# *Model Contract of Employment for the post of Special Adviser*

**Employing Department/Office \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** [Insert Name of Department]

**Address \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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**Employee \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Address \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

I am directed by the Minister for [Insert Name of Department] to inform you that following Government Decision **N999/99/99/9999N of DD/MM/YYYY**, he/she is prepared to offer you an appointment as Special Adviser under Section 11 of the Public Service Management Act 1997 on the following terms and conditions, with effect from **[date of Government Decision]**.

**General**

1. The appointment is subject to the Civil Service Regulation Acts 1956 to 2005, the Public Service Management (Recruitment and Appointments) Act 2004, the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001 and any other Act for the time being in force or any other regulations relating to your employment in the Civil Service.

**Pay**

1. The salary scale for this position is [Insert actual full scale (PPC/non-PPC as appropriate].

The annual rate of pay upon commencement will be **€ [Insert Amount]**. Payment will be made fortnightly in arrears by Electronic Fund Transfer (EFT) into a Bank Account of your choice. Payment cannot be made until you supply a Bank Account number and Bank Sort Code to the Personnel Section/PeoplePoint.

The rate of pay may be adjusted from time to time in line with Government policy.

Statutory deductions from salary will be made as appropriate by the Department of [Insert Name of Department]. Deductions for superannuation contributions will be made from pensionable remuneration only.

You will agree that any overpayment of salary, allowances, or expenses will be repaid by you in accordance with Circular 08/2018: Recovery of Salary, Allowances, and Expenses Overpayments made to Staff Members/Former Staff Members/ Pensioners.

Under Section 23 of the National Minimum Wage Act 2000, you may request a written statement of your average hourly rate of pay for any pay reference period.

**Tenure**

3. The appointment is to a temporary position in the Civil Service. It carries no entitlement to permanent status, by way of limited competition or otherwise. Your term of appointment as Special Adviser shall cease on the date on which the Minister ceases to be a Minister of the Government

**Or**

For a Special Adviser to a Minister of State, your term of appointment as Special Adviser shall cease on the date of expiration of the assignment of the Minister of State to the Department or Office in question.

4. In accordance with the Protection of Employees (Fixed Term Work) Act 2003, your contract is on a fixed-term contract basis only as your appointment is coterminous with that of the [**Minister of the Government or Minister of State**].

5. The Department of [**Insert Name of Department**] reserves the right to terminate your employment prior to the date of cessation on giving of the appropriate notice set down in the Minimum Notice and Terms of Employment Acts 1973 to 2005. The Department of [Insert Name of Department] also reserves the right to terminate your employment for stated reasons. The appointment may be terminated at any time by either side in accordance with the Minimum Notice and Terms of Employment Acts 1973 and 2005.

6. In the event of serious misconduct, the appointment may be terminated without notice.

7. In the event of the appointment being terminated under the terms of paragraph 6 above, no remuneration or compensation will be payable other than that applicable to work carried out.

**Probation**

8. Your appointment will be subject to a probationary period of six months from the date of your appointment. Should your service be satisfactory as regards health, conduct, efficiency and performance generally during the probationary period, you will be confirmed in your appointment for the period of tenure set out above.

**Duties**

You will be required to perform any duties which may be assigned to you from time to time as appropriate to the position of Special Adviser as set out in Section 11 of the Public Service Management Act 1997.

**Ethics in Public Office Acts**

9. The terms of the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001 apply to this appointment (i.e. your contract of employment and a statement whether you are a relative of the Minister or Minister of State on whose behalf you are appointed will be laid before the Houses of the Oireachtas).

[*Note to HR Managers:* *If the Special Adviser’s remuneration* ***exceeds*** *the second Long Service Increment point of the Higher Executive Officer (general service grade, class B PRSI in the Civil Service) scale, the following inclusions should be made*:]

In circumstances where the Special Adviser's remuneration exceeds the salary described in number 9 above, the following paragraphs refer.

9.1 As provided for by section 19(3)(a)(iii) of the Ethics in Public Office Act 1995, you undertake not to engage in any trade, profession, vocation or other occupation, whether remunerated or otherwise, which might reasonably be seen to be capable of interfering or being incompatible with the performance by you of your official functions as a Special Adviser.

9.2. Each year, during any part of which you hold or held a position to which the provisions of section 19 of the Ethics in Public Office Act 1995 apply, you must prepare:

- a statement in writing of your own registrable interests, as provided for in the Second Schedule to the Ethics in Public Office Act 1995 which could materially influence you in, or in relation to, the performance of your official functions;

**And**

- a statement in writing of the registrable interests, of which you have actual knowledge, of your spouse, of your civil partner, of a child of yours or of a child of your spouse, which could materially influence you in or in relation to the performance of your official functions.

* 1. You must furnish these statements of interests to the Officeholder[[1]](#footnote-1) who selected you for appointment and to the Standards in Public Office Commission, in the form determined by the Minister for Public Expenditure and Reform, and which, in relation to your own registerable interests, will be laid before each House of the Oireachtas[[2]](#footnote-2).
	2. The first statements must cover the period from your date of appointment to 31 December of that year. Subsequent statements must cover any calendar year or any part thereof during which you hold any post to which the provisions of section 19 of the Ethics in Public Office Act 1995 apply.

