Number 18 *of* 2013

FINANCIAL EMERGENCY MEASURES IN THE PUBLIC INTEREST ACT 2013

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Reduction in remuneration of public servants who earn more than €65,000.
3. Consequential amendments of Act of 2009.
4. Amendment of definition of "pensioner" in Act of 2010.
5. Reduction in certain public service pensions.
6. Consequential amendments of Act of 2010.
7. Pay scales: suspension, subject to exceptions, for certain period.
8. Exemption, etc., from operation of *section 7* in certain circumstances.
9. Certain pension rights not affected.
10. Amendment of Schedule to Act of 2009.
11. Amendment of Financial Emergency Measures in the Public Interest Act 2009.
12. Review of this Act and certain enactments of like character.
13. Short title.

ACTS REFERRED TO

Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010	2010, No. 24
Financial Emergency Measures in the Public Interest Act 2009	2009, No. 5
Financial Emergency Measures in the Public Interest (No. 2) Act 2009	2009, No. 41
Financial Emergency Measures in the Public Interest Act 2010	2010, No. 38
Financial Emergency Measures in the Public Interest (Amendment) Act 2011	2011, No. 39
Organisation of Working Time Act 1997	1997, No. 20
Public Service Pensions (Single Scheme and Other Provisions) Act 2012	2012, No. 37
Public Service Superannuation (Miscellaneous Provisions) Act 2004	2004, No. 7

Number 18 *of* 2013

FINANCIAL EMERGENCY MEASURES IN THE PUBLIC INTEREST ACT 2013

AN ACT, IN THE PUBLIC INTEREST, TO PROVIDE FOR—

(A) THE REDUCTION OF THE REMUNERATION OF CERTAIN PUBLIC SERVANTS (INCLUDING MEMBERS OF THE HOUSES OF THE OIREACHTAS, THE JUDICIARY AND CERTAIN OFFICE HOLDERS);

(B) THE REDUCTION OF THE AMOUNT OF THE PAYMENT OF PENSION OR OTHER BENEFITS (OTHER THAN LUMP SUMS) PAYABLE TO OR IN RESPECT OF CERTAIN PERSONS WHO ARE OR WERE IN THE PUBLIC SERVICE (INCLUDING MEMBERS AND FORMER MEMBERS OF THE HOUSES OF THE OIREACHTAS, FORMER MEMBERS OF THE JUDICIARY AND FORMER HOLDERS OF CERTAIN OFFICES) UNDER AN OCCUPATIONAL PENSION SCHEME OR PENSION ARRANGEMENT (BY WHATEVER NAME CALLED); AND

(C) THE ALTERATION OF THE OPERATION OF SCALES OF PAY FOR PUBLIC SERVANTS (INCLUDING THE SUSPENSION OF THE AWARDING, FOR A CERTAIN PERIOD, OF INCREMENTS UNDER THOSE SCALES),

AND TO PROVIDE FOR RELATED MATTERS.

[5*th June*, 2013]

WHEREAS budgetary and fiscal measures have been taken by the State since 2009 to address a serious disturbance in the economy and a decline in the economic circumstances of the State that have occurred;

AND WHEREAS it is necessary for the State to achieve further significant savings in its expenditure, both directly and indirectly, on remuneration and in its expenditure on public service pensions as a contribution to the reduction of the shortfall between revenue and expenditure that is needed to put debt on a downward path;

AND WHEREAS the State is availing itself of a financial assistance programme established by the European Union and the International Monetary Fund with funding provided by the European Financial Stabilisation Mechanism, the European Financial Stability Facility, the bilateral lenders (the United Kingdom, the Kingdom of Sweden and the Kingdom of Denmark) and the International Monetary Fund and it is necessary to adopt a range of measures to meet commitments included in that programme to address the economic crisis in the State;

AND WHEREAS it is necessary for the State to take measures as part of remedial action to maintain the State's path toward correcting the excessive deficit by 2015 in line with the recommendation to that effect of the Council of the European Union (Council Recommendation with a view to bringing to an end the situation of an excessive deficit in Ireland of 7 December 2010);

BE IT THEREFORE ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—(1) In this Act—

"Act of 2009" means the Financial Emergency Measures in the Public Interest (No. 2) Act 2009;

"Act of 2010" means the Financial Emergency Measures in the Public Interest Act 2010;

"Act of 2011" means the Financial Emergency Measures in the Public Interest (Amendment) Act 2011;

"Act of 2012" means the Public Service Pensions (Single Scheme and Other Provisions) Act 2012;

"Minister" means the Minister for Public Expenditure and Reform.

