



## **Circular 0027/2018**

**To: All Employers and Management Authorities in the Education and Training Sector**

**Provision to allow for certain education and training sector staff to be retained in employment beyond their Compulsory Retirement Age of 65 years until they reach the age of eligibility for the Contributory State Pension**

**The temporary arrangements in this Circular apply only to education and training sector staff who retire on compulsory retirement on or after the 5<sup>th</sup> December 2017 and wish to be retained in their employment**

The purpose of this Circular is to notify all Education and Training Sector Employers and Management Authorities and all education and training sector staff of the temporary arrangements which will apply to certain staff to be retained beyond their compulsory retirement age of 65 years until they reach the age of eligibility for the Contributory State Pension, which is currently age 66 but is due to increase to age 67 on the 1<sup>st</sup> January 2021 and to age 68 on the 1<sup>st</sup> January 2028.

These temporary arrangements will only apply until the legislation which will provide for the increase in the compulsory retirement age in public sector pension schemes to include all education sector pension schemes is changed.

### **Circulation**

Please ensure that copies of this Circular are brought to the attention of all employees in your respective areas including those on leave of absence.

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External Staff Relations

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5<sup>th</sup> April 2018

## **Background:**

### **1. Government decision to change the compulsory retirement age in the public service**

On the 5<sup>th</sup> December 2017 the Government agreed to make changes which will affect the compulsory retirement ages of some public servants and to the drafting of legislation to provide for same. In summary:

- The compulsory retirement age for public servants recruited before 1<sup>st</sup> April 2004 will be increased to 70 years – to be the same as the compulsory retirement age of members with pension benefits under the Public Service Pensions (Single Scheme and other provisions) Act 2012;
- Any additional service above age 65 would be pensionable but subject to a maximum of 40 years' service which would be reckonable for pension benefits.

In making these changes:

- No change is proposed to minimum retirement ages where they exist;
- No change is proposed for those who were recruited between 1<sup>st</sup> April 2004 and 31<sup>st</sup> December 2012 and who have no compulsory retirement age.

### **2. Status of the proposed legislative changes to the Compulsory Retirement Age**

At this time the proposed changes have no legal effect. It is intended that the changes will become legally operative by way of an amendment to the Public Service Superannuation (Miscellaneous Provisions) Act 2004.

*Until that happens, compulsory retirement ages currently in effect remain.*

Once the legislation is passed, this Department will implement the changes for all relevant staff in the education and training sector. The changes will only be applicable to staff who retire on or after the date of commencement of this legislation.

### **3. Temporary Arrangements proposed by the Department of Public Expenditure and Reform for those who reach age 65 and must retire before the change to legislation**

The Department of Public Expenditure and Reform has issued a circular (21/2017) which sets out the measures which will apply to civil servants pending the change to legislation outlined above. These measures will only apply to those who are affected between the date of the Government decision (5<sup>th</sup> December 2017) and the changes to the legislation.

The full details of the interim measures are set out in circular 21/2017 <http://circulars.gov.ie/pdf/circular/per/2017/21.pdf>

The Department of Public Expenditure and Reform has, under this Circular, also authorised Government Departments and Offices to adapt that circular as required so that it can be made available to public service bodies under their aegis.

#### **4. Temporary Arrangements proposed by the Department of Education and Skills for education and training sector employees who reach age 65 and must retire before the change to legislation**

The temporary arrangements in the education and training sector will mirror the temporary measures for the civil service with some minor amendments relating to employees whose retirement date is aligned to the end of a school/academic year rather than a date of birth.

The key features of the temporary arrangements for the education and training sector are:

- This only permits applicants to stay until they reach Contributory State Pension age (currently 66);
- Applicants who are given approval to be employed beyond their compulsory retirement date must retire, take their lump-sum and their pension. As they return to employment their pension may be abated in accordance with normal pension scheme abatement rules;
- Applicants who are given approval to be employed beyond their compulsory retirement date will be engaged at the same grade on the same work pattern with the same or fewer hours subject to the business need of the organisation;
- Applicants who are given approval to be employed beyond their compulsory retirement date will be paid on the first point of the relevant pay scale;
- No pension contributions from salary will be payable, no pension benefits accrued and this period of service will not be reckonable for pension purposes;
- Regardless of their PRSI classification before they retired, applicants will become Class A for the duration of their re-engagement;
- Some staff have existing arrangements which allow them to work to the end of the school/academic year in which they reach the age of 65 (rather than retiring on the date that they reach 65). Such staff who avail of these arrangements may work to the end of the school/academic year in which they reach the age of 66;
- Pension Related Deductions will continue to apply.

The above arrangements will not apply to staff whose compulsory retirement age is already 66 or higher.

The above arrangements will not apply in the case of any staff member who retires before their compulsory retirement date. No application for retention beyond the age of eligibility for Contributory State Pension (CSP), currently age 66 or beyond the end of the school/academic year in which the person reaches age 66 will be considered.

## **5. Salary during the Temporary Arrangements**

For the entire period of employment under the temporary arrangements the person will be placed on the **first point of the relevant salary scale** (where a new entrant salary scale exists for the grade, the person will be placed on the first point of the new entrant salary scale). If immediately prior to retirement the person was on a PPC rate, then following retention the person will be placed on the first point of the non-PPC scale (to take account of the fact that no pension contribution is payable).

## **6. Payment of Allowances during the Temporary Arrangements**

Allowances which were withdrawn for new beneficiaries in February 2012 under the public service review of allowances will not be payable during the period of employment under the temporary arrangements. Allowances which remain payable to new beneficiaries may be paid, subject to the conditions for payment of the allowance being fulfilled. See [Circular 0008/2013](#) for further details.

