

RETIRED AVIATION STAFF ASSOCIATION

COMHLACHAS IAR-FHOIREANN EITILEORACHTA

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To: All members of the Pensions Commission set up in 2020

Josephine Feehily (Chair), Ethel Buckley, Roma Burke, Seamus Coffey, Tony Donohoe,
Dr. Aedín Doris, Jackie Maguire, Ita Mangan, John McGrane, Ian Power, Ann Vaughan.

From: Retired Aviation Staff Association [RASA]

Date: 8th March 2021

Subject: RASA Submission on State Pension & Social Insurance Fund.

RASA, Retired Aviation Staff Association, wishes to respond to your request for views and perspectives from those older adults who are in receipt of a Contributory State Pension [CSP] which are based on their lived experience in order to inform the work of the Pensions Commission.

At the outset RASA welcomes this public consultation and the statement that the Minister for Social Protection has advised the Pensions Commission that current pension rates of payment will not be reduced and current pensioners may be reassured in this regard.

1. Who we represent

Members of RASA are former employees of Aer Lingus and Dublin Airport Authority (formerly Aer Rianta) and are members of the Defined Benefit “Irish Airlines (General Employees) Superannuation Scheme” [IASS]. The average age of pensioners is 74 years (born 1940’s) and includes individuals 90+, early retirees and deferred pensioners who have not yet reached CSP age or the normal retirement age [between 65 and 66] within the IASS occupational pension scheme i.e. before the CSP age. As soon as an employee became permanent and reached the age of 20 they joined the Irish Airlines (General Employees) Superannuation Scheme. Contributions to this scheme were deducted at source from pay. Further background details can be read in correspondence appended to this submission. (See attachment 1 and attachment 2)

The scheme was setup in the 1950s with significant changes during the 1960s and 1970s and was in line with civil service superannuation scheme. It was frozen in January 2015 with no future accruals. Current Irish pensioners [not UK pensioners] in receipt of their monthly

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income had their monthly pension payments REDUCED for LIFE by up to 20% following Irish Government legislation without RESTORATION or buy-out/compensation for these reductions to their monthly income. This is on top of NO cost of living increases being provided in the scheme since 2008 [Irish pensioner members only] and in 2011 further Minister Noonan “Pension Levy” deductions for life.

The average IASS pension is €13,500 and the fund is in surplus and after these cuts the CSP represents a higher proportion of their pension income than before January 2015. Spouse’s pension is 50% of this amount i.e. €6,750 [both men and women but predominantly women]. For a current spouse’s pensioner in receipt of a full CSP entitlement, the CSP would represent nearly two thirds of their annual pension income. The life expectancy of pensioners is lower than actuarially assumed as part of funding proposals in the IASS in the last triennial IASS valuation report to March 2020 [pre Pandemic].

As a service to members RASA organises Information Sessions on a regular basis relating to changes to Older Person’s Social Welfare entitlements mainly following national budgets and other legislative changes. The areas discussed include contribution requirements; mixed class insurances; means tested qualified adult dependents; eligibility; changes proposed in relation to total contribution approach; notice periods for change; family carers allowance; fair deal and other benefits and issues. Individual queries are also addressed.

Attendees at these Information Sessions cover all ages from 55+. Considerable knowledge and experience sharing would take place between pensioners who have been through the process with those yet to go through the process. These experiences at times would not have been Age Friendly and require improvements.

2. Significant changes to Social Welfare over the life-course of our members – Snapshot

In the areas of focus of the Pensions Commission current pensioners have perspectives and lived experiences following significant changes experienced from the start of their working life to drawdown of their Contributory State Pension benefits and entitlements. These would include, amongst others, different social welfare job categorisation involving mix of compulsory contributions PRSI Class A [STAMPS] and voluntary contributions; Irish and Non-Irish employment; part time work; broken employment records; summer work; compulsory retirement; early retirement; voluntary severance; signing on at Labour Exchanges/Social Welfare offices for years before CSP age; errors in records; gender bias; ageism; job/age discrimination/stereotyping; what was counted as credits and what was discounted; the assigned role of women in society; the exclusion of married women from permanent employment contracts and to occupational pensions. Also seasonal summer employment; winter leave; unpaid leave including those on maternity leave period who

‘signed on’ after the ending of maternity Social Welfare benefit [eg.4 weeks/6 weeks in the 1970s] not recognised for credits. These are just a snapshot of some of the experiences.

