

**Public Service Superannuation (Age of Retirement) Bill 2018**

**REGULATORY IMPACT ANALYSIS**

**June 2018**

<b>SUMMARY OF REGULATORY IMPACT ANALYSIS (RIA)</b>		
<b>Department:</b> Department of Public Expenditure and Reform		
<b>Title of Legislation:</b> Public Service Superannuation (Age of Retirement) Bill 2018		
<b>Stage:</b> Publication		<b>Date:</b> June 2018
<b>Related Publications:</b> Report of Interdepartmental Group on Fuller Working Lives Report of Review of Barriers to Extended Participation in the Public Service Workforce		
<b>Policy options considered:</b>  <ol style="list-style-type: none"> <li>1. Do nothing</li> <li>2. Non-legislative option: enable public servants to remain at work after retirement on fixed term contracts</li> <li>3. Limited legislative amendment (increase the compulsory retirement age for public servants recruited prior to 1 April 2004)</li> <li>4. Comprehensive legislative amendment (standardise compulsory retirement age across the public service)</li> </ol> <p><b>Preferred option:</b> Option 3 is the preferred option. It provides a solution to the most significant issues raised in the course of the Review of Barriers to Extended Participation in the Public Service Workforce. It avoids the legal constraints and administrative overhead associated with Option 2 and respects the legal advice associated with Option 4.</p>		
<b>OPTIONS</b>		
<i>Costs</i>	<i>Benefits</i>	<i>Impacts</i>
<b>Option 1</b>		
• None	• None	<ul style="list-style-type: none"> <li>• Continued difficulty for public servants experiencing a “pension income gap”.</li> <li>• Retirement age policy in the public service will fail to keep up with rising life expectancy and the reported desire of public servants for longer working lives.</li> <li>• Does not support the Government policy of encouraging longer working lives.</li> </ul>
<b>Option 2</b>		

<ul style="list-style-type: none"> <li>• An individual administrative burden will be created for each public service body</li> </ul>	<ul style="list-style-type: none"> <li>• Achieves aim of enabling extended participation in the public service workforce, without the need for legislation</li> </ul>	<ul style="list-style-type: none"> <li>• From a legal perspective, it is not appropriate for compulsory retirement ages provided in legislation to be by-passed by way of widespread use of fixed term contracts.</li> <li>• Difficult to ensure consistency in the application of administrative arrangements across public service.</li> <li>• Pension accrual would not be possible in the context of an administrative solution. Legislative amendment is required for that to be possible.</li> <li>• Does not provide a robust response to the issues around compulsory retirement age raised during the course of the review</li> </ul>
<p><b>Option 3</b></p>		
<ul style="list-style-type: none"> <li>• Significant time investment by Department Officials and the Office of the Parliamentary Counsel</li> </ul>	<ul style="list-style-type: none"> <li>• Resolves difficulty being experienced by those public servants experiencing a “pension income gap”</li> <li>• Achieves the majority of the objectives for change set out in this paper</li> <li>• Enables a cohort of public servants who feel they have more to contribute to remain at work past the age of 65</li> </ul>	<ul style="list-style-type: none"> <li>• Does not address the anomaly whereby “new entrants” do not have any compulsory retirement age</li> <li>• Continued inconsistency in retirement age provisions across the public service</li> </ul>
<p><b>Option 4</b></p>		
<ul style="list-style-type: none"> <li>• Contrary to Legal Advice</li> </ul>	<ul style="list-style-type: none"> <li>• Consistency and fairness</li> <li>• Anticipates problems that might be caused in future by the increasing age profile of “new entrants”, who have no compulsory retirement age</li> </ul>	<p>Runs counter to legal advice that to impose a change on this cohort would be an interference with their rights under statute.</p>

## **REGULATORY IMPACT ANALYSIS (RIA)**

### **1. Purpose**

This Regulatory Impact Analysis (RIA) examines the proposed Public Service Superannuation (Age of Retirement) Bill 2018, which increases to age 70 the compulsory retirement age for most public servants recruited before 1 April 2004, in accordance with Government Decision of 5 December 2017.

