

Conciliation and Arbitration Scheme

for members of

the Permanent Defence Force

January 2020

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**SCHEME TO PROVIDE CONCILIATION AND ARBITRATION
MACHINERY FOR MEMBERS OF THE PERMANENT DEFENCE FORCE
UP TO AND INCLUDING THE RANK OF COLONEL**

PART I – GENERAL

Definitions

1. In this scheme -

"Board" means the Arbitration Board.

"Council" means the Conciliation Council for both the Representative Association of Commissioned Officers and the Permanent Defence Force Other Ranks Representative Association.

"Ministers" means the Minister for Finance and Public Expenditure and Reform and the Minister for Defence.

"Official Side" means the Department of Defence, (Civil and/or Military) and the Department of Public Expenditure and Reform.

"Representative Associations" means the Representative Association of Commissioned Officers and the Permanent Defence Force Other Ranks Representative Association, established in accordance with the provisions of Defence Force Regulations S.6.

General

2. (i) The purpose of this scheme is to provide means acceptable to the parties for the determination of claims and proposals relating to remuneration and conditions of service, within the scope of the scheme, of members of the Permanent Defence Force of the ranks represented by the Representative Associations. Matters within the scope of the scheme will be dealt with exclusively through the machinery of the scheme. All claims falling to be processed under the scheme will in the first instance be referred to Conciliation Council provided for in Part II. Where the resolution of a claim by Conciliation Council to the satisfaction of all parties concerned is not possible and where the provisions of paragraph 45 are satisfied, the claim may be referred to the Adjudicator or Arbitration Board provided for in Part IV.
- (ii) This scheme has been devised in accordance with Defence Force Regulations S.6 made pursuant to the Defence (Amendment) Act, 1990. It is the aim of the parties to ensure administration and implementation of the scheme in consonance with the true spirit of conciliation and arbitration as it obtains in the public service generally.
3. The existence of this scheme does not imply that the Government has surrendered or can surrender its liberty of action in the exercise of its Constitutional authority and the discharge of its responsibilities in the public interest.
4. Statutory provisions (other than section 2(6) of the Defence (Amendment) Act, 1990) affecting arbitration will not apply to any arbitration under this scheme.

Termination and amendment of the scheme

5. (i) Subject to the provisions of Section 3 of the Defence (Amendment) Act, 1990 this scheme will continue in operation unless and until it is terminated by six months' notice given by the Ministers or by the Representative Associations.
- (ii) The parties agree to a review of this scheme 3 years from the date of implementation.
- (iii) The scheme may be amended by agreement between the Ministers and the Representative Associations.
- (iv) An amendment to the scheme will be formally incorporated into it by means of an addendum signed by the Chairperson and by the Secretaries of Council.
6. (i) Should a Representative Association sponsor resort to any form of public agitation (either by themselves or through any other person or association) as a means of furthering a claim or seeking redress for a grievance which is appropriate to be dealt with through the scheme, the scheme may thereupon be suspended but before such suspension becomes effective, a meeting of Council may be called at the request of the Representative Side for the purpose of considering any representations that the Representative Side may wish to make in the matter.
- (ii) The provisions of the foregoing sub-paragraph will not, in relation to (a) a non-arbitrable matter on which discussions at Council have been concluded without agreement having been reached or (b) a matter which has been the subject of a motion introduced in accordance with the provisions of paragraph 69 of the scheme and carried in Dáil Éireann, prohibit (where this is not otherwise expressly prohibited by the scheme or by the Defence Acts, 1954 (as amended) or by Defence Force Regulations governing the conduct of members of the Permanent Defence Force) the publication of factual information or reasonable comment by the designated spokespersons of the Representative Associations.

Attendance at meetings of Council

7. Except where a member of the Permanent Defence Force is required for duty for which no substitute is available, he/she will be given permission to attend meetings of Council or of the Board provided that he/she is a member of, or a secretary of Council, or a member of, or an advocate or witness before, the Board. Every such attendance (other than by an officer, non-commissioned officer or private seconded to the Representative Associations pursuant to paragraphs 13 or 30 of Defence Force Regulations S.6) will be deemed an occasion of military duty for purposes of travelling expenses and subsistence allowance.

