



SUPPLEMENTARY SUBMISSION

APPLICATION OF MILITARY SERVICE ALLOWANCE INCREASE

DEFENCE FORCES PENSIONS IN PAYMENT

BACKGROUND

1. **Introduction.** On 31 October, ARCO made a comprehensive submission to the Minister of State with responsibility for Defence on the application of Military Service Allowance (MSA) to Defence Forces pensions. On the 16 December, ARCO provided its initial response to a letter dated 10 December from the Private Secretary to the Minister of State with responsibility for Defence.

2. **Point of Departure**
 - a. The last time Defence Forces Veterans, eligible spouses or partners and children, received a military pension increase was over 11 years ago - on 01 September, 2008.

 - b. ARCO notes the Department of Defence's decision to index-link the recent increase in MSA to retirement benefits, for eligible military personnel retiring on or after 04 July, 2019. Nevertheless, ARCO's Officers, Executive Committee and Membership are alarmed with the possibility that the MSA increase may not apply to pensions in payment on 03 July.

 - c. A decision not to apply the MSA increase in military pensions in payment would be inconsistent with the Government's stated policy to "*Support our veterans for the public service and outstanding contribution they have made to the State*".

 - d. ARCO has not identified any determination from the Public Service Pay Commission to give rise to this course of action. As conveyed in its letter dated 16 December, ARCO strongly maintains that absolutely no grounds exist, for not applying the MSA increase, as appropriate, to military pensions which are "in



payment” on 03 July, 2019.

- e. The entitlements, expectations and standard of living of Veterans, eligible spouses and children will be adversely affected should the Government endorse the non- application of the MSA increase to military pensions in payment.
3. **Aim of Submission.** Following further examination of the ramifications and repercussions of not applying the MSA increase to military pensions in payment for Defence Forces veterans and eligible dependents, this supplementary submission reiterates and substantiates ARCO’s strongly held conviction that the increase should retrospectively apply to all military pensions in payment, including pensions in respect of dependents of deceased personnel who died in service or when in retirement. Any repetition within this supplementary submission is intentional.
 4. **Veterans’ Rights and Interests.** Contrary to Article 40 of the Irish Constitution and Section 42 of the Irish Human Rights and Equality Commission Act 2014, there is no formal mechanism within Ireland’s industrial negotiation framework to facilitate recipients of public service pensions, including Defence Forces Veterans. Currently, no independent third-party mechanism exists to address pension related issues, such as the subject of this submission, namely the application of the MSA increase to military pensions in payment. Accordingly, it behoves the Government, the Minister for Defence, and the Minister with Responsibility for Defence to protect and respect the aspirations, entitlements, rights and interests of Defence Forces Veterans, especially in the area of military pensions.
 5. **Military Community**
 - a. A decision not to reflect the recent MSA increase in military pensions in payment for Defence Forces Veterans and eligible dependents, has the potential to adversely impact on the wider military community, which will rekindle the disquiet that has been felt over recent years, at a very sensitive time in both the national and political environments.
 - b. At a time when overseas service, recruitment and retention is being encouraged, a refusal to reflect the increase in MSA in military pensions in payment could be seen as casting doubt on the Government's commitment to supporting the Defence Forces.
 - c. The memory of the FEMPI regulations, whereby the Government reduced military pay and military pensions is still very fresh. To have waited twelve years for this modest increase in military pensions in payment demonstrates the loyalty and patience of those affected.



MILITARY SERVICE ALLOWANCE

6. **Military Service Allowance.** From 1979 through August 1990, MSA was classified as a non-pay element of the total remuneration package of Defence Forces personnel, and was not reckonable for military pensions. Prescribed in paragraphs 45A and 67 of Defence Forces Regulations, the payment of MSA is unique to the Defence Forces. The Gleeson Commission's Report (1990) identified MSA as an integral part of basic salary, and regarded the combination of regimental (line) pay and MSA as standard pay for personnel of the Permanent Defence Force.

7. **Application of MSA to Military Pensions.** The Gleeson Commission, whose recommendations were approved by Government, also concluded that MSA is a pensionable allowance, and to be factored within military pensions as an element of basic pay. ARCO is not aware of any Government decision to change this position. No other public service body, including health service personnel, teachers or An Garda Síochána, has a provision similar to MSA. As an element of core pay, MSA is taxable, and is subject to PSRI, USC and FEMPI Reductions in Public Servants Pensions. Arising from Government decisions on public sector and Defence Forces remuneration, all MSA increases and reductions were subsequently applied to all military pensions in payment. Not to apply the 04 July MSA increase to military pensions in payment would represent a significant change in the Government's military pension policy, and would have a detrimental effect on Veterans and eligible dependents.

8. **MSA Elements.** MSA was initially introduced in 1979 to compensate for the discipline, hazards and arduous duties required by military life. Currently, as a universal payment, reckonable for military pensions, the MSA Framework consists of eight compensation elements¹. During their steadfast service at home and overseas, all Defence Forces Veterans, and to a lesser effect their respective families, experienced, at first hand, these eight elements. There is little or no difference in the level of exposure to the eight compensation elements between those Veterans who retired before 04 July 2019, from those who retired or who will retire after 04 July 2019. Accordingly, the MSA increase should be reflected in the military pensions of Veterans and eligible spouses, partners or children, in payment on 03 July 2019.

