

Reference No: ; Date: 01/06/50

01/06/1950 G:- Scheme of Conciliation and Arbitration for the Civil Service

**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, facilitation, arbitration and the procedure for dealing with claims are set out in the succeeding Parts of this scheme.
4. Except as otherwise indicated "Minister" where it appears in this scheme means "Minister for Finance".

SCOPE OF SCHEME

5. (1) The scheme comprehends all civil servants (other than industrial civil servants) serving in grades the normal maximum pay of which is less than the normal maximum of the salary scale of the general service grade of Assistant Secretary.
 - (2) (a) Civil servants who are not comprehended by the scheme will not be eligible to take any part on behalf of the staff in operating it.

(b) All grades comprehended by the scheme at the level of Principal Officer (Standard Scale) or above will not take any part on behalf of the Staff Side in operating it except in relation to claims or other matters solely affecting their own grade.

(c) A professional, scientific or technical officer who is the highest such officer of a Department or Office, or of a Section of a Department or Office, will not, even if comprehended by the scheme, take any part on behalf of the Staff Side in operating it except in relation to claims or other matters solely affecting his/her own grade.

(d) Civil servants serving from time to time in the posts or categories of posts specified in Part I of Appendix 1 to this scheme will not take any part on behalf of the staff side in operating the scheme at central or departmental level. Civil servants serving in grades referred to in Part II of Appendix 1 will not take any part on behalf of the staff side in operating the scheme at departmental level.

(e) The foregoing will not preclude any officer who is granted special leave from a Department to act as a whole-time official of a recognised union or staff association from participating fully in the scheme on behalf of the staff side.

(3) The Chairperson of the General Council may, from time to time, in agreement with the staff side, amend Appendix 1 by specifying additional grades/posts or by deleting grades/posts already specified therein.

RECOGNITION OF UNIONS OR ASSOCIATIONS

6. (1) Only civil service unions and staff associations recognised by the Minister for the purpose of the scheme will be eligible to take part in the operation of the scheme. Recognition already granted before 1 November, 1993 to any union or staff association, in respect of grades comprehended by this scheme, shall, subject to the provisions of this scheme, and the conditions governing the grant of such recognition, continue in operation for purposes of this scheme. Before any other union or staff association can be recognised for the purpose of the scheme it must make application for recognition by the Minister.

(2) Application for recognition must, in the case of a union or association representing a departmental grade serving in one Department only, be made through the Department in which the grade is serving. Application for recognition by unions or associations representing grades other than those mentioned should be made to the Department of Finance. The staff side of the General Council will be consulted before recognition is granted to any union or staff association.

(3) Every application for recognition must be accompanied by a statement signed by the Chairperson and the executive officers of the union or association concerned that the union or association is not affiliated to or associated in any way with any political organisation.

(4) Recognition will not be accorded to any union or staff association which is affiliated to, or associated in any way with, any political organisation. Recognition will immediately be withdrawn from a union or staff association which 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) Recognition will not be accorded to any union or staff association which does not hold a negotiation licence under the Trade Union Act, 1941. A union or staff association which has been granted recognition before 1 November 1993 and which does not hold a negotiation licence under the Act shall be expected to conform with the provisions of Section 14 of the Industrial Relations Act 1990.

(6) When a union or association makes application for recognition it must submit copies of its rules, particulars of its membership and any other relevant information. If a union or staff association which has been recognised for the purposes of the 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 union or staff association to this effect. It will then be necessary for the union or staff association to make application for fresh recognition on the basis of its new constitution and rules.

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 including meetings under the Facilitator, provided that they are members of or secretaries to such councils or sub-committees, or (b) to appear as witnesses, as advocates or otherwise to give evidence before the Arbitration Board or Adjudicator.

EXPENSES

8. The official and staff sides, i.e. panels or unions 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 unions and 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 civil service unions or staff associations are affiliated to an outside organisation, representations from that outside organisation on behalf of civil servants in respect of matters which could be dealt with through the scheme will not be entertained. This will not preclude discussions between the official side and the Irish Congress of Trade Unions with the agreement of the unions or associations concerned.

