**LAHIFFE & ASSOCIATES  
 Public Affairs & Political Communications** 

**OIREACHTAS REPORT FOR APTI**

**December 4 - 6, 2018**

**PENSION ISSUES**

**Dail**

Tuesday, December 4

**Written Questions**

**Trustee Obligations**

***Deputy Richard Boyd Barrett****asked the****Minister for Employment Affairs and Social Protection****the regulations in place to oblige trustees of pension funds to regularly update their members; and if she will make a statement on the matter.*

**Minister for Employment Affairs and Social Protection (Deputy Regina Doherty):** The Pensions Act 1990, as amended, requires trustees of occupational pension schemes in specified circumstances and within certain time limits to disclose certain information to members, prospective members, their spouses, other scheme beneficiaries, the Pensions Authority, and members' representative bodies. The information to be provided by trustee to scheme members includes: (a) details about the constitution and rules of the scheme, (b) certain basic information about the scheme, and (c) details of an individual's benefit entitlements under the scheme.  
  
The trustees of schemes must also arrange for actuarial valuations, valuation reports, annual audited accounts, annual reports and, where appropriate, an annual actuarial data return to be prepared and made available, subject to certain exceptions and alternatives. In addition, the Pensions Authority may request the trustees or the employer to furnish such information as it may require by notice in a written request. The Authority may impose time limits for the furnishing of such information.  
  
Regulations under the Act, in particular S.I. No. 301/2006 - Occupational Pension Schemes (Disclosure Of Information) Regulations, 2006, as amended, sets out regulations for the disclosure of informationby occupational pension schemes. The Pensions Authority’s Trustee Handbook provides guidance for trustees on how to achieve compliance with the Pensions Act and other relevant legislation and includes a section on the disclosure of information requirements. The Act and its regulations set down minimum requirements, which do not prevent trustees from providing more information or from making such information more readily available.

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| **State Pension Data**  ***Deputy Willie O'Dea****asked the****Minister for Employment Affairs and Social Protection****the number of persons in receipt of a State Pension by county in tabular form; and if she will make a statement on the matter.*  **Minister for Employment Affairs and Social Protection (Deputy Regina Doherty):** The information is detailed in the following tabular statement:  Number of recipients of State Pensions at 31st October 2018 by County   |  |  |  |  |  | | --- | --- | --- | --- | --- | | **County** | **State Pension (Non-Contributory)** | **State Pension (Contributory)** | **Widow/er's or Surviving Civil Partner's Contributory Pension** | **Invalidity Pension** | | Carlow | 1,225 | 4,572 | 1,488 | 1,104 | | Cavan | 2,355 | 5,234 | 1,728 | 812 | | Clare | 3,279 | 9,515 | 2,876 | 1,253 | | Cork | 9,812 | 42,786 | 13,667 | 7,629 | | Donegal | 7,048 | 11,115 | 3,526 | 1,596 | | Dublin | 14,369 | 102,970 | 30,607 | 13,644 | | Galway | 7,357 | 17,409 | 5,615 | 2,201 | | Kerry | 4,872 | 12,075 | 3,861 | 1,668 | | Kildare | 2,251 | 14,325 | 4,576 | 2,460 | | Kilkenny | 1,977 | 7,234 | 2,212 | 1,078 | | Laois | 1,543 | 4,816 | 1,656 | 927 | | Leitrim | 1,162 | 2,710 | 1,024 | 488 | | Limerick | 3,996 | 16,309 | 5,200 | 3,406 | | Longford | 1,280 | 3,240 | 1,027 | 614 | | Louth | 2,414 | 10,159 | 3,068 | 1,838 | | Mayo | 5,483 | 10,486 | 3,533 | 1,474 | | Meath | 2,622 | 12,414 | 3,969 | 1,912 | | Monaghan | 1,842 | 4,506 | 1,526 | 574 | | Offaly | 1,535 | 5,645 | 1,913 | 1,134 | | Roscommon | 2,160 | 5,019 | 1,707 | 876 | | Sligo | 1,873 | 5,773 | 1,803 | 865 | | Tipperary | 4,237 | 13,482 | 4,544 | 2,319 | | Waterford | 2,539 | 9,970 | 3,184 | 1,647 | | Westmeath | 1,681 | 6,778 | 2,336 | 1,264 | | Wexford | 4,034 | 12,363 | 3,952 | 2,132 | | Wicklow | 2,156 | 11,882 | 3,414 | 1,493 | | Other | 22 | 45,983 | 7,647 | 1,135 | | ***Total*** | ***95,124*** | ***408,770*** | ***121,659*** | ***57,543*** | |

