



Number 14 of 2015

Roads Act 2015



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CONTENTS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title, collective citation and construction
2. Definitions
3. Expenses
4. Saver
5. Repeal of Part 2 of Act of 2001

PART 2

DISSOLUTION OF RAILWAY PROCUREMENT AGENCY

CHAPTER 1

Dissolution and transfer of functions

6. Dissolution of Railway Procurement Agency
7. Transfer of functions of dissolved body to Authority
8. Transfer of land and other property
9. Transfer of rights and liabilities, and continuation of leases, licences and permissions granted by dissolved body
10. Liability for loss occurring before dissolution day
11. Provisions consequent upon transfer of functions, assets and liabilities to Authority
12. Final accounts and final annual report of dissolved body
13. Operational name of Authority

CHAPTER 2

Transfer of staff and superannuation

14. Transfer of staff of dissolved body
15. Superannuation

PART 3

MATTERS RELATING TO FUNCTIONS OF NATIONAL ROADS AUTHORITY

CHAPTER 1

Additional functions of Authority

16. Procurement function of Authority
17. Advice and services

CHAPTER 2

Accountability of chief executive

18. Accountability of chief executive to Public Accounts Committee
19. Accountability of chief executive to Oireachtas Committees

PART 4

AMENDMENT OF ROADS ACT 1993

20. Insertion of sections 15B and 15C into Act of 1993
21. Amendment of section 19 of Act of 1993 (specific functions of the Authority)
22. Amendment of section 24 of Act of 1993 (grants to the Authority)
23. Amendment of section 28 of Act of 1993 (chairman and members of the Authority)
24. Insertion of section 51A into Act of 1993
25. Amendment of section 64 of Act of 1993 (offences under Part V)
26. Amendment of section 82 of Act of 1993 (grants to road authorities)

SCHEDULE

EXCLUDED ENACTMENTS FOR PURPOSES OF SECTION 7(2)

ACTS REFERRED TO

Adoptive Leave Acts 1995 and 2005
Carer's Leave Act 2001 (No. 19)
Companies Act 1963 (No. 33)
Comptroller and Auditor General (Amendment) Act 1993 (No. 8)
Financial Emergency Measures in the Public Interest Act 2009 (No. 5)
Financial Emergency Measures in the Public Interest Act 2010 (No. 38)
Local Government Act 2001 (No. 37)
Maternity Protection Acts 1994 and 2004
Minimum Notice and Terms of Employment Acts 1973 to 2005
Ministers and Secretaries (Amendment) Act 2011 (No. 10)
National Treasury Management Agency (Amendment) Act 2000 (No. 39)
Ombudsman (Amendment) Act 2012 (No. 38)
Organisation of Working Time Act 1997 (No. 20)
Parental Leave Acts 1998 and 2006
Protection of Employees (Fixed-Term Work) Act 2003 (No. 29)
Protection of Employees (Part-Time Work) Act 2001 (No. 45)
Public Service Management (Recruitment and Appointments) (Amendment) Act 2013 (No. 47)
Public Service Pensions (Single Scheme and Other Provisions) Act 2012 (No. 37)
Public Service Superannuation (Miscellaneous Provisions) Act 2004 (No. 7)
Redundancy Payments Acts 1967 to 2014
Roads Act 1993 (No. 14)
Roads Act 2007 (No. 34)
Roads Acts 1993 to 2007
Statutory Instruments Act 1947 (No. 44)
Terms of Employment (Information) Acts 1994 to 2012
Transport (Dublin Light Rail) Act 1996 (No. 24)
Transport (Railway Infrastructure) Act 2001 (No. 55)
Unfair Dismissals Acts 1977 to 2007



Number 14 of 2015

ROADS ACT 2015

An Act to provide for the dissolution of the Railway Procurement Agency and the transfer of its functions and staff to the National Roads Authority; to amend the Roads Act 1993 and the Transport (Railway Infrastructure) Act 2001; to provide for additional functions to be assigned to the National Roads Authority; and to provide for related matters.

