



**Circular: 0047/2020**

**To: Chief Executives of Education and Training Boards (ETBs)**

**Revised arrangements applying to starting pay for all staff other than persons employed as teachers and SNAs in Education and Training Boards**

**Purpose**

The purpose of this Circular is to inform ETBs of the revised arrangements applying to starting pay on promotion and appointment in ETBs for all employees other than teachers and SNAs, as set out in the Department of Public Expenditure and Reform (DPER) Circular 08/2019.

Government policy continues to be that starting pay on recruitment from open competition for all posts within the Education and Training Boards should be at the minimum of the relevant salary scale and should not be subject to negotiation.

**Effective Date:**

The provisions in this circular are effective from the 1 January 2018.

**Queries**

Queries should be sent in the first instance to [hr@etbi.ie](mailto:hr@etbi.ie) for collation and forwarding to Department of Education and Skills where appropriate via: [esr@education.gov.ie](mailto:esr@education.gov.ie)

This Circular can be accessed on the Department's website under [www.education.ie](http://www.education.ie)

**Tara Carton**

Principal Officer  
External Staff Relations  
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**Revised arrangements applying to starting pay for all employees other than teachers and SNAs.**

## **Definitions**

For the purposes of this Circular the following terms shall have the meaning assigned to them here unless the context indicates otherwise:

**Employee:** means a member of staff of an ETB, other than a teacher/SNA, who is a **public servant**, and in receipt of a salary under a permanent contract, contract of indefinite duration (CID), or fixed-term contract as defined in the Protection of Employees (Fixed Term Work) Act, 2003.

**Employer:** means an Education and Training Board (ETB)

**Normal Maximum:** means the maximum point exclusive of the Long Service Increments (LSIs).

**The Department:** means the Department of Education and Skills

## **A. Pay on promotion from competitions confined to existing public servants**

### **1. Starting pay rules**

- 1.1 On promotion, an employee will be appointed at the minimum point of the new scale unless any of the conditions set out at 1.2 apply.
- 1.2 (i) Where the an employee's current salary is above the minimum point of the new scale but below the normal maximum, the nearest point above the employee's -current salary point plus one increment.
- (ii) Where an employee's current salary is above the normal maximum point of the new scale but below Long Service Increment 1 (LSI1), the nearest point above the employee's current salary point (i.e. LSI1).
- (iii) Where an employee's current salary is above LSI1 and below LSI2 of the new scale, the nearest point above the employee's current salary point (i.e. LSI2).
- (iv) Where the minimum of the new salary scale is greater than existing pay by an amount less than the first increment on the new scale, the an employee may enter the new scale at the minimum plus one increment.
- 1.3 The date of promotion becomes the employee's incremental date.

### **2. Starting pay for employees in receipt of an allowance**

- 2.1 An employee who holds an allowance in the nature of pay at the time of promotion to a higher grade, will enter the scale for the higher post at the more favourable of the following:
- (i) Normal starting pay rules based on the employee's existing pay, exclusive of the allowance; or
- (ii) Where the allowance has been held for at least one year, the employee's existing pay plus the allowance.
- (iii) Refer to **CL 48/2020** 'Acting-Up Arrangements and Acting-Up Allowances for all staff other than persons employed as teachers and SNAS in Education and Training Boards' in respect of the rules to apply to starting pay for employees in receipt of an acting allowance and who are promoted into the grade to which they are acting.
- 2.2 An employee may not benefit twice from the same allowance.
- (i) Where an allowance is common to both the employee's previous grade and to the higher grade, it should be disregarded for the purpose of starting pay on promotion calculations.
- (ii) Where an employee is promoted having had the benefit of an allowance in the calculation of starting pay and subsequently moves to a post at

the higher grade attracting the same allowance, the employee's pay should be recalculated to ensure that the benefit of the allowance is not applied twice. In applying this measure, the employee's pay (including allowance) will not be less favourable than the employee's current rate.

**B. Application of starting pay rules to employees securing higher posts by way of open competition**

- 3.1 For the avoidance of doubt, it is confirmed that where the appointee to a higher post is a currently serving civil or public servant, the arrangements for employees appointed through confined competition described at Part A above shall apply.

