<u>Instructions to Personnel Officers - Ministerial</u> <u>Appointments for the 31st Dáil</u>

Department of Finance

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1. Introduction

- 1.1 Members of the Dáil appointed as Ministers and Ministers of State may make a number of personal appointments to support them with their enhanced workload. The main posts to which such appointments are made are those of Special Adviser, Personal Assistant, Personal Secretary and Civilian Driver.
- 1.2 These *Instructions* have been drawn up to assist Personnel Officers on matters concerning the appointments including the contracts of employment in respect of such appointments. The matters dealt with include:
- Appointment
- Remuneration
- Tenure
- Ethics in Public Office Acts
- Civil Service Code of Standards and Behaviour
- Confidentiality
- Annual Leave
- Sick Leave
- Superannuation, Retirement and Severance Provisions
- Travel and Subsistence
- Mandatory Legislative Provisions
- 1.3 These Instructions should be read in conjunction with the Guidelines on Staffing of Ministerial Offices issued by Administrative Budget Section of the Department of Finance, March 2011. A copy of the Guidelines is at Appendix
 1. Note in particular that salaries for these appointments and the number of appointees must be determined in accordance with those Guidelines.
- 1.4 Model Contracts for each of the posts concerned are set out in **Appendices 6 to 9** and should be used for all appointments under these instructions.
- 1.5 Persons, who availed of the Incentivised Scheme of Early Retirement or the HSE VER or VR Schemes, are not eligible for these appointments.

2. <u>Appointments to the positions of Special Adviser, Personal Assistant, Personal Secretary and Civilian Driver</u>

2.1 Ministerial appointments to the positions of Special Adviser, Personal Assistant, Personal Secretary and Civilian Driver require the sanction of the Minister for Finance. Appointments being made from outside the Civil Service also require the sanction of the Taoiseach¹. Application for the Taoiseach's sanction should be made directly to the Taoiseach's Private Office. The appointment of Special Advisers requires the approval of Government in accordance with Section 11 of the Public Service Management Act 1997.

¹ The requirement for approval by the Taoiseach does not apply to staff employed as Secretarial Assistants or Parliamentary Assistants in the Oireachtas immediately prior to the dissolution of the outgoing Dáil.

- 2.2 No offer of appointment is to be made until written sanction has been received from the Administrative Budget Section of the Department of Finance. The rate of remuneration for each such appointment also requires the sanction of the Minister and ² details are set out in Appendix 1. Any queries that arise in this regard can be raised directly with your Department's Administrative Budget contact in the Department of Finance³.
- 2.3 Appointments to these positions are subject to the Civil Service Regulation Acts 1956 to 2005 and to the Public Service Management (Recruitment and Appointments) Act 2004 and, in the case of Special Advisers, the Public Service Management Act 1997. An Excluding Order is required for the posts of Personal Assistant, Personal Secretary and Civilian Driver. The sanction of Careers and Appointments Section of the Department of Finance to approach the Commission for Public Service Appointments for such Excluding Orders is required (See Department of Finance Circular 37/2007 Guidance on the use of Excluding Orders at Appendix 4).
- 2.4Departments should be aware that persons appointed to such posts are temporary un-established Civil Servants and should receive the same induction procedures in respect of employment rights as other Civil Service staff.

Probation

2.5It is the responsibility of Departments and Offices to ensure that appropriate probationary procedures are in place for the management of the performance of the Private Office staff of a Minister of Minister of State. Guidelines for the management of probation have been produced by the Department of Finance and are available on the Department of Finance website:

http://www.finance.gov.ie/documents/guidelines/guideprobation.pdf
The Guidelines advise that for fixed-term contracts of a year or more, a probationary period of six months would be appropriate.

Queries in respect of Excluding Orders and Contracts of Employment should be sent by email to Careers and Appointments Section at careersandappointments@finance.gov.ie

3. <u>Tenure</u>

Tenure of Personal Appointees other than Special Advisers

3.1 A personal appointee's contract starts on the day of their appointment by the Officeholder (i.e. Minister of the Government or Minister of State) as sanctioned by the Minister for Public Expenditure and Reform. Offers of appointment should not be made without sanction from the Minister for Public Expenditure and Reform with the agreement of the Minister for Finance.

² Sanction will be given by the Minister for Finance, in consultation with the Minister for Public Expenditure and Reform, pending the statutory basis for the Minister for Public Expenditure and Reform being finalised.

³ References to the Department of Finance in these Guidelines will be changed to the Department of Public Expenditure and Reform in due course.

- 3.2 The contract should state that the period for which a person is employed as a personal appointee shall end not later than the date on which the Officeholder who made the appointment ceases to hold the office (i.e. ceases to hold the office of Minister of the Government or Minister of State). The contract must be laid by the Officeholder before the Houses of the Oireachtas.
- 3.3 Where a Minister or Minister of State changes portfolio their personal appointees may be reappointed as their personal appointees in the new Department. The Department to which a Minister or Minister of State has moved should issue a new contract to the incoming personal appointees. The Administrative Budget Section in the Department of Finance must be informed and copies of the new contracts sent to Careers and Appointments Section of that Department for approval.
- 3.4 When a Minister of the Government or Minister of State ceases to hold the position of Minister or Minister of State for any reason (including a Minister of State becoming a Minister of the Government or vice versa), the contracts of his or her personal appointees terminate on that date.
- 3.5 Following a dissolution of the Dáil, the contracts of the personal appointees of a <u>Minister of the Government</u> terminate on the day the incoming Government is appointed, while contracts of the personal appointees of a <u>Minister of State</u> cease on the day the incoming Taoiseach is appointed (even if the Officeholder concerned is appointed as an Officeholder of the incoming Government).
- 3.6Where an incoming Officeholder wishes to re-appoint a personal appointee a new contract is required. The new contract starts on the date of appointment of the personal appointee by the Officeholder, as sanctioned by the Minister for Public Expenditure and Reform.
- 3.7The employing Department reserves the right to terminate the employment prior to the date of cessation on giving of the appropriate notice set down in the Minimum Notice and Terms of Employment Acts 1973 to 2005. The employing Department also reserves the right to terminate the employment for stated reasons. The appointment may be terminated at any time by either side in accordance with the Minimum Notice and Terms of Employment Acts 1973 to 2005.
- 3.8A copy of all signed contracts of employment must be forwarded to the Careers and Appointments Section of the Department of Finance for their approval.

Tenure of Special Advisers

3.9 A Special Adviser to an Officeholder (i.e. a Minister of the Government or a Minister of State, where applicable) is appointed on the day set out in the Government Decision to appoint the person as a Special Adviser to the Officeholder.

[Note: Ministers of State, with the exception of a Minister of State who regularly attends Cabinet, will not appoint Special Advisers. In exceptional circumstances where a specific need is identified, a Special Adviser may be appointed to a Minister of State subject to the approval of Government.]

- 3.10 For a Special Adviser to a <u>Minister of the Government</u>, the contract should state that the term of office of the Special Adviser shall cease on the date on which the Minister ceases to be a Minister of the Government. For a Special Adviser to a <u>Minister of State</u>, the contract should state that the term of office of the Special Adviser shall cease on the date of expiration of the assignment of the Minister of State to the Department or Office in question. The contract must be laid by the Officeholder before the Houses of the Oireachtas.
- 3.11 Where a <u>Minister of the Government</u> changes portfolio the Special Adviser is retained as a Special Adviser. The new Department should issue a new contract of employment to the Special Adviser. If the assignment of a <u>Minister of State</u> to a Department or Office expires, contract of a Special Adviser to that Minister of State terminates on that date, even if the Minister of State is assigned to another Department or Office.
- 3.12 Following a dissolution of the Dáil, the term of office of a Special Adviser to a Minister of the Government terminates on the day the incoming Government is appointed, and that of a Special Adviser to a Minister of State on the day the Taoiseach's successor is appointed. This is the position even if the same Officeholder is again appointed as an Officeholder of the incoming Government.
- 3.13 If an incoming Officeholder wishes to re-appoint the Special Adviser, a new contract is required and the date of appointment is the date set out in the Government Decision to appoint the person as a Special Adviser. The contract must be laid by the Officeholder before the Houses of the Oireachtas.
- 3.14 Under Section 11(1)(a) of the Public Service Management Act 1997 a Minister may only appoint a maximum of two Special Advisers. A Minister of State who regularly attends meetings of the Government may also appoint a maximum of two. Ministers of State are not expected to appoint Advisers but may, in exceptional circumstances, and with the approval of Government, appoint one. The Taoiseach and Tánaiste may have more than two Special Advisers. Note: A 'Media Adviser/Press Adviser/Programme Manager' is considered a 'Special Adviser'.

4. Ethics in Public Office Acts

4.1 Personnel Officers should advise all Special Advisers/personal appointees of their obligations under the Ethics Acts (i.e. the *Ethics in Public Office Act 1995* and the *Standards in Public Office Act 2001*) on appointment. The provisions of the Ethics Acts apply not just to Special Advisers (appointed under the Public Service Management Act 1997) but also to all personal

appointees who are selected for appointment by an Officeholder personally i.e. not by means of a competitive procedure, and whose function or principal function is to provide advice or assistance to the Officeholder.

- 4.2. There is an obligation on the Minister or Minister of State, on whose behalf each personal appointment is made, to lay before the Houses of the Oireachtas a copy of the contract of employment or a statement in writing of the terms and conditions of employment of the Special Adviser/personal appointee, together with a statement as to whether the appointee concerned is a relative of the Minister or Minister of State.
- 4.3 Where the Special Adviser's/personal appointee's remuneration <u>exceeds</u> the second Long Service Increment of a Higher Executive Officer (general service grade, class B PRSI) in the Civil Service, <u>in addition to the requirements at 4.2</u> above, the following provisions also apply:
- (a) the Special Adviser/personal appointee must undertake not to engage in any trade, profession, vocation or other occupation, whether remunerated or otherwise, which might reasonably be seen to be capable of interfering or being incompatible with the performance of their official functions (section 19(3)(a)(iii) of the Ethics in Public Office Act 1995 refers);
- (b) each year, the Special Adviser/personal appointee is required to prepare:
 - (i) a statement in writing of his or her personal registrable interests, as provided in the Second Schedule to the Ethics in Public Office Act 1995, which could materially influence the Special Adviser/personal appointee in, or in relation to, the performance of his or her official functions; and
 - (ii) a statement in writing of the registrable interests, of which the Special Adviser/personal appointee has actual knowledge, of his or her spouse, of a child of the Special Adviser/ personal appointee, or of a child of his or her spouse, which could materially influence him or her in or in relation to his or her official functions.
- (c) The Special Adviser/personal appointee must furnish these statements of interests to the Minister or Minister of State who selected him or her for appointment and to the Standards in Public Office Commission, in the form determined by the Minister for Finance. The statement of the personal appointee's <u>personal</u> registrable interests mentioned at 4.3(b)(i) above must also be laid before each House of the Oireachtas by the Minister or Minister of State concerned.
- (d) The first statements must cover the period from the date of appointment to 31 December of that year. Subsequent statements must cover each calendar year, or any part thereof, where the person holds any post to which the provisions of section 19 of the Ethics in Public Office Act 1995 apply.
- (e) Annual statements must be furnished not later than 31 January of the following year. In the year the appointments ends, the statements must be furnished within 28 days of the appointment ending.

- (f) The Officeholder on whose behalf the appointment is made must also lay before the Houses of the Oireachtas a statement of the qualifications of the Adviser/appointee relevant to his or her official function.
- Where an official function falls to be performed by a Special (g) Adviser/personal appointee, and he or she, or a connected person, as defined in the Ethics in Public Office Act 1995, has a material interest in the matter to which the function relates, the Special Adviser/personal appointee must prepare and furnish a statement in writing of those facts to the Minister or Minister of State who selected him or her for appointment and also to the Standards in Public Office Commission. The Special Adviser/personal appointee must not perform the function unless there are compelling reasons requiring them to do so. If he or she proposes to perform the function, he or she must, before doing so, or, if that is not reasonably practicable, as soon as possible afterwards, furnish a statement in writing of the compelling reasons to the Minister or Minister of State who selected the Adviser/appointee for appointment and to the Standards in Public Office Commission. It should be noted that this paragraph's provision applies whether or not an interest has been disclosed in a statement of registrable interests referred to above.
- 4.4. Personnel Officers are required by Department of Finance Circular 4/2002 Standards in Public Office Act 2001 to furnish on appointment to each Special Adviser and to each ministerial personal appointee who is remunerated above the second long service increment point of the HEO scale:
 - (i) a copy of the updated model minute is attached at Appendix 11, on their obligations under the Ethics Acts. This updated model minute must be used. (This updated model minute supersedes that in Appendix 3 of circular 4/2002);
 - (ii) a statement of interests form for Special Advisers (are downloadable from the Ethics page on the Department of Finance web site; http://www.finance.gov.ie/viewdoc.asp?
 DocID=744&CatID=57&StartDate=1+January+2010&m=c
 - (iii) A copy of circular 4/2002; and
 - (iv) A copy of the Guidelines on Compliance with the Provisions of the Ethics in Public Office Acts 1995 and 2001 Public Servants, published by the Standards in Public Office Commission (the most recent version of which is downloadable from the Standards Commission's web site: http://www.sipo.gov.ie/en/Guidelines/EthicsActs/PublicServants/).

5. The Civil Service Code of Standards and Behaviour

5.1 The Civil Service Code of Standards and Behaviour (September 2008) as amended forms a part of the terms and conditions of service **of all** civil servants including Ministerial appointees. The Code underpins the rules in many areas and introduces new rules governing gifts, hospitality and the acceptance of appointments outside the Civil Service. A copy of the Code must be given to every appointee to such posts and they are required to certify in writing that they have read it.

