

Citizens Information Board

Submission to the Joint Committee on Social Protection, Community and Rural Development and the Islands on the General Scheme of the Automatic Enrolment Retirement Savings System for Ireland Bill 2022.

December 2022

Introduction

The Citizens Information Board (CIB) welcomes the opportunity to make a submission to the Joint Committee on Social Protection, Community and Rural Development and the Islands regarding the General Scheme of the Automatic Enrolment Retirement Savings System for Ireland Bill 2022 and, thereby, contribute to the Joint Committee's pre-legislative scrutiny process.

Automatic Enrolment (AE) was a policy recommendation in the 2010 National Pensions Framework and the momentum now building behind pension reform with the publication of the General Scheme is welcome. The current voluntary approach to supplementary pension provision has not achieved widespread coverage and CIB agrees that a move to auto-enrolment as a means of increasing income adequacy and related living standards in retirement is necessary.

CIB-funded services – Citizens Information Services (CISs) and Money Advice and Budget Services (MABS) – assist thousands of people daily to access a wide range of social, public, and financial services through the provision of information, advocacy, and money advice. A substantial proportion of the queries received by CISs relate to pension provision. For example, there were 35,895 queries on pensions in 2021 and 37,135 in 2020.¹ The nature of these queries indicates that there is a lack of knowledge and a high degree of confusion and related anxiety among the public about pensions, especially among those approaching retirement. This refers in the main to what post-retirement income will be and whether people will have sufficient income to live on. Clearly, such a situation is unsatisfactory from a social inclusion perspective.

This level of engagement about pensions leaves CISs well placed to have a clear understanding of the problems experienced by people trying to understand their pension entitlements. It is this insight, combined with our support for the MABS that informs our response to the present request for feedback on the General Scheme. CIB had, in November 2018, made a related submission to the Strawman Public Consultation for an Automatic Enrolment Retirement Savings System for Ireland.

People require clarity from their pension system so that they can forecast in advance what level of income they can expect in their retirement and old age. People understandably also want to know if

¹ These figures were significantly lower than the 2019 figure of 64,745.

they will have enough income post-retirement to cover the costs of daily living. A related point is that the pension system needs to be fair so that those for whom full time employment, spanning their adult working life, is unrealistic or unobtainable (e.g., those living with disabilities, those in precarious work situations, migrants, and those with unpaid caring responsibilities) are not discriminated against.

The General Automatic Enrolment Scheme

In considering the published General Scheme, several issues raised in a CIB 2018 Submission to a Strawman Public Consultation Process for an Automatic Enrolment Retirement Savings System for Ireland² are worth restating.

- CIB suggested that consideration be given to consolidating pension information sources by designing the proposed Central Processing Authority (CPA) as a one-stop shop for most if not all state and private pension queries. This was viewed as important in reducing confusion and in streamlining information about pensions.
- CIB considered that the earnings trigger as then proposed was problematic for two cohorts. The first were those in concurrent employments, none of which alone pays a wage that triggers AE, but when amalgamated could satisfy the earnings requirement. CIB recommended that concurrent employments be amalgamated for AE purposes.
- CIB was equally concerned regarding the possible exclusion of those in low paid, precarious, and/or part-time work. These employees were seen as being among those least likely to have private pension coverage. It was argued that these individuals should be the core target for inclusion in AE and not the focus of those excluded from it.
- In addition, CIB indicated its support for actions that would ensure that women, people with disabilities, migrants, and other minorities were not over-represented in numbers excluded by the €20,000 earnings trigger.
- CIB considered that the lower age threshold of 23 excluded a group for whom pension coverage was currently low and, by doing so, delivered a message to those entering work as school leavers that pension savings is not a priority, while simultaneously leaving them with a 6% drop in income once they reached their 23rd birthday.
- CIB strongly recommended that, regardless of the eventual AE membership, that once an employee opted into AE, this should trigger the payment of employer and state contributions to their pension pot.
- On the question of opting out, CIB agreed with the rationale for a mandatory six months' membership before an opting out window became available. CIB also supported the re-enrolment concept.

