


Tithe an Oireachtais
Houses of the Oireachtas

An Comhchoiste um Fhiontar, Trádáil agus Fostaíocht

Tuarascáil maidir leis an nGrinnscrúdú Réamhreachtach ar Scéim Ghinearálta an Bhille Fostaíochta (Srian le hAoiseanna Scoir Sainordaitheacha Áirithe), 2024

Bealtaine 2024

Joint Committee on Enterprise, Trade and Employment

Report on the Pre-Legislative Scrutiny of the General Scheme of Employment (Restriction of Certain Mandatory Retirement Ages) Bill, 2024

May 2024

33/ETE/31

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Chair’s Foreword

On 10 March 2024, the Minister for Enterprise, Trade and Employment Deputy Simon Coveney referred the General Scheme of the Employment (Restriction of Certain Mandatory Retirement Ages) Bill 2024 to the Oireachtas Joint Committee on Enterprise, Trade and Employment, with a request to commence pre-legislative scrutiny at the Committee’s earliest convenience.

The Committee agreed to undertake pre-legislative scrutiny and has sought to scrutinise the proposed legislation, providing recommendations on areas where it believes changes or amendments are warranted. The Committee welcomes the introduction of the Employment (Restriction of Certain Mandatory Retirement Ages) Bill 2024, and the time and consideration the Department has provided with this Bill.

The General Scheme aims to preclude enforceability of contractual mandatory retirement ages before the age at which an employee may first become entitled to the State Pension. Throughout the discussion it was clear there is a mandatory retirement age for many workers. This General Scheme aims to reconsider the fairness of compelling people to retire from work before they have reached the State pension age.

Forced retirement can significantly impact the financial security of individuals, especially if they are not financially prepared to stop working at the designated age. This can lead to financial strain and insecurity, particularly for those who may rely on continued employment for income.

The Committee supports that at the age of 65, workers should have the choice to continue working if they are able, without the assumption that they must prove their ability. The discussion highlighted the difference between being forced to retire and choosing to retire based on individual circumstances.

The Committee made a number of recommendations aimed at improving this important piece of legislation. When this legislation proceeds, the Joint Committee requests that the recommendations and key issues raised in this report and identified during the pre-legislative scrutiny process are taken on board by the Government and implemented and look forward to further engagement on the Bill, as this important piece of legislation progresses through the Houses.

I wish to thank all stakeholders and the Department for their contributions and submissions to assist the Joint Committee in their analysis of the Bill. I must also thank Members of the Committee for their collaborative work in agreeing this report.

Deputy Maurice Quinlivan, T.D.,
Cathaoirleach to the Joint Committee on Enterprise, Trade and Employment
May 2024

Table of Contents

Recommendations

Recommendation 1:

The Committee recommends the abolition of mandatory retirement. The Committee supports choice-based retirement and recommends that the necessary supports be provided.

The Committee further supports emphasising the need to protect the State pension as a crucial source of income for older individuals.

Recommendation 2:

The Committee recommends that the provision in the proposed Bill to require workers to give three months' advance written notice to their employer is onerous on the worker.

The Committee further recommends including a provision that provides where a notice period has commenced, it must not be interrupted without the agreement of both parties. The Committee recommends the onus be placed on employers. Employers should engage in meaningful dialogue with employees regarding retirement plans and respect their choices and preferences.

Recommendation 3:

The Committee recommends that the Department of Enterprise, Trade and Employment have further engagement with the Social Partners and the WRC to see can a pathway to a more flexible age friendly exit from the workplace be developed and enshrined in this legislation, so that over time the idea of a rigid termination date would become the exception based on some specified criteria and replaced with a flexible date more suitable to a person's circumstances.

Recommendation 4:

The Committee recommends that a comprehensive information campaign is undertaken to provide awareness to the public who may not be aware of the supports and rights in retirement situations.

The Committee acknowledges the high motivation among people among people across Europe, including Ireland, to continue working beyond traditional retirement ages. Motivation factors may vary.

Recommendation 5

The Committee supports that at the age of 65, workers should have the choice to continue working if they are able, without the assumption that they must prove their ability.

Recommendation 6

The Committee noted that the choice on when to retire should not be impacted by additional factors.

The Committee further recommend that the current system forces individuals to make a choice between claiming benefit payments for 65-year-olds and continuing to work. The Committee suggest that further examination is required into this limitation as it may not align with their preferences or financial needs.

