

Civil Service Conciliation and Arbitration Scheme

General Council Report 1276

(Meeting/s of 19 December 1994)

Forfeiture of Pension (Revised superannuation arrangements for established civil servants who (a) are dismissed or (b) resign to pre-empt dismissal)

Revised superannuation arrangements for established civil servants who (a) are dismissed or (b) resign in order to pre-empt dismissal

1. At its meeting on 19 December 1994 the Council considered a report (copy attached) of the Joint Official Side/Staff Side Working Party on Superannuation concerning the forfeiture of superannuation benefits in cases where established civil servants are dismissed, or resign in order to pre-empt dismissal.
2. It was agreed to recommend that effect be given to the revised arrangements outlined in paragraph 4 of the report of the Working Party.
3. This report was adopted on 19 December 1994.

JOINT OFFICIAL SIDE/STAFF SIDE WORKING PARTY ON SUPERANNUATION

1. At its meetings on 4 October 1991, 7 February 1992, 11 June 1992, 6 November 1992, 5 March 1993, 11 June 1993, 5 October 1993, 7 February 1994 and 14 October 1994, the Working Party considered a Staff Side proposal that the provisions under which established civil servants forfeit all superannuation benefits if they (a) are dismissed or (b) resign in order to pre-empt dismissal, should be revised.
2. In support of their proposal, the Staff Side contended that the current forfeiture provisions - which derive from the Superannuation Act 1859 - should be abolished, for the following reasons:

(a) The concept of forfeiture was now outdated. While superannuation benefits may have been regarded as a privilege in 1859, it was now widely accepted that these benefits constituted deferred pay, and as such were an entitlement rather than a privilege. Moreover, Part III of the Pensions Act 1990 debarred the forfeiture of preserved benefits in those occupational pension schemes which come within its ambit.

(b) The adverse impact of forfeiture affected not only the officers concerned, but also their dependants. It was unfair that these innocent third parties should be penalised.

(c) Forfeiture, in effect, involved a form of "double jeopardy", in that the officer concerned incurred a superannuation penalty in addition to the loss of employment. It also applied indiscriminately to all dismissals - no account was taken of the varying circumstances of individual cases, or the relative gravity of the offences which gave rise to dismissal.

(d) As established civil servants had modified PRSI cover only, dismissed officers were ineligible for Social Welfare unemployment or disability benefits; this factor compounded the adverse effects of superannuation forfeiture.

(e) Some public sector organisations had virtually abolished their forfeiture provisions.

3. In response, the Official Side pointed out that superannuation arrangements in the civil service were generally superior to those available in the private sector. In particular, the preserved benefits applicable to civil servants who resign voluntarily were substantially more favourable than the benefits secured under Part III of the Pensions Act 1990. Moreover, civil servants in practice enjoyed greater security of tenure than virtually any other group in the public or private sectors. Dismissal from the civil service was a measure of last resort, utilised only in a small number of cases where officers were guilty of grave misconduct, frequently involving misappropriation of public funds. That said, the Official Side accepted that there were some cases in which loss of employment in itself constituted a sufficient penalty for the offence involved. For this reason, and in the light of the other arguments advanced by the Staff Side, the Official Side was disposed to agree to some relaxation of the

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current provisions governing forfeiture of superannuation benefits.

4. Following further detailed discussions, the Working Party agreed to

recommend to the General Council that the following arrangements be adopted:

(1) With effect from **1 January 1994**, total forfeiture of superannuation benefits would apply only in cases where civil servants were dismissed, or resigned to pre-empt dismissal, on foot of:

(a) major fraud against the Exchequer;

(b) offences which were gravely injurious to the State; or

(c) other offences liable to lead to a serious loss of confidence in the Civil Service.

(2) In cases of dismissal (or pre-emptive resignation) other than those outlined at (a) to (c) above, which arise on or after 1 January 1994, the former officers would retain entitlement to preserved pension and lump sum, payable on application from age 60 or the date of loss of office, whichever is the later. Entitlement to preserved death gratuity and, where applicable, benefits under the Civil Service Spouses' and Children's Pension Scheme would also be retained. **However, in cases involving financial loss to the Exchequer, the amount of the loss, plus interest, would be repaid by means of deduction from the preserved benefits payable. Interest in such cases would be charged at a compound rate of 6% per annum in respect of the period between the date on which the loss was incurred and the date of repayment.**

(3) The arrangements outlined at (2) above would also apply to dismissals (and pre-emptive resignations) occurring between **1 June 1973 and 31 December 1993**, subject to the following modifications:

(a) Former officers who have attained age 60 before 1 January 1994 will have their preserved benefits payable on application with effect from 1 January 1994, i.e. there will be no retrospection in respect of periods prior to that date. In such cases, the lump sum will be calculated by reference to the relevant salary scale which was in force on the date of the person's 60th birthday, and the pension will be calculated by reference to the relevant salary scale as at 1 January 1994.

(b) Where a former officer to whom the new arrangements would otherwise apply has died prior to 1 January 1994:

(i) a preserved death gratuity, calculated by reference to the relevant salary scale in force on the date of the person's death, will be payable to the person's estate; and

(ii) where applicable, preserved pension benefits under the Spouses' and Children's Scheme (calculated by reference to the relevant salary scale as at 1 January 1994) will, subject to the normal provisions of the Scheme, be payable with effect from 1 January 1994.

(c) In the case of former officers who are alive and under age 60 on 1 January 1994, preserved benefits will, on application, be payable with effect from their 60th birthday.

This report was adopted on 19 December 1994