



**AN BILLE UM AOISLIÚNTAS NA SEIRBHÍSE POIBLÍ
(FORÁLACHA ILGHNÉITHEACHA) 2004
PUBLIC SERVICE SUPERANNUATION (MISCELLANEOUS
PROVISIONS) BILL 2004**

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. New entrant.
3. Removal of compulsory retirement age for new entrants to public service.
4. Compulsory retirement age for new entrants to Garda Síochána.
5. Amendment of Superannuation (Prison Officers) Act 1919.
6. Compulsory retirement age and new entrant fire brigade employees.
7. Compulsory retirement age and new entrants to Permanent Defence Force.
8. Pension schemes, etc., and new entrants to Permanent Defence Force, etc.
9. Non application to Chaplaincy Service.
10. Pensionable age generally.
11. Pensionable age for new entrants to Houses of Oireachtas, etc.
12. Accrual rate for pension purposes.
13. Reckoning for superannuation purposes of service after a specified age.
14. Application to existing pension provisions.
15. Removal of doubts.
16. Short title and collective citation.

SCHEDULE 1

BODIES TO WHICH THE DEFINITION OF “PUBLIC SERVICE BODY” DOES
NOT APPLY

SCHEDULE 2

PART 1

CONSEQUENTIAL AMENDMENTS TO ACT RELATING TO *SECTIONS 2(7)*
AND *11(2)*

PART 2

CONSEQUENTIAL AMENDMENTS TO ACTS RELATING TO *SECTIONS 3*
AND *10*

ACTS REFERRED TO

Civil Service Regulation Act 1956	1956, No. 46
Companies Act 1963	1963, No. 33
Companies Acts 1963 to 2001	
Comptroller and Auditor General (Amendment) Act 1993	1993, No. 8
Data Protection Act 1988	1988, No. 25
Defence Forces (Pensions) Acts 1932 to 1975	
Dentists Act 1985	1985, No. 9
Environmental Protection Agency Act 1992	1992, No. 7
Fire Services Act 1981	1981, No. 30
Freedom of Information Act 1997	1997, No. 13
Harbours Act 1946	1946, No. 9
Harbours Act 1996	1996, No. 11
Health Act 1970	1970, No. 1
Health (Eastern Regional Health Authority) Act 1999	1999, No. 13
Local Government Act 2001	2001, No. 37
Medical Practitioners Act 1978	1978, No. 4
Mental Treatment Act 1945	1945, No. 19
Ministerial and Parliamentary Offices Act 1938	1938, No. 38
Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001	2001, No. 33
National Disability Authority Act 1999	1999, No. 14
Nurses Act 1985	1985, No. 18
Official Languages Act 2003	2003, No. 32
Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1973	1973, No. 22
Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1992	1992, No. 3
Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act 1977	1977, No. 29
Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act 1983	1983, No. 32
Ombudsman Act 1980	1980, No. 26
Ombudsman for Children Act 2002	2002, No. 22
Pensions Act 1990	1990, No. 25
Pensions (Amendment) Act 2002	2002, No. 18
Planning and Development Act 2000	2000, No. 30
Registration of Title Act 1964	1964, No. 16
Superannuation Act 1859	22 Vict., c. 26
Superannuation Act 1887	50 & 51 Vict., c. 67
Superannuation Act 1909	9 Edw. 7, c. 10
Superannuation Act 1914	4 & 5 Geo. 5, c. 86
Superannuation Acts 1834 to 1963	
Superannuation (Prison Officers) Act 1919	9 & 10 Geo., 5, c. 67
Vocational Education Act 1930	1930, No. 29



**AN BILLE UM AOISLIÚNTAS NA SEIRBHÍSE POIBLÍ
(FORÁLACHA ILGHNÉITHEACHA) 2004
PUBLIC SERVICE SUPERANNUATION (MISCELLANEOUS
PROVISIONS) BILL 2004**

BILL

entitled

5
10
15
20
AN ACT TO REMOVE THE COMPULSORY RETIREMENT AGE FOR CERTAIN CATEGORIES OF NEW ENTRANTS INTO THE PUBLIC SERVICE ON OR AFTER 1 APRIL 2004, TO INCREASE THE PENSIONABLE AGE FOR CERTAIN CATEGORIES OF NEW ENTRANTS INTO THE PUBLIC SERVICE FROM THAT DATE, INCLUDING MEMBERS OF EITHER HOUSE OF THE OIREACHTAS AND CERTAIN OFFICE HOLDERS, AND TO MAKE CONSEQUENTIAL PROVISIONS, TO PROVIDE FOR CERTAIN OTHER CATEGORIES OF NEW ENTRANTS, FOR TRANSITIONAL MATTERS AND FOR THE MAKING OF A SCHEME OR SCHEMES FOR THE GRANTING OF SUPERANNUATION BENEFITS TO OR IN RESPECT OF NEW ENTRANTS INTO THE PERMANENT DEFENCE FORCE APPOINTED ON OR AFTER 1 APRIL 2004, AND TO PROVIDE FOR CONNECTED MATTERS.

BE IT ENACTED by the Oireachtas as follows:

25 **1.—(1)** In this Act, except where the context otherwise requires: Interpretation.

