



Cumann na nIAR-Oifigeach Coimisiúnta

Association of Retired Commissioned Officers



15, Hermitage Close,
Rathfarnham

Dublin, 16.

D16 K4P8

03 April 2017

Email: joepahern@gmail.com

Telephone: 086 8064251

Mr David Denny,
Secretary, Public Service Pay Commission,
St Stephen's Green House.

SUBMISSION TO THE PUBLIC SERVICE PAY COMMISSION

Established in 1993, the primary focus of the Association of Retired Commissioned Officers (ARCO) is to represent retired commissioned officers of the Permanent Defence Force. The Association promotes and safeguards the interests, quality of life and welfare of retired commissioned officers, and spouses of deceased members. Fostering fellowship established during national and overseas service, ARCO preserves the traditions, values and ethos of Óglaigh na hÉireann. (www.iarco.info)

In addition to the provision of land, air and maritime defence capabilities, ARCO's membership, while serving in the Permanent Defence Force, was deployed in the maintenance of international peace and stability throughout the world under the auspices of the United Nations, the European Union, the OSCE and NATO. Likewise, since 1969, serving in the Army, Naval Service and Air Corps, they were involved in Aid to the Civil Power operations (supporting An Garda Síochána), Aid to the Civil Authority, and support to Government Departments, Agencies and Local Authorities.

ARCO's membership is in excess of 800 retired commissioned officers. The membership reflects a significant reservoir of experience and expertise within the defence domain, facilitating comprehensive submissions on the Green Paper on Pensions (2007), the White Paper on Defence (2013), Foreign Policy and External Affairs (2014) and on the Veterans' Policy (2014 – 2017).

ARCO is a member of the Alliance of Retired Public Servants.

In recent years, public service pension issues have formed a significant part of the pay determination process. In this context, and mindful of the Public Service Pay Commission's Terms of Reference, ARCO submits this paper for due consideration.

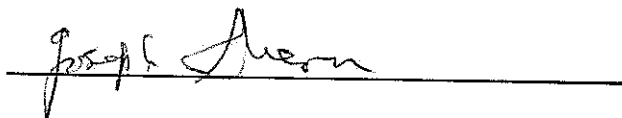
ARCO fully understands that the focus of the Commission is to contribute and to inform Government on Public Service remuneration policy. Nevertheless, the Association notes that the Commission will consider superannuation during the course of its deliberations.

Accordingly, through the good offices of the Public Service Pay Commission, ARCO wish to advance its concerns in the mechanism for the determination of the value of public service pensions.

ARCO would also like to take this opportunity to convey its position on the process of pension restoration under FEMPI, the determination of pension increases, addressing existing pension anomalies, and access to an independent third party mechanism by retired public servants.

All of these issues are fully developed in Annex A.

ARCO remains available to discuss any matter relating to this submission at your convenience.

A handwritten signature in cursive script, reading "Joseph Ahern", is written above a solid horizontal line.

Lieutenant-Colonel Joseph Ahern (Retd)
Honorary Secretary

Annex A. ARCO's Submission to the Public Service Pay Commission

SUBMISSION – PUBLIC SERVICE PAY COMMISSION

ASSOCIATION OF RETIRED COMMISSIONED OFFICERS

VALUATION OF PUBLIC SERVICE PENSIONS

1. **Public Service Benchmarking - December 2007.** On 13 January 2006, the Public Service Benchmarking Body, as provided for in the second public service agreement under Sustaining Progress, was established to undertake a fundamental examination of the pay of public service employees vis-à-vis the private sector. The Body submitted its report on 21 December 2007.
 - a. Based on stated assumptions, (including that pensions would increase by 2% annually above inflation), the Public Service Benchmarking Body valued pensions across the public service, as a single contribution of 25% of salary per annum, throughout the working life of an officer enlisted in 2007. The officer's contribution was rated at 5% and the employer's contribution was rated at 20%.
 - b. Since the employer's contribution in the private sector was 8%, the Public Service Benchmarking Body concluded that for pay determination purposes, the difference in the value of the public service pension over its private sector comparator was 12% and *"that a discount of this amount should be applied in comparing remuneration levels in the public service and the private sector"*.
 - c. It now appears that the 2007 evaluation of 25% for the gross cost of public service pensions was too high, and that in 2017 the cost is not greater than 15%. Therefore, new public service entrants should have a discount rate for pensions much lower than the 12% adopted by the Public Service Benchmarking Body in 2007.
2. **Over Valuation of Pensions.** The Public Service Benchmarking Body assumed that for those retiring in 2017, pensions would increase by 25% in real terms over the period 2007 to 2017. In that period, there was no increase in pay or pension rates. In fact, since 2009, substantial pay and pension cuts occurred for both serving and retired officers.
3. **Contributory State Pension – Universal Social Charge.** Where an individual pension exceeds €12,012, retired public servants pay the Universal Social Charge on their total pension income. Pensioners on coordinated pensions (Contributory State Pension plus occupational pension), which are common within the private