(2) References in this Act—

(*a*) to an increment that may be awarded to a public servant are references to an increment, provided for in the applicable pay scale, that may be awarded to the public servant subject to there being satisfied the one or more conditions that are required by the pay scale, or a written statement governing its operation, to be satisfied before an award of such an increment may be made, and

(*b*) to a point on a pay scale shall be read accordingly.

Reduction in remuneration of public servants who earn more than €65,000.

2.—The Act of 2009 is amended by inserting the following sections after section 2:

"Public servants' remuneration: reduction, with effect from 1 July 2013, for certain public servants.

2A.—(1) In this section—

(*a*) a reference to a relevant provision shall, other than in the case of a public servant to whom *section 10(2)* of the *Financial Emergency Measures in the Public Interest Act 2013* relates, be read as a reference to that provision as it has effect, subject to any direction

given under section 6, by virtue of the operation of section 2;

(*b*) a reference to the annual remuneration of a public servant is a reference to the public servant's annual basic salary, together with any fixed, periodic allowance that is—

(i) reckonable for the purposes of calculating a pension entitlement of the public servant, and

(ii) paid to the public servant as part of his or her annual remuneration,

and, for the purposes of this section, the definition of 'public servant' in section 1 shall apply as if in paragraph (*e*) of that definition the words 'who was appointed to judicial office before the commencement of section 10 of the Financial Emergency Measures in the Public Interest (Amendment) Act 2011' were omitted.

(2) A relevant provision that fixes the remuneration, or any part of the remuneration, of a public servant whose annual remuneration exceeds €65,000 shall be taken to have been amended, with effect on and from 1 July 2013, in accordance with this section.

(3) Where the remuneration of a public servant is fixed by a relevant provision, then the relevant provision shall be taken to have been amended so that the remuneration is reduced in accordance with the Table to this section.

(4) Where the application to a public servant of subsections (2) and (3) and the Table to this section would result in his or her annual remuneration being reduced to less than €65,000, then those subsections and that Table shall only operate to reduce his or her annual remuneration to €65,000.

(5) Where a public servant is entitled as part of his or her annual remuneration to the payment of an allowance and the allowance—

(*a*) is not reimbursement of any expense actually incurred, and

(*b*) is expressed as a specified percentage or specified proportion of another part of the remuneration (referred to in this subsection as 'basic salary') of a public servant to whom the relevant provision applies,

then the public servant's basic salary, for the purposes of calculating the amount payable as the allowance, is his or her basic salary reduced in

accordance with subsections (2) and (3) and the Table to this section.

(6) This section has effect notwithstanding—

(*a*) any provision by or under—

(i) any other Act,

(ii) any statute or other document to like effect of a university or other third level institution,

(iii) any circular or instrument or other document,

(iv) any written agreement or contractual arrangement,

or

(*b*) any verbal agreement, arrangement or understanding or any expectation.

Table

Reduction in Remuneration of Public Servants Earning More Than €65,000

Annualised amount of Remuneration	Reduction
Up to €80,000	5.5 per cent
Any amount over €80,000 but not over €150,000	8 per cent
Any amount over €150,000 but not over €185,000	9 per cent
Any amount over €185,000	10 per cent

Alteration of remuneration (other than basic salary) or working time of public servants.

2B.—(1) In this section—

'Act of 1997' means the Organisation of Working Time Act 1997;

'remuneration' does not include basic salary;

'working time' has the meaning it has in the Act of 1997.