“1980 Regulations” means the Civil Service Superannuation Regulations 1980 (S.I. No. 188 of 1980);

“Civil Service” means the Civil Service of the Government and the Civil Service of the State;

30 “death benefit” means a superannuation benefit payable under a public service superannuation scheme on the death of the member;

“European Parliament”, in relation to membership, means membership in respect of a constituency within the State and includes, in respect of former membership, a former member of the European
35 Assembly in respect of such a constituency;

“health board” means—

(a) a health board established under the Health Act 1970,

- (b) the Eastern Regional Health Authority,
- (c) an Area Health Board established under the Health (Eastern Regional Health Authority) Act 1999, or
- (d) the Health Board Executive;

“Minister” means the Minister for Finance; 5

“new entrant” shall be read in accordance with *section 2*;

“preserved benefit” means, in the case of a public servant who leaves before reaching the age for receipt of a pension, a deferred superannuation benefit which is payable at a date later than the date of the public servant’s date of leaving office; 10

“public servant” means—

- (a) a person who is employed by a public service body,
- (b) a member of the Permanent Defence Force,
- (c) a member of either House of the Oireachtas or a member of the European Parliament, 15
- (d) the holder of a qualifying office,

but, subject to *section 2(2)*, does not include—

- (i) the President,
- (ii) a member of the judiciary,
- (iii) the Master of the High Court, 20
- (iv) a taxing master, or
- (v) a county registrar;

“public service body” means—

- (a) the Civil Service,
- (b) the Garda Síochána, 25
- (c) the Permanent Defence Force,
- (d) a local authority for the purposes of the Local Government Act 2001,
- (e) a health board,
- (f) a vocational education committee established under section 7 of the Vocational Education Act 1930, 30
- (g) a body, other than a body set out in *Schedule 1*—
 - (i) established by or under any enactment (other than the Companies Acts 1963 to 2001), or
 - (ii) established under the Companies Acts 1963 to 2001 in pursuance of powers conferred by or under another enactment, and financed wholly or partly by means 35

of moneys provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government,

5 and in respect of which a public service pension scheme exists or applies or may be made,

(h) any body, other than a body set out in *Schedule 1*, wholly or partly funded out of moneys provided by the Oireachtas or from the Central Fund or the growing produce of that Fund and in respect of which a public service pension scheme exists or applies or may be made,

10 (i) any subsidiary of a body to which *paragraph (d), (e) or (g)* relates and in respect of which a public service pension scheme exists or applies or may be made,

15 and reference to “public service” shall be read accordingly;

“public service pension scheme” means an occupational pension scheme or pension arrangement, by whatever name called, for any part of the public service which—

(a) is provided for under the Superannuation Acts 1834 to 1963 or any other enactment to like effect, or

(b) is made by a relevant Minister or which has been approved or requires the approval or consent, however expressed, of either or both a relevant Minister and the Minister,

25 but is not a scheme or arrangement in respect of a body or category of bodies set out in *Schedule 1*;

“qualifying office” has the same meaning as it has in section 13 (inserted by the Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act 1977) of the Ministerial and Parliamentary Offices Act 1938, that is to say—

30 (a) a ministerial office within the meaning of that section as amended by the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1973, or

35 (b) a secretarial office within the meaning of that section as amended by the Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act 1983 and the Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001;

40 “relevant Minister”, in relation to a public service pension scheme, means the Minister or Ministers of the Government responsible for the making or approval of, or granting consent to, such scheme;

“retirement benefit” means a superannuation benefit which is payable on retirement or discharge;

45 “specified fire brigade employee” means a whole-time employee of a fire authority under the Fire Services Act 1981 whose duties include the attendance at fires and whose conditions of employment, as determined by a local authority under section 158(1)(b) of the

Local Government Act 2001, require him or her to retire at 55 years of age;

“subsidiary” means a subsidiary within the meaning of the Companies Act 1963;

“superannuation benefit” means a pension, gratuity or other allowance payable on resignation, retirement, discharge or death to or in respect of a member or former member of a public service pension scheme in accordance with the terms of the scheme. 5

(2) In this Act—

(a) a reference to a section or schedule is a reference to a section of, or schedule to, this Act, unless it is indicated that a reference to some other provision is intended, 10

(b) a reference to a subsection or paragraph is a reference to the subsection or paragraph of the provision in which the reference occurs unless it is indicated that a reference to some other provision is intended. 15

(3) A reference to another enactment is to that enactment as amended or modified at any time by any enactment.

New entrant.