sector, pay no Universal Social Charge on the Contributory State Pension element of their pensions. The result is that a private sector pensioner in receipt of a Contributory State Pension for a dependent spouse and self, on a coordinated pension income of €34,684 pays no Universal Social Charge, whereas an equivalent public service pensioner, on the same pension, is subject to the Universal Social Charge of €1,572.

4. **Contributory State Pension – Increases.** As the Contributory State Pension increases at a higher rate than the Consumer Price Index, the total amount of pension paid to a non co-ordinated pensioner over a life time will be considerably lower than that paid to a co-ordinated pensioner, unless pension restoration occurs and unless parity with pay is restored.
5. **ARCO's Position – Valuation of Public Servants Pensions.** On the subject of the valuation of public servants pensions ARCO advances the following analysis and recommendations:
 - a. The value of public service pensions has decreased in recent years.
 - b. ARCO submits that the Public Service Pay Commission, availing of a credible model, conducts an objective evidence based analysis on the value of pensions during the course of its deliberations on future pay within the public service.
 - c. Public service entrants should have a discount rate for pensions much lower than the 12% adopted by the Public Service Benchmarking Body in 2007.
 - d. With regard to discount rates for valuing pensions, ARCO recommends Eurostat's rate for valuing public service pension liabilities for National Account purposes.
 - e. ARCO contends that an appropriate Universal Social Charge model should be introduced that is equitable either by including all income for everybody (i.e. including the Contributory State Pension), or by raising the exemption.
 - f. Finally, ARCO submits that the Public Service Pay Commission pay due cognisance to the fact that retired public servants are excluded from the State's Industrial Relations Architecture permitting them to actively engage in pension related issues.

PENSION RESTORATION

6. **Lansdowne Road Agreement 2015.** Pay restoration under the 2015 FEMPI Act is on a basis agreed with public service unions under the Lansdowne Road Agreement and was brokered under the auspices of the Workplace Relations Commission. Whereas the Alliance of Retired Public Servants made a submission in 2015 to the Minister for Public Expenditure and Reform on pension restoration and had consultations with his Department, the Alliance did not have the option of

a third-party intervention at the talks on pension restoration.

7. **Labour Court Agreement 2016 – An Garda Síochána.** A Labour Court recommendation in relation to pay for members of An Garda Síochána, added a new dimension on the process of pay restoration for serving public servants under the Lansdowne Road Agreement. ARCO contends that an equivalent beneficial adjustment in the pension restoration schedule should be made.
8. **The Financial Emergency Measures in the Public Interest Act 2015.** ARCO welcomes this legislation that allows for a partial reversal of the cuts to pensions of retired officers. The Act prescribes for the unwinding of the Public Service Pension Reduction in three stages: on 01 January 2016, 01 January 2017 and 01 January 2018. Provisions include adjustments to the entry thresholds, bands and rates of the reduction. The changes will remove, or lessen, the reduction burden on affected public service pensioners. The accruing value to retired officers was €400 in 2016, €500 in 2017 and, if still within the deduction net, €780 in 2018. The cost of this partial restoration is €30m in each of the three years 2016 to 2018.
9. **Public Service Pensioners Subject to Emergency Deductions.** By the end of 2018, approximately 25,000 public servants with pensions over €34,132 per annum will still be subjected to emergency deductions which were initiated in 2011. In the context of the objectives of the 2015 Public Service Pension Reduction Act, it is important to note that €45m (substantially less after tax deduction) is the estimated savings accruing to the Government as at 31 December 2018.
10. **Pre 01 March 2012 Retirees.** Under the FEMPI Act 2010 the Public Service Pension Reduction was introduced on 1 January 2011. Subject to an exemption for all pensions up to €12,000, it cut pensions then in payment, along with new pensions awarded until the expiry, on 29 February 2012, (2010 – 2012 “grace period”). During that grace period, new retirement pensions were, exceptionally, awarded by reference to higher salaries than the retirees actually earned, (being the salaries paid just before the public service pay cuts of January 2010).
11. **Restoration Figures – Pre 01 March 2012 Retirees.** The current position in relation to pension restoration for officers, who retired before 01 March 2012, is outlined below. The pensions of those who retired between January 2010 and 29 February 2012 are based on pre-cut salaries with 2011 pension cut applied.