### **2. Background Reviews leading to Current Legislative Proposal**

The Interdepartmental Group on Fuller Working Lives, which was chaired by the Department of Public Expenditure and Reform, was established in January 2016 to examine the implications of prevailing retirement ages for workers in both the public and private sectors, and to recommend a set of framework principles to Government aimed at supporting fuller working lives. The group produced a report which was agreed by Government in August 2016. One of the recommendations of that report, which is available on the [www.per.gov.ie](http://www.per.gov.ie) website, was that the Department of Public Expenditure and Reform, with public service employers, should review the current statutory and operational considerations giving rise to barriers to extended participation in the public service workforce.

The review with public service employers was carried out by the Department of Public Expenditure and Reform in 2017, based on a Discussion Document prepared by the Department which examined all of the issues surrounding compulsory retirement age in the public service and raised a number of key questions to be considered in the course of the review. The review was carried out in consultation with the following public service employers:

- Health Sector (Department of Health and the HSE);
- Local Government Sector (Department of Housing, Planning, Community and Local Government);
- Defence Sector (Department of Defence);
- Garda Síochána (Department of Justice & Equality and An Garda Síochána);
- Civil Service (Civil Service HR Division of Department of Public Expenditure and Reform);
- Education Sector (Department of Education and Skills).
- Parent Departments of non-commercial semi state bodies (NCSSBs) were consulted in relation to the NCSSB sector.

A copy of the Report of the Review is available on the [www.per.gov.ie](http://www.per.gov.ie) website.

### **3. Policy Context - Supporting Fuller Working Lives**

#### **(a) Improved life expectancy in Ireland**

A report on health and life expectancy in Ireland noted that life expectancy ‘at age 65 in Ireland was 21.1 years for women and 18.1 years for men’ (EHLEIS, 2013). This has risen

considerably compared to a life expectancy at age 65 of 15 years for women and just 13 years for men in 1962 (CSO, 2000).

Irish citizens are living longer. Existing provisions regarding compulsory retirement ages for employees recruited before 2004 are perceived to be outdated and inconsistent with the wishes of some public service employees. This feeling is evidenced by legal challenges in support of working longer which have been referred to the WRC in recent years. There is a recognition that people are living longer, healthier lives and feel they have more to contribute and that some people, because of financial commitments, wish to continue to work beyond the age of 65. There is widespread support for longer working across both Government and Opposition parties. A number of Private Members' Bills have sought to abolish the practice of compulsory retirement on grounds of age. One such Bill, the Employment Equality (Abolition of Mandatory Retirement Age) Bill 2016, sponsored by John Brady TD, secured cross party support at Second Stage in the Dail in 2017 and has been referred to Committee for consideration.

(b) State Pensions Reform

In recent years Government policy has been moving towards identifying and developing sustainable policy options that will support public financial stability over the longer term. One of those options is to enable longer working lives.

The State Pension age, which is currently 66, is scheduled to increase to 67 in 2021 and 68 in 2028. The expectation in increasing the State Pension age is that people, who are living longer and healthier lives, will work to that increased age, thereby alleviating pressure on the social protection system by moderating public expenditure (Report of the Interdepartmental Group on Fuller Working Lives, 2016).

Increasing the compulsory retirement age supports the Government's objectives regarding long term financial sustainability by fostering a longer term engagement by older people in the economy.

(c) National Positive Ageing Strategy

The National Positive Ageing Strategy (2013-2023) sets out the Government's vision for positive aging in Ireland. The Strategy makes a commitment to securing the right of an older person to engage in the economy.