Recommendation 7

The Committee recommends further engagement with the Department of Social Protection to examine rules surrounding benefit payments for 65-year-olds, including requirements like the number of PRSI contributions and the specifics of the contribution year, as these rules are overly complex. This complexity can lead to confusion and hinder understanding, potentially preventing eligible individuals from accessing the benefits they are entitled to, and the Committee recommends and advocates for more simplified guidelines.

Recommendation 8

The Committee recommends greater flexibility in all work patterns to provide age-friendly workplaces, and that by providing this flexibility, it could help expand the labour market generally.

Recommendation 9

The Committee advocate the need for greater awareness and improvement in supporting an individual employee's sense of control for their retirement decisions and their well-being after retirement. The Committee recommend greater supports for post-retirement well-being.

Introduction

The Minister for Enterprise, Trade and Employment Deputy Simon Coveney referred the General Scheme of the Employment (Restriction of Certain Mandatory Retirement Ages) Bill 2024 to the Oireachtas Joint Committee on Enterprise, Trade and Employment on 10 March with a request to commence pre-legislative scrutiny at the Committee's earliest convenience.

The General Scheme of the Employment (Restriction of Certain Mandatory Retirement Ages) Bill 2024 is included as a legislative priority for drafting on the Government's legislative programme for the summer session.

Procedural basis for scrutiny

Pre-legislative consideration was conducted by the Joint Committee on Enterprise, Trade and Employment (the "Committee") in accordance with Standing Order 174A, which provides that the General Scheme of all Bills shall be given to the Committee empowered to consider Bills published by the member of Government.

The Committee commenced pre-legislative scrutiny of the General Scheme on 13 March in private session with a discussion of the Department of Enterprise, Trade and Employment detailed written brief on the General Scheme. The Committee held one public hearing on the General Scheme with relevant stakeholders, this public hearing took place on 10 April with representatives from Age Action, Irish Senior Citizens Parliament, and Retirement Planning Council of Ireland.

The primary focus of conducting pre-legislative scrutiny was to allow for an engagement between the Committee and stakeholders to discuss areas of the General Scheme which may need to be amended. This report summarises the engagements and the key points considered by the Committee when drafting the recommendations set out in this report.

Meeting – Wednesday, 10 April 2024 in CR1

Transcript – Video

Representatives from Age Action - Opening Statement

- Mary Murphy, Research Officer
- Dr Nat O'Connor, Senior Policy Analyst

Representatives from Irish Senior Citizens Parliament – Opening Statement

- Pat Mellon, Chief Executive Officer

Retirement Planning Council of Ireland – Opening Statement

- Declan Lawlor, Programme Leader
- Laura Farrell, Chief Executive Officer

Summary of the General Scheme

The General Scheme of the Employment (Restriction of Certain Mandatory Retirement Ages) Bill consists of 8 Heads of Bill. In response to the Pensions Commission Recommendations and Implementation Plan, the Government committed to a range of pension reforms which included a commitment relating to contractual mandatory retirement age. The policy objective is to introduce measures which allow, but do not compel, an employee to stay in employment until they can access the State Pension.

Under the proposed legislation, an employer cannot set a mandatory retirement age below the State pension age if the employee does not consent to retire. The element of consent reflects the fact that many employees may want to retire at their contractual retirement age. Certain limited exemptions are proposed to allow for a mandatory retirement age below the State retirement age for physically demanding or public-safety critical professions, but only where the employer can objectively justify the retirement age.

The General Scheme of the Bill proposes that where an employee does not consent to retire at their employer's contractual retirement age, they must notify their employer in writing of that fact not less than three months prior to the contractual retirement date. If the employer has established different notice periods (e.g. by way of employee handbooks) the employee must give no less notice than that specified period, but this notice period must not exceed six months.

Head	Title
1	Short Title and Commencement
2	Application of Act and definitions
3	Restriction on enforceability of contractual references to mandatory retirement age

4	For whom this Bill has no effect
5	Avoidance of doubt on application of Employment Equality Acts
6	Non-interference with pension schemes
7	Amendment of Unfair Dismissals Act 1977
8	Avenues of redress

Background and objective

The overall policy objective of this General Scheme is to preclude enforceability of contractual mandatory retirement ages before the age at which an employee may first become entitled to the State Pension.

The Commission on Pensions was established on foot of a 2020 Programme for Government commitment to “to examine sustainability and eligibility issues with State Pensions and the Social Insurance Fund”. The membership of the Commission included representation of workers, employers, civil society, academics, and those with technical and policy expertise.