Pension	PENSION	PENSION	PENSION	PENSION	PENSION CUT
2009	CUTS	RESTORED	RESTORATION	RESTORATION	REMAINING
	2011-2013	BY 2017	DUE 2017	DUE 2018	2018

€20,000	€ 480	€19,922	€78	-	-
€30,000	€1,260	€29,142	€498	€360	-
€40,000	€2,880	€37,520	€500	€780	€1,200
€50,000	€4,080	€46,320	€500	€780	€2,400

12. **Post 01 March 2012 Retirees.** Pensions awarded in respect of retirements after 01 March 2012, were initially fully exempt from Public Service Pension Reduction. This changed with the enactment of the FEMPI Act 2013, which increased and extended the reduction to extract extra revenue from all higher value public service pensions. ARCO members who retired after 01 March 2012 received lesser pensions than their equivalent ranks in previous years. These officers will not return to full pension rates even when full pay has been restored to their serving counterparts and to those officers who retired before 01 March 2012.

13. **Restoration Figures – Post March 2012 Retirees.** The current position in relation to pension restoration for officers, who retired after 01 March 2012, is outlined below.

PRE 2010 FEMPI PENSION VALUE ¹	POST MARCH 2012 FEMPI SALARY REDUCED PENSION ²	JULY 2013 FEMPI PENSION REDUCTION ³	2016-2018 RESTORED PENSION	REDUCED PENSION NOT RESTORED
€20,000	€18,875	-	-	€1,125
€30,000	€28,125	-	-	€1,875
€40,000	€37,250	€638	€638	€2,750
€50,000	€46,250	€908	€908	€3,750

¹ Pension values are based on final service salary (before cuts) and full service.

² Pensions in this column are based on 2010 reduced salaries (under FEMPI Act, 2010).

³ Pension cuts in this column are in respect of officers who retired after 01 March 2012 whose pensions were above €32,500 on 1 July 2013.

- a. The pension of a Permanent Defence Force officer who retired after 01 March 2012 was calculated on the FEMPI Act reduced salary of 2010 (see column 2 above). This generated a significantly reduced pension compared to the pre FEMPI Act pension (see column 1 above). Column 3 illustrates the impact of the 1 July 2013 pension cut for this cohort of retired officers. This is the only element of their emergency reduced pension, which benefitted from the 2016 to 2018 restoration measure (see column 4 above).
 - b. Column 5 highlights how officers who retired after 01 March 2012 will, under present restoration arrangements, be excluded from the restoration of the bulk of their emergency induced cuts. ARCO submits that this cohort of officers who retired after 01 March 2012, merits due priority in advancing the restoration process.
14. **ARCO's Position on Partial & Non Restoration of Pension Deductions.** On the subject of partial and non-restoration of pension deductions, ARCO would like to advance the following issues:
- a. In 2015, the Alliance of Retired Public Servants did not have the option of an independent third party intervention at the talks on pension restoration.
 - b. Arising from the Labour Court Agreement of 2016, an equivalent beneficial adjustment in the pension restoration schedule should be made.
 - c. Existing pension anomalies for retired commissioned officers must be addressed.
 - d. The financial environment that gave rise to the use of emergency powers in relation to public service pensions is over, and a wide range of new government services are increasingly being put in place.
 - e. The decreasing amount of pension deduction collected each year is no longer of significance in overall financial or budgetary terms. The benefit to the State is no longer proportional to the continuing burden being suffered by individual retired commissioned officers and surviving dependents who also have to deal with wider austerity measures.
 - f. The older cohort of retired commissioned officers should not have to endure an unacceptable prolonged pension restoration process. The age and health status of retired officers and related financial liabilities arising are critical issues which, along with life expectancy, should be taken into account in relation to the timeframe and content of pension restoration.
 - g. Despite popular misconceptions that public service pensioners are privileged, the reality is that the average public service pension is in the order of €20,000

per annum and that public service pensioners do not additionally receive the State Contributory pension.

- h. Responsibility for any new financial emergencies and the provision of increased services, is a community responsibility and should be addressed in the context of general taxation. Public service pensioners should not have to suffer on foot of the continuing use of emergency powers.
- i. The justification, recognised by successive Ministers for Public Expenditure and Reform, and by the Public Service Committee of the ICTU in its submission to the Pay Commission, for priority treatment in restoring public service pensions, should now be matched by full pension restoration, across all quarters, not later than 2018.
- j. Whereas pensions have been partially restored, full restoration remains a focussed ARCO objective. The level and pace of pension restoration under current legislation is inadequate. The restoration process should be considerably accelerated. Legislation should be amended to provide for rescheduling of payments with a view for complete restoration for all retired officers in 2018.
- k. Those commissioned officers who retired after 01 March 2012 merit due priority in advancing the restoration process.
- l. Finally, ARCO, as a constituent member of the Alliance, has no formal access to the industrial relations machinery of the state and to date has only limited informal access on an ad hoc basis under the umbrella of the Alliance.