(2) A power conferred by or under any enactment to fix the terms and conditions of persons who are public servants may, notwithstanding any thing referred to in subsection (3), be exercised so as—

(*a*) to result in less favourable remuneration for those persons, in respect of the employment, office or position held by them in the public service body concerned, than that enjoyed by them immediately before the exercise of the power, or

(*b*) to provide that the working time, whether by reference to a day, a week or a month, of those persons in the employment, office or position held by them in the public service body concerned shall, to a specified extent, be greater (but not greater than that which is permitted by the Act of 1997) than that which stood provided, immediately before the exercise of the power, to be their working time in that employment, office or position.

(3) The things referred to in subsection (2) are—

(*a*) any provision by or under—

(i) any other Act,

(ii) any statute or other document to like effect of a university or other third level institution,

(iii) any circular or instrument or other document,

(iv) any written agreement or contractual arrangement,

or

(*b*) any verbal agreement, arrangement or understanding or any expectation.".

Consequential amendments of Act of 2009.

3.—(1) The definition of "public servant" in section 1 of the Act of 2009 is amended by inserting ", subject to section 2A (inserted by the *Financial Emergency Measures in the Public Interest Act 2013*)," before "means a person".

(2) Section 4(1) of the Act of 2009 is amended by inserting "or 2A" after "section 2".

(3) Section 5 of the Act of 2009 is amended—

(*a*) in subsection (1) by inserting "or 2A" after "section 2", and

(*b*) in subsection (2) by inserting "or 2A" after "section 2".

(4) Section 6 of the Act of 2009 is amended by inserting "or 2A" after "section 2" in both places where it occurs.

Amendment of definition of "pensioner" in Act of 2010.

4.—The definition of "pensioner" in section 1 of the Act of 2010 is amended by inserting ", subject to section 2A (inserted by the *Financial Emergency Measures in the Public Interest Act 2013*)," before "means a person".

Reduction in certain public service pensions.

5.—(1) In this section "public service pension" has the meaning it has in the Act of 2010.

(2) In *subsection (3)* "relevant pensioner" means a pensioner (within the meaning of the Act of 2010), the annual public service pension of whom exceeds €32,500, and this reference to the pensioner's annual public service pension is a reference to his or her annual public service pension as it stands reduced by virtue of the operation of the Act of 2010 before the passing of this Act.

(3) With effect on and from 1 July 2013, subsection (1) of section 2 of the Act of 2010 is amended, in relation to a relevant pensioner, by substituting the following Table for the Table in that subsection:

"TABLE

Annual Pensions that Exceed €32,500

Annualised amount of public service pension	Reduction
Up to €12,000	Exempt
Any amount over €12,000 but not over €24,000	8 per cent
Any amount over €24,000 but not over €60,000	12 per cent
Any amount over €60,000 but not over €100,000	17 per cent
Any amount over €100,000	28 per cent

".

(4) Where the application to a pensioner of the amendment effected by *subsection (3)* would result in the annualised amount of his or her public service pension being reduced to less than €32,500, then the amendment effected by that subsection shall only operate to reduce the annualised amount of his or her public service pension to €32,500.

(5) The Act of 2010 is amended by inserting the following section after section 2:

"Persons becoming pensioners after 29 February 2012: reduction in public service pension.

2A.—(1) For the purposes of this section—

(*a*) the definition of 'pensioner' in section 1 shall apply with the modification that references to the relevant date in paragraphs (*b*) and (*c*) of the definition shall be read as references to 31 August 2014 or such other date as may be specified in accordance with *section 9(1)(b)(ii)* of the *Financial Emergency Measures in the Public Interest Act 2013*;

(*b*) 'relevant (post 29 February 2012) pensioner' means, subject to subsection (2), a person who became a pensioner after 29 February 2012, or becomes such after the passing of the *Financial Emergency Measures in the Public*

Interest Act 2013, but no later than 31 August 2014 or such other date as may be specified in accordance with *section 9(1)(b)(ii)* of the *Financial Emergency Measures in the Public Interest Act 2013* and the annual pension of whom (in either case) exceeds €32,500.