RASA’s current pensioners who started their employment in the 1950/1960/1970s in their teens/twenties recall these changes made to their Social Welfare deductions from pay towards their Old Age Contributory Pension which at the time was paid from the age of 70. In the early years of their employment their older colleagues would discuss this gap between leaving their employment and when they would receive their Old Age Pension and the importance of having this ‘new’ occupational Aer Lingus Superannuation Scheme set up in the 1950s.

The Contributory Old Age Pension was gradually reduced from 70 years of age over a number of years in the 1970s to age 66 with a Retirement Pension for those over 65 who retired from full time work. The Social Welfare flat rate contribution deduction from pay changed to a partially earnings related system in 1974 to the earnings related system in 1979. We understood that these contributions towards the Contributory State pension from ourselves and the employers were paid into the Social Insurance Fund along with other income levies and health levies paid into general taxation. This is based, we understand, on the principle that there is a direct link between contributions to this Social Fund and Taxation on a ‘pay as you earn’ basis over the years and entitlements to social insurance benefits and reinforced the Social Contract principle between workers, employers, pensioners and the State.

3. Some additional insights following equalisation changes

As you know Contributory State Pension contribution rates and annual year period were different for men and women as was the age for payment in the early years of our working lives. Pay rates for men and women were also different [up to the late 1960s] and the participation rates of women in the organisation were low and concentrated in particular grades/groupings.

These were subsequently changed and equalised over time. Different Social Welfare rules also applied to those who our employer determined was in a job categorised as manual or non-manual. For instance a person determined to work as non-manual employee [e.g. clerical/management] there was an income ceiling where compulsory Social Welfare deductions from pay ceased. However at the time the employer encouraged those individuals categorised as ‘non manual’ to continue paying voluntary contributions so as to remain insured for Contributory Old Age, Widows and Orphans Pensions. Some did and some didn’t. This resulted in individuals having a mix of both compulsory/voluntary contributions that affected the outcome for the State Contributory Pension payment.

Also in 1970 Aer Lingus wrote to the Trade Unions saying.... *Female employees may remain on in employment after marriage rather than be expected automatically to resign as at present and that the pension position will have to be examined very thoroughly.* However at the time it was considered that a number of women would continue to leave employment on marriage because of the financial incentive provided by one of the rules in the Aer Lingus occupational pension scheme that provided for the buy-out of pension entitlements in the form of a lump sum payment up to a maximum of 12 months under the ‘marriage gratuity’ rule. As this rule only applied to women it was abolished in 1975 as part of rule changes relating to equality. However it took a further 20 years for amendments to the rules of the pension scheme to make provision for a Widowers pension – members were told ‘due to cost’!!

Other changes were also occurring in respect of the employment of married women and re-employment for women who decided to leave employment on marriage. It must be noted that women who left on marriage and who subsequently returned to work it was only in a temporary capacity and could not re-join the pension scheme and could not ‘return the marriage gratuity’.

It took a number of years for women’s participation rate in employment to increase and for all the changes to be made. All these changes were implemented in parallel with Social Welfare changes and are reflected in both reckonable service and pensionable service years for individuals.

4. Social Welfare Pension Integration into IASS Defined Benefit Superannuation Scheme.

The Government integrated and permanently connected the Social Welfare Contributory State Pension and RASA pensioners occupational pension scheme when in 1969 the Department of Transport required that the IASS pension scheme be integrated with Social Welfare for all new entrants from April 1970 with options for existing members at the time.

In addition it determined contributions from employers to be reduced so as to be equal to that of the members. This was in preparation for the upcoming compulsory Social Insurance for all employees that required employers to pay more. This increase in employers Social Insurance cost was offset by the reduction in Employer contributions to our occupational pension fund and an increase for employees. RASA pensioners paid both into the Social Insurance Fund towards their ‘future self’ Contributory State Pension and their ‘future self’ occupational pension fund. RASA pensioners experienced at least seven increases in occupational pension contributions during a 45 year period of making contributions that were deducted at source from our salary weekly/monthly. This was to deliver our future occupational pension benefits as per the rules –albeit women experienced some reductions in benefits following equality rule changes. These were in addition to PRSI (Class A).

The push for integration/coordination was in the context that everyone, including all civil/public servants, would be compulsory insured. As we know from history this did not happen until 25 years later.

