

HOUSES OF THE OIREACHTAS

Joint Committee on Public Service Oversight and Petitions

Submission in relation to Petitions No P00033/13, from Mr. Henry Gaynor entitled "*Equality and fairness regarding the raising of the State Pension age to 66 and beyond*", and P00053/12 from Ms Catherine Doran entitled "*State Pension (contributory) Eligibility*", to the Working Group established to examine the Labour Market and Retirement age.

1. Background to this submission

At the Joint Committee meeting of 27 January 2016 with Minister Howlin the Chairman, Deputy Pádraig MacLochlainn T.D. raised the with the Minister his recently established working group on the labour market and retirement age. Members had agreed, as there have been two petitions received in relation to the raising of the State Pension Age to 66 and beyond, that the Chairman raise with the Minister the matter of the Joint Committee writing to both the Minister and the working group so as to record the views of the Joint Committee having examined the two petitions related to the issue. The Minister welcomed the suggestion as it would add to the considerations of this important policy issue.

2. Joint Committee submission.

On 2 October 2012, the Joint Committee on Public Service Oversight and Petitions received a Petition from Ms. Catherine Doran, Petition No P00053/12: "*State Pension (contributory) Eligibility*". See Appendix 1 for the text of this Petition and the background to the Petition as supplied by the Petitioner. The Joint Committee initially considered this Petition on 17 October 2012, and agreed to refer the Petition to the Minister for Social and Protection, requesting that she report back to the Joint Committee. The Committee again deliberated on the Petition on 26 June 2013, when it agreed to invite the Minister for Social and Protection to come before the Committee and examine the broader issues of Pension Contributions.

The Minister for Social and Protection appeared before the Joint Committee on 2 October 2013. Following the appearance of the Minister the Committee further considered this Petitions on 16 October 2013, and agreed to write, to the Minister for Social and Protection and the Joint Committee on Education and Social Protection informing them this Committee recommends when Legislation such as this is being introduced in the future that a lapse of time be allowed in order for people to put plans in place to deal with the financial fallout of such decisions and to close this petition.

The Joint sub-Committee on Petitions received another Petition on 4 December 2013, Petition No P00033/13 from Mr. Henry Gaynor, entitled "*Equality and fairness regarding the raising of the State Pension age to 66 and beyond*". The Joint sub-Committee on Public Petitions first considered this petition at its meeting on 26 November 2014. Arising from their deliberations of the Petition, the Joint Committee agreed to write once again to the Department of Jobs, Enterprise and Innovation seeking clarification to a response received on 30 October 2014, they further agreed to write to the Minister for Public Expenditure and Reform, asking the Minister if he any intentions of implementing new measures to resolve this issue for civil and public servants. It was also agreed to invite both the Irish Congress and trade Unions (ICTU) and the Petitioner to appear before the Joint Committee to make a presentation.

The Petitioner appeared before the Joint Committee on 21 January 2015. Following the appearance of the Petitioner the Joint Committee agreed to write once again to the Minister for Social and Protection and the Minister for Jobs, Enterprise and Innovation. Mr. Fergus Whelan, Industrial Officer, Irish Congress of Trade Union, appeared before the Joint Committee on 11 February 2015.

3. Joint Committee's overview of the meeting with ICTU and the Petitioner

Members noted

- that for ICTU it would appear that there has been a lack of or no consultation with the relevant stakeholders in advance of the changes being implemented;
- Further, there appears to be no engagement since the changes were implemented between the Department of Social and Protection and the Trade Unions;
- It also appears that this legislation is not aimed at encouraging people to remain in employment beyond 65; in fact it appears to be aimed at reducing people's entitlements at age 66;
- There has been no clarification to employers from the Department of Jobs, Enterprise and Innovation in relation to whether or not employers should or could retain staff beyond 65;
- There is a fear that these changes could lead to litigation in the future due to inequality;
- These decisions, implemented over a short period of time, could have a damning effect on voluntary contributions to pensions by individuals, as they may decide why bother making a contribution if pension arrangements can be changed radically and over a short space of time;
- That the unions asked both this Government and the previous Government to implement these pension changes incrementally e.g. someone reaching age 65 this year could lose one month's entitlement and so on;
- That these changes are not in agreement with the 5 principles as set out in pension reform.

ICTU contend that if this petition is unsuccessful then the principle of legitimate expectation should apply to the two remaining proposed hikes and that they should only apply to new entrants to the workforce.

4. Additional Information

The Joint Committee on Education and Social Protection (JC E&SP) met with Officials from the Department of Social and Protection and Staff on KPMG on 20 September 2012 to present the findings of the actuarial review of the SIF as of 31 December 2010, this Report was published in June 2012. In the closing of the Committee's debate and considerations the Chairman stated that there is a need for "*ongoing debate around this very important issue*"

Following informal contact with the JC E&SP the secretariat has established that to date JC E&SP have not examined this issue further.