² Citizens Information Board Submission, *A Strawman Public Consultation Process for an Automatic Enrolment Retirement Savings System for Ireland*, https://www.citizensinformationboard.ie/downloads/social_policy/submissions2018/Auto_Enrolment_AE_CIB_subm.pdf

- However, it was noted that the six months' mandatory condition might be open to misinterpretation and seen as employees being 'forced into' a system against their wishes, which may have the unintended consequence of undermining the intended role of automatic enrolment in a pensions scheme.
- CIB recommended that a life-course approach be taken when considering whether to build periods of non-saving into the design of AE. Since the scheme is first and foremost a pension system, not a government incentivised saving scheme, withdrawals from the fund should be limited.
- Based on the experience of MABS in dealing with individuals managing personal debt issues, CIB expressed the view that the AE system should be designed to provide an opt-out for individuals who are in formal insolvency arrangements for the period covered by that arrangement.
- It was suggested that discretion should be exercised by the Central Processing Agency (CPA) to consider periods of savings suspensions to coincide with incidences of, for example, over-indebtedness, maternity leave, bereavement, illness, and unpaid caring. Savings suspensions could be for a pre-determined period (which could be reviewed), after which contribution deductions would recommence.

CIB Response to the General Scheme

In considering the published General Scheme, CIB wishes to address several issues that it considers to be of importance.

Participation: Age Thresholds

CIB notes that the General Scheme has retained 23 as the lower age threshold but that there is provision in the General Scheme for voluntary opt-in by persons aged 16 to 23 years³ and for employers to be legally required to contribute. However, CIB continues to believe that automatic enrolment at an earlier age has many benefits, including reinforcing the message that pension planning and provision is an important, if not essential, action, regardless of age. Notwithstanding this reservation, CIB welcomes the opt-in mechanism for the younger age cohort. It is noted that ICTU has recommended⁴ that the minimum age at which automatic enrolment applies should be aligned to the PRSI minimum age threshold of 16 years. This recommendation warrants further consideration.

Participation: Income threshold

CIB welcomes the fact that calculation of the minimum earning threshold of €20,000 is proposed to include earnings from multiple employments, where relevant.⁵ CIB sees this proposal as critically important given the position of people in precarious, low-pay employments.

³ General Scheme. Part 2 Participants. Head 4; Criteria for Automatic Enrolment. (pp. 8-9).

⁴ ICTU Submission to the Joint Oireachtas Committee on Social Protection, <https://ictu.ie/sites/default/files/publications/2022/JOC%20submission%20on%20Auto%20Enrolment%20%28ICTU%29%28Nov%202022%29.pdf>

⁵ General Scheme. Part 2 Participants (pp.10-11).

However, CIB continues to have concerns regarding the possibility that persons on low-pay – such as those on the National Minimum Wage – could be excluded over time should the minimum earnings threshold be increased for whatever reason. While accepting the ESRI findings noted in the General Scheme that the maximum State Contributory Pension yields high gross replacement rates for those at lower levels of income and its conclusion that for many earning below €20,000, the State Pension provides an adequate pension based on income replacement rates, CIB suggests a need for caution with respect to minimum earning threshold levels. CIB suggests that adequate participant opt-out mechanisms are a preferable alternative to automatic exclusion based on low earnings.

The fractured nature of the precariously employed and part-time employees' labour market engagement means they may not have a full PRSI/credits record, nor be afforded the opportunity to build up private pensions. In other words, they may find themselves excluded from accruing pension rights in either part of the pension system. It is arguable that these individuals should be the core target for AE, not the focus of those excluded from it.

There is also an argument that €20,000 as the appropriate level at which to trigger automatic enrolment may raise issues about affordability. For example, a significant cohort of MABS clients are in low income paid employment and many struggle with an inadequate income in the face of rising rents, high mortgages, and day-to-day living costs, all of which have been exacerbated by current inflation.

CIB notes the absence in the proposed General Scheme of any reference to earnings outside the jurisdiction. It will be important, for a small proportion of workers, that earnings outside the state be considered when setting and calculating income thresholds.

Notwithstanding the above reservations, CIB welcomes the various provisions for opting-in which support groups over-represented in low paid part-time, and precarious work including women, people with disabilities, migrants and other minorities⁶. CIB also notes the power of the CPA to review the operation of the auto-enrolment system and policy, with reference to the earnings threshold⁷. In this regard, CIB recommends that this review with respect to the earnings threshold be carried out on an annual basis.