In its Terms of Reference, the Commission was also asked to consider the issue of retirement ages in private employment contracts that are set below the State Pension age. The report of the Commission was published in October 2021 and is a comprehensive and authoritative report based on various analyses of population, labour force and expenditure projections; an examination of international approaches; and responses to an extensive consultation process.

In September 2022, in response to the Pensions Commission Recommendations and Implementation Plan, the Government committed to a range of pension reforms which will ensure the pensions system is sustainable in the face of demographic change and that people relying on the State Pension have adequate and predictable income in retirement. The majority of the commitments relate to significant reform of the State Pension System and are being led by the Department of Social Protection.

In addition to these reforms, the Government has committed to introduce measures that allow, but do not compel, an employee to stay in employment until the State Pension Age.

Currently

Currently there is no general retirement age for employees in Irish legislation. In certain public sector employment, statutory retirement ages may apply.

Under equality legislation, an employer is currently permitted to set a retirement age, but only in circumstances where it can be objectively and reasonably justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary.

In response to the Pensions Commission recommendation, the Government has committed to introduce measures that allow, but do not compel, an employee to stay in employment until the State Pension Age.

This key commitment relating to contractual mandatory retirement age is the responsibility of the Department of Enterprise, Trade and Employment. Primary legislation is required to implement this Government commitment.

Summary of Evidence

During the public hearing and written submissions, a number of important points were raised. A summary of the principal areas discussed in evidence to the Committee follows.

Throughout the discussion it was clear there is a mandatory retirement age for many workers. This General Scheme aims to reconsider the fairness of compelling people to retire from work before they have reached the State pension age.

Forced retirement can significantly impact the financial security of individuals, especially if they are not financially prepared to stop working at the designated age. This can lead to financial strain and insecurity, particularly for those who may rely on continued employment for income.

The Committee supports that at the age of 65, workers should have the choice to continue working if they are able, without the assumption that they must prove their ability. The discussion highlighted the difference between being forced to retire and choosing to retire based on individual circumstances.

1. Key issue – Choice and financial security

Age Action advocates for the abolition of mandatory retirement and emphasise the need to protect the State pension as a crucial source of income for older individuals. Age Action further maintain that any increase in working age should not serve as a reason to weaken or restrict access to the State pension.

Age Action highlighted the high motivation among people across Europe, including Ireland, to continue working beyond traditional retirement ages. Motivation factors vary from personal identity to love for the work or financial considerations.

Age Action further noted that mandatory retirement age clauses restrict the autonomy of employees by imposing a predetermined end date to their employment. Age Action noted that this can be particularly problematic for individuals who are still willing and able to continue working beyond the specified age.

Age Action maintained that mandatory retirement age clauses can perpetuate age discrimination in the workplace. By mandating retirement at a certain age, employers may inadvertently or intentionally exclude older workers from continuing in their roles, even if they are fully capable and willing to do so.

Age Action gave evidence that up to 4,000 people may face mandatory retirement at age 65 annually, with others forced to retire at different ages, highlighting the widespread impact.

The Retirement Planning Council of Ireland [RPCI] note that the current system forces individuals to make a choice between claiming benefit payments for 65-year-olds and continuing to work. RPCI highlight that individuals cannot work while claiming these benefits, which limits their options and may not align with their preferences or financial needs.

The Irish Senior Citizens Parliament [ISCP] advocates for the rights of older people to choose their retirement age. They emphasise that older individuals have valuable experience and knowledge to offer and should have the opportunity to continue contributing to society if they wish to do so.

2. Key issue – gender pay gap and pay disparity

The Committee questioned the gender disparity in the desire to continue working beyond retirement age, citing statistics that show 60% of women and 40% of men wanting the option to work on. The Committee enquired whether this difference is linked to the need for extra social security stamps or if other factors, such as caring responsibilities, play a role.

The ISCP noted with concern Non-Contributory Pension for Females. ISCP referred to the large cohort of women who have spent periods working at home and may not have full pension contributions, thus impacting their eligibility for non-contributory pensions.

ISCP highlighted that they are often means-tested based on their partner's assets, which can undermine their independence and freedom. ISCP further noted that some individuals, particularly women, may re-enter the workforce later in life and seek to increase their pension contributions. This desire for financial independence and choice is essential.

ISCP noted particular discrimination and stereotypes. There is an issue of people, particularly women, being told they are unfit for work or unable to find employment. Women are sometimes viewed merely as appendages to their husbands' assets, which perpetuates inequality and denies them their rights. ISCP recommended addressing these issues would require policy changes to ensure fair access to pensions, combat gender stereotypes, and promote financial independence for all individuals, regardless of gender or employment history.

