



Deputy Brian Stanley (in the chair)

Ms Sarah O'Farrell,  
Clerk to the Committee of Public Accounts,  
Committee of Public Accounts,  
Leinster House,  
Dublin 2 D02 XR20.

27 October 2023

**Córas Iompair Éireann**

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**Re: CIÉ Superannuation Scheme (the "1951 Scheme")**

Dear Ms O'Farrell / Deputy Stanley,

I refer to your letter of October 13<sup>th</sup> in relation to the CIÉ Superannuation Scheme (the "1951 Scheme").

I assure the Committee that the fact that pensioners have not received an increase in their pension since 2008 is at the forefront of the minds of all members of the CIÉ Board, particularly with the recent increase in the cost of living. However, a number of issues arise in relation to pension increases, including whether the 1951 Scheme can sustainably afford such increases.

**The 1951 Scheme**

The 1951 Scheme, covering management, clerical and executive staff is the last remaining open and unchanged defined benefit pension scheme of its kind in the State, providing a pension of 50% of final salary (based on 40 years' service). The average pensionable salary within the Scheme is circa €67,500, which would result in a pension of €33,750 (based on 40 years' service) and a tax-free lump sum of €101,250. Salaries of active members range from circa €25k to in excess of €200k, and the average age of active members is 48. Over the last five years the average pensionable salary on normal retirement of those in executive grades was €87,500. CIÉ's current employer contribution rate to the 1951 Scheme is c. 27%, which is much higher than general norms and, even so, this funding level is not sufficient to fund the level of benefits on a sustainable basis. The balance sheet deficit for the 1951 Scheme was circa €200m at the end of 2022.

**Labour Court Recommendation**

The Trade Union Group (TUG) (comprising SIPTU, NBRU, Unite, Connect and the TSSA) has a statutory right to negotiate terms and conditions of employment within the CIÉ Group. A protracted engagement between CIÉ and the TUG, with a view to placing the 1951 Scheme in a more sustainable long-term position, culminated with Labour Court recommendation (LCR22297) (the "LCR"), which was accepted by a ballot in May 2021, as per the usual collective bargaining industrial relations process.



The LCR changes are extremely modest when compared to pension changes in other Semi States, the Civil Service or the private sector. It is important to highlight that the LCR contains a change to the minimum retirement age, from age 60 to 63, while still providing for early retirement at 60 for those that wish to, involving a minor reduction to their lump sum entitlement (averaging less than €3,000). The LCR also commits CIÉ to contribute €320m to the 1951 Scheme over a 10 year period. CIÉ cannot afford to pay anything further into its pension schemes, nor would it be appropriate to do so.

Any fairness and equity test is met when one considers the modest change in retirement age from 60 to 63 in the LCR for the 1951 Scheme compared to other pension schemes including the Regular Wages scheme operated by CIÉ (for frontline staff) which has a retirement age of 66.

### **Statutory Instrument to give effect to the LCR**

CIÉ began the process of amending the Statutory Instruments which govern the rules of the 1951 Scheme to implement the LCR in July 2021. This process involves several formal stages, including a statutory period for objections / representations and a review by the Department of Transport, the Department of Public Expenditure, National Development Plan Delivery and Reform and New Era. The statutory instrument implementing the LCR is intended to protect the pension scheme entitlements of CIÉ staff in the 1951 Scheme and keeps the 1951 Scheme open to new entrants. The statutory instrument also implements changes that are required to comply with the IORP II EU Directive.

### **The Committee of the 1951 Scheme (the “Committee”)**

Notwithstanding the TUG ballot outcome, the Committee continues to block the implementation of the LCR and issued High Court proceedings arguing that CIÉ is solely responsible to address the deficit. Such an argument, were it successful, would have financial consequences for CIÉ of such a scale, that the CIÉ Board has already resolved to close the 1951 Scheme to new entrants and future accrual should such an eventuality occur.

The application was heard by the High Court in May 2022 and the Judgment is still awaited. This decision is not expected to affect the benefits due to pensioners but makes the prospect of increases to pensions in payment more uncertain.

### **1951 Scheme Pensioners**

Increases to pensions in payment under the 1951 Scheme are governed by the following text, which was inserted via Statutory Instrument 323 of 2000.

#### **Rule 38. Review of pensions**

*Prior to 1 July in each year, the Board shall, in consultation with the Actuary, review the rate of pensions in payment (other than Vested Pensions which have come into payment) with a view to increasing the rate of payment, having regard to any maximum increase in pensions authorised by the Minister with the consent of the Minister for Finance for the purpose of ensuring that public service norms as to pension increases are not exceeded, increases in rates of pay for the employees of the Board, the financial condition of the Fund and any other matter*



*which the Board considers to be relevant. For the purpose of its review the Board shall obtain from the Actuary advice on the cost of increasing the rate of payment and the effect such increase would have on the financial position of the Fund. Following its review, the Board shall determine the amount or amounts or rate or rates of increase to be made to each pension in payment (other than Vested Pensions which have come into payment) with effect from the next 1 July, and shall notify the Trustees accordingly. Unless the Trustees determine, after consulting the Actuary, that no such increases should be paid, or that all such increases should be reduced rateably, they shall, subject always to any maximum increase authorised by the Minister with the consent of the Minister for Finance as aforesaid, pay the increases with effect from the next 1 July*

In essence, the CIÉ Board, in consultation with the 1951 Scheme actuary, considers the following:

- public service norms,
- increases in rates of pay of active staff,
- the financial condition of the Fund, and
- any other matter which the Board considers to be relevant.

The “financial condition of the Fund” criterion has been a major impediment to any increase. In that regard, from 2008 to 2021, the 1951 Scheme’s funding level fell below the Minimum Funding Standard (“MFS”) level required under the Pensions Act. Improvements in market conditions during 2022 led to an overall improvement in the funding position of the 1951 Scheme and at year end the 1951 Scheme actuary confirmed an MFS funding level of 100.9%. While this is a very positive development, unfortunately, the funding level remains tight and a pension increase could push the funding level below 100%. The conclusion of the Scheme’s actuary was that insufficient headroom in the MFS funding level and uncertain outcome of the High Court case meant that it would not be prudent to award a pension increase at the current time.

In addition, the ongoing balance sheet deficit (c.€400m across both the 1951 Scheme and the RWS Scheme) and resultant insolvency issues for the CIÉ Group is a particular concern for the Board. The lack of progress in implementing the LCR and the Committee’s High Court case were also factors in this decision. Until such time that the LCR is implemented or the 1951 Scheme is closed to new entrants and future accrual, the possibility of an increase for 1951 Scheme pensioners is unfortunately remote.

The foregoing situation contrasts with that of other Semi State Companies. Take for example, An Post, where pension scheme reform agreed with An Post’s Trade Union in 2011 turned a scheme deficit of circa €500m in 2015 to a surplus of almost €666m by the end of 2022 which in turn facilitated a recent pensioner increase of 6% for An Post pensioners.

In conclusion, the fact that 1951 Scheme pensioners in CIÉ have not received an increase in their pension since 2008 is a matter of serious concern to the CIÉ Board. However, until such time as the 1951 Scheme can sustainably afford pension increases, pension increases are regrettably not possible.



The key step in achieving this position is to implement the Labour Court Recommendation that has been accepted at ballot.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Fiona Ross', is positioned above a horizontal line.

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Fiona Ross  
CIÉ Group Chair