



Number 39 of 2018

Public Service Superannuation (Age of Retirement) Act 2018



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SCHEDULE

ACTS REFERRED TO

- Civil Service Regulation Act 1956 (No. 46)
Comptroller and Auditor General (Amendment) Act 1993 (No. 8)
Data Protection Act 2018 (No. 7)
Dentists Act 1985 (No. 9)
Environmental Protection Agency Act 1992 (No. 7)
Freedom of Information Act 2014 (No. 30)
Interpretation Act 2005 (No. 23)
Local Government Act 2001 (No. 37)
Medical Practitioners Act 2007 (No. 25)
National Disability Authority Act 1999 (No. 14)
Nurses and Midwives Act 2011 (No. 41)
Official Languages Act 2003 (No. 32)
Ombudsman Act 1980 (No. 26)
Ombudsman for Children Act 2002 (No. 22)
Planning and Development Act 2000 (No. 30)
Public Service Pay and Pensions Act 2017 (No. 34)
Public Service Pensions (Single Scheme and Other Provisions) Act 2012 (No. 37)
Public Service Superannuation (Miscellaneous Provisions) Act 2004 (No. 7)
Social Welfare and Pensions Act 2011 (No. 9)
Social Welfare Consolidation Act 2005 (No. 26)
Taxes Consolidation Act 1997 (No. 39)



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PUBLIC SERVICE SUPERANNUATION (AGE OF RETIREMENT) ACT 2018

An Act to raise the age at which certain public servants are required to retire; to confer power on the Minister for Public Expenditure and Reform to raise that age by order; for those purposes to amend the Public Service Superannuation (Miscellaneous Provisions) Act 2004 and certain other enactments; to amend section 29 of the Public Service Pay and Pensions Act 2017; and to provide for related matters. [26th December, 2018]

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act, “Principal Act” means the Public Service Superannuation (Miscellaneous Provisions) Act 2004.

Amendment of section 1 of Principal Act

2. Section 1(1) of the Principal Act is amended by the insertion of the following definitions:

“ ‘Act of 2012’ means the Public Service Pensions (Single Scheme and Other Provisions) Act 2012;

‘relevant public servant’ means a public servant who is not any of the following:

(a) a member of either House of the Oireachtas or a member of the European Parliament;

(b) the holder of a qualifying office;

(c) a new entrant;

(d) a Scheme member;

(e) a person to whom, if he or she were a Scheme member, section 13(4) or 26(1) of the Act of 2012 would apply;

(f) a person who—

(i) before the coming into operation of *section 3* of the *Public Service Superannuation (Age of Retirement) Act 2018*, retired from a public service body upon or after attaining the age of 65 years, and

- (ii) on the coming into operation of that section, is employed by a public service body;
 - (g) a person who is employed by the Central Bank of Ireland;

‘Scheme member’ has the same meaning as it has in the Act of 2012;”.

Age of retirement for relevant public servants

3. The Principal Act is amended by the insertion of the following section after section 3:

- “3A. (1) A relevant public servant shall retire from being a public servant at the latest upon attaining the age of 70 years or, where a higher age is prescribed by order under subsection (2), upon attaining that higher age.

(2) Subject to subsection (3), the Minister may, by order, prescribe an age, being higher than 70 years, upon the attainment of which all relevant public servants shall, at the latest, retire.

(3) Before making an order under subsection (2), the Minister shall have regard to—

 - (a) the likely effect of the order on recruitment, promotion and retention of staff in the public service as a whole,
 - (b) the pensionable age applicable at the time of making the order,
 - (c) any evidence of an increase in normal life expectancy in the State made available by the Central Statistics Office from time to time,
 - (d) the likely cost (if any) to the Exchequer that would result from the order,
 - (e) any order made under section 13(2) of the Act of 2012, and
 - (f) such other matters as the Minister considers appropriate.

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

(5) In subsection (3)(b), ‘pensionable age’ means pensionable age within the meaning of section 2(1) (amended by section 7 of the Social Welfare and Pensions Act 2011) of the Social Welfare Consolidation Act 2005.

(6) The Minister shall, within three months of the passing of this Act, prepare and lay before the Oireachtas a report on the public servants who were forced to retire between 6 December 2017 and the commencement of this Act due to reaching the age of 65 years and on potential remedies to assist this cohort of worker.”.