Contribution rates

It is crucially important to get the contribution rates right to make the scheme work. If the employee contribution is too high, it may cause widespread public resistance to the scheme and if it is too low, it may fail to provide adequate retirement income which is the *raison d'être* for the scheme.

Further analysis of the impact of the threshold trigger on those included and those excluded is required to confirm that, for example, women, people with disabilities, migrants, and other minorities are not over-represented in numbers excluded by the €20,000 earnings trigger. This is important to ensure that an automatic enrolment underclass does not emerge. A key benefit of AE is its potential to close gaps in pensions where they currently exist, for example, the well documented gender gap in pensions.

A question also arises in respect of employers contributing to existing occupational schemes below the auto-enrolment employer contribution level. Such employers will be required to either increase

⁶ *Ibid.* Head 6 (pp. 12-13)

⁷ *Ibid.* Head 63 (pp. 100)

their contribution or merge their own scheme into the AE scheme so that auto-enrolment creates a floor for employer contributions. This requirement needs to be stated explicitly in the legislation to ensure that the AE contribution rate does not result in contributions being reduced to the minimum, thereby causing a reduction in employers' contributions to existing workplace pensions.

Self-employed sole traders

The General Scheme provides that, in future phases, self-employed workers will also be able to opt into the AE scheme. CIB believes that the inclusion of self-employed sole traders in the Scheme should not be 'pushed down the road'. This is important because of the relatively low private pension coverage among the self-employed. CSO data⁸ shows that in Quarter 3 2021, of those in employment who are self-employed and/or assisting a relative, over half (54.6%) had supplementary pension coverage, compared with 55.2% in 2020. These figures compare with almost two-thirds of all persons in employment having private pension coverage. Including the self-employed in the scheme at an early stage would also have the advantage of helping to ensure that there is not a financial incentive for unscrupulous employers to try to use bogus self-employment arrangements.

CIB, therefore, believes that self-employed sole traders should be automatically enrolled in the AE scheme. The matter and level of employer contributions would require further consideration to ensure that it is fair and equitable for self-employed people.

Interference by employers

CIB welcomes the measures proposed to prohibit employers from interfering in any way with the right of individual workers to make AE choices of their own preference.⁹ In particular, CIB agrees that such a prohibition should apply to the situation of all workers, regardless as to whether the employee concerned meets the eligibility criteria for enrolment set out under Head 4.

Investment companies

CIB does not feel that we can make informed comment on the provision for the Central Processing Authority (CPA) to tender for four commercial investment companies to each provide four types of retirement saving investment fund – low risk, moderate risk, higher risk and one default fund. However, we are strongly of the view that public and individual trust and confidence in the management of their pension savings is crucial to the success of auto-enrolment. Understandably, because of a sometimes-poor track record in managing funds by pension providers and investment funds, public trust may be low. Therefore, strong legislative protection is required both to protect the fund and to ensure that any use of the fund by a future government in periods of fiscal crisis is prohibited. This, in CIB's view is not adequately built into the Draft Heads and General Scheme.

Opt-out and suspension of participation

For auto-enrolment to remain quasi-mandatory as opposed to fully obligatory in nature, there must be some option for employees to opt-out of the scheme, even if that option is provided for a short period of time. Arrangements for re-entering the process need to be easily accessed and attractive.

⁸ CSO, Pension Coverage 2021, <https://www.cso.ie/en/releasesandpublications/ep/p-pens/pensioncoverage2021/overallpensioncoverage/>

⁹ Draft Scheme Head 8 (pp. 16-17)

CIB accepts the case made for mechanisms allowing for suspension of participation,¹⁰ and to a lesser extent the case made regarding opting-out and agrees that this provides a mechanism whereby employees experiencing acute financial hardship can pause their retirement savings contributions for a period. Savings suspension periods complement and enhance the proportionality and fairness of any opt-out policy, in mitigating any potential impact on, for example, people's ability to pay rent or a mortgage.

CIB accepts that the AE system is being designed to facilitate choice but not mandate it, in that individuals need not engage or be active in their pension savings if they choose not to. The aim of the auto-enrolment opt-out option¹¹ is to maximise participation without imposing compulsion.