We append a copy of this letter dated 1969 for your information that outlines the context and shows the distinct link between occupational pension and plans for compulsory contributions towards the State Pension for all employees.

Also appended is a letter from the IASS Pension Scheme to members during 1970 that again gives the context for these changes. You will note that individuals were again encouraged to continue with Social Welfare Stamps voluntary contributions and the importance of this source of income during retirement as this would bridge gaps in the occupational pension.

The letter also shows that IASS rules would be required to change to avoid administration difficulties in respect of Public Sector Transfer Network legislation in 1963.

5. Gap between leaving employment and Contributory State Pension and occupational pension; Notice period for change; mandatory retirement

Over four decades to 2015 Aer Lingus/DAA had numerous voluntary redundancies and early retirement programmes. All of these schemes resulted in individuals leaving employment before normal retirement age for occupational pension, (60 for women and 65 for men) and before date on employment contract retirement [if any] which again ranged from 60 to 65 or earlier for senior managers. With all of these restructuring programmes the average length of service is low. The effective retirement age of employees was well under 65 for men and 60 for women and the occupational pension scheme was actuarially funded to reflect this and strain costs on employers was based on actuarially funded earlier retirement ages.

As a result of these numerous programmes pensioners experienced a gap between leaving employment and 'signing on' and being 'available for work' before drawing down either the Retirement Pension/Transitional Pension. Depending on the personal circumstances of leaving most individuals found that this experience was not 'Age Friendly'; very difficult to navigate in terms of 'what next'; paperwork; entitlements and others. Some senior managers said they learnt more about the Social Welfare system while queuing at the Labour Exchanges/Social Welfare office than from any booklet and they were able to share with their former colleagues during these difficult times.

At the time of the global and banking crisis in 2008 there were other significant changes within the thinking of the employers towards supporting the occupational pension scheme. Firstly employers no longer offered early retirement programmes and individuals closer to normal retirement age remained in work till they choose to leave employment and this was followed by closing the scheme to future accruals. Those who were made redundant or left under voluntary severance schemes found it very difficult to get alternative employment in an

environment of age discrimination even though under Equal Status legislation individuals could not be discriminated on the basis of age.

Based on our lived experience current pensioners are of the view that as there is no statutory retirement age in Ireland mandatory retirement ages in employment contracts should be abolished as called for by various advocacy groups for older persons and Citizens Assembly. We are of the view that this will also reduce the increasing number of individuals taking age discrimination cases against their employer in order to protect their right to work.

RASA pensioner members have also experienced benefit reductions with both short and long notice periods. Just one such example of a long period was in the early 1990s with the equalisation of normal retirement ages for men and women within IASS occupational pension scheme. Up to December 1992 normal retirement age for women is 60 and 65 for men and overnight women's pensionable service and draw down of their pension benefit at age 60, without employers consent on leaving employment, changed to 65 for all Irish female members but not for UK female members. The difference between men and women in terms of stated normal retirement ages in the rules was deemed to be null and void for equality reasons.

The 1950 rules did provide for women and men to work past their normal retirement ages and continue making financial contributions to the fund up to normal retirement age even if they reach maximum pensionable service of 40 years with no additional pensionable service years being accrued.

This sudden change was challenged by individual female scheme members at the time. Females in similar situations in other schemes in other EU jurisdictions also challenged this interpretation and cases went to Europe where clarity was provided in a judgement of the European Court of Justice. This judgement is reflected in Social Welfare and Pensions legislation and in practice in the IASS occupational pension scheme. This legislation determined that this difference in normal retirement ages for men and women remain in place for 25 years i.e. up to December 2018 where women who left their employment can receive their accrued respective benefit at age 60. For instance a person who started making contributions for their future pension at age 20 with accrued 20 years pension at age 40 at the time of the rule change in 1992 kept this benefit right to receive their pension entitlement without employers consent at age 60. We would refer you to this legislation.

Therefore, based on pensioner members' experience, RASA is of the view that any significant and fundamental changes being considered that result in benefit reduction should not apply to those who are already in receipt of their Contributory State Pension and other entitlements.

We consider that this has to be stated because of our more recent experience of unilateral reductions to our occupational pension income for life in January 2015. The reassurance provided by the Minister for Social Protection not to reduce current pension rate for State

Pensions is very welcome but is in complete contrast when the Minister introduced legislation unilaterally in 2013/2014 to reduce our occupational pension monthly income. (Please refer to attached letters).