Wednesday, December 5

**Written Questions**

**Retirement Age**

***Deputy Noel Rock****asked the****Minister for Public Expenditure and Reform****if the Public Service Superannuation (Age of Retirement) Bill 2018 will be commenced before the end of 2018; and if he will make a statement on the matter.*

**Minister for Public Expenditure and Reform (Deputy Paschal Donohoe):**  The Bill passed all stages in the Seanad on 17 July and Second Stage in the Dáil on 7 November. It is scheduled for Committee Stage in the Dáil on 11 December. Ultimately, scheduling of time for the enactment of legislation is a matter for the Oireachtas itself through the Business Committee, but my intention is to ensure enactment and commencement of this legislation as soon as possible.

**University Pension Scheme**

***Deputy Michael Moynihan****asked the****Minister for Education and Skills****the reason no pension benefit has been awarded by NUI Galway to a person (details supplied) in Co Cork; and if he will make a statement on the matter.*

**Minister for Education and Skills (Deputy Joe McHugh):** The person to whom the Deputy refers was an employee of NUIG from March 1972 to April 1980 and was a member of the University’s superannuation scheme. Each University is responsible for the administration of the pension schemes in operation for their employees and NUIG has clarified the position on pension benefits of the person concerned.  
  
The University Pension Scheme in question did not provide for the payment of preserved benefits and therefore, the person referred to has no entitlement to pension benefits from the scheme as he ceased employment with the University before normal retirement age. The Pensions Act (1990) introduced provision for the payment of preserved benefits from the date of the legislation but did not make such provision retrospective. The rules of a pension scheme set in statute cannot be departed from in individual cases. The person concerned should contact the Department of Social Protection regarding entitlement to a State Pension.

Thursday, December 6

**Written Questions**

**FSPO**

***Deputy Jack Chambers*** *asked the****Minister for Finance****the average time for a complaint to be fully investigated and concluded by the FSPO from the initial complaint to final decision; the number of complaints received and investigations completed in each of the past five years; if his attention has been drawn to the perceived lengthy delays to the complaints investigation process; and if he will make a statement on the matter.*

**Minister for Finance (Deputy Paschal Donohoe):** The Office of the FSPO provided the following information based on the work for the year 2017 in relation to the dispute resolution service and the formal processes of investigation and adjudication.   
  
Dispute resolution provides a flexible and innovative approach to complaint resolution. For complaints closed in 2017, via Dispute Resolution using mediation techniques:   
  
  - 43% were closed within 2 months  
  
  - 67% were closed within 4 months  
  
  - 79% were closed within 6 months   
  - 21% took over 6 months to close.  
  
Complaints not resolved through informal processes and considered to be within jurisdiction, are subsequently formally investigated and adjudicated.   For complaints closed in 2017, following a full investigation and written adjudication:  
  
  - 13% were closed within 1 year   
  
  - 65% were closed within 2 years  
  
  - 80% were closed within 3 years  
  
  - 20% took over 3 years to close.   
  
As the investigation process involves regular exchanges of evidence, the length of this process is dependent on the number of submissions made by each party, and the complexity of the matters at hand.   
  