The strategy contains four national goals, the first of which is to:

“Remove barriers to participation and provide more opportunities for the continued involvement of people as they age in all aspects of cultural, economic and social life in their communities according to their needs, preferences and capacities.” (Department of Health, 2013)

(d) OECD Reviews of Pensions Systems: Ireland (2014)

An external review of the pensions systems in Ireland carried out by the OECD (2014) strongly supports the approach of the National Strategy for Positive Ageing. The OECD Report in 2014

noted that “the more immediate concern for Irish policy-makers should be to increase the effective retirement age by encouraging working longer...” (OECD, 2014)

#### **4. Retirement Ages in the Public Service (Legislative Background)**

##### (i) Majority of Public Servants

At present, the age of compulsory retirement in the public service is generally determined by the date of recruitment of the individual public servant and for the most part, is provided for in primary legislation. Details of the legislative provisions are set out below:

(a) The Civil Service Regulation Act 1956 imposes a compulsory retirement age of 65 on all civil servants appointed before 1 April 2004. For public servants (other than civil servants) recruited prior to 2004, retirement age is generally determined either by individual employment contract or by the relevant pension scheme, some of which are established by way of S.I. (e.g. in the health, education and local government sectors). The majority of such public servants also have a compulsory retirement age of 65;

(b) the Public Service Superannuation (Miscellaneous Provisions) Act 2004 (the 2004 Act), removed the compulsory retirement age for most public servants, other than the uniformed fast accrual group and increased the minimum pension age to 65 for most new entrants to the public service from 1 April 2004. This group are referred to as “new entrants” elsewhere in this paper;

(c) the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 (the 2012 Act) established the Single Public Service Pension Scheme and provided for a minimum pension age consistent with the age of eligibility for the State Pension (Contributory) and a compulsory retirement age of 70 for most new entrants from 1 January 2013. This group are referred to as Single Scheme members elsewhere in this paper.

Details of the legislative provisions are set out below followed by a table which summarises the various arrangements applying:

##### **Overview of Retirement Ages in the Public Service**

<b>Group</b>	<b>Recruitment Date</b>	<b>Description</b>	<b>Pension Integrated with CSP?</b>	<b>Compulsory Retirement Age</b>
<b>A</b>	Pre-6 April 1995	*Modified PRSI	*No	65
<b>B</b>	6 April 1995 to 31 March 2004	Full PRSI	Yes	65
<b>C</b>	1 April 2004 to 31 Dec 2012	“New Entrants” 2004 Act Full PRSI	Yes	None
<b>D</b>	On or after 1 Jan 2013	Single Scheme members 2012 Act Full PRSI	Yes	70

\*with some exceptions

(ii) Uniformed pension fast accrual group

There are groups of employees in the public service who, due to the nature of their work, are currently required to retire early (“uniformed pension fast accruals”). Members of An Garda Síochána, the Permanent Defence Force, Firefighters and Prison Officers are the constituent groups in this category.

In the context of the review with public service employers carried out by the Department of Public Expenditure and Reform in 2017 which led to the current legislative proposals, the question of whether these groups of employees should be considered in the course of the review was considered. It was agreed that these matters could only be dealt with at sectoral level where the detailed policy, operational and manpower issues relevant to those groups can be appropriately considered and this approach was approved by Government. Retirement ages for these groups will, therefore, remain a matter for individual consideration by the respective Ministers in the context of the particular operational considerations arising for such groups and, as such, they are not affected by any of the options considered in this paper.

## **5. Drivers for Change**

(a) “Pension Income Gap”

Most Public Servants recruited from 1995 onwards have their pensions integrated with the State Pension (Contributory) (SPC). This means that they receive the SPC from the Department of Employment and Social Protection (DEASP) and the remainder of their pension from their employer. Under current arrangements, the occupational element of the pension is generally available from the employer at age 65, the age at which these public servants are required to retire, while the SPC is not available until age 66. Up to 1 January 2014, DEASP operated a “State Pension (Transition)” of the same value as the SPC for one year from age 65, subject to ceasing to work in insurable employment. Recipients of this payment were automatically transferred to the SPC when they reached age 66. On 1 January 2014, the State Pension (Transition) was discontinued and public service pensioners (who would be considered ‘unemployed retirees’ until SPC age under the Social Welfare system) can apply for Jobseeker’s Benefit in its place to cover the period until they are entitled to the SPC at age 66. In many cases, the payment of a Supplementary Pension from their former employer is also possible so that their total pension matches that of a pre-1995 recruit whose pension is not integrated with the SPC. This results in a significant level of inter-action by the pensioner with their former employer and with DEASP. This issue was resolved with the introduction of the Single Public Service Pension Scheme with effect from 1 January 2013, where minimum pension age is aligned with the age of eligibility for the SPC and a compulsory retirement age of 70 applies.