¹ Long and unsocial working hours, Liability for duty 24 hours / 7 days a week, Requirement to serve a fixed period of engagement, Restrictions on personal liberty as a result of the code of military discipline, Risk of personal danger / loss of life, Bad and uncomfortable conditions, Personal responsibility for the use of lethal force, Disruption of family life as result of frequent absence from home. The Department of Defence inserted two additional elements during the discussions leading to the Haddington Road Agreement: Restriction on right to engage in industrial action; and Act as a backup force for the Government.



9. **Financial Issues.** Despite ARCO's strenuous efforts during the 1990s, regrettably, military pensions in payment in respect of some Defence Forces Veterans who retired prior to July 1990 do not reflect an MSA element.
- a. Arising from the Independent Public Service Pay Commission's Report, a 10% increase in MSA was retrospectively applied to the core pay of serving Defence Forces personnel, up to and including the rank of Colonel and Captain (NS)².
 - b. The maximum annual MSA increase accruing for military pensions is: €338 gross for retired enlisted personnel, and €251 gross for retired commissioned officers.
 - c. A total of 12,483 individuals were in receipt of military pensions on 31 December 2018, in the following categories: commissioned officers: 1,839, enlisted personnel: 8,779, and dependents: 1,865.
 - d. The maximum annual cost to the State in applying the MSA increase to military pensions in payment is in the order of €3,079,075.00³.
 - e. The gross expenditure on Defence Forces superannuation benefits in 2018 was €242,320 million.⁴
10. **Other Pensionable Allowances.** In addition to basic (regimental) pay, Long Service Increments, Flying Pay, Special Service Officer Payment, and MSA, the following Defence Forces allowances are pensionable: Health & Safety Allowance, PSS Allowance, Annual Diving Allowance and Foreign Language Proficiency Allowance Max Rate. ARCO is not aware of any occasion where an increase in any of these pensionable allowances, and indeed other pensionable elements such as Flying Pay, was not reflected in military pensions in payment. Accordingly, the recent increase in MSA should be paid to military pensions in payment.

PUBLIC SERVICE ISSUES

11. **Public Service Stability Agreement 2018 - 2020.** The Public Service Stability Agreement (PSSA) formally adopted by Government, prescribes the policy on pension increases for the duration of the Agreement. ARCO fully understands that the Agreement makes no provision for increases in allowances for public servants: the increases apply only to basic pay. However, the increase in MSA, (an element of

² Enlisted Personnel: Increases of €602 - €675 per annum (Pension equivalent €301 - €338). Ptes with less than 3 years' service: Increase of €350 per annum (Pension equivalent €225). Commissioned Officer: Increases of €473 - €502 per annum (Pension equivalent €236 - €251).

³ Commissioned officers €461,598 (1,839 x €251). Enlisted personnel €2,967,302 (8,779 x €338) and Dependents €550,175 (1,865 x €295 average increase).

⁴ DOD's Report on DF Superannuation Schemes 2018, published on 31 October 2019.



core pay), was determined outside the scope of the Agreement, and subsequently approved by Government. In the context of the Agreement, ARCO would like to draw attention to the following specific issues:

- a. **Guidance**. Section 6.2 of the Agreement provides specific guidance on public service pensions in payment. This particular guidance includes the principle that pay increases will continue to benefit pensions in payment for the duration of the Agreement.
- b. **Pension Increases**. In January, 2018 the Minister for Public Expenditure and Reform authorised that the basic pay increases provided for in the Agreement during the period of the Public Service Stability Agreement would also be passed on to the pensions of relevant public servants who retired post-February 2012.
- c. **DOD’s Observation on PSSA**. On 10 December in its response to ARCO, the Department stated, inter alia, that the PSSA “*makes no provision for increases in allowances for public servants: the increases apply only to basic pay*”. In its 2012 submission to the Public Accounts Committee, the Department stated that MSA “*is in the nature of pay; it is pensionable and has been subject to pay increases and decreases. It is a form of additional pay in recognition of the unique requirements of military life It is taxable, subject to PRSI and USC.*”
- d. **Supposition**. Notwithstanding that the above guidance was made in the context of the alignment of pay between pre and post 28 February 2012, that the payment increases refer to post February 2012 retirees, and that the Department recognises that MSA is pensionable, all of above consequences provide the overarching principle that the MSA increase should also be applied to military pensions in payment on 03 July 2019. In fact, a considerable number of military pensions in payment relate to post February 2012 Veterans.
- e. **Indexation**. As the Agreement specifically commits the Government to apply indexation (pay parity), to increases in the pre-existing pensions of public servants for the duration of the agreement 2018 – 2020, military pensions in payment on 03 July 2019 should include the MSA increase.

