

Relate

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Re-organisation of government departments

The Government has announced that a number of departments are to be renamed and that there will be some changes in functions. These changes are in the process of being implemented. Transfers of departmental functions are usually carried out by orders made under the Ministers and Secretaries (Amendment) Act 1939. In some cases, primary legislation may be needed. The full details of the changes are not yet known. In particular, the precise changes in responsibility for training and education are not fully clarified.

The name and function changes being introduced are as follows.

Department of Social and Family Affairs: This is being renamed the Department of Social Protection. It will take over responsibility for the employment services of FÁS and the FÁS community services programmes (these include Community Employment and similar schemes). These services currently come under the remit of the Department of Enterprise, Trade and Employment. The Rural Social Scheme, which currently comes under the Department of Community, Rural and Gaeltacht Affairs, will also transfer to the Department of Social Protection. The aim is to bring together all the services which provide income and direct work opportunities for the unemployed.

It is also planned to transfer responsibility for the payment of redundancy and insolvency payments to this Department. These are currently administered by the Department of Enterprise, Trade and Employment. These payments are paid out of the Social Insurance Fund into which PRSI contributions are paid. The Department of Social and Family Affairs is mainly responsible for this fund.

Responsibility for social inclusion policy and family policy is being transferred from this Department to the Department of Community, Rural and Gaeltacht Affairs.

Department of Community, Rural and Gaeltacht Affairs:

This is being renamed the Department of Community, Equality and Gaeltacht Affairs. It will take over responsibility for social inclusion policy and family policy from the Department of Social and Family Affairs and for equality, disability, integration and human rights from the Department of Justice, Equality and Law Reform.

The following sections of the Department of Justice, Equality and Law Reform are transferring to the new Department of Community, Equality and Gaeltacht Affairs:

- Gender equality
- Disability equality
- Diversity and equality law
- Office of the Minister for Integration

The following agencies will come under the aegis of the new Department:

- Equality Tribunal
- Equality Authority
- National Disability Authority
- Office of the Data Protection Commissioner
- Human Rights Commission

Department of Education and Science: This is being renamed the Department of Education and Skills. Responsibility for skills and training policy, which currently comes under the Department of Enterprise, Trade and Employment, is being transferred to it. This includes the Expert Group on Future Skills Needs and the training activities of FÁS. The aim is to have these activities aligned more closely with the further education and training activities of the Vocational Education Committees, the Institutes of Technology and programmes such as Youthreach.

Department of Enterprise, Trade and Employment: This is being renamed the Department of Enterprise, Trade and Innovation. Some of its functions in relation to training and

redundancy payments are being transferred to the Department of Social Protection and some of its training functions are being transferred to the Department of Education and Skills as described above. Funding for the programme for research in third-level institutions, which currently comes under the Department of Education and Science, is being transferred to this Department.

Department of Arts, Sport and Tourism: This is being renamed the Department of Tourism, Culture and Sport. Responsibility for the horse and greyhound industries is being transferred from it to the Department of Agriculture, Fisheries and Food.

Ministers of State

Arising from the change of departmental functions, there are a number of changes in the responsibilities of Ministers of State. The main ones are as follows.

The Minister of State at the Department of the Taoiseach, the Department of Enterprise, Trade and Employment, and the Department of Finance, who is responsible for labour affairs, will also have responsibility for public service transformation. There is a Cabinet committee on public service transformation which is chaired by the Taoiseach. The Government intends to appoint a public service board, including members from outside the public service, to help implement public service change.

The Minister of State at the Department of Justice, Equality and Law Reform, Department of Community, Rural and Gaeltacht Affairs, and Department of Education and Science will have responsibility for equality, human rights and integration.

The Minister of State at the Department of Agriculture, Fisheries and Food, Department of Transport, and Department of Environment, Heritage and Local Government will have special responsibility for horticulture, sustainable transport, planning and heritage.

