



Number 7 of 2004

PUBLIC SERVICE SUPERANNUATION (MISCELLANEOUS PROVISIONS) ACT 2004

REVISED

Updated to 7 March 2018

This Revised Act is an administrative consolidation of the *Public Service Superannuation (Miscellaneous Provisions) Act 2004*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Public Service Superannuation (Amendment) Act 2018 (2/2018)*, enacted 28 February 2018, and all statutory instruments up to and including *Public Service Superannuation (Amendment) Act 2018 (Commencement) Order 2018 (S.I. No. 67 of 2018)*, made 7 March 2018, were considered in the preparation of this Revised Act.

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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Defence Forces (Pensions) Acts 1932 to 2004: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Public Service Superannuation (Miscellaneous Provisions) Act 2004 (7/2004)*, s. 16(2)). The Acts in this group are:

- *Defence Forces (Pensions) Act 1932 (26/1932)*
- *Defence Forces (Pensions) (Amendment) Act 1938 (33/1938)*
- *Defence Forces (Pensions) (Amendment) Act 1949 (7/1949)*
- *Defence Forces (Pensions) (Amendment) Act 1957 (12/1957)*
- *Defence Forces (Pensions) (Amendment) Act 1968 (4/1968)* (repealed)
- *Defence Forces (Pensions) (Amendment) Act 1975 (2/1975)*
- *Public Service Superannuation (Miscellaneous Provisions) Act 2004 (7/2004)*, ss. 8, 9, 10(2) and 16(2) and, in so far as it relates to those sections, s. 1

Ministerial and Parliamentary Offices Acts 1938 to 2009: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices Act 2009 (29/2009)*, s. 7(2)). The Acts in this group are:

- *Ministerial and Parliamentary Offices Act 1938 (38/1938)*
- *Ministerial and Parliamentary Offices (Amendment) Act 1947 (24/1947)* (repealed)
- *Ministerial and Parliamentary Offices (Amendment) Act 1949 (21/1949)*
- *Ministerial and Parliamentary Offices (Amendment) Act 1952 (19/1952)*
- *Oireachtas (Allowances To Members) and Ministerial and Parliamentary Offices (Amendment) Act 1960 (12/1960)*, part III
- *Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1964 (14/1964)*, part III
- *Oireachtas (Allowances To Members) and Ministerial and Parliamentary Offices (Amendment) Act 1968 (22/1968)*, part III
- *Ministerial and Parliamentary Offices Act 1972 (21/1972)*
- *Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1973 (22/1973)*, part III
- *Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act 1977 (29/1977)*, part III

- *Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act 1983 (32/1983)*, in so far as it amends the Ministerial and Parliamentary Offices Acts 1938 to 1977
- *Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1992 (3/1992)*, in so far as it amends the Ministerial and Parliamentary Offices Acts 1938 to 1983
- *Oireachtas (Miscellaneous Provisions) and Ministerial and Parliamentary Offices (Amendment) Act 1996 (39/1996)*, s. 5 and s. 7 other than subs. (2)
- *Oireachtas (Allowances to Members) and Ministerial, Parliamentary, Judicial and Court Offices (Amendment) Act 1998 (5/1998)*, in so far as it extends or amends the Ministerial and Parliamentary Offices Acts 1938 to 1996
- *Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2001 (30/2001)*
- *Public Service Superannuation (Miscellaneous Provisions) Act 2004 (7/2004)*, s. 11 and sch. 2 part 1
- *Markets in Financial Instruments and Miscellaneous Provisions Act 2007 (37/2007)*, s. 16
- *Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices Act 2009 (29/2009)*, other than ss. 2 and 3

Public Service Superannuation (Miscellaneous Provisions) Acts 2004 and 2018: this Act is one of a group of Acts included in this collective citation (*Public Service Superannuation (Amendment) Act 2018 (2/2018)*, s. 2(2)). The Acts in this group are:

- *Public Service Superannuation (Miscellaneous Provisions) Act 2004 (7/2004)*
- *Public Service Superannuation (Amendment) Act 2018 (2/2018)*

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1989, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.



