

## **Check against delivery**

### **Public Service Pay Bill 2020 – Committee Stage**

#### **Opening Statement by Michael McGrath TD, Minister for Public Expenditure & Reform**

**Dear Chairman, and members of the Committee,**

I would like to thank you for the invitation to attend the meeting of the Committee today. I welcome the opportunity to present this legislation to the Committee.

#### **Key role played by public servants**

Before dealing with the specific provisions of the Bill I would like to emphasise that it is a key enabler for the new public service pay agreement – Building Momentum - and allows for a range of reforming pay matters, including implementation of aspects of Sláintecare.

Over the period since March 2020 the public service has stepped up to the challenge of the COVID-19 crisis and has delivered a world-class response. Public servants have adapted and re-adjusted the way in which services are delivered so as to minimise the negative impact of the pandemic on the public.

In that regard, Building Momentum recognises the value of the work of our public servants during this pandemic and provides for affordable increases with pay adjustments weighted toward those on lower incomes. The Agreement also sets out a reform agenda. Each sector will produce and publish reform plans that will demonstrate delivery each year and payment of a 1% Sectoral Fund will be conditional on the delivery of actual reforms.

As noted, the Bill will also enable progress on a range of pay reform matters including Sláintecare. A key objective of the Sláintecare implementation process is to remove Consultant private practice from public hospitals. Central to implementation of this reform is a move to public-only Consultant Contracts and to tailor that contract to align with wider Sláintecare reforms. The new contract – noting the significant reforms involved – is to be offered an increased pay level. A consultation process with the medical unions on the new contract has commenced.

## **Existing FEMPI legislation prevents changes to pay**

These measures – which support reform, recruitment and retention in particular areas of our public service - cannot be progressed to payment under existing FEMPI Acts. This underscores the need for this amending legislation.

In summary terms, the Financial Emergency Measures in the Public Interest (FEMPI) No. 2 Act 2009 provides that no change can be made in the pay of a public servant without legislative amendment, a court order or a determination that there is a legal entitlement to a pay increase. While it is possible to set a pay rate for a new grade or post, it is not possible to change the pay of an existing public servant in post.

This Bill therefore provides for amendment of those restrictions on increases to public service pay introduced by the FEMPI No.2 Act of 2009.

## **Details of legislation**

Turning to the details of the legislation:

- *Section 1* sets out a definition of the Financial Emergency Measures in the Public Interest (FEMPI) No. 2 Act 2009 as the ‘Act of 2009’.
- *Section 2* amends Section 4 of the Act of 2009 to provide that in addition to changes to pay arising from an Act of the Oireachtas, an order of the civil courts, an order of the Labour Court, or a determination that there is a legal entitlement to a pay increase, the Minister for Public Expenditure and Reform may sanction increases in the pay or allowances of public servants.
- *Section 3* amends Section 5 of the Act of 2009 to provide for retrospective application, up to the date on which this proposed Act is enacted, of a provision allowing for amendment of contracts of employment to increase pay.
- *Section 4* amends Section 16A of the Ministers and Secretaries Act 2011 to ensure that where a contract of employment is amended in accordance with Section 4 of the Act of 2009 (as amended by this proposed Act), that no further Ministerial sanction is required under the Ministers and Secretaries Act 2011.
- *Section 5* provides that the Short title of the proposed Act is the “Public Service Pay Act 2020”.

## **Proposed amendment in Select Committee**

Prior to consideration in Select Committee Section 5 of the Bill provided for amendment of Section 24 (3) of the Public Service Pay and Pensions Act 2017 to align the date for repeal of Section 5 (1) of the FEMPI No.2 Act of 2009 with the date on which this proposed Act is enacted.

However, the Public Service Pay and Pensions Act 2017 provided for the repeal of Section 5 (1) of the FEMPI No.2 Act of 2009 on 1<sup>st</sup> January 2021. Section 5 had been included on the basis that the bill was drafted and published in 2020, in advance of the date of 1<sup>st</sup> January 2021 and to avoid inconsistency in the removal of restrictions on pay.

Noting that arising from the passage of time, Section 5 (1) was repealed on 1<sup>st</sup> January 2021 this element of the bill is moot and an amendment is proposed to remove same, remove a reference to the 2017 Act in the long title and renumber the bill accordingly.