The following table with details of complaints received and closed in 2014 to 2017 and also from January to October of 2018.

|  |  |  |
| --- | --- | --- |
| **Year** | **Complaints received** | **Complaints closed** |
| 01.01.18 – 30.10.18 | 4937 | 3742 |
| 2017 | 4538 | 3867 |
| 2016 | 4,513 | 4323 |
| 2015 | 4,872 | 4915 |
| 2014 | 4477 | 5878 |

**State Pension**

***Deputy Bríd Smith****asked the****Minister for Employment Affairs and Social Protection*** *the reason her Department does not inform persons in the years prior to their retirement age that they may fail to qualify for the pension without additional contributions paid or voluntary; if such advanced warning will be provided in the future; the reason credited contributions and discounted years in the homemakers scheme do not count towards or are credited when calculating the minimum 520 contributions; and her plans to allow applicants use credited contributions or receive some credits for homemaker years in future changes to the contributory scheme.*

**Minister for Employment Affairs and Social Protection (Deputy Regina Doherty):** State Pension entitlements, contributory and no-contributory, are assessed on the basis of the eligibility conditions applicable on the date an applicant reaches pension age. For that reason, it is not possible to predict future State Pension entitlements, or comment on individual pension planning enquiries, as the qualifying conditions at the time a person reaches pension age may be different. That said, it is likely that State Pension (Contributory) entitlement will continue to directly relate to the nature and extent of a person’s social insurance record. The Department’s website, *www.welfare.ie,* provides a comprehensive suite of information in relation to current State pPension entitlements, including a range of frequently asked questions. Information is also available from my Department's offices and from Citizens Information Services.

It is advisable that all contributors maintain their social insurance record as fully as possible over their working life. It is open to contributors to request a copy of their social insurance record from the Department at any time. In addition to seeking the record through normal postal means, a person can also access their social insurance record in real time online where they have a verified MyGovID account. Information on getting a verified MyGovID account is available on *www.mygovid.ie*.

In April 2012, the number of paid contributions required to qualify for a State Pension (Contributory) increased from 260 to 520. While this change only took effect in 2012, it was signalled well in advance. In 1993, "*Developing the National Pension System - Final Report of the National Pensions Board*” was published, and recommended that the number of paid contributions required to qualify for a contributory pension should be increased to 520 contributions, in recognition of the expansion of PRSI coverage over the decades. The necessary legislation to effect this recommendation was contained in Section 12 of the Social Welfare Act 1997, which provided for the implementation of the change in two stages, with the paid contribution requirement being standardised at 260 from 2002 (5 years after its introduction in law), and rising to 520 from April 2012 (15 years after its introduction in law). There are no plans to remove this minimum requirement of 520 paid contributions for pension qualification purposes. It is reasonable to require people who claim a contributory pension to have made at least 10 years paid contributions into the Social Insurance Fund which finances that pension, over 50 years of working age life. Having 520 paid contributions alone does not qualify a person for maximum rate pension. The current homemakers (disregard) scheme and (various) credited contributions can assist applicants achieve a higher rate of payment, but cannot be used to meet the qualifying conditions for State Pension (Contributory). Those who do not satisfy the qualifying conditions for contributory pension, because they have paid few or no contributions, may instead qualify for State Pension (Non-Contributory). This is a means-tested payment (based on their share of household means), with the maximum payment set at 95% of the contributory rate.

The Government plans to put in place a new TCA for all new pensioners from 2020. Under it, a set total of contributions paid and credited will be required to qualify for a maximum rate State Pension (Contributory) and people with less than this will receive a pro-rata entitlement. This approach was subject to a recent public consultation. The analysis of that is almost finalised and when complete, will help inform a proposal to go to Government on the future TCA for new pensioners from 2020. An interim TCA for post-September 2012 pensioners on reduced contributory pensions is provided for in the Social Welfare, Pension and Civil Registrations Bill 2018. This provides an opportunity for some of these pensioners to improve their current rate of payment under a new calculation method and allows for up to 20 years of HomeCaring Periods. On enactment, over 79,000 existing pensioners, born on or after 1 September 1946, will be reviewed under the new arrangements. This work is expected to commence in January 2019.