Many public service workers recruited between 1995 and 2012 and who are affected by this “income gap” feel that they have earned their pension and should not have to “sign on” as a jobseeker in order to receive a portion of it. Many would prefer to continue to normal SPC age rather than engaging in this process which is likely to become more protracted as the age of eligibility for the SPC increases in 2021 and 2028. For this group of public servants, the gap between compulsory retirement age (65) and the age of eligibility for the SPC (age 66) is perhaps one of the key policy considerations which gave rise to the review and the changes proposed in the current draft Bill.

## (b) Living Longer Healthier Lives

As set out earlier, people are living longer healthier lives and feel that they have more to contribute to their organisation and to society as a whole. It is clear from contacts to this Department in the form of Parliamentary Questions, Ministerial representations etc and from contacts to HR Departments in other public service sectors, that there is an appetite among public servants to remain at work beyond the age of 65.

## (c) Financial Commitments

In today's changing society, people tend to have financial responsibilities later in life than was previously the norm. For example, many people are taking on mortgages later in life, supporting multiple children through third level education, and having second families. There is also less of a focus on a "job for life" resulting in many people entering the public service at a later age than heretofore, thereby reducing their capacity for pension accrual. For these and other reasons, the issue of financial commitments is one which has led some public servants wishing to remain in employment longer.

## (d) Equality Issues

Under equality legislation, the imposition of a compulsory retirement age is permissible but it must be objectively and reasonably justified by a legitimate aim and the means of achieving that aim must be appropriate and necessary. Case law has identified a number of examples where an objective justification for the setting of retirement ages is accepted. These include:

- to create opportunities in the labour market for those looking for work;
- to encourage recruitment and promotion of young people and prevent possible disputes on the fitness of employees to work beyond a certain age;
- to ensure better distribution of work between the generations;
- to ensure quality of service provision and address an age imbalance within a workforce;
- to ensure motivation and dynamism through the increased prospect of promotion due to senior staff being retired.

It is considered that the rationalisation of the various compulsory retirement ages in the public service would assist the State in justifying the existence of a compulsory retirement age in the public service.

## **6. Options for Change**

### **Objectives for Change, as individually detailed earlier in this paper**

- Enabling longer working in the Public Service, for those who wish to do so for whatever reason;
- Alleviating the effects of the "pension income gap";
- Supporting Government Policy in the context of fuller working lives and pensions reform;
- Consolidating retirement ages of the difference cohorts in the Public Service.

## Options

### **Option 1: Do nothing**

#### Costs

No extra costs are associated with this option.

#### Benefits

No benefits are associated with this option.

#### Other impacts

The difficulty being experienced by the cohort of public servants recruited before 2004 is likely to be exacerbated as the “pension income gap” increases as a result of scheduled increases in the age of eligibility for the SPC, to 67 in 2021 and 68 in 2028. This could leave pre-2004 public servants with a gap of 3 years between retirement and the age of eligibility for the SPC, during which they would be required to “sign-on” for jobseekers benefit in order to secure the pension to which they are entitled.

### **Option 2: Non-legislative option**

Enable longer working with fixed term contracts

#### Costs

- There would be a significant administrative burden associated with the roll-out of a policy that relied on fixed term contracts, which would have to be prepared on an individual basis.
- The practice of retiring and rehiring staff would create extra pressures for payroll and pension administration, as the pensions of effected staff would be subject to abatement.