However, CIB recognises that opt-out mechanisms carry the hazard that participants may permanently discontinue the practice of saving towards retirement when they opt out due to personal, short-term reasons. Another concern is that an employer could manipulate people into extending and making permanent what was initially a short-term opt out.

Limited access to opt-out periods is therefore seen as preferred and to a certain extent required. Employees should be encouraged to stay in the system, and the system should rely and build on positive 'nudges' to keep employees contributing.

While flexibility in the system is provided through suspension and opt-out policy, there needs to be conditions and limitations attached. Without such restrictions, it is possible that widespread suspensions or opt-outs by employees would undermine the objectives of AE to provide an adequate level of income on retirement.

¹⁰ *Ibid* Head 11 (pp. 27-28)

¹¹ *Ibid* Head 10 (pp.23-26)

Structure of the Board of the Central Processing Authority (CPA)

CIB agrees with the proposed structures for the CPA. CIB would however recommend that, in assembling an effective CPA Board Committee, strong consideration be given to including representatives of stakeholders that have important and relevant insights into the position, condition, motivations and challenges faced especially by those workers who are poorly paid, are in part-time and precarious employment, are most at risk of undue influence by employers, and who are most likely to be socially and economically excluded. It is noted that ICTU has recommended Trade Union membership on the CPA Board – CIB agrees with this.

Communications and information

CIB recommends that the General Scheme include a specific recognition of, and need for action, toward meeting the challenges that will be involved in communicating the implications of AE and its working mechanisms to all concerned. CIB-funded services are acutely aware of the extent to which public bodies can fail in adequately transmitting essential information to the public. There will a real need, therefore, to identify, recognise and address this challenge from the outset. This would ideally best be done through a regulatory requirement for information on the AE scheme to be published across various media outlets, including social media.

Payments in the event of the death of a participant

CIB considers it important that there is clarity regarding the transfer of accumulated funds to the beneficiary of a participant in the event of ‘death-in service’. The General Scheme states that “Following the death of an employee who was prior to their death beneficially entitled to the assets of an AE retirement savings fund, the amount or value of those assets shall be distributed to their estate”.¹² This provision is highly important to ensure that there is no additional anxiety at a time of understandably high stress for bereaved families.

Access to savings in cases of illness

CIB strongly agrees with the provision for early pre-payments as envisaged by the General Scheme.¹³ It is essential that the retirement savings fund of an employee could be paid out to the employee as a lump sum before they attain pensionable age if the employee becomes permanently incapable of carrying on their occupation or any occupation of a similar nature for which they are suited and trained. Such a situation could arise because of physical or mental health issues or reduced decision-making capacity or communication difficulties (e.g., associated with a stroke or trauma).

It is acknowledged that that conditions will need to be applied in such instances.

Concluding points

In this submission, CIB has pointed to aspects of the General Scheme which it sees as important to consolidate and/or include, and several areas where CIB continues to believe that changes would be

¹² *Ibid* Part 16. Head 60 (1) (p.97)

¹³ *Ibid* Head 61 (p.98)

both beneficial and necessary. Many of the more technical aspects of the proposed provisions have not been commented on because CIB does not feel equipped to make informed comment.

It is crucially important to build into the legislation a requirement that the AE scheme is and will remain an addition to the State pension. This is essential to protect the State pension against displacement by the AE scheme over time. Irrespective of the uptake of the AE scheme, the commitment to set a formal benchmark of 34% of gross average earnings for the State pension (contributory) contained in the Roadmap for Pensions Reform 2018-2023¹⁴ must remain. There should be no dilution of this commitment in the event of a successful roll-out of the AE scheme. Related to this is the need to explicitly link pension payment levels to changes in the Consumer Price Index and average wages.

To avoid a situation where some employers may pressurise or manipulate employees to opt out of the scheme, legislation should provide for strong and enforceable sanctions and penalties on employers where such is shown to the case. There would presumably be a role for the Workplace Relations Commission in this regard.

Finally, CIB believes that great care is required to ensure that financially vulnerable people do not miss out on meeting the qualifying conditions for means-tested benefits upon retirement, especially the Fuel Allowance.

¹⁴ A Roadmap for Pensions Reform 2018 – 2023, <https://assets.gov.ie/10968/9740541c18cc4eaf92554ff158800c6f.pdf>