Age Action noted an ESRI report stating that there is a significant 35% pension income gap between women and men in retirement, indicating systemic gender inequality in income. Age Action noted that this disparity may motivate more women to work longer to compensate for lower retirement incomes. Age Action highlighted that despite willingness among women to work longer, statistics show a disproportionate number of men aged 66 and older remain in the workforce, particularly in self-employment and professions traditionally dominated by men.

Age Action also noted women over 66 are disproportionately engaged in unpaid care work, which does not contribute to State pension credits, further exacerbating gender-based financial disparities in retirement.

RPCI highlighted that there appears to be a gender disparity in pension provision, with a lower percentage of females being members of occupational pension schemes. This could be attributed to historical factors such as certain occupations traditionally not providing occupational pensions, particularly in service industries and retail.

RPCI highlighted that a significant portion of female respondents in surveys conducted by the Retirement Planning Council of Ireland indicated heavy reliance on the State pension in retirement compared to male respondents. Additionally, a higher percentage of female respondents expressed a willingness to work past the age of 65, highlighting the financial challenges faced by women in retirement planning.

RPCI noted that may not have the luxury of occupational pension schemes to the extent that males have.

Each of the witnesses advocate that addressing these issues would involve strategies to mitigate financial loss during the course period, ensuring participants are aware of their entitlements to the State pension and advocating for policies that promote gender equity in pension provision.

3. Key issue – Life Expectancy and the need for Age Friendly workplaces

The Committee noted that while life expectancy has increased in Ireland, the rate of healthy life expectancy has increased at a higher rate. However, we also know people have to work and we can look in particular at the number of people who are now having to rent in their 50s and 60s.

RPCI noted that the increase in life expectancy over the past few decades has led to longer retirement periods, requiring careful financial planning to ensure security throughout retirement. While increased life expectancy and improved health in retirement offer a more positive outlook, financial security remains a critical aspect of retirement planning.

ISCP noted that ensuring older people have security of income is fundamental. The ability to work until and beyond the State pension age is crucial for financial stability and personal fulfilment. Many older individuals feel forced out of work solely based on their age, leading to feelings of resentment and uselessness.

ISCP advocate that employers are urged to address age inequality and create age-friendly workplaces that accommodate the needs and abilities of older workers. This involves promoting diversity and inclusivity across all age groups and recognising the valuable contributions of older employees.

Age Action noted that age is not a reliable predictor of capacity, as decline can be offset by the strengths older workers possess, such as experience, stress management, loyalty, and motivation. Age Action further noted that mandatory retirement has negative effects on post-retirement well-being and leads to a loss of skills and experience in the economy, impacting public finances in the context of an ageing population.

Employee Support

The Committee raised concerns regarding the lack of support for employees facing retirement, particularly regarding the abrupt transition to unemployment benefits and the associated loss of control over their situation. The importance of providing workers with choices and flexibility in retirement decisions to maintain their well-being.

The Committee further queried the requirement for post-retirement well-being. The Committee highlighted the need for greater awareness and improvement in an individual employee's sense of control for their retirement decisions and predicting their well-being after retirement.

Age Action highlighted that mandatory retirement policies have long-lasting negative effects on individuals, including feelings of anger and resentment. Age Action indicate that research has shown these impacts persist over time, affecting individuals even years after retirement.

Flexible Work

The Committee questioned the stakeholders' experience regarding where somebody reaches a certain stage and age, they cannot continue full-time work, but they might be able to do part-time work.

Age Action advocated that they would prefer to see a transformational change to age-friendly workplaces beyond the issue of mandatory retirement. Workplaces that are suitable for older persons are suitable for everyone because people throughout their life course may go through periods where they want to work part-time. Age Action suggest that this is because of caring responsibilities where older workers will often take on caring responsibilities at that stage in their lives.

Age Action noted that France has brought in a law that allows anybody to move to a four-day week. Age Action would support a similar move as then they could envisage either a right or certainly encouragement from employers to offer that kind of flexibility to certain categories of worker, including older workers.

Age Action advocate for greater flexibility in all work patterns. Ireland has a very low employment rate for people with disabilities and there is a lower female employment rate. Providing this flexibility could help expand the labour market generally.

ISCP noted it is a cliff-edge event but there is no logical reason it should be so. Where retirement is mandatory at a certain age, that person's position is not being made redundant. There is no reason there cannot be an easing out or easing in of a new arrangement. There is no logical reason an employer can give that people have to retire.