RASA is also of the view that future pension benefit changes should have long periods of notice and not short notice.

In general trying to keep up with all of the changes to our benefits during our working life was challenging and now as we age it is still very difficult. Recent reductions in income, increasing cost of living for instance health and social care, has introduced anxiety around income security. The majority of RASA pensioners pay Private Health Insurance and over the last 10 years have seen massive increases where some of our pensioners are paying close to 30% of their Contributory State Pension in 2021 – an increase from 11% in 2008.

RASA is of the view that the Contributory State Pensions should increase in line with the costs of living for older pensioners as older persons costs are different, especially health and social care costs, to that which are included in the Cost of Living basket.

6. Social Contract and Trust

Pensioners trusted the system to some extent and placed a high value on the Social Contract. They trusted that they would receive their social insurance benefits and entitlements following up to 45/50 years of financial contributions for these benefits but now find that these were attacked to settle a short term crisis.

As mentioned at all times current pensioners and their employer have made contributions on a ‘pay as you earn’ basis and voluntary contributions throughout their working life towards their State Contributory Pension and other benefits. We have lived and worked on the assumption of a social contract and ‘trust’ and that the rules would not be broken, certainly not at short notice or within a few years of receipt of both their State Contributory Pension and/or their Social Welfare integrated occupational pension.

These financial contributions were paid for Contributory State Pension into the Social Insurance Fund and general taxation we understood. The continuation of this ‘social contract’ and trust is imperative for current RASA pensioner members in respect of their Contributory State Pension and their Defined Benefit occupational pension. Once this trust is broken it is difficult to repair and rebuild.

In this context over the last few years RASA pensioners are of the view that this trust based ‘social contract’ would appear to have been broken and diminished, the narrative and the language has changed and reframed especially in terms of benefit reductions, the notification periods for changes for Contributory State Pension, delaying payments and others.

We have also observed what we would consider to be very negative language and attitudes towards older adults/pensioners as being portrayed as a 'burden on younger populations' and it is today's employees who are paying for today's pensioners. We are very disturbed and surprised by this portrayal in documents. It completely ignores the financial contribution made throughout our life course towards our own Contributory State Pension and other social benefits as briefly outlined to you above.

We hope the Pensions Commission will recognise the value of our older population throughout all of our working life both as employees or self employed, paid and unpaid caring roles and that their benefit entitlements are both protected and not attacked as 'easy targets' with no voice at the table, as experienced recently. We continue contributing to society, social and economic life.

We would again like to thank the Department of Social Protection for the opportunity to make a submission in relation to this very important process.

We would be pleased to further discuss any aspect of this submission, by phone or virtually.

If you wish to follow up with us on any of these matters please do not hesitate to contact us.

Regards,



Arthur McSwiney, Chairman

Attachments:

- 1 - 1969 Letter from Minister for Transport and Power
- 2 - 1970 Letter to employees regarding Social Welfare integration
- 3 - 2021 Industrial Relations Bill RASA Letter to TD Brid Smith
- 4 - 2021 Letter re Pension Levy to Ministers

[Urgent Contact: Paddy Kilduff, Secretary RASA Pension S/Cte: 086-820 7465;
paddykildyff@ymail.com]

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DUPLICATE COPY SENT TO
(Dublin 2).

22 Meán Fómhair, 1969

A Chara,

I am directed by the Minister for Transport and Power to refer to previous correspondence (your ref. AGMP & P 321) regarding your Company's General Employees Superannuation Scheme.

As has already been indicated in previous correspondence and discussions considerable objection is seen to the proposal to change the basis of the Scheme from calculation of superannuation in 80ths and lump sum in 40ths, to 60ths with optional commutation of up to one quarter of the pension, along with death in service benefits.

These changes as well as other benefits proposed, such as a widow's pension on death in service of one half the members accrued pension calculated in 60ths subject to a minimum of 25% of salary, and a pension on ill-health retirement of a minimum of 25% of salary, provide the staff with benefits superior to those available to other employees in the public sector. While it appears that these benefits can be financed from an actuarially derived surplus in the fund it must be stressed that the surplus arises not so much from contributions paid by the members as from an initial payment of £50,000 to the Fund by the Company, an excess of 1% in the Company's contribution rate over the members' rate (representing a capital value of £500,000) and the policy of the trustees of the Fund of investing outside this country, a policy in conflict with the Governments' aims and on which the Minister for Finance has already adversely commented.