National Pensions Framework

The Government has published the *National Pensions Framework*. This sets out the Government's intentions for the future development of both social welfare and occupational pensions. A Green Paper on pensions was published in October 2007 – see *Relate*, November 2007 and January 2008. A public consultation process was held and the framework which has just been published takes account of that process.

The rules about occupational and personal pensions and the current problems facing, in particular, defined benefit schemes, are described in *Relate*, June 2009. The detailed rules about social welfare pensions are described in *Relate*, November 2007.

The implementation of the National Pensions Framework (NPF) requires a range of legislation. It is expected that it will take between three and five years to implement the various changes proposed.

The stated aim of the NPF is to deliver security, equity, choice and clarity for the individual. It also aims to increase pension coverage, particularly among low-to-middle income groups and to ensure that state support for pensions is equitable and sustainable.

The principles on which changes to the pensions system are being proposed are:

- Changes must be affordable and sustainable.
- The State Pension will continue to be the fundamental basis for the pension system. The Government will seek to ensure that the level of the State Pension is maintained at 35% of average weekly earnings.
- Supplementary pension coverage and contributions must be increased to improve adequacy of incomes in retirement.
- The system of tax incentives offered by the State should be equitable.
- Employees, employers and the State each have a role to play in any pension reform.
- People should be supported to work longer through flexible working arrangements.
- Pension reform should focus on arrangements for the future rather than attempt to address shortcomings of the past.

The proposals in the NPF are mainly intended to help people in the low-to-middle income range to provide for pensions to improve their post-retirement incomes. At present, about 55% of the working population has an occupational or personal pension. Only about 37% of employees aged under 30 have such pension cover. Lower-paid employees are considerably less likely to have such cover.

The National Pensions Framework (NPF) is available from the Government Publications Sales Office; Price €1. All the relevant documents including the NPF are available at pensionsgreenpaper.ie.

The following is a summary of the main proposals in the NPF.

Proposals for social welfare pensions

The State Pension is, and will continue to be, the basis for the pension system. The NPF says that the Government will seek to maintain its value at 35% of average weekly earnings.

The NPF also proposes a number of changes in how entitlement to the State Pension is assessed. The detailed rules about entitlement to the State Pension are complex – see *Relate*, November 2007.

The main proposed changes are:

- The age at which the State Pension is payable will be gradually increased from 2014.
- The “homemaker’s disregard” will be changed to a credit system for new pensioners from 2012.
- Entitlement will be based on a “total contributions” approach.
- You will be able to postpone receipt of the State Pension and make up shortfalls in your contributions.

Pension age

At present, the State Pension (Contributory) and the State Pension (Non-Contributory) are payable at age 66. The State Pension (Transition), which was formerly known as the Retirement Pension, is payable from age 65.

It is proposed to make the following changes:

- In January 2014, the State Pension (Transition) will be abolished and no State Pension will be payable until the age of 66.
- In January 2021, the State Pension age will be increased to 67.
- In January 2028, the State Pension age will be increased to 68.

This means that:

- If you reach the age of 62, 63, 64 or 65 in 2010 (that is, if you were born on or before 31 December 1948), you are not affected by these proposals. If you were born in 1948, you will be aged 65 in 2013 and you may qualify for the State Pension (Transition). If you do, you will continue to receive it until you reach 66 in 2014.
- If you were born in the period 1949–1954 (that is, you reach an age of 56–61 in 2010), you will not qualify for the State Pension (Transition) at 65. You may qualify for the State Pension at 66.
- If you were born in the period 1955–1960 (you reach an age of 50–55 in 2010), you may qualify for the State Pension at 67. Anyone born in 1955 (aged 55 in 2010) will reach age 66 in 2021 but will not qualify for a State Pension in that year. This means there will be no new pensioners in 2021.
- If you were born in 1961 or later (you are 49 or younger in 2010), you may qualify for the State Pension at age 68. This means there will be no new pensioners in 2028.