5.2Attention is drawn to paragraphs 5.1 to 5.4 (Civil Servants and Politics) of the Code and their application to Ministerial Private Office appointments to posts such as Special Adviser, Personal Assistant, Personal Secretary and Civilian Drivers. The latest version of the Code can be found here:

http://www.sipo.gov.ie/en/CodesofConduct/CivilServants/

5.3Attention is also drawn to paragraph 20.2 of the Code which refers to the acceptance of outside appointments and of consultancy engagement following retirement or resignation. This provision applies to certain persons designated under the Ethics Acts including Special Advisers who are appointed personally by Ministers. These rules apply to Special Advisers whether defined as a Special Adviser within the meaning of section 19 of the Ethics in Public Office Act 1995 or appointed pursuant to section 11 of the Public Service Management Act 1997.

6. Official Secrets Act, Confidentiality, Publication etc.

6.1 All Ministerial Private Office appointees are required to observe strict standards under these headings. Suitable provisions have been inserted in the relevant model contracts attached in Appendices 6-9.

7. Annual Leave

7.1 The legislative provisions which provide for an employee's entitlement to Annual Leave are set out in the Organisation of Working Time Act 1997. In that context, annual leave entitlements of Ministerial Private Office appointees are in line with the provisions of Department of Finance Circular 27/03: Annual Leave.

The contract of employment of all appointees to Ministerial Private Office posts [with the exception of Civilian Drivers] should include the following:

'Annual leave

The annual leave allowance will be [insert number of days] working days per year, exclusive of the usual public holidays. This annual leave allowance is subject to the usual conditions which apply in the Civil Service regarding the granting of annual leave, and to the making, at such times as may be determined from time to time by the Secretary General, of returns of annual leave taken.'

- 7.2 In the case of Civilian Drivers, there should always be two such drivers employed and the annual leave arrangements for such staff are as provided for in their Model Contract. Ministers of State should appoint Civilian Drivers for a period of 12 months pending review of transport arrangements for both Ministers and Minister of State.
- 7.3 The granting of annual leave is subject to the usual conditions.

Queries in respect of Annual Leave should be sent by email to Finbar.O'Hannrachain@Finance.gov.ie or by telephone at (01) 604 5448.

8. Sick Leave

8.1 Full pay during properly certified sick absence, provided there is no evidence of permanent disability for service, may be allowed on a pro-rata basis, in accordance with the provisions of the appropriate Department of Finance Circulars governing sick leave in the Civil Service. The appointee will be required to sign a mandate authorising the Department of Social Protection to pay any benefits due to the appointee, under the Social Welfare Acts, directly to the employing Department. Payment of salary during illness will be subject to the appointee making the necessary claims for social insurance benefit to the Department of Social Protection within the required time limits.

Queries in respect of Sick Leave should be addressed by email to specialandsickleave@finance.gov.ie

9. Superannuation and Retirement Arrangements

9.1The superannuation arrangements for appointees are set out in paragraphs 9.6 to 9.13 below.

Impact of the Public Service Superannuation (Miscellaneous Provisions) Act 2004

- 9.2 For all persons being appointed to a Minister's private office (e.g. Special Adviser, Personal Assistant, Personal Secretary, Civilian Driver), Departments should establish their previous Public Sector employment history (if any) so as to determine, at the outset, whether an employee should be treated as a "new entrant" for the purposes of the Public Service Superannuation (Miscellaneous Provisions) Act 2004. In this regard Departments should refer to the Department of Finance's letter of 26 March 2004 from Ms Cloda Ryan to all Secretaries General on the implications of the 2004 Act. It should be noted that service as a Secretarial Assistant is not service in a "public service body" as defined in the Public Service Superannuation (Miscellaneous Provisions) Act 2004.
- 9.3 Relevant factors in determining an appointees "new entrant" status include the date of appointment in previous service in the Public Service and whether there has been a break of more than 6 months between appointments. Note: It is very important to establish correctly the full service history of an appointee. Making assumptions about the "new entrant" status of an individual simply because the appointee is coming from another Department, Office or Public Body can give rise to misunderstandings about pension entitlements. Please obtain and carefully examine the service history of the individual. If it appears that an error has been made in respect of a previous determination, the error should be rectified as early as possible and appropriate actions taken.
- 9.4 The Act should be fully explained to the appointee including the appointee's responsibility in agreeing to the determination. When the appointee's status

under the Act has been determined, the appointee should be advised of this determination. He/she should be given a clear written statement as to which superannuation arrangements apply to him/her. An outline of the type of statement that could be used is set out at **Appendix 2**. If there are any doubts as to the status of an appointee Departments should contact mairead.mccarthy@finance.gov.ie.

- 9.5 This statement should form part of the offer of appointment so that the person is fully aware of his or her superannuation position before taking up appointment. It should be signed by the Personnel Officer and the new appointee and should remain on the appointee's Personnel record. Extracts from the Act in relation to the definition of "new entrant" are enclosed at Appendix 3. They should be copied and issued to all appointees, along with the other documentation on superannuation.
- 9.6 There is no specified retirement age for appointees who are "new entrants". For appointees who are deemed not to be "new entrants", retirement is compulsory on reaching 65 years' of age. Note: The minimum age at which pension is payable under the Pension Scheme for Non-Established State Employees is 65 regardless of an individual's "new entrant" status. Tenure is co-terminus with the Minister unless terminated earlier. The alternative paragraphs to be used in the contracts for "new entrants" are shown in the model contracts at Appendices 6 to 9.

Personal Secretaries who are former Secretarial Assistants

9.7 Departments should note that the Pension Scheme for Secretarial Assistants is quite distinct from the Pension Scheme for Non-established State Employees and this should be made clear to such appointees. The former, for example, has a minimum pension age of 60 for existing members, members appointed on or after 5th March 2011 have a minimum pension age of 65, whereas the latter has a minimum pension age of 65. Both Schemes are in the Public Sector Transfer Network, should appointees wish to apply to transfer service between the Schemes. It should also be noted that there is no Spouses' and Children's Pension Scheme for Secretarial Assistants, whereas membership of the Contributory Spouses' and Children's Pension Scheme for Non-established State Employees is compulsory for all appointees.

Pension arrangements

- 9.8 **General:** The terms of the Non-Contributory Pension Scheme for Non-established State Employees and of the Contributory Spouses' and Children's Pension Scheme for Non-established State Employees will, in general, apply to all appointments. Membership of the Schemes is compulsory except in certain circumstances see paragraphs 9.9 to 9.12 below. Departments should ensure that all appropriate contributions in respect of the Spouses' and Children's Scheme are deducted in the usual manner. The minimum age at which pension is payable under the Pension Scheme for Non-Established State Employees is 65.
- 9.9 Interaction with other public service superannuation schemes: For all persons being appointed to a Minister's private office, Departments should

establish if the appointee is in receipt of, or has a preserved entitlement to Public Service superannuation benefits. The Pension Section of the Department of Finance must be consulted in all such cases. **Please Note:** Any person who is in receipt of a pension or has preserved benefits under the Superannuation Acts or any other scheme of pensions to which the employer contributed (notionally or otherwise) may not qualify for a pension under the Non-Contributory Pension Scheme for Non-established State Employees in respect of their Minister's Office service. Examples of such persons are (i) former established Civil Servants, (ii) former Prison Officers (iii) former members of An Garda Síochána being re-employed within the Minister for Justice portfolio or (iv) former members of the Defence Forces being re-employed in the Department of Defence. Such persons should be facilitated in having a PRSA however, the employer will <u>not</u> make any contributions to the PRSA.

- 9.10 Serving Civil or Public Servants: If a person being appointed is a serving Civil or Public Servant, the Pension Section of the Department of Finance must be consulted so that the specific circumstances can be considered. [Note: In general, serving Civil or Public Servants are seconded to their new position and continue to be members of the superannuation scheme which applied to them immediately prior to their appointment to the Minister's private office; if additional remuneration is paid, it is non-pensionable and superannuation contributions and entitlements are calculated by reference to the substantive salary only.]
- 9.11 **Persons seconded from the Private Sector:** The Pension Section of the Department of Finance must be consulted in all such cases.
- 9.12 Persons to whom Department of Finance letter dated 13/10/98 applies: Persons to whom the Department of Finance Letter to Personnel Officers, dated 13 October 1998 (Appendix 10), applies must be given the option of:
 - (a) membership of the Non-Contributory Pension Scheme for Non-Established State Employees and the associated Contributory Spouses' and Children's Pension Scheme

or

(b) receiving an additional payment (not exceeding 11% of salary) in lieu, subject to certain conditions as specified in the model contracts at **Appendices 6 to 9**.

The option must be clearly explained to any such person taking up an appointment and the contract drafted accordingly. A statement to the effect that the option has been clearly explained and that the appointee has chosen option (a) or (b) in full knowledge of the implications should be completed as per Appendix 12.

9.13 **Pension Related Deduction (PRD):** All remuneration under these appointments is subject to the Pension Related Deduction in accordance the Financial Emergency Measures in the Public Interest Act 2009. Appointees

who receive their remuneration across two or more Departments/Offices/Bodies, e.g. secondees, are entitled to only **one** set of thresholds between all remuneration. For the purpose of PRD the appointee shall designate only one Public Sector employment as the main employment and any other Public Sector employment as a subsidiary employment. Subsidiary Public Sector employments attract the top rate of PRD. It is the responsibility of the appointee to liaise with his/her main employment to reconcile his/her PRD at the end of the year.

Queries in respect of Superannuation Arrangements should be addressed to Ms Mairéad McCarthy by email at Mairead.McCarthy@finance.gov.ie or by telephone at (01) 604 5751.

10. <u>Severance provisions</u>

10.1 Ministerial personal staff who have **not** been appointed by way of secondment from the Civil Service or some other form of leave of absence from other employments and who, therefore, have no job to return to on cessation of office of the Minister or Minister of State receive severance payments of the more favourable of:-

2 months' pay, or

4 weeks' pay per year of service as Ministerial personal staff (with part years being reckoned on a pro rata basis).

Severance is not payable to staff who are appointed on the basis of secondment or leave of absence from other employment.

Where staff had previous service in the pension scheme for Secretarial Assistance, or service elsewhere in the Public Service which has been transferred under the terms of the Public Sector or Local Government Transfer Network, Departments should contact this Department for guidance.

- 10.2 In the case of staff who are members of the Non-Established State Employees Pension Scheme and who have completed at least 2 years service, the severance payment is **inclusive** of the retirement lump sum payable under the Scheme.
- 10.3 The severance payments are in addition to any entitlements which the staff would have under the Minimum Notice and Terms of Employment Acts 1973 to 2005.
- 10.4 The severance payments are also in addition to payments under the Redundancy Payments Acts (now 2 weeks' pay per year of service plus one weeks pay; the maximum weekly rate of pay on which this calculation can be based is currently €600). However, as a result of the provisions of Sustaining Progress under which RPA entitlements were increased, severance payments are reduced so as to ensure that the aggregate cost to the employing Department of severance plus RPA payments does not exceed what would have applied before the RPA rates were improved. Sustaining Progress

specifically stated that the RPA improvements would not be used to increase the cost of redundancy payments as may already be provided for by agreement at enterprise level.

10.5 Detailed provisions regarding severance arrangements are set out in this Department's letters of 14 December 1994 and 28 September 2004. The provisions regarding severance should **not** be included within individual contracts.

Queries in respect of severance arrangements should be addressed to Mr Dave O'Reilly by email at dave.o'reilly@finance.gov.ie or by telephone at (01) 604 5477

11. Travel and Subsistence

- 11.1 It is not expected that Personal Assistants or Personal Secretaries will be engaged in official travel. As a result, their contracts of employment should not provide for the payment of Travel and Subsistence. Any proposal for the payment of Travel and Subsistence to Personal Assistants or Personal Secretaries requires the sanction of the Department of Finance.
- 11.2 In respect of appointees to the post of Special Adviser and other posts to which Ministerial Private Office appointments are made [with the exception of Civilian Drivers], payments in respect of Travel and Subsistence may generally be made, subject to the normal Civil Service Travel and Subsistence provisions.
- 11.3 Due to the particular nature of the post of Civilian Driver, the following text should be included in a contract of employment for an appointee to that post:

Headquarters

"Your Headquarters will be such as may be designated from time to time by the Secretary General. Travel and Subsistence payments will be made at the appropriate Civil Service rates in respect of certified official travel and subject to the usual Civil Service regulations which apply in relation to Travel and Subsistence.

Note:

In the case of Civilian Drivers who reside more than 22.5 kilometres from the GPO, Dublin and where the headquarters of the Department is located in Dublin, overnight subsistence allowance will be payable in respect of necessary overnight absences from home on official duty.

Day subsistence allowances are not payable for absences at any place within five kilometres of the driver's home or headquarters."

Removal Expenses

11.4 It should be noted that removal expenses <u>will not apply</u> to any appointment covered by these Instructions.

Queries in respect of Travel and Subsistence should be sent by email to <u>Finbarr.O'Hannrachain@finance.gov.ie</u> or by telephone at (01)604 5448.

12. <u>Mandatory Legislative Provisions</u>

- 12.1 The following are the main Acts prescribing mandatory provisions which must be included in a contract of employment in some form (some of the more significant provisions referred to have been dealt with earlier):

 Organisation of Working Time Act 1997
 - Holidays and Public Holidays Section on Annual Leave
 - Working Hours Section on Hours of Attendance
 - Rest Periods Section on Rest Periods.