9.5 The statements must be furnished not later than 31 January of the following year.

9.6 In the year your appointment ends, the statements must be furnished within 28 days of your appointment ending.

9.7 The Officeholder who selected you for appointment will also lay before the Houses of the Oireachtas:

1. a statement of your qualifications relevant to your official functions;
2. a copy of the contract or a statement in writing of the terms and conditions under which you act, or have acted, as Special Adviser; and
3. a statement as to whether you are a relative of the Officeholder.

9.8 Where an official function falls to be performed by you, and you have actual knowledge that you, or a connected person, as defined in the Ethics in Public Office Act 1995, have or has a material interest in the matter to which the function relates, you must, as soon as may be, prepare and furnish a statement in writing of those facts to the Officeholder who selected you for appointment and to the Standards in Public Office Commission. You must not perform the function unless there are compelling reasons requiring you to do so. If you propose to perform the function you must, before doing so, or, if that is not reasonably practicable, as soon as possible afterwards, furnish a statement in writing of the compelling reasons to the Officeholder who selected you for appointment and to the Standards in Public Office Commission. The requirements set out in this paragraph apply whether or not an interest has been disclosed in a statement of registrable interests referred to above.

9.9 Where there are no interests to disclose, there is no obligation on a Special Adviser to furnish a nil statement. However, the Standards in Public Office Commission recommends that a nil statement be submitted. Where no interests exist there is no requirement on an Officeholder to lay a nil statement of a Special Adviser before the Oireachtas

9.10 Statutory advice on your obligations under the Ethics in Public Office Acts 1995 and 2001 may be sought from the Standards in Public Office Commission by email to info@sipo.ie or by phone to 01-6395666.

**Headquarters**

10. Your headquarters will be such as may be designated from time to time by the Secretary General. The provisions of Department of Finance Circular 6/89, Removal Expenses, **will not apply** to relocation from headquarters. Travel to and from headquarters will not be eligible for travel expenses.

**Hours of attendance**

11. Hours of attendance will be as fixed from time to time but will amount to not less than 43 hours and 15 minutes gross per week. No additional remuneration will be paid for extra attendance.

**Annual leave**

12. The annual leave allowance will be **[insert number of Days]** working days per year, exclusive of the usual public holidays. This annual leave allowance is subject to the usual conditions which apply in the Civil Service regarding the granting of annual leave, and to the making, at such times as may be determined from time to time by the Secretary General, of returns of annual leave taken. The Organisation of Working Time Act 1997 gives all full time employees a statutory minimum of four working weeks (20 days) which must be taken during the 12 month leave year.

**Organisation of Working Time Act**

13. The terms of the Organisation of Working Time Act 1997 will apply, as appropriate, to your appointment.

**Sick Leave**

14. Sick pay during properly certified sick absence, provided there is no evidence of permanent disability for service, may be allowed on a pro-rata basis, in accordance with the provisions of sick leave Circular 05/2018.

You will be required to sign a mandate authorising the Department of Employment Affairs and Social Protection to pay any benefits due under the Social Welfare Acts direct to this Department and payment during illness will be subject to you making the necessary claims for social insurance benefit to the Department of Employment Affairs and Social Protection within the required time limits.

**Superannuation and Retirement**

15. Choose the relevant options (a-e below) from both 15.1 and 15.2 and delete the non-applicable options, as appropriate**. In section 15.1 and 15.2 below, scheme membership classification (a) in section 15.1 corresponds with retirement age classification (a) in paragraph 15.2, (b) with (b) and so on.**

**15.1 Pension Scheme Membership**

Based on the information supplied by you, that:

1. you have never worked in the Public Service or you have had a greater than 26 week break since your last pensionable Public Service employment, you are deemed to be a member of the Single Public Service Pension Scheme in accordance with the Public Service Pensions (Single Scheme and Other Provisions) Act 2012.

**OR**

1. you have worked in a pensionable (non-Single Scheme terms) Public Service job in the 26 weeks prior to this appointment, the terms of the Non-Contributory Pension Scheme for Non-Established State Employees and of the Contributory Spouses' and Children’s Pension Scheme for Non-Established State Employees will apply to this appointment, **and**
2. you are deemed to be a “New Entrant” in accordance with the Public Service Superannuation (Miscellaneous Provisions) Act 2004.

**OR**

1. you are **not** deemed to be a “New Entrant” in accordance with the Public Service Superannuation (Miscellaneous Provisions) Act 2004.

**OR**

1. your appointment is on the basis of **secondment** from the Department/Office of [**Insert Name of Department/Office Here]**. You will remain a member of the pension scheme for **[insert pension scheme name]**. The terms and conditions of that pension scheme shall apply to this appointment. Please note: your pension benefits will be based on your salary in your substantive grade only i.e. the grade from which you have been seconded.