Consequences of pension age change

Many people are required by their contract of employment to retire at 65. The change in pension age could mean that a number of retired people may not have an income between their retirement and the age at which they qualify for the State Pension.

At present, Jobseeker's Benefit and Allowance are payable until age 66. The NPF does not address what is to happen to people who may not qualify for these payments but it is likely that some adjustments will be made to these or other social welfare payments to deal with people in this situation.

Total contributions approach

At present, you may qualify for a State Pension (Contributory) if, among other requirements, you have enough social insurance contributions. You must have at least 260 paid contributions. Existing legislation requires that you have at least 520 paid contributions if you reach pension age on or after 6 April 2012.

You must also meet a requirement for an average number of contributions over the course of your working life. In general, you need to have an average of 20 but there are also a number of pro-rata pensions available where the average is as low as five. In practice, this system means that some people qualify for a pension or a higher rate of pension than others who may have more contributions and that contributions paid towards the end of your working life may prove to be more valuable than those paid earlier.

A *total contributions approach* means that the level of pension for which you qualify will be directly related to the total number of contributions which you have paid. In order to qualify for a maximum pension, you will need to have a total of 30 years' contributions. If you have a total of 20 years' contributions, you will qualify for two-thirds of the maximum pension; with 10 years' contributions, you will get one-third of the maximum.

This approach will not be implemented until 2020. This means that those groups who were initially excluded from the social insurance system, for example, the self-employed and part-time workers, should be able to have accumulated 30 years of contributions. The self-employed became compulsorily insured in 1988, part-time workers in 1991.

Homemaker's disregard

The present arrangements for homemakers were introduced in 1994. They mean that if you were caring for children under the age of 12 or for an adult with a disability, you can have 20 years of such caring disregarded when your average is being assessed for the purposes of the State Pension. So, if you were paying social insurance contributions from, say, 1970 and you then spent the years 1995 to 2005 caring for a person with a disability and you reach pension age in 2010, your average is measured over 30 years, that is, the total 40 years of your working life less the 10 years you spent caring.

The caring years are disregarded; you do not get credits for them. The difference between the two situations can be illustrated in the case just described. If you are in this position and you returned to work in 2005 and paid contributions until you reached pension age in 2010, you should qualify for a maximum pension because you will have 30 years' contributions averaged over 30 years. If you did not return to work in 2005, then the disregard means that you would have 25 years' contributions averaged over 30 years. If you got credits instead of the disregard, you would have 40 years' contributions averaged over 40 years if you returned to work in 2005 or 35 years' contributions averaged over 40 years if you did not. (Your situation might be different if you were receiving Carer's Allowance and were eligible for credits when that payment ceased.)

The present arrangements will remain in place until 2012. At that stage, the system will be replaced by credits and these may be backdated to 1994. So, if you reach pension age in 2012 or later, you will be deemed to have credits for the relevant period, provided, of course, that you meet the other requirements for getting such credits. In general, credits are awarded only if paid contributions have been made in the preceding two years. The NPF says that a standard approach will apply to the various categories of people who receive credits; this would imply that the two-year rule will also apply to these credits.

The NPF states clearly that it is not intended to backdate these provisions to before 1994.

Postponing the State Pension (Contributory)

If you want to continue working past the State Pension age, you will be able to postpone receiving the pension and then get an increased payment when you do retire. The NPF does not give details of how this will work. At present, you do not have to pay social insurance contributions if you are working or self-employed and aged 66 or over. (You may have to pay income and health levies.) It is not clear if there will be any change in this arrangement but it is likely that the upper age limit will increase in line with the pension age.

Again, the details are not specified but you will also be able to pay social insurance contributions retrospectively if you find that you do not have enough to qualify for a pension when you reach pension age. This is not possible at present. Such payments are a feature of occupational and personal pensions.