Following careful consideration of the amendments proposed the Minister is prepared, with marked reluctance, to accept them in general. There appears, however, to be an inadequate appreciation of how the surplus arose in the fund and accordingly it is an essential condition of sanction that, for the future, in the event of an increase in contribution rates being required or of a distributable surplus arising in the fund, the total contribution charges are first split equally between employer and employee, any future alterations in charges to be effected similarly on a strict 50/50 basis. In addition the following modifications are required:

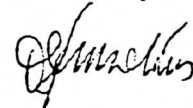
- (a) the age limit of 45 years for entry to the Scheme to be removed, otherwise difficulties could arise in administering the transfer provisions of the Superannuation and Pensions Act 1963;
- (b) transfers under the Act must be directly from one pensionable employment to another and accordingly Rule I of Part IX of the scheme will require amendment;
- (c) co-ordination with Social Welfare benefits to be applied to all future entrants with an option for existing members.

As regards widows pensions the Minister is strongly of the opinion that an award should not exceed one half of the husband's pension calculated by reference to actual service

at the date of death and potential service to age 65 without any guaranteed minimum pension as proposed. The grant of potential service in these cases is a substantial benefit for the public service and the Minister does not see any strong case for further enhancing the benefit for Aer Lingus employees, especially since pension will be calculated by reference to 60ths. Indeed, it is considered there are very good grounds for bringing these widows pensions strictly into line with the rest of the public service i.e. on the basis of 80ths, applying the benefit to pensioners widows as well as to members widows and withdrawing the provision for guaranteed payment of pension. If it is not feasible at this stage to adopt the normal provisions for widows it is considered, nevertheless, that the limitation of service to age 65 and withdrawal of the minimum rate of pension should be implemented. Your Company's agreement to this course is sought.

Finally, it would be desirable, in order to moderate present and future contribution costs and the cost of future pension increases that, in changing to 60ths, awards should be based on salary averaged over the last three years of pensionable service. The Minister would welcome acceptance of this proposal.

Mise, le meas,



Micheál Uas. Ó Riain,
Ard Bhainisteoir Cúnta
(Pearsain & Pleanáil),
Bosca P.O. 180,
Aerfort Átha Cliath.

sc

IRISH AIRLINES (GENERAL EMPLOYEES) SUPERANNUATION SCHEME

Secretary's Office

31 August 1970

CO-ORDINATION OF PENSIONS WITH SOCIAL WELFARE BENEFITS

Dear Member

With the recent growth of interest in the subject of pensions, you may have found yourself thinking about what it costs in total to provide for reasonable financial security in your later years. You may also have wondered if there is any way of reducing this cost, while still ensuring that you will have an adequate income in the years after you retire.

THE COST OF PROVIDING FOR RETIREMENT

As a member of the General Employees Superannuation Scheme you contribute, at the moment, 5% of your pay each week or each month. If you earn £20 per week, it costs you £1 from your weekly pay packet to provide for your pension - and the cost grows as your pay rises.

If you are a compulsory contributor to Social Welfare Insurance, you are at present paying 12/10d. per week (11/8. if you are a woman) in respect of benefits which include the Contributory Old Age Pension. Or you may be a non-manual worker with pay in excess of £1,200 a year who has continued as a full voluntary contributor to Social Welfare. In this case, you are paying 10/10d. per week so as to remain insured for Contributory Old Age, Widows' and Orphans' Pensions. All rates of contribution are expected to increase from October 1970.

You will see, therefore, that the total cost of providing for your retirement is high, if you are making contributions both to our Scheme and to Social Welfare. Of course it should be remembered that, as a Social Welfare contributor, you will receive a pension from the State in addition to the pension you will get from our Scheme.

WHAT DOES CO-ORDINATION MEAN?

When the Rules of the General Employees Scheme were revised recently, new Rules were introduced to provide for "co-ordination" of pensions with Social Welfare Benefits in the case of members resident in Ireland. Members joining the Scheme after 1 April 1970 are required to "co-ordinate" their pensions. Existing members of the Scheme as at 31 March 1970, who are at present either compulsory contributors or full voluntary contributors to Social Welfare, have the option of doing so. Voluntary contributors to Social Welfare, who are paying 5/3d. per week so as to be covered for Widows' and Orphans' Pensions only, do not have this option.