#### Benefits

- This option would enable pre-2004 public servants to remain at work subject to certain conditions.
- It manages to achieve a result without the significant time and resource costs necessary for the preparation of legislation.

#### Other Impacts

- Legal advice was sought recently in the context of offering fixed term contract-type arrangements to public servants reaching the age of 65 as a temporary solution pending the enactment of this legislation. In advising that this approach would be acceptable for the short term, it was made clear in the case of the civil service, that the legislative powers under the Civil Service Regulation Act 1956 were intended to be used on a case by case



basis and not in such a way as to override or otherwise circumvent the basic provisions of the Act, and in particular the mandatory retirement age laid down by sections 8(1) and 8(2) of the Act.

- Pension accrual for those public servants who wish to remain would not be possible under a fixed term option. Legislative change would be required for this to take place.
- It would also be difficult to ensure consistency of treatment of staff, as the public service is so large and contains such a diverse range of bodies.
- The ad-hoc nature of this policy would not communicate a clear message in favour of longer working, which could have the effect of discouraging public servants from taking up the opportunity to remain at work past 65.
- As time moves on, particularly in light of the rising State Pension age, it is likely that the use of fixed term contracts to extend the working lives of public servants will become increasingly more impractical, with fixed term contracts being required for a longer period to keep pace with the age of eligibility for the State pension.
- As longer working becomes more culturally accepted, there is likely to be pressure on the Department to revisit the issue and deal with it comprehensively in legislation.

### **Option 3: Limited legislative amendment**

Increase the compulsory retirement age for public servants recruited prior to 1 April 2004 from 65 to 70, other than in the cases of the uniformed pension fast accrual group referred to in Para 4 above.

#### Costs

- The proposal to increase the compulsory retirement age to 70 for the pre 2004 cohort was costed on the basis of the cost difference between retaining a 65 year old, or paying that person's pension on retirement and replacing him/her with a new staff member. It was found that the cost difference was minimal.
- A further cost benefit of the new proposals is that, in addition to the individual's annual pension payment being postponed, payment of the individual's lump sum would also be postponed and the pension payment will be paid for a shorter period.
- It should also be noted that from 2019 the current Pension Related Deduction will be converted into an Additional Superannuation Contribution for public servants, which will further mitigate against any cost increases that may be associated with retaining staff beyond the age of 65.
- A legislative option would require significant time investment by Department Officials and the Office of the Parliamentary Counsel.

#### Benefits

- This option would achieve all of the objectives for change set out above, other than that which relates to the consolidation of compulsory retirement ages across the public service.
- In addition, the benefit of this option is that it increases the choices available to public servants as they approach retirement and will help to create a public service environment in which the potential of older workers is recognised and supported.

#### Other Impacts

- In the area of employment, it could be argued that to retain public servants beyond the age of 65 might affect the promotional prospects of younger employees and in turn affect the employment prospects of graduates and other jobseekers. It is considered, however, that the numbers of public servants who are likely to remain in work beyond age 65 would not be significant enough to have a material effect on either promotional prospects or employment outlets in the public service.
- Furthermore, the changes proposed bring the compulsory retirement age of pre-2004 public servants in line with that of members of the Single Public Service Pension Scheme and provide for a definitive retirement age, which is not the case for serving public servants recruited between 2004 and 2012 who have no requirement to retire on age grounds.

#### **Option 4: Comprehensive legislative amendment**

Increase the compulsory retirement age for public servants recruited prior to 1 April 2004 from 65 to 70; and impose a compulsory retirement age of 70 on those public servants (“new entrants”) recruited between 1 April 2004 and 31 December 2012, who currently have no compulsory retirement age.

A significant advantage of imposing a compulsory retirement age of 70 on this cohort is that it would standardise the age of compulsory retirement for the Public Service, other than in relation to the uniformed fast accrual group. This would be a benefit, both in the context of consistency and in the context of justifying the existence of a compulsory retirement age in the public service under equality legislation.