4. Key issue – Disparity Between Retirement Age and State Pension Entitlement

Access

RPCI noted there is a significant gap between the age at which most people retire (typically 65) and the age at which they become entitled to the State retirement pension (currently 66, potentially increasing to 67 or beyond). This misalignment poses financial challenges for retirees, especially regarding access to benefits during the gap year(s) before qualifying for the State pension.

The RPCI further noted the financial implications of retiring before qualifying for the State pension are substantial. Employees forced to retire at 65 may face a significant reduction in income, as benefits such as jobseeker's benefit are lower than the State pension, particularly for dependent spouses. This income shortfall can present a considerable financial challenge, especially for lower-paid employees or those without supplementary pensions.

RPCI highlighted that 65% of workers have some form of occupational pension. Those who do not have one tend, by and large, to be in specific lower-paid sectors. Regarding integration with occupational pension schemes, these schemes have a bigger problem with people who want to retire earlier because, in some cases, the benefits have to be actuarially reduced. Where people want to retire later, that really should not be an issue for most occupational pension schemes because it means they will be drawing down the benefit at a later stage and for a shorter period. People in defined contribution schemes do not have to decide as to whether to buy an annuity or invest in an approved retirement fund for another year or two.

Discrimination

Age Action highlighted that mandatory retirement is viewed as ageism and unfair, regardless of whether individuals are forced to retire at 65 or 67. Focusing solely on aligning retirement age with the State pension age fails to address broader issues of discrimination and perpetuates ageist practices.

Age Action noted age is deemed an unreliable predictor of capacity, as older workers often possess valuable skills and experience. Older workers are excluded from normal managerial processes, including performance reviews and training, based solely on their age.

Age Action attested that mandatory retirement perpetuates ageism by institutionalising stereotypes, excluding older individuals from societal participation, and preventing them from challenging ageist assumptions.

Age Action advocate that older persons are as entitled to normal managerial processes as any other workers. Employment law is not supposed to protect employers from difficult conversations. If there is a decline in capacity and roles need to be discussed and supports need to be put in place, older workers should be talked to about that just as any other employee would be.

The ISCP emphasises the issue of ageism in employment, particularly the practice of enforcing retirement ages into contracts before the State pension age. This practice is seen as discriminatory and limits the ability of older individuals to continue contributing to the workforce.

Stakeholders highlighted the discrepancy between mandatory retirement for low-paid workers and no retirement requirement for politicians highlights the unfairness of current policies.

Inconsistency

ISCP noted an inconsistency in the system where individuals are forced to stop working for a year if they claim benefit payments for 65-year-olds, but they can return to work and claim the State pension a year later. This highlights a contradiction or lack of coherence in the rules.

Age Action noted many people are being mandatorily retired on the basis of provisions in their contracts that were created 40 years ago.

Complex SP guidelines

ISCP called attention to rules surrounding benefit payments for 65-year-olds, including requirements like the number of PRSI contributions and the specifics of the contribution year, are overly complex. This complexity can lead to confusion and hinder understanding, potentially preventing eligible individuals from accessing the benefits they are entitled to.

RPCI attested that the qualification rules for retirement benefits, particularly in relation to PRSI contributions conditions, are overly complex and contribute to confusion among retirees. Understanding eligibility criteria and navigating the system can be challenging, especially for those retiring before the age of 65.

RPCI noted that the rules around qualifying for the jobseeker's benefit at the age of 65 are overcomplicated. For someone who works to the age of 65 and then applies for jobseeker's benefit, it is relatively straightforward. The main complication around the benefit tends to arise for those who have retired a little earlier and subsequently apply for the benefit payment at the age of 65 because applicants must have a minimum of 13 paid contributions in the governing contribution year.

Simplification and lack of clarity

ISCP were in favour of simplification of the rules governing benefit payments for 65-year-olds. Simplification could improve accessibility, clarity, and fairness in the system, addressing the issues of choice limitation and complexity.

ISCP noted the lack of clarity regarding the legal age for retirement, causing confusion and frustration among older workers. Despite there being no legal age for retirement, arbitrary age limits are enforced by employers, leading to complications in accessing benefits and pensions.

RPCI noted participants in their courses experience a significant financial loss due to a 12-month period where they are unable to generate income. RPCI further noted that this loss can have long-term implications for their financial stability and retirement planning.

RPCI noted repeated concern among participants who may not be entitled to a full State pension when they reach 66 years old. This could be due to various factors, including gaps in their employment history or not meeting the requirements for the State pension.