Basically what the new Rules mean is that, if you opt for co-ordination, then:-

- (1) your weekly or monthly contribution to our Scheme will be reduced by a fixed amount as decided each year by the Trustees acting on the advice of the Actuary;
- (2) you will be required to continue as a voluntary contributor under the Social Welfare Acts should you cease to be compulsorily insured under these Acts;

.../over

and (3) your pension from our Scheme will be reduced by the equivalent of the State Contributory Old Age Pension payable in respect of a single man or woman at the time you retire.

For the current financial year the Actuary has calculated that the reduction in contribution payable by a member, whose pension is being "co-ordinated", shall be 3/- per week. This amount represents approximately the amount which is paid each week to Social Welfare in respect of an individual's Contributory Old Age Pension.

The current State Contributory Old Age Pension for a single man/woman is £4.2.6. per week commencing at age 70. This figure will increase to £5.0.0. per week from October 1970 and, at the same time, a new retirement pension of £4.10.0. per week for a single man/woman will be introduced, commencing at age 65.

WHAT SHOULD YOU DO NOW?

If you were a member of the General Employees Scheme at 31 March 1970 and were either a compulsory or voluntary contributor to Social Welfare, you may elect to have your pension co-ordinated with Social Welfare benefits by completing the attached form and returning it so as to reach me not later than Wednesday 30 September 1970. If a completed form is not received from you by close of business on that date, I will take it that you do not wish to "co-ordinate" as provided for in the amended Rules of the Scheme.

You may have some difficulty in making up your mind about completing the form. If you need any information or guidance, please call me on extension 2570 or talk with one of the members of the Superannuation Committee. Their telephone extensions are as follows:-

John O'Neill	2449	John King	787
D F Daly	2416	T B Murphy	550
P L Gibson	2672	W Kelly	617
Peter O'Brien	2517		

The Committee consider that members of the Scheme as at 31 March 1970, who are also contributors to Social Welfare, would be best advised not to co-ordinate, particularly where a member is going to have less than a full 40/60ths pension from our Scheme. Remember that whatever pension you receive from Social Welfare will help to bridge any gap which may exist in the pensionable service standing to your credit here.

Yours sincerely



M L Slater
Secretary

RETIRED AVIATION STAFF ASSOCIATION

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Pension Related Emails: rasapension@gmail.com



Brid Smith, TD.
Oireachtas,
Leinster House,
Dublin 2

Sent by email to brid.smith@oireachtas.ie

11 January 2021

Dear Brid

Thank you for sending on the latest version of your Private Members' Bill. We are very pleased that this whole area is now being considered again. We hope time will be put aside for discussion and debate in the Dáil and that all of the issues are aired and pressure put on the Oireachtas to make changes that bring us to provide for retired pensioners in trust based schemes such as the Irish Airlines (General Employees) Superannuation Scheme [IASS] to have negotiating rights, not just a consultation exercise of ticking the boxes, and be at the table negotiating any proposed changes to our monthly income.

The recent High Court judgement in our case [Para 229] did accept that our interest in the Trust does afford us a property interest and as such a property right enjoying constitutional protection and that the IASS is a Defined Benefit scheme and a cross border scheme. Under IORPI this cross border scheme has to be fully funded at all times

However, even with this property right the voice of older people in receipt of their monthly income from our Defined Benefit scheme is ignored. Since January 2015 our monthly income is reduced unilaterally without our consent. It is a case of **'Everything about Us without Us.'** We need **'Nothing about us Without Us.'**

We followed your questions in the Oireachtas in October 2019 on this issue and the responses. This occurred at the time when RASA pensioners were awaiting the outcome of a 5 year High Court hearing regarding the reductions to our pensions in payment without any financial compensation for this benefit cut unlike the other members of this Defined Benefit scheme and amounts to c€36m to the end of 2020 and has cost us an additional c€3m to take to the High Court to try to get our voice heard.

The judgement was delivered electronically in the middle of a pandemic and public health restrictions in June 2020 just one year after the end of the High Court hearing. Unfortunately the judgement was in favour of the State. Mainly due to

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further costs and other constraints the judgement is not being appealed by the pensioners whose average age is 78 years and range right up to the 90+ years. However we are still of the firm conviction that the current cuts to our monthly income that we are still suffering should not have taken place unilaterally and without our consent.