2.—(1) Subject to *subsections (2) to (6)*, reference in this Act to “new entrant” means a person who is not serving in a public service body, or a body to which *Schedule 1* relates, on 31 March 2004 but becomes a public servant on or after 1 April 2004. 20

(2) Where a person is not a public servant (by virtue of the exclusions to “public servant” in *section 1*) but is a person to whom—

(a) *paragraph (i)* of those exclusions relates and such person holds, or had held on or before 31 March 2004, the office to which that paragraph relates, or 25

(b) *paragraph (ii), (iii), (iv) or (v)* of those exclusions relates and such person holds on 31 March 2004 an office or position to which one of those paragraphs relates or to whom *subsection (3)* would apply if the office or position were that of a public servant within the meaning of this Act, 30

then, where such person on or after 1 April 2004 becomes a public servant for the purposes of this Act, then that person shall be deemed not to be a new entrant. 35

(3) Where—

(a) a person on 31 March 2004—

(i) stands seconded from the public service to a body not in the public service, either within or outside the State or both, or 40

(ii) is absent on leave with or without pay from the public service,

and

(b) that person is entitled to resume his or her office or position or another office or position within the public service,

then that person shall not be treated as a new entrant if he or she resumes his or her office or position, or takes up another office or position, within the public service on or after 1 April 2004.

(4) Where—

(a) a person duly receives a written offer of appointment as a public servant before 1 April 2004 and takes up that offer after that date,

(b) a person was serving in a public service body or a body to which *Schedule 1* relates prior to 31 March 2004 and left such an office or position and takes up appointment as a public servant on or after 1 April 2004—

(i) under the same contract of employment, or

(ii) no later than 26 weeks following the last day of service prior to 31 March 2004,

or

(c) a person who immediately before 1 April 2004 stood admitted as a trainee Garda to the Garda College at Templemore,

and where—

(I) but for this subsection, *subsection (1)* would apply to him or her, and

(II) where *paragraph (a)* applies, the terms of the offer of appointment would be contravened if *subsection (1)* were to apply,

then, such person shall not be regarded as a new entrant and the provisions applicable to a public servant shall, but only in so far as the application of provisions relating to retirement age and superannuation, as the case may be, apply in the same manner as to a person serving in the public service on 31 March 2004.

(5) (a) Where before 1 April 2004 a person was a member of either House of the Oireachtas or the European Parliament, or was a holder of a qualifying office, then such person shall not be regarded as a new entrant for the purposes of any superannuation benefit payable in respect of membership of the Oireachtas or the European Parliament or in respect of any qualifying office.

(b) A person who holds or has held the office of Taoiseach shall not be regarded as a new entrant in relation to any superannuation benefit payable in respect of the holding of a qualifying office.

(6) Where on or after 1 April 2004 a public servant who is not a new entrant ceases to serve in a public service body or in a body to which *Schedule 1* relates and does so otherwise than for employment in another public service body or in a body to which *Schedule 1* relates, then that person shall, if he or she subsequently applies for an office or position within the public service, be treated as a new

entrant in respect of such subsequent service unless he or she takes up appointment—

(a) under the same contract of employment, or

(b) as a public servant no later than 26 weeks following the last day of service prior to cessation. 5

(7) For the purpose of supplementing *subsection (5)*, the Act referred to in *columns 1 and 2 of Part 1 of Schedule 2* is amended to the extent specified in *column 3* of that Part opposite the references to the Act concerned.

Removal of compulsory retirement age for new entrants to public service.

3.—(1) Except where otherwise provided for by this Act, a person who is a new entrant to the public service shall not be obliged to retire on age grounds. 10

(2) For the purpose of supplementing *subsection (1)* and *section 10*, the Acts referred to in *columns 1 and 2 of Part 2 of Schedule 2* are amended to the extent specified in *column 3* of that Part opposite the references to the Act concerned. 15

Compulsory retirement age for new entrants to Garda Síochána.

4.—(1) A person who is appointed as a new entrant to the Garda Síochána on or after 1 April 2004 shall cease to be a member—

(a) on attaining the age of 55 years, or

(b) at a later age up to the age of 60 years subject to the Commissioner of the Garda Síochána being satisfied that the member is fully competent and available to undertake, and fully capable of undertaking, the duties of his or her position as a member of the Garda Síochána. 20

(2) For the purposes of *subsection (1)(b)* the Commissioner of the Garda Síochána shall require, at such intervals as the Commissioner considers appropriate, certification as to the health and fitness of the member concerned by a medical practitioner nominated by the Commissioner. 25

(3) For the purposes of *subsections (1)* and *(2)*, where the member concerned is the Commissioner of the Garda Síochána, then references to the Commissioner of the Garda Síochána or to the Commissioner in those subsections shall be read as references to the Minister for Justice, Equality and Law Reform. 30

Amendment of Superannuation (Prison Officers) Act 1919.

5.—The Superannuation (Prison Officers) Act 1919 is amended by substituting the following for section 1(1)(a): 35

“(a) 55 years shall be substituted for 60 years or 65 years, as appropriate, as the age of retirement which without a medical certificate a superannuation allowance may be granted and, accordingly, sections 10 and 11 of the Superannuation Act 1859 (as amended by the *Public Service Superannuation (Miscellaneous Provisions) Act 2004*) shall, in their application to such officers as aforesaid, have effect as if for ‘60 years’ or ‘65 years’ there were substituted ‘55 years’; but where any such officer, other than an officer who is a new entrant— 40 45

5 (i) is covered by the report of Departmental Council,
Department of Justice, known as the Agreed Report
No. 8/1983 which was signed on behalf of the Staff
Side on 21 September 1983 and on behalf of the
Official Side on 3 October 1983, and

(ii) has in aggregate 30 years' service as such an officer,

then '50 years' shall be so substituted instead of '55 years';

10 (aa) 60 years shall be substituted for 65 years as the age at which
preserved benefit (within the meaning of *section 1*
of the *Public Service Superannuation (Miscellaneous*
Provisions) Act 2004, other than in so far as it relates to
a death benefit) can be paid and, accordingly, section 6 of
15 the *Superannuation Act 1909* (as amended by the *Public*
Service Superannuation (Miscellaneous Provisions) Act
2004) shall, in its application to such officers as aforesaid,
have effect as if for '65 years' there were substituted '60
years';".