**State Pension Data**

***Deputy Bríd Smith****asked the****Minister for Employment Affairs and Social Protection****the number of applicants for a State Contributory Pension since 2012 who have been refused a contributory pension due to the fact that they did not have 520 contributions; and the number of these who had over 260 contributions**; the number who failed to qualify due to the fact they did not have 520 contributions but they had over 260 but also failed to qualify for a non-contributory pension due to means testing.*

**Minister for Employment Affairs and Social Protection (Deputy Regina Doherty):**

According to the records of my Department, 12,003 applicants for State Pension (Contributory) have been disallowed because they did not satisfy the minimum paid contribution requirement of 520. Of these, 6,085 applicants have 260 or more contributions, but less than 520. 331 applicants disallowed State Pension (Contributory) since 2012 were disallowed State Pension (Non-Contributory), as their weekly means exceeded the statutory limit. Of these, 192 applicants have 260 or more contributions but less than 520. In April 2012, the number of paid contributions required to qualify for State Pension (Contributory) increased from 260 to 520. The change, which took effect in 2012, was signalled well in advance. In 1993,”*Developing the National Pension System - Final Report of the National Pensions Board*” was published, and it recommended that the number of paid contributions required to qualify for a contributory pension should be increased to 520 contributions, in recognition of the expansion of PRSI coverage over the decades.

The necessary legislation to effect this recommendation was contained in Section 12 of the Social Welfare Act 1997, which provided for the implementation of the change in two stages, with the paid contribution requirement being standardised at 260 from 2002 (5 years after its introduction in law), and rising to 520 from April 2012 (15 years after its introduction in law).

**Seanad**

Tuesday, December 4

No relevant business

Wednesday, December 5

No relevant business

Thursday, December 6

### Social Welfare, Pensions and Civil Registration Bill 2018: Second Stage (edited)

**Minister of State at the Department of Employment Affairs and Social Protection (Deputy Finian McGrath):**  An amendment to the Pensions Act is being provided for in this Bill. We are providing for a right of entitlement to spousal pension benefits, in certain circumstances, to same-sex couples where the scheme member could not have entered into a legally recognised relationship, such as marriage or civil partnership, with his or her partner because the relevant legislation, namely, the Civil Partnership and Certain Rights and Obligations of Cohabitants Act of 2010 and the Marriage Act of 2015, had not been enacted in Ireland. It is appropriate that I extend my thanks to Dr. David Parris as well as to Members of this Chamber, and in particular to Senator Bacik, for their instrumental role in enabling this issue to be addressed.

Section 9, as I mentioned earlier, sets out the legislative basis to allow us to proceed to apply an alternative method, namely, the aggregated contributions method, for determining entitlement to the State pension (contributory) for persons who attained pensionable age on or after 1 September 2012 and who, under the existing yearly average method, are not entitled to a State pension (contributory) at the full rate. Sections 10 and 11 address a gap in the current legislation to ensure that a person who was in the care of the State on attaining the age of 18 is fully exempted from the age-related reduced-rate payments of jobseeker’s allowance or supplementary welfare allowance. Currently, that exemption expires when the claimant concerned attains the age of 25, while the age-related reduced rates continue to apply until age 26. Pending enactment of this legislation, the Minister, Deputy Regina Doherty, has applied these provisions on an administrative basis to ensure that no claimant is negatively impacted in the interim.

Section 18 together with Schedule 2 provide for new rates in respect of social insurance benefits. All maximum weekly insurance-based pensions and benefits will be increased by €5, with proportionate increases for those in receipt of reduced rate payments.

Section 27, as I mentioned earlier, provides for the necessary changes to the Pensions Act to enable a right of entitlement to spousal pension benefits to be extended in certain circumstances, to same-sex couples. Sections 28 to 30, inclusive, relate to the Civil Registration Acts and provide that the terms of office of An tArd-Chláraitheoir, the Chief Registrar, and his or her deputy will be three years, renewable. These sections also provide that An tArd-Chláraitheoir and his or her deputy may resign his or her office at anytime.

**Senator Frank Feighan:** Those of us in public service are privileged to have pensions. There are those who say that the people to whom I refer speculated and brought property and shares during the boom. However, they do not fully realise that the individuals in question bought Bank of Ireland and AIB shares. Those shares were their pensions. They were blue-chip pensions, and they ended up being worthless. The recession impacted even more on them because their shares were their pensions. If someone wanted to set up a pension, they went to professional experts. That was the way farmers and self-employed people looked at it. If it was a blue-chip pension, one got back 1% or 2% every year. These were their pensions, and they were lost. I do not believe we realise the impact that had on the self-employed.

**Senator Alice-Mary Higgins:** Pensions account for the largest portion of the budget. A pension equality issue related to the spouses of those in civil partnerships has been addressed in the Bill.