Terms of Employment (Information) Act 1994

- Name of Employer and Employee, Place of Work, Job Title and Date of Commencement - Preamble to Contract
- Expected duration of temporary employment Section on Tenure
- Rate of Remuneration and Pay Periods Section on Pay
- Terms and Conditions relating to Hours of Work Section on Hours of Attendance
- Terms and Conditions relating to Paid Leave Section relating to Annual Leave
- Terms and Conditions relating to incapacity for work due to illness or injury Section on Sick Leave
- Terms and Conditions relating to Superannuation
- Periods of Notice [to include a statement of the method used for determining the period of notice] - Section on Tenure

Protection of Employees (Part Time Work) Act 2001 Protection of Employees (Fixed-Term Work) Act 2003

Ethics Acts (i.e. the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001)

Public Service Management Act 1997

Appendix 5 deals with the Organisation of Working Time Act 1997 and Civilian Drivers.

Appendix 1

Draft - GUIDELINES ON STAFFING OF MINISTERIAL OFFICES

These Guidelines replace those issued to Departments in May 2008 and follow on from Government Decision \$180/20/10/1383.

1. GENERAL

- (a) Any Ministerial appointments must comply with the relevant part of these Guidelines, in particular the necessity to obtain the prior sanction of the Minister for Public Expenditure and Reform and the agreement of the Minister for Finance.
- (b) The guidelines as set out below will apply, but may be subject to specific individual exceptions, which will only be given by the Minister for Public Expenditure and Reform with the agreement of the Minister for Finance in circumstances which are considered to be unique, or special and exceptional.
- (c) All appointments pay, and terms and conditions require the sanction of the Minister for Finance. Appointments from outside of the Civil Service require the sanction of both the Minister for Public Expenditure and Reform and the Taoiseach⁴. The appointment of Special Advisers requires the approval of Government in accordance with Public Service Management Act 2007 (section 11).
- (d) An appointee's existing salary/earnings should be verified through Revenue forms e.g. P60 and P21 (Balancing Statement) or other appropriate documentation before any contract is concluded.
- (e) Payment may not be made until the relevant contract has been sanctioned by the Minister for Public Expenditure and Reform and signed by the appointee and the Secretary General of the Department concerned.
- (f) Separate arrangements may apply to the staffing requirements of the offices of the Taoiseach and Tánaiste.
- (g) When sending monthly staffing returns to the Department of Finance⁵, such posts must be returned as Temporary Unestablished Civil Servants using the relevant grade codes for the posts concerned.

2. PRIVATE AND CONSTITUENCY OFFICES - Staffing Limits

(a) The number of staff in a Minister's Private Office may not exceed 8.

⁴ The requirement for approval by the Taoiseach does not apply to staff employed as Secretarial Assistants or Parliamentary Assistants in the Oireachtas immediately prior to the dissolution of the 30th Dáil.

⁵ References to the Department of Finance will become references to the Department of Public Expenditure and Reform in due course.

- (b) The number of staff in a Minister of State's Private Office may not exceed 5.
- (c) The number of staff in a Minister's Constituency Office may not exceed 4.
- (d) The number of staff in a Minister of State's Constituency Office may not exceed 3.
- (e) Where a Minister of State is assigned to more than one Department, the total number of staff between all of his/her Private Offices may not exceed 7. There should be only one Constituency Office, with a maximum of 3 staff.
- (f) Where a number of Ministers of State are assigned to one Department, the number of staff in each Minister of State's Private Office in that Department cannot exceed 4.
- (g) Within the staffing limits indicated above a Minister or a Minister of State may appoint one Personal Secretary <u>and</u> one Personal Assistant.
- (h) Within the staffing limits indicated above a Minister, or a Minister of State who regularly attends Cabinet, may appoint 2 Special Advisers.
- (i) Ministers of State may also appoint 2 civilian drivers. Civilian drivers are not 'office' staff and are therefore not encompassed by the limits set out above. From 1 May 2011 new arrangements for Ministerial transport will come into place. These arrangements will include the appointment of Civilian Drivers for Ministers. Ministers of State should appoint Civilian Drivers for a period of 12 months pending review of transport arrangements for both Ministers and Minister of State.

3. SPECIAL ADVISERS

(a) Following a request from a **Minister of the Government**, the **Government** can appoint a Special Adviser, as provided for by the Public Service Management Act 1997.

In the 31st Dáil, in general, it is expected that <u>only</u> Ministers of the Government (and any Minister of State who regularly attends Cabinet) will have Special Advisers appointed to them. The maximum number of Advisers each is 2. There is no limit on the number of Advisers for the Taoiseach and Tánaiste.

The terms and conditions of an appointment of a Special Adviser require the sanction of the Minister for Public Expenditure and Reform.

(b) Remuneration

Special Advisers are to be placed on the Principal Officer (standard) scale: €80,051 - €83,337 - €86,604 - €89,898 - €92,672. Appointments will be on the first point on the scale, except where the Minister for Public Expenditure

and Reform, with the agreement of the Minister for Finance, sanctions a higher salary rate.

(c) <u>Increments</u>

Where a Special Adviser is placed on a salary point below the maximum of the scale he or she may be paid an annual increment until the maximum of that scale is reached. Where Special Advisers have served satisfactorily for a total of seven years, they may be allowed progress to the first Long Service Increment of the scale. Where they have served satisfactorily for ten years they may be allowed progress to the second Long Service Increment of the scale. <u>Under no circumstances</u> may Special Advisers be allowed progress to the Long Service Increments without the requisite seven or ten years service as Special Advisers.

(d) A Special Adviser may, by an agreement with their own Minister, agree a salary lower than as set out in these guidelines, but such agreement is to be included and noted in the signed contract.

4. PERSONAL ASSISTANTS and PERSONAL SECRETARIES

(a) All Officeholders may appoint one Personal Assistant and one Personal Secretary. It is often the case that Members of the Oireachtas who are appointed as Ministers will appoint their previous Secretarial Assistant as their Personal Secretary and their previous Parliamentary Assistant as their Personal Assistant.

The Personal Secretary or Personal Assistant may be assigned to the Minister's Private Office or Constituency Office at the discretion of the Minister.

(b) Remuneration

Salary scales have been prepared for both Personal Secretaries and Personal Assistants who were previously employed in the Houses of the Oireachtas to ensure that the pay of the appointees is protected in the move to a Minister's Office, i.e. the salary scale incorporates an adjustment to offset the effect of the pension levy.

The salary scales are set out below:

	Secretarial Assistant Rate	Personal Secretary Rate
Point		
1	€444.26	€456.50
2	€469.24	€484.19
3	€498.84	€517.06
4	€539.59	€562.32
5	€580.33	€607.61
6	€623.30	€655.33

7	€665.65	€702.38
8	€705.24	€746.36
9	€745.61	€791.20
10	€783.95	€833.84
11	€812.40	€865.47
12	€825.90	€880.41
LSI 1	€843.03	€899.48
LSI 2	€857.15	€915.20

	Parliamentary Assistant Rate	Personal Assistant Rate
Point		
1	€41,092	€43,715
2	€42,684	€45,485
3	€44,323	€47,304
4	€45,415	€48,520
5	€46,557	€49,790
6	€47,973	€51,365
7	€49,379	€52,925
LSI 1	€50,789	€54,490
LSI 2	€52,200	€56,060

Personal Assistants and Personal Secretaries appointed from the Oireachtas move across on the corresponding salary point. Their increment date in the Oireachtas remains their increment date.

Personal Assistants and Personal Secretaries appointed **other** than from the Oireachtas will also be appointed to these salary scales. Appointments will be on the <u>first point</u> of the relevant scale except where the Minister for Public Expenditure and Reform, in agreement with the Minister for Finance, sanctions a higher starting salary subject to the maximum of the scale not being breached.

Those appointed as Personal Secretaries and Personal Assistants <u>may</u> be required to work overtime from time to time and would have access to a maximum of 6 hours overtime per week, <u>subject to the normal approval arrangements</u>.

(c) <u>Increments</u>

Where a Personal Assistant or Personal Secretary is paid on appointment less than the maximum of the scale, they may be paid an annual increment until the maximum is reached.

(d) A Personal Assistant/Personal Secretary may, by agreement with his or her own Minister, agree a salary lower than as set out in these guidelines, but such agreement is to be included and noted in the signed contract.

5. CIVILIAN DRIVERS

Ministers or Minister of State may appoint 2 Civilian Drivers. The selection of these appointees is a matter for each individual Minister or Minister of State. The salary for Civilian Drivers is €631.75 per week. As of March 2011 civilian drivers are to be appointed on a 12 month contract, pending a review of the arrangements for providing transport to both Ministers and Ministers of State.

6. CIVIL SERVANTS

No serving civil servant may be promoted on joining a Minister's or Minister of State's Private Office, as Special Adviser or otherwise. Such officers remain eligible for promotion within the Civil Service on the same basis as other officers. Similarly, civil servants should not be promoted outside of the normal arrangements for promotion in the Civil Service when Ministers are vacating office.

7. OIREACHTAS SECRETARIAL SCHEME

Any enhancement to pay paid to a member of the Oireachtas Secretarial staff in respect of any of the above appointments will cease on termination of that appointment.

Administrative Budget Section
Department of Finance - 24 March 2011

Appendix 2

OUTLINE OF STATEMENT REGARDING SUPERANNUATION PROVISIONS AND RETIREMENT AGES FOR ALL PEOPLE TAKING UP APPOINTMENT ON OR AFTER 1 APRIL 2004

The Public Service Superannuation (Miscellaneous Provisions) Act 2004 was passed on 25 March 2004. The Act introduces new superannuation and retirement provisions for new entrants to the public service. The term "new entrant" is defined in Section 2 of the Act. A copy of that Section is attached for your information.

On the basis of the information supplied by you in relation to your previous employment history, you are deemed to be a new entrant. This means that your superannuation position is as follows: [details should be given outlining the scheme which applies, the rate of contribution, the rate of accrual, the minimum pension age and whether or not a compulsory retirement age applies]

OR

On the basis of the information supplied by you in relation to your previous employment history, you are deemed not to be a new entrant. This means that your superannuation position is as follows: [details should be given outlining the scheme which applies, the rate of contribution, the rate of accrual, the minimum pension age and whether or not a compulsory retirement age applies]

Personnel Officer, Department of [Insert Name of Department]

Name:	<u> </u>
Signed:	
Dated:	
Act 2004 have been explained to me has been given to me. I have consider	ce Superannuation (Miscellaneous Provisions) A copy of the definition of "new entrant" ered that definition and I agree/do not agree lecision in my case. (If you do not agree with
Name:	
Signed:	<u></u>
Dated:	

Appendix 3

Definition of New Entrant

THE FOLLOWING ARE EXTRACTS FROM THE PUBLIC SERVICE SUPERANNUATION (MISCELLANEOUS PROVISIONS) ACT 2004 re DEFINITION OF "NEW ENTRANT"

These extracts should be copied and issued to all appointees, along with the other documentation on superannuation.

New entrant

- **2.**—(1) Subject to *subsections* (2) to (6), reference in this Act to "new entrant" means a person who is not serving in a public service body⁶, or a body to which *Schedule* 1⁷ relates, on 31 March 2004 but becomes a public servant on or after 1 April 2004.
- (2) Where a person is not a public servant (by virtue of the exclusions to "public servant" in section 1)⁸ but is a person to whom—
 - (a) paragraph (i) of those exclusions relates and such person holds, or had held on or before 31 March 2004, the office to which that paragraph relates, or
 - (b) paragraph (ii), (iii), (iv) or (v) of those exclusions relates and such person holds on 31 March 2004 an office or position to which one of those paragraphs relates or to whom subsection (3) would apply if the office or position were that of a public servant within the meaning of this Act,

then, where such person on or after 1 April 2004 becomes a public servant for the purposes of this Act, then that person shall be deemed not to be a new entrant.

- (3) Where—
 - (a) a person on 31 March 2004—
 - (i) stands seconded from the public service to a body not in the public service, either within or outside the State or both, or
- (ii) is absent on leave with or without pay from the public service, and
 - (b) that person is entitled to resume his or her office or position or another office or position within the public service,

⁶ Copy of definition from Section 1 of the Act below for ease of reference.

⁷ Copy of Schedule 1 below for ease of reference.

NOTE: This subsection refers to exclusions in Section 1 of the Act and the offices referred to are: (i) the President, (ii) a member of the judiciary, (iii) the Master of the High Court, (iv) a taxing master, (v) a county registrar.

then that person shall not be treated as a new entrant if he or she resumes his or her office or position, or takes up another office or position, within the public service on or after 1 April 2004.

(4) Where—

- (a) a person duly receives a written offer of appointment as a public servant before 1 April 2004 and takes up that offer after that date,
- (b) a person was serving in a public service body or a body to which Schedule 1 relates prior to 31 March 2004 and left such an office or position and takes up appointment as a public servant on or after 1 April 2004—
 - (i) under the same contract of employment, or
 - (ii) no later than 26 weeks following the last day of service prior to 31 March 2004,

or

(c) a person who immediately before 1 April 2004 stood admitted as a trainee Garda to the Garda College at Templemore,

and where-

- (I) but for this subsection, subsection (1) would apply to him or her, and
- (II) where *paragraph* (a) applies, the terms of the offer of appointment would be contravened if *subsection* (1) were to apply,

then, such person shall not be regarded as a new entrant and the provisions applicable to a public servant shall, but only in so far as the application of provisions relating to retirement age and superannuation, as the case may be, apply in the same manner as to a person serving in the public service on 31 March 2004.