6.—*Section 3* shall not apply to a specified fire brigade employee
who is a new entrant.

Compulsory
retirement age and
new entrant fire
brigade employees.

20 7.—*Section 3* shall not apply to new entrants to the Permanent
Defence Force other than in respect of new entrants to the Army
Nursing Service.

Compulsory
retirement age and
new entrants to
Permanent Defence
Force.

25 8.—(1) No superannuation benefit shall be granted and no other
arrangements shall be entered into for the provision of such benefit
to or in respect of a member of the Permanent Defence Force who
is a new entrant otherwise than—

Pension schemes,
etc., and new
entrants to
Permanent Defence
Force, etc.

(a) in accordance with a scheme under this section, or

(b) with the consent of the Minister for Defence and the
Minister.

30 (2) The Minister for Defence shall, with the consent of the Mini-
ster, make a scheme or schemes for the purposes of granting super-
annuation benefits to or in respect of members of the Permanent
Defence Force appointed on or after 1 April 2004 who are new
entrants.

35 (3) Every scheme made under *subsection (2)* shall, subject to
section 10(2), fix the time and conditions of retirement for all
members of the Permanent Defence Force to or in respect of whom
superannuation benefits are payable under the scheme and different
times and conditions may be fixed in respect of different classes of
40 such members.

(4) The Minister for Defence may, with the consent of the Mini-
ster, make a scheme amending or revoking a scheme under this
section (including a scheme under this subsection).

45 (5) Every scheme under this section shall be laid before each
House of the Oireachtas as soon as may be after it is made and, if a
resolution annulling the scheme is passed by either such House
within the next 21 days on which that House has sat after the scheme
has been laid before it, the scheme shall be annulled accordingly but

without prejudice to the validity of anything previously done under that scheme.

Non application to Chaplaincy Service.

9.—This Act does not apply to members of the Chaplaincy Service to the Defence Forces and the provisions of the Defence Forces (Pensions) Acts 1932 to 1975 relating to any such member shall continue to apply as if this Act had not been enacted. 5

Pensionable age generally.

10.—(1) Subject to *subsections (2) to (6)* and *sections 5 and 11*, no superannuation benefit other than death benefits shall be paid in respect of service as a new entrant before he or she reaches the age of 65 years. 10

(2) Subject to *subsection (6)*—

(a) where a member of the Permanent Defence Force other than the Army Nursing Service is a new entrant, then no superannuation benefit shall be paid in respect of service as a new entrant before he or she reaches the age of 50 years, other than death benefits, and 15

(b) in the case of members of the Army Nursing Service, *subsection (1)* shall apply.

(3) Subject to *subsection (6)*, where a member of the Garda Síochána is a new entrant, no superannuation benefit shall be paid in respect of service as a new entrant before he or she reaches the age of 55 years, other than death benefits. 20

(4) Subject to *subsection (6)*, nothing in this section shall be read as prohibiting a provision in a public service pension scheme from setting the age at which preserved benefit, other than a death benefit, first becomes payable at an age later than the age at which a retirement benefit is payable. 25

(5) Subject to *subsection (6)*, where a specified fire brigade employee is a new entrant, no superannuation benefit shall be paid before he or she reaches the age of 55 years, other than death benefits. 30

(6) Nothing in this section or *section 3* shall affect any provision by or under any enactment or public service pension scheme which provides for the award of superannuation benefits at a date earlier than that specified in those sections or in the amendments provided for by *Part 2 of Schedule 2*— 35

(a) on the grounds of ill health, or

(b) where it is provided for by the provisions of a public service pension scheme, on 31 March 2004, in the case of compulsory cessor of office or position before 65 years of age, or 40

(c) for any other specified purpose under any enactment or public service pension scheme that applies to a new entrant and is approved by the relevant Minister and the Minister after 31 March 2004. 45

5 **11.**—(1) In respect of a new entrant to whom either or both *paragraph (c)* or *(d)* of the definition of “public servant” in *section 1* relates, no superannuation benefit shall be paid before he or she reaches the age of 65 years other than on grounds of ill-health, death or as provided for by *section 10(6)(c)*.

Pensionable age for new entrants to Houses of Oireachtas, etc.

(2) For the purpose of supplementing *subsection (1)*, the Act referred to in columns 1 and 2 of *Part 1* of *Schedule 2* is amended to the extent specified in column 3 of that Part opposite the references to the Act concerned.

10 **12.**—(1) For new entrants to a local authority the provisions of the Local Government (Superannuation) (Consolidation) Scheme 1998 (S.I. No. 455 of 1998) that provide for any excess of a person’s service over 20 years to be doubled for superannuation purposes do not apply.