Another key issue around equality and pensions is the deep inequality in the contributory pension system as experienced by women. I welcome some aspects of the new proposal in respect of the changes that were made in 2012, but there are also some concerns, which I need to flag. It is positive that the issue of the artificial gaps that had been inserted into the averaging system, which were periods in which people were delivering care or providing support in the home, has been addressed. People can become invisible in the system. If they are out of the system delivering care for two or four years, they can often present cold to an Intreo office. They should know that they have credits behind them when making that contact.

While some work has been done in closing the gap, unfortunately there is also a pushing out of the goalposts. I deeply regret that, in the steps that have been taken, the decision was made not to stick to the requirement for 20 years or 1,040 contributions, as is currently the case, and not to implement the commitment to introduce the 30 years threshold set out in the pension reform plans. The latter was the TCA we anticipated and would have required 1,560 contributions. While the gap created for the persons affected by the 2012 changes, many of whom are women, is being addressed, the goalposts have shifted and their payments will be calculated from a radius of 40 years of contributions, which amounts to 2,080 contributions. It is important that we put down the marker on this. We are constantly being told that nothing has been finally decided. When the TCA is introduced in 2020, it must be based on 30 years of contributions, which is still a substantial increase on the requirement for 20 years of total contributions. If the new approach is based on 40 years of contributions, a large swathe of the population will again find themselves on a reduced rate of the contributory pension. We must be clear that the system must be based on 30 years of contributions because that at least has been planned for.

**Senator Ivana Bacik:** I welcome that the Bill gives legislative effect to various measures dealing with increases in weekly rates of pensions, benefits and allowances. I will focus on the provision which gives a right of entitlement to spousal pension benefits in certain circumstances in respect of same-sex couples - LGBT couples - where the pension scheme member who is retiring could not have entered a legal marriage or civil partnership because the relevant legislation had not been enacted in time. Effectively it deals with the case taken by David Parris, my former colleague and a lecturer in French at TCD, who brought a case to the Labour Court and was then referred to the European Court of Justice. Although he lost there, in March 2017, I brought to the Seanad, on his behalf, the Pensions (Equal Treatment in Occupational Benefit Scheme) (Amendment) Bill 2016 to seek to deal with the inequality so clearly illustrated in his case. He had been in a long-term committed relationship but had been unable to marry before the relevant date which, in terms of the Trinity pension scheme, was the date of his 60th birthday. I know the Bill deals with that issue, where a scheme provides for an age by which a partner should have married or entered into a civil partnership and it also provides for a situation where the requirement is that the marriage or civil partnership should be entered into before retirement. The David Paris situation related specifically to age. It seemed deeply anomalous to me when we introduced the Bill that somebody in Dr. Parris's position would be discriminated against in this way. I am very glad to say that when we introduced the Bill on 22 March 2017 in the Seanad, it was welcomed by the then Minister for Social Protection, now Taoiseach. He committed then to bringing in the provision, albeit by other means.

It has been a somewhat slow process since then. I have been apprising myself of it to make sure this provision was being retained. I very much welcome the fact it will now become law. It addresses an anomaly. This was an anomalous situation affecting a relatively low number of individuals or couples who faced the same difficulty as David Parris faced under their pension schemes despite the passage of marriage equality legislation. Section 27 represents a significant step towards rectifying continuing discrimination and equality for same sex couples in all respects in their marital and committed relationships.

Fergus Courtney had raised broader issues with the present and previous Ministers around pension equality for same sex couples. I think some of those concerns are now addressed in section 27, which deals not only with pension schemes that specify the age by which a member should have married or entered into a civil partnership, but also schemes which require members to have married or entered into civil partnership before retirement. I think the issue is dealt with and it is a very important step for equality. It will be broadly welcomed.

**Minister of State at the Department of Employment Affairs and Social Protection (Deputy Finian McGrath):**  Senator Higgins raised key issues on the pensions and equality issue. I welcome that and her concerns about the gaps in care and contribution, the re-entry credits and the full total contribution, and I very much agree with the ICTU point about the 30 years contribution.

**Oireachtas Committee**

No relevant business

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