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Best Pension Fund in Ireland



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Pension Trustee Board of the Year

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27th July 2021
The Secretary
The Labour Court
Lansdowne House
Lansdowne Road
Dublin 4

By email: info@labourcourt.ie

Notice of intention to conduct an examination into terms and conditions in the construction sector pursuant to Section 15 of the Industrial Relations (Amendment) Act 2015 (the "Act")

Dear Chairman and Members of the Labour Court

We, as the Trustees of the Construction Workers' Pension Scheme (the "Scheme") are writing a response to the above notice (the "Notice") as issued by the Labour Court.

We wish to make representations in support of a Labour Court recommendation for the making by the Minister of a Sectoral Employment Order ("SEO") under Section 17 of the Act, in order to specify the minimum requirements for pension, death benefits and sick pay entitlements arising in the context of employment in the construction sector.

Briefly, by way of background, the Scheme is an industry-wide occupational pension scheme which provides for the retirement savings of over 321,946 members in total, which includes 44,925 active members and 2,828 active employers in the broad construction sector. Of this, a very significant number of our active members and employers are in the construction sector.

As you may be aware, the Scheme has been in operation for over fifty years and has been providing pension and death in service entitlements for workers in the construction sector during this time. In so providing, the Scheme has gained technical and specialised experience in this sector, and of the specific needs and pension requirements of members of the construction sector workforce. Accordingly, the Scheme has developed a range of benefits and entitlements for that workforce on this basis.

Similarly, the Construction Workers' Sick Pay Trust (the "Sick Pay Scheme") is also an industry wide scheme for the payment of sick pay benefits to the construction sector workforce. It is separate to the Scheme but closely linked to it, in terms of administration and membership.

It is our strong belief that the provision of minimum terms and conditions and reasonable rates of contributions relating to pension, death benefits and sick pay for workers in the construction sector would be of great benefit to those workers and their families. Beyond those immediate benefits, we also believe that that such provisions would be of wider societal value.

It is our view that by providing for minimum pension terms and conditions, workers in this sector, will be in a position to benefit from a minimum level of retirement income, which will become available to them in addition to the State pension, upon retirement. We would respectfully submit that a recommendation of minimum levels of conditions and rates would be broadly in line with this Government's policy to increase the number of members participating in occupational pension schemes in order to reduce the sole dependency of workers upon the State pension.

By providing for minimum death benefit entitlements for workers employed in the construction sector, it will ensure that the families and dependents of such workers have a sufficient level of protection in the event of death prior to retirement of a worker in the construction sector.

The availability of sick pay benefits at a basic level will provide a minimum safety net for workers who fall sick, assisting them to re-enter the workforce.

In considering what minimum terms and conditions should be introduced, we believe that the Labour Court should take account of the following considerations. These considerations are designed to be broad considerations framing a broad set of minimum terms and conditions for pension, death and sick pay benefits in the sector, which can potentially be met by a number of different pension schemes.

1 PENSION BENEFITS

- 1.1 We believe that employers should be required to contribute to an occupational pension scheme established under trust and regulated by the Pensions Authority. The trustees of a pension scheme are fiduciaries who will be in a better position to police an employer's compliance with the minimum requirements of an SEO than, for instance, the provider of a contract based product such as a PRSA.
- 1.2 Given that employment in the construction sector is of a flexible nature, and an employee may have a number of employers during the course of their working life, we believe that an industry wide pension scheme, open to all employers in the sector and operating on a multi-employer basis is the best structure. An industry wide multi-employer scheme would enable employees to maintain a single pension account that will travel with them from employer to employer and from job to job during the course of their career within the sector. However, we acknowledge that an industry wide structure is not the only structure that could be available to fulfil a minimum pension requirement.
- 1.3 We believe that a member should not be permitted to take a refund of their own contributions on leaving the service of an employer prior to reaching retirement age.
- 1.4 Due to the transient nature of the industry many employees in the sector will have short periods of employment with different employers, which could in theory mean that they would be entitled to take a refund of contributions on leaving service, as Pensions Act requirements only apply after two years' service. In the scenario of a member taking a refund of contributions, the member loses the employer contributions to the scheme. We believe this could potentially negate the purpose of having minimum pension benefits, and should not be permitted under the terms of the SEO. Where an employee leaves the service of an employer, the contributions which have been paid by both the employee and the employer in respect of the employee should vest under the scheme and be retained to provide pension benefits.
- 1.5 Minimum contributions should be at an adequate, but reasonable, level. Employees should be required to contribute.
- 1.6 The scheme should be required to disclose minimum information about the scheme's charges and who bears them. There must be full transparency of charges and the total annual charges borne by members should be disclosed and must include all administration costs, fund management costs, actuarial, accounting, legal and auditing fees and all other charges incurred by the scheme. A cap could be put on the maximum annual costs which a scheme can charge.
- 1.7 We do not believe that the Labour Court should impose specific conditions regarding the basis on which the assets of an SEO pension scheme should be invested on behalf of the members. Trustees of pension schemes have a fiduciary duty to invest the assets of the scheme in the best interests of the scheme.

members, and are heavily regulated in the conduct of their investment function under the Pensions Act. Therefore, so long as an SEO scheme is required to be an occupational pension scheme, we do not believe that the Labour Court needs to pronounce on the area of investment in any recommendations which it makes in relation to the construction sector. In the case of the Scheme, our investment strategy for our members takes account of the specific circumstances of those members, and takes into account the decisions which those members are likely to make, based on our experience, in applying their pension accounts when they come to retire under the Scheme.

