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

**OIREACHTAS REPORT FOR APTI**

**March 5 - 7, 2019**

**PENSION ISSUES**

**Dail**

Tuesday, March 5.

**Oral Question**

**Public Sector Pensions Legislation**

***Deputy Barry Cowen****asked the Minister for Public Expenditure and Reform if the report under Section 3 of the Public Service Superannuation (Age of Retirement) Act 2018 will be published in March 2019; if the report will deal with potential proposals to remedy the position for those who were forced to take the interim measure due to reaching 65 years of age; the associated costs for each remedy; and if he will make a statement on the matter.*

[**Deputy Michael McGrath**](https://www.oireachtas.ie/en/members/member/Michael-McGrath.D.2007-06-14/) **on behalf of Deputy Barry Cowen):** This question concerns the Public Service Superannuation (Age of Retirement) Act 2018, specifically the interim measure that was agreed for those public servants who reached 65 before the Act came into being. They had to retire as per their contract of employment. A commitment was given, on a request from Deputy Cowen, that within three months there would be a report to see what could be done for those people. I am looking for confirmation from the Minister that the report is being completed and will be published on time.

**Minister of State (**[**Deputy Patrick O'Donovan**](https://www.oireachtas.ie/en/members/member/Patrick-O'Donovan.D.2011-03-09/)**):** I acknowledge the support of Deputy Cowen in the passage of the Bill. The Public Service Superannuation (Age of Retirement) Act 2018 provides for an increase to age 70 in the compulsory retirement age of most public servants recruited before 1 April 2004. As Deputy McGrath will be aware, public servants who reached the compulsory retirement before the new legislation was enacted were required to retire in accordance with the statutory compulsory retirement age in effect at the time. Those who availed of the interim arrangements did so in the knowledge that the contract was for one year only, until they reached 66. The Public Service Superannuation (Age of Retirement) Act 2018 has no effect on those public servants who availed of the interim arrangements. The terms of their fixed-term contracts continue to apply and they will cease working at 66 as previously provided for.

Section 3A(6) of the Act provides that the Minister for Public Expenditure and Reform shall, within three months of the passing of the Act, prepare and lay before the Oireachtas a report on the public servants obliged to retire between 6 December 2017 and the commencement of the Act, due to reaching 65, and on potential remedies to assist this cohort. Work on the Report is under way in accordance with the terms of section 3A(6). Under that provision, publication is required within three months of the passing of the Act on 26 December and the Minister intends to comply with that timeline. It would not be appropriate for me to comment on the content which is under preparation and not completed, and which I am statutorily obliged to lay before the Oireachtas.

[**Deputy Michael McGrath**](https://www.oireachtas.ie/en/members/member/Michael-McGrath.D.2007-06-14/)**:** The Minister of State has said that those who availed of the interim measure and had to retire at 65, because that is what their contract provided for, understood that they would be rehired on a temporary basis for a period of one year, and that they would then have to retire permanently and would be gone. Is the Minister of State saying that the Report will not set out potential remedies, including the possibility of people in that category being retained and being able to benefit from the principal measure of the Bill, namely, that people would be able to stay on until the age of 70? Is the Minister of State saying definitively that the people who were captured by that interim measure will not under any circumstances be allowed to remain on until 70? Is it the case that this potential remedy will not be on the table as part of the Report?

**Minister of State (**[**Deputy Patrick O'Donovan**](https://www.oireachtas.ie/en/members/member/Patrick-O'Donovan.D.2011-03-09/)**):** Deputy Cowen, during the passage of the Bill, suggested a number of measures, as did Deputy Darragh O'Brien. I accepted the amendment in good faith to see if there was a remedy that could address that cohort. However, I put it on the record of the House and made it very clear that the spelling out of the legislation meant that those who entered into the interim arrangements when the Government decision was made did so in the full knowledge that it was for a year. We also have to be very cognisant of those who did not enter into the interim arrangement who were civil and public servants as well. If we were to unwind that commitment, where would we start? Would we start at the Government's decision, the publication of the Bill or the passage of the Act? To be fair to those civil and public servants who did not enter into the interim arrangements when they reached 65, they took the Government's word in good faith as well and accepted the bona fides of the Government that this was an interim arrangement for one year. I did accept the amendment providing that we would have a Report that would be brought before the Minister for Public Expenditure and Reform, laid before the House and published. I said that if there were remedies there, they could be legislative in nature. I also said that there might not be remedies to the issue at hand, given what we were trying to achieve, namely, to introduce a new age of retirement on 1 January.