(2) In subsection (1)(*b*) the words 'but no later than 31 August 2014 or such other date as may be specified in accordance with *section 9(1)(b)(ii)* of the *Financial Emergency Measures in the Public Interest Act 2013*' shall be disregarded in the case of a pensioner falling under paragraph (*c*) of the definition in section 1 of 'pensioner', as that definition applies by virtue of subsection (1)(*a*).

(3) With effect on and from 1 July 2013, the annualised amount of a public service pension payable in accordance with his or her entitlement to a person who is a relevant (post 29 February 2012) pensioner shall be reduced in accordance with the Table in this subsection.

Table

Annual Pensions of Relevant (Post 29 February 2012) Pensioners

Annualised amount of public service pension	Reduction
Up to €12,000	Exempt
Any amount over €12,000 but not over €24,000	2 per cent
Any amount over €24,000 but not over €60,000	3 per cent
Any amount over €60,000 but not over €100,000	5 per cent
Any amount over €100,000	8 per cent

(4) Where the application to a pensioner of subsection (3) and the Table in that subsection would result in the annualised amount of his or her public service pension being reduced to less than €32,500, then that subsection and Table shall only operate to reduce the annualised amount of his or her public service pension to €32,500.

(5) If two or more public service pensions, the annual amount of which, taken together, exceeds €32,500, are payable to a pensioner, all such pensions shall be aggregated for the purposes of applying subsection (3) in relation to the pensioner.

(6) Where a pension adjustment order has been made in relation to a public service pension, the annualised amount of the public service pension shall be reduced under this section before it is paid

in accordance with the provisions of the pension adjustment.

(7) This section has effect notwithstanding—

(*a*) any provision by or under—

(i) any other enactment,

(ii) any statute or other document to like effect of a university or other third level institution,

(iii) any pension scheme or arrangement,

(iv) any circular or instrument or other document,

(v) any written agreement or contractual arrangement,

or

(*b*) any verbal agreement, arrangement or understanding or any expectation.".

Consequential amendments of Act of 2010.

6.—(1) The definition of "aggregation of public service pensions" (inserted by the Act of 2012) in section 1 of the Act of 2010 is amended by inserting "or subsection (5) of section 2A" after "subsection (1A) of section 2" and substituting "subsection (1) of section 2 or subsection (3) of section 2A, as the case may be," for "subsection (1) of that section".

(2) Section 2 of the Act of 2010 is amended by substituting the following subsection for subsection (1A):

"(1A) If two or more public service pensions, the annual amount of which, taken together, exceeds €32,500, are payable to a pensioner, all such pensions shall be aggregated for the purposes of applying subsection (1) in relation to the pensioner.".

(3) The following section is substituted for section 3 of the Act of 2010:

"3.—Nothing in section 2 or 2A shall affect the calculation of any public service pension entitlement (including an entitlement to a lump sum and an entitlement to periodic payments of pension or other benefits) of a person who—

(*a*) in the case of section 2, is a pensioner or becomes a pensioner on or at any time before the relevant date or, in the case of a pensioner falling under paragraph (*c*) of the definition of "pensioner" in section 1, at any time after that date; and

(*b*) in the case of section 2A, falls within the definition of 'relevant (post 29 February 2012) pensioner' in that section.".

(4) The following sections of the Act of 2010:

(*a*) section 4 (as amended by the Act of 2012);

(*b*) section 5 (as amended by the Act of 2012);

(*c*) section 6;

(*d*) section 11; and

(*e*) section 12 (as amended by the Act of 2012),

are amended by inserting "or 2A" after "section 2" in each place where it occurs.

Pay scales: suspension, subject to exceptions, for certain period.

7.—(1) Subject to the provisions of this section and *section 8*, for the period of 3 years beginning on 1 July 2013—

(*a*) no increment shall be awarded to a public servant; and

(*b*) the operation of the pay scale that applies in respect of a public servant shall stand suspended,

and with the effect that—

(i) the point on that pay scale that shall be applicable in respect of a public servant on 1 July 2016 shall be that which was applicable on 1 July 2013 in respect of him or her, and

(ii) the operation of that pay scale, on and from 1 July 2016, shall be by reference to service of the public servant on and from 1 July 2016, but this is subject to *subsection (2)*.