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6. Compulsory retirement age and new entrant fire brigade employees.
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Civil Service Regulation Act 1956	1956, No. 46
Companies Act 1963	1963, No. 33
Companies Acts 1963 to 2003	
Comptroller and Auditor General (Amendment) Act 1993	1993, No. 8
Data Protection Act 1988	1988, No. 25
Defence Forces (Pensions) Acts 1932 to 1975	
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Ministerial and Parliamentary Offices Act 1938	1938, No. 38
Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001	2001, No. 33
National Disability Authority Act 1999	1999, No. 14
Nurses Act 1985	1985, No. 18
Official Languages Act 2003	2003, No. 32
Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1973	1973, No. 22
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Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act 1983	1983, No. 32
Ombudsman Act 1980	1980, No. 26
Ombudsman for Children Act 2002	2002, No. 22
Pensions Act 1990	1990, No. 25

Pensions (Amendment) Act 2002	2002, No. 18
Planning and Development Act 2000	2000, No. 30
Registration of Title Act 1964	1964, No. 16
Superannuation Act 1859	22 Vict., c. 26
Superannuation Act 1887	50 & 51 Vict., c. 67
Superannuation Act 1909	9 Edw. 7, c. 10
Superannuation Act 1914	4 & 5 Geo. 5, c. 86
Superannuation Acts 1834 to 1963	
Superannuation (Prison Officers) Act 1919	9 & 10 Geo. 5, c. 67
Vocational Education Act 1930	1930, No. 29



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AN ACT TO REMOVE THE COMPULSORY RETIREMENT AGE FOR CERTAIN CATEGORIES OF NEW ENTRANTS INTO THE PUBLIC SERVICE ON OR AFTER 1 APRIL 2004, TO INCREASE THE PENSIONABLE AGE FOR CERTAIN CATEGORIES OF NEW ENTRANTS INTO THE PUBLIC SERVICE FROM THAT DATE, INCLUDING MEMBERS OF EITHER HOUSE OF THE OIREACTHAS AND CERTAIN OFFICE HOLDERS, AND TO MAKE CONSEQUENTIAL PROVISIONS, TO PROVIDE FOR CERTAIN OTHER CATEGORIES OF NEW ENTRANTS, FOR TRANSITIONAL MATTERS AND FOR THE MAKING OF A SCHEME OR SCHEMES FOR THE GRANTING OF SUPERANNUATION BENEFITS TO OR IN RESPECT OF NEW ENTRANTS INTO THE PERMANENT DEFENCE FORCE APPOINTED ON OR AFTER 1 APRIL 2004, AND TO PROVIDE FOR CONNECTED MATTERS. [25th March 2004]

BE IT ENACTED BY THE OIREACTHAS AS FOLLOWS:

Interpretation.

1.—(1) In this Act, except where the context otherwise requires:

“1980 Regulations” means the Civil Service Superannuation Regulations 1980 (S.I. No. 188 of 1980);

“Civil Service” means the Civil Service of the Government and the Civil Service of the State;

“death benefit” means a superannuation benefit payable under a public service pension scheme on the death of the member;

“European Parliament”, in relation to membership, means membership in respect of a constituency within the State and includes, in respect of former membership, a former member of the European Assembly in respect of such a constituency;

“health board” means—

(a) a health board established under the Health Act 1970,

(b) the Eastern Regional Health Authority,

(c) an Area Health Board established under the Health (Eastern Regional Health Authority) Act 1999, or

(d) the Health Board Executive;

“Minister” means the Minister for Finance;

“new entrant” shall be read in accordance with *section 2*;

“preserved benefit” means, in the case of a public servant who leaves before reaching the age for receipt of a pension, a deferred superannuation benefit which is payable at a date later than the date of the public servant's date of leaving office;

“public servant” means—

- (a) a person who is employed by a public service body,
- (b) a member of the Permanent Defence Force,
- (c) a member of either House of the Oireachtas or a member of the European Parliament,
- (d) the holder of a qualifying office,

but, subject to *section 2(2)*, does not include—

- (i) the President,
- (ii) a member of the judiciary,
- (iii) the Master of the High Court,
- (iv) a taxing master, or
- (v) a county registrar;

“public service body” means—

- (a) the Civil Service,
- (b) the Garda Síochána,
- (c) the Permanent Defence Force,
- (d) a local authority for the purposes of the Local Government Act 2001,
- (e) a health board,

[(f) an education and training board,]

(g) a body, other than a body set out in *Schedule 1*—

- (i) established by or under any enactment (other than the Companies Acts 1963 to 2003), or
- (ii) established under the Companies Acts 1963 to 2003 in pursuance of powers conferred by or under another enactment, and financed wholly or partly by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government,

and in respect of which a public service pension scheme exists or applies or may be made,

(h) any body, other than a body set out in *Schedule 1*, wholly or partly funded out of moneys provided by the Oireachtas or from the Central Fund or the growing produce of that Fund and in respect of which a public service pension scheme exists or applies or may be made,