**OR**

1. your appointment is on the basis of **secondment** from the private sector. **[Please consult the Department of Public Expenditure and Reform if this is the case]**

**15.2 Retirement Age**

1. Your minimum retirement age is the age at which you become eligible for the State Pension (Contributory). At present this is 66 years, rising to 67 on 1 January 2021 and 68 on 1 January 2028 in line with planned changes to State Pension age. Retirement is compulsory on reaching age 70. Tenure is co-terminus with the Minister or on reaching 70 years of age, whichever is the earlier.

**OR**

1. (i) Your minimum retirement age is 65 and you do not have a maximum retirement age. Tenure is co-terminus with the Minister.

 OR

(ii) Your minimum retirement age is 65 and your maximum retirement age is 70. Tenure is co-terminus with the Minister or on reaching 70 years of age, whichever is the earlier.

**OR**

1. Your minimum retirement age is **[insert age based on current pension scheme]** and your maximum retirement age is **[insert age based on pension scheme]**. Tenure is co-terminus with the Minister or on reaching [**insert compulsory retirement age based on current pension scheme]** years of age, whichever is the earlier.

**OR**

1. Tenure is co-terminus with the Minister.

**Pension Accrual**

Please note that section 52(6) of the Public Service Pensions (Single Scheme and other Provisions) Act 2012 limits the amount of pensionable service an individual may accrue across all pre-existing Public Service pension schemes (non-Single Scheme terms) to a maximum of forty years or equivalent.

**Pension Abatement**

If you are in receipt of a pension with respect to another Public Service employment, your pension will be subject to abatement for the duration of this employment in accordance with Section 52 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012.

**Additional Superannuation Contribution**

This appointment is subject to the Additional Superannuation Contribution in accordance with the Public Service Pay and Pensions Act 2017.

**Official Secrecy and Integrity**

16. You will, during the term of your appointment, be subject to the provisions of the Official Secrets Act 1963 as amended by the Freedom of Information Act 2014.

**17.** **Regulation of Lobbying Act**

1. You are a Designated Public Official under the Regulation of Lobbying Act 2015.
2. In accordance with the Regulation of Lobbying Act 2015, you are not permitted to carry out lobbying activities involving the Public Service body or any Designated Public Official with which you were “connected” in the preceding year, for a period of one year from the day on which you cease to be a Special Adviser, unless the consent of the Standards in Public Office Commission has been obtained.

The term “Connected” is defined in Section 22(4) of the Regulation of Lobbying Act as follows:

*“For the purposes of subsection (3) a Public Service body is one with which a person was connected at any time if it was at that time a Public Service body by which the person was employed or in which the person held any office or other position”*

1. Similarly, you may not be employed by, or provide services to, a person carrying on lobbying activities in the circumstances described in paragraph 17(b) directly above, unless the prior consent of the Standards in Public Office Commission has been obtained.

**Confidentiality and Publication**

18. You will not while holding the position of Special Adviser to the Minister for **[Insert Name of Department Here]** or thereafter, disclose or publish any confidential official information or material, including electronically held data, which you acquired or which came to your knowledge in the course of, or as a consequence of, your employment in that capacity, except where the matter has been submitted for adjudication to the Secretary General to the Government as to its confidentiality and, on the basis of his decision, the prior approval of the Minister concerned at the time of publication has been obtained for publication or disclosure. The disclosure of official information is also covered by the provisions of the Official Secrets Act 1963 and Freedom of Information Act 2014.

19. It is a condition of your employment in the above-stated capacity that the copyright in any book, article or other publication which you write or publish, containing unauthorised disclosures of official information is vested in the Government of Ireland. If in breach of the said condition you write or publish any book, article or other publication containing unauthorised disclosures of official information, any copyright in the said book, article or other publication which but for this clause would vest in you will belong to the Government of Ireland.

**Civil Service Code of Standards and Behaviour**

20. The Civil Service Code of Standards and Behaviour forms part of your contract for this appointment.

**Personnel Code**

21. All circulars are available on the website [*http://circulars.gov.ie*](http://circulars.gov.ie) or from the Personnel Section.

**Acceptance of Appointment**

22. If you are prepared to accept the appointment on these terms please complete the enclosed acceptance form and return it to me at the above address.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Secretary General**

**Department** **[Insert Name of Department]**

**Form of Acceptance**

I have read and noted the contract and I am prepared to accept an appointment as Special Adviser to the Minister for **[Insert Name of Department Here]** on the terms and conditions set out above. I also acknowledge receipt of a copy of the Civil Service Code of Standards and Behaviour and confirm that I have read and understood same.

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Secretary General**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Where there are no interests to disclose, there is no obligation on a special adviser to furnish a nil statement. However, the Standards in Public Office Commission recommends that a NIL statement be submitted. [↑](#footnote-ref-1)
2. Where no interests exist there is no requirement on an Officeholder to lay a nil statement of a special adviser before the Oireachtas [↑](#footnote-ref-2)