INDIVIDUAL OFFICERS

11. (1) An individual officer will continue to have the right to submit in writing through the normal channels any statement s/he may wish to make to the Head of his/her Department on any matter affecting his/her official position or, if appropriate, to pursue the matter through the Grievance Procedure or Disciplinary Code. Accordingly, claims affecting individual officers are excluded from the scope of the scheme, except in so far as such claims are specifically provided for.

(2) A claim affecting an individual officer (a) who constitutes a grade in himself/herself or (b) who, though s/he is the only officer serving in his/her 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 a 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 or by the panel of staff representatives of the General Council.

(2) Amendments to the scheme, or a review of the terms and operation of the scheme, may be proposed from time to time by either the Minister or the panel of staff representatives of the General Council.

(3) If and when agreement is reached between the Minister 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 Chairperson and the principal staff representative, for the time being, of the General Council.

PART II: GENERAL COUNCIL

CONSTITUTION

14. The Council will consist of:-

- (a) a Chairperson, nominated by the Minister, and not more than 7 other official representatives;
- (b) a principal staff representative and not more than 7 other staff representatives.

15. (1) A panel of staff representatives will be formed to which representatives of each recognised association

or union, or each group of such associations and/or unions, will be appointed on the following basis:

1 representative for each complete 500 members up to 1,000;
1 representative thereafter for each further complete 500 members or part thereof up to 2,000 members;

1 representative thereafter for each further 1,000 members or part thereof.

Exceptionally, the Veterinary Officers' Association will be entitled to one representative.

(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.

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 whole-time officials of unions or staff associations recognised for purposes of the scheme.

18. The number of official representatives and of staff representatives to be appointed under sub-paragraph (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 Chairperson and the staff representatives.

20. Subject to the provision of paragraph 19 preceding all meetings will be summoned on the direction of the Chairperson 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 Chairperson 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 may cause to be placed on the agenda of the General Council any matter on which s/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 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 grades and to professional, scientific and technical grades 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 grades and to professional, scientific and technical grades 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, viz, whether by way of continuing allowance or periodic gratuity;

(e) Hours of weekly attendance of general service grades;

(f) Principles of promotion in the general service grades and in professional, scientific and technical grades 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 grades and of professional, scientific and technical grades 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 civil servants and of professional, scientific and technical civil servants serving in two or more Departments;

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

(n) Claims relating to compensation for loss of earnings where the claim refers to civil servants in more than one Department;

(o) All matters listed above and in paragraph 42 in so far as they relate to the grades comprehended by Part II of Appendix 1.

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

25. 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.

26. The Minister 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 grades or of professional, scientific and technical grades common to two or more Departments.

27. The Minister will ascertain and give due weight to the views of the Council on proposals for legislation which, in the Minister's view, peculiarly affects the position of civil servants or any category of civil servants as distinct from the general public.

COUNCIL REPORTS

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

29. (1) At the request of either side, reports of discussions which take place at meetings of the General Council will be prepared and, on approval by the official and staff sides, 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 discussions which take place at meetings of the General Council will be submitted to the Minister and copies of each such report will be forwarded to the secretary of the staff side of the Council.

30. Decisions of the Minister on matters discussed at the General Council will be conveyed to the staff side secretary of the Council within three months of the adoption of Agreed Reports of the Council which contain agreed recommendations or within such longer period as the two sides may agree.

SUB-COMMITTEES

31. 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

32. 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 has been conveyed on such agreed recommendation.

PART III: DEPARTMENTAL COUNCILS

CONSTITUTION

33. A Departmental Council will be set up in each Department and will consist of:-

(a) a Chairperson, nominated by the Minister having charge of the Department, and not more than three other official representatives who may include an officer of the Department of Finance.

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

34. (1) The number of representatives of each recognised union or association (i.e. each union or 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 unions or associations or, failing 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.

35. The staff representatives must be (a) civil servants serving in the Department who are members of grades represented by unions or associations recognised for the purpose of staff representation in the Department, or (b) whole-time officials of such unions or 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 unions or associations serving in other Departments.

36. 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.

37. The number of official representatives and of staff representatives to be appointed under sub-paragraph (2) of paragraph 34 preceding may exceptionally be increased by agreement between both sides.