(2) *Subsection (1)(b)(ii)* does not operate to exclude for the purpose of the operation of the pay scale so much of the service of the public servant, before 1 July 2013, as would have been reckoned for the purpose of the next immediate increment that, but for the suspension of the pay scale by virtue of *subsection (1)*, would have fallen to be awarded to him or her on or after 1 July 2013.

(3) The reference in *subsection (1)* to the pay scale that is applicable in respect of a public servant (being a public servant to whom the amendment hereafter mentioned relates) is a reference to that pay scale as it stands adjusted by virtue or in consequence of the amendment of the Act of 2009 made by *section 2*.

(4) For the avoidance of doubt, s*ubsection (1)* has effect in relation to a pay scale that, in consequence of a public servant's appointment or promotion to a position after 1 July 2013 (but before 1 July 2016), falls to be applied subsequent to 1 July 2013 as it has effect in relation to a pay scale that applies to a public servant on 1 July 2013, but with the substitution in that subsection for the reference to 1 July 2013 (where it secondly occurs) of a reference to the date of such appointment or promotion of the public servant.

(5) Notwithstanding anything in the preceding subsections of this section, *subsection (1)* shall—

(*a*) apply to a public servant only to the extent specified in the agreement, or

(*b*) apply to a public servant with such modifications as are specified in the agreement,

to whom a collective agreement relates and which agreement—

(i) for the time being stands registered with the Labour Relations Commission for the purposes of this section, and

(ii) provides for the application to such a public servant of *subsection (1)* in the manner described in *paragraph (a)* or *(b)*, as the case may be.

(6) A collective agreement for the purposes of *subsection (5)* may be entered into at any time (whether before or after 1 July 2013).

(7) In this section—

"collective agreement" means an agreement by or on behalf of a public service body on the one hand, and by or on behalf of a body or bodies representative of the public servants to whom the agreement relates on the other hand;

"public servant" has the meaning it has in the Act of 2010.

Exemption, etc., from operation of *section 7* in certain circumstances.

8.—(1) Where in respect of a particular public servant or class or group of public servants the Minister is satisfied that—

(*a*) exceptional circumstances exist (because of some particular aspect or condition of their employment, office or position) in respect of such public servant, class or group and a substantial inequity would thereby arise, or

(*b*) any award under an arbitration agreement would, but for *section 7*, result in the amendment of an applicable pay scale,

and there is in the circumstances a necessity for a distinction from other public servants or from other classes or groups of public servants, as the case may be, then the Minister, if he or she considers it to be just and equitable in all the circumstances to do so, may by direction—

(i) exempt that public servant, class or group from the operation of *section 7*, either entirely or to such extent as the Minister considers appropriate, or

(ii) modify the operation of *section 7* to permit the awarding of increments in such manner as the Minister thinks fit,

and the provisions of *section 7* shall be read subject to any such direction.

(2) In this section "public servant" has the meaning it has in the Act of 2010.

Certain pension rights not affected.

9.—(1) This section applies to—

(*a*) a person who was at some time before 1 July 2013 a public servant but is on 1 July 2013 in receipt of a pension under a public service pension scheme,

(*b*) a person who was a public servant on 1 July 2013, but ceases to be a public servant on or before—

(i) 31 August 2014, or

(ii) a later date specified by the Minister by order in accordance with *subsection (3)*,

and who, on ceasing to be a public servant, is entitled to payment of a pension under a public service pension scheme in respect of his or her service as a public servant or a person who was at some time before 31 August 2014 or such later date as may be specified under *subparagraph (ii)* a public servant and has a preserved benefit in a public service pension scheme in respect of which the preserved pension age of the person falls on or before that date, and

(*c*) a person who becomes entitled to payment of a public service pension as a spouse, civil partner or child of a former public servant to whom *paragraph (a)* or *(b)* applied.