Proposed new pension arrangements

The Government proposes to introduce *auto-enrolment*, a new pension system into which employees will be automatically enrolled but from which they can subsequently opt out. It is intended to introduce it in 2014 but only if the economic conditions at the time are suitable.

This proposes that, if you are aged 22 or over when you enter employment or take up a new job, you will be automatically enrolled in this new pension scheme unless you are a member of your employer's pension scheme and that scheme is either a defined benefit scheme or a defined contribution scheme where the contribution rate of both you and your employer is equal to or greater than the minimum payable under the new scheme. The contribution rate will be a total of 8% on a band of income; 4% is payable by you, 2% by the employer and 2% by the State. (The state contribution is the equivalent of tax relief at 33% and will be made in substitution for such tax relief.) The precise band of income to which it will apply has not been decided but it will be targeted at lower and middle-income earners.

Opting in and opting out

Employees will be able to opt out of the scheme after three months. If you remain for six months, your contributions will be held in a pension account and you will not be able to withdraw them. You can opt in again if you want to and you will be automatically re-enrolled every two years. You will get a bonus if you stay in the scheme for five years without any break in contributions.

The full details of how you will access the pension fund when you retire have yet to be worked out but it is likely that the procedure will be similar to the current arrangements for Personal Retirement Savings Accounts (PRSAs).

Transferring other pension funds

Arrangements will be made to allow people who have small defined contribution pension schemes or PRSAs to transfer these funds to the new scheme. The details will be worked out later.

Occupational and personal pensions

Taxation

Tax relief on contributions

At present, tax relief is available on contributions to occupational and personal pensions at the taxpayer's marginal rate of tax – either 41% or 20%. This will be replaced by a tax relief rate of 33%.

It is intended to retain the age-related tax relief and the cap on earnings in some form – at present, tax relief is available on pension contributions up to a maximum of 15% of earnings for people under 30; the percentage increases with age and, for people aged 60 and over, tax relief is available on up to 40% of earnings. There is a cap of €150,000 on the total earnings which are taken into account. It is not intended to change the current arrangements for tax relief on employer pension contributions and on the investment income of pension funds.

Taxation of pension lump sums

The Government has decided that pension lump sums of less than €200,000 will not be taxed. It has not been specified whether amounts above this will be taxed.

Drawdown of benefits from different pension schemes

The NPF recognises that the current arrangements for drawing down pension benefits are complex (they are outlined in *Relate*, June 2009) and proposes to simplify them somewhat. In particular, the NPF includes proposals for changes in access to Approved Retirement Funds.

Approved Retirement Funds

An Approved Retirement Fund (ARF) is a personal retirement fund where you can keep your money invested as a lump sum after retirement. You can withdraw from it to give yourself an income, which is taxable, and money left in the fund after your death can be left as part of your estate.

The ARF option is not available at present to members of defined contribution pension schemes. It is proposed to make it available. A defined contribution scheme is one in which the contributions are set and the benefits are dependent on the amount in the fund. Pension schemes that specify the benefits that will be received on retirement are known as defined benefit schemes. It is not proposed to make the ARF option available in this case as people in defined benefit schemes do not have their own individual pension fund.

The ARF option is available to, among others, people with personal pension schemes, PRSAs and Additional Voluntary Contributions (AVCs). Under these schemes, you may take your benefit at any time between the ages of 60 and 75; you do not have to have retired. You have a number of options as to how you use the money in your fund.

You may take up to 25% of the fund as a tax-free lump sum. You may buy an annuity – that means you buy an insurance policy which provides guaranteed regular payments for the rest of your life in return for your investment. Alternatively, you may invest your fund (or part of it) in an Approved Retirement Fund (ARF) or an Approved Minimum Retirement Fund (AMRF).

You may place your money in an ARF if you are aged over 75 or if you have a guaranteed income of at least €12,700 a year for life. (Most people aged 66 or over would have this level of income from the State Pension (Contributory).) If you do not meet this minimum income requirement, you must invest at least €63,500 of the total in an AMRF. This is similar to an ARF, except that you may not access the capital in the AMRF until you reach 75.