**C. Appointment to Analogous Grades**

- 4.1 Appointees to ETBs who are moving from posts elsewhere in the civil or public service to what is deemed to be an analogous grade and pay scale may be appointed at the current point of scale.
- 4.2 It is for the recruiting ETB to satisfy itself that analogous conditions exist. HR units should direct all analogous grade requests to the Department for sanction (by email to [esr@education.gov.ie](mailto:esr@education.gov.ie)).
- 4.3 ETBs should put in place an internal appeals process at senior HR Manager level to address any issues arising from decisions taken in respect of such analogous appointments. The HR Manager will liaise with the Department in such instances via [esr@education.gov.ie](mailto:esr@education.gov.ie).
- 4.4 Decisions on analogous grades are final.
- 4.5 Where the appointee's current salary is not an exact match in respect of incremental points, the appointee will be appointed on an off point [subject to paragraph 5.2 below]. The appointee will retain the increment date from the previous role. The appointee will then come on scale on this date.

**D. General Conditions**

**5. General**

- 5.1 An ETB must be fully satisfied that an appointee to the ETB who is subject to the rules of this circular is a serving civil or public servant. If the public service status of an employee cannot be clearly established, the HR Unit of the ETB should seek clarification from the Department.
- 5.2 In applying the rules set out in this Circular, under no account should an employee be granted a salary in excess of the LSI2 of the new scale.
- 5.3 The Normal Maximum of a scale means the maximum point exclusive of the Long Service Increments (LSIs).

- 5.4 For a change in grade to be considered a promotion, the Normal Maximum of the new grade must be greater than the Normal Maximum of the employee's current grade.
- 5.5 Where an employee is moving from a fixed term contract to a contract of indefinite duration (i.e. to a permanent post), this is not a promotion as defined in 5.4. The employee's increment date remains as noted in the contract and the employee continues to progress incrementally through the scale.
- 5.6 Where an employee on a fixed term contract is appointed to a higher post the rules as set out in B 3.1 apply.
- 5.7 An employee accepting appointment to a new grade severs any connection with their former grade and will not be granted any benefits which may subsequently be accorded to that grade.

## **6. Application**

- 6.1 The provisions of this Circular will apply from 1st January 2018.
- 6.2 Employees who were appointed since 1st January 2018 should have their pay adjusted under the provisions of this Circular and should be informed in writing of their new rate of pay and the date the adjustments come into effect.
- 6.3 The provisions in relation to starting pay on promotion will apply to employees who were appointed between 31 July 2017 and 1 January 2018, however, the new rate will only apply to these employees from 1 January 2018. There will be no retrospective payments pre 1 January 2018 in relation to these employees.
- 6.4 No employee appointed since 1 January 2018 shall be disadvantaged by the operation of this circular.
- 6.5 Circular 34/1977 is hereby revoked.
- 6.6 The ETB is responsible for ensuring that the employee is placed on the correct point of the scale.
- 6.7 Employers are advised that the Ministers and Secretaries (Amendment) Act 2011 has been amended under the FEMPI Act 2015 to introduce enhanced controls in relation to terms and conditions of employment agreed between public servants and their public service body employers with effect from 30 November 2015. The relevant sections of the Act are included at Appendix 1. Overpayments must be managed in accordance with Circular 32/2016.

## **Appendix 1**

### **Section 12 of the Financial Emergency Measures in the Public Interest Act 2015 Amendment of Ministers and Secretaries (Amendment) Act 2011**

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

#### **Control of terms and conditions of public servants**

##### **16A. (1) Where—**

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

(b) a contract of employment in respect of a public servant falling within that class or category is entered into that contains a term or condition that corresponds or is equivalent to the term or condition standing so approved but which is more favourable to the public servant than that term or condition, the contract shall have effect as if the term or condition standing so approved (referred to in subsections (2) and (3) as the 'approved term or condition') were substituted for the first-mentioned term or condition in paragraph (b) (referred to in subsections (2) and (3) as the 'unapproved term or condition').

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

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

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

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

##### **(4) Where—**

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

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

an approval as such, any other form of sanction or the giving of consent by the Minister to a decision of another person in the matter), the term or condition shall be void.

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

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

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

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

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

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

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

(10) This section has effect notwithstanding—

(a) any other enactment,

(b) any pension scheme or arrangement,

(c) any other agreement or contractual arrangement, or

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

(11) In this section—

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

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