PROCEDURE

38. 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 Chairperson and the staff representatives.

39. Subject to the provisions of paragraph 38 preceding all meetings will be summoned on the direction of the Chairperson jointly by the official and staff side secretaries, at the request of either official or staff representatives.

40. 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 Chairperson 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.

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

SUBJECTS FOR DISCUSSION

42. The subjects appropriate for discussion by the Council will be:-

- (a) Principles governing recruitment to departmental grades;
- (b) Claims, relating to departmental grades only, 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;
- (c) Allowances and claims for allowances of purely departmental application payable to general service grades and professional, scientific or technical grades;
- (d) Hours of weekly attendance of departmental grades and time-unit system of attendances;
- (e) Principles governing promotion of members of departmental grades;

- (f) Claims for grading of posts and blocks of work;
 - (g) Accommodation and working conditions affecting the health and safety of the staff;
 - (h) Annual leave of departmental grades;
 - (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 civil servants;
 - (l) The application departmentally of general principles formulated at the General Council;
 - (m) Principles affecting existing departmental disciplinary codes;
 - (n) Claims of purely departmental application relating to compensation for loss of earnings.
43. Matters relating to the grades comprehended in Part II of Appendix 1 shall not be appropriate for discussion at a Departmental Council.
44. The staff side may bring forward for discussion subjects not listed in paragraph 42 if the Minister of the Department and the Minister for Finance agree that they are appropriate for discussion by the Council.
45. 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

46. 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.
47. (1) At the request of either side reports of discussions which take place at meetings of a Departmental Council will be prepared and, 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 discussions which take place at a Departmental Council will be submitted to the Minister in charge of the Department, and through him/her to the Minister for Finance 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.

48. The decisions of the appropriate Minister or Ministers on matters discussed by the Council will be conveyed to the staff side secretary of the Council within three months of the adoption of Agreed Reports of the Council which contain agreed recommendations or within such longer period as the two sides may agree.

49. The Minister for Finance will not reject the agreed recommendation of a Departmental Council without prior consultation on the part of representatives of his/her Department with the official side of the Departmental Council in question.

SUB-COMMITTEES

50. 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

51. 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 of the relevant proceedings until the decision of the appropriate Minister or Ministers has been conveyed on such agreed recommendation.

PART IV: FACILITATION

52. As an aid to the negotiation process, discussions at the Conciliation stage may be continued under a Facilitator should both sides so agree, where the matter under discussion is arbitrable, or at the request of either side, where the matter under discussion is not arbitrable or where there is doubt as to whether or not the matter is arbitrable.

53. The Facilitator shall be a person agreed by the Official Side and the Staff Side.

54. The Facilitator shall have the function of seeking to bring the two sides to an agreement.

55. If agreement does not prove possible, the Facilitator shall prepare a report recording the respective positions of both sides. The agreed report of the appropriate Council will include the Facilitator's report.

PART V: ARBITRATION

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56. There will be two forms of arbitration - an Arbitration Board and an Adjudicator.

57. The Arbitration Board will be appointed by the Government and will consist of:-

- (a) a Chairperson;
- (b) a member nominated by the panel of staff representatives of the General Council;
- (c) a member nominated by the Government.

58. The Chairperson will, on the nomination of the Minister in agreement with the staff side of the General Council, be appointed by the Government. The Chairperson, and the other members of the Board, will hold office for such term as may be fixed by the Government at the time of their appointment.

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

60. The nomination and appointment of the Adjudicator, including provision for a Deputy Adjudicator, will be on the same basis as for the Chairperson of the Arbitration Board, as set out in paragraphs 58 and 59.

61. Members of the Oireachtas or the European Parliament, persons serving in the civil service, and officials of trade unions or civil service staff organisations will be ineligible for appointment as Chairperson or Deputy Chairperson of the Arbitration Board. Members of the Oireachtas or the European Parliament will also be ineligible for appointment as Adjudicator or Deputy Adjudicator or as members of the Arbitration Board.

62. If, within a period of two months following the termination of a period of office of the Chairperson of the Arbitration Board, or the Adjudicator, a successor in office has not been appointed it shall be open to the Staff Side of the General Council or the Minister to approach the Chairperson of the Labour Court on the matter with a view to his/her having consulted with the Staff Side of the General Council and the Minister, putting forward a person for acceptance by the parties for the purposes of paragraphs 58 and 60.