PROVISION FOR PENSION INCREASES

15. Legal Framework - Pension Increases & Parity

- a. ARCO is fully aware that within the Civil Service, increases in pensions are awarded at the discretion of the Minister for Finance under Regulations made by him/her under Section 29 of the Pensions (Increase) Act 1964.
- b. ARCO notes that the 1964 Act does not prescribe what form the increases should take or how they should be calculated. ARCO also understands that, in general, there is no automatic entitlement to pension increases under the terms of public service pension schemes.
- c. However, ARCO notes that following the 1984 Budget, the application of the Minister's discretion in this regard is based on "full pension parity" in the case of general pay increases. Arising from public service pay negotiations

the parity was extended from 01 July 1986 to include special increases.

- d. The Public Service Pensions (Single Scheme and Other Provisions) Act 2012 prescribes for future increases in public servants pensions to be linked to the Consumer Price Index in respect of new entrants after 01 January 2013.
16. **Serving Personnel.** Whereas, current pay and conditions for serving personnel traditionally focussed the posture of Representative Associations and Trade Unions, in recent times such organisations have become more mindful of pensions accruing to their membership. Public service pension issues have formed a significant part of the pay determination process. In this context, public service pensions are now on the Irish Congress of Trade Unions agenda.
 17. **Pensions up to €12,000.** The provision for pension increases must actively address those retired public servants, who are in receipt of up to €12,000 per annum, and were not subject to pension reductions. This group of public servants has not received an increase in pension since 2007, notwithstanding the fact that their equivalent serving public servants have received increases in pay. There are scheduled increases in social protection payments (which are maintained above Consumer Price Index rates), whereas the comparative position of the lowest paid public service pensioners, who have received no increases in pension, is further deteriorating.
 18. **Settlement on Garda Síochána Pay.** Following the Labour Court Recommendations on Garda pay in November 2016, under the terms of section 6 of the Lansdowne Agreement, an increase of €1,000 was authorised in the annualised salaries for the period 01 April 2017 to 31 August 2017 for public servants up to €65,000. Apparently, the terms of the settlement will not impact on pensions currently in payment, reflecting the inequality of the exclusion of pensioners in their due entitlement.
 19. **Parity Based Framework.** During service in the Permanent Defence Force, retired commissioned officers contributed to their pension, (which included a parity based approach to increases), at rates deemed appropriate by successive Governments.
 - a. The custom and practice of the defined benefit pension for many decades has been that, when serving officers are awarded a pay increase, these increases are applied, on a parity basis, to retired officers and surviving dependents, albeit some 6 months later, with the approval of the Minister for Finance.
 - b. Nevertheless, Military Service Allowance, seen as an integral part of pay, is not applied to the pensions in the case of commissioned officers who retired

before August 1990.

- c. In general terms, the parity based framework prevailed prior to the recent pay and pension cuts. However, with the unwinding of the FEMPI legislation, the legitimate expectation of retired officers is that custom and practice should prevail and the principle of parity be restored.
- d. The value of pensions, based on the actuarially calculated pension costs of the Public Service Benchmarking Body in 2007, has reduced over the past ten years with substantial reductions in pay and pensions, and in the absence of assumed pension increases based on Consumer Price Index plus 2%.
- e. The financial implications of any change to the parity process would adversely affect those on modest and low pensions.
- f. In some quarters, it is believed that parity was effectively severed when the initial 7% cut applied to civil servants was not applied to pensioners. Arising from statements in the public domain, apparently this parity based framework will be the subject of discussion in future pay negotiations which will take into account the value of public service pensions.

20. **Section 40, Public Service Pensions Act 2012 – Consumer Price Index.** For those recruited after 2012, provision is contained in the Single Pensions Act to link their pension increases to movements of the Consumer Price Index. Apparently, a similar linkage is not prescribed to those who enlisted before 2012, who traditionally attracted increases on a par with pay, and who have a legitimate expectation that this link would continue. It should be noted that there are scheduled increases in social protection payments (which are to be maintained above Consumer Price Index rates) whereas the comparative position of the lowest paid public service pensioners, who have received no increases in pension, is further deteriorating.