RPCI highlighted that when people reach the age of 65, they do not automatically receive the benefit payment for 65-year-olds, even though the name suggests they will. RPCI advocate that there should be some clarity around that to make it simpler for people to understand what they need to do to qualify for the benefit. For those who decide to continue working after the age of 65 and who will not claim that benefit, this legislation will go some way towards addressing that.

Inequity

Age Action noted with concern new inequities entering the system. If someone is on a public service contract, mandatory retirement is at 70 years of age, but if someone is on a private sector contract, it will be 66 years of age.

Age Action further commented that this new inequity creates a tension with the Government's proposal that we should encourage longer working lives where people want to. Some people are not affected by mandatory retirement. An equality and human rights analysis would have to address those inequities and work one's way through them.

5. Key issue – Inadequacy of Legislation

Age action noted that the General Scheme being discussed offers only marginal improvement by raising the retirement age from 65 to 66, aligning with the State pension age. However, it fails to address loopholes that allow employers to terminate employees at 65, placing the burden on workers to contest such actions.

Age Action further advocate the need for stronger legislation that outright bans mandatory retirement in order to achieve comprehensive reform, as opposed to merely raising the retirement age by one year. This call highlights the desire for more substantial reforms to address systemic issues of age discrimination and inequality in retirement.

Age Action expressed scepticism regarding the efficacy of the Bill in limiting the occurrence of mandatory retirement. Age Action contend that the Bill merely shifts the standards that employers must adhere to, without necessarily making them more stringent.

Age Action believes that the problems associated with mandatory retirement will persist despite the Bill. Age Action further raised concerns about the implications of individualising the logic of mandatory retirement. They suggest that it implies lower standards for terminating older workers compared to younger ones, thereby weakening employment protections for individuals aged 66 and above.

Age Action noted that the regulatory impact analysis failed to consider longer working lives, the option of deferring the State pension, or the abolition of mandatory retirement, neglecting the human rights impact of the proposed law.

ISCP notes enforcing retirement at 65 constitutes a form of coercive control by employers. ISCP liken it to the concept of coercive control, where individuals are compelled to comply with arbitrary rules without agency or input. In their engagement with the Committee, they highlighted the distress caused to individuals who are abruptly forced to retire, potentially disrupting their lives and livelihoods. ISCP contends that in the current societal context, there is no justification for mandatory retirement at 65, emphasising the need to abolish such practices.

The Retirement Planning Council of Ireland supports proposed legislative changes that would allow employees to remain in employment until reaching the qualifying age for the State pension. Providing employees with the option to work longer and access benefits at a later age aligns with the evolving demographics and needs of retirees.

6. Key issue – 3-month notice requirement

Where an employee does not consent to retire at the Mandatory Retirement Age, they must notify the employer in writing of that fact not less than 3 months prior to the date on which he or she would have been required to retire. The employer can specify a different notice period, not exceeding 6 months in their employee handbook, circular or the employee's contract of employment.

Once the employer has been so notified, they must not retire the employee before a date to which the employee consents or before the employee reaches the pensionable age, whichever first occurs. It is important to note that if the employee does not make this notification to the employer, the employer can assume the employee consents to retire at the mandatory retirement age. The General Scheme also states that the employee can withdraw a notification at any point and retire but they must give the employer the notice required either by their contract of employment or the Minimum Terms of Notice and Terms of Employment Act 1973.

Age Action noted that the provision in the proposed Bill to require workers to give three months' advance written notice to their employer is onerous on the worker. Some may be given verbal assurances that they will be kept on, or they might assume it. Others are likely to be simply unaware of this legal provision and will not benefit from it. This is especially likely for workers who are migrants or those who come from disadvantaged backgrounds.

Age Action suggested that instead of imposing mandatory retirement age clauses unilaterally, there is a need for transparent and equitable processes that involve open communication between employers and employees. Employers should engage in meaningful dialogue with employees regarding retirement plans and respect their choices and preferences.

Age Action strongly advocate that the wholesale abolition of mandatory retirement age clauses would address these issues by promoting autonomy, fairness, and inclusivity in the workplace, while also recognising the valuable contributions of older workers.

Age Action noted that the proposed Bill retains ageism, does not effectively prevent mandatory retirement, and imposes onerous requirements on workers without clear benefits.

7. Key issue – Loss of Knowledge and Expertise

Age Action underlined that forcing employees to retire based solely on age can result in the loss of valuable experience, skills, and expertise within an organisation. This loss can have detrimental effects on productivity, innovation, and overall organisational performance.