[6th May, 2015]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title, collective citation and construction

1. (1) This Act may be cited as the Roads Act 2015.
- (2) The Roads Acts 1993 to 2007 and this Act may be cited together as the Roads Acts 1993 to 2015 and shall be read together as one.

Definitions

2. In this Act—
 - “Act of 1993” means Roads Act 1993;
 - “Act of 2001” means Transport (Railway Infrastructure) Act 2001;
 - “Authority” means National Roads Authority;
 - “chief executive” means a person—
 - (a) directed under section 28(1)(b) of the Act of 1993 to perform the functions referred to in section 29(2) of that Act, or
 - (b) appointed under section 29 of the Act of 1993;
 - “company” means a company within the meaning of the Companies Act 1963;
 - “dissolution day” means the day appointed by the Minister under *section 6* for the dissolution of the Railway Procurement Agency;
 - “dissolved body” means the Railway Procurement Agency as it stands dissolved by virtue

of this Act;

“local authority” has the meaning assigned to it by the Local Government Act 2001;

“local road” and “regional road” have the meanings assigned to them, respectively, in section 2 of the Act of 1993;

“Minister” means the Minister for Transport, Tourism and Sport;

“railway order” means—

- (a) a railway order within the meaning of the Act of 2001, or
- (b) a light railway order within the meaning of the Transport (Dublin Light Rail) Act 1996.

Expenses

3. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

Saver

4. (1) Any instrument (whether described as a rule, regulation, order, bye-law or code of practice or in any other way, and whether or not a statutory instrument to which the Statutory Instruments Act 1947 primarily applies) made or issued by, or on behalf of, the dissolved body and in force immediately before the dissolution day has, on and after that day, the same force and effect as it had immediately before that day.
(2) An instrument referred to in *subsection (1)* may be revoked or amended by the Authority as if made by the Authority.

Repeal of Part 2 of Act of 2001

5. Part 2 (other than sections 11, 12, 13 and 25) of the Transport (Railway Infrastructure) Act 2001 is repealed on the dissolution day.

PART 2

DISSOLUTION OF RAILWAY PROCUREMENT AGENCY

CHAPTER 1

Dissolution and transfer of functions

Dissolution of Railway Procurement Agency

6. (1) The Minister shall, by order, appoint a day to be the dissolution day for the purposes of this Act.

- (2) The Railway Procurement Agency shall stand dissolved on and from the dissolution day.

Transfer of functions of dissolved body to Authority

7. (1) On the dissolution day, all functions that, immediately before the dissolution day, were vested in the dissolved body are transferred to the Authority.

- (2) References—

- (a) to the dissolved body, in any enactment (other than this Act or an enactment mentioned in the Schedule) or any instrument made under an enactment, in so far as they relate to a function transferred by *subsection (1)*, or
- (b) to a person that has been granted a railway order, in any enactment or in any instrument made under an enactment, in the case of a railway order granted to the dissolved body before the dissolution day,

shall be construed, on and after the dissolution day, as references to the Authority.

Transfer of land and other property

8. (1) On the dissolution day, all lands that, immediately before that day, were vested in the dissolved body and all rights, powers and privileges relating to or connected with such lands shall, without any conveyance or assignment, stand vested in the Authority for all the estate or interest therein that, immediately before the dissolution day, was vested in the dissolved body, but subject to all trusts and equities affecting the lands continuing to subsist and capable of being performed.
- (2) On the dissolution day, all property (other than land), including choses-in-action, that, immediately before that day, was vested in the dissolved body shall stand vested in the Authority without any assignment.
- (3) Every chose-in-action vested in the Authority by virtue of *subsection (2)* may, on and from the dissolution day, be sued on, recovered or enforced by the Authority in its own name and it shall not be necessary for the Authority, or the dissolved body, to give notice to any person bound by any such chose-in-action of the vesting by this section.

Transfer of rights and liabilities, and continuation of leases, licences and permissions granted by dissolved body

9. (1) All rights and liabilities of the dissolved body arising by virtue of any contract or commitment (expressed or implied) entered into by it before the dissolution day shall on that day stand transferred to the Authority.
- (2) Every right and liability transferred by *subsection (1)* to the Authority may, on and after the dissolution day, be sued on, recovered or enforced by or against the Authority in its own name, and it shall not be necessary for the Authority, or the dissolved body, to give notice to the person whose right or liability is transferred by that subsection of such transfer.