Ranks to whom the scheme applies

8. This scheme will apply only to those ranks of the Permanent Defence Force represented by the Representative Associations in accordance with the provisions of paragraphs 2 and 19 of Defence Force Regulations S.6.

Common expenses

9. The Ministers and the Representative Associations will each bear half common expenses.

Individuals

10. (i) An individual will have the right to submit in writing through the normal channels any statement he/she may wish to make on any matter affecting his/her pay or conditions of service, or if appropriate, pursue the matter through the Complaints Procedure.
- (ii) A claim affecting an individual (a) who constitutes a rank in himself/herself or (b) who, though he/she is the only person serving in his/her rank, can be identified as belonging to a homogenous group, will not be regarded as being excluded from the scheme by reason of being a claim affecting an individual.

PART II – THE CONCILIATION COUNCIL

Constitution

11. There shall be two Councils;

- i. Conciliation Council for members of the Permanent Defence Force represented by the Representative Association of Commissioned Officers.
- ii. Conciliation Council for members of the Permanent Defence Force represented by the Permanent Defence Force Other Ranks Representative Association.

12. Council will consist of:-

- a) a common Chairperson, who will be;
 - identified by the Workplace Relations Commission;
 - nominated by the Minister;
 - independent of the parties to the scheme; and,
 - appointed following agreement by the parties to the C&A Scheme.
- b) an Official Side, representing the Minister for Defence or the Ministers, comprising not more than six representatives of whom not more than four will be serving civil servants and not more than two will be members of the Permanent Defence Force;
- and,
- c) a Representative Side comprising not more than six representatives, each of whom will be a member of the Permanent Defence Force.

13. The Chairperson shall play a key interventionist role in the operation of the scheme, thereby ensuring that the parties conduct their business effectively and in accordance with the Scheme.

14. The Chairperson shall be appointed for a period of four years.

15. On appointment, the Chairperson shall set out, in agreement with the parties, standard procedures for the conduct of Council business.

16. (i) The Representative Side representatives will be selected by the Representative Association or associations representing the rank or ranks to which a claim or proposal which has been referred to Council relates and may be varied from time to time.

(ii) Where a claim or other matter which has been referred to Council is being negotiated jointly by the Representative Association of Commissioned Officers and the Permanent Defence Force Other Ranks Representative Association, each association will be represented by equal numbers on the representative side.

17. (i) Where the Representative Side at Council consists of representatives of one Representative Association only, Council will have two secretaries of whom one will be a serving civil servant nominated by the Minister for Defence and the other a member of the Permanent Defence Force nominated by the Representative Association representing the rank or ranks to which the claim or other matter which has been referred to Council relates.

(ii) Where a claim or other matter which has been referred to Council is being negotiated jointly by the Representative Association of Commissioned Officers and the Permanent Defence Force Other Ranks Representative Association, Council will have four secretaries, of whom two will be serving civil servants nominated by the Minister for Defence and the other two will be members of the Permanent Defence Force nominated by the Representative Associations, with each Representative Association nominating one secretary.

(iii) The parties to the Conciliation & Arbitration Scheme recognise the need for a good administrative support to underpin the efficient working of the scheme and should the need arise, an additional administrative support assistant to further support the Chairperson may be considered by the parties in the future.

18. The number of Official and Representative Side representatives at a meeting of Council may exceptionally be increased by agreement between both sides.

Meetings

19. Each Council will normally meet once in each period of two months. However, Council meetings may be held more or less frequently by agreement between the Official and Representative Sides.

20. Subject to the provisions of paragraph 19, all Council meetings shall be summoned, on the direction of the Chairperson, jointly by the Official and Representative Sides' secretaries at the request of either the Official Side or the Representative Side.