Age Action noted that with an aging population and increasing longevity, there is a growing recognition of the value of older workers in the workforce, many individuals choose to continue working past traditional retirement ages for personal fulfilment, social engagement, and financial stability. Therefore, there is a need to adapt workforce policies and practices to accommodate diverse career trajectories and preferences.

Age Action highlight the need for intergenerational teams and mentorship. It will be necessary for older persons to be involved with colleagues of different ages in the workplace to undo many of the stereotypes and so that older workers can benefit by being able to develop continuously through access to training, etc.

ISCP note with concern the potential loss of corporate memory. In places, the loss of corporate memory is mandatory. These are the kinds of workplaces they would like to see where if somebody decides that they have reached a certain age, that they would then not mind having an extra day or two for themselves.

ISCP envisage that the ideal thing is for them to be there and to bring on the new people to have a seamless handover. If a senior citizen or someone of a certain age is passing on his or her experience, it is a great boost of confidence to both parties and a great recognition of both parties.

8. Key issue – Additional issues facing the population in retirement

The Committee queried that the idea of choice and ending mandatory retirement has to be linked to the idea of a decent life if people choose not to go on in the workplace. The Committee noted that the choice on when to retire should not be impacted by additional factors.

Age Action emphasised that the quality of retirement is not just going to be determined by the retirement process that employers are putting in place. It is also about transport, housing, healthcare, and the opportunities for older persons to engage in society. It is about digital exclusion, and our culture around older persons being valued persons of the community and it being normal for people at all ages to learn new skills.

Identity

Identity is a key factor in all aspects of retirement planning, work flexibility arrangements and managing the retention of corporate memory.

RPCI noted when working with other learning and development departments, they adopt multigenerational policies. RPCI evidenced that they are not just managing the people who are heading for retirement; they are managing the young people coming in, and they are blending them together. They are helping each to learn from the other and so it completely transforms the experience, the preparation, and the time that you have to adjust the change of identity.

Social Protection

Age Action raised concerns about the quality of the State pension. Some 30% of older persons get 90% or more of their income from social protection payments. Even in the higher income groups in older age cohorts, people are still getting 40% to 50% of their income from the State pension. It goes across all older age groups.

People are really dependent on the State pension, it is very important, and it is defining of what retirement is in Ireland.

Age Action highlighted that the financial demands of an older population have changed. Age Action note that the State pension was envisaged as a payment people would rely on for 15 years or so, but it is now 20 or 25 years. Older people are encountering new kinds of costs with longer lives. Age Action noted the challenge everyone is now experiencing in a cost-of-living crisis and the financial struggle and uncertainty of unexpected bills.

Age Action highlighted that Ireland has low spending on old age social protection compared with other OECD countries and other European countries. The amount of public expenditure going towards it is not really significant and could benefit from being improved.

Housing

Age Action noted that the private rental sector and the ageing tenancies were a key issue in an individual's decision to retire. Age Action further noted that older people are encountering new kinds of costs with longer lives, specifically larger one-off costs.

Legal and Ethical Considerations

Age Action highlight mandatory retirement age clauses may raise legal and ethical concerns regarding fairness, equality, and human rights. Such clauses may contravene anti-discrimination laws and principles of equal opportunity by treating employees differently based on their age.

Redress

The General Scheme provides that, where an employee is dismissed prior to the pensionable age by reason of attaining a contractual retirement age which is lower than the pensionable age, having made a valid notification to their employer, the employee may take a case to the Workplace Relations Commission under the Unfair

Dismissals Acts 1977-2015 or the Employment Equality Acts 1998-2021 but cannot take a case under both Acts.

APPENDIX 1 Membership of the Joint Committee

Deputies	
Maurice Quinlivan (SF)	Cathaoirleach
Richard Bruton (FG)	
Francis Noel Duffy (GP)	
Joe Flaherty (FF)	
Mick Barry (S-PBP)	
James O'Connor (FF)	
Louise O'Reilly (SF)	
Matt Shanahan (Ind)	
David Stanton (FG)	

Senators	
Garret Ahearn (FG)	Leas-chathaoirleach
Ollie Crowe (FF)	
Róisín Garvey (GP)	
Paul Gavan (SF)	
Marie Sherlock (Lab)	

Notes:

1. Deputies appointed to the Committee by order of the Dáil on 8 September 2020.
2. Deputy Maurice Quinlivan was appointed as Chair on 8 September 2020.
3. Senators appointed to the Committee by order of the Seanad on 25 September 2020.
4. Deputy James O'Connor replaced Deputy Niamh Smyth on 26 November 2020.
5. Deputy Mick Barry replaced Deputy Paul Murphy on 28 March 2023.