The judgement refers frequently to the Industrial Relations process that brought about the cuts to the monthly income of Daa/Aer Lingus pensioners e.g. Para 252 *the overall parameters of what was eventually accepted as a resolution to this {deficit} issue, was arrived at relatively early within the process. These parameters appear to have emerged from within what I have described as the industrial relations arena...* and Also ...Para 253... *that the defendants {the State} having, as their starting point, the intent to effect the changes that ultimately occurred but rather seeing a huge pension deficit....*and Para 256 '....*the legislation was designed to deal with the agreements arrived at between the various groups....*

This outcome and agreement is summarised in the judgement in Para 6(a)...*the actives and the deferred were thereafter no longer members of IASS. Their respective interests were transferred to a new separate pension scheme, which included a financial contribution from Aer Lingus and DAA. And (b) ... The pensioners interests remained in IASS. In respect of those pensioners, there was no additional financial contribution to the Scheme and there was a reduction in their pension entitlements as follows.....* The judgement goes on to outline the reductions to our monthly incomes/pensions in payment that were applied following the amendments to the Social Welfare and Pensions Act in December 2013. It also reflects in Para 86... *the amendments to S50 itself are somewhat difficult to follow.* [For clarity we would like to point out that active and deferred members remain in the IASS pension scheme and it was the reduction to their respective future pension benefits entitlement that were transferred out to new separate pension schemes with a financial transfer value contribution from the employers Aer Lingus and DAA. No such financial contribution was provided to the respective reductions to our current actual monthly income.]

We were not one of the **groups** referred to in the judgement that arrived at this outcome. These monthly income cuts are more severe, at up to 22.53% inclusive of Minister Noonan Pension Levy, than those for retired public servants legislated for under FEMPI and now being restored. Unlike public servants pensioners there has been NO RESTORATION that has to be delivered within a negotiated and statutory timeframe. The judgement recognises that DAA/Aer Lingus Pensioner members in the IASS pension scheme are former employees of significant state organisations and the IASS pension scheme was drafted and considered as if it were a civil service pension scheme, or certainly analogous to it. The average pension income from the IASS of just under €13,500 per annum and the cuts applied to all of this pension income.

If we were at the Industrial Relations table we would have been able to highlight the severe intent of the changes to our monthly income and there would have been no

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surprises at the extent and impact of these cuts that were expressed during the High Court case. The judgement does extensively highlight how pensioners were excluded from the Industrial Relations and other State Machinery processes and not involved in decisions made that resulted in these reductions for life with the possibility of more to come. It also reflects that the ultimate resolution would likely have required a certain degree of coordination and it is also clear that there were significant legal resources utilised in dealing with the situation. This also involved the provision in legislation such as the Shannon Act for additional indemnity for Trustees.

We were not involved in the outcome and considered not to be stakeholders by the State, employers, trustees or trade unions as we were no longer employees and part of the Industrial Relations process. The outcome has so far resulted in a cumulative reduction to our monthly income of c€36m or ongoing €6m per annum. We are the only pensioners in an active Defined Benefit pension scheme that has had their actual monthly basic pay cut and this is on top of no cost of living increases in the scheme for Irish pensioners since 2008. This is for life.

These monthly income cuts were deemed to be enacted using Social Welfare and Pension legislation 2009 and further Dáil approved amendments in 2013 that provided for a Section 50 funding proposal to be signed by DAA/Aer Lingus/SAA and Trustees to the Pension Regulator. The judgement reflects that the Pension Regulator stated that the Pension Act section 50 funding proposal ultimately signed by the employers and the trustees would not have had a reasonable chance of restoring solvency without the enactment of the Shannon Act and that the senior officials of the Pensions Policy Unit of the Department of Social Protection and the Aviation Services and Airports Division of the Departments of Transport, Tourism and Sport did not see what were the effect of what the changes to pensioners income that were negotiated by the employers, trustees and trade unions supported by the Government through the Industrial Relations machinery.

The introduction of your Private Members Bill at this stage is very appropriate and timely as there are a number of significant pension changes imminent. For example IORPII directive has to be transposed into Irish law but this has been delayed for over a year with the Department of Social Protection indicating that the Pensions Authority will be providing some new Codes of Practice for trustees and industry stakeholders on a new regulatory regime – sometime in 2021.