12. Authorised Mechanism – MSA Increase. In its letter dated 10 December, the Department advised ARCO that “*as things stand, there is no specific authorised mechanism for Public Service Bodies to pass on the benefit of any increases in allowances, such as MSA, to pensions that are already in payment before the operative date of that increased allowance*”. The Department further stated that it was seeking clarification from the Department of Public Expenditure and Reform on this issue. Related Departmental correspondence should be informed by the contents of this



submission. In addition, ARCO contends that precedent exists to apply MSA increases, (and other pension reckonable allowances), to military pensions in payment.

13. Application to Public Service

- a. Despite the Department of Defence linking the MSA payment to “*a broader public service issue*”, following examination of relevant public service circulars and following consultations with public service representative associations, ARCO has not identified any similar determinations made by the Public Sector Pay Commission (PSCE) that could have a bearing on the application of the MSA increase to military pensions in payment before 04 July 2019.
- b. ARCO understands that the only other public service sector which received PSPC recommendations regarding allowances was the health sector. As a retention incentive, with effect from 01 March 2019, Staff Nurses / Staff Midwives, Senior Staff Nurses and Clinical Nurse Managers received a 20% increase in relation to the location allowance (from €372 to €2,230), and the qualification allowance (from €559 to €3,350). Apparently, the location allowance was also extended to those working in the maternity sector who didn't previously receive it. The increases in location and qualification allowances have yet to be paid. ARCO understands that these allowances are not defined as core pay as is the case of MSA, Likewise, unlike MSA which accrues to all Permanent Defence Force personnel up to and including the rank of Colonel / Captain (NS), these particular qualification and location allowances only accrue to specific nursing grades within the Health Service Executive.

DEPENDENTS

14. **Next-of-Kin**. A total of 1,865 spouses, civil partners and dependent children were in receipt of military pensions on 31 December, 2018. For the last 30 years, as in the case of Defence Forces Veterans, such individuals have benefitted from appropriate increases, (and indeed reductions) in the MSA component of their military pensions in payment.
 - a. Recipients of military pensions in payment include spouses or civil partners of Defence Forces personnel who died in service in Ireland, or made the ultimate sacrifice on peace support operations in foreign lands. They include personnel who died on Border Duty, on Maritime Defence and Security Operations, on Search and Rescue Operations, overseas in the Congo, Syria, Cyprus, Lebanon, East Timor, Liberia and Belgium, and in Ireland during in air and land training, and live firing exercises in Glen Imaal.



- b. Whereas, as outlined in this submission, many reasons can be advanced justifying the inclusion of the MSA increase in military pensions in payment, a key justification lies within the cohort of spouses, civil partners and dependent children. With the exception of An Garda Síochána and the Irish Coast Guard, a similar cohort of pensioners does not exist anywhere in the public service.

CONCLUSIONS

15. **Summary**

- a. There is a requirement for the Government, the Minister for Defence, and the Minister with Responsibility for Defence to protect, support and respect the entitlements, interests and needs of Defence Forces Veterans. This is of particular relevance in the area of military pensions since there is no independent third-party mechanism to address pension related issues, such as the application of the recent MSA increase to military pensions in payment.
- b. The payment of MSA is unique to the Defence Force. No other public service body, including health service personnel, teachers or An Garda Síochána, has a provision similar to MSA.
- c. There is little or no difference in the level of exposure to MSA compensation elements between those Veterans who retired before 04 July 2019, from those who retired or who will retire after 04 July 2019.
- d. ARCO is not aware of any occasion where an increase in any pensionable allowance, and indeed other pensionable elements such as Flying Pay, was not reflected in military pensions in payment.
- e. As the Agreement specifically commits the Government to apply indexation (pay parity), to increases in the pre-existing pensions of public servants for the duration of the agreement 2018 – 2020, military pensions in payment on 03 July 2019 should include the MSA increase.
- f. ARCO has not identified any determination made by the Public Sector Pay Commission, e.g. nurses, that could have a bearing on the application of the MSA increase to military pensions in payment before 04 July 2019.
- g. Not to apply the 04 July MSA increase to military pensions in payment, would represent a significant change in the Government's military pension policy, and would have significant repercussions on the wider Defence and Veteran



Communities.

- h. The entitlements, expectations and standard of living of Veterans, eligible spouses and children, will be adversely affected should the Government endorse the non- application of the MSA increase to military pensions in payment.
 - i. A decision not to apply the MSA increase in military pensions in payment would be inconsistent with the Government's stated policy to "*Support our veterans for the public service and outstanding contribution they have made to the State*".
16. **Conclusion.** Having made the significant decision that MSA will be reflected in military pensions, absolutely no grounds exist for not including the MSA increase in military pensions, in payment before 04 July 2019. The MSA increase must apply to all military pensions in payment, and not just confined to new military pensions effective from 04 July 2019.
17. **Recommendation.** Within its competencies, ARCO promotes and safeguards the interests and needs of its members, and eligible spouses or civil partners. Accordingly, as an allowance in the nature of pay, ARCO strongly recommends that the recent increase in MSA be retrospectively applied to military pensions in payment of Óglaigh na hÉireann Veterans, up to and including the rank of Colonel and Captain (NS), and in the pensions of all eligible spouses, civil partners and dependent children.

EXECUTIVE COMMITTEE
15 JANUARY 2020