Placing matters on the agenda

21. (i) The Representative Side may request that a matter which they believe to be appropriate for discussion by Council should be placed on the agenda for the next meeting of Council.
- (ii) Any Claim must be submitted by means of a Claim form in accordance with claim form contained in Appendix 1.
- (iii) The question whether items placed on the agenda are appropriate for discussion by Council will be a matter for the Chairperson to decide but, before any such item is excluded as not being appropriate for discussion by Council, Council will be given an opportunity to express its views as to whether it should be included or excluded. Council may decide to convene a sub-committee to discuss the issues involved.
22. The Ministers may cause any matter which they consider to be appropriate for discussion by Council, and on which it is desired to have the views of the Representative Side, to be placed on the agenda for the next meeting of Council.

Subjects for discussion

23. (1) The matters appropriate for discussion by Council for ranks covered by the scheme will be: -

A. Remuneration etc. under the following heading:

- a) claims relating to remuneration and other emoluments whether in cash or kind (for this purpose "remuneration" means
- pay,
 - allowances,
 - gratuities, or
 - grants payable to a member of the Permanent Defence Force, or any pension
 - retired pay, or
 - gratuity

for which a member may be eligible in respect of or arising out of his/her service as such a member);

While, due to the nature of military service, claims for overtime payments may not be entertained, claims for specific allowances for any type of duty, including those duties which of their nature involve long hours, may be submitted under this heading.

- b) claims relating to compensation for loss of earnings;
- c) the administration of remuneration;
- d) deductions from pay in respect of accommodation, rations and welfare services;

B. Other Conditions of Service and Career Development under the following headings: -

- e) criteria governing the entry of personnel into the Permanent Defence Force other than the number of such personnel;
- f) changes in systems of performance appraisal;
- g) general criteria governing selection for overseas service;

- h) systems and general criteria governing promotion;
- i) the allowances and the occasions of the granting of all categories of leave including the quantum;
- j) medical and dental benefits provided by the Department of Defence;
- k) standards of living accommodation officially provided and general criteria governing the allocation of married quarters;
- l) procedures for dealing with redress of wrongs and grievances;
- m) the question of the provision of legal representation for members of the Permanent Defence Force against whom legal proceedings have been instituted arising out of their duties;
- n) the application of the Safety, Health and Welfare at Work Act, 2005 as amended;
- o) matters relating to the operation of the Organisation of Working Time Act 1997 and enabling legislation;
- p) changes in the existing scheme of third level education;
- q) the question of the recognition by outside bodies of training and qualifications gained in service;
- r) changes in retirement ages and the procedures regarding voluntary retirement, resignation or discharge;
- s) the application to the Permanent Defence Force of legislation which affects matters coming within the scope of this scheme;
 - i amendments of the Defence Act 1954, as amended;
 - ii amendments of Defence Force Regulations;
 - iii amendments to General Routine Orders;
 - iv the implementation of reports which come within the scope of this scheme; and,
 - v amendments to Administrative Instructions which come within the scope of this scheme;
- t) secondment/release of personnel to the Association;
- u) secondment/release of Permanent Defence Force personnel to external agencies;
- v) affiliation to other bodies;
- w) welfare schemes in the Permanent Defence Force; and,
- x) suggestions, within the scope of representation, for promoting efficiency and effectiveness in the Defence Force in a spirit of partnership.

(2) Matters which have been the subject of Council proceedings and disposed of by Council (irrespective of whether the report recorded agreement or disagreement on the matter), or by the Board, may be re-introduced for discussion by Council provided that a period of not less than twelve months has elapsed from the date of the last report of Council or of the Board thereon.

24. The Representative Side may bring forward for discussion subjects not listed in paragraph 23 if the Ministers agree that they are appropriate for discussion by Council.

Council reports

25. (i) It will not be within the competence of the relevant Council to make agreements binding on the Ministers, but Council may make agreed recommendations or, at the request of either side, may record disagreement.

(ii) Where any doubt has arisen as to the interpretation of a recommendation of Council the matter may be resubmitted to Council for clarification.

