

The Universities Act 1997 – Agreed Framework between the Universities and the Higher Education Authority for Departures from Approved Levels of Remuneration, Fees, Allowances and Expenses for University Employees

1. Introduction

1.1 Section 25 (1) of the Universities Act 1997 provides as follows:

“subject to subsection (2), a university may, in accordance with procedures specified in a statute or regulation, appoint such and so many persons to be its employees as it thinks appropriate, having regard to—

(a) the efficient use of its available resources, the requirements of accountability for the use of moneys provided to it by the Oireachtas and the policy relating to pay and conditions in the Public Service as determined from time to time by the Government,

(b) the implications of the appointments for its budget and for subsequent budgets, and

(c) the guidelines, if any, issued under section 50.”

1.2 Section 25(4) of the Universities Act 1997 provides as follows :

“Subject to subsection (5), there shall be paid by a university to the employees of that university, such remuneration, fees, allowances and expenses as may be approved from time to time by the Minister with the consent of the Minister for Finance.”

1.3 Section 25(5) (a) of the Act, allows for departures from levels of remuneration etc. as follows:

“A university may depart from levels of remuneration, fees, allowances and expenses approved under subsection (4) where the governing authority is satisfied that it is necessary to meet the objects of the university, but may do so only in accordance with a framework, which shall be agreed between the universities and An tÚdarás”.

1.4 For the purposes of the framework set out hereunder the term remuneration shall cover all forms of remuneration including fees, allowances and expenses.

2. Provisions of the Framework

2.1 General Provisions

- 2.1.1 The universities and the Higher Education Authority (HEA) (the parties) agree that the purpose of the framework provided for in the Act is to lay down principles to which the parties subscribe regarding the exercise of discretion on the part of a university to depart from levels of remuneration etc. approved by the Minister. The purpose of Section 25(5)(a) is to provide a discretion to a university where necessary to meet the objects of the university, in particular the advancement of knowledge through teaching, scholarly research and scientific investigation, the promotion of learning in its student body and in society generally and the promotion of the highest standards in, and quality of, teaching and research. It will enable universities to attract a person to its academic and research staff, who would, because of exceptional or scarce expertise and/or qualifications, command remuneration higher than the norm and who would not be prepared to work for the university unless so rewarded. The parties agree that the provisions of the framework will be used in exceptional circumstances only, for academic and research posts, and that its application shall have regard to avoiding any damage to the morale of staff in the universities. This framework shall not be used for administrative or technical appointments. Where a university wishes to make such an appointment outside approved levels of remuneration it shall make a submission to the HEA who shall forward this proposals, together with its observations, for consideration of the Ministers for Education and Science and Finance, in accordance with section 25 (4) of the Universities Act.
- 2.1.2 It is agreed by the parties that the implementation of this framework by a university should not have any repercussive effects in the university sector or in the public service generally deriving for example, from pay relativities or linkages or other conditions of employment which could form a basis for comparative claims from other groups. The parties agree that any employee who is paid as a result of an agreement under this framework shall be red circled and that any claims from university employees for improved conditions which are based on, or refer to, agreements made under this framework shall be opposed on that ground (without prejudice to any other grounds the university may have).
- 2.1.3 It is agreed by the parties that, subject to paragraph 2.2.3 following, the provisions of the framework should not be used to provide additional remuneration to existing staff.
- 2.1.4 The parties shall have regard to the IUA co-operation agreement in operating this framework with recruitment of staff being open and transparent and on the basis of best international practice.

2.2 Specific provisions and criteria

2.2.1 Subject to the general provisions set out above a departure as envisaged in Section 25(5)(a) of the Universities Act, 1997 shall take place only if

- (a) the Chief Officer confirms that the Governing Authority is satisfied and so certifies, that there is clear and documented justification that the departure is necessary to meet the objects of the university and that, in so far as its best endeavours can ascertain, it will have no adverse implications within the university sector or in the public sector generally;
- (b) it is limited to a contract appointment in accordance with the following principles:
 - a separate individual contract must be drawn up;
 - it must be a specified purpose or fixed-term contract, not normally exceeding five years. It may be renewed for one further period of up to five years after which a permanent appointment may be made using scales approved by the Ministers. Alternatively a university may seek prior approval of the Ministers for a salary outside approved limits;
 - the post must bear a unique title, duties and responsibilities, which differentiates it from an established post or grade;
 - the contract should include stated performance objectives for the post holder, provisions for performance review in the light of these stated objectives, and for reduction in remuneration and/or for early termination of contract in the event of failure to meet the stated objectives;
- (c) it is used as a means of recruiting a new staff member (but see 2.2.2 below);
- (d) any costs arising are met within agreed budgets, in accordance with Section 37(2) of the Universities Act.

2.2.2 The framework shall not, in line with the statement of general purpose in paragraph 2.1.1 (above), be used to change the conditions of existing permanent employees of the universities. However, the parties acknowledge that there may be a limited number of specific instances where a departure is required in order to retain key academic/research personnel because of their outstanding existing and potential contribution to the capacity of the university to meet its objects. In such cases a university may, with the prior agreement of the HEA, apply the provisions of the framework to existing staff. Any such appointments would be on a contract basis and would require the member of staff to be formally seconded from his or her existing position and would be subject to the conditions for the appointment being agreed in advance by the

university and the HEA.

- 2.2.3 In the case of all departures under this framework the Chief Officer, as Accounting Officer, shall arrange for the documentation of all supporting considerations, including the conditions applying in appropriate comparable employments, and shall make such documentation available to the HEA in accordance with paragraph 2.2.4 (below).
- 2.2.4 Each university shall provide to the Higher Education Authority before end July and end January of each year details of, and detailed justifications for, any departures made by it under this framework. The justification will include the rationale for the proposed remuneration package. A template will be issued to the universities.
- 2.2.5 The framework shall not apply to the senior academic posts above the grade of Professor.

2.3 Duration and Review

- 2.3.1 The revised framework shall have effect when it has been approved by the Higher Education Authority and when the HEA has been notified by the Chief Officers that it has been approved by the universities.
- 2.3.2 It will be subject to review by both parties after a period of four years or sooner if deemed necessary by either party.
- 2.3.3 The framework shall cease to have effect with regard to any further appointments following notice in writing by either the HEA or by any of the universities that they no longer, for stated reasons, subscribe to the framework. Such a notice shall be preceded by consultations between the parties and shall not affect any agreements made with specific individuals during the period when the framework was in force.

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