- (5) (a) Where before 1 April 2004 a person was a member of either House of the Oireachtas or the European Parliament, or was a holder of a qualifying office, then such person shall not be regarded as a new entrant for the purposes of any superannuation benefit payable in respect of membership of the Oireachtas or the European Parliament or in respect of any qualifying office.
 - (b) A person who holds or has held the office of Taoiseach shall not be regarded as a new entrant in relation to any superannuation benefit payable in respect of the holding of a qualifying office.
- (6) Where on or after 1 April 2004 a public servant who is not a new entrant ceases to serve in a public service body or in a body to which *Schedule 1* relates and does so otherwise than for employment in another public service body or in a body to which *Schedule 1* relates, then that person shall, if he or she subsequently applies for an office or position within the public service, be treated as a new entrant in respect of such subsequent service unless he or she takes up appointment—

- (a) under the same contract of employment, or
- (b) as a public servant no later than 26 weeks following the last day of service prior to cessation.
- (7) For the purpose of supplementing *subsection* (5), the Act referred to in *columns* 1 and 2 of *Part* 1 of *Schedule* 2 is amended to the extent specified in *column* 3 of that Part opposite the references to the Act concerned.
- "public service body" means—
- (a) the Civil Service,
- (b) the Garda Síochána,
- (c) the Permanent Defence Force,
- (d) a local authority for the purposes of the Local Government Act 2001,
- (e) a health board,
- (f) a vocational education committee established under section 7 of the Vocational Education Act 1930,
- (g) a body, other than a body set out in Schedule 1—
 - (i) established by or under any enactment (other than the Companies Acts 1963 to 2003), or
 - (ii) established under the Companies Acts 1963 to 2003 in pursuance of powers conferred by or under another enactment, and financed wholly or partly by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government,

and in respect of which a public service pension scheme⁹ exists or applies or may be made,

- (h) any body, other than a body set out in Schedule 1, wholly or partly funded out of moneys provided by the Oireachtas or from the Central Fund or the growing produce of that Fund and in respect of which a public service pension scheme exists or applies or may be made,
- (i) any subsidiary of a body to which paragraph (d), (e) or (g) relates and in respect of which a public service pension scheme exists or applies or may be made,

and reference to "public service" shall be read accordingly;

''public service pension scheme'' means an occupational pension scheme or pension arrangement, by whatever name called, for any part of the public service which—

⁹ Copy of definition from Section 1 below for ease of reference.

- (a) is provided for under the Superannuation Acts 1834 to 1963 or any other enactment to like effect, or
- (b) is made by a relevant Minister or which has been approved or requires the approval or consent, however expressed, of either or both a relevant Minister and the Minister, but is not a scheme or arrangement in respect of a body or category of bodies set out in *Schedule 1*;

SCHEDULE 1

BODIES TO WHICH THE DEFINITION OF "PUBLIC SERVICE BODY" DOES NOT APPLY

- 1. A body which has an occupational pension scheme or arrangement that is made or may be made under the agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland establishing Implementation Bodies done at Dublin on 8 March 1999.
- 2. Aer Lingus Group p.l.c.
- 3. Aer Rianta c.p.t.
- 4. Arramara Teoranta.
- 5. Bord Gáis Éireann.
- 6. Bord na gCon.
- 7. Bord na Móna.
- 8. Córas lompair Éireann.
- 9. Coillte Teoranta.
- 9A. EirGrid
- 10. Electricity Supply Board.
- 11. A harbour authority within the meaning of the Harbours Act 1946 or company to which section 7 of the Harbours Act 1996 relates.
- 12. Horse Racing Ireland.
- 13. Irish National Stud Company Limited.
- 14. Irish Aviation Authority.
- 15. An Post.
- 16. An Post National Lottery Company.
- 17. Radio Teilifís Éireann.
- 18. Railway Procurement Agency.
- 19. Voluntary Health Insurance Board.
- 20. A subsidiary of any body to which this Schedule relates.

Appendix 4: Guidelines on the issuing of Excluding Orders

Ministerial Appointments

Where an appointment is being made to the post of ministerial private office staff to posts such as personal assistant, personal secretary and Civilian Driver an Excluding Order is required under Section 8 of the Public Service Management (Recruitment and Appointments) Act 2004. Service in such posts is co-terminus with the term of office of the appointing Minister.

An Excluding Order is **not** required where an appointment is to the post of special adviser as such appointments are covered by the general exclusion provided under section 7(1) (e) of the 2004 Act.

Guidelines on the issuing of Excluding Orders

Department of Finance Circular 37/2007: Guidance Note of 15, November, 2007 to all Personnel Officers on the use of Excluding Orders as provided for under the Public Service Management (Recruitment and Appointments) Act, 2004, refers.

The sanction of the Minister for Finance is required before approaching the Commission for Public Service Appointments (CPSA) to request the making of an Excluding Order. Departments/Offices should note that where the making of an appointment requires an Excluding Order, <u>under no circumstances</u> should that appointment be made nor any contractual arrangements entered into, until the Order is made. There is no facility under the Act for the retrospective issuing of an Excluding Order.

Procedure for applying for an Excluding Order or extension to an existing Excluding Order

- 1: There are three steps involved in making application for an Excluding Order or seeking an extension to an existing Excluding Order as set out below:
 - a) Request sanction for the post from Administrative Budget Section, Department of Finance, 7-9 Merrion Row, Dublin 2),
 - b) Request approval from Careers and Appointments Section to submit application to the Commission for Public Service Appointments (CPSA) to fill the position by way of an Excluding Order, (Careers and Appointments Section, Personnel and Remuneration Division, Department of Finance, 7-9 Merrion Row, Dublin 2 (Careersandappointments@finance.gov.ie))
 - c) Submit application to CPSA. (Commission for Public Service Appointments, 18 Lower Leeson Street, Dublin 2).

Appendix 5

Organisation of Working Time Act 1997 and Civilian Drivers

The OWTA places a clear obligation in relation to record keeping (Section 25(1) OWTA 1997). The prescribed format and content of the records required is set out in S.I. No. 473 - Organisation of Working Time (Records) (Prescribed Form and Exemptions) Regulations 2001. In addition a prescribed form (Form OWT1) is provided in a Schedule to that S.I. for the purposes of recording the days and hours worked each week. To be compliant with the legislation, in the absence of clocking in facilities, Form OWT1 (reproduced below) or a form 'substantially to like effect' must be used by all Departments to record Civilian Drivers' working time. Form OWT1 must be completed by the Civilian Driver, countersigned and retained by the employer.

On 27 September 2010 a letter issued from the Department of Finance to all Personnel Officers including the following text:

"As you are aware SI 21/1998 Organisation of Working Time (General Exemptions) Regulations, 1998, sets out subject to the subsequent provisions of this Regulation, the activities exempted from the application of sections 11, 12, 13 and 16 (replicated as Appendix 1 attached to this letter) of the OWTA. I wish to draw attention to the recent advice of the Attorney General's Office that the language in paragraph 1 of the Schedule to SI 21/1998

'an activity in which the employee is regularly required by the employer to travel distances of significant length, either from his or her home to the workplace or from one workplace to another workplace'

is wide enough to encompass a Civilian Driver to a Minister of State. This being so Sections 11, 12, 13 and 16 of the OWTA do not apply to Civilian Drivers to Ministers of State. As regards what rest periods such workers are entitled to Article 4 of SI 21/1998 is quite clear:

If an employee is not entitled, by reason of the exemption, to the rest period and break referred to in sections 11, 12 and 13 of the Act, the employer shall ensure that the employee has available to himself or herself a rest period and break that, in all the circumstances, can reasonably be regarded as equivalent to the first-mentioned rest period and break.

In other words civilian drivers to Ministers of State must not overall have any less of a rest period than a worker covered by the Act. It is important that the compensatory rest for rest breaks at work and for daily rest breaks, in particular, be provided as soon as possible and, generally, in an adjacent time frame.

In this context, paid off-duty periods may be regarded as constituting compensatory rest. For example, where a civilian driver works seven days on and seven days off, they could in theory be due seventy seven hours compensatory rest but this could be deemed to be provided by the following week off.

Attention is also drawn to the obligations of Ministers and Accounting Officers in relation to record keeping for Ministerial Private Office Staff. Accounting Officers are required to satisfy themselves that arrangements are in place for the keeping of records of a Civilian Driver's time and attendance, and to

ensure compliance with these requirements on a regular basis, perhaps quarterly. A sample record is set out overleaf.

ORGANISATION OF WORKING TIME ACT 1997 PLEASE COMPLETE THIS FORM IN BLOCK CAPITALS

FIGURES LETTER

EMPLOYER'S PAYE BUSINESS NAME O	REGISTERED NUMB F EMPLOYER	ER			
BUSINESS ADDRES	S				
EMPLOYEE'S PERSO	ONAL PUBLIC SERVI		FIGURES	LETTER	
					<u>——</u>
* NUMBER OF HOU	RS WORKED BY EMP	PLOYEE PER DAY AN	D PER WE	EK	
COMMENCING:	NG: WEEK COMMENC AND ENDING:	ING:		WEEK	
MONDAY TUESDAY WEDNESDAY THURSDAY FRIDAY SATURDAY	: MONDAY : TUESDAY : WEDNESDAY : THURSDAY : FRIDAY : SATURDAY	: MONDAY : TUESDAY : WEDNESDAY : THURSDAY : FRIDAY	: MON : TUE: : WED : THU : FRID	IDAY SDAY NESDAY RSDAY DAY JRDAY	: : : : : : : : : : : : : : : : : : : :
- · ·	WEEKLY TOTAL THE ABOVE INFORMA			_	 / Hours
SIGNATURE OF EMPLOYER:					
SIGNATURE OF EMPLOYEE:					

^{*} NO. OF HOURS WORKED EXCLUDES MEAL BREAKS AND REST BREAKS

<u>Appendix 6: Model Contract of Employment for the post of Personal Assistant</u>

Address	
Employee	••••••
Address	

Employing Department/Office [Insert Name of Department]

Contract of Employment as Personal Assistant

I am directed by the Minister for [Insert Name of Department] that s/he is prepared to offer you an appointment as Personal Assistant on the following terms and conditions with effect from [date]. This contract is issued in accordance with the Unfair Dismissals Acts 1977 to 2007 and the Minimum Notice and Terms of Employment Acts 1973 to 2005.

General

1. The appointment is subject to the Civil Service Regulation Acts 1956 to 2005, the Public Service Management (Recruitment and Appointments) Act 2004 and any other Act for the time being in force or any other regulations relating to your employment in the Civil Service.

Pay

• The salary scale for this position is [insert actual full scale (PPC/non-PPC].

The rate of pay offered will be € [Insert Amount] per annum and will be payable fortnightly in arrears by Electronic Fund Transfer (EFT) into a bank account of your choice. Payment cannot be made until you supply a bank account number and bank sort code to the Personnel Section.

The rate of pay may be adjusted from time to time in line with Government policy.

Statutory deductions from salary will be made as appropriate by the Department of [Insert Name of Department]. Deductions for superannuation contributions will be made from pensionable remuneration only.

You will agree that any overpayment of salary or of travel and subsistence may be deducted from future salary payments due to you in accordance with the Payment of Wages Act 1991. The Department will advise you in writing of the amount and details of any such overpayment and give you at least one week's notice of the

deduction to take place and will deduct the overpayment within six months of such notice in accordance with the Act.

Tenure

- 3. The appointment is to a temporary, unestablished position in the Civil Service and will terminate not later than the date on which the Officeholder who made the appointment ceases to hold the office by reference to which he or she is an Officeholder (i.e. ceases to hold the office of Minister of the Government or Minister of State). It carries no entitlement to established status, by way of limited competition or otherwise.
- 4. In accordance with the Protection of Employees (Fixed Term Work) Act 2003, your contract is on a fixed-term contract basis only.
- 5. The Department of [Insert Name of Department] reserves the right to terminate your employment prior to the date of cessation on giving of the appropriate notice set down in the Minimum Notice and Terms of Employment Acts 1973 to 2005. The Department of [Insert Name of Department] also reserves the right to terminate your employment for stated reasons. The appointment may be terminated at any time by either side in accordance with the Minimum Notice and Terms of Employment Acts 1973 and 2005.
- 6. In the event of serious misconduct, the appointment may be terminated without notice.
- 7. In the event of the appointment being terminated under the terms of paragraph 6 above, no remuneration or compensation will be payable other than that applicable to work carried out.

Probation

8. Your appointment will be subject to a probationary period of six months from the date of your appointment. Should your service be satisfactory as regards health, conduct, efficiency and performance generally during the probationary period, you will be confirmed in your appointment for the period of tenure set out above.

Unfair Dismissals Act 1977-2007

9. The Unfair Dismissals Acts 1977-2007 will not apply to the termination of your employment by reason only of the expiry of this fixed term contract without it being renewed.

Duties

10. You will be required to provide assistance to or for the Officeholder who selected you for appointment. The position will be whole-time and you may not engage in private practice or be connected with any outside business, which would conflict with or interfere with the performance of official duties.

Headquarters

11. Your headquarters will be such as may be designated from time to time by the Secretary General. The provisions of Department of Finance Circular 6/89, Removal Expenses, <u>will not apply</u> to relocation from headquarters or to a direct appointment to a decentralised location. Travel to and from headquarters will not be eligible for travel expenses; this rule will also apply if the headquarters is in a decentralised location.

Hours of attendance

12. Hours of attendance will be as fixed from time to time but will amount to not less than 41 hours per week. Where extra attendance is necessary, overtime payments, or time off in lieu, will be allowed in accordance with the Civil Service overtime regulations

Note to Personnel Officer - if the employee is under 18 years of age please insert the following sentence: The Protection of Young Persons (Employment) Act 1996 will apply to your appointment until you reach 18 years of age.

<u>Annual Leave</u>

13. The annual leave allowance will be **[insert number of Days]** working days per year, on the basis of a five-day week and exclusive of the usual public holidays. This annual leave allowance is subject to the usual conditions which apply in the Civil Service regarding the granting of annual leave, and to the making, at such times as may be determined from time to time by the Secretary General, of returns of annual leave taken.

Organisation of Working Time Act

14. The terms of the Organisation of Working Time Act 1997 will apply, as appropriate, to your appointment._

Sick Leave

15. Pay during properly certified sick absence, provided there is no evidence of permanent disability for service, may be allowed on a pro-rata basis, in accordance with the provisions of the appropriate sick leave circulars.