Reckoning for superannuation purposes of service by relevant public servants

4. The Principal Act is amended by the insertion of the following section after section 13:

“13A. Subject to accruing a maximum pension as provided for by or under any enactment or public service pension scheme, any restriction on reckoning for superannuation purposes of service rendered to a public service body after a person reaches a specified age shall, in the case of a relevant public servant, be read as applying only to service rendered by that person to that body after the age of 70 years or, where a higher age is prescribed by order under section 3A(2), that higher age, subject to any extension provided for in a public service pension scheme made, approved or consented to by the Minister for Education and Skills, with the consent of the Minister.”.

Application to existing retirement provisions

5. The Principal Act is amended by the insertion of the following section after section 14:

“14A. The provisions of any public service pension scheme or statutory instrument (within the meaning of the Interpretation Act 2005) that require, or the effect of which is to require, a relevant public servant to retire or cease holding office or employment upon attaining a specified age shall be read, subject to this Act, as requiring the relevant public servant to retire or cease to hold office upon attaining the age of 70 years or, where a higher age is prescribed under section 3A(2), upon attaining that higher age, subject to any extension provided for in any such scheme or instrument as is made, approved or consented to by the Minister for Education and Skills, with the consent of the Minister.”.

Amendment of Schedule 1 to Principal Act

6. Schedule 1 to the Principal Act is amended—

(a) by the insertion of the following paragraph after paragraph 1:

“1A. A body corporate established by Act of Parliament before 6 December 1922 that, upon its establishment, was of a commercial character.”,

and

(b) by the insertion of the following paragraphs after paragraph 18:

“18A. Shannon Group p.l.c.

18B. Teilifís na Gaeilge.”.

Amendment of Schedule 2 to Principal Act

7. The Principal Act is amended by the insertion of the text set out in the *Schedule* as Part 3 of Schedule 2 to that Act.

Amendment of section 29 of Public Service Pay and Pensions Act 2017

8. Section 29 of the Public Service Pay and Pensions Act 2017 is amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) In this Part, ‘pensionable pay’, in relation to a public servant and in respect of a specified period, means—

(a) basic pay (excluding overtime) due to the public servant in respect of that period, and

(b) allowances, emoluments or premium pay (or its equivalent) so due to him or her which, by virtue of subsection (2), are treated as pensionable pay,

but does not include the amount of any such basic pay, allowances, emoluments or premium pay (or its equivalent) forgone under any salary sacrifice arrangement specifically approved by the Revenue Commissioners in relation to the provision to that public servant of an exempt employee benefit.”,

and

(b) by the insertion of the following subsection after subsection (4):

“(5) In this section—

‘Act of 1997’ means the Taxes Consolidation Act 1997;

‘exempt employee benefit’ means a benefit specifically approved by the Revenue Commissioners which is referred to in section 118B(2)(a) (i) or (iii) of the Act of 1997;

‘salary sacrifice arrangement’ has the same meaning as it has in section 118B of the Act of 1997.”.

Short title and collective citation

9. (1) This Act may be cited as the Public Service Superannuation (Age of Retirement) Act 2018.

(2) This Act shall be included in the collective citation of the Public Service Superannuation (Miscellaneous Provisions) Acts 2004 to 2018

SCHEDULE

Section 7

“PART 3

SECTION 3A

CONSEQUENTIAL AMENDMENTS TO ACTS RELATING TO SECTION 3A

Number and Year	Short Title	Amendment
No. 46 of 1956	Civil Service Regulation Act 1956	<p>Section 8 is amended by—</p> <ul style="list-style-type: none"> (a) the substitution of the following paragraph for paragraph (b) of subsection (1): ‘(b) in relation to any other civil servant, 70 years or, where a higher age is prescribed by order under section 3A(2) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 for the purposes of that Act, that age.’, (b) the deletion of subsection (2), and (c) the deletion of subsection (4).
No. 26 of 1980	Ombudsman Act 1980	<p>Section 2 is amended by—</p> <ul style="list-style-type: none"> (a) the substitution of the following paragraph for paragraph (c) of subsection (3):

Number and Year	Short Title	Amendment
		<p>‘(c) shall in any case vacate the office on attaining the age of 70 years or, where a higher age is prescribed by order under section 3A(2) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 for the purposes of that Act, that age but, where the person is a new entrant (within the meaning of that Act) appointed on or after 1 April 2004, the requirement to vacate office on grounds of age shall not apply.’,</p> <p>and</p> <p>(b) the deletion of subsection (7).</p>
No. 9 of 1985	Dentists Act 1985	<p>Section 18 is amended by—</p> <p>(a) the substitution of the following subsection for subsection (1):</p>