63. The secretary to the Arbitration Board, who will also act as secretary to the Adjudicator, will be a serving civil servant and will be appointed by the Minister after consultation with the Chairperson of the Board and the staff side of the General Council.

ARBITRABILITY OF CLAIMS

64. (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 union or staff association are appropriate for reference to arbitration.

(2) A claim on behalf of a section of a grade may be regarded as appropriate for reference to arbitration 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 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

(iv) the claim arises out of such differentiation or of such superior duties;

or

(b) the claim concerns compensation for loss of earnings.

65. To be referable to the Arbitration Board or Adjudicator, 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.

66. (1) Subject to the provisions of sub-paragraph (2) hereunder, the following claims relating to grades of civil servants will be arbitrable,

(a) 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, (vii) compensation for loss of earnings;

(b) claims relating to grading of posts for individuals or a section of a grade where the basis of the claim is that the duties and responsibilities of the claimants are superior in quality to the highest duties appropriate to their present grade and are appropriate to the grading sought.

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

67. All arbitrable claims for revisions of pay or significant changes in other remuneration or conditions of civil servants, and any other claims involving significant extra expenditure shall, subject to the provisions of the scheme, be referable to the Arbitration Board. All other arbitrable claims will be referable to the Adjudicator save that any such claim may by agreement between the official side and the union or staff association concerned be referable to the Arbitration Board. Claims coming under paragraph 66(1)(b) above shall be referable to the Adjudicator.

68. Where, in accordance with paragraph 65 preceding, a claim becomes referable to arbitration, the staff association recognised as representing the grade or grades of civil servants concerned or the Minister on his/her own

initiative may request arbitration provided that, in the case of a claim to which sub-paragraph 65(c) (i) applies, the agreed report of the Council has been submitted to the Minister.

69. (1) Where the arbitrability of the claim is disputed, or where there is a dispute as to whether a claim should be heard by the Arbitration Board or the Adjudicator, the party making the claim will be so informed within one month of receipt of the statement of case by the Department of Finance and the grounds on which the matter at issue is disputed will be stated. The other party may then request that the question be determined in accordance with the provisions of sub-paragraph (2) of this paragraph and will set out the grounds on which it bases its position. The secretary to the Arbitration Board or to the Adjudicator, as the case may be, 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.

(2) A dispute as to the arbitrability of a claim shall be determined in the following manner:-

(a) where it is agreed by the official side and the union or staff association concerned that the claim, if deemed to be arbitrable, would be properly referable to the Adjudicator, the dispute will be determined by the Adjudicator;

(b) in all other cases the dispute will be determined by the Arbitration Board.

(3) A dispute as to whether an arbitrable claim should be referable to the Arbitration Board or the Adjudicator shall be determined by the Arbitration Board.

(4) The determination of a dispute in accordance with the provision of sub-paragraphs (1), (2) and (3) of this paragraph shall be final.

(5) In the event that the factual statement referred to in sub-paragraph (1) above is not agreed within two months of the date on which the party disputing arbitrability notified the other party that arbitrability was being disputed, it will be open to the side not disputing arbitrability to refer the matter to the Arbitration Board or Adjudicator as appropriate. The other side may, if it wishes, submit a counter-statement to the Arbitration Board or Adjudicator as appropriate.

PROCEDURE FOR DEALING WITH STAFF SIDE CLAIMS

70. Staff side claims will be transmitted by the secretary of the staff side to the secretary of the official side, General or Departmental Council as appropriate. Where a claim, if conceded, would involve extra expenditure an estimate of the annual cost of conceding the claim will be given, indicating the estimated ultimate annual cost where this differs from the estimated immediate annual cost.

71. Claims will be formally presented, and the official side's response given, at the appropriate Council. Where a claim is referred to a sub-committee of a council, presentation and/or response may, subject to the agreement of the official and staff sides, take place at the sub-committee.

72. Claims will be fully discussed in Council or sub-committee with a view to seeking agreement through negotiation.

73. The provisions of Part IV of the Scheme (Facilitation) will apply in the event that agreement is not reached between the parties at the Conciliation stage.