The NPF proposes that members of defined contribution schemes will have access to ARFs from 2011. This means that members of such schemes may draw down a lump sum on the same basis as they can at present and then the rest of their pension fund may be invested in an annuity or an ARF. This is subject to meeting the minimum income requirement.

The NPF points out that the minimum income requirement of €12,700 has not been changed since the introduction of the ARF legislation in 1999. The Government is considering increasing this to 1.5 times the State Pension (Contributory) – this would be approximately €18,000 a year at present.

At present, if you must invest in an AMRF because you do not meet the minimum income requirement for an ARF, you must remain in the AMRF until you reach 75 even if you meet the requirement later. It is proposed to change this to allow you to invest in an ARF if you do subsequently meet the minimum income requirement.

Other proposed changes

It is proposed to review the range of options available for the investment of personal pensions in order to make them less complex. The Government also intends to introduce regulations requiring more transparency in relation to pension charges and greater information for pension scheme members.

Defined benefit schemes

The NPF proposes to improve the regulation of defined benefit schemes. It is proposed to review the Pensions Board's powers in relation to the regulation of schemes;

this will include consideration of giving the Board further statutory authority in relation to the investment approach adopted by the trustees of pension schemes. It is also proposed to keep the information requirements and the funding standards under review.

The NPF outlines a proposed restructured defined benefit scheme in order to provide greater certainty. It is recognised that such a scheme would involve a significantly lower level of promised benefits.

The proposed scheme would involve fixed contribution rates for members and employers and flexible benefits in the event of investment losses or other adverse experience. Each year, all benefits (for current employees, former employees, retired members and other beneficiaries) would be revalued equally, but only to the extent that the scheme could afford it. The contribution rates would be calculated on a basis intended to revalue benefits in line with inflation, before and after retirement. However, only these core benefits granted plus revaluations to date would be guaranteed.

Tracing service and dormant benefits

It is proposed to put a tracing service in place for both scheme trustees and individuals in order to facilitate people in tracing pension rights accrued in former employments. The Government is considering the establishment of a state fund into which companies who cannot trace former employees would lodge the accrued benefits. This would be modelled on the Dormant Accounts Fund into which dormant accounts and unclaimed life assurance policies are currently transferred.

Public service pensions

As was already announced in the 2010 Budget, a single new pension scheme will be introduced for all new entrants to the public service in 2010. It will provide for a minimum pension age of 66 and this will increase in line with the State Pension age. There will be a maximum retirement age of 70. The pension will be based on career average earnings rather than on final year earnings.

The Government is considering using the Consumer Price Index as the basis for increases in pension benefits to existing public servants but no decision has been made on this.

Other pension issues

State Pension

People who do not have 520 paid contributions

As is described above in relation to the National Pensions Framework, you will need to have 520 paid contributions in order to qualify for a State Pension (Contributory) if you reach pension age on or after 6 April 2012.

This was first announced in 1997 and was included in the social welfare legislation in that year. It is not known how many people will fail to qualify for a pension because of this requirement.

The Department of Social and Family Affairs analysed the records of over 16,000 people who qualified for contributory pensions in 2009 to assess how many would not qualify under the new arrangements if implemented at that time. This analysis showed that just under 11% would not have qualified.

A further analysis was carried out on a sample of 2,000 records of those due to reach State Pension age in 2012. Approximately 13% of people who would meet the present requirement of 260 paid contributions would not qualify under the new requirement as they have fewer than 520 paid contributions. This group do, of course, have some time in which to add to their contributions.

Paying for the State Pension

Until 1996, the social insurance fund was made up of contributions paid by employees, the self-employed, employers and the State. At one stage the contributions were roughly one-third employees, one-third employers and one-third the State.