- (3) Every lease, licence, wayleave or permission granted by the dissolved body in relation to land or other property vested in the Authority by or under this Act, and in force immediately before the dissolution day, shall continue in force as if granted by the Authority.

Liability for loss occurring before dissolution day

10. (1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the dissolution day of any of the functions of the dissolved body transferred to the Authority by this Act shall on and after that day, lie against the Authority and not against the dissolved body.
- (2) Any legal proceedings pending immediately before the dissolution day to which the dissolved body is a party, that relate to a function of that dissolved body transferred by this Act, shall be continued, with the substitution in the proceedings of the Authority, in so far as they so relate, for that dissolved body and the proceedings shall not abate by reason of such substitution.
- (3) Where, before the dissolution day, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates and the terms of the agreement have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they are enforceable against the dissolved body, be enforceable against the Authority and not the dissolved body.
- (4) Any claim made or proper to be made by the dissolved body in respect of any loss or injury arising from the act or default of any person before the dissolution day shall, where the claim relates to functions transferred to the Authority by *section 7*, on and after that day be regarded as having been made by or proper to be made by the Authority and may be pursued and sued for by the Authority as if the loss or injury had been suffered by the Authority.

Provisions consequent upon transfer of functions, assets and liabilities to Authority

11. (1) Anything commenced and not completed before the dissolution day by or under the authority of the dissolved body may, in so far as it relates to a function transferred to the Authority under *section 7*, be carried on or completed on or after that day by the Authority.
- (2) Every instrument made under an enactment and every document (including any certificate) granted or made, in the performance of a function transferred by *section 7* shall, if and in so far as it was operative immediately before the dissolution day, have effect on and after that day as if it had been granted or made by the Authority.
- (3) References to the dissolved body in the memorandum of association or articles of association of any company relating to a function transferred by *section 7* shall, on and after the dissolution day, be construed as references to the Authority.
- (4) All moneys, stocks, shares and securities transferred by *section 8* that, immediately before the dissolution day, were standing in the name of the dissolved body shall, on

the request of the Authority, be transferred into its own name.

- (5) A certificate signed by the Minister that any property, right or liability has or, as the case may be, has not vested in the Authority under *section 8* or *9* shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes.
- (6) Nothing in this Act shall affect the operation of any railway order granted to the dissolved body before the dissolution day, and any such railway order shall be read, on and after the dissolution day, as if granted to the Authority.

Final accounts and final annual report of dissolved body

12. (1) The Authority shall, in respect of the period specified in *subsection (3)(a)*, prepare final accounts of the dissolved body.
- (2) Notwithstanding the making of an order under *section 6(1)* by the Minister, section 19 of the Act of 2001 continues in force and has effect, with the necessary modifications, in relation to and for the purpose of accounts drawn up under *subsection (1)*.
- (3) The accounts drawn up under *subsection (1)* shall—
 - (a) cover the period up to and including the dissolution day,
 - (b) unless otherwise specified by the Minister, be finalised not later than 6 months after the dissolution day, and
 - (c) along with the auditor's report thereon, be presented to the Minister not later than 30 days after the period mentioned in *paragraph (b)* and the Minister shall cause a copy of these documents to be laid before each House of the Oireachtas.
- (4) The Authority shall, not later than 6 months after the dissolution day, prepare and submit to the Minister the final annual report of the dissolved body, and the Minister shall, as soon as practicable thereafter, cause a copy of the final annual report to be laid before each House of the Oireachtas.

Operational name of Authority

13. The Minister may, following consultation with the Authority, by order specify a name, other than the National Roads Authority, by which the Authority may describe itself for operational purposes.

CHAPTER 2

Transfer of staff and superannuation

Transfer of staff of dissolved body

14. (1) The Authority shall, on the dissolution day, accept into its employment each person who immediately before that day was a member of staff of the dissolved body.
- (2) Save in accordance with a collective agreement negotiated with a recognised trade union or staff association and approved by the Minister with the consent of the

Minister for Public Expenditure and Reform, a person referred to in *subsection (1)* shall be subject to such terms and conditions of service, including terms and conditions relating to remuneration, as are not less favourable than the terms and conditions of service, including terms and conditions relating to remuneration, to which the person was subject immediately before the coming into operation of this section.