26. (i) At the request of either party reports of discussions which take place at meetings of Council will be prepared and, on approval by the Official and Representative Sides, be signed by the secretaries of Council and counter-signed by the Chairperson. On signature, the reports will be deemed to be agreed reports of Council.

(ii) Conciliation Council Reports which record discussions which have taken place at meetings of Council will be submitted to the Ministers by the Chairperson of Council and a copy will be forwarded to the Representative Side secretary/secretaries.

27. The Ministers' decisions on matters on which Council has made an agreed recommendation will be conveyed to the Representative Side secretary/secretaries as quickly as possible but in any event not later than three months from the date of the meeting at which the agreed recommendation was made.

Confidentiality

28. (i) The proceedings of Council will be confidential and statements concerning them will not be issued without the authority of Council.

(ii) Where an agreed report of Council contains an agreed recommendation, Council will not authorise any publication of the relevant proceedings until the Ministers' decision has been conveyed on such agreed recommendation.

(iii) Where authority is granted by Council for the publication of its proceedings, such authority will be subject to the condition that the agreed report or the section relating to the particular item concerned is published in full and that no editing thereof is undertaken.

Sub-Committees

29. Council may, if it considers such a course desirable, set up a sub-committee consisting of representatives of the Official and Representative Sides to consider and report to it on any subject which is appropriate for discussion by Council. Such sub-committees will be chaired by one of the representatives of the Ministers as agreed by Council or chaired by the Chairperson of Council.

Procedure

30. Subject to the foregoing provisions, Council will determine its own procedure which may include -
- a) arrangements for the circulation to the members of Council of claims (or other matters referred to Council) in writing, and of written replies thereto from the other side with provision for a maximum and a minimum period between the date on which such statements are circulated and the date of the meeting at which the claims concerned are to be discussed;
 - b) the fixing of the period within which Council will present its report on any matters discussed; and,
 - c) any other matters which Council may consider desirable for the better regulation of its business.

PART III: FACILITATION

31. As an aid to the negotiation process, discussions at the Conciliation stage may be continued under a Facilitator should both sides so agree, where the matter under discussion is arbitrable, or at the request of either side, where the matter under discussion is not arbitrable or where there is doubt as to whether or not the matter is arbitrable.
32. The Chairperson of Council can advise both sides to engage in a facilitation process should he/she feel that such a process would be beneficial in bringing the sides to an agreement.
33. The Facilitator shall be a person agreed by the Official Side and the Representative Associations.
34. The Facilitator shall have the function of seeking to bring the two sides to an agreement.
35. If agreement does not prove possible, the Facilitator shall prepare a report recording the respective positions of both sides. The agreed report of Council will include the Facilitator's report.

PART IV: ARBITRATION

36. There will be two forms of arbitration - an Arbitration Board and an Adjudicator.

Constitution of the Arbitration Board

37. The Arbitration Board will be appointed by the Government and will consist of:-
- i. a Chairperson;
 - ii. a member nominated by the Representative Associations;
 - iii. a member nominated by the Government.

Chairperson of the Arbitration Board

38. The Chairperson will, on the nomination of the Ministers in agreement with the Representative Associations, be appointed by the Government. The Chairperson, and the other members of the Board, will hold office for such term as may be fixed by the Government at the time of their appointment.

Deputy Chairperson of the Arbitration Board

39. Whenever the Chairperson is, through ill-health or other cause, temporarily unable to perform the duties of his/her office, a Deputy Chairperson may be appointed by the Government on the nomination of the Ministers in agreement with the Representative Associations to hold Office during the period of absence of the Chairperson. The Deputy Chairperson will, while his/her appointment continues, have all the duties and powers of the Chairperson.

Adjudicator and Deputy Adjudicator

40. The nomination and appointment of the Adjudicator, including provision for a Deputy Adjudicator, will be on the same basis as for the Chairperson of the Arbitration Board, as set out in paragraphs 38 and 39.