Accrual rate for pension purposes.

15 (2) *Subsection (1)* does not apply to a fire brigade employee to whom *section 10(5)* applies.

(3) Section 65 of the Mental Treatment Act 1945 does not apply to new entrants.

20 **13.**—Except where otherwise provided for by this Act and subject to accruing a maximum pension as provided for as of 31 March 2004 by or under any enactment or public service pension scheme, any restriction on reckoning of service for superannuation purposes after a person reaches a specified age shall not apply to a new entrant.

Reckoning for superannuation purposes of service after a specified age.

25 **14.**—The provisions of every public service pension scheme shall be read subject to this Act and every such scheme shall have effect accordingly.

Application to existing pension provisions.

30 **15.**—Where a doubt, question or dispute arises in the operation of this Act in respect of whether or not a person is or is not a new entrant, then such doubt, question or dispute shall be determined by the Minister.

Removal of doubts.

16.—(1) This Act may be cited as the Public Service Superannuation (Miscellaneous Provisions) Act 2004.

Short title and collective citation.

35 (2) The Defence Forces (Pensions) Acts 1932 to 1975, this subsection, *sections 8, 9* and *10(2)* and, in so far as it relates to those sections, *section 1* may be cited together as the Defence Forces (Pensions) Acts 1932 to 2004.

SCHEDULE 1

BODIES TO WHICH THE DEFINITION OF “PUBLIC SERVICE BODY” DOES
NOT APPLY

1. A body which has an occupational pension scheme or arrangement that is made or may be made under the agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland establishing Implementation Bodies done at Dublin on 8 March 1999. 5
2. Aer Lingus Group p.l.c.
3. Aer Rianta c.p.t. 10
4. Arramara Teoranta.
5. Bord Gáis Éireann.
6. Bord na gCon.
7. Bord na Móna.
8. Córas Iompair Éireann. 15
9. Coillte Teoranta.
10. Electricity Supply Board.
11. A harbour authority within the meaning of the Harbours Act 1946 or company to which section 7 of the Harbours Act 1996 relates. 20
12. Horse Racing Ireland.
13. Irish National Stud Company Limited.
14. Irish Aviation Authority.
15. An Post.
16. An Post National Lottery Company. 25
17. Radio Teilifís Éireann.
18. Railway Procurement Agency.
19. Voluntary Health Insurance Board.
20. A subsidiary of any body to which this Schedule relates, including a subsidiary of any subsidiary. 30

PART 1

CONSEQUENTIAL AMENDMENTS TO ACT RELATING TO SECTIONS 2(7)
AND 11(2)

Number and Year	Short Title	Amendment
No. 38 of 1938	Ministerial and Parliamentary Offices Act 1938	<p>Section 13A (inserted by the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1992):</p> <p>in subsection (7), to delete paragraph (b) (inserted by the Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001) and insert the following:</p> <p>“(b) Subject to paragraph (c), none of the following persons are entitled to a pension under this section—</p> <p>(i) a person who is receiving a severance allowance under Part V of this Act, or</p> <p>(ii) a person who—</p> <p>(I) has not reached 50 years of age, or</p> <p>(II) has not reached 65 years of age in the case of a person elected or appointed for the first time as a member of either House of the Oireachtas or the European Parliament on or after 1 April 2004, other than—</p> <p>(A) a person who held a qualifying office before that date without being a member of either House of the Oireachtas or the European Parliament at the time of holding such office, or</p> <p>(B) a person who has held the office of Taoiseach.”.</p> <p>Section 13AA (inserted by the Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001):</p> <p>to delete subsection (11) and insert the following:</p> <p>“(11) Except as provided by subsection (12), none of the following persons are entitled to a pension under this section—</p>

Number and Year	Short Title	Amendment
		<p>(a) a person who is receiving a severance allowance under Part V, or</p> <p>(b) a person who—</p> <p>(i) has not reached 50 years of age, or</p> <p>(ii) has not reached 65 years of age in the case of a person elected or appointed for the first time as a member of either House of the Oireachtas or a member of the European Parliament on or after 1 April 2004, other than—</p> <p>(I) a person who held a qualifying office before that date without being a member of either House of the Oireachtas or the European Parliament at the time of holding such office, or</p> <p>(II) a person who has held the office of Taoiseach.”.</p>

5

10

15

20

25

CONSEQUENTIAL AMENDMENTS TO ACTS RELATING TO SECTIONS 3
AND 10.

