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**AN BILLE UM AOISLIÚNTAS NA SEIRBHÍSE POIBLÍ  
(FORÁLACHA ILGHNÉITHEACHA) 2004  
PUBLIC SERVICE SUPERANNUATION (MISCELLANEOUS  
PROVISIONS) BILL 2004**

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**EXPLANATORY AND FINANCIAL MEMORANDUM**

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The purpose of this Bill is to give effect to the age related pension reforms for the public service announced in Budget 2004. Following Government consideration of the Report of the Commission on Public Service Pensions, the following age related reforms were announced in Budget 2004 for *new entrants* to the public service with effect from 1 April 2004:

- the minimum age for receiving a pension should generally be 65, and
- there should be no compulsion in the system for people to retire at a particular age if they are fit and willing to remain in employment.

This Bill implements these reforms by amending the relevant primary legislation which provides for a compulsory retirement age or a minimum pension age and by making the necessary overriding provisions in respect of other public service pension schemes. For the operational reasons identified in the Commission's report, there will be a minimum pension age of 55 for new entrant Garda Síochána, Prison Officers and Specified Fire Brigade Employees, as defined in the Bill, and new pension arrangements for new entrants to the Permanent Defence Force. In addition, the Bill contains some provisions consequential to the new age related provisions.

***Arrangement of Bill***

*Section 1: Interpretation*

This section provides definitions of particular terms as they apply in the Bill. The definition of *superannuation benefits* which is used frequently in the Bill and in this Memorandum is: “*‘superannuation benefit’ means a pension, gratuity or other allowance payable on resignation, retirement, discharge or death to or in respect of a member or former member of a public service pension scheme, in accordance with the terms of the scheme*”.

*Section 2: New Entrant*

This section defines the term *new entrant* as used in the Bill. In general, a new entrant to the public service is a person who becomes a public servant, as defined in the Bill, on or after 1 April 2004. However, it does not include staff on leave or on secondment on 31 March 2004 or staff who are serving in the public sector on 31 March 2004 and who subsequently move within the public sector. The definition also excludes a person who has received a written offer of employment prior to 1 April 2004, persons training in the Garda

College and makes provisions to take account of seasonal workers and to disregard breaks in employment of up to six months in determining whether a person is a new entrant.

*Section 2(5)* also excludes persons, who were members of the Oireachtas or European Parliament or Oireachtas office holders before 1 April 2004, from the definition of “new entrant”. A Taoiseach who first becomes a member of the Oireachtas or European Parliament after 1 April 2004 will also be excluded in respect of his or her office holder’s pension.

*Section 3: Removal of compulsory retirement age for new entrants to the public service*

This section provides that a person who is a new entrant to the public service shall not be obliged to retire on age grounds. The following *sections 4 to 8* make provision for certain specific groups not covered by this section.

*Sections 4 and 5 (Garda Síochána and Prison Officers)*

These sections set the minimum pension age at 55 and a maximum retiring age of 60 for new entrant Garda Síochána (*section 4*) and Prison Officers (*section 5*). In the case of the Garda Síochána, a member who is a new entrant will cease to be a member at age 55 but may continue to be a member up to age 60 subject to meeting certain health, fitness and competence criteria.

*Section 6 (Fire Brigade Employees)*

This excludes specified fire brigade employees from the scope of *section 3*.

*Section 7 (Permanent Defence Force)*

This section removes the Permanent Defence Force from the scope of *section 3*. New entrants to the Permanent Defence Force are provided for in *section 8*.

*Section 8 (Permanent Defence Force — provision for scheme)*

This section provides that the Minister for Defence with the consent of the Minister for Finance shall make a superannuation scheme or schemes for new entrants to the Permanent Defence Force and also provides that the Ministers shall approve superannuation terms for the Permanent Defence Force where a scheme may not have been made to provide for those terms. This section also provides for the making of schemes to amend or revoke schemes made under this section.

*Section 9: Non application to Chaplaincy Service*

This section provides that pension provision for the Chaplaincy Service to the Defence Forces may continue to be made under existing legislation.

*Section 10: Pensionable age generally*

*Subsection (1)* provides that no superannuation benefits shall be payable to a new entrant to the public service in respect of service as a new entrant before he or she reaches the age of 65, i.e. a minimum pension age of 65.

*Subsection (2)* provides for a minimum pension age of 50 for new entrant members of the Permanent Defence Force.

*Subsection (3)* provides for a minimum pension age of 55 for new entrant members of An Garda Síochána.

*Subsection (5)* provides for no change in the minimum pension age of 55 for specified fire brigade employees.

Exceptions are provided for death benefits, retirement on grounds of ill-health; compulsory retirement in cases where there is a provision in existing public service schemes or where provided for in a scheme or enactment that applies to a new entrant and which is approved by the Minister for Finance after 31 March 2004.

*Section 11: Pensionable age for new entrants to Houses of the Oireachtas, etc.*

The purpose of *subsection (1)* is to provide that superannuation benefits for Oireachtas office holders and for members of the Oireachtas or European Parliament will not be payable before age 65 (other than on grounds of ill-health or death or where provided for in a scheme or enactment that applies to a new entrant and which is approved by the Minister for Finance after 31 March 2004) to persons who become members of the Oireachtas or European Parliament for the first time on or after 1 April 2004.

*Subsection (1)* will not apply, by virtue of *subsection 2(5)*, to persons who do not come within the definition of “new entrant”.

*Subsection (2)* provides for the appropriate amendment, as detailed in Part 1 of Schedule 2, of the Ministerial and Parliamentary Offices Act 1938 to implement *subsection (1)* in respect of Oireachtas office holders.

*Section 12: Accrual rate for pension purposes*

This section removes the special fast accrual terms for new entrants to the fire service other than specified fire brigade employees and certain persons employed as new entrants under the Mental Treatment Act 1945.

*Section 13: Reckoning for superannuation purposes of service after a certain age*

This section removes any restriction on the reckoning of service for pension purposes after a person reaches a specified age. This provision is subject to a person not exceeding the maximum pension threshold and is subject to other provisions in the Act where a maximum retirement age is provided for certain groups such as An Garda Síochána, Prison Officers and Fire Brigade employees.

*Section 14: Application to existing pension provisions*

This section provides that this Bill, as enacted, will have the effect of overriding the existing relevant provisions of Public Service Pension Schemes.

*Section 15: Removal of doubt*

This section provides that where a doubt, question or dispute arises in the operation of this Bill as enacted in respect of whether or not a person is a new entrant then the doubt, question or dispute shall be determined by the Minister for Finance.

*Section 16: Short title and collective citation*

This section contains the short title and collective citation of the Bill.

*Schedule 1*

This Schedule lists or describes the bodies which are not included within the scope of the age related provisions of the Bill but which are included in the public sector for purposes of employee mobility.

*Schedule 2*

This Schedule makes the necessary amendments to the Acts set out in the schedule in order to implement the provisions of this Bill. It includes an amendment to remove the penalty in the Civil Service Superannuation Acts whereby the lump sum of a person who serves after a given age is reduced for each year of such service.

*Financial Implications*

It is estimated in Budget 2004 that the annual savings, which will arise from the introduction of these pension changes, will be of the order of €300m in current terms in 30-40 years time, with some savings being realised earlier than that.

*An Roinn Airgeadais,  
Feabhra, 2004.*