Eligibility

41. Members of the Oireachtas or the European Parliament, persons serving in the civil service, Officials of trade unions or civil service staff organisations, serving or former members of the Permanent Defence Force and serving members of the Reserve Defence Force will be ineligible for appointment as Chairperson or Deputy Chairperson of the Arbitration Board. Members of the Oireachtas or the European Parliament will also be ineligible for appointment as Adjudicator or Deputy Adjudicator or as members of the Arbitration Board. The provisions of this paragraph shall not apply to members or staff of the Labour Court or Workplace Relations Commission.

Appointment of a Successor to Chairperson of the Arbitration Board or the Adjudicator

42. If, within a period of two months following the termination of a period of office of the Chairperson of the Arbitration Board, or the Adjudicator, a successor in office has not been appointed it shall be open to the Representative Associations or the Ministers to approach

the Chairperson of the Labour Court on the matter with a view to him/her having consulted with the Representative Associations and the Ministers, putting forward a person for acceptance by the parties for the purposes of paragraphs 38, 39 and 40.

Secretary to the Arbitration Board and the Adjudicator

43. The secretary to the Arbitration Board, who will also act as secretary to the Adjudicator will be a serving civil servant and will be appointed by the Minister for Defence after consultation with the Chairperson of the Board and the Representative Associations.

Arbitrability of claims

44. (1) Subject to the remaining sub-paragraphs of this paragraph, only such claims as are made on behalf of a rank or ranks comprehended by the Scheme and represented by the Representative Associations are appropriate for reference to arbitration.

(2) A claim on behalf of a section of a rank may be regarded as appropriate for reference to arbitration where

(a)

- i differentiation exists between the conditions of service (excluding duties) of such section and those common to the rest of the rank,

or

- ii the duties of such section are superior in quality to the highest duties appropriate to the rank,

or

- iii the Ministers are satisfied that differentiation exists between the method of recruitment to the Permanent Defence Force of such section and that of the rest of the rank,

and

- iv the claim arises out of such differentiation or of such superior duties;

or

(b) the claim concerns compensation for loss of earnings.

45. To be referable to the Arbitration Board or Adjudicator, a claim must;

- a) be arbitrable in accordance with the provisions of paragraph 44 and 46,
b) have been discussed at Conciliation Council, and
c) have been the subject of either;
i. recorded disagreement by Council following such discussion or
ii. an agreed recommendation which has not been accepted by the Ministers,

46. The following claims for ranks covered by the scheme will be arbitrable: -

a) Claims for adjustment of rates of

- pay
- allowances
- gratuities, or
- grants

payable to a member of the Permanent Defence Force (including claims for new allowances, gratuities or grants).

While, due to the nature of military service, claims for overtime payments may not be entertained, claims for specific allowances for any type of duty, including those duties which of their nature involve long hours, may be submitted under this heading.

- b) Claims in regard to the quantum of annual leave and sick leave allowances;
- c) Claims concerning compensation for loss of earnings.
- d) Claims for benefits which have an identifiable and quantifiable remunerative value, excluding matters which are provided for by Statute.

47. All arbitrable claims for revisions of pay or significant changes in other remuneration or conditions of members of the Permanent Defence Force, and any other claims involving significant extra expenditure shall, subject to the provisions of the scheme, be referable to the Arbitration Board. All other arbitrable claims will be referable to the Adjudicator save that any such claim may by agreement between the Official Side and Representative Association concerned be referable to the Arbitration Board.

48. Where, in accordance with paragraph 44 preceding, a claim becomes referable to arbitration, the Representative Association concerned or the Ministers on their own initiative may request arbitration provided that, in the case of a claim to which sub-paragraph 45(c)(i) applies, the agreed report of Council has been submitted to the Ministers.

49. (1) Where the arbitrability of the claim is disputed, or where there is a dispute as to whether a claim should be heard by the Arbitration Board or the Adjudicator, the party making the claim will be so informed within one month of receipt of the statement of case by the Official Side and the grounds on which the matter at issue is disputed will be stated. The other party may then request that the question be determined in accordance with the provisions of sub-paragraph (2) of this paragraph and will set out the grounds on which it bases its position. The secretary to the Arbitration Board or to the Adjudicator, as the case may be, will be furnished with a factual statement, agreed beforehand between the parties, of the matter in dispute together with statements setting out the contentions of each party on the question.