74. Where either side considers that a claim coming under paragraph 66(1)(b) above should be referred for examination and report by an expert body, both sides will co-operate fully in such examination which may be carried out either jointly or separately by an expert body selected by each side.

75. The detailed procedures for dealing with arbitrable claims for revisions of pay or significant changes in other remuneration or conditions are set out in Appendix 2 to this Scheme.

76. Where agreement is not reached on an arbitrable claim, the matter may be referred to the Arbitration Board or the Adjudicator, subject to the provisions of paragraphs 64 to 69 above.

CLAIMS REFERRED TO ARBITRATION

77. Where any claim is referable to arbitration the following arrangements will apply.

STATEMENT OF CASE

78. (1) Where arbitration is requested by a civil service union or staff association, that union or staff association will forward a statement of case, including proposed terms of reference, to the Department of Finance.

(2) Where the arbitrability of the claim is not disputed, the staff side statement of case will be transmitted to the secretary to the Arbitration Board or to the secretary to the Adjudicator, as appropriate, together with the official side's counterstatement and at the same time the secretary will be informed whether the Minister agrees with the terms of reference proposed by the claimants.

(Failing agreement, the respective statements of case will, subject to the provisions of this scheme and to the rules of procedure of the Arbitration Board or Adjudicator, together constitute the terms of reference.) A copy of the official side's counterstatement will also be sent to the union or staff association making the claim. The statement of case and/or the counterstatement may refer to the discussions which have taken place on the claim at conciliation level including any report by the Facilitator.

79. (1) Where arbitration is requested by the Minister s/he will cause to be transmitted to the secretary to the Arbitration Board or to the Adjudicator 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 or to the Adjudicator and to the Department of Finance and will at the same time inform the secretary to the Arbitration Board or Adjudicator whether it agrees with the proposed terms of reference. (Failing agreement the respective statements of case will, subject to the provisions of this scheme and to the rules of procedure of the Arbitration Board or Adjudicator together constitute the terms of reference.) The statement of case and/or the counterstatement may refer to the discussions which have taken place on the claim at conciliation level including any report by the Facilitator.

80. Where arbitrability of a claim is disputed the matter will be determined on the basis set out in paragraph 69 above.

ADVOCACY

81. (1) Civil servants concerned in a claim referred to arbitration may select not more than three advocates to present their claim to the Arbitration Board or to the Adjudicator. The persons so selected must be drawn from the following categories:- (a) whole-time officials of unions or staff associations concerned with the claim, or (b) serving civil servants of the grade or grades 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 grade comprehended by the scheme.

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

82. The Arbitration Board and the Adjudicator will involve one advocate from each side in their deliberations on the claim.

WITNESSES

83. At the request of either side, the Arbitration Board or the Adjudicator may summon witnesses and request them to furnish evidence in writing or otherwise.

84. Subject to the provisions of this scheme, the Arbitration Board and the Adjudicator will settle their own procedures in consultation with two sides of the General Council.

REPORTS OF THE ARBITRATION BOARD OR OF THE ADJUDICATOR

85. In the case of any claim submitted to the Arbitration Board, the Board will submit to the Minister a report, signed by the members of the Board, setting out the finding of the Board on that claim. In the case of a claim referred to the Adjudicator, a report signed by him/her setting out his/her finding on the claim will be submitted to the Minister. A finding of the Arbitration Board or Adjudicator shall be based only on the statement of case, counterstatement, submissions at the hearings and the considerations discussed by the Board or before the Adjudicator. A finding shall be made at a meeting between the Board or Adjudicator, as the case may be, and the advocates presenting the claim and the advocates presenting the official side case. Reports shall set out the basis of the findings of the Board or Adjudicator, as the case may be.

86. Within one month of the receipt of a report of the Arbitration Board or the Adjudicator, the Minister will present it to Dail Eireann. No such report will be published before presentation to Dail Eireann.

87. (1) Subject to what follows, the Minister will authorise the implementation of the finding contained in the report within one month of receiving the report.