We attach for your information a recent Pension Authority Defined Benefit engagement programme findings report. You will note under Trustee Board engagement with members it comments that this tends to be a 'box ticking' exercise, while in the Appendix that the risks arising from changes proposed were only identified for active and deferred pensioner members i.e. future pensioners and nothing about the risk due from the current Social Welfare and Pension legislation to those in receipt of pensions and that the current set up under Section 50 is just another 'tick the box' /after the fact exercises.

Promoting and protecting the interests of pensioners

Again all this reinforces a non-inclusive attitude towards pensioners in receipt of benefit under the trust and ignores our rights.

In summary we very much welcome this Private Members Bill and hope all the experience of trying to get a voice at the table and the High Court and its outcome is taken into consideration. There should be **'Nothing About Us without Us.'**

Please feel free to contact us if you require any further information or clarity and we would appreciate if you could also let us know when this has been finalised and going to the Oireachtas.

Thank you,



Arthur McSwiney

Chairman

For urgent contact please use paddykilduff@ymail.com or 086-820 7465

Attachment:

Pension Authority Defined Benefit engagement programme findings report

RETIRED AVIATION STAFF ASSOCIATION

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21st January 2021

To: *[all sent by email]*
Heather Humphries TD, Minister for Social Protection, Community and Rural Development
and the Islands
Michael McGrath TD, Minister for Public Expenditure and Reform
Paschal Donohoe TD, Minister for Finance
Eamon Ryan TD, Minister for Transport
Willie O'Dea TD
Brid Smith TD

Cc:
Micheál Martin TD, Taoiseach
Leo Varadkar TD, Tánaiste and Minister for Enterprise, Trade and Employment
Darragh O'Brien TD, Minister for Housing, Local Government and Heritage
Jim Foley, Trustee Chairman IASS
Paul Kelly, Trustee Chairman, The First Aer Lingus Supplementary Scheme

PENSION LEVY - RESTORATION

In 2011 the Minister for Finance, Michael Noonan imposed a Stamp Duty Levy on privately funded pension schemes. It was supposed to be a temporary measure for four years from 2011 to 2014. However it was not terminated in 2014 and continued in 2015 when it was also reclassified as a Recurrent Tax on Wealth.

As a result of this tax the Government's Pension Levy generated €2.4 billion and outperformed expectations. It added significantly to the Government surplus and improved the financial and economic position of the State. This money was taken out of private pension funds and the pockets of pensioners on the basis that it was designed to fund job initiatives and to claw back some of the 'generous tax reliefs' to pension arrangements for those who saved for and funded their pension from their hard earned money. The impact of this on private pension schemes, mostly Defined Benefit schemes, added to the difficulties of many pension schemes. Hundreds of Defined Benefit schemes have restructured, closed to new members or have shut entirely.

The Aer Lingus/DAA pension fund (IASS) suffered from this Pension Levy. Some €39 million was taken. We today, the IASS pensioners, are still paying this 2.53% tax on our pension in the form of a **reduction** from our monthly income for this so called **temporary levy**.

This is on top of another attack to our property interest in our Defined Benefit pension scheme when there was a further **reduction** of up to 20% of our monthly pension income with effect from January 2015 following more Government legislation in 2013/2014. To date, these reductions amount to €36 million cumulative and are ongoing. Since 2008 there have been no cost of living adjustments within the IASS scheme either.

These monthly income **reductions** on pensioners in their seventies and older and for life are more severe, at up to 22.53% inclusive of Minister Noonan Pension Levy, than those for retired public servants legislated for in and around the same time under FEMPI. At the time the impact of these reductions in a scheme where the average annual pension is €13,500 did not appear to be understood or intended by those who were involved in this decision to reduce our monthly income without us – a case of *Everything about us Without us*. Public servants pensioners have had their pension levy **deductions** under FEMPI restored or are in the process of being completely restored within a short while.

Therefore RASA pensioners are of the view that now is the time for this temporary levy to be reversed and direction and/order given for the cessation of these reductions made to our pensions by this **temporary levy**.

Minister, what happened to Committee on Pensions set up by the previous government to examine the rules governing Private Pension funds and the duties of sponsoring employers and trustees? I await in anticipation your reply.

Regards,



Arthur McSwiney
Chairman

For urgent contact please use paddykilduff@ymail.com or 086-820 7465