## **7. Continuation in Current Post during the Temporary Arrangements**

While the period of employment under the temporary arrangements is considered a new contract of employment, the temporary arrangements envisage a continuation of the person in the current post. However this may not always be possible and where it is not the Employer may at its discretion, assign the person to another post at the same grade in the employment. (Such an arrangement should fall within the existing rules for re-location)

Where a teacher holds a promotion post or post of responsibility prior to retirement, he/she will remain in that post for the period of employment under the temporary arrangements i.e. where an individual was employed as a Principal, Deputy Principal or Assistant Principal prior to retirement, they will continue to hold the relevant allowance and work in the same promotion post or post of responsibility in that school for the period of employment under the temporary arrangements. As stated above, the teacher will be placed on the first point of the relevant salary scale for the period of employment under the temporary arrangements.

## **8. Incremental Salary Progression/ Teacher Long Service Allowance during the Temporary Arrangements**

The period of employment under the temporary arrangements is considered to be a new contract of employment and accordingly, service towards an increment or towards the Teacher Long Service Allowance given prior to retirement does not carry forward into that period.

## **9. Procedure for Retention in the Education and Training Sector under this Circular**

Details of how employers must manage requests for retention under these temporary arrangements are set out hereunder:

The sanction of this Department is not required for persons to be retained under this circular.

However before a retention is approved, the education and training sector employer should be satisfied a business need exists to warrant the retention – i.e. that a continuing role is available for that employee for the duration of the period up to the eligibility for contributory state pension and that the employee’s health, conduct and performance is satisfactory. In doing so an employer should have regard to their staffing allocation, employer control framework/delegated sanction arrangement, and budgetary position.

Subject to these conditions an application for retention on the basis of this Circular should be considered favourably by the employer concerned but ultimately all decisions regarding retention lies with the employer.

Any education and training sector employee who wishes to apply for retention under the terms of this Circular should apply to their employer (in the case of school staff this is the Board of Management/ETB as appropriate) within the timelines agreed by that employer, using the application form at Appendix A of this circular.

Any education and training sector employees whose retention is approved under this Circular must sign the understanding at Appendix B of this Circular indicating that s/he accepts the terms and conditions as set out in this Circular before the retention commences and in particular, their understanding that retention under this Circular does not confer any rights on the individual employee to any new arrangement that may be provided for in future legislation in relation to compulsory retention age, whether or not that employee is still retained under the terms of this Circular on the date of commencement of that legislation.

## **10. Timelines for Application for Retention under this Circular**

It is a matter for each employer, based on the business needs of their area, to determine how much notice is required from an employee who may wish to be considered for retention under this Circular. Employers are required to engage in a timely manner with employees who fall into this age category so that the necessary arrangements can be made to minimise workplace disruption.

In the case of teachers and non-teaching staff in recognised primary, secondary, community and comprehensive schools and in education and training boards who have a compulsory retirement age of the end of the school year in which they reach age 65, notification of retention should be made to their employer no later than **end of April** each year.

## **11. Frequently Asked Questions (FAQs)**

A series of FAQs is attached to this circular. These FAQs must be read in conjunction with the Circular

## **12. Queries**

Queries in relation to these temporary arrangements should be addressed in the first instance to individual employer. Employer queries can be emailed to:

[retirementage@education.gov.ie](mailto:retirementage@education.gov.ie)

**Application for Retention beyond compulsory retirement age for a period of up to 1 year under Terms of Department of Education and Skills Circular 0027/2018**

**Appendix A**

Any education or training sector employee who wishes to apply for retention under the terms of Circular 0027/2018 should submit this application to their employer by the timelines agreed by the managerial authorities for that area.

In the case of teachers and non-teaching staff in recognised primary, secondary, community and comprehensive schools as well in education and training boards by no later than **end of April each year**.

**To be completed by applicant and forwarded to their employer:**

**I will reach compulsory retirement age on \_\_\_\_\_ and I wish to be retained in accordance with the terms of this circular**

|  |  |
|--|--|
| Name   |  |
| Address  |  |
| Date of Birth  |  |
| Date of reaching age 66<br>(current age of eligibility for the Contributory State Pension [CSP]) |  |
| Employer   |  |
| Location of Current Employment   |  |
| Post Held  |  |
| PPSN   |  |

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**(This form should be retained by the employer for audit purposes)**

## Appendix B

**Acceptance by employer and undertaking by staff to be signed where retention is approved under the terms of Department of Education and Skills Circular 0027 /2018**

### **Part 1: To be completed by employer:**

I am satisfied that the employee's health, conduct and performance is satisfactory. I am also satisfied that a business need exists to warrant the retention, i.e. that a continuing role is available for the applicant for the duration of the approved retention period. Retention is approved for a period of 1 year from the employee's 65th birthday to the age of eligibility for the CSP, which is currently age 66 (or from the end of the school year in which the employee reaches age 65 to the end of the school year in which the employee reaches age 66 if applicable).

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Employer: \_\_\_\_\_

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### **Part 2: to be completed by applicant**

I have received a copy of Circular 0027/2018 which I have read and understood. I accept the terms and conditions of retention as set out in this Circular. In particular, I understand that retention under this Circular does not confer any rights on me to any new arrangement that may be provided for in future legislation in relation to compulsory retirement age, whether or not I am still retained under the terms of this Circular on the date of commencement of that legislation.

I understand that retention is for a maximum of one year from the date of my 65<sup>th</sup> birthday (or from the end of the school year in which I reach age 65 if appropriate) until I reach the age of 66 the current age of eligibility for the CSP (or until the end of the school year in which I reach age 66 if appropriate). I also understand that retention under the terms of this Circular is at the first point of the relevant pay scale.

Signed: \_\_\_\_\_

Name [Block Caps]: \_\_\_\_\_

Date: \_\_\_\_\_