The State contribution gradually reduced and it ceased in 1996 because there was a surplus in the fund. The surplus which has been built up since 1996 will be exhausted in 2010 and the State will have to start contributions to the fund. It is expected that this contribution will be of the order of €1.55 billion.

Self-employed

Some self-employed people have been unable to qualify for a State Pension because they were over the age of 56 when social insurance for the self-employed was introduced in 1988. The NPF says that it is not intended to make any new special arrangements for the people concerned.

Spouses of self-employed people

The position of the spouses of farmers in relation to PRSI contributions and pension entitlements was outlined in the August 2009 issue of *Relate*.

Spouses who operate in a commercial partnership and who meet certain other requirements may be regarded as self-employed and brought into the social insurance system. This means that each spouse pays PRSI and, if each has enough contributions, each may qualify for a State Pension (Contributory).

In a number of cases, the status of commercial partnership has been applied retrospectively. This has meant that the spouses concerned have paid their contributions retrospectively. In some cases, they paid some or all of their contributions after they reached pension age and this is where problems have arisen.

Recently a number of such spouses, spouses of farmers in particular, who had been receiving a State Pension, were told that they had been wrongly awarded the pension and it was withdrawn. This decision has since been reversed. However, other spouses who are paying PRSI in these circumstances need to be aware of the rules that apply to them.

As well as meeting the usual social insurance conditions, self-employed people must have paid self-employment contributions in respect of at least one contribution year before reaching pensionable age and must have actually paid all the contributions payable. This has been the rule for the past 15 years and applies to all self-employed people, not just the spouses who come under the commercial partnership arrangements.

Approximately 1,000 people applied for recognition of a commercial partnership with their spouses. Of these, 508 were deemed to have a partnership in existence; 268 of these applied for a State Pension (Contributory).

After these pensions were awarded, there was a review of pension claims and it was found that, in a number of cases, the self-employment contributions were all paid when the people concerned were over 66. They therefore had no entitlement to a State Pension (Contributory), and should not have been paid under this scheme. As a result, 85 pensioners had their State Pension withdrawn and another 16 had their pension reduced.

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The pensioners concerned have now had their pensions restored. Future pensioners will be required to fully meet the rules.

Pensions Insolvency Payment Scheme

The Pensions Insolvency Payment Scheme (PIPS) was provided for in the Social Welfare and Pensions Act 2009 (see *Relate*, June 2009).

It has been implemented for a three-year period from 1 February 2010 by SI 4/2010. It will be reviewed at the end of that period but any existing payments that are already underway at that time will be continued.

The scheme is designed to apply to situations where there is a defined benefit pension scheme that cannot meet all its liabilities and where the employer is insolvent. The scheme is intended to make it cheaper to pay for the pensions of retired pension scheme members so that more money is available for the pensions of those yet to retire.

Under the scheme, trustees of eligible pension schemes may apply to the Exchequer for a sum that will cover the cost of paying the pensions of retired members instead of buying annuities. It is expected that this will, in some cases, be a cheaper option than buying annuities on the open market. Any savings would then be put towards the pensions of those yet to retire, thereby reducing to some extent their pension shortfall.

Pension schemes that want to participate in PIPS have to be certified as eligible by the Pensions Board. They will then have to apply to the Minister for Finance to participate in PIPS. They will be quoted a price by the National Treasury Management Agency for the cost of paying the pension. Trustees can then compare the cost of participating in PIPS to the cost of annuities on the open market before deciding which option to choose.

PIPS will be administered to minimise start-up costs and facilitate orderly wind-up of the participating pension scheme. In the pilot phase, the existing payment administrator of a participating scheme or an alternative payment administrator nominated by the trustees will be retained.

The scheme expressly excludes post-retirement increases.

PIPS does not involve the Government subsidising the pension schemes. It is intended that the operation of the scheme will not result in any additional cost to the government.

Guidance notes on the scheme are available at finance.gov.ie

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