Number and Year	Short Title	Amendment
		<p>‘(1) A person who is a permanent officer of the Council shall cease to be a permanent officer on attaining the age of 70 years or, where a higher age is prescribed by order under section 3A(2) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 for the purposes of that Act, that age but, where the person is a new entrant (within the meaning of that Act) appointed on or after 1 April 2004, the requirement to cease holding office on grounds of age shall not apply.’,</p> <p>and</p> <p>(b) the deletion of subsection (2).</p>
No. 7 of 1992	Environmental Protection Agency Act 1992	Section 21 is amended by the substitution of the following paragraph for paragraph (b) of subsection (14):

Number and Year	Short Title	Amendment
		<p>‘(b) The Director General shall vacate the office of Director General on attaining the age of 70 years or, where a higher age is prescribed by order under section 3A(2) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 for the purposes of that Act, that age but, where the person is a new entrant (within the meaning of that Act) appointed on or after 1 April 2004, the requirement to vacate office on grounds of age shall not apply.’.</p> <p>Section 24 is amended by the substitution of the following paragraph for paragraph (b) of subsection (10):</p>

Number and Year	Short Title	Amendment
		‘(b) A director shall vacate his office of director on attaining the age of 70 years or, where a higher age is prescribed by order under section 3A(2) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 for the purposes of that Act, that age but, where the person is a new entrant (within the meaning of that Act) appointed on or after 1 April 2004, the requirement to vacate office on grounds of age shall not apply.’.
No. 8 of 1993	Comptroller and Auditor General (Amendment) Act 1993	Section 15 is amended in subsection (6) by the substitution of the following paragraph for paragraph (a):

Number and Year	Short Title	Amendment
		<p>‘(a) The age of retirement of a person appointed to the office of Comptroller and Auditor General after 1 October 1993 shall be 70 years or, where a higher age is prescribed by order under section 3A(2) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 for the purposes of that Act, that age but, where the person is a new entrant (within the meaning of that Act) appointed on or after 1 April 2004, the requirement to vacate office on grounds of age shall not apply.’.</p>
No. 14 of 1999	National Disability Authority Act 1999	<p>Section 25 is amended in subsection (5) by the substitution of the following paragraph for paragraph (a):</p> <p>‘(a) The Director shall, unless he or she earlier dies, resigns or retires at any stage after attaining the earliest age to retire in accordance with a scheme under section 28 or is earlier removed from office, hold office—</p> <p>(i) for a period not exceeding 7 years, or</p>

Number and Year	Short Title	Amendment
		<p>(ii) for the period from the date of the appointment to the date on which he or she attains the age of 70 years or, where a higher age is prescribed by order under section 3A(2) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 for the purposes of that Act, that age,</p> <p>whichever is the shorter but, where the Director is a new entrant (within the meaning of that Act) appointed on or after 1 April 2004, the requirement to cease holding office on grounds of age shall not apply.'</p>
No. 30 of 2000	Planning and Development Act 2000	Section 105 is amended by the substitution of the following paragraph for paragraph (b) of subsection (13):

Number and Year	Short Title	Amendment
		<p>‘(b) The chairperson shall vacate the office of chairperson on attaining the age of 70 years or, where a higher age is prescribed by order under section 3A(2) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 for the purposes of that Act, that age but, where the person is a new entrant (within the meaning of that Act) appointed on or after 1 April 2004, the requirement to vacate office on grounds of age shall not apply.’.</p>

Number and Year	Short Title	Amendment
		<p>Section 106 is amended by the substitution of the following paragraph for paragraph (b) of subsection (13):</p> <p style="padding-left: 40px;">‘(b) A person shall vacate the office of ordinary member on attaining the age of 70 years or, where a higher age is prescribed by order under section 3A(2) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 for the purposes of that Act, that age but, where the person is a new entrant (within the meaning of that Act) appointed on or after 1 April 2004, the requirement to vacate office on grounds of age shall not apply.’.</p>
No. 37 of 2001	Local Government Act 2001	<p>Section 147 is amended in subsection (1)—</p> <p style="padding-left: 40px;">(a) in paragraph (b) by the substitution of ‘the age of 70 years or, where a higher age is prescribed by order under section 3A(2) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 for the purposes of that Act, that age’ for ‘such age as the Minister specifies by order’, and</p>