[**Deputy Michael McGrath**](https://www.oireachtas.ie/en/members/member/Michael-McGrath.D.2007-06-14/)**:** Maybe the Minister of State could clarify what the Report is examining. What does he expect it to address? Obviously he does not know what the content is but what are the issues that the report is examining? When does he expect it to be made available? We all understand what the legal position was prior to the enactment of this legislation. People had contracts of employment and were required to retire. As a concession, they were rehired for a period of one year. Deputies Cowen and Darragh O'Brien would know more about the amendment than me because they were directly involved. The spirit of the amendment was to see if there would be any way that those who wished to remain on beyond a year might possibly be accommodated and if they could avail of the principal benefit of the Bill. I am not getting the sense that there is any likelihood of that.

**Minister of State (**[**Deputy Patrick O'Donovan**](https://www.oireachtas.ie/en/members/member/Patrick-O'Donovan.D.2011-03-09/)**):** I should not, and do not, want to pre-empt the content of the Report. That is not my job. The provision of Section 3A(6) requires that it covers public servants who were forced to retire between 6 December 2017 and the commencement of the Act. It is also very clear that the report is to cover all public servants who reached the compulsory retirement age in that period. It will also have to take into account those who did not avail of the interim arrangements. We have to be fair to everybody.

I am being as honest as I can and the Deputy can take me at face value in this. This was not a simple issue to resolve. Everybody in the House regretted the fact that it had gone on for so long. Everybody regretted that it took so long for the Bill to be brought before the Dáil and the Seanad. Every day that passed before the Bill was brought in here, another person entered the interim arrangements. Unfortunately for a lot of people, they entered the interim arrangements while the Bill was waiting to get a time slot in the House. That was beyond my control. I accepted a suggestion from Deputy Cowen that it be looked at. If there is a solution, it will certainly be considered, but that has to be done in the context of what the Bill set out to achieve, namely, a new age of retirement on 1 January 2019 to allow people to work until they are 70.

**Written Questions**

**Public Sector Pensions**

***Deputy Willie Penrose****asked the Minister for Public Expenditure and Reform his plans in respect of outstanding pension restorations that resulted as a consequence of reduction in pensions during the economic crisis; when pension reductions in respect of public sector workers with pension of under €35,000, under €70,000 and above €70,000, respectively, will be restored in full; and if he will make a statement on the matter.*

[**Minister for Public Expenditure and Reform**](https://www.oireachtas.ie/en/members/member/Paschal-Donohoe.S.2007-07-23/)**:** The unwinding of the emergency FEMPI legislation commenced with the Lansdowne Road Agreement 2016-2018 and will be mostly unwound under the Public Service Stability Agreement 2018 -2020.

The Public Service Pay and Pensions Act 2017, provides for further significant lessening of the impact of PSPR by way of threshold and rate changes to apply on 1 January 2019 and 1 January 2020. When fully in place from the beginning of 2020, these changes will mean that the vast majority of public service retirees, comprising everyone with occupational pension values up to at least €54,000, will be entirely free of PSPR.

Application of PSPR in 2019:

Effective 1 January 2019, the legislated PSPR liability position is as follows:

(i) Pensions awarded in respect of retirements up to end-February 2012:

Only those pensions in this category which have a pre-PSPR value in excess of €39,000 are liable to PSPR in 2019. PSPR is imposed on such pensions by reference to the following:

PSPR in 2019 (pre-March 2012 pensions):

*Annualised amount of public service pension - Reduction*

Up to €39,000 - Exempt

Any amount over €39,000 but not over €60,000 - 12%

Any amount over €60,000 but not over €100,000 - 17%

Any amount over €100,000 - 28%

(ii) Pensions awarded in respect of retirements from 1 March 2012 to 1 April 2019 (the expiry date of the FEMPI 2013 grace period):

Only those pensions in this category which have a pre-PSPR value in excess of €60,000 are liable to PSPR in 2019. PSPR is imposed on such pensions by reference to the following:

PSPR in 2019 (post-February 2012 pensions)

*Annualised amount of public service pension - Reduction*

Up to €60,000 - Exempt

Any amount over €60,000 but not over €100,000 - 3%

Any amount over €100,000 - 8%

Application of PSPR from 2020

Effective 1 January 2020, the legislated PSPR liability position is as follows:

(i) Pensions awarded in respect of retirements up to end-February 2012:

Only those pensions in this category which have a pre-PSPR value in excess of €54,000 are liable to PSPR from 1 January 2020. PSPR is imposed on such pensions by reference to the following:

PSPR from 2020 (pre-March 2012 pensions)

*Annualised amount of public service pension - Reduction*

Up to €54,000 - Exempt

Any amount over €54,000 but not over €60,000 - 12%

Any amount over €60,000 but not over €100,000 - 17%

Any amount over €100,000 - 28%

(ii) Pensions awarded in respect of retirements from 1 March 2012 to 1 April 2019 (the expiry date of the FEMPI 2013 grace period):

Only those pensions in this category which have a pre-PSPR value in excess of €60,000 are liable to PSPR from 1 January 2020. PSPR is imposed on such pensions by reference to the following:

PSPR from 2020 (post-February 2012 pensions)

*Annualised amount of public service pension - Reduction*

Up to €60,000 - Exempt

Any amount over €60,000 but not over €100,000 - 1%

Any amount over €100,000 - 6%

Ministerial order on PSPR to be issued by end-2020

When the PSPR amelioration provisions in the 2017 Act as described above are fully in place from 1 January 2020, only a small number of public service pensions and new pension awards will remain affected by PSPR. Section 27 of the 2017 Act states that the Minister for Public Expenditure and Reform will, no later than 31 December 2020, issue an order which will specify a date for the full removal of PSPR from that residual group of PSPR-affected pensions.

The date so specified in the order will effectively be the date of complete abolition of PSPR.

**Class S PRSI & State Pension**

***Deputy Jackie Cahill****asked the Minister for Finance the way in which a contributory old age pension is treated for taxation for a person that is paying class S PRSI; and if he will make a statement on the matter.*

[**Minister for Finance**](https://www.oireachtas.ie/en/members/member/Paschal-Donohoe.S.2007-07-23/)**:** For individuals to qualify for the Contributory State Pension, they must be over 66 and therefore, are exempt from paying PRSI on their income.However, in relation to the tax treatment of the State Contributory Pension and the taxation of self-employed persons in the context of the question asked by the Deputy, I am advised by Revenue that the position is as follows.

The State Contributory Pension is chargeable to income tax under Schedule E by virtue of Section 19 of the Taxes Consolidation Act 1997.  The Department of Social Protection advise Revenue of individuals who are in receipt of the State Contributory Pension and the amount of the pension paid.  Where Revenue has this information, it will automatically show on the individual’s pre-populated income tax return. Generally, individuals who are self-employed and under 66 pay Class S PRSI and are required to file an annual income tax return.  It must be filed no later than 31 October following the end of the tax year in the case of those taxpayers who file a paper return and not later than mid-November following the end of the tax year in the case of those taxpayers who file their return using ROS.  Details of any taxable payments received from the Department of Social Protection should be either included or confirmed on the annual income tax return.  Any tax due in respect of such payments is payable at the same time as the annual tax return is required to be made.

**Pension-Related Deduction**

**Deputy Michael McGrath** asked the Minister for Public Expenditure and Reform the number of persons paying the pension-related deduction in each year since it was introduced; the revenue received in each year since it was introduced; the number and references to each circular relating to the deduction; the number of pensioners per annum who have received refunds due to the fact they were overcharged since reductions were announced; the value in monetary terms of refunds paid each year; the processes in place to ensure that pensioners are paying the correct additional superannuation contribution level; and if he will make a statement on the matter.

[**Minister for Public Expenditure and Reform**](https://www.oireachtas.ie/en/members/member/Paschal-Donohoe.S.2007-07-23/)**:** All public service employees who have a public service pension entitlement were liable for Pension-Related Deduction and are now liable for Additional Superannuation Contribution, with those earning less than €32,000 in the case of members of a "standard accrual" pension scheme or the Single Scheme, and €28,750 in the case of members of a "fast accrual" pension scheme being exempt from ASC.

It should be noted that PRD and ASC are different to the Public Service Pension Reduction (PSPR) which impacted on pensioners.  PSPR was introduced under the Financial Emergency Measures in the Public Interest Act 2010 with effect from 1 January 2011 and imposed reductions to pensions at levels which varied according to the date of retirement and the pay cut already suffered.