Chapter and Regnal Year or Number and Year	Short Title	Amendment
22 Vict., c. 26	Superannuation Act 1859	<p>Section 10 (as amended by the 1980 Regulations):</p> <p>in subsection (1), to delete “who shall be under Sixty Years” and insert “who shall be under 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, under 65 years of age”.</p> <p>Section 11:</p> <p>to delete “attained the Age of Sixty Years” and substitute “attained the age of 60 years or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years”.</p>
50 & 51 Vict., c. 67	Superannuation Act 1887	<p>Section 3 (as amended by the 1980 Regulations):</p> <p>in subsection (5) to delete “before attaining sixty years of age” and insert “before attaining 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years of age”;</p> <p>in subsection (7):</p> <p>(a) to delete “he attains sixty years of age” and insert “that person attains 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years of age”, and</p> <p>(b) in paragraph (a), to delete “sixtieth birthday” and insert “60th birthday or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65th birthday”;</p> <p>in subsection (13), in the definition of “the annual salary and emoluments of his office on his last day of reckonable service”, to delete “attained sixty years of age” and insert “attained 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years of age”.</p>

Chapter and Regnal Year or Number and Year	Short Title	Amendment	
9 Edw. 7, c.10	Superannuation Act 1909	<p>Section 1:</p> <p>in the proviso to subsection (2) after “that age” to insert “but this proviso shall not apply in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies”.</p> <p>Section 2:</p> <p>in the proviso to subsection (1) after “that age” to insert “but this proviso shall not apply in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies”.</p> <p>Section 6 (as amended by the 1980 Regulations):</p> <p>in subsection (1)—</p> <p>(a) in paragraph (a) to delete “having attained sixty years of age” and insert “having attained 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years of age”,</p> <p>(b) in paragraph (b)(II) to delete “attains sixty years of age” and insert “attains 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years of age”,</p> <p>(c) in paragraph (b) to delete “attaining sixty years of age” and substitute “attaining the said 60 or 65 years of age, as the case may be.”,</p> <p>(d) in paragraph (c) to delete “attains sixty years of age” and insert “attains 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years of age ” in both places where it occurs,</p> <p>(e) in paragraph (c)(iv)(I) to delete “had attained sixty years of age” and insert “had attained 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years of age”,</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p> <p>55</p>

Chapter and Regnal Year or Number and Year	Short Title	Amendment
5 10 15 20		<p>(f) in paragraph (d) to delete “attains sixty years of age” and insert “attains 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years of age ”,</p> <p>(g) in paragraph (e) to delete “attains sixty years of age” and insert “attains 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years of age” in both places where it occurs.</p>
25	4 & 5 Geo. 5, c.86 Superannuation Act 1914	<p>Section 4 (as amended by the 1980 Regulations):</p> <p>in subsection (1) to delete “attained sixty years of age” and insert “attained 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years of age”.</p>
30 35 40	No. 46 of 1956 Civil Service Regulation Act 1956	<p>Section 8:</p> <p>to insert the following subsection after subsection (5):</p> <p>“(5A) Subsections (3) and (4) of this section do not apply to a civil servant (other than an officer to whom the Act of 1919 applies) who is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004.”.</p>
45	No. 16 of 1964 Registration of Title Act 1964	<p>Section 9:</p> <p>in subsection (7) after “seventy years” to insert “: but where the Registrar of Titles is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to retire on grounds of age shall not apply”.</p>

Chapter and Regnal Year or Number and Year	Short Title	Amendment	
No. 1 of 1970	Health Act 1970	<p>Section 19:</p> <p>to substitute the following for section 19:</p> <p>“Age limits. 19.—A person who is a permanent officer of a health board shall cease to be a permanent officer on attaining the age of 65 years, or where a higher age is fixed by order of the Minister, on the person attaining that age: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, the requirement to cease to be a permanent officer on grounds of age shall not apply.”.</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p>
No. 4 of 1978	Medical Practitioners Act 1978	<p>Section 18:</p> <p>to substitute the following for subsection (1):</p> <p>“(1) A person who is a permanent officer of the Council shall cease to be a permanent officer on attaining the age of 65 years, or where a higher age is fixed by order of the Minister, on the person attaining that age: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, the requirement to cease to be a permanent officer on grounds of age shall not apply.”.</p>	<p>25</p> <p>30</p> <p>35</p>
No. 26 of 1980	Ombudsman Act 1980	<p>Section 2:</p> <p>in subsection (3)(c) after “67 years” to insert “: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to vacate office on grounds of age shall not apply”;</p> <p>in subsection (7) after “Ombudsman” to insert “: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then this subsection shall not apply”.</p>	<p>40</p> <p>45</p> <p>50</p> <p>55</p>

Chapter and Regnal Year or Number and Year	Short Title	Amendment
5 10 15 20	No. 9 of 1985 Dentists Act 1985	Section 18: to substitute the following for subsection (1): “(1) A person who is a permanent officer of the Council shall cease to be a permanent officer on attaining the age of 65 years, or where a higher age is fixed by order of the Minister, on the person attaining that age: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, the requirement to cease to be a permanent officer on grounds of age shall not apply.”.
25 30 35	No. 18 of 1985 Nurses Act 1985	Section 18: to substitute the following for section 18: “Age limits, etc. 18.—A person who is a permanent officer of the Board shall cease to be a permanent officer on attaining the age of 65 years: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, the requirement to cease to be a permanent officer on grounds of age shall not apply.”.
40 45	No. 25 of 1988 Data Protection Act 1988	Second Schedule: in paragraph 2(2)(c) after “65 years” to insert “: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to vacate office on grounds of age shall not apply.”.
50 55	No. 25 of 1990 Pensions Act 1990	Section 129 (inserted by the Pensions (Amendment) Act 2002): in subsection (4) after “67 years” to insert “: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to vacate office on grounds of age shall not apply”.