- (3) In relation to persons transferred to the staff of the Authority under *subsection (1)*, previous service with the dissolved body shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the following enactments:
- (a) the Redundancy Payments Acts 1967 to 2014;
 - (b) the Protection of Employees (Part-Time Work) Act 2001;
 - (c) the Protection of Employees (Fixed-Term Work) Act 2003;
 - (d) the Organisation of Working Time Act 1997;
 - (e) the Terms of Employment (Information) Acts 1994 to 2012;
 - (f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
 - (g) the Unfair Dismissals Acts 1977 to 2007;
 - (h) the Maternity Protection Acts 1994 and 2004;
 - (i) the Parental Leave Acts 1998 and 2006;
 - (j) the Adoptive Leave Acts 1995 and 2005;
 - (k) the Carer's Leave Act 2001.

Superannuation

- 15.** (1) Save in accordance with any collective agreement negotiated with a recognised trade union or staff association, and approved by the Minister with the consent of the Minister for Public Expenditure and Reform, a person who was accepted into the employment of the Authority in accordance with *section 14* who, immediately before the dissolution day, was a member of a staff superannuation scheme shall, on and after the dissolution day, continue to be a member of such scheme in accordance with its terms and conditions in force from time to time.
- (2) A person referred to in *subsection (1)* shall not, on the dissolution day, become a Scheme member within the meaning of section 10 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012.

PART 3

MATTERS RELATING TO FUNCTIONS OF NATIONAL ROADS AUTHORITY

CHAPTER 1

*Additional functions of Authority***Procurement function of Authority**

16. (1) The Minister may, where he or she considers that it would be convenient, expeditious, effective or economical for the Authority to arrange, on behalf of, or for the benefit of, road authorities for the procurement of goods or services in relation to regional and local roads, request the Authority to arrange for such procurement, subject to such conditions as he or she thinks fit.
- (2) The Authority shall comply with a request made under *subsection (1)* and may enter into such contracts and do such things as arise out of, are consequential on or are necessary for the procurement, the subject of the request.

Advice and services

17. (1) The Authority shall, on receipt of a request from the Minister, provide—
- (a) advice, or
 - (b) services (including services of staff),
- relating to the functions transferred to the Authority under *section 7* to the Minister on such terms and conditions (including terms and conditions relating to the payment for services) as may be agreed and the Minister may avail of such advice or services.
- (2) The Authority may provide services (including services of staff) to a local authority, or other persons, on such terms and conditions (including terms and conditions relating to the payment for such services) as may be agreed.
- (3) The Authority may fix, require, take and recover such charges as it thinks fit for services provided by or on behalf of it.

CHAPTER 2

*Accountability of chief executive***Accountability of chief executive to Public Accounts Committee**

18. (1) The chief executive shall, whenever required in writing to do so by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General (in this section referred to as the “Committee”), give evidence to that Committee on—
- (a) the regularity and propriety of the transactions recorded or required to be

recorded in any book or other record of account subject to audit by the Comptroller and Auditor General that the Authority is required by the Act of 1993 to prepare,

- (b) the economy and efficiency of the Authority in the use of its resources,
 - (c) the systems, procedures and practices employed by the Authority for the purpose of evaluating the effectiveness of its operations, and
 - (d) any matter affecting the Authority referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993, or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in *paragraph (a), (b) or (c)*) that is laid before Dáil Éireann.
- (2) In the performance of his or her duties under this section, the chief executive shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

