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**AN BILLE UM BAINISTÍOCHT NA SEIRBHÍSE POIBLÍ  
(EARCAÍOCHT AGUS CEAPACHÁIN) (LEASÚ), 2013  
PUBLIC SERVICE MANAGEMENT (RECRUITMENT AND  
APPOINTMENTS) (AMENDMENT) BILL 2013**

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**EXPLANATORY MEMORANDUM**

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**Introduction**

The purpose of this Bill is to amend the Public Service Management (Recruitment and Appointments) Act 2004 to:

- (a) provide for the removal of legislative barriers to redeployment and mobility within the public service by
- broadening the definition of public service body to encompass all public service employers except commercial State bodies and their subsidiaries;
  - empowering the Public Appointments Service (PAS) to designate an existing employee of a public service body for redeployment to a comparable post in another such body;
  - providing that redeployment is to be on no less favourable conditions in relation to basic pay and pension;
  - making provision for the continuity of service for redeployees for certain statutory purposes such as the Redundancy Acts, Unfair Dismissal Act, Minimum Notice and Terms of Employment Act, Parental Leave Act etc;
  - removing any impediments under the Data Protection Acts to the transfer of personal information to the PAS, or to another public service body, for the purpose of redeployment to that body;
- (b) provide for the removal of the existing exemption, under section 7(2)(a), from the general provisions of the Principal Act in respect of the Top Level Appointments Committee (TLAC) appointments, to bring these within the ambit of the Act; and
- (c) empower the Minister for Public Expenditure and Reform to make Regulations providing for the payment of

remuneration to a public servant during a period of sick leave.

The provisions of the Act will come into force on enactment.

### **Main Provisions**

*Section 1* defines the Public Service Management (Recruitment and Appointments) Act 2004 as the Principal Act.

*Section 2, 3 and 4* specify how certain terms are to be interpreted and include amendments required to ensure that provisions in the Principal Act do not cross-cut or affect the operation of new Parts 6A and 7A, inserted by section 6 and 7 respectively. *Section 3* also removes the existing exemption, under section 7(2)(a), from the general provisions of the Principal Act in respect of the Top Level Appointments Committee (TLAC) appointments, bringing these within the ambit of the Act.

*Sections 5 and 6* provide for the insertion of a new section 34A and a new Part 6A (which comprises sections 57A to 57F) into the Principal Act:

Section 34A provides that the Public Appointments Service (PAS) shall have the redeployment functions set out in Part 6A.

Section 57A specifies how certain terms are to be interpreted for the purpose of Part 6A. It provides a broader definition of “public service body” than applies in respect of the recruitment and appointments functions of the PAS, to encompass all public service employers except commercial State bodies and their subsidiaries. It provides that a person designated by the PAS for redeployment to a position in another public service body shall be appointed to that position.

Section 57B enables the PAS to designate a public service employee for redeployment to a comparable position elsewhere in the public service. A person on a fixed term contract may be redeployed for the period remaining on their contract.

Section 57C provides that redeployment is to be on no less favourable conditions in relation to basic pay (defined in section 57A) and pension (except in relation to fast accrual arrangements). It provides for the transfer of the responsibility to meet superannuation liabilities to the receiving organisation and provides for the preservation of various statutory rights of employees that are linked to length of service, such as those accruing under the Redundancy Acts, Unfair Dismissals Act, Minimum Notice and Terms of Employment Act, Parental Leave Act etc. It also provides that those assigned to the Civil Service will be subject to the Civil Service Regulation Acts and the Ethics in Public Office Acts.

Section 57D sets out the factors to be considered by the PAS when designating a person for redeployment. These are the competencies, qualifications, grading and pay rates of the person being redeployed and those required in the post the person is being assigned to; the terms of any policy of the Minister and collective agreements relating to the mobility or redeployment of public service employees; and the methods of recruitment and selection applying to public servants generally.

Section 57E sets out details of those who are precluded from redeployment by the PAS. These are holders of political, judicial

and constitutional posts, Presidential and Government appointees, as well as special advisers, members of the Permanent Defence Force, an Garda Síochána, officers of the Houses of the Oireachtas and those employed by the Central Bank of Ireland and the National Treasury Management Agency. It provides that the Minister may, by Order, add further bodies to this list.

Section 57F removes any impediments under the Data Protection Acts to the transfer of personal information to the PAS, or to another public service body, for the purpose of redeployment to that body.

*Section 7* provides for the insertion into the Principal Act of a new Part 7A (which comprises sections 58A to 58C) empowering the Minister for Public Expenditure and Reform to make Regulations providing for the payment of sick leave remuneration.

Section 58A specifies how certain terms are to be interpreted for the purpose of Part 7A. This section provides a broad definition of “public service body” which, when applied in conjunction with the separate definition of “public servant”, encompasses the generality of all public servants.

Section 58B empowers the Minister to make provision for the payment of sick leave remuneration by Regulation. The Minister may determine the rate of pay that should apply during a period of sick leave and the length of time for which a person should be paid. No sick leave remuneration will be paid where an individual has exhausted the sick leave limits. The Regulations may provide for the payment of sick leave remuneration for a longer period of time and at a higher percentage rate in exceptional cases.

In making Regulations, the Minister must have regard to certain principles and policies. These are the need to limit the circumstances in which financial resources are committed to paying individuals when the public service does not have the benefit of their services; the resources available to the Exchequer to pay public servants; the obligations of the State under the Fiscal Stability Treaty; the need to have a means of verifying that an individual is unable to come to work due to illness or injury; and the need to protect the health of public servants.

Section 58B also provides that the Minister may delegate certain decisions in relation to sick leave to a public service body. Such decisions may include whether an illness or injury is of a serious nature, what the appropriate rehabilitation period might be and what constitutes medical certification. The Minister may make different provisions for different groups of public servants and different types of situations.

Section 58B sets out the transitional arrangements that will apply where an individual is already on a period of sick leave when Part 7A is commenced.

Nothing in section 58B affects the operation of the Social Welfare Acts or any instrument made under them.

Finally, section 58B provides that every regulation made under Part 7A will be laid before each House of the Oireachtas. If a

resolution annulling the regulation is passed by either House within 21 sitting days the regulation will be annulled.

Section 58C provides that Part 7A will apply notwithstanding any provision made by or under any other instrument, any verbal agreement, arrangement or understanding, or expectation.

*Section 8* corrects Schedule 2 of the Principal Act to reflect the fact that there is no section 14(4) in the Aviation Regulation Act 2001 and the Schedule should refer instead to section 11(4) of that Act.

*Section 9* inserts an additional Schedule to the Principal Act to list the commercial State bodies, which are excluded from the definition of “public service body” in Parts 6A and 7A.

*Section 10* is a standard provision providing for a short title.

### **Financial Implications**

The implementation of the public service sick leave scheme is expected to contribute to a substantial reduction in the cost of paid sick leave in the public service which is currently estimated at €500m.

*An Roinn Caiteachais Phoiblí agus Athchóirithe,  
Nollaig, 2013.*