(i) any subsidiary of a body to which *paragraph (d), (e) or (g)* relates and in respect of which a public service pension scheme exists or applies or may be made,

and reference to “public service” shall be read accordingly;

“public service pension scheme” means an occupational pension scheme or pension arrangement, by whatever name called, for any part of the public service which—

- (a) is provided for under the Superannuation Acts 1834 to 1963 or any other enactment to like effect, or
- (b) is made by a relevant Minister or which has been approved or requires the approval or consent, however expressed, of either or both a relevant Minister and the Minister,

but is not a scheme or arrangement in respect of a body or category of bodies set out in *Schedule 1*;

“qualifying office” has the same meaning as it has in section 13 (inserted by the Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act 1977) of the Ministerial and Parliamentary Offices Act 1938, that is to say—

- (a) a ministerial office within the meaning of that section as amended by the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1973, or
- (b) a secretarial office within the meaning of that section as amended by the Oireachtas (Allowances to Members) and Ministerial, Parliamentary and Judicial Offices (Amendment) Act 1983 and the Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001;

“relevant Minister”, in relation to a public service pension scheme, means the Minister or Ministers of the Government responsible for the making or approval of, or granting consent to, such scheme;

“retirement benefit” means a superannuation benefit which is payable on retirement or discharge;

“specified fire brigade employee” means a whole-time employee of a fire authority under the Fire Services Act 1981 whose duties include the attendance at fires and whose conditions of employment, as determined by a local authority under section 158(1)(b) of the Local Government Act 2001, require him or her to retire at 55 years of age;

“subsidiary” means a subsidiary within the meaning of the Companies Act 1963;

“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.

(2) In this Act—

- (a) a reference to a section or schedule is a reference to a section of, or schedule to, this Act, unless it is indicated that a reference to some other provision is intended,
- (b) a reference to a subsection or paragraph is a reference to the subsection or paragraph of the provision in which the reference occurs unless it is indicated that a reference to some other provision is intended.

(3) A reference to another enactment is to that enactment as amended or modified at any time by any enactment.

New entrant. 2.—(1) Subject to *subsections* (2) to (6), reference in this Act to “new entrant” means a person who is not serving in a public service body, or a body to which

Schedule 1 relates, on 31 March 2004 but becomes a public servant on or after 1 April 2004.

(2) Where a person is not a public servant (by virtue of the exclusions to “public servant” in *section 1*) but is a person to whom—

(a) *paragraph (i)* of those exclusions relates and such person holds, or had held on or before 31 March 2004, the office to which that paragraph relates, or

(b) *paragraph (ii), (iii), (iv) or (v)* of those exclusions relates and such person holds on 31 March 2004 an office or position to which one of those paragraphs relates or to whom *subsection (3)* would apply if the office or position were that of a public servant within the meaning of this Act,

then, where such person on or after 1 April 2004 becomes a public servant for the purposes of this Act, then that person shall be deemed not to be a new entrant.

(3) Where—

(a) a person on 31 March 2004—

(i) stands seconded from the public service to a body not in the public service, either within or outside the State or both, or

(ii) is absent on leave with or without pay from the public service,

and

(b) that person is entitled to resume his or her office or position or another office or position within the public service,

then that person shall not be treated as a new entrant if he or she resumes his or her office or position, or takes up another office or position, within the public service on or after 1 April 2004.

(4) Where—

(a) a person duly receives a written offer of appointment as a public servant before 1 April 2004 and takes up that offer after that date,

(b) a person was serving in a public service body or a body to which *Schedule 1* relates prior to 31 March 2004 and left such an office or position and takes up appointment as a public servant on or after 1 April 2004—

(i) under the same contract of employment, or

(ii) no later than 26 weeks following the last day of service prior to 31 March 2004,

or

(c) a person who immediately before 1 April 2004 stood admitted as a trainee Garda to the Garda College at Templemore,

and where—

(I) but for this subsection, *subsection (1)* would apply to him or her, and

(II) where *paragraph (a)* applies, the terms of the offer of appointment would be contravened if *subsection (1)* were to apply,

then, such person shall not be regarded as a new entrant and the provisions applicable to a public servant shall, but only in so far as the application of provisions relating to retirement age and superannuation, as the case may be, apply in the same manner as to a person serving in the public service on 31 March 2004.

(5)(a) Where before 1 April 2004 a person was a member of either House of the Oireachtas or the European Parliament, or was a holder of a qualifying office, then such person shall not be regarded as a new entrant for the purposes of any superannuation benefit payable in respect of membership of the Oireachtas or the European Parliament or in respect of any qualifying office.