(2) A dispute as to the arbitrability of a claim shall be determined in the following manner:-

- a) where it is agreed by the Official Side and the Representative Association concerned that the claim, if deemed to be arbitrable, would be properly referable to the Adjudicator, the dispute will be determined by the Adjudicator;
- b) in all other cases the dispute will be determined by the Arbitration Board.

(3) A dispute as to whether an arbitrable claim should be referable to the Arbitration Board or the Adjudicator shall be determined by the Arbitration Board.

(4) The determination of a dispute in accordance with the provision of sub-paragraphs (1),

(2) and (3) of this paragraph shall be final.

- (5) In the event that the factual statement referred to in sub-paragraph (1) above is not agreed within two months of the date on which the party disputing arbitrability notified the other party that arbitrability was being disputed, it will be open to the side not disputing arbitrability to refer the matter to the Arbitration Board or Adjudicator as appropriate. The other side may, if it wishes, submit a counterstatement to the Arbitration Board or Adjudicator as appropriate.

Procedure for dealing with claims from the Representative Associations

50. Claims lodged by the Representative Associations will be transmitted by the secretary of the Representative Side to the secretary of the Official Side. Where a claim, if conceded, would involve extra expenditure, an estimate of the annual cost of conceding the claim will be given, indicating the estimated ultimate annual cost where this differs from the estimated immediate annual cost.

In submitting a claim the Representative side must:

- a) Clarify on whose behalf the claim is made – individual, group or grade, etc.;
 - b) State how many are covered by the claim - or approximately how many if an exact number is not known and a reasonable estimate can be given;
 - c) Provide details of the claim itself; and
 - d) Any other available information that may be helpful and necessary to enable the Official side identify and cost the claim.
51. Claims will be formally presented, and the Official side's response given. Where a claim is referred to a sub-committee of Council, presentation and/or response may, subject to the agreement of the Official and Representative sides, take place at the sub-committee.
52. Claims will be fully discussed in Council or sub-committee with a view to seeking agreement through negotiation.
53. The provisions of Part III of the Scheme (Facilitation) will apply in the event that agreement is not reached between the parties at the Conciliation stage.
54. Where either side considers that a claim coming under paragraph 44 (2) above should be referred for examination and report by an expert body, both sides will co-operate fully in such examination which may be carried out either jointly or separately by an expert body selected by each side.
55. In the event that current central pay determination processes are discontinued, the detailed procedures for dealing with arbitrable claims for revisions of pay or major claims will be set out in Appendix 2 to this Scheme.
56. Where agreement is not reached on an arbitrable claim, the matter may be referred to the Arbitration Board or the Adjudicator, subject to the provisions of paragraphs 44 to 49 above.

Claims referred to Arbitration by the Representative Side

57. Where any claim is referable to arbitration the following arrangements will apply.
58. (1) The Representative Side will forward a statement of case to the Ministers who will within two months, save in entirely exceptional circumstances, transmit the statement to the secretary to the Arbitration Board or to the secretary to the Adjudicator, as appropriate, together with their own counter-statement.
- (2) A copy of the Official Side's counterstatement will also be sent to the Representative Association making the claim. The statement of case and/or the counterstatement may refer to the discussions which have taken place on the claim at conciliation level including any report by the Facilitator, where the matter was referred to facilitation.

Matters referred to Arbitration by the Ministers

59. (1) The Ministers may refer any arbitrable matter to the Arbitration Board or to the Adjudicator provided disagreement has been recorded at Council in a report which has been submitted to them.
- (2) In such event the Ministers will transmit a statement of the case to the secretary of the Arbitration Board or to the Adjudicator and to the Representative Side, and the latter will within two months, save in entirely exceptional circumstances, forward a counter-statement to the secretary of the Arbitration Board or to the Adjudicator, informing him/her at the same time whether they agree with the terms of reference. The statement of case and/or the counterstatement may refer to the discussions which have taken place on the claim at conciliation level including any report by the Facilitator. A copy of the Representative Side counterstatement will be sent to the Ministers.