You will be required to sign a mandate authorising the Department of Social Protection to pay any benefits due under the Social Welfare Acts direct to this Department and payment during illness will be subject to you making the necessary claims for social insurance benefit to the Department of Social Protection within the required time limits.

Superannuation and Retirement

- 16.1 Superannuation Terms: <u>Only one</u> of the options (a), (b), (c), (d) or (e) below should be used as appropriate. (Unused options should be deleted.)
- (a) For appointees who do not fall within categories (b) to (e) below The terms of the Non-contributory Pension Scheme for Non-established State Employees and of the Contributory Spouses' and Children's Pension Scheme for Non-

established State Employees will apply to this appointment. The minimum age at which pension is payable is 65.

or

(b) For appointees who are in receipt of or have a preserved entitlement to Public Service superannuation benefits

Based on the information supplied by you in relation to your entitlement to a Public Service pension from a previous employment, you are not entitled to superannuation benefits in respect of this appointment. This Department will facilitate, but not contribute, to membership of a PRSA.

or

(c) For appointees who are serving Civil or Public Servants

You are appointed on secondment from Department/Office [Insert Name of Department Here]. You remain a member of the pension scheme for [insert pension scheme name]. The terms and conditions of that pension scheme shall apply to this appointment. Please note: Your pension benefits will be based on your salary in your substantive grade i.e. the grade from which you have been seconded.

or

(d) For appointees who are seconded from the private sector The Pension Section of the Department of Finance must be consulted.

or

(e) For appointees to whom Department of Finance letter dated 13/10/98 applies:

The terms of the Non-contributory Pension Scheme for Non-established State Employees and of the Contributory Spouses' and Children's Pension Scheme for Non-established State Employees will apply to this appointment. The minimum age at which pension is payable is 65. You have acknowledged that you have been informed of, and have had explained to you, the option to take a payment in respect of superannuation contributions in lieu of membership of the aforementioned schemes and that you have chosen not to avail of that option.

OR

Payments not exceeding 11% of salary in respect of superannuation contributions will be made on your behalf to the [insert name of company - must be an approved pension provider] pension fund on foot of notification by you of your membership of that fund. These payments may, alternatively, be made to you by way of reimbursement of your contributions to the fund to a maximum of 11% of your salary; reimbursement will only take place on foot of satisfactory documentary evidence, which vouches for your contributions to the fund. In accepting this arrangement and in signing this contract, you agree to waive all entitlements under any Public Service superannuation scheme in respect of the period of this appointment. You have acknowledged that you have been informed of, and had explained to you, the option to join the Non-contributory Pension Scheme for Non-established State Employees and of the Contributory Spouses' and Children's Pension Scheme for Non-established State Employees in lieu of a payment in respect of superannuation contributions and that you have chosen not to join the Schemes.

16.2 Retirement Age: <u>Only one</u> of the options (a) or (b) below should be used as appropriate. (The *unused option should be deleted*.)

(a) For appointees who are "new entrants"

Based on the information provided by you, and with your agreement, you are deemed to be a new entrant (as defined in the Public Service Superannuation (Miscellaneous Provisions) Act 2004). There is no specified maximum retirement age in respect of your appointment to this position. Tenure is co-terminus with the Minister.

or

(b) For appointees who are <u>not</u> "new entrants"

Based on the information provided by you, and with your agreement, you are deemed <u>not</u> to be a new entrant (as defined in the Public Service Superannuation (Miscellaneous Provisions) Act 2004). Therefore retirement is compulsory on your reaching 65 years of age. Tenure is co-terminus with the Minister or on reaching 65 years of age whichever is the earlier.

16.3 Pension Related Deduction

This appointment is subject to the pension related deduction in accordance with the Financial Emergency Measures in the Public Interest Act 2009.

Ethics in Public Office Acts

17.1 The terms of the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001 apply to this appointment (i.e. your contract of employment and a statement whether you are a relative of the Minister or Minister of State on whose behalf you are appointed will be laid before the Houses of the Oireachtas).

[Note to Personnel Officers: If the personal appointee's <u>remuneration</u> <u>exceeds</u> the second Long Service Increment of a Higher Executive Officer (general service grade, class B PRSI in the Civil Service), the following inclusions should be made:]

- 17.2 As provided for by section 19(3)(a)(iii) of the Ethics in Public Office Act 1995, you undertake not to engage in any trade, profession, vocation or other occupation, whether remunerated or otherwise, which might reasonably be seen to be capable of interfering or being incompatible with the performance by you of your official functions.
- 17.3. Each year, during any part of which you hold or held a position to which the provisions of section 19 of the Ethics in Public Office Act 1995 apply, you must prepare:
 - a statement in writing of your own registrable interests, as provided in the Second Schedule to the Ethics in Public Office Act 1995, which could materially influence you in, or in relation to, the performance of your official functions; and
 - a statement in writing of the registrable interests, of which you have actual knowledge, of your spouse, of a child of yours or of a child of your spouse, which could materially influence you in or in relation to your official functions.
- 17.4 You must furnish these statements of interests to the Officeholder who selected you for appointment and to the Standards in Public Office Commission, in

the form determined by the Minister for Finance, and which, in relation to your personal interests, will be laid before each House of the Oireachtas.

- 17.5 The first statements must cover the period from your date of appointment to 31 December of that year. Subsequent statements must cover any calendar year or any part thereof you hold any post to which the provisions of section 19 of the Ethics in Public Office Act 1995 apply.
- 17.6 The statements must be furnished not later than 31 January of the following year. In the year your appointment ends, the statements must be furnished within 28 days of your appointment ending.
- 17.7 The Officeholder who selected you for appointment will also lay before the Houses of the Oireachtas a statement of your qualifications relevant to your official functions.
- 17.8 Where an official function falls to be performed by you, and you have actual knowledge that you, or a connected person, as defined in the Ethics in Public Office Act 1995, have or has a material interest in the matter to which the function relates, you must, as soon as may be, prepare and furnish a statement in writing of those facts to the Officeholder who selected you for appointment and to the Standards in Public Office Commission. You must not perform the function unless there are compelling reasons requiring you to do so. If you propose to perform the function you must, before doing so, or, if that is not reasonably practicable, as soon as possible afterwards, furnish a statement in writing of the compelling reasons to the Officeholder who selected you for appointment and to the Standards in Public Office Commission. The requirements set out in this paragraph apply whether or not an interest has been disclosed in a statement of registrable interests referred to above.

Official secrecy and integrity

18. You will, during the term of your appointment, be subject to the provisions of the Official Secrets Act 1963 as amended by the Freedom of Information Acts 1997 and 2003. You will agree not to disclose to third parties any confidential information especially that with commercial potential either during or subsequent to the period of employment. You will also be subject to the Civil Service Code of Standards and Behaviour.

Confidentiality and publication

19. You will not while holding the position of Personal Assistant to the [Minister / Minister for State] [for/at the Department of] [Insert Name of Department Here] or thereafter, disclose or publish any confidential official information or material, including electronically held data, which you acquired or which came to your knowledge in the course of, or as a consequence of, your employment in that capacity, except where the matter has been submitted for adjudication to the Secretary General to the Government as to its confidentiality and, on the basis of his decision, the prior approval of the Minister concerned at the time of publication has been obtained for publication or disclosure. The disclosure of official information is also covered by the provisions of the Official Secrets Act 1963.

20. It is a condition of your employment in the above-stated capacity that the copyright in any book, article or other publication which you write or publish, containing unauthorised disclosures of official information is vested in the Government of Ireland. If in breach of the said condition you write or publish any book, article or other publication containing unauthorised disclosures of official information, any copyright in the said book, article or other publication which but for this clause would vest in you will belong to the Government of Ireland.

Civil Service Code of Standards and Behaviour

21. The Civil Service Code of Standards and Behaviour forms part of your contract for this appointment.

Personnel Code

22. All circulars are available on the website www.codpearsanra.gov.ie or from the Personnel Section.

Acceptance of appointment

23. If you are prepared to accept the appointment on these terms, please complete the enclosed acceptance form and return it to me at the above address.

***********************	*
Department [Insert Name of Department Here]	
Secretary General	

Form of Acceptance

I have read and noted the contract and I am prepared to accept an appointment as Personal Assistant to the Minister for [Insert Name of Department Here] on the terms and conditions set out above. I also acknowledge receipt of a copy of the Civil Service Code of Standards and Behaviour and confirm that I have read same.

Name:	
Signed:	-
Dated:	-
Secretary General:	
Signed:	-
Dated:	-

Appendix 7: Model Contract of Employment for the post of Personal Secretary

Employing [Department/Office [Insert Name of Department]
Address	
Employee	
Address	

I am directed by the Minister for [Insert Name of Department] that s/he is prepared to offer you an appointment as Personal Secretary on the following terms and conditions with effect from [date]. This contract is issued in accordance with the Unfair Dismissals Acts 1977 to 2007 and the Minimum Notice and Terms of Employment Acts 1973 to 2005.

General

1. The appointment is subject to the Civil Service Regulation Acts 1956 to 2005, the Public Service Management (Recruitment and Appointments) Act 2004 and any other Act for the time being in force or any other regulations relating to your employment in the Civil Service.

Pay

2. <u>The salary scale for this position is [insert actual full scale (PPC/non-PPC].</u>

The rate of pay offered will be € [Insert Amount] per annum and will be payable fortnightly in arrears by Electronic Fund Transfer (EFT) into a bank account of your choice. Payment cannot be made until you supply a bank account number and bank sort code to the Personnel Section.

The rate of pay may be adjusted from time to time in line with Government policy.

Statutory deductions from salary will be made as appropriate by the Department of [Insert Name of Department]. Deductions for superannuation contributions will be made from pensionable remuneration only.

You will agree that any overpayment of salary or of travel and subsistence may be deducted from future salary payments due to you in accordance with the Payment of Wages Act 1991. The Department will advise you in writing of the amount and details of any such overpayment and give you at least one week's notice of the deduction to take place and will deduct the overpayment within six months of such notice in accordance with the Act.

Tenure

- 3. The appointment is to a temporary, unestablished position in the Civil Service and will terminate not later than the date on which the Officeholder who made the appointment ceases to hold the office by reference to which he or she is an Officeholder (i.e. ceases to hold the office of Minister of the Government or Minister of State). It carries no entitlement to established status, by way of limited competition or otherwise.
- 4. In accordance with the Protection of Employees (Fixed Term Work) Act 2003, your contract is on a fixed-term contract basis only.
- 5. The Department of [Insert Name of Department] reserves the right to terminate your employment prior to the date of cessation on giving of the appropriate notice set down in the Minimum Notice and Terms of Employment Acts 1973 to 2005. The Department of [Insert Name of Department] also reserves the right to terminate your employment for stated reasons. The appointment may be terminated at any time by either side in accordance with the Minimum Notice and Terms of Employment Acts 1973 to 2005.
- 6. In the event of serious misconduct, the appointment may be terminated without notice.
- 7. In the event of the appointment being terminated under the terms of paragraph 6 above, no remuneration or compensation will be payable other than that applicable to work carried out.

Probation

8. Your appointment will be subject to a probationary period of six months from the date of your appointment. Should your service be satisfactory as regards health, conduct, efficiency and performance generally during the probationary period, you will be confirmed in your appointment for the period of tenure set out above.

Unfair Dismissals Acts 1977-2007

9. The Unfair Dismissals Acts 1977 to 2007 will not apply to the termination of your employment by reason only of the expiry of this fixed term contract without it being renewed.

Duties

10. You will be required to provide assistance to or for the Officeholder who selected you for appointment. The position will be whole-time and you may not engage in private practice or be connected with any outside business, which would conflict with or interfere with the performance of official duties.

Headquarters

11. Your headquarters will be such as may be designated from time to time by the Secretary General. The provisions of Department of Finance Circular 6/89,

Removal Expenses, <u>will not apply</u> to relocation from headquarters or to a direct appointment to a decentralised location. Travel to and from headquarters will not be eligible for travel expenses; this rule will also apply if the headquarters is in a decentralised location.

Hours of attendance

12. Hours of attendance will be as fixed from time to time but will amount to not less than 41 hours per week. Where extra attendance is necessary, overtime payments, or time off in lieu, will be allowed in accordance with the Civil Service overtime regulations

Note to Personnel Officer - if the employee is under 18 years of age please insert the following sentence: The Protection of Young Persons (Employment) Act 1996 will apply to your appointment until you reach 18 years of age.

Annual Leave

13. The annual leave allowance will be **[insert number of Days]** working days per year, on the basis of a five-day week and exclusive of the usual public holidays. This annual leave allowance is subject to the usual conditions which apply in the Civil Service regarding the granting of annual leave, and to the making, at such times as may be determined from time to time by the Secretary General, of returns of annual leave taken.

Organisation of Working Time Act

14. The terms of the Organisation of Working Time Act 1997 will apply, as appropriate, to your appointment._

Sick Leave

15. Pay during properly certified sick absence, provided there is no evidence of permanent disability for service, may be allowed on a pro-rata basis, in accordance with the provisions of the appropriate sick leave circulars.

You will be required to sign a mandate authorising the Department of Social Protection to pay any benefits due under the Social Welfare Acts direct to this Department and payment during illness will be subject to you making the necessary claims for social insurance benefit to the Department of Social Protection within the required time limits.

Superannuation and Retirement

- 16.1 Superannuation Terms: Only one of the options (a), (b), (c), (d) or (e) below should be used as appropriate. (Unused options should be deleted.)
- (a) For appointees who do not fall within categories (b) to (e) below

The terms of the Non-contributory Pension Scheme for Non-established State Employees and of the Contributory Spouses' and Children's Pension Scheme for Non-established State Employees will apply to this appointment. The minimum age at which pension is payable is 65.

or

(b) For appointees who are in receipt of or have a preserved entitlement to Public Service superannuation benefits (see paragraph 9.9 in the body of the guidelines above).