Legal advice was, however, that to impose a change on this cohort would be an interference with their rights under statute. Legal advice was also that the exclusion of this group from an otherwise standardised compulsory retirement regime would not be an issue in terms of justifying a compulsory retirement age of 70 for the public service.

On that basis, it was decided that the position of this cohort would be left unchanged under the new arrangement. The Government agreed to this approach.

#### **Conclusion – Option Selected**

Because the age of compulsory retirement in the public service is generally provided for in legislation, there is very little flexibility to allow people to remain at work beyond normal retirement age using non-legislative solutions. The disadvantages of resolving this issue on the basis of an administrative approach, such as that outlined in Option 2 are very strong and

reflect Option 2 as a weak and unsustainable response to the problem. Legal issues preclude the acceptance of the approach outlined in Option 4, leaving Option 3 as the clear favourite in terms of a comprehensive Government response to the issues outlined in this paper.

## **7. Consultation**

- (i) Report of the Interdepartmental Group on Fuller Working Lives – see para 2
- (ii) Consultation with Public Sector Employers – see below and para 2

On foot of the report of the Interdepartmental Group referred to at (i) above, D/PER, in consultation with public service employers carried out a review of barriers to extended participation in the public service workplace. As part of the first phase of the review, D/PER researched the issues surrounding compulsory retirement ages in the public service and produced a Discussion Document which was used as a basis for discussions with the public service employers. The Discussion Document examined the legal position in relation to the existing compulsory retirement ages in the public service. It detailed the situation currently prevailing in the public service whereby different categories of public servants had different compulsory retirement ages, depending on the date of their recruitment to the public service. It also outlined equality issues surrounding the current arrangements and legal challenges that were ongoing in relation to the current arrangements in the civil service. The paper looked at work undertaken by the OECD and others in support of longer working and examined the possible impacts, financial and otherwise, of amending the current compulsory retirement ages. The paper raised a number of key questions that needed to be considered by the public service employers in the course of the review, ranging from their view as to whether a new compulsory retirement age would be appropriate in their sector and, if so, the views of the employers of what that age should be, to the nature of supports, if any, that would be required if the retirement age was to be increased. Finally, the paper examined the question of how any change in the compulsory retirement ages in the public service might be implemented. Extensive engagement with public service employers took place on the basis of the Discussion Document. Following the consultation process, a Report of the Review of Barriers to Extended Participation in the Public Service Workforce was published. A copy of the discussion document and a summary of the views of public service employers are contained within that report. It is available on the [reports section](#) of [www.per.gov.ie](http://www.per.gov.ie).

- (iii) Consultation with Unions

Paragraph 6.4.2 of the Public Service Stability Agreement (PSSA) 2018 - 2020 commits the official side to consultation with the staff side in relation to any proposals to address the mandatory retirement age issue. Those consultations were held with officers from the Public Services Committee of the Irish Congress of Trade Unions on 9 November 2017.

- (iv) Consultation with other Government Departments

The Memorandum for Government, which included a copy of the draft General Scheme of a Bill, was circulated to all Government Departments prior to the Government meeting on 5 December at which the draft General Scheme was approved. Many of these Departments had engaged as part of the review outlined at (ii) above. More recently, a draft Memorandum seeking Government approval to the publication of the Bill has been circulated to Government Departments for observations.

## 8. Review

The Bill provides that the Minister for Public Expenditure and Reform has the power to make an order to further increase the compulsory retirement age for relevant public servants in the future, up to a maximum age of 75. Subsection 3A(3) of the Bill lists the factors that the Minister must consider before making such an order. In considering the making of that order, the Minister will be given an opportunity to consider the effects of the change in compulsory retirement age brought about by the provisions of the current Bill.

## 9. Alignment with Better Regulation Principles

(i) *Necessity – is the regulation necessary? Can we reduce red tape in this area? Are the rules and structures that govern this area still valid?*

- It is clear from this Regulatory Impact Analysis that the problems that need to be addressed in this area, as set out in para 5 are best addressed by way of legislative change.
- As the compulsory retirement age for public servants is set down in legislation, the only way that a new compulsory retirement age can be effectively introduced is by way of primary legislation. Other options do not produce an effective result.
- The legislative approach does not create any barriers in terms of red tape.