Statement of case

60. Each side's statement of case will, as far as possible, contain all submissions relied upon in relation to a particular claim.

Arbitrability disputed

61. Where arbitrability of a claim is disputed the matter will be determined on the basis set out in paragraph 49 above.

Advocacy

62. (1) The Representative Side may select not more than three advocates to present their claim to the Arbitration Board or to the Adjudicator. Each such advocate will be a member of the Permanent Defence Force.
- (2) The Minister may select not more than three advocates to present the Official Sides case to the Arbitration Board or the Adjudicator. The persons so selected must be serving members of the Official Side.
63. The Arbitration Board and the Adjudicator will involve two advocates from each side in their deliberations on the claim.

Witnesses

64. At the request of either side, the Arbitration Board or the Adjudicator may summon witnesses and request them to furnish evidence in writing or otherwise.
65. Subject to the provisions of this scheme, the Arbitration Board and the Adjudicator will settle their own procedures in consultation with the two sides of Conciliation Council.

Reports of the Arbitration Board or of the Adjudicator

66. In the case of any claim submitted to the Arbitration Board, the Board will submit to the Ministers a report, signed by the members of the Board, setting out the finding of the Board on that claim. In the case of a claim referred to the Adjudicator, a report signed by him/her setting out his/her finding on the claim will be submitted to the Ministers. A finding of the Arbitration Board or Adjudicator shall be based only on the statement of case, counterstatement, submissions at the hearings and the considerations discussed by the Board or before the Adjudicator. A finding shall be made at a meeting between the Board or Adjudicator, as the case may be, and the advocates presenting the claim and the advocates presenting the Official Side case. Reports shall set out the basis of the findings of the Board or Adjudicator, as the case may be.
67. Where at adjudication, the finding sets a significant precedence or will result in a significant cost, either party may advise the adjudicator of their intent to appeal to the Arbitration Board.
68. Notwithstanding an appeal to the Arbitration Board, within one month of the receipt of a report of the Arbitration Board or the Adjudicator, the Ministers will present it to Dáil Éireann. No such report will be published before presentation to Dáil Éireann.
69. (1) Subject to what follows, the Ministers will authorise the implementation of the finding contained in the report within one month of receiving the report.
- (2) If the Ministers consider that the implementation of the report would have serious financial or budgetary consequences or involve additional taxation in the current year, they will submit the report to the Government. The Government will either authorise the implementation of the finding within three months of the receipt of the report by the Ministers or will, as soon as may be thereafter, introduce a motion in Dáil Éireann proposing an alternative basis for implementation.
- (3) If, for reasons other than, or in addition to, those mentioned in sub-paragraph (2) preceding, the Ministers consider that the report should not be accepted, or that the report should be brought to the attention of the Government, they will submit the report to the Government. The Government will either authorise the implementation of the finding within three months of the receipt of the report by the Minister or will, as soon as may be thereafter, introduce a motion in Dáil Éireann proposing the rejection of the finding or its modification or the deferment of its implementation pending further consideration.

Criteria

70. At each stage of the procedure under the scheme for dealing with claims i.e. conciliation, discussions under the Facilitator, consideration by the Adjudicator or the Arbitration Board, the following factors (in addition to any other considerations adduced by either side in any particular case) will be taken into account: -

- the necessity to ensure that the State as employer can continue to recruit, retain and motivate staff of the calibre required.
- the necessity to take account of the prevailing position in relation to any national policy on pay which may be agreed between the Social Partners from time to time.
- the necessity to take account of the state of the public finances, including the consequences of the Treaty on European Union, and the general economic and employment situation.
- the necessity to take account of the extent to which working conditions, the organisation of work, pay, perquisites, conditions of employment and other relevant benefits of ranks within the Permanent Defence Force differ from those of employees in outside employments doing jobs of the same level of responsibility.
- the necessity to ensure that the Permanent Defence Force can continue to adapt to necessary changes, to achieve greater efficiency and effectiveness and to match increases in productivity in the remainder of the economy.