Accountability of chief executive to Oireachtas Committees

19. (1) In this section “Committee” means a Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee referred to in *section 18* or the Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann) or a subcommittee of such a Committee.
- (2) Subject to *subsection (3)*, the chief executive shall, at the request in writing of a Committee, attend before it to give account for the general administration of the Authority.
 - (3) The chief executive shall not be required to give account before a Committee for any matter which is or has been or may at a future time be the subject of proceedings before a court or tribunal in the State.
 - (4) Where the chief executive is of the opinion that a matter in respect of which he or she is requested to give an account before a Committee is a matter to which *subsection (3)* applies, he or she shall inform the Committee of that opinion and the reasons for the opinion and, unless the information is conveyed to the Committee at a time when the chief executive is before it, the information shall be so conveyed in writing.
 - (5) Where the chief executive has informed a Committee of his or her opinion in accordance with *subsection (4)* and the Committee does not withdraw the request referred to in *subsection (2)* in so far as it relates to a matter the subject of that opinion—
 - (a) the chief executive may, not later than 21 days after being informed by the Committee of its decision not to do so, apply to the High Court in a summary manner for determination of the question whether the matter is one to which *subsection (3)* applies, or
 - (b) the chairperson of the Committee may, on behalf of the Committee, make such an

application,

and the High Court shall determine the matter.

- (6) Pending the determination of an application under *subsection (5)*, the chief executive shall not attend before the Committee to give account for the matter the subject of the application.
- (7) If the High Court determines that the matter concerned is one to which *subsection (3)* applies, the Committee shall withdraw the request referred to in *subsection (2)*, but if the High Court determines that *subsection (3)* does not apply, the chief executive shall attend before the Committee to give account for the matter.
- (8) In the performance of his or her duties under this section, the chief executive shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

PART 4

AMENDMENT OF ROADS ACT 1993

Insertion of sections 15B and 15C into Act of 1993

20. The Act of 1993 is amended by inserting after section 15A the following:

“Power of Minister to specify national standards

- 15B.** (1) The Minister may specify national standards in respect of the design, construction or maintenance of public roads.
- (2) Any person, road authority or public authority carrying out works involving the design, construction or maintenance of public roads shall comply with the national standards (if any) specified by the Minister under subsection (1).
 - (3) The Minister may request the Authority to amend any standards specified by it under section 19(1)(e) and the Authority shall comply with any such request.

Power of Minister to request information from road authority

15C. The Minister may request a road authority to furnish him or her with such information as he or she may require in connection with any of the authority’s functions in relation to regional and local roads, under this Act, and the authority shall comply with any such request.”.

Amendment of section 19 of Act of 1993 (specific functions of the Authority)

21. Section 19 (as amended by section 7(a) of the Roads Act 2007) of the Act of 1993 is amended by substituting for paragraph (e) of subsection (1) the following:

“(e) subject to section 15B(3), specify standards in relation to design, construction or maintenance works to be complied with by a

person, road authority or public authority carrying out such works;”.

Amendment of section 24 of Act of 1993 (grants to the Authority)

22. Part III of the Act of 1993 is amended by substituting for section 24 the following:

“**24.** The Minister may, subject to such conditions as he sees fit, in each financial year make grants, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, out of moneys provided by the Oireachtas towards—

- (a) the capital and current expenditure of the Authority, or
- (b) the expenditure of the Authority in respect of its functions under this Act in relation to regional and local roads,

and grants under paragraph (a) shall be made having particular regard to the maintenance requirements of national roads.”.

Amendment of section 28 of Act of 1993 (chairman and members of the Authority)

23. Section 28(1) of the Act of 1993 is amended in paragraph (d) by inserting “railway infrastructure,” after “in relation to roads,”.

Insertion of section 51A into Act of 1993

24. The Act of 1993 is amended by inserting after section 51 the following:

“Consultations with An Bord Pleanála before making of application under section 51

51A. (1) Where a road authority or the Authority, as the case may be, proposes to make an application for approval to An Bord Pleanála pursuant to section 51(2) in relation to a proposed road development, it may, before making the application, make a request to An Bord Pleanála to enter into consultations in relation to the proposed road development.

(2) An Bord Pleanála shall—

- (a) accede to a request under subsection (1) as soon as possible, and
- (b) ensure that consultations held are completed as expeditiously as is consistent with proper planning and sustainable development and, for that purpose, take all such steps as are open to it to ensure that, in so far as is practicable, there are no avoidable delays at any stage in the holding of those consultations.