(b) A person who holds or has held the office of Taoiseach shall not be regarded as a new entrant in relation to any superannuation benefit payable in respect of the holding of a qualifying office.

(6) Where on or after 1 April 2004 a public servant who is not a new entrant ceases to serve in a public service body or in a body to which *Schedule 1* relates and does so otherwise than for employment in another public service body or in a body to which *Schedule 1* relates, then that person shall, if he or she subsequently applies for an office or position within the public service, be treated as a new entrant in respect of such subsequent service unless he or she takes up appointment—

(a) under the same contract of employment, or

(b) as a public servant no later than 26 weeks following the last day of service prior to cessation.

(7) For the purpose of supplementing *subsection (5)*, the Act referred to in *columns 1 and 2 of Part 1 of Schedule 2* is amended to the extent specified in *column 3* of that Part opposite the references to the Act concerned.

Removal of compulsory retirement age for new entrants to public service.

3.—[(1) A person who is a new entrant to the public service shall not be obliged to retire on age grounds unless—

(a) otherwise provided for by this Act, or

(b) he or she is a member of the Single Public Service Pension Scheme other than a member of that Scheme who is the President, a member of either House of the Oireachtas or a qualifying office holder for the purposes of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012.]

(2) For the purpose of supplementing *subsection (1)* and *section 10*, the Acts referred to in *columns 1 and 2 of Part 2 of Schedule 2* are amended to the extent specified in *column 3* of that Part opposite the references to the Act concerned.

Compulsory retirement age for new entrants to Garda Síochána.

4.—(1) A person who is appointed as a new entrant to the Garda Síochána on or after 1 April 2004 shall cease to be a member—

(a) on attaining the age of 55 years, or

(b) at a later age up to the age of 60 years subject to the Commissioner of the Garda Síochána being satisfied that the member is fully competent and available to undertake, and fully capable of undertaking, the duties of his or her position as a member of the Garda Síochána.

(2) For the purposes of *subsection (1)(b)* the Commissioner of the Garda Síochána shall require, at such intervals as the Commissioner considers appropriate, certification as to the health and fitness of the member concerned by a medical practitioner nominated by the Commissioner.

(3) For the purposes of *subsections (1)* and *(2)*, where the member concerned is the Commissioner of the Garda Síochána, then references to the Commissioner of the Garda Síochána or to the Commissioner in those subsections shall be read as references to the Minister for Justice, Equality and Law Reform.

[(4) Nothing in this section shall prevent the appointment, in accordance with the Garda Síochána Act 2005, of a person who has attained the age of 55 years but is

under the age of 60 years as a new entrant to the Garda Síochána to the rank of Commissioner of the Garda Síochána or of Deputy Garda Commissioner.

(5) Where an appointment of a person mentioned in *subsection (4)* is made, then—

(a) *subsections (1)(b), (2) and (3)* shall apply to the person if the appointment is to the rank of Commissioner of the Garda Síochána, and

(b) *subsections (1)(b) and (2)* shall apply to the person if the appointment is to the rank of Deputy Garda Commissioner.]

Amendment of
Superannuation
(Prison Officers)
Act 1919, etc.

5.—(1) The Superannuation (Prison Officers) Act 1919 is amended by substituting the following for section 1(1)(a):

“(a) 55 years shall be substituted for 60 years or 65 years, as appropriate, as the age of retirement which without a medical certificate a superannuation allowance may be granted and, accordingly, sections 10 and 11 of the Superannuation Act 1859 (as amended by the *Public Service Superannuation (Miscellaneous Provisions) Act 2004*) shall, in their application to such officers as aforesaid, have effect as if for ‘60 years’ or ‘65 years’ there were substituted ‘55 years’; but where any such officer, other than an officer who is a new entrant—

(i) is covered by—

(I) the report of Departmental Council, Department of Justice, known as the Agreed Report No. 8/1983 which was signed on behalf of the Staff Side on 21 September 1983 and on behalf of the Official Side on 3 October 1983, or

(II) the report known as the Civil Service Conciliation and Arbitration (Higher) Scheme Conciliation Council Report 1/88 which was adopted on behalf of the Staff Side and on behalf of the Official Side on 16 February 1988,

and

(ii) has in aggregate 30 years' service as such an officer,

then ‘50 years’ shall be so substituted instead of ‘55 years’;

(aa) 60 years shall be substituted for 65 years as the age at which preserved benefit (within the meaning of *section 1* of the *Public Service Superannuation (Miscellaneous Provisions) Act 2004*, other than in so far as it relates to a death benefit) can be paid and, accordingly, section 6 of the Superannuation Act 1909 (as amended by the *Public Service Superannuation (Miscellaneous Provisions) Act 2004*) shall, in its application to such officers as aforesaid, have effect as if for ‘65 years’ there were substituted ‘60 years’;”.