2 DEATH BENEFITS

- 2.1 Employees in the sector should be entitled to death in service benefits of a reasonably substantial minimum size, separate from and in addition to minimum pension benefits. These benefits should be provided without any restrictive eligibility conditions or any medical underwriting requirements, or reference to previous medical conditions.
- 2.2 Death in service benefits should be payable in the event of a member dying at any time while he is employed by an employer in the sector. In other words, death in service benefits should be payable regardless of cause or timing of death, so long as the member meets the qualification conditions for inclusion for death in service benefits under the SEO.
- 2.3 Once any initial eligibility condition is satisfied, the employee should remain fully covered on any transfer to a new employer, and should not have to repeat any eligibility condition or period.
- 2.4 If a member has met the requirements for the full lump sum death in service benefit, but then leaves service and dies within four weeks of doing so without being re-employed in the Sector, the SEO pension scheme should provide a modified lump sum benefit in addition to the value of the deceased member's pension account.

3 SICK PAY BENEFITS

- 3.1 Employers should be required to contribute to an independently administered and managed sick pay scheme either established under trust or by an insurance company, to cover all their employees in the construction sector.
- 3.2 Employees should be able to remain covered for sick pay benefits as they transition between employers, to reflect the flexible nature of employment within the sector.
- 3.3 Sick pay benefits should be provided without any restrictive eligibility conditions or any medical underwriting requirements, or reference to previous medical conditions.
- 3.4 Benefits should be in addition to any sickness, illness or invalidity benefits payable by the State through the social insurance system.
- 3.5 Once any initial eligibility condition is satisfied, the employee should remain fully covered on any transfer to a new employer, and should not have to repeat any eligibility condition or period.
- 3.6 Benefits should be provided on absence from work due to illness or injury. An adequate sick pay benefit should be provided for a specified duration and the benefit and duration should be disclosed to participating employers and members.
- 3.7 We suggest that the maximum duration under an SEO Sick Pay Scheme should not be any lower than a period of 10 weeks in any calendar year, whether for a single claim or in aggregate in a scheme year.

In our view, minimum terms and conditions for pension contributions and for death benefit and sick pay benefits should be maintained at an appropriate level for workers in the construction sector, and an SEO should be made on this basis. We have analysed the construction sector in terms of employment benefits, and we have considered the above criteria when setting the Scheme's terms and conditions.

For the purposes of providing guidance to the Labour Court in respect of the construction sector generally, we believe that it would be helpful for us to set out for you the Scheme's current minimum daily levels of pension contributions payable by workers and by employers. These minimum rates are set out in the **Appendix** to this submission.

We also set out in the Appendix the minimum rates of death benefit and sick pay benefit currently provided under the Scheme or the Sick Pay Scheme respectively.

For completeness, we also set out the current contribution rates payable under the Scheme and the Sick Pay Scheme to fund these benefits. However, in relation to these benefits, what is most important is the minimum level of benefit to be provided, rather than any rate of contribution payable to finance those benefits.

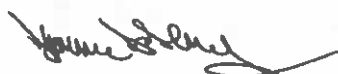
This is because the minimum level of benefit should be fixed, and should not be contingent on the level of contributions payable to fund them.

Notwithstanding this, it is useful to highlight that we can support the payment of death benefits and sick pay benefits at the levels specified based on the contribution rates for death benefits and sick pay benefits set out in the appendix.

In our view these terms and conditions in relation to pension contributions, sick pay and death in service benefits are reasonable and are at an appropriate level to ensure sufficient protection to these workers and their families.

We would welcome the opportunity to appear before the Labour Court to answer any questions it may have in relation to this submission or indeed, in respect of the Scheme and Sick Pay Scheme.

Yours faithfully



Dominic Doheny

Chairman Construction Workers' Pension Scheme

Appendix CWPS Submission to Labour Court

For Illustration only

The contribution rates and key benefits provided by the Construction Workers' Pension Scheme and the Construction Workers' Sick Pay Trust are summarised below.

SECTORAL EMPLOYMENT ORDER (CONSTRUCTION SECTOR) 2019

	Employer	Member	Total
Pension Contribution	€28.09	€18.73	€46.82
Death Benefit Contributions	€1.17	€1.17	€2.34
Sick Pay Contributions	€1.34	€0.67	€2.01
Total Contribution	€30.60	€20.57	€51.17

SECTORAL EMPLOYMENT ORDER (MECHANICAL ENGINEERING BUILDING SERVICES CONTRACTING SECTOR) 2018

	Employer	Member	Total
Pension Contribution	€26.63	€17.76	€44.39
Death Benefit Contributions	€1.11	€1.11	€2.22
Sick Pay Contributions	€1.27	€0.63	€1.90
Total Contribution	€29.01	€19.50	€48.51

The pension contribution rate will be a key factor in determining the value of a member's pension account on their retirement.

The death benefit and sick pay contribution rates are provided for information only, as they do not determine the rate of death benefits provided under the Construction Workers' Pension Scheme or the rate of sick pay provided under the Sick Pay Trust.

Death in Service Benefits

A death benefit of €100,000 plus the value of the member's account is payable upon the death of a member. This is paid providing, at the time of death, all contributions due in respect of the member are paid up to date and at least 26 contributions, in respect of the member have been paid to the Scheme.

An additional €3,175 for each eligible child is also payable.

Subject to certain conditions being satisfied, a member may be entitled to a reduced death in service benefit of €50,000 if they died within four weeks of leaving paid service.

Sick Pay Benefit

Sick pay benefit is payable up to age 66 at a rate of €44.00 per day (€220.00 per week). This is available for a maximum of 50 working days in a calendar year and is paid after a three day waiting period.