No significance attaches to the order in which the criteria are set out.

Signed this 24th day of January 2020.



Minister for Defence.



Minister for Finance & Public Expenditure and Reform.



Representative Association of Commissioned Officers



Permanent Defence Forces Other Ranks Representative Association

APPENDIX 1

Conciliation & Arbitration Scheme for the Permanent Defence Force
Claim Form
Claim
Claim Number
Date submitted
Submitted by
Number encompassed by Claim
Cost of Claim (if available)
Claim in detail
End Statement
Signature
Date
Agreed/Disagreed Report
Date Signed
Facilitation/Adjudication/Arbitration
Date of Report

APPENDIX 2

Procedures for handling pay claims and other major claims

1. Such claims will be lodged and presented in accordance with the procedures set out in paragraphs 50 and 51 of the scheme.
2. Ranks within the Permanent Defence Force may seek a review of their pay (or their pay and overall conditions of employment) at intervals of four years. This would not preclude claims for general increases in pay on behalf of all members of the Permanent Defence Force comprehended by the scheme.
3. A claim for a review of pay (or pay and overall conditions of employment) of any rank coming within the ambit of the Conciliation Council, or a claim on behalf of all ranks, will, unless otherwise agreed between the parties, after formal presentation and response at Conciliation Council, be referred to a sub-committee of Conciliation Council. A claim for a review of the pay (or pay and overall conditions of employment) of any other rank will, unless otherwise agreed between the parties, be referred to a sub-committee of the Conciliation Council.
4. A claim for a review may be lodged one year in advance of the year in which a review of the pay (or pay and overall conditions) of the particular rank could be sought. The two sides will, unless otherwise agreed between the parties, establish a sub-committee of the Conciliation Council with a view to making preparations for the review.
5. These preparations will involve a detailed examination of the factual basis put forward in support of the claim. Where the factual basis/data involves comparisons with current rates and conditions in other employments, it will be open to the Official Side, without prejudice to the validity or relevance of comparisons in general or any comparison in particular, to put forward alternative comparisons.
6. At the request of either side the relevant factual information assembled will be referred to an independent unit within the Workplace Relations Commission.
7. The independent unit will be asked to confirm that the factual information provided constitutes an adequate and Representative information base as an input to negotiations on the claim. The unit shall act in consultation with the appropriate Sub-Committee mentioned in paragraph 4 above, with a view to giving such confirmation, which could involve adding to the factual information referred to it. The totality of the information will constitute the report of the independent unit.
8. It will be open to the Workplace Relations Commission, having consulted the appropriate Conciliation Council, to publish an appropriate synopsis of the report mentioned in paragraph 7 above.

9. The referral of the factual information to the unit and the issuing of a report by the unit will not
 - a. preclude either side bringing forward arguments, other than those relating to comparisons with pay and conditions in other employments, which they deem appropriate to the consideration of the claim;
 - b. prejudice the position of either side in relation to the validity or relevance of any comparison to the claim or to the criteria set out in paragraph 69 of the scheme.
10. In the event that the parties are unable to reach an agreement in direct discussions at the sub-committee of the Conciliation Council, the negotiations may, with the agreement of both sides, continue under a Facilitator who will be a person agreed between the Official Side and the Representative Side for that purpose. The Facilitator will act in support of the negotiation process.
11. If the claim is not resolved at that stage, it will be open to either side to refer the matter to the Arbitration Board, subject generally to the provisions of the Scheme. The Agreed Report of the discussions will include a report of the negotiations conducted under the Facilitator.
12. A claim for a general increase in pay on behalf of all ranks comprehended by the scheme will, if it involves comparisons with general movements in pay elsewhere in the economy, be dealt with in accordance with paragraphs 6 to 11 above.