[(2) The Superannuation Acts 1834 to 1963 shall have effect in respect of—

(a) with effect from 16 February 1988, the class of officers who are prison governors, and

(b) with effect from 1 March 2012, the class of officers, who are appointed to the position of Prison Campus Governor by the Minister for Justice and Equality,

subject to the Superannuation (Prison Officers) Act 1919 as if each class of officers concerned had been prescribed under and for the purposes of section 1(1) (as adapted by the Superannuation (Prison Officers) Act 1919, Adaptation Order 1933 (S.R. & O. No. 71 of 1933)) of the Superannuation (Prison Officers) Act 1919.]

Compulsory retirement age and new entrant fire brigade employees.

6.—Section 3 shall not apply to a specified fire brigade employee who is a new entrant.

Compulsory retirement age and new entrants to Permanent Defence Force.

7.—Section 3 shall not apply to new entrants to the Permanent Defence Force other than in respect of new entrants to the Army Nursing Service.

Pension schemes, etc., and new entrants to Permanent Defence Force, etc.

8.—(1) No superannuation benefit shall be granted and no other arrangements shall be entered into for the provision of such benefit to or in respect of a member of the Permanent Defence Force who is a new entrant otherwise than—

(a) in accordance with a scheme under this section, or

(b) with the consent of the Minister for Defence and the Minister.

(2) The Minister for Defence shall, with the consent of the Minister, make a scheme or schemes for the purposes of granting superannuation benefits to or in respect of members of the Permanent Defence Force appointed on or after 1 April 2004 who are new entrants.

(3) Every scheme made under *subsection (2)* shall, subject to *section 10(2)*, fix the time and conditions of retirement for all members of the Permanent Defence Force to or in respect of whom superannuation benefits are payable under the scheme and different times and conditions may be fixed in respect of different classes of such members.

(4) The Minister for Defence may, with the consent of the Minister, make a scheme amending or revoking a scheme under this section (including a scheme under this subsection).

(5) Every scheme under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme has been laid before it, the scheme shall be annulled accordingly but without prejudice to the validity of anything previously done under that scheme.

Non application to Chaplaincy Service.

9.—This Act does not apply to members of the Chaplaincy Service to the Defence Forces and the provisions of the Defence Forces (Pensions) Acts 1932 to 1975 relating to any such member shall continue to apply as if this Act had not been enacted.

Pensionable age generally.

10.—(1) Subject to *subsections (2) to (6)* and *sections 5 and 11*, no superannuation benefit other than death benefits shall be paid in respect of service as a new entrant before he or she reaches the age of 65 years.

(2) Subject to *subsection (6)*—

(a) where a member of the Permanent Defence Force other than the Army Nursing Service is a new entrant, then no superannuation benefit shall be paid in respect of service as a new entrant before he or she reaches the age of 50 years, other than death benefits, and

(b) in the case of members of the Army Nursing Service, *subsection (1)* shall apply.

(3) Subject to *subsection (6)*, where a member of the Garda Síochána is a new entrant, no superannuation benefit shall be paid in respect of service as a new entrant before he or she reaches the age of 55 years, other than death benefits.

(4) Subject to *subsection (6)*, nothing in this section shall be read as prohibiting a provision in a public service pension scheme from setting the age at which preserved

benefit, other than a death benefit, first becomes payable at an age later than the age at which a retirement benefit is payable.

(5) Subject to *subsection (6)*, where a specified fire brigade employee is a new entrant, no superannuation benefit shall be paid before he or she reaches the age of 55 years, other than death benefits.

[(6) Nothing in this section shall affect any provision by or under any enactment or public service pension scheme which provides for the award of superannuation benefits at an age earlier than that specified in this section or in the amendments provided for by Part 2 of Schedule 2—

- (a) on grounds of ill health, or
- (b) where it is provided for by the provisions of a public service pension scheme, on 31 March 2004, in the case of compulsory cesser of office or position before 65 years of age, or
- (c) for any other specified purpose under any enactment or public service pension scheme that applies to a new entrant and is approved by the relevant Minister and the Minister after 31 March 2004.]

Pensionable age for new entrants to Houses of Oireachtas, etc.