(2) The following 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 a person to whom this section applies—

(*a*) the amendment made by *section 2* inserting a section 2A in the Act of 2009,

(*b*) any suspension of the operation of a pay scale by virtue of *subsection (1)* of *section 7*, or

(*c*) the application of *subsection (1)* of *section 7* to a person, in the manner described in *paragraph (a)* or *(b)* of *subsection (5)* of that section, by a collective agreement referred to in that *subsection (5)*.

(3) For the purpose of making an order pursuant to *subsection (1)(b)(ii)*, the Minister shall take into account such legal, superannuation and personnel management issues affecting public service bodies as he or she considers appropriate, and shall consult with any body or other person that he or she considers appropriate.

(4) In this section—

"civil partner" has the meaning it has in the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

"preserved benefit" has the meaning it has in the Public Service Superannuation (Miscellaneous Provisions) Act 2004;

"preserved pension age", in relation to a preserved benefit in a public service pension scheme, means the age of the public servant or former public servant concerned at which the preserved benefit becomes payable to him or her under the scheme;

"public servant" has the meaning it has in the Act of 2010;

"public service pension scheme" has the meaning it has in the Financial Emergency Measures in the Public Interest Act 2009.

Amendment of Schedule to Act of 2009.

10.—(1) The Schedule to the Act of 2009 is amended by deleting the following:

"21. Railway Procurement Agency.

22. National Treasury Management Agency.".

(2) The deletion effected by *subsection (1)* shall not have the effect of causing section 2 of the Act of 2009 to apply to a person who is employed by, or who holds any office or other position in, either of the bodies mentioned in that subsection.

Amendment of Financial Emergency Measures in the Public Interest Act 2009.

11.—With effect on and from 1 January 2014, section 2 of the Financial Emergency Measures in the Public Interest Act 2009 is amended—

(*a*) in paragraph (*d*) of subsection (3) by substituting "2014" for "2010",

(*b*) by substituting the following for Table D to subsection (3):

"Table D

Amount of Remuneration	Rate of deduction
Up to €15,000	Exempt
Any excess over €15,000 but not over €20,000	2.5 per cent
Any excess over €20,000 but not over €60,000	10 per cent
Any amount over €60,000	10.5 per cent

",

(*c*) in subsection (3B) by substituting "2014" for "2012", and

(*d*) by substituting the following for the Table to subsection (3B):

"Table

Amount of Remuneration	Rate of deduction
Up to €15,000	Exempt
Any excess over €15,000 but not over €20,000	2.5 per cent
Any excess over €20,000 but not over €60,000	10 per cent
Any amount over €60,000	10.5 per cent

".

Review of this Act and certain enactments of like character.

12.—(1) For the purposes of this section the "relevant Acts" are—

(*a*) in respect of the application of this section in the year 2013—

(i) the Financial Emergency Measures in the Public Interest Act 2009;

(ii) the Act of 2009; and

(iii) the Act of 2010;

(*b*) in respect of the application of this section in the year 2014 and subsequent years—

(i) each of the enactments specified in *paragraph (a)*, and

(ii) this Act.

(2) Before 30 June in 2013 and every year after 2013, the Minister shall—

(*a*) carry out a review of the operation, effectiveness and impact of the relevant Acts, having regard to the overall economic conditions in the State and national competitiveness,

(*b*) consider whether or not any of the provisions of the relevant Acts continue to be necessary having regard to the purposes of those Acts, the revenues of the State and State commitments in respect of public service pay and pensions,

(*c*) make such findings as he or she thinks appropriate consequent on the review and consideration, and

(*d*) cause a written report of his or her findings resulting from the review and consideration to be prepared and laid before each House of the Oireachtas.

(3) The following provisions are repealed—

(*a*) section 13 of the Financial Emergency Measures in the Public Interest Act 2009;

(*b*) section 7 of the Act of 2009; and

(*c*) section 10 of the Act of 2010.

(4) If any step taken under a provision specified in *subsection (3)* is commenced but not completed before the commencement of this section then that step may be continued and completed under *subsection (2)*.

Short title.

13.—This Act may be cited as the Financial Emergency Measures in the Public Interest Act 2013.