Based on the information supplied by you, and as you are in receipt of, or have an entitlement to, a Public Service pension from previous employment you are not entitled to superannuation benefits in respect of this employment. This Department will facilitate but not contributed to membership of a PRSA.

or

(c) For appointees who are serving Civil or Public Servants

You are appointed on secondment from [INSERT NAME OF DEPARTMENT/OFFICE]. You remain a member of the pension scheme for [INSERT NAME OF PENSION SCHEME]. The terms and conditions of that pension scheme will apply to this appointment. Please Note: Your pension benefits will be based on your salary in your substantive grade i.e. the grade from where you have been seconded.

or

(d) For appointees who are seconded from the private sector The Pension Section of the Department of Finance must be consulted.

or

(e) For appointees to whom Department of Finance letter dated 13/10/98 applies:

The terms of the Non-contributory Pension Scheme for Non-established State Employees and of the Contributory Spouses' and Children's Pension Scheme for Non-established State Employees will apply to this appointment. The minimum age at which pension is payable is 65. You have acknowledged that you have been informed of, and had explained to you, the option to take a payment in respect of superannuation contributions in lieu of membership of the aforementioned schemes and that you have chosen not to avail of that option.

OR

Payments not exceeding 11% of salary in respect of superannuation contributions will be made on your behalf to the [insert name of company - must be an approved pension provider] pension fund on foot of notification by you of your membership of that fund. These payments may, alternatively, be made to you by way of reimbursement of your contributions to the fund to a maximum of 11% of your salary; reimbursement will only take place on foot of satisfactory documentary evidence, which vouches for your contributions to the fund. Reimbursement of contributions are subject ot all statutory deductions. In accepting this arrangement and in signing this contract, you agree to waive all entitlements under any Public Service superannuation scheme in respect of the period of this appointment. You have acknowledged that you have been informed of, and had explained to you, the option to join the Non-contributory Pension Scheme for Non-established State Employees and of the Contributory Spouses' and Children's Pension Scheme for Non-established State Employees in lieu of a payment in respect of superannuation contributions and that you have chosen not to join the Schemes.

16.2 Retirement Age: Only one of the options (a) or (b) below should be used as appropriate. (The unused option should be deleted].

(a) For appointees who are "new entrants"

Based on the information provided by you and with your agreement you are deemed to be a new entrant (as defined in the Public Service Superannuation (Miscellaneous Provisions) Act 2004), there is no specified maximum retirement age in respect of your appointment to this position. Tenure is co-terminus with the Minister.

or

(b) For appointees who are not "new entrants"

Based on the information provided by you and with your agreement you are deemed <u>not</u> to be a new entrant (as defined in the Public Service Superannuation (Miscellaneous Provisions) Act 2004), retirement is compulsory on reaching 65 years of age. Tenure is co-terminus with the Minister or on reaching 65 years of age whichever is the earlier.

16.3 Pension-Related Deduction

This appointment is subject to the pension-related deduction in accordance with the Financial Emergency Measures in the Public Interest Act, 2009.

Ethics in Public Office Acts

17.1 The terms of the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001 apply to this appointment (i.e. your contract of employment and a statement whether you are a relative of the Minister or Minister of State on whose behalf you are appointed will be laid before the Houses of the Oireachtas).

[Note to Personnel Officers: **If** the personal appointee's <u>remuneration</u> <u>exceeds</u> the second Long Service Increment of a Higher Executive Officer (general service grade, class B PRSI in the Civil Service), the following inclusions should be made:

- 17.2 As provided for by section 19(3)(a)(iii) of the Ethics in Public Office Act 1995, you undertake not to engage in any trade, profession, vocation or other occupation, whether remunerated or otherwise, which might reasonably be seen to be capable of interfering or being incompatible with the performance by you of your official functions.
- 17.3. Each year, during any part of which you hold or held a position to which the provisions of section 19 of the Ethics in Public Office Act 1995 apply, you must prepare:
- a statement in writing of your own registrable interests, as provided in the Second Schedule to the Ethics in Public Office Act 1995 which could materially influence you in, or in relation to, the performance of your official functions; and
- a statement in writing of the registrable interests, of which you have actual knowledge, of your spouse, of a child of yours or of a child of your spouse, which could materially influence you in or in relation to your official functions.

- 17.4 You must furnish these statements of interests to the Officeholder who selected you for appointment and to the Standards in Public Office Commission, in the form determined by the Minister for Finance, and which, in relation to your personal interests, will be laid before each House of the Oireachtas.
- 17.5 The first statements must cover the period from your date of appointment to 31 December of that year. Subsequent statements must cover any calendar year or any part thereof you hold any post to which the provisions of section 19 of the Ethics in Public Office Act 1995 apply.
- 17.6 The statements must be furnished not later than 31 January of the following year. In the year your appointment ends, the statements must be furnished within 28 days of your appointment ending.
- 17.7 The Officeholder who selected you for appointment will also lay before the Houses of the Oireachtas a statement of your qualifications relevant to your official functions.
- 17.8Where an official function falls to be performed by you, and you have actual knowledge that you, or a connected person, as defined in the Ethics in Public Office Act 1995, have or has a material interest in the matter to which the function relates, you must, as soon as may be, prepare and furnish a statement in writing of those facts to the Officeholder who selected you for appointment and to the Standards in Public Office Commission. You must not perform the function unless there are compelling reasons requiring you to do so. If you propose to perform the function you must, before doing so, or, if that is not reasonably practicable, as soon as possible afterwards, furnish a statement in writing of the compelling reasons to the Officeholder who selected you for appointment and to the Standards in Public Office Commission. The requirements set out in this paragraph apply whether or not an interest has been disclosed in a statement of registrable interests referred to above.

Official secrecy and integrity

18. You will, during the term of your appointment, be subject to the provisions of the Official Secrets Act 1963 as amended by the Freedom of Information Acts 1997 and 2003. You will agree not to disclose to third parties any confidential information especially that with commercial potential either during or subsequent to the period of employment. You will also be subject to the Civil Service Code of Standards and Behaviour.

Confidentiality and publication

19. You will not while holding the position of Personal Secretary to the [Minister/Minister for State] [for/at the Department of] [Insert Name of Department here] or thereafter, disclose or publish any confidential official information or material, including electronically held data, which you acquired or which came to your knowledge in the course of, or as a consequence of, your employment in that capacity, except where the matter has been submitted for adjudication to the Secretary General to the Government as to its confidentiality and, on the basis of his decision, the prior approval of the Minister concerned at the time of publication has been obtained for publication or disclosure. The disclosure

of official information is also covered by the provisions of the Official Secrets Act 1963.

20. It is a condition of your employment in the above-stated capacity that the copyright in any book, article or other publication which you write or publish, containing unauthorised disclosures of official information is vested in the Government of Ireland. If in breach of the said condition you write or publish any book, article or other publication containing unauthorised disclosures of official information, any copyright in the said book, article or other publication which but for this clause would vest in you will belong to the Government of Ireland.

Civil Service Code of Standards and Behaviour

21. The Civil Service Code of Standards and Behaviour forms part of your contract for this appointment.

Personnel Code

Secretary General

22. All circulars are available on the website www.codpearsanra.gov.ie or from the Personnel Section.

Acceptance of appointment

Signed: _____

Signed: _____

Dated:

Secretary General:

23. If you are prepared to accept the appointment on these terms please complete the enclosed acceptance form and return it to me at the above address.

Department [Insert Name of Department here]

Form of Acceptance
I have read and noted the contract and I am prepared to accept an appointment as Personal Secretary to the Minister for [Insert Name of Department Here] on the terms and conditions set out above. I also acknowledge receipt of a copy of the Civil Service Code of Standards and Behaviour and confirm that I have read same.
Name:

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Appendix 8: Model Contract of Employment for the post of Special

Adviser

Employing L	bepartment/Office [insert Name of Department]
Address	
Employee	
Address	

playing Department/Office [Insert Name of Department]

I am directed by the Minister for [Insert Name of Department] to inform you that following Government Decision N999/99/99/9999 of DD/YY/YYYY, he/she is prepared to offer you an appointment as Special Adviser under Section 11 of the Public Service Management Act 1997 on the following terms and conditions, with effect from [date of Government Decision].

General

1. The appointment is subject to the Civil Service Regulation Acts 1956 to 2005, the Public Service Management (Recruitment and Appointments) Act 2004, the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001 and any other Act for the time being in force or any other regulations relating to your employment in the Civil Service.

<u>Pay</u>

2. The salary scale for this position is [Insert actual full scale (PPC/non-PPC].

The rate of pay will be € [Insert Amount]. Payment will be made fortnightly in arrears by Electronic Fund Transfer (EFT) into a bank account of your choice. Payment cannot be made until you supply a bank account number and bank sort code to the Personnel Section.

The rate of pay may be adjusted from time to time in line with Government policy.

Statutory deductions from salary will be made as appropriate by the Department of [Insert Name of Department]. Deductions for superannuation contributions will be made from pensionable remuneration only.

You will agree that any overpayment of salary or of travel and subsistence may be deducted from future salary payments due to you in accordance with the Payment of Wages Act 1991. The Department will advise you in writing of the amount and details of any such overpayment and give you at least one week's notice of the deduction to take place and will deduct the overpayment within six months of such notice in accordance with the Act.

Tenure

3. The appointment is to a temporary, unestablished position in the Civil Service. It carries no entitlement to established status, by way of limited competition or otherwise. Your term of office of Special Adviser shall cease on the date on which the Minister ceases to be a Minister of the Government

Or

For a Special Adviser to a <u>Minister of State</u>, your term of office of Special Adviser shall cease on the date of expiration of the assignment of the Minister of State to the Department or Office in question.

- 4. In accordance with the Protection of Employees (Fixed Term Work) Act 2003, your contract is on a fixed-term contract basis only.
- 5. The Department of [Insert Name of Department] reserves the right to terminate your employment prior to the date of cessation on giving of the appropriate notice set down in the Minimum Notice and Terms of Employment Acts 1973 to 2005. The Department of [Insert Name of Department] also reserves the right to terminate your employment for stated reasons. The appointment may be terminated at any time by either side in accordance with the Minimum Notice and Terms of Employment Acts 1973 and 2005.
- 6. In the event of serious misconduct, the appointment may be terminated without notice.
- 7. In the event of the appointment being terminated under the terms of paragraph 6 above, no remuneration or compensation will be payable other than that applicable to work carried out.

Duties

8. You will be required to perform any duties which may be assigned to you from time to time as appropriate to the position of Special Adviser as set out in Section 11 of the Public Service Management Act 1997.

Ethics in Public Office Acts

9. The terms of the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001 apply to this appointment (i.e. your contract of employment and a statement whether you are a relative of the Minister or Minister of State on whose behalf you are appointed will be laid before the Houses of the Oireachtas).

[Note to Personnel Officers: If the Special Adviser's remuneration <u>exceeds</u> the second Long Service Increment of a Higher Executive Officer (general service grade, class B PRSI in the Civil Service), the following inclusions should be made:]

9.1 As provided for by section 19(3)(a)(iii) of the Ethics in Public Office Act 1995, you undertake not to engage in any trade, profession, vocation or other occupation, whether remunerated or otherwise, which might reasonably be seen to be capable

of interfering or being incompatible with the performance by you of your official functions.

- 9.2. Each year, during any part of which you hold or held a position to which the provisions of section 19 of the Ethics in Public Office Act 1995 apply, you must prepare:
 - a statement in writing of your own registrable interests, as provided in the Second Schedule to the Ethics in Public Office Act 1995 which could materially influence you in, or in relation to, the performance of your official functions; and
 - -a statement in writing of the registrable interests, of which you have actual knowledge, of your spouse, of a child of yours or of a child of your spouse, which could materially influence you in or in relation to your official functions.
- 9.3 You must furnish these statements of interests to the Officeholder who selected you for appointment and to the Standards in Public Office Commission, in the form determined by the Minister for Finance, and which, in relation to your personal interests, will be laid before each House of the Oireachtas.
- 9.4 The first statements must cover the period from your date of appointment to 31 December of that year. Subsequent statements must cover any calendar year or any part thereof you hold any post to which the provisions of section 19 of the Ethics in Public Office Act 1995 apply.
- 9.5 The statements must be furnished not later than 31 January of the following year. In the year your appointment ends, the statements must be furnished within 28 days of your appointment ending.
- 9.6 The Officeholder who selected you for appointment will also lay before the Houses of the Oireachtas a statement of your qualifications relevant to your official functions.
- 9.7 Where an official function falls to be performed by you, and you have actual knowledge that you, or a connected person, as defined in the Ethics in Public Office Act 1995, have or has a material interest in the matter to which the function relates, you must, as soon as may be, prepare and furnish a statement in writing of those facts to the Officeholder who selected you for appointment and to the Standards in Public Office Commission. You must not perform the function unless there are compelling reasons requiring you to do so. If you propose to perform the function you must, before doing so, or, if that is not reasonably practicable, as soon as possible afterwards, furnish a statement in writing of the compelling reasons to the Officeholder who selected you for appointment and to the Standards in Public Office Commission. The requirements set out in this paragraph apply whether or not an interest has been disclosed in a statement of registrable interests referred to above.

<u>Headquarters</u>

10. Your headquarters will be such as may be designated from time to time by the Secretary General. The provisions of Department of Finance Circular 6/89, Removal Expenses, <u>will not apply</u> to relocation from headquarters or to a direct appointment to a decentralised location. Travel to and from headquarters will not be eligible for travel expenses; this rule will also apply if the headquarters is in a decentralised location.

Hours of attendance

11. Hours of attendance will be as fixed from time to time but will amount to not less than 41 hours per week. No additional remuneration will be paid for extra attendance.