(2) If the Minister considers that the implementation of the report would have serious financial or budgetary consequences or involve additional taxation in the current year, s/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 or will, as soon as may be thereafter, introduce a motion in Dail Eireann proposing an alternative basis for implementation.

(3) If, for reasons other than, or in addition to, those mentioned in sub-paragraph (2) preceding, the Minister considers that the report should not be accepted, or that the report should be brought to the attention of the Government, s/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 or will, as soon as may be thereafter, introduce a motion in Dail Eireann proposing the rejection of the finding or its modification or the deferment of its implementation pending further consideration.

CRITERIA

88. At each stage of the procedure under the scheme for dealing with claims i.e. conciliation, discussions under the Facilitator, consideration by the Adjudicator or the Arbitration Board, the following factors (in addition to any other considerations adduced by either side in any particular case) will be taken into account:-

- the necessity to ensure that the State as employer can continue to recruit, retain and motivate staff of the calibre required.

- the necessity to take account of the prevailing position in relation to any national policy on pay which may be agreed between the Irish Congress of Trade Unions and the Government as employer from time to time.

- the necessity to take account of the state of the public finances, including the consequences of the Treaty on European Union, and the general economic and employment situation.

- the necessity to take account of the extent to which working conditions, the organisation of work, pay, perquisites, conditions of employment and other relevant benefits of civil service grades differ from those of employees in other employments doing similar jobs or jobs of the same level of responsibility.

- the necessity to ensure that the civil service can continue to adapt to necessary changes, to achieve greater efficiency and effectiveness and to match increases in productivity in the remainder of the economy.

No significance attaches to the order in which the criteria are set out.

PROHIBITION ON INDUSTRIAL ACTION

89. (1) A union or staff association, recognised for the purposes of the Scheme, shall not threaten, sponsor, support or resort to strike, industrial action, including work to rule or other restrictive practices, or public agitation as a means of furthering claims which are appropriate to be dealt with through the Scheme where all provisions of the Scheme have not been exhausted.

(2) Where the taking of industrial action or other similar measures could have serious and adverse consequences for the community or for sections of the community, the staff side and the official side shall, prior to the commencement of any such action, make arrangements to ensure minimum cover or service.

(3) Persons in the posts or categories of posts specified in Part I of Appendix 1 shall not participate in any industrial action.

(4) Persons covered by paragraph 5(2)(b) and paragraph 5(2)(c) shall not participate in any industrial action except in relation to claims or other matters solely affecting their own grade.

(5) Unions or staff associations shall take action to ensure that their members or constituent groups will comply fully with the terms of this paragraph.

(6) Where a union or staff association recognised for purposes of the scheme fails to comply with the terms of this paragraph recognition may be withdrawn from such union or association but the staff side of the General Council will be consulted before such withdrawal becomes effective.

(7) The official side may also consult with the staff side as to other appropriate action to be taken in the event of a union or staff association failing to comply with the terms of this paragraph.

APPENDIX 1

STAFF REFERRED TO IN PARAGRAPH 5(2)(d) OF THE SCHEME

Part I - At Central and Departmental Level

General

Principals and Assistant Principals and departmental, professional or technical staff formerly comprehended by the higher scheme in posts or categories of posts having responsibility for work arising in personnel, conciliation and arbitration, staff relations or organisation (including management services) units in relation to the civil service or to other parts of the public service.

Specific

Department of Agriculture, Food & Forestry

Deputy Director of Veterinary Services

Director, Veterinary Research Laboratory

Deputy Director, Veterinary Research Laboratory

Deputy Chief Inspector

Office of the Comptroller and Auditor General

____ Deputy Director of Audit

Department of Justice

____ Principals and Assistant Principals, Treatment of Offenders Division,
Superintending Officers Section and Administration Section
Principal And Assistant Principals, Courts Division
Manager, Assistant Manager, Land Registry
Senior Assistant Registrar of Deeds
Governor I, Governor II and Senior Deputy Governor, Prisons

Department of Enterprise and Employment

____ Principals and Assistant Principals dealing with general industrial relations matters or serving in the Labour Relations Commission or the Labour Court
Controller of Patents

