

## OUTLINE

### ***Private Sector Pay***

1. The Pay and Workplace commitments of the *Transitional Agreement* have been reviewed by the parties in light of changed economic and labour market circumstances with a view to maximising sustainable jobs. In this context, the parties are agreed that the pay terms under Section 1.7 and arrangements under 1.11(ii) and (iii) of the *Transitional Agreement* under *Towards 2016* are suspended.
2. Pay arrangements to apply from 1<sup>st</sup> January 2011 will be determined by the parties at that time.
3. In addition, in advance of the review in Section 2 above, the application of the terms of the *Transitional Agreement* will be re-examined immediately should the CPI return to its end-September 2008 level.
4. In light of the above, it is agreed that current rates of pay will only be increased as follows:
  - i. Where agreements to pay the first or second phase have been reached, the parties agree that these should be honoured. Nothing in this agreement will prevent payment by an employer of the first and/or second phase of the *Transitional Agreement* on a voluntary and exceptional basis.
  - ii. A claim will not be the subject of a third party referral in respect of the *Transitional Agreement* save only where such a referral is freely agreed by all parties to the discussions. Where a referral is agreed under (ii), it will take place under procedures agreed at enterprise level for the resolution of disputes up to and including the Labour Relations Commission and the Labour Court, or where appropriate, through other agreed machinery, with due regard to the economic, commercial and employment circumstances of the employer, whether arising from exchange rate movements or other relevant factors and the principles set out in Section 1.3 of the *Transitional Agreement*.
  - iii. The Court will make its recommendation under Section 26(1) of the Industrial Relations Act 1990; or, where agreed, the parties may use the procedures set out under Section 1.13 of the *Transitional Agreement*.
5.
  - i. Where a referral is not agreed under Section 4(ii) above, and where a trade union makes a claim of ability to pay the first phase of the *Transitional Agreement* on an employer, the onus will be on the trade union to establish the validity of the case and to provide supporting arguments and 'prima facie' evidence to the employer.
  - ii. Where the employer does not accept that the claim is valid and a third party referral has not been agreed at local level, and the trade union wishes to pursue the matter, the case will be referred to the National Implementation Body. Having regard for:
    - use of agreed procedures;
    - threat or use of industrial action;
    - prima facie evidence of ability to pay;
    - retention of employment; and

— a variety of commercial and competitive factors,  
the NIB would offer advice and assistance to the parties.

6. In line with the provisions of Section 1 above, the current review of the National Minimum Wage by the Labour Court is also suspended. The NMW will be reviewed in line with the provisions of the relevant legislation at the times provided for under Sections 2 or 3 above, as appropriate.

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