21. **ARCO's Position – Pension Increases.** ARCO advances the following for due consideration by the Public Service Pay Commission:

- a. The entitlement of retired commissioned officers of the Permanent Defence Force and their surviving dependents to their pensions is a property right under Article 43 of the Constitution.
- b. Retired commissioned officers' pensions are deferred pay and arise directly from employment by the State.

- c. Despite not having their pension reduced, due cognisance should be afforded to those in receipt of pensions up to €12,000 per annum, who have not received an increase in their pensions since 2007, notwithstanding the fact that their equivalent serving public servants have received pay increases..
- d. The financial implications of any change to the parity process would adversely affect those on modest and low pensions.
- e. The custom and practice for many decades whereby the pensions of retired commissioned officers should continue to be linked to the pay of their corresponding ranks, thus maintaining the principle of parity for those enlisted before 01 January 2013.
- f. ARCO regards the continued application of parity in relation to the determining pensions of its members, as fundamentally important and would view a departure from it as a threat to the living standards of retired commissioned officers.

INDEPENDENT THIRD PARTY MECHANISM

22. **Requirement.** Public service pensions are deferred pay and arise directly from employment by the State. The unwinding of FEMPI Act in relation to pension deductions is of significant importance to retired officers. Nevertheless, the Government has yet to provide any form of formal independent third party mechanism to help resolve difficulties identified by public service pensioners, including retired commissioned officers.

23. **Access To Government Ministers**

- a. Access to Government Ministers and, in particular, to the Minister for Public Expenditure and Reform is key to success. The Alliance has held meetings with the Minister for Public Expenditure and Reform in May 2013, May 2014 and July 2014, and with officials of his Department in April 2014, May 2015 and February 2017. The prevailing interface between the Alliance and the Minister for Public Expenditure and Reform, through the medium of meetings and correspondence, can be seen as a significant advancement within the framework of representation.
- b. In recent years, ARCO discussed various pension related issues with the Minister for Defence. ARCO and the Organisation of National Ex-Servicemen (ONET) met formally with the Minister of Expenditure and Reform in 2012 on the Single Pensions Act. The Single Pensions Act and pension restoration was discussed with the Minister for Defence during a

24. **Access to Independent Third Party Mechanism (Industrial Relations Machinery)**. The 1990 Industrial Relations Act prescribes, inter alia, that Trade Unions cannot represent those who have retired from permanent employment. Whereas Departments of State are somewhat reluctant to negotiate with pensioners, considerable progress has been made with the advent of an informal interface between the Minister for Public Expenditure and Reform, his officials and the Alliance. During the Lansdowne Road process, the Alliance has had conversations with the Irish Congress of Trade Unions Congress in pursuit of pensions restoration. Currently, the Alliance is recognised as the Public Service Pensions representative body and is endeavouring to secure full negotiating rights, including the right to avail of appropriate independent third party mechanism.
25. **ARCO's Position – Independent Third Party Mechanism**. In the context of independent third party mechanisms, ARCO advances the following:
- a. The recognition by successive Ministers for Public Expenditure and Reform of the Alliance as the Public Service Pensions representative is welcomed.
 - b. The Government has yet to provide a fair and reasonable forum involving an independent third party mechanism which would conduct meaningful consultation and negotiation, in order to address difficulties identified by public service pensioners, including retired commissioned officers.
 - c. The Government should provide access to formal independent third party mechanism for the 162,000 retired public servants on any matter relating to pensions.

SUMMARY

26. ARCO submits that the Public Service Pay Commission, availing of a credible model, will conduct an objective evidence based analysis on the value of pensions during the course of its deliberations on future pay within the public service.
27. The Public Service Pension Reduction continues to have an adverse effect on the lives of retired commissioned officers and surviving dependants. The continued use of emergency powers against all pensioners, including retired commissioned officers of the Permanent Defence Force, is neither necessary, nor justified in the common good. Existing pension anomalies must be addressed.
28. ARCO remains concerned with various aspects of the process restoring pensions reduced under the Financial Emergency Measures in the Public Interest. Although

partial restoration of the pensions of retired commissioned officers and surviving dependents is ongoing, in the current financial climate, 2021 as a possible date for full restoration is unacceptable.

29. The custom and practice whereby the pensions of retired commissioned officers should continue to be linked to the pay of their corresponding ranks, thus maintaining the principle of parity for those who enlisted before 01 January 2013.
30. ARCO regards the continued application of parity in relation to the determining pensions of its members, as fundamentally important and would view a departure from it as a threat to the living standards of retired commissioned officers.
31. Finally, ARCO recommends that the Government provides access to formal, independent, third party mechanism for the 162,000 retired public servants, in order to resolve any difficulties relating to pensions, identified by public service pensioners, including retired commissioned officers.

End