

Presentation to ETE Joint Oireachtas Committee Wednesday 25th January 2023

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I wish to thank the members of the Committee for the opportunity to make this presentation regarding **the Industrial Relations Provisions in Respect of Pension Entitlements of Retired Workers Bill 2021** and to outline the reasons why this Bill is vital to ensure equality of representation for retired workers.

While ESB Retired Staff Association is a member of the Collective Network of Retired Workers under the auspices of the Senior Citizens Parliament, this presentation is being made, drawing on the lived experience of our Association with ESB, as sponsoring Employer, and as members of ESB Defined Benefit Pension Scheme, and to demonstrate how ESB responsibilities in relation to the Pension Scheme are intertwined with the ongoing operations of the Scheme.

Why This Bill is Needed

Retired workers do not have a voice, nor do not have any Body or Organisation to refer to with grievances once they're retired longer that 6 months.

WRC

We believe that access to the Industrial Relations Machinery of the State is a basic right for workers and former workers, however, retired workers can only refer grievances that they may have with their former employer, up to 6 months post retirement.

This Bill would eliminate that 6-month time restriction and give retired workers equality of treatment under the law.

We cannot be expected to accept that only employee members of a pension scheme have a right to representation with the sponsoring employer and if necessary, the WRC, and retired workers do not.

Pensions Ombudsman

The role of the ombudsman is limited to complaints made by *individual* pensioners, and only in respect of maladministration by the trustees of a scheme, and only after the fact. They won't accept a complaint from pensioners acting collectively or represented by the body of their choosing.

This leaves the sponsoring employers out of the picture entirely and in no way addresses the concerns of pensioners which are far wider than any narrow issue of maladministration by the trustees of a scheme.

Pensions Authority

The Pensions Authority remit under the Pensions Acts concerns itself almost exclusively with Trustees' compliance with the Pensions Act. This remit excludes individual pensioners or groups of pensioners and offers nothing by way of arbitration or direct assistance.

Equality Tribunal

The Equality Tribunal also has a 6-month time restriction post retirement as I and my colleagues in ESB discovered many years ago when we took a case to the Tribunal, which was overruled and failed on the 6-month time limit. The case was never heard. An appeal to the Labour Court produced the same ruling.

Section 50 Pensions Act

Section 50 of Pensions Act provides for a one-month consultation period for pension Scheme members where the Trustees intend to restructure a Pension Scheme and reduce benefits. This one-month consultation period for members is totally inadequate, and of no practical value as the only recourse that Pensioner representative groups would have during this period would be to the courts, a very costly exercise, for which retired workers have no financial resources .

With all of the aforementioned options virtually closed to retired workers, it is of the utmost importance that legislation is introduced without further delay to give pensioner groups a voice and a right to representation & arbitration procedures at the WRC.

Sponsoring Employer

In the context of ESB Defined Benefit Pension Scheme, ESB, as sponsoring Employer has financial obligations to the Pension Scheme, appoints the Scheme Actuary & approves the appointment of the Pension Scheme Trustees. ESB also has full control of Pension Scheme rules & approves changes thereto, and in some instances negotiates changes to Pension Scheme Governance without retired workers being party to the process.

During 2022 there were two examples of ESB holding a consultation process with employee members only on Pension Scheme rule changes. Retired worker members of the Scheme were excluded from this process, even though the Scheme rules apply to ALL members.

When they retire, workers have completed the terms of their contract of employment but the employer's pension promise delivery only commences when the employee

retires where the pension scheme is a defined benefit scheme. It follows that the employer must support the scheme if the scheme is otherwise unable to meet the employer's pension promise, at least in respect of already retired members.

An employer that engages under industrial relation processes with employee members only of a scheme should not be permitted to impose reduced terms on already retired former employees unless pensioners are made a part of the industrial relation engagement process alongside employee members of the pension scheme.

This was not the case when in 2010 an agreement on pensions, between ESB Trade Unions and Management, excluded retired workers, nor did they have a vote on the terms of the pensions agreement which directly affected retired workers. This agreement has had, and continues to have, a serious impact on their future financial security.

Retired workers have no forum within which to challenge this unfair and inequitable practice of changing the terms & conditions of their retirement. This Bill will give retired workers that right, i.e. to challenge any changes to their pension rights.

Pensioners are not seeking to participate in general IR matters, but only on those issues related to pensions. Any IR process dealing with pension issues should be confined to pension issues only and should not embrace other matters. This would ensure that pensioner involvement would not creep outside of the limited scope of the bill which is to create equality of representation for pensioners with employee members of a scheme on pensions issues only.

Redress mechanisms for retired workers?

- DB Pension Schemes are collective funds for all scheme members
- Employers engage with employee members collectively on pension issues but do not engage with pensioner members.
- This can have very significant adverse consequences for pensions in payment.
- At this level there are NO redress mechanisms.
- Creating equality of representation for all members of a scheme is what this bill is about.
- The pension promise, as a condition employment, is the pension promised by the employer and not that of the pension scheme/trustees. The pension scheme is the vehicle for delivering on the employer's pension promise.
- As retired ESB workers we have no right to representation with ESB on pension issues, nor do we have access to the state's industrial relations machinery for dispute resolution, while employee members of the same pension scheme have both.

- This Bill is designed to rectify this exclusion of retired members and to provide for equality of representation **for all members** of the scheme, which is the very least one should expect where the pension fund is a **collective** fund.
- I want to emphasise that this does *not* go beyond issues involving the pension scheme and will not otherwise encroach on employer/employee relations in any other area.

In the words of the Chief Commissioner of the Irish Human Rights and Equality Commission

***“The principle of participation underpins human rights and equality – making sure that the voices of those who are most affected by any issue, are part of any discussion or action on it. And not just a bit part, but a meaningful one where they are listened to and heard, in an accessible way, with respect and transparency.*”**