Number and Year	Short Title	Amendment
		<p>(b) by the insertion of ‘but, where the person is a new entrant (within the meaning of the aforementioned Act) appointed on or after 1 April 2004, the requirement to cease to hold the employment on grounds of age shall not apply’ after ‘ceases to hold the employment’.</p> <p>Section 158 is amended by the deletion of paragraph (c) of subsection (1).</p>
No. 22 of 2002	Ombudsman for Children Act 2002	<p>Section 4 is amended in subsection (3) by the substitution of the following paragraph for paragraph (c):</p> <p style="padding-left: 40px;">‘(c) shall in any case vacate the office on attaining the age of 70 years or, where a higher age is prescribed by order under section 3A(2) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 for the purposes of that Act, that age but, where the person is a new entrant (within the meaning of that Act) appointed on or after 1 April 2004, the requirement to vacate office on grounds of age shall not apply.’.</p>
No. 32 of 2003	Official Languages Act 2003	The Second Schedule is amended in paragraph 2—

Number and Year	Short Title	Amendment
		<p>(a) in the Irish text by the substitution of the following subparagraph for subparagraph (c):</p> <p>‘(c) éireoidh sé nó sí as oifig ar chaoi ar bith ar 70 bliain d’aois a shlánú nó, i gcás go bhforordófar aois is airde ná sin le hordú faoi alt 3A(2) den Acht um Aoisiúntas na Seirbhise Poiblí (Forálacha Ilghnéitheachá), 2004 chun críocha an Achta sin, ar an aois sin a shlánú ach, i gcás gurb iontrálaí nua an duine (de réir bhrí an Achta sin) arna cheapadh nó arna ceapadh an 1 Aibreán 2004 nó dá éis, ní bheidh feidhm ag an gceanglas maidir le héirí as oifig ar fhoras aoise.’,</p> <p>and</p> <p>(b) in the English text by the substitution of the following subparagraph for subparagraph (c):</p>

Number and Year	Short Title	Amendment
		<p>‘(c) shall in any case vacate the office on attaining the age of 70 years or, where a higher age is prescribed by order under section 3A(2) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 for the purposes of that Act, that age but, where the person is a new entrant (within the meaning of that Act) appointed on or after 1 April 2004, the requirement to vacate office on grounds of age shall not apply.’.</p>
No. 25 of 2007	Medical Practitioners Act 2007	<p>Section 26 is amended by—</p> <p>(a) the substitution of the following subsection for subsection (1):</p> <p>‘(1) Subject to subsection (2), a person who is a permanent officer of the Council shall cease to be a permanent officer on attaining the age of 70 years or, where a higher age is prescribed by order under section 3A(2) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 for the purposes of that Act, that age.’,</p>

Number and Year	Short Title	Amendment
		<p>and</p> <p>(b) the deletion of subsection (3).</p>
No. 41 of 2011	Nurses and Midwives Act 2011	<p>Section 30 is amended by—</p> <p>(a) the substitution of the following subsection for subsection (1):</p> <p>‘(1) Subject to subsection (2), an employee of the Board (including the chief executive officer) shall cease to be an employee on attaining the age of 70 years or, where a higher age is prescribed by order under section 3A(2) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 for the purposes of that Act, that age.’,</p> <p>and</p> <p>(b) the deletion of subsection (3).</p>
No. 30 of 2014	Freedom of Information Act 2014	Schedule 2 is amended in paragraph 2 by the substitution of the following subparagraph for subparagraph (c):

Number and Year	Short Title	Amendment
		‘(c) shall in any case vacate the office on attaining the age of 70 years or, where a higher age is prescribed by order under section 3A(2) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 for the purposes of that Act, that age but, where the person is a new entrant (within the meaning of that Act) appointed on or after 1 April 2004, the requirement to vacate office on grounds of age shall not apply.’.
No. 7 of 2018	Data Protection Act 2018	Section 15(10) is amended by the substitution of the following paragraph for paragraph (d):

Number and Year	Short Title	Amendment
		<p>‘(d) cease to be a Commissioner on attaining the age of 70 years or, where a higher age is prescribed by order under section 3A(2) of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 for the purposes of that Act, that age but, where the person is a new entrant (within the meaning of that Act) appointed on or after 1 April 2004, the requirement to cease to be a Commissioner on grounds of age shall not apply.’.</p> <p>”.</p>