11.—(1) In respect of a new entrant to whom either or both *paragraph (c)* or *(d)* of the definition of “public servant” in *section 1* relates, no superannuation benefit shall be paid before he or she reaches the age of 65 years other than on grounds of ill-health, death or as provided for by *section 10(6)(c)*.

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

Accrual rate for pension purposes.

12.—(1) For new entrants to a local authority the provisions of the Local Government (Superannuation) (Consolidation) Scheme 1998 (S.I. No. 455 of 1998) that provide for any excess of a person's service over 20 years to be doubled for superannuation purposes do not apply.

(2) *Subsection (1)* does not apply to a fire brigade employee to whom *section 10(5)* applies.

(3) *Section 65* of the Mental Treatment Act 1945 does not apply to new entrants.

Reckoning for superannuation purposes of service after a specified age.

13.—Except where otherwise provided for by this Act and subject to accruing a maximum pension as provided for as of 31 March 2004 by or under any enactment or public service pension scheme, any restriction on reckoning of service for superannuation purposes after a person reaches a specified age shall not apply to a new entrant.

Application to existing pension provisions.

14.—The provisions of every public service pension scheme shall be read subject to this Act and every such scheme shall have effect accordingly.

Removal of doubts.

15.—Where a doubt, question or dispute arises in the operation of this Act in respect of whether or not a person is or is not a new entrant, then such doubt, question or dispute shall be determined by the Minister.

Short title and collective citation.

16.—(1) This Act may be cited as the Public Service Superannuation (Miscellaneous Provisions) Act 2004.

(2) The Defence Forces (Pensions) Acts 1932 to 1975, this subsection, *sections 8, 9 and 10(2)* and, in so far as it relates to those sections, *section 1* may be cited together as the Defence Forces (Pensions) Acts 1932 to 2004.

Section 1.

SCHEDULE 1

BODIES TO WHICH THE DEFINITION OF "PUBLIC SERVICE BODY" DOES NOT APPLY

1. A body which has an occupational pension scheme or arrangement that is made or may be made under the agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland establishing Implementation Bodies done at Dublin on 8 March 1999.
2. Aer Lingus Group p.l.c.
3. Aer Rianta c.p.t.
4. Arramara Teoranta.
5. Bord Gáis Éireann.
6. Bord na gCon.
7. Bord na Móna.
8. Córas Iompair Éireann.
9. Coillte Teoranta.
- [9A. EirGrid.]
10. Electricity Supply Board.
11. A harbour authority within the meaning of the Harbours Act 1946 or company to which section 7 of the Harbours Act 1996 relates.
12. Horse Racing Ireland.
13. Irish National Stud Company Limited.
14. Irish Aviation Authority.
15. An Post.
16. An Post National Lottery Company.
17. Radio Teilifís Éireann.
18. Railway Procurement Agency.
19. Voluntary Health Insurance Board.
20. A subsidiary of any body to which this Schedule [relates.]

Section 2(7) and
Section 11(2).

SCHEDULE 2

PART I

CONSEQUENTIAL AMENDMENTS TO ACT RELATING TO SECTIONS 2(7) AND 11(2)

Number and Year	Short Title	Amendment
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No. 38 of 1938	Ministerial and Parliamentary Offices Act 1938	<p>Section 13A (inserted by the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1992):</p> <p>in subsection (7), to delete paragraph (b) (inserted by the Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001) and insert the following:</p> <p>“(b) Subject to paragraph (c), none of the following persons are entitled to a pension under this section—</p> <ul style="list-style-type: none"> (i) a person who is receiving a severance allowance under Part V of this Act, or (ii) a person who has not reached 65 years of age, other than— <ul style="list-style-type: none"> (I) a person who was a member of either House of the Oireachtas, or of the European Parliament (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>), prior to 1 April 2004, (II) a person who held the office of Attorney General prior to 1 April 2004, or (III) a person who has held the office of Taoiseach, <p>in which cases the reference to 65 years in this paragraph shall be taken to be a reference to 50 years.”.</p> <p>Section 13AA (inserted by the Ministerial, Parliamentary and Judicial Offices and Oireachtas Members (Miscellaneous Provisions) Act 2001):</p> <p>to delete subsection (11) and insert the following:</p> <p>“(11) Except as provided by subsection (12), none of the following persons are entitled to a pension under this section—</p> <ul style="list-style-type: none"> (a) a person who is receiving a severance allowance under Part V of this Act, or (b) a person who has not reached 65 years of age, other than— <ul style="list-style-type: none"> (i) a person who was a member of either House of the Oireachtas, or of the European Parliament (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>), prior to 1 April 2004, (ii) a person who held the office of Attorney General prior to 1 April 2004, or (iii) a person who has held the office of Taoiseach, <p>in which cases the reference to 65 years in this subsection shall be taken to be a reference to 50 years.”.</p>
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PART 2

CONSEQUENTIAL AMENDMENTS TO ACTS RELATING TO SECTIONS 3 AND 10

Section 3 and 10.