Chapter and Regnal Year or Number and Year	Short Title	Amendment	
No. 7 of 1992	Environmental Protection Agency Act 1992	<p>Section 21:</p> <p>in subsection (14)(b) after “sixty-five years” to insert “: but where the Director General is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to vacate office on the grounds of age shall not apply”.</p> <p>Section 24:</p> <p>in subsection (10)(b) after “sixty-five years” to insert “: but where the director is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to vacate office on grounds of age shall not apply”.</p>	5 10 15 20
No. 8 of 1993	Comptroller and Auditor General (Amendment) Act 1993	<p>Section 15:</p> <p>in subsection (2) to substitute the following for paragraph (a):</p> <p>“(a) he has reached the age of 60 years or, where <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies to such person, 65 years, or”;</p> <p>in subsection (6) after “65 years” to insert “: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to vacate office on grounds of age shall not apply”.</p>	25 30 35 40
No. 13 of 1997	Freedom of Information Act 1997	<p>Second Schedule:</p> <p>in paragraph 2(c) after “67 years” to insert “: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to vacate office on grounds of age shall not apply”.</p>	45 50
No. 13 of 1999	Health (Eastern Regional Health Authority) Act 1999	<p>Section 21:</p> <p>in subsection (11) to insert the following for paragraph (b):</p> <p>“(b) A person who is a member of the staff of the Executive serving in a permanent capacity shall cease to be such a member on attaining the age of 65 years: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, the requirement to cease to be such a member on grounds of age shall not apply”.</p>	55 60 65

Chapter and Regnal Year or Number and Year	Short Title	Amendment
5 10	No. 14 of 1999 National Disability Authority Act 1999	Section 25: in subsection (5)(a) after “whichever is the shorter” to insert “: but where the Director is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to cease holding office, on grounds of age, shall not apply”.
15 20 25 30	No. 30 of 2000 Planning and Development Act 2000	Section 105: in subsection (13)(b) after “65 years” to insert “: but where the chairperson is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to vacate office on grounds of age shall not apply”. Section 106: in subsection (13)(b) after “65 years” to insert “: but where the ordinary member is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to vacate office on grounds of age shall not apply”.
35 40	No. 22 of 2002 Ombudsman for Children Act 2002	Section 4: in subsection (3)(c) after “67 years” to insert “: but where he or she is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to vacate office on the grounds of age shall not apply”.
45 50 55	No. 32 of 2003 Official Languages Act 2003	Second Schedule: in paragraph 2(c) of the Irish text after “ar 67 mbliana d’aois a shlánú” to insert “: ach i gcás gur iontrálaí nua é nó í, de réir bhrí an <i>Achta um Aoisliúntas na Seirbhíse Poiblí (Forálacha Ilghnéitheacha) 2004</i> , ansin ní bheidh feidhm ag an gceanglas maidir le héirí as hoifig ar fhoras aoise”; in paragraph 2(c) of the English text after “attaining the age of 67 years” to insert “: but where he or she is a new entrant, within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> , then the requirement to vacate office on grounds of age shall not apply”.



**AN BILLE UM AOISLIÚNTAS NA SEIRBHÍSE POIBLÍ
(FORÁLACHA ILGHNÉITHEACHA) 2004
PUBLIC SERVICE SUPERANNUATION (MISCELLANEOUS
PROVISIONS) BILL 2004**

EXPLANATORY AND FINANCIAL MEMORANDUM

The purpose of this Bill is to give effect to the age related pension reforms for the public service announced in Budget 2004. Following Government consideration of the Report of the Commission on Public Service Pensions, the following age related reforms were announced in Budget 2004 for *new entrants* to the public service with effect from 1 April 2004:

- the minimum age for receiving a pension should generally be 65, and
- there should be no compulsion in the system for people to retire at a particular age if they are fit and willing to remain in employment.

This Bill implements these reforms by amending the relevant primary legislation which provides for a compulsory retirement age or a minimum pension age and by making the necessary overriding provisions in respect of other public service pension schemes. For the operational reasons identified in the Commission's report, there will be a minimum pension age of 55 for new entrant Garda Síochána, Prison Officers and Specified Fire Brigade Employees, as defined in the Bill, and new pension arrangements for new entrants to the Permanent Defence Force. In addition, the Bill contains some provisions consequential to the new age related provisions.

Arrangement of Bill

Section 1: Interpretation

This section provides definitions of particular terms as they apply in the Bill. The definition of *superannuation benefits* which is used frequently in the Bill and in this Memorandum is: “*‘superannuation benefit’ means a pension, gratuity or other allowance payable on resignation, retirement, discharge or death to or in respect of a member or former member of a public service pension scheme, in accordance with the terms of the scheme*”.

Section 2: New Entrant

This section defines the term *new entrant* as used in the Bill. In general, a new entrant to the public service is a person who becomes a public servant, as defined in the Bill, on or after 1 April 2004. However, it does not include staff on leave or on secondment on 31 March 2004 or staff who are serving in the public sector on 31 March 2004 and who subsequently move within the public sector. The definition also excludes a person who has received a written offer of employment prior to 1 April 2004, persons training in the Garda

College and makes provisions to take account of seasonal workers and to disregard breaks in employment of up to six months in determining whether a person is a new entrant.