Annual leave

12. The annual leave allowance will be **[insert number of Days]** working days per year, exclusive of the usual public holidays. This annual leave allowance is subject to the usual conditions which apply in the Civil Service regarding the granting of annual leave, and to the making, at such times as may be determined from time to time by the Secretary General, of returns of annual leave taken.

Organisation of Working Time Act

13. The terms of the Organisation of Working Time Act 1997 will apply, as appropriate, to your appointment.

Sick Leave

14. Pay during properly certified sick absence, provided there is no evidence of permanent disability for service, may be allowed on a pro-rata basis, in accordance with the provisions of the appropriate sick leave circulars.

You will be required to sign a mandate authorising the Department of Social Protection to pay any benefits due under the Social Welfare Acts direct to this Department and payment during illness will be subject to you making the necessary claims for social insurance benefit to the Department of Social Protection within the required time limits.

Superannuation and Retirement

- 15.1 Superannuation Terms: Only one of the options (a), (b), (c), (d) or (e) below should be used as appropriate. (Unused options should be deleted.)
- (a) For appointees who do not fall within categories (b) to (e) below The terms of the Non-contributory Pension Scheme for Non-established State Employees and of the Contributory Spouses' and Children's Pension Scheme for Non-established State Employees will apply to this appointment. The minimum age at which pension is payable is 65.

or

(b) For appointees who are in receipt of or have a preserved entitlement to Public Service superannuation benefits (see paragraph 9.9 in the body of the guidelines above).

Based on the information supplied by you, and as you are in receipt of, or have an entitlement to, a Public Service pension from previous employment you are not entitled to superannuation benefits in respect of this employment. This Department will facilitate but **not** contribute to membership of a a PRSA.

or

(c) For appointees who are serving Civil or Public Servants

You are appointed on secondment from [INSERT NAME OF DEPARTMENT/OFFICE]. You remain a member of the pension scheme for [INSERT NAME OF PENSION SCHEME]. The terms and conditions of that pension scheme will apply to this appointment. Please Note: Your pension benefits will be based on your salary in your substantive grade i.e. the grade from where you have been seconded.

or

(d) For appointees who are seconded from the private sector The Pension Section of the Department of Finance must be consulted.

or

(e) For appointees to whom Department of Finance letter dated 13/10/98 applies:

The terms of the Non-contributory Pension Scheme for Non-established State Employees and of the Contributory Spouses' and Children's Pension Scheme for Non-established State Employees will apply to this appointment. The minimum age at which pension is payable is 65. You have acknowledged that you have been informed of, and had explained to you, the option to take a payment in respect of superannuation contributions in lieu of membership of the aforementioned Schemes and that you have chosen not to avail of that option.

OR

Payments not exceeding 11% of salary in respect of superannuation contributions will be made on your behalf to the [insert name of company - must be an approved pension provider] pension fund on foot of notification by you of your membership of that fund. These payments may, alternatively, be made to you by way of reimbursement of your contributions to the fund to a maximum of 11% of your salary; reimbursement will only take place on foot of satisfactory documentary evidence, which vouches for your contributions to the fund. Reimbursement of contributions are subject to all statutory deductions. In accepting this arrangement and in signing this contract, you agree to waive all entitlements under any Public Service superannuation scheme in respect of the period of this appointment. You have acknowledged that you have been informed of, and had explained to you, the option to join the Non-contributory Pension Scheme for Non-established State Employees and of the Contributory Spouses' and Children's Pension Scheme for Non-established State Employees in lieu of a payment in respect of superannuation contributions and that you have chosen not to join the Schemes.

15.2 Retirement Age: <u>Only one</u> of the options (a) or (b) below should be used as appropriate. (The unused option should be deleted.)

(a) For appointees who are "new entrants"

Based on the information provided by you and with your agreement you are deemed to be a new entrant (as defined in the Public Service Superannuation (Miscellaneous Provisions) Act 2004), there is no specified maximum retirement age in respect of your appointment to this position. Tenure is co-terminus with the Minister.

10

(b) For appointees who are <u>not</u> "new entrants"

Based on the information provided by you and with your agreement you are deemed <u>not</u> to be a new entrant (as defined in the Public Service Superannuation (Miscellaneous Provisions) Act 2004), retirement is compulsory on reaching 65 years of age. Tenure is co-terminus with the Minister or on reaching 65 years of age whichever is the earlier.

15.3 Pension-Related Deduction

This appointment is subject to the pension-related deduction in accordance with the Financial Emergency Measures in the Public Interest Act, 2009.

Official secrecy and integrity

16. You will, during the term of your appointment, be subject to the provisions of the Official Secrets Act 1963 as amended by the Freedom of Information Act 1997 and 2003. You will agree not to disclose to third parties any confidential information especially that with commercial potential either during or subsequent to the period of employment. You will also be subject to the Civil Service Code of Standards and Behaviour.

Confidentiality and publication

- 17. You will not while holding the position of Special Adviser to the Minister for (Insert Name of Department Here] or thereafter, disclose or publish any confidential official information or material, including electronically held data, which you acquired or which came to your knowledge in the course of, or as a consequence of, your employment in that capacity, except where the matter has been submitted for adjudication to the Secretary General to the Government as to its confidentiality and, on the basis of his decision, the prior approval of the Minister concerned at the time of publication has been obtained for publication or disclosure. The disclosure of official information is also covered by the provisions of the Official Secrets Act 1963.
- 18. It is a condition of your employment in the above-stated capacity that the copyright in any book, article or other publication which you write or publish, containing unauthorised disclosures of official information is vested in the Government of Ireland. If in breach of the said condition you write or publish any book, article or other publication containing unauthorised disclosures of official information, any copyright in the said book, article or other publication which but for this clause would vest in you will belong to the Government of Ireland.

Civil Service Code of Standards and Behaviour

19. The Civil Service Code of Standards and Behaviour forms part of your contract for this appointment.

Personnel Code

20. All circulars are available on the website www.codpearsanra.gov.ie or from the Personnel Section.

Acceptance of appointment

address.
Secretary General Department [Insert Name of Department]

Form of Acceptance
I have read and noted the contract and I am prepared to accept an appointment as Special Adviser to the Minister for [Insert Name of Department Here] on the terms and conditions set out above. I also acknowledge receipt of a copy of the Civil Service Code of Standards and Behaviour and confirm that I have read same.
Name:
Signed:
Dated:
<u></u>
Secretary General:
Signed:
Dated:

21. If you are prepared to accept the appointment on these terms please complete the enclosed acceptance form and return it to me at the above

Appendix 9

Model Contract of Employment for the post of Civilian Driver

Address	
Employee	
Address	

Employing Department/Office [Insert Name of Department Here]

Contract of Employment as Civilian Driver

I am directed by the Minister for [Insert Name of Department] to say that s/he is prepared to offer you an appointment as Civilian Driver for the Minister of State [Insert name of Minister of State] in the Department of [Insert Name of Department] on the following terms and conditions with effect from [date]. This contract is issued in accordance with the Unfair Dismissals Acts 1977 to 2007 and the Minimum Notice and Terms of Employment Acts 1973 to 2005.

General

1. The appointment is subject to the Civil Service Regulation Acts 1956 to 2005, the Public Service Management (Recruitment and Appointments) Act 2004 and any other Act for the time being in force or any other regulations relating to your employment in the Civil Service.

<u>Pay</u>

2. The salary scale for this position is [insert actual full scale (PPC/non-PPC)].

The rate of pay offered will be €631.75 per week and will be payable in arrears by Electronic Fund Transfer (EFT) into a bank account of your choice. Payment cannot be made until you supply a bank account number and bank sort code to the Personnel Section.

The rate of pay may be adjusted from time to time in line with Government policy.

Statutory deductions from salary will be made as appropriate by the Department of [Insert Name of Department]. Deductions for superannuation contributions will be made from pensionable remuneration only.

You will agree that any overpayment of salary or of travel and subsistence may be deducted from future salary payments due to you in accordance with the Payment

of Wages Act 1991. The Department will advise you in writing of the amount and details of any such overpayment and give you at least one week's notice of the deduction to take place and will deduct the overpayment within six months of such notice in accordance with the Act.

Tenure

- 3. The appointment is to a temporary, unestablished position in the Civil Service. It carries no entitlement to established status, by way of limited competition or otherwise. Your term of office will cease on the date the Minister of State ceases to hold Office as Minister of State.
- 4. In accordance with the Protection of Employees (Fixed Term Work) Act 2003, your contract is on a fixed-term contract basis only.
- 5. The Department of [Insert Name of Department] reserves the right to terminate your employment prior to the date of cessation on giving of the appropriate notice set down in the Minimum Notice and Terms of Employment Acts 1973 to 2005. The Department of [Insert Name of Department] also reserves the right to terminate your employment for stated reasons. The appointment may be terminated at any time by either side in accordance with the Minimum Notice and Terms of Employment Acts 1973 and 2005.
- 6. In the event of serious misconduct, the appointment may be terminated without notice.
- 7. In the event of the appointment being terminated under the terms of paragraph 6 above, no remuneration or compensation will be payable other than that applicable to work carried out.

Unfair Dismissals Acts 1977 to 2007

8. The Unfair Dismissals Acts 1977 to 2007 will not apply to the termination of your employment by reason only of the expiry of this fixed term contract without it being renewed.

Duties

9. You will be required to perform the duties appropriate to you as Civilian Driver which may be assigned to you from time to time by the Minister of State. You may not engage in private practice or be connected with any outside business which would interfere with the performance of official duties.

<u>Headquarters</u>

10. Your Headquarters will be such as may be designated from time to time by the Secretary General. Travel and subsistence payments will be made at the appropriate Civil Service rates in respect of certified official travel and subject to the usual Civil Service regulations which apply in relation to travel and subsistence.

Note:

In the case of drivers who reside more than 22.5 kilometres from the GPO, Dublin and where the headquarters of the Department is located in Dublin, overnight subsistence allowance will be payable in respect of necessary overnight absences from home on official duty.

Day subsistence allowances are not payable for absences at any place within five kilometres of the driver's home or headquarters.

Organisation of Working Time Act / Hours of attendance

- 11. The terms of the Organisation of Working Time Act 1997 (OWTA) will apply, as appropriate, to this appointment.
- 12. Hours of attendance will be as fixed from time to time but will amount to on average not less than 41 hours gross per week. The working pattern will be seven days on and seven days off on a week-on week-off basis. You will be required to complete form OWT1 in accordance with S.I. No. 473 of 2001 Organisation of Working Time (Records) (Prescribed Form and Exemptions) Regulations, 2001 and submit it to ______ on a fortnightly basis.

No additional remuneration will be paid for extra attendance during the week on. You will be given an extra payment equivalent to two days pay for each day you are required to work on your week off.

<u>Note to Personnel Officer</u> - if the employee is under 18 years of age please insert the following sentence: The Protection of Young Persons (Employment) Act 1996 will apply to your appointment until you reach 18 years of age.

Annual Leave

- 13. The annual leave allowance will be 14 days per year, expressed on the basis of;
 - a seven-day week and exclusive of the usual public holidays,
 - to facilitate the taking of annual leave, consideration will be given to granting annual leave during Dáil recesses or when the appropriate Minister is also on leave.
 - the duty is rostered between two drivers working one week on and one week off.

Sick Leave

14. Pay during properly certified sick absence, provided there is no evidence of permanent disability for service, may be allowed on a pro-rata basis, in accordance with the provisions of the appropriate sick leave circulars.

You will be required to sign a mandate authorising the Department of Social Protection to pay any benefits due under the Social Welfare Acts direct to this Department and payment during illness will be subject to you making the necessary claims for social insurance benefit to the Department of Social Protection within the required time limits.

Superannuation and Retirement

- 15.1 Superannuation Terms: <u>Only one</u> of the options (a), (b), (c), (d) or (e) below should be used as appropriate. (Unused options should be deleted.)
- (a) For appointees who do not fall within categories (b) to (e) below The terms of the Non-contributory Pension Scheme for Non-established State Employees and of the Contributory Spouses' and Children's Pension Scheme for Non-established State Employees will apply to this appointment. The minimum age at which pension is payable is 65..

or

(b) For appointees who are in receipt of or have a preserved entitlement to public service superannuation benefits (see paragraph 9.9 in the body of the guidelines above).

Based on the information supplied by you, and as you are in receipt of, or have an entitlement to, a Public Service pension from a previous employment you are not entitled to superannuation benefits in respect of this employment. This Department will facilitate buy not contribute to membership of a PRSA.

or

(c) For appointees who are serving Civil or Public Servants
You are appointed on secondment from [INSERT NAME OF DEPARTMENT/OFFICE].
You remain a member of the pension scheme for [INSERT NAME OF PENSION SCHEME]. The terms and conditions of that pension scheme will apply to this appointment. Please Note: Your pension benefits will be based on your salary in your substantive grade i.e. the grade from where you have been seconded.

Oı

(d) For appointees who are seconded from the private sector The Pension Section of the Department of Finance must be consulted.

or

(e) For appointees to whom Department of Finance letter dated 13/10/98 applies:

The terms of the Non-contributory Pension Scheme for Non-established State Employees and of the Contributory Spouses' and Children's Pension Scheme for Non-established State Employees will apply to this appointment. The minimum age at which pension is payable is 65. You have acknowledged that you have been informed of, and had explained to you, the option to take a payment in respect of superannuation contributions in lieu of membership of the aforementioned schemes and that you have chosen not to avail of that option.

OR

Payments not exceeding 11% of salary in respect of superannuation contributions will be made on your behalf to the [insert name of company - must be an approved pension provider] pension fund on foot of notification by you of your membership of that fund. These payments may, alternatively, be made to you by way of reimbursement of your contributions to the fund to a maximum of 11% of salary; reimbursement will only take place on foot of satisfactory documentary evidence, which vouches for your contributions to the fund. Reimbursement of contributions is subject to all statutory deductions. In accepting this arrangement and in signing this contract, you agree to waive all entitlements under any Public

Service superannuation scheme in respect of the period of this appointment. You have acknowledged that you have been informed of, and had explained to you, the option to join the Non-contributory Pension Scheme for Non-established State Employees and of the Contributory Spouses' and Children's Pension Scheme for Non-established State Employees in lieu of a payment in respect of superannuation contributions and that you have chosen not to join the Schemes.