Chapter and Regnal Year or Number and Year	Short Title	Amendment
22 Vict., c. 26	Superannuation Act 1859	<p>Section 10 (as amended by the 1980 Regulations):</p> <p>in subsection (1), to delete “who shall be under Sixty Years” and insert “who shall be under 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, under 65 years of age”.</p> <p>Section 11:</p> <p>to delete “attained the Age of Sixty Years” and substitute “attained the age of 60 years or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years”.</p>
50 & 51 Vict., c. 67	Superannuation Act 1887	<p>Section 3 (as amended by the 1980 Regulations):</p> <p>in subsection (5) to delete “before attaining sixty years of age” and insert “before attaining 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years of age”;</p> <p>in subsection (7):</p> <p>(a) to delete “he attains sixty years of age” and insert “that person attains 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years of age”, and</p> <p>(b) in paragraph (a), to delete “sixtieth birthday” and insert “60th birthday or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65th birthday”;</p> <p>in subsection (13), in the definition of “the annual salary and emoluments of his office on his last day of reckonable service”, to delete “attained sixty years of age” and insert “attained 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years of age”.</p>
9 Edw. 7, c.10	Superannuation Act 1909	<p>Section 1:</p> <p>in the proviso to subsection (2) after “that age” to insert “but this proviso shall not apply in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies”.</p> <p>Section 2:</p> <p>in the proviso to subsection (1) after “that age” to insert “but this proviso shall not apply in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies”.</p> <p>Section 6 (as amended by the 1980 Regulations):</p> <p>in subsection (1)—</p>

		<p>(a) in paragraph (a) to delete “having attained sixty years of age” and insert “having attained 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years of age”,</p> <p>(b) in paragraph (b)(II) to delete “attains sixty years of age” and insert “attains 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years of age”,</p> <p>(c) in paragraph (b) to delete “attaining sixty years of age” and substitute “attaining the said 60 or 65 years of age, as the case may be”,</p> <p>(d) in paragraph (c) to delete “attains sixty years of age” and insert “attains 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years of age” in both places where it occurs,</p> <p>(e) in paragraph (c)(iv)(I) to delete “had attained sixty years of age” and insert “had attained 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years of age”,</p> <p>(f) in paragraph (d) to delete “attains sixty years of age” and insert “attains 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years of age”,</p> <p>(g) in paragraph (e) to delete “attains sixty years of age” and insert “attains 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years of age” in both places where it occurs.</p>
4 & 5 Geo. 5, c.86	Superannuation Act 1914	<p>Section 4 (as amended by the 1980 Regulations):</p> <p>in subsection (1) to delete “attained sixty years of age” and insert “attained 60 years of age or, in the case of a person to whom <i>section 10</i> of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies, 65 years of age”.</p>
No. 46 of 1956	Civil Service Regulation Act 1956	<p>Section 8:</p> <p>to insert the following subsection after subsection (5):</p> <p>“(5A) Subsections (3) and (4) of this section do not apply to a civil servant (other than an officer to whom the Act of 1919 applies) who is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004.”.</p>
No. 16 of 1964	Registration of Title Act 1964	<p>Section 9:</p> <p>in subsection (7) after “seventy years” to insert “: but where the Registrar of Titles is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to retire on grounds of age shall not apply”.</p>
No. 1 of 1970	Health Act 1970	Section 19:

		<p>to substitute the following for section 19:</p> <p>“Age 19.—A person who is a permanent officer of a health board shall cease to be a permanent officer on attaining the age of 65 years, or where a higher age is fixed by order of the Minister, on the person attaining that age: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, the requirement to cease to be a permanent officer on grounds of age shall not apply.”.</p>
No. 4 of 1978	Medical Practitioners Act 1978	<p>Section 18:</p> <p>to substitute the following for subsection (1):</p> <p>“(1) A person who is a permanent officer of the Council shall cease to be a permanent officer on attaining the age of 65 years, or where a higher age is fixed by order of the Minister, on the person attaining that age: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, the requirement to cease to be a permanent officer on grounds of age shall not apply.”.</p>
No. 26 of 1980	Ombudsman Act 1980	<p>Section 2:</p> <p>in subsection (3)(c) after “67 years” to insert “: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to vacate office on grounds of age shall not apply”;</p> <p>in subsection (7) after “Ombudsman” to insert “: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then this subsection shall not apply”.</p>
No. 9 of 1985	Dentists Act 1985	<p>Section 18:</p> <p>to substitute the following for subsection (1):</p> <p>“(1) A person who is a permanent officer of the Council shall cease to be a permanent officer on attaining the age of 65 years, or where a higher age is fixed by order of the Minister, on the person attaining that age: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, the requirement to cease to be a permanent officer on grounds of age shall not apply.”.</p>
No. 18 of 1985	Nurses Act 1985	<p>Section 18:</p> <p>to substitute the following for section 18:</p> <p>“Age 18.—A person who is a permanent officer of the Board shall cease to be a permanent officer on attaining the age of 65 years: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, the requirement to cease to be a permanent officer on grounds of age shall not apply.”.</p>

No. 25 of 1988	Data Protection Act 1988	<p>Second Schedule:</p> <p>in paragraph 2(2)(c) after “65 years” to insert “: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to vacate office on grounds of age shall not apply”.</p>
No. 25 of 1990	Pensions Act 1990	<p>Section 129 (inserted by the Pensions (Amendment) Act 2002):</p> <p>in subsection (4) after “67 years” to insert “: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to vacate office on grounds of age shall not apply”.</p>
No. 7 of 1992	Environmental Protection Agency Act 1992	<p>Section 21:</p> <p>in subsection (14)(b) after “sixty-five years” to insert “: but where the Director General is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to vacate office on the grounds of age shall not apply”.</p> <p>Section 24:</p> <p>in subsection (10)(b) after “sixty-five years” to insert “: but where the director is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to vacate office on grounds of age shall not apply”.</p>
No. 8 of 1993	Comptroller and Auditor General (Amendment) Act 1993	<p>Section 15:</p> <p>in subsection (2) to substitute the following for paragraph (a):</p> <p>“(a) he has reached the age of 60 years or, where section 10 of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> applies to such person, 65 years, or”;</p> <p>in subsection (6) after “65 years” to insert “: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to vacate office on grounds of age shall not apply”.</p>
No. 13 of 1997	Freedom of Information Act 1997	<p>Second Schedule:</p> <p>in paragraph 2(c) after “67 years” to insert “: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to vacate office on grounds of age shall not apply”.</p>
No. 13 of 1999	Health (Eastern Regional Health Authority) Act 1999	<p>Section 21:</p> <p>in subsection (11) to insert the following for paragraph (b):</p> <p>“(b) A person who is a member of the staff of the Executive serving in a permanent capacity shall cease to be such a member on attaining the age of 65 years: but where the person is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, the</p>

		requirement to cease to be such a member on grounds of age shall not apply”.
No. 14 of 1999	National Disability Authority Act 1999	Section 25: in subsection (5)(a) after “whichever is the shorter” to insert “: but where the Director is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to cease holding office, on grounds of age, shall not apply”.
No. 30 of 2000	Planning and Development Act 2000	Section 105: in subsection (13)(b) after “65 years” to insert “: but where the chairperson is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to vacate office on grounds of age shall not apply”. Section 106: in subsection (13)(b) after “65 years” to insert “: but where the ordinary member is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to vacate office on grounds of age shall not apply”.
No. 22 of 2002	Ombudsman for Children Act 2002	Section 4: in subsection (3)(c) after “67 years” to insert “: but where he or she is a new entrant (within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i>) appointed on or after 1 April 2004, then the requirement to vacate office on the grounds of age shall not apply”.
No. 32 of 2003	Official Languages Act 2003	Second Schedule: in paragraph 2(c) of the Irish text after “ar 67 mbliana d'aois a shlánú” to insert “: ach i gcás gur iontrálaí nua é nó í, de réir bhrí an <i>Achta um Aoisliúntas na Seirbhíse Poiblí (Forálacha Ilghnéitheacha) 2004</i> , ansin ní bheidh feidhm ag an gceanglas maidir le héirí as oifig ar fhoras aoise”; in paragraph 2(c) of the English text after “attaining the age of 67 years” to insert “: but where he or she is a new entrant, within the meaning of the <i>Public Service Superannuation (Miscellaneous Provisions) Act 2004</i> , then the requirement to vacate office on grounds of age shall not apply”.