Please see PRD receipts detailed on a yearly basis since its introduction in 2009:

|  |  |
| --- | --- |
|  | PRD Yield |
| Year | Amount (€ millions) |
| 2009 | €837.419 |
| 2010 | €948.605 |
| 2011 | €960.224 |
| 2012 | €934.739 |
| 2013 | €925.986 |
| 2014 | €877.800 |
| 2015 | €875.985 |
| 2016 | €705.998 |
| 2017 | €478.617 |
| 2018 | €522.499 |

Note 1: The years 2011 to 2016 do not include Local Government PRD yields

Note 2: The years 2017 & 2018 do not include the HSE PRD yield.  These figures will be provided directly to Deputy McGrath by the Department of Health.

**Retirement Age**

***Deputy Frank O'Rourke****asked the Minister for Public Expenditure and Reform the timeline and publication date for the report as per section 3(6) of the Public Service Superannuation (Age of Retirement) Act 2018 which commits to a report being laid before the Houses of the Oireachtas within three months of the passing of the Act (details supplied); and if he will make a statement on the matter.*

[**Minister for Public Expenditure and Reform**](https://www.oireachtas.ie/en/members/member/Paschal-Donohoe.S.2007-07-23/)**:** The Public Service Superannuation (Age of Retirement) Act 2018 provides for an increase to 70 in the compulsory retirement age of most public servants recruited before 1 April 2004. Public servants who reached the compulsory retirement age of 65 before the new legislation was enacted were required to retire in accordance with the statutory compulsory retirement age in effect at the time.  Those who availed of the interim arrangements did so in the knowledge that the contract was for one year only, until they reached 66.  The Act has no effect on those public servants who availed of the interim arrangements.  The terms of their fixed term contracts continue to apply and they will cease working at 66 as previously provided.

Section 3A(6) of the Act provides that I, as Minister, shall, within three months of the passing of the Act, prepare and lay before the Oireachtas a report on the public servants obliged to retire between 6 December 2017 and the commencement of the Act, due to reaching 65, and on potential remedies to assist this cohort of worker. Work on the report is under way in accordance with the terms of Section 3A(6).  Under that provision, publication of the report is required within three months of the passing of the Act on 26 December and I intend to comply with that timeline. It would not be appropriate for me to comment on the content of a report which is currently under preparation, not completed, and which I am statutorily obliged to lay before the Oireachtas.

**Parity-Based Public Service Pensions**

***Deputy Seán Haughey****asked the Minister for Public Expenditure and Reform his plans to abolish parity-based public service pension schemes and replace them with pension schemes linked to the CPI; and if he will make a statement on the matter.*

[**Minister for Public Expenditure and Reform**](https://www.oireachtas.ie/en/members/member/Paschal-Donohoe.S.2007-07-23/)**:** I have no plans to abolish existing public service pension schemes. In accordance with the policy adopted when the Single Pension Scheme (SPS) was introduced for new entrants to the public service from 1 January 2013 onwards, pre-existing pension schemes will continue to apply to public servants who are not members of the SPS.The SPS is a career average pension scheme which provides that both the referable amounts that are accrued by serving staff while in employment, as well as pensions in payment, are up-rated in line with changes in the CPI.As part of the Government’s commitment under the Public Service Stability Agreement 2018-2020, the pension increase policy that is currently in place in respect of the pre-existing pension schemes represents a time-limited (expires end-2020), conditions-bound return to the non-statutory, pay-linked method of pension adjustment which prevailed until the onset of the financial emergency.

**Unclaimed Private Pension Funds**

***Deputy Michael McGrath****asked the Minister for Employment Affairs and Social*

*Protection the estimated value of unclaimed private pension funds in existence; the estimated value of unclaimed life assurance funds in existence;*. *and if she will make a statement on the matter.*

[**Minister for Employment Affairs and Social Protection**](https://www.oireachtas.ie/en/members/member/Regina-Doherty.D.2011-03-09/)**:** My Department does not collect data on the value of unclaimed private pension funds, nor does it have any way of estimating the value of such funds.Neither the Department nor the Pensions Authority have powers under legislation to require the disclosure of such information from pension providers.

Unclaimed Life Assurance funds are not relevant to my Department. It would be proper for the Deputy to raise this issue with the Minister for Rural and Community Development.

Wednesday, March 6

No relevant business

Thursday, March 7

No relevant business

**Seanad**

Tuesday, March 5

No relevant business

Wednesday, March 6

No relevant business

Thursday, March 7

No relevant business

**Oireachtas Committee**

No relevant business

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