



SEANAD ÉIREANN

**AN BILLE SLÁINTE (FORÁLACHA ILGHNÉITHEACHA),
2016**

HEALTH (MISCELLANEOUS PROVISIONS) BILL 2016

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

SEANAD ÉIREANN

AN BILLE SLÁINTE (FORÁLACHA ILGHNÉITHEACHA), 2016 —AN COISTE

HEALTH (MISCELLANEOUS PROVISIONS) BILL 2016 —COMMITTEE STAGE

Leasuithe Amendments

SECTION 7

1. In page 6, between lines 8 and 9, to insert the following:

“Amendment of section 10 of Act of 2009

7. Section 10 of the Act of 2009 is amended, in subsection (4), by the insertion of the following after “for the purposes of this Act.”:

“In the case of working farmland a total of 90 per cent of farm assets shall be exempted from any valuation of means or assets deemed liable towards nursing home costs.”.

—*Senators Trevor Ó Clochartaigh, Pádraig Mac Lochlainn.*

NEW SECTION

2. In page 12, after line 24, to insert the following:

“PART 6

MISCELLANEOUS

Critical Health Professionals - Provisions

18. (1) In this Act—

“Department” means the Department of Health, or bodies which are directly funded by the Department of Health;

“HSE” means Health Service Executive;

“individual” or “individuals” means a person, or persons, who are health professionals employed by any organisation or body specified by the Minister for Health, who would be required by a clause in their contract of employment to retire upon reaching an age that is stipulated in their contract of employment;

“mandatory retirement age” means an age stipulated in the employment contract of an individual employed by any organisation or body specified by the Minister for Health,

[NEW SECTION]

at which age that person must retire from their employment;

“mandatory retirement age clause” means any clause, phrase, or sentence, in a contract of employment between an individual employed by any organisation or body specified by the Minister for Health, the consequence of which is that that individual will be required to retire at the particular age that is stipulated in their employment contract;

“Minister” means the Minister for Health;

“registered medical practitioner” has the same meaning as it has in section 2 of the Medical Practitioners Act 2007.

- (2) The Minister shall, by regulation, introduce procedures which will allow health professionals working in organisations covered who would otherwise be required to retire as a result of attaining an age stipulated in their contract of employment, to have such a mandatory retirement age clause ignored in order to allow the individual to continue working under the same conditions that they would otherwise have enjoyed had they not been required to retire at that age.
- (3)
 - (a) Notwithstanding any other part of this Act, no individual who would otherwise have been able to retire at an age stipulated in their employment contract with any organisation covered by this Act, shall be required to continue working if they would otherwise prefer to retire at the retirement age stipulated in their employment contract, or at any other age in excess of the age stipulated in their employment contract.
 - (b) In order to protect individual employment rights, organisational recruitment and succession planning, it shall be a requirement for a “Dual Consent” process to operate. Agreement must be in place between the employee and the relevant employer in order for the provisions of this Act to apply.
- (4) Notwithstanding any other part of this Act, no aspect of the individual’s contract of employment may be amended, or ignored, other than a mandatory retirement age clause under regulations which are required by this Act.
- (5)
 - (a) Notwithstanding any other part of this Act, continued employment under the same terms and conditions of employment, other than the mandatory retirement age clause, shall not be conditional upon any alterations to work practices not permitted under the employee contract in operation at that point when the individual attains mandatory retirement age.
 - (b) Any individual who seeks to have a mandatory retirement age clause ignored, under the regulations provided for by this Act, shall be assumed fit to work. The terms and conditions of employment shall be adhered to with regard to fitness to work and the employee shall be afforded all employment rights available to all other employees.
- (6)
 - (a) An individual who wishes to have their mandatory retirement age clause ignored, under regulations which are a consequence of this Act, shall inform in writing, the Chief Executive Officer or equivalent within their respective organisation, not less than three months in advance of their attaining that mandatory retirement age

[NEW SECTION]

that is stipulated in their contract of employment.

- (b) The “Dual Consent” process to have the mandatory retirement age clause ignored requires the written consent of both employee and employer. This written consent must be in place before the employee reaches the mandatory retirement age, as per their employment contract.
 - (c) The timeframe permitted for an extension of employment is a matter for the “Dual Consent” process, and shall be agreed between both parties. The period may be up to two years initially and may be extended once, for a further two year period, subject to the “Dual Consent” remaining in place.
 - (d) An individual who has previously availed of early or voluntary retirement, is not eligible under this Act, to avail of an extension of employment.
 - (e) Where an individual who has availed on an extension of employment becomes unfit to work as specified in their employment contract, they shall retire immediately under the terms of their employment.
- (7) (a) In conjunction with the commencement of this Act, the Minister shall publish a list of all organisations to which this Act shall apply, including all organisations funded directly by the Department of Health, all organisations funded by the HSE, organisations funded under section 38 of the Health Act 2004, and all other health and disability service providers.
- (b) The Minister shall update this list of all organisations to which this Act shall apply, to accurately reflect any changes to organisations including mergers, names changes, and newly established entities.”.

—*Senator Keith Swanick.*