15.2 Retirement Age: <u>Only one</u> of the options (a) or (b) below should be used as appropriate. (The unused option should be deleted.)

(a) For appointees who are "new entrants"

Based on the information provided by you and with your agreement you are deemed to be a new entrant (as defined in the Public Service Superannuation (Miscellaneous Provisions) Act 2004), there is no specified maximum retirement age in respect of your appointment to this position. Tenure is co-terminus with the Minister.

Or

(b) For appointees who are <u>not</u> "new entrants"

Based on the information provided by you and with your agreement you are deemed <u>not</u> to be a new entrant (as defined in the Public Service Superannuation (Miscellaneous Provisions) Act 2004), retirement is compulsory on reaching 65 years of age. Tenure is co-terminus with the Minister or on reaching 65 years of age whichever is earlier.

Official secrecy and integrity

16. You will, during the term of your appointment, be subject to the provisions of the Official Secrets Act 1963 as amended by the Freedom of Information Acts 1997 and 2003. You will agree not to disclose to third parties any confidential information especially that with commercial potential either during or subsequent to the period of employment. You will also be subject to the Civil Service Code of Standards and Behaviour.

Confidentiality and publication

- 17. You will not, while holding the position of Civilian Driver to the [Minister for State for/at the Department of [Insert Name of Department Here] or thereafter, disclose or publish any confidential official information or material, including electronically held data, which you acquired or which came to your knowledge in the course of, or as a consequence of, your employment in that capacity, except where the matter has been submitted for adjudication to the Secretary General to the Government as to its confidentiality and, on the basis of his decision, the prior approval of the Minister concerned at the time of publication has been obtained for publication or disclosure. The disclosure of official information is also covered by the provisions of the Official Secrets Act 1963.
- 18. It is a condition of your employment in the above-stated capacity that the copyright in any book, article or other publication which you write or publish, containing unauthorised disclosures of official information is vested in the Government of Ireland. If in breach of the said condition you write or publish any

book, article or other publication containing unauthorised disclosures of official information, any copyright in the said book, article or other publication which but for this clause would vest in you will belong to the Government of Ireland.

Civil Service Code of Standards and Behaviour

19. The Civil Service Code of Standards and Behaviour forms part of your contract for this appointment.

Ethics in Public Office Acts

20. The terms of the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001 apply to this appointment (i.e. your contract of employment and a statement whether you are a relative of Minister or Minister of State on whose behalf you are appointed will be laid before the Houses of the Oireachtas).

Personnel Code

21. All circulars are available on the website www.codpearsanra.gov.ie or from the Personnel Section.

If you accept the appointment on these terms please complete and return the form of acceptance to me at the above address.

Form of Acceptance

I have read and noted the contract and I am prepared to accept an appointment as Civilian Driver to the Minister of State for [insert Department name], on the terms and conditions set out above. I also acknowledge receipt of a copy of the Civil Service Code of Standards and Behaviour and confirm that I have read same.

Name:	
Signed:	-
Dated:	-
Secretary General:	
Signed:	
Dated:	-



An Roinn Airgeadais Department of Finance

E109/91/89

13 October 1998

73-79,

73-79.

Sráid an Mhóta Íocht, Lower Mount Street,

Dublin 2, Ireland Telephone: 353-1-676 7571

Facsimile: 353-1-604 5499 LoCall: 1890 66 10 10

GTN: 7109 URL: http://www.irlgov.ie

To All Personnel Officers

Pension provision for ministerial private office appointees

Baile Átha Cliath 2,

1. I am directed by the Minister for Finance to refer to the "Guidelines on staffing of ministerial offices" issued by this Department on 16 July 1997, and in particular to the paragraph headed "Pensions". For ease of reference the text of that paragraph is repeated below:

"No payments may be made directly to an appointee in respect of pension. Where payment to a pension fund is required to maintain an appointee's membership of a scheme to which he or she belongs, the net cost of such membership up to a limit of 11% of salary may be paid on foot of satisfactory documentation from the relevant pension fund. In such cases payment will be made by the Department direct to the Pension Fund. Where such payment is made, the appointee must waive in writing all entitlements under public service superannuation schemes in respect of the period involved."

- 2. The following points of clarification in relation to the above paragraph should be noted:
 - The provision in the guidelines allowing a Department to make payments to a pension fund "to maintain an appointee's membership of a scheme" should be interpreted as covering all appointees to ministerial private office positions, except
 - a. those who are established civil servants,
 - b. those who have worked in the grades of Secretarial Assistant, Administrative Assistant or Administrator in the Houses of the Oireachtas, or
 - c. those who have worked in an organization which forms part of the network of Irish public sector organizations which allows employees to transfer service for pension purposes. The Minister for Finance may, in exceptional circumstances, waive this restriction.
 - ii. The phrase "to maintain an appointee's membership of a scheme" should furthermore be interpreted as allowing Departments to make payments in respect of an appointee's membership of an approved private pension fund, whether or not that membership predates the appointment. Appointees opting to avail of this private pension fund facility may have their membership of that fund paid for from a date no earlier than their date of appointment.

- iii. The requirements in the guidelines that "No payments may be made directly to an appointee in respect of pension" and that "payment will be made by the Department direct to the Pension Fund" are designed to ensure that Departments' expenditure in respect of approved pension fund membership costs of ministerial private office appointees is used solely for the purpose of financing pension contributions. It is not intended that Departments should be prohibited from making such payments direct to an appointee by way of reimbursement of vouched pension contributions already incurred by the appointee.
- iv. Appointees for whom Departments meet costs in respect of approved private pension fund membership cannot belong to the Non-Contributory Pension Scheme for Non-Established State Employees, and as indicated in the guidelines, must waive in writing all superannuation entitlements under public service superannuation schemes in respect of the period involved.
- v. In all cases, Departments should satisfy themselves that payments are made only in respect of bone fide Revenue approved pension funds.
- 3. In light of these points of clarification, ministerial private office staff whose contracts grant pension provision consisting solely of membership of the Non-Contributory Pension Scheme for Non-Established State Employees have the option, subject to the guidelines, of replacing their membership of that scheme with membership of an approved private pension fund and having their membership of that fund paid for by their employing department. You should notify the staff concerned of this option. Where an appointee decides to avail of the approved private pension fund option, his or her contract should be changed by replacing the existing paragraph on superannuation with the following:

"Payments not exceeding 11% of salary in respect of superannuation contributions will be made on your behalf to the [name of company] pension fund, on foot of notification by you of your membership of that fund. These payments may, alternatively, be made to you by way of reimbursement of your contributions to the fund; reimbursement will only take place on foot of satisfactory documentary evidence which vouches for your contributions to the fund. You will agree to waive all entitlements under any public service superannuation scheme in respect of the period of this appointment."

4. Contracts revised on the basis of the above wording should be copied to this Department as soon as they are signed by appointees.

Yours sincerely,

J McGovern
Assistant Secretary

Appendix 11

Model minute to persons appointed as special advisers or ministerial personal appointees to Ministers and Ministers of State and who are remunerated above the second long service increment point of the Higher Executive Officer (non personal pension contribution) standard scale in the Civil Service

You have been appointed to a position that is subject to the requirements of section 19 of the Ethics in Public Office Act 1995. The attached Department of Finance circular 4/2002 sets out your obligations under the Ethics in Public Office Acts 1995 and 2001 and you should familiarise yourself thoroughly with the circular. The major obligation is that an annual written statement be made in respect of your interests (and those interests, of which you have actual knowledge, of a spouse¹0 or civil partner¹¹, or a child of yours or a child of your spouse) that could materially influence you in the performance of your official functions. It will not be necessary to specify in any statement of interest the amount or monetary value of any interest or the remuneration of any trade, profession, employment, vocation or other occupation included in the statement. If there are no interests to declare, the Acts do not oblige you to make a statement. However, you are requested, under Department of Finance circular 4/2002, to make a "nil" return or to furnish a written statement that there are no interests to be disclosed, if that is the case.

You are also restricted in performing your official functions where a material interest is involved and must undertake not to engage in any trade, profession, vocation or other occupation, whether remunerated or otherwise, which might reasonably be seen to be capable of interfering or being incompatible with the performance by you of your official functions. (Paragraph 6 of Circular 4/2002 refers).

Where an official function falls to be performed, and you have actual knowledge that you, or a connected person, within the meaning of the Ethics in Public Office Act 1995¹², have or has a material interest in the matter to which the function relates, you must, as soon as may be, prepare and furnish a statement in writing of those facts to the Officeholder who selected you for appointment and to the Standards in Public Office Commission. You must not perform the function unless there are compelling reasons requiring you to do so. If you propose to perform the function you must, before doing so, or, if that is not reasonably practicable, as soon as possible afterwards, furnish a statement in writing of the compelling reasons to the Officeholder who selected you for appointment and to the Standards in Public Office Commission. The requirements set out in this paragraph apply whether or not an interest has been disclosed in a statement of registrable interests referred to above.

 $^{^{10}}$ "spouse", in relation to a person, does not include a spouse who is living separately and apart from the person;

¹¹"civil partner" in relation to a person, means a civil partner within the meaning of the *Civil Partnership and Certain Rights* and *Obligations of Cohabitants Act 2010*, but does not include a civil partner who is living separately and apart from the person.

¹² Section 97 of the *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* provides that with respect to a person, a reference to a "connected person" of that person shall be construed as including the person's civil partner and the child of the person's civil partner who is ordinarily resident with the person and the civil partner.

If, having read the circular and consulted the Guidelines issued by the Standards in Public Office Commission (a copy of which is available for consultation in the Personnel Section of the Department / available for inspection on the Standards Commission's web site), you believe there are interests to declare, one or both of the attached statements should be completed in respect of the period between the date of your appointment to this post and next 31 December. The statement(s) should be returned to the Officeholder/Minister/Minister of State who appointed you, and to the Standards in Public Office Commission, not later than the following 31 January. Subsequent annual statements should be made in respect of the year ending on 31 December of the relevant year and given to the Officeholder/Minister/Minister of State who appointed you and to the Standards in Public Office Commission not later than the following 31 January. When you vacate the position a statement on leaving should be furnished within 28 days of the termination of your contract.

Special advisers should note that the Officeholder who appoints them or on whose behalf they are appointed is required under section 19(4) of the Ethics in Public Office Act 1995 to lay, within 60 days of their being furnished, the following documents before each House of the Oireachtas, and that, under the Standing Orders relative to Public Business of Dáil Éireann and also of Seanad Éireann, all of these documents are considered public:

- (a) a copy of the contract, or a statement in writing of the terms and conditions, under which the person acts or acted as a special adviser;
- (b) a statement as to whether the person is a relative of the Officeholder;

and, if section 19(3)(a) of the Ethics Act applies to the person (i.e. if his or her remuneration exceeds the second long service increment point of the higher executive officer standard (non-personal pension contribution) standard scale in the Civil Service (i.e. currently [state salary amount]):

- (c) a copy of any statement under section 19(3)(a)(i) of the Ethics Act 1995 of the interests of the person furnished to the Officeholder (e.g. a statement of interests or a statement of the facts of a conflict of material interests); and
- (d), a statement of the qualifications of the person relevant to his or her functions as a special adviser.

If you have a request for advice on compliance, you should refer to the Standards in Public Office Commission, 18 Lower Leeson Street, Dublin 2 (Phone +353 (0)1 - 639 - 5666). The Commission is obliged either to respond to such a request, or formally to decline to do so, within 21 days of the receipt of the request. Once advice has been given, you are obliged to act in accordance with it, unless by doing so you would contravene another section of the Act.

Signed: Personnel Officer

Appendix 12

OUTLINE OF STATEMENT REGARDING SUPERANNUATION PROVISIONS AND OPTION TO TAKE A TOP-UP-IN-LIEU OF MEMBERSHIP OF THE PENSION SCHEME FOR NON-ESTABLISHED STATE EMPLOYEES (Appendix 10 - Letter to Personnel Officers dated 13/10/98 refers)

Subject to certain exclusions as detailed in the aforementioned letter e.g. seconded Civil Servants or Secretarial Assistants, Ministerial Private Office staff can avail of the following options:

- (a) Membership of the Pension Scheme for Non-Established State Employees and its associated Spouses' and Children's Pension Scheme. A contribution of 1.5% of net pensionable remuneration will be deducted from your salary.
- (b) A "top-up-in-lieu" of pension not exceeding 11% of salary. The "top-up" shall be paid directly into a Revenue approved pension fund. Note: The maximum amount payable is 11% of salary or the actual amount paid into the fund whichever is the lesser. Where an appointee chooses to avail of the "top-up-in-lieu" he/she will waive the right to membership of the Pension Scheme for Non-Established State Employees and its associated Spouses' and Children's Pension Scheme in respect of this appointment.

Once the option has been affirmed the decision cannot be changed at a later date.

I acknowledge that I have been informed of, and had explained to me, the option to take a payment ("top-up-in-lieu") in respect of superannuation contributions in lieu of membership of the Pension Scheme for Non-Established State Employees and its associated Spouses' & Children's Pension Scheme.

I choose to avail of option [Please tick and initial option (a) or (b) below]:

(a)	Membership of the Pension Scheme for Non-Established State Employees and its associated Spouses' and Children's Pension Scheme.		
(b)	"Top-up-in-lieu" of membership of the aforementioned scheme as provided for in part (b) above.		
Personnel (Officer, Department of ******	*** Appointee	
Name:		Name:	
Signed:		Signed:	
Dated:		Dated:	