5. Summary of the response from the Department of Jobs, Enterprise and Innovation

The response dated 25 February 2015 states the following:

- The introduction of a retirement age in legislation or legislation compelling employers to retain employees beyond a certain age would mark a sea change in the practice to date of allowing employers and employees agree a retirement age;
- Contracts of employment will generally contain a retirement age, however this is agreed between and employer and employee;
- They once again refer to the protections in place in the Employment Equality Acts which are designed to protect individuals from being discriminated

against on ground of age (this would mean an employee when they reach 65 having to take a case against their employer which can be a long process);

- The Court of Justice of the European Union has found in some circumstances employers are justified in having a compulsory retirement age;
- Fixed term contracts is a matter between the employer and employee;
- Information the Department received from IBEC suggests that while many employees are defending their right to set a normal retirement age within their enterprise, which is generally 65, a significant proportion are trying to facilitate employees who wish to continue working;
- Some employers have already amended the retirement age, while others have indicated they intend to change the retirement age for all employees;
- The Department is keeping in touch with employee and employer representative bodies to ensure they have an understanding of what is happening in practice in relation to this matter.

6. Summary of response from the Department of Social and Protection dated 20 February 2015 is as follows:

- Estimated expenditure for 2015 on pensions is €6.675 billion, this is 34.4% of all welfare expenditure, an increase of €168 million over 2014;
- Increased longevity is resulting in longer duration of pensions, without any increase in PRSI contributions paid to finance them;
- Currently there are 5.3 people of working age for every pensioner, this ratio is expected to decrease to 2.1 by 2060;
- The over 65 year olds in expected to increase from 11% of the total population in 2010 to 15% in 2020, and 24% in 2060. Life expectancy today is 82 for men and 85 for women, however by 2030 this is projected to rise to 84.1 and 87.4 respectively;
- The number of pensioners is increasing by approx. 17,000 each year;
- The transition pension had an associated retirement condition which was seen as a barrier to working after retirement. No such obstacle exists with the State pension (contributory);
- The Retirement Pension which later became the transition pension was introduced to bridge the gap between retirement age of 65 and the State Pension, which in the 70's only came into effect at age 70, but was reduced over time to 66;
- If the pension was to be introduced it would affect 12,000 people and not 1400, the number of people who reached 65 and were still in employment in 2014 was 1400;
- Savings in 2014 were €33.5m and it is expected it will be €66m in 2015, this was after taking into account the other welfare payments that individuals are in receipt of;
- If individuals decide to remain in employment until age 66, they can then qualify for the state pension without the need to retire, however this was not the case with the transition pension, you had to retire in order to qualify for this, however, you could resume employment a year later when you reached age 66;
- Statistics show in the past, very few once retired at 65 resumed work at 66.

The response states that in relation to public sector employees, there is no legal retirement age in the State, and the age at which employees retire is a matter

for the contract of employment between them and their employers. The Joint Committee note that at the time a Petitioner was agreeing a retirement age with his employer the rules that existed would have allowed them claim a transition pension between the age of 65 and 66, and therefore, there was no issue with agreeing a retirement age of 65. According to the Department of Public Expenditure and Reform; the specific compulsory retirement age and minimum pension age provisions which affect individual public servants will reflect their particular employment sector and the time of original recruitment. Public servants required to retire at 65 can draw their public service pension from that age.

Considerations of the Joint Committee

The CSO does not make predictions 50 years in advance, and are only providing projections up to 2046; therefore, for Members a question arises - where did the Department of Social and Protection obtain their statistics which claim the following:

- Currently there are 5.3 people of working age for every pensioner, this ratio is expected to decrease to 2.1 by 2060
- The over 65 year olds is expected to increase from 11% of the total population in 2010 to 15% in 2020, and 24% in 2060. Life expectancy today is **82** for men and **85** for women, however by 2030 this is projected to rise to **84.1** and **87.4** respectively.

Following receipt of this response from the Department of Social and Protection, the members directed that secretariat to seek statistics from the Central Statistics Office to compare them with the Statistics provided by the Department of Social and Protection.

7. Summary of response received from the Central Statistics Office

The Statistics provided above by the Department are not in line with the figures provided by the CSO. As set out in Table 1 below; for example the CSO state life expectancy in men in **2011 was 78.3**, whereas the Department claim when there report was produced in June 2012 **this age was 82**. The response from the CSO also states the life expectancy in men is expected to be **83.0 by 2031**, whereas the Department state in **2030 this figure will be 84.1**. In women the Department are stating as per their report the life expectancy is **85; however by 2030** the expected life expectancy will **be 87.4** but the CSO state this figure in **2011 was 82.9 and will be 86.6 by 2031**.

