitted to the secretary to the Arbitration Board and to the other party concerned, a statement of case, including proposed terms of reference.

(2) Where the arbitrability of the claim is not disputed, the other party will forward a counter-statement to the secretary to the Arbitration Board and to the Secretary, Department of the Public Service and will at the same time inform the secretary to the Arbitration Board whether it agrees with the proposed terms of reference. (Failing agreement, the respective statements of case sill, subject to the provisions of this scheme and to the rules of procedure of the Arbitration Board, together constitute the terms of reference.)

(3) Where the arbitrability of the claim is disputed, the Secretary, Department of the Public Service will be so informed and the grounds on which arbitrability is disputed will be stated. The Minister for the Public Service may then request that the question of arbitrability be referred to the Arbitration Board for determination in accordance with the provisions of paragraph 64 following, and will set out the grounds on which he claims that the matter comes within the category of arbitrable subjects. The secretary to the Arbitration Board will be furnished with a factual statement, agreed beforehand between the parties, of the matter in dispute together with statements setting out the contentions of each party on the question of the arbitrability or otherwise of the issue. If the Arbitration Board determines that the claim

comes within the category of arbitrable subjects, the procedure prescribed in sub-paragraph (2) preceding will subsequently be followed.

64. Any dispute as to whether a particular claim comes within the category of arbitrable subjects will be determined by the Board whose decision will be final.

65. Each party's statement of case will, as far as practicable, contain all submissions relied upon in relation to the claim.

#### ADVOCACY

66. (1) Civil Servants concerned in a claim referred to the Board may select not more than three advocates to present their claim to the Board. The persons so selected must be drawn from the following categories:

- (a) whole-time officials of staff associations concerned with the claim, or
- (b) serving civil servants of the class or classes concerned in the claim, or
- (c) subject to the consent in each case of the head of the officer's Department, where it is proposed to take special leave, serving civil servants of another class.

(2) The Minister for the Public Service may select not more than three advocates to present the official case to the Board. The persons so selected must be serving civil servants.

#### WITNESSES

67. The Board may summon witnesses and request them to furnish evidence in writing or otherwise.

68. Subject to the provisions of this scheme, the Board will settle its own procedure.

#### REPORTS OF THE BOARD

69. The Chairman of the Board will submit to the Minister for the Public Service a report on every claim referred to the Board and such report shall be the report of the Board. This report will be signed by the Chairman only and no other report will be issued by the Board or by any member of it. The Report of the Board shall set out the unanimous finding of the members of the Board or, where members are not unanimous, the finding of the Chairman. The finding of the Board (whether unanimous, or that of the Chairman) shall be based only on the statement of case, counterstatement, submissions at the hearings and the considerations discussed by the Board and the finding shall be made at a meeting of the Board.

70. Within one month of the receipt of a report from the Chairman of the Board, the Minister for the Public Service will present it to Dail Eireann. No such report will be published before presentation to Dail Eireann.

71. (a) This paragraph relates to a report of the Board which does not concern a claim for a general revision of civil service pay.

(b) Subject to what follows, the Minister for the Public Service will authorise the implementation of the finding contained in the report within one month of receiving the report.

(c) If the Minister for the Public Service considers that the finding in the report should not be accepted or should for any reason be brought to the attention of the Government, he will submit the report to the Government. The Government will either authorise the implementation of the finding within three

months of the receipt of the report by the Minister for the Public Service or will, as soon as may be thereafter introduce a motion in Dail Eireann recommending either the rejection of the finding of such modification therein as they think fit.

72 (1) If the report of the Board concerns a claim for a general revision of civil service pay, the Government will adopt one of the following courses:

(a) within three months of the date of the receipt of the report by the Minister for the Public Service signify that they propose to give immediate effect to the finding of the Board in full;

(b) as soon as may be after the expiration of the three months after the date of the receipt of the report by the Minister for the Public Service introduce a motion in Dail Eireann

(i) proposing the rejection of the finding, or

(ii) proposing the modification of the finding, or

(iii) proposing (because they consider that it would not be possible, without imposing additional taxation, to give full effect to the finding within the current financial year) the deferment of a final decision on the report until the Budget for the next following financial year is being framed and indicating to what extent, if any, they propose in the interval, without prejudice to the final decision, to give effect to the finding, the extent of the payment in that event to be determined by the amount which can be met without imposing additional taxation.

(2) Should Dail Eireann have approved of a motion presented to it in accordance with the terms of sub-paragraph (1) (b) (iii) preceding, the Government will, save in entirely exceptional circumstances, make full provision in the Budget for the following financial year for the annual charge appropriate to that financial year in respect of the report of the Arbitration Board and also for the amount necessary, as an addition to any amount already paid, to give full effect to the Board's finding from the date of operation recommended in the report to the end of the financial year in which the report was presented to Dail Eireann. Where the Government do not so propose to give effect to the Board's finding, they will introduce a motion in Dail Eireann indicating the action they propose to take and recommending such motion to the House.