Department of Transport, Energy & Communications

____ Director, Geological Survey

Office of the Ombudsman

____ Director

Houses of the Oireachtas

____ Clerk of the Seanad
Clerk Assistant of Dail
Head of Administration
Superintendent of the Houses

Office of the Revenue Commissioners

____ Officers at Principal and Assistant Principal level dealing with personnel matters in the Office of the Chief Inspector of Taxes and in the Office of the Superintendents of Customs and Excise

Department of Social Welfare

____ Chief Appeals Officer
Regional Director
Director, Decentralised Offices
Director, Computer Division

State Laboratory

____ State Chemist
Senior Chemist (Managing)

Department of the Taoiseach

____ Private Secretary to Taoiseach

Valuation Office and Ordnance Survey

____ Director of Operations
Administrative and Financial Controller

Part II - At Departmental Level

____ All grades, whether general service, departmental or professional, scientific or technical, which on 31 October 1993 were comprehended by the Scheme of Conciliation and Arbitration for certain higher civil service grades.

[Note: Where it was the custom and practice, prior to 1 November 1993, that certain other staff did not take part on behalf of the staff side in operating the scheme, this position will continue.]

APPENDIX 2

PROCEDURES FOR HANDLING PAY CLAIMS AND OTHER MAJOR CLAIMS

1. Such claims will be lodged and presented in accordance with the procedures set out in paragraphs 70 and 71 of the scheme.
2. Grades of Civil Servants may seek a review of their pay (or their pay and overall conditions of employment) at intervals of four years. This would not preclude claims for general increases in pay on behalf of all Civil Servants comprehended by the scheme.
3. A claim for a review of pay (or pay and overall conditions of employment) of any grade coming within the ambit of General Council, or a claim on behalf of all Civil Servants, will, unless otherwise agreed between the parties, after formal presentation and response at General Council, be referred to a sub-committee of General Council. A claim for a review of the pay (or pay and overall conditions of employment) of any other grade will, unless otherwise agreed between the parties, be referred to a sub-committee of Departmental Council.
4. A claim for a review may be lodged one year in advance of the year in which a review of the pay (or pay and overall conditions) of the particular grade could be sought. The two sides will, unless otherwise agreed between the parties, establish a sub-committee of the General Council or Departmental Council, as appropriate, with a view to making preparations for the review.
5. These preparations will involve a detailed examination of the factual basis put forward in support of the claim. Where the factual basis/data involves comparisons with current rates and conditions in other employments, it will be open to the Official Side, without prejudice to the validity or relevance of comparisons in general or any comparison in particular, to put forward alternative comparisons.
6. At the request of either side the relevant factual information assembled will be referred to an independent unit within the Labour Relations Commission.
7. The independent unit will be asked to confirm that the factual information provided constitutes an adequate and representative information base as an input to negotiations on the claim. The unit shall act in consultation with the appropriate Sub-Committee mentioned in paragraph 4 above, with a view to giving such confirmation, which could involve adding to the factual information referred to it. The totality of the information will constitute the report of the independent unit.
8. It will be open to the Labour Relations Commission, having consulted the appropriate Conciliation Council, to publish an appropriate synopsis of the report mentioned in paragraph 7 above.
9. The referral of the factual information to the unit and the issuing of a report by the unit will not
 - (1) preclude either side bringing forward arguments, other than those relating to comparisons with pay and conditions in other employments, which they deem appropriate to the consideration of the claim;
 - (2) prejudice the position of either side in relation to the validity or relevance of any comparison to the claim or to the criteria set out in paragraph 88 of the scheme.
10. In the event that the parties are unable to reach an agreement in direct discussions at the sub-committee of the appropriate Conciliation Council, the negotiations may, with the agreement of both sides, continue under a

Facilitator who will be a person agreed between the Official Side and the Staff Side for that purpose. The Facilitator will act in support of the negotiation process.

11. If the claim is not resolved at that stage, it will be open to either side to refer the matter to the Arbitration Board, subject generally to the provisions of the Scheme. The Agreed Report of the discussions will include a report of the negotiations conducted under the Facilitator.

12. A claim for a general increase in pay on behalf of all civil Servants comprehended by the scheme will, if it involves comparisons with general movements in pay elsewhere in the economy, be dealt with in accordance with paragraphs 6 to 11 above.