APPENDIX 2 Terms of Reference of The Joint Committee

a) Scope and Context of Activities of Committees (*derived from Standing Orders – DSO 84, SSO 70)*

1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers, and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders;

2) Such matters, activities, powers, and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil/and or Seanad;

3) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Standing Order 186 and/or the Comptroller and Auditor General (Amendment) Act 1993;

4) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under Standing Order 111A; and

The Joint Committee shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—

(i) a member of the Government or a Minister of State, or

(ii) the principal officeholder of a body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the Government or by the Oireachtas:

Provided that the Chairman may appeal any such request made to the Ceann Comhairle, whose decision shall be final.

5) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice given by the Chairman of the Select Committee, waives this instruction on motion made by the Taoiseach pursuant to Standing Order 28. The Chairmen of Select Committees shall have responsibility for compliance with this instruction.

b) Functions of Departmental Committees (derived from Standing Orders – DSO 84A and SSO 70A)

(1) The Select Committee shall consider and report to the Dáil on-

(a) such aspects of the expenditure, administration and policy of a Government Department or Departments and associated public bodies as the Committee may select, and

(b) European Union matters within the remit of the relevant Department or Departments.

(2) The Select Committee may be joined with a Select Committee appointed by Seanad Éireann for the purposes of the functions set out in this Standing Order, other than at paragraph (3), and to report thereon to both Houses of the Oireachtas.

(3) Without prejudice to the generality of paragraph (1), the Select Committee shall consider, in respect of the relevant Department or Departments, such—

(a) Bills,

(b) proposals contained in any motion, including any motion within the meaning of Standing Order 187

(c) Estimates for Public Services, and

(d) other matters as shall be referred to the Select Committee by the Dáil, and

(e) Annual Output Statements including performance, efficiency, and effectiveness in the use of public moneys, and

(f) such Value for Money and Policy Reviews as the Select Committee may select.

(4) Without prejudice to the generality of paragraph (1), the Joint Committee may consider the following matters in respect of the relevant Department or Departments and associated public bodies:

(a) matters of policy and governance for which the Minister is officially responsible,

(b) public affairs administered by The Department,

(c) policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,

(d) Government policy and governance in respect of bodies under the aegis of the Department,

(e) policy and governance issues concerning bodies which are partly or wholly funded by the State or which are established or appointed by a member of the Government or the Oireachtas,

(f) the general scheme or draft heads of any Bill

(g) any post-enactment report laid before either House or both Houses by a member of the Government or
Minister of State on any Bill enacted by the Houses of the Oireachtas,

(h) statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,

(i) strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,

(j) annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas, of the Department or bodies referred to in subparagraphs (*d*) and (*e*) and the overall performance and operational results, statements of strategy and corporate plans of such bodies, and

(k) such other matters as may be referred to it by the Dáil from time to time.

(5) Without prejudice to the generality of paragraph (1), the Joint Committee shall consider, in respect of the relevant Department or Departments—

(a) EU draft legislative acts standing referred to the Select Committee under Standing Order 114, including the compliance of such acts with the principle of subsidiarity,

(b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,

(c) non-legislative documents published by any EU institution in relation to EU policy matters, and

(d) matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.

(6) Where the Select Committee has been joined with a Select Committee appointed by Seanad Éireann, the Chairman of the Dáil Select Committee shall also be the Chairman of the Joint Committee.

(7) The following may attend meetings of the Select or Joint Committee, for the purposes of the functions set out in paragraph (5) and may take part in proceedings without having a right to vote or to move motions and amendments:

(a) members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,

(b) members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and

(c) at the invitation of the Committee, other members of the European Parliament.

(8) The Joint Committee may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department or Departments, consider—

(a) such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and

(b) such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select: Provided that the provisions of Standing Order 111F apply where the Select Committee has not considered the Ombudsman report, or a portion or portions thereof, within two months (excluding Christmas, Easter or summer recess periods) of the report being laid before either or both Houses of the Oireachtas.

Appendix 3 References

- The General Scheme
- Regulatory Impact Analysis

- Joint Committee on Enterprise, Trade and Employment

  Pre-Legislative Scrutiny in public session

  Transcript – Video

  Opening Statements

- Age Action
- Irish Senior Citizens Parliament
- Retirement Planning Council of Ireland

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