(3) In any consultations, An Bord Pleanála may give advice to the road authority concerned or the Authority regarding the proposed application for approval under section 51(2) and, in particular, regarding—

- (a) the procedures involved in making such an application and in considering such an application, and
- (b) what considerations, relating to—
 - (i) the effects of the proposed road development on the environment, or an area, site or land, referred to in section 50(1)(d), or
 - (ii) proper planning and sustainable development, that may, in the opinion of An Bord Pleanála, have a bearing on its decision in relation to the application.
- (4) A road authority or the Authority, as the case may be, shall, for the purposes of consultations, supply to An Bord Pleanála sufficient information in relation to the proposed road development so as to enable An Bord Pleanála to assess that development.
- (5) An Bord Pleanála may consult with any person who may, in the opinion of An Bord Pleanála, have information which is relevant for the purposes of consultations in relation to the proposed road development.
- (6) The holding of the consultations shall not prejudice the performance by An Bord Pleanála of any other of its functions under this Act or regulations under this Act and shall not be relied upon in an application for approval under section 51(2) or in legal proceedings.
- (7) An Bord Pleanála shall keep a record in writing of any consultations, including the names of those who participated in the consultations, and a copy of any such record shall be placed and kept with the documents to which any application for approval under section 51(2) in respect of the proposed road development relates.
- (8) An Bord Pleanála shall provide a copy of any record kept in accordance with subsection (7) to the road authority concerned or the Authority.
- (9) Following the completion of any consultations between An Bord Pleanála and the road authority concerned or the Authority, as the case may be, the road authority or the Authority may apply to An Bord Pleanála for the approval referred to in section 51(2) in relation to a proposed road development.
- (10) In this section, ‘consultations’ means the consultations referred to in subsection (1).”.

Amendment of section 64 of Act of 1993 (offences under Part V)

- 25.** Section 64 (inserted by section 4 of the Roads Act 2007) of the Act of 1993 is amended by substituting for subsection (4) the following:

“(4) The amount of any toll due and payable by a person under this Part may be recovered from that person as a simple contract debt by the road undertaking concerned in any court of competent jurisdiction and, for the purposes of this subsection, may be recovered as if the toll due and payable was founded on a contract made where—

- (a) the toll is being charged and collected, or
- (b) the liability to pay the toll is incurred.”.

Amendment of section 82 of Act of 1993 (grants to road authorities)

26. Part VI of the Act of 1993 is amended by substituting for section 82 the following:

“**82.** The Minister may, subject to such conditions as he sees fit, in each financial year—

- (a) make grants, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, out of moneys provided by the Oireachtas to road authorities in respect of any or all of their functions under this Act or otherwise in relation to public roads,
 - (b) request the Authority to, and if requested the Authority shall—
 - (i) make grants to road authorities in respect of any or all of their functions under this Act or otherwise in relation to regional and local roads, or
 - (ii) make payments to any person in relation to regional and local roads,
- and
- (c) make payments, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform out of moneys provided by the Oireachtas, to any person in relation to public roads.

Administration of grants to road authorities

82A. The Minister may request the Authority to, and if requested the Authority shall, administer the payment of grants to road authorities under paragraph (b)(i) of section 82 on his or her behalf and to do all such things as arise out of, are consequential on or are necessary in the administration of such payments.”.

SCHEDULE

Section 7(2)

EXCLUDED ENACTMENTS FOR PURPOSES OF *SECTION 7(2)*

1. Section 18 of National Treasury Management Agency (Amendment) Act 2000.
2. Schedule 1 to Public Service Superannuation (Miscellaneous Provisions) Act 2004.
3. Schedule to Financial Emergency Measures in the Public Interest Act 2009.
4. Schedule to Financial Emergency Measures in the Public Interest Act 2010.
5. Schedule 1 to Ministers and Secretaries (Amendment) Act 2011.
6. Schedule to Public Service Pensions (Single Scheme and Other Provisions) Act 2012.
7. Schedule to Ombudsman (Amendment) Act 2012.
8. Schedule to Public Service Management (Recruitment and Appointments) (Amendment) Act 2013.