Table 1

Life Expectancy as of 2011 CSO	Life Expectancy DSP 2012 (however the report is up to 31 December 2010)	Life Expectancy CSO 2031	Life Expectancy DSP 2030
78.3 (men)	82 (men)	82.9 (men)	84.1(men)
82.9 (women)	85 (women)	86.6 (women)	87.4 (women)

From the table above there is an increase of 3.7 years in the life expectancy for men by the Department and an increase of 2.1 years in the women’s age. The

figures for 2031 and 2030 show an increase of 1.2 years for men and 0.8 years for women. It is concerning for members that there is such a difference in the figures as this information is already available, the CSO, and it is not based on speculation. Between 2014 and 2028, the DSP will have added 3 years to the eligibility criteria in order to avail of the State Pension, based on today's CSO figures men will live 3.7 years less than what the Department is stating, therefore straight away it seems to members that the 3 years being added could be claimed back at the end of the person's life.

It is becoming very clear to members that the figures used in relation to life expectancy by the Department in taking the decision to increase the Pension Age does not match those produced by the CSO, who gather statistics from every household in the Country.

Once again, following receipt of the above information from the CSO, the secretariat was directed to write to the Department of Social and Protection asking them to clarify where they obtained their statistics from.

8. Summary of the second response from the Department of Social and Protection

The Secretariat wrote to the Department of Social and Protection on 20 April 2015, seeking the following:

"The secretariat understand from the Central Statistics Office (CSO) that the CSO only provide projections up to 30 years hence (2046) whereas in your reply you state that "...currently 5.3 people of working age for every pensioner and this ratio is expected to decrease to approximately 2.1 by 2060." Members considered that there may be a lacuna in the data supplied; and, accordingly, I am writing to you to ask you to provide us with information as to sources of the data and statistics used".

In this correspondence the attention of the Department was brought to the recent publication of a Eurostat Report entitled *"What it means to be Young in the European Union Today"*.

The Department responded stating that they had requested the services of KPMG to carry out a study on their behalf.

In the response the Department confirmed that the next actuarial review is due to be published in 2017, it is the Minister's responsibility under the Act to ensure a review of the Social Insurance Fund (SIF) is carried out every 5 years and advised:

- CSO projections currently only run to 2046, their projections and those of professional actuaries are based on Census data, and these are used – particularly the age breakdowns therein – to protect trends into the future;
- As the 18 year olds of today will not be paid a pension until at least 2060, it is then necessary to consider trends this far into the future;
- The Department are claiming the Statistics from the CSO are in agreement with theirs in relation to the increase in the number of people over 65 towards 2046, however what the secretariat are disagreeing with the Department is the estimated life expectancy of men and women, there is a

significant difference in the figures provided by the CSO and by the KPMG Report;

- The Eurostat figures note that while the demographic change may be more challenging in other countries with lower birth rates than ours, while this may be true it does not alter the significance of the figures, which already incorporate birth rate data. All this simply means for Ireland is that the projected ratios would dis-improve further if our birth rate were to converge towards the European average;
- The trend projected by the CSO to 2046 is expected by qualified actuaries to continue beyond that date, with the ratio dropping further, from 2.4 to 1 (number of people in the workforce), to 2.1 to 1 in the following 14 years. This is crucial in the context of the Petitioner's proposal that changes to pension age should only apply to new labour force entrants, as it would be to this period that changes would be deferred it what he seeks was to be granted,
- It is also stated that these decisions are decided by the Political System, and legislation, to give effect to the increase in the pension age was agreed in the Social Welfare and Pensions Act, 2011, which was signed into law on 29 June 2011.

9. Full Response from the Central Statistics Office (CSO)

In the correspondence with the CSO, 4 central questions were asked by the Joint Committee and the CSO responded both to the general questions and to the central 4 questions, as follows;

The last census was conducted in April 2011, and the next one is scheduled to take place in April 2016

Following the last census the CSO released two Reports:

- Population and Labour Force Projections 2016-2046
- Regional Population Projections 2016-2031

The population is projected using the most recent Census of Population as its reference point (Population year T). The **Components of Population Change** (highlighted below) are then added and subtracted as appropriate to arrive at the new population estimate (Population year T+1).

Population year T
+ **Births**
- **Deaths**
+ **Immigration**
- **Emigration**
= Population year T+1

As the components of population change are estimated projections, a set of assumptions are produced to ascertain these values.

Assumptions

Births (Fertility Assumptions)

- **F1** – The fertility rate will remain at the 2010 level of 2.1 for the whole period to 2046.

- **F2** – The fertility rate will fall from the 2010 level of 2.1 to 1.8 by 2026 and level off thereafter.

In 2013 the fertility rate was just above 2.0, so for the purpose of this report the F2 scenario is assumed.

Deaths (Mortality Assumptions)

- Improvements in life expectancy are assumed to continue for the foreseeable future.
- Male life expectancy at birth increasing from 78.3 in 2011, to 83.0 in 2031.
- Female life expectancy at birth increasing from 82.9 in 2011, to 86.6 by 2031.

Immigration and Emigration (Migration Assumptions)

When examining migration a number of factors were taken into account