

THE LABOUR COURT  
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CD/13/78  
(CCC-094293-10)

RECOMMENDATION NO. LCR20524

INDUSTRIAL RELATIONS ACTS, 1946 TO 2004  
SECTION 26(1), INDUSTRIAL RELATIONS ACT, 1990

PARTIES :

AER LINGUS

- AND -

ICTU - GROUP OF UNIONS

DIVISION :

Chairman : Mr Duffy  
Employer Member : Ms Cryan  
Worker Member : Ms Tanham

SUBJECT:

1. Hearing arising from LCR 20440

BACKGROUND:

2. This dispute was referred to the Labour Court on the 3rd December, 2012, in accordance with Section 26(1) of the industrial Relations Act, 1990. A Labour Court hearing took place on the 17th & 18th December 2012 and on the 11th March 2013. The following is the Labour Court's Recommendation.

**RECOMMENDATION :**

**This dispute came before the Court on the 17th December 2012 on foot of an agreement reached between ICTU and IBEC directed at facilitating the resolution of a dispute between the company and the trade union group representing its staff. The dispute concerns the restructuring of pension arrangements for employees represented by Unions affiliated to the ICTU Group.**

**The Court issued an interim recommendation on 2<sup>nd</sup> January 2013 (Recommendation LCR20440) in which it set out target benefits that should be provided in a proposed new pension scheme. This Recommendation should be read in conjunction with that Recommendation.**

**In Recommendation LCR20440, and in line with the ICTU / IBEC agreement, the Court left over two central issues to be dealt with by the parties before a final Recommendation could be issued. Firstly, it provided that further discussions should take place on cost stabilisation measures which would form part of any final agreement. Secondly, the Court proposed that the design of the new pension arrangements, including costing, should be dealt with by the Technical Group established by the LRC. The Court provided that if final agreement was not reached outstanding matters should be referred back to the Court for adjudication.**

**In the event agreement was not reached on either issue and the dispute was referred back to the Court in February 2013.**

**The Court held further hearings and also met with the parties separately as part of its investigation. An area of major disagreement emerged surrounding the level of the capital injection that would be required in order to deliver the range of outcomes envisaged by Recommendation LCR20440. The Court asked the Technical Group to consider this matter further and to furnish it with its conclusions. At all times the Court advised the parties that the technical design of a pension scheme was not a matter within its competence and that it would be guided in that regard by the Technical Group.**

**The Technical Group furnished the Court with its report on 21<sup>st</sup> May 2013. In presenting its report the Technical Group wrote to the Court in the following terms: -**

***“As you are aware we have been asked by our respective clients (ICTU and Aer Lingus) to advise the Court as to the capital sum required to achieve specific target benefit levels following the Labour Court interim recommendation LCR20440. The attached detailed paper outlines these target benefit levels and sets out our analysis and underlying assumptions. You will note that we have concluded, based on the assumptions detailed in the paper, that a capital sum of €110 million will be sufficient to achieve the target benefit levels as outlined”***

**The Court appreciates the assistance provided by the Technical Group and it gratefully adopts its conclusions. On the basis of the detailed report and the advice encapsulated in the covering letter recited above, the Court is satisfied that the provision of a capital**



sum of the amount mentioned (€110 million) will be required to provide benefits in line with those detailed in Recommendation LCR20440

### **Scope of the Court's Investigation**

For the avoidance of doubt the Court wishes to point out that the matters before it relate to the future pension arrangements of active members of the Irish Airlines Superannuation Scheme in categories represented by the Trade Union Group and future employees of the Company in those categories. The Court has been informed that the Company intends making separate arrangements in respect of deferred members of that scheme. Separate arrangements are also in contemplation in respect of pilots represented by IALPA / IMPACT. The subject matter of the Court's investigation, and its terms of reference, did not involve the position of that cohort present and past employees of the Company.

### **Recommendations**

#### **Cash Injection**

The Court recommends that the Company provide a once-off lump-sum in the amount of €110 million. This amount should incorporate three distinct elements:

1. An amount in respect of past service accrued by active Aer Lingus staff calculated on a basis consistent with the calculation of the once-off contribution proposed by the Company in respect of past service accrued by deferred Aer Lingus staff.
2. An equivalent amount in respect of the effect of changes on potential further service for active Aer Lingus Staff.
3. A further amount which is intended to bring projected pensions in line with the targets set out in Recommendation LCR20440

Additionally, the Company should provide secure underpinning arrangements for the benefit of those employees who will become entitled to a pension between the date of acceptance of this recommendation and 30<sup>th</sup> June 2018. Specifically, these arrangements should provide this cohort of employees with a commitment that they will receive at least the appropriate target percentage benefit applicable to their salary level specified in Recommendation LCR20440, and the assumptions contained therein.

## **Cost Stabilisation**

**The Court is satisfied that that the third element referred to above requires a level of funding through staff contributions in the form of savings in payroll costs. In considering how this objective should be achieved the Court believes that the Company's requirement for stability and certainty on structured employment costs must be balanced against the reality that a pay-freeze has applied for three years and the necessity to ensure that the real value of pay levels is not unduly impacted.**

**Having regard to these considerations the Court recommends as follows: -**

## **Increments**

- The 2013 annual increment payment and long service increment (LSI) payment should be paid in September 2013.**
- Accumulated but non-paid LSI payments accrued to date relating to periods during which the Greenfield pay freeze period was in effect should be paid with effect from 1<sup>st</sup> September 2013.**
- An amount equivalent to the annual increment payment should be paid to all staff at specialist levels in respect of 2013. This increase should average 2.5% of salary.**
- The annual increments that should have applied on 1<sup>st</sup> April 2014, 1<sup>st</sup> April 2015, and 1st April 2016 respectively, should not be paid.**
- An increment should become payable with effect from 1<sup>st</sup> April 2017**

## **Pay Inflation**

**The Court recommends that there should be no inflationary salary increases in the period between the date of this Recommendation and 31<sup>st</sup> December 2016**

## **Stabilisation Payments**

**In consideration of the provision in relation to pay stabilisation set out above the Court recommends that the following payment be made in the period up to and including 2016**

**The Court recommends that each full-time employee should receive a total individual stabilisation payment of €5,850 in the period up to 31<sup>st</sup> December 2016. That amount should be paid in addition to the level of annual increments and / or LSI payable in respect of 2013.**

The amount, timing and funding of these payments should be as set out in the table below

Year	Individual Employee Amounts
Sept. 2013	Once-off stabilisation payment of €250 per full-time employee
Sept. 2014	Once-off stabilisation payment of €2,000 per full-time employee
Sept. 2015	Once-off stabilisation payment of €1800 per full-time employee
Sept. 2016	Once-off stabilisation payment of €1800 per full-time employee

The individual payments set out above should be adjusted pro rata for part time staff and to take account of company service in the previous 12 months. These stabilisation payments are intended to provide a disproportionately positive impact for those employees earning salary levels which are below the median within the company.

These payments are gross amounts and therefore liable to normal revenue deductions applicable to employees.

### **DC Contribution Levels**

The Company should provide a contribution of 10% and employees should provide a minimum contribution equal to that which is currently payable by them to IASS. These contributions should be calculated in the same way as is currently the practice of the Company.

### **Implementation**

The Court recommends that all elements of this recommendation be implemented within a period of four week of acceptance by all parties.

Signed on behalf of the Labour Court

JMC  
24th May, 2013.

Kevin Duffy

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Chairman

NOTE

Enquiries concerning this Recommendation should be in writing and addressed to Jonathan McCabe, Court Secretary.