(ii) *Effectiveness – is the regulation properly targeted? Is it going to be properly complied with and enforced?*

- The new compulsory retirement age will affect public servants recruited prior to 1 April 2004. Currently, these public servants must retire at an earlier age than all other public servants. It is therefore appropriate to target them with this reform.
- It is not expected that there will be any issues with compliance and enforcement, as the changes proposed by the Bill are consistent with current practice in the area – i.e., retirement age in the public service is currently governed by primary legislation, and the new compulsory retirement age will be consistent with the compulsory retirement age of public servants recruited after 1 January 2013.

(iii) *Proportionality – are we satisfied that the advantages outweigh the disadvantages of the regulation? Is there a smarter way of achieving the same goal?*

- Various options (see Section 4) were examined in the course of the review process which led to the drafting of the General Scheme of a Bill and its referral to Government for approval.
- The possibility of achieving our objectives through non-legislative means was examined (see Option 2) and it is clear from the assessment of that option in this paper that this route did not present an effective response to the problem.

(iv) *Transparency – have we consulted with stakeholders prior to regulating? Is the regulation in this area clear and accessible to all? Is it supported by good explanatory material?*

- As outlined in Section 7 (Consultation), extensive consultation was undertaken prior to the preparation of the General Scheme of this Bill. The views of stakeholders were taken into account prior to and during the drafting of the Heads, and that engagement will continue throughout the drafting process.
- Various publications relating to the review process are publicly accessible on the [www.per.gov.ie](http://www.per.gov.ie) website.

(v) *Accountability – is it clear under the regulation precisely who is responsible to whom and for what? Is there an effective appeals process?*

- It is clear in the General Scheme of the Bill that the retirement age of certain groups of public servants (e.g. uniformed pension fast accrual group) remain the responsibility of the respective line Ministers (para 4(ii) above refers);
- The changes proposed in the Bill provide that affected public servants will be in a position to remain at work until age 70, should they wish to do so. This is a voluntary decision on the part of the public servant and, as a result, no appeals process is considered necessary. There will be no change to the minimum retirement age.

(vi) *Consistency – will the regulation give rise to anomalies and inconsistencies given the other regulations that are already in place in this area? Are we applying best practice developed in one area when regulating other areas?*

- A significant advantage of increasing the compulsory retirement age to 70, for public servants recruited prior to 1 April 2004, is that it will standardise the age of compulsory retirement for the main cohorts of public servants, other than in relation to “new entrants”, who have no requirement to retire on age grounds;
- It is also relevant, in terms of consistency of approach to the policy in this area that 70 was agreed by the Oireachtas as an appropriate compulsory retirement age for members of the new Single Public Service Pension Scheme only 5 years ago, in the context of the enactment of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012.

## **10. Conclusion**

This paper demonstrates that the problems associated with the current compulsory retirement age of pre-2004 public servants need to be addressed and that the option of legislative change is the most appropriate option in order to effect the necessary change. Because the age of compulsory retirement in the public service is generally provided for in legislation, there is very little flexibility to allow people to remain at work beyond normal retirement age using non-legislative solutions. The various options for change are detailed in Para 6 of the paper. The shortcomings associated with using an administrative solution, such as that outlined in Option 2, to resolve this issue are significant and reflect Option 2 as a weak and unsustainable response to the problem. Legal issues preclude the acceptance of the approach outlined in Option 4, leaving Option 3 as the clear favourite in terms of a comprehensive Government response to the issues outlined in this paper. That is the option which the Government has selected and which is being progressed by way of the Public Service Superannuation (Age of Retirement) Bill 2018, which is the subject of this paper.

*Public Service Pay and Pensions Division  
Department of Public Expenditure and Reform  
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## References

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