Section 2(5) also excludes persons, who were members of the Oireachtas or European Parliament or Oireachtas office holders before 1 April 2004, from the definition of “new entrant”. A Taoiseach who first becomes a member of the Oireachtas or European Parliament after 1 April 2004 will also be excluded in respect of his or her office holder’s pension.

Section 3: Removal of compulsory retirement age for new entrants to the public service

This section provides that a person who is a new entrant to the public service shall not be obliged to retire on age grounds. The following *sections 4 to 8* make provision for certain specific groups not covered by this section.

Sections 4 and 5 (Garda Síochána and Prison Officers)

These sections set the minimum pension age at 55 and a maximum retiring age of 60 for new entrant Garda Síochána (*section 4*) and Prison Officers (*section 5*). In the case of the Garda Síochána, a member who is a new entrant will cease to be a member at age 55 but may continue to be a member up to age 60 subject to meeting certain health, fitness and competence criteria.

Section 6 (Fire Brigade Employees)

This excludes specified fire brigade employees from the scope of *section 3*.

Section 7 (Permanent Defence Force)

This section removes the Permanent Defence Force from the scope of *section 3*. New entrants to the Permanent Defence Force are provided for in *section 8*.

Section 8 (Permanent Defence Force — provision for scheme)

This section provides that the Minister for Defence with the consent of the Minister for Finance shall make a superannuation scheme or schemes for new entrants to the Permanent Defence Force and also provides that the Ministers shall approve superannuation terms for the Permanent Defence Force where a scheme may not have been made to provide for those terms. This section also provides for the making of schemes to amend or revoke schemes made under this section.

Section 9: Non application to Chaplaincy Service

This section provides that pension provision for the Chaplaincy Service to the Defence Forces may continue to be made under existing legislation.

Section 10: Pensionable age generally

Subsection (1) provides that no superannuation benefits shall be payable to a new entrant to the public service in respect of service as a new entrant before he or she reaches the age of 65, i.e. a minimum pension age of 65.

Subsection (2) provides for a minimum pension age of 50 for new entrant members of the Permanent Defence Force.

Subsection (3) provides for a minimum pension age of 55 for new entrant members of An Garda Síochána.

Subsection (5) provides for no change in the minimum pension age of 55 for specified fire brigade employees.

Exceptions are provided for death benefits, retirement on grounds of ill-health; compulsory retirement in cases where there is a provision in existing public service schemes or where provided for in a scheme or enactment that applies to a new entrant and which is approved by the Minister for Finance after 31 March 2004.

Section 11: Pensionable age for new entrants to Houses of the Oireachtas, etc.

The purpose of *subsection (1)* is to provide that superannuation benefits for Oireachtas office holders and for members of the Oireachtas or European Parliament will not be payable before age 65 (other than on grounds of ill-health or death or where provided for in a scheme or enactment that applies to a new entrant and which is approved by the Minister for Finance after 31 March 2004) to persons who become members of the Oireachtas or European Parliament for the first time on or after 1 April 2004.

Subsection (1) will not apply, by virtue of *subsection 2(5)*, to persons who do not come within the definition of “new entrant”.

Subsection (2) provides for the appropriate amendment, as detailed in Part 1 of Schedule 2, of the Ministerial and Parliamentary Offices Act 1938 to implement *subsection (1)* in respect of Oireachtas office holders.

Section 12: Accrual rate for pension purposes

This section removes the special fast accrual terms for new entrants to the fire service other than specified fire brigade employees and certain persons employed as new entrants under the Mental Treatment Act 1945.

Section 13: Reckoning for superannuation purposes of service after a certain age

This section removes any restriction on the reckoning of service for pension purposes after a person reaches a specified age. This provision is subject to a person not exceeding the maximum pension threshold and is subject to other provisions in the Act where a maximum retirement age is provided for certain groups such as An Garda Síochána, Prison Officers and Fire Brigade employees.

Section 14: Application to existing pension provisions

This section provides that this Bill, as enacted, will have the effect of overriding the existing relevant provisions of Public Service Pension Schemes.

Section 15: Removal of doubt

This section provides that where a doubt, question or dispute arises in the operation of this Bill as enacted in respect of whether or not a person is a new entrant then the doubt, question or dispute shall be determined by the Minister for Finance.

Section 16: Short title and collective citation

This section contains the short title and collective citation of the Bill.

Schedule 1

This Schedule lists or describes the bodies which are not included within the scope of the age related provisions of the Bill but which are included in the public sector for purposes of employee mobility.

Schedule 2

This Schedule makes the necessary amendments to the Acts set out in the schedule in order to implement the provisions of this Bill. It includes an amendment to remove the penalty in the Civil Service Superannuation Acts whereby the lump sum of a person who serves after a given age is reduced for each year of such service.

Financial Implications

It is estimated in Budget 2004 that the annual savings, which will arise from the introduction of these pension changes, will be of the order of €300m in current terms in 30-40 years time, with some savings being realised earlier than that.

*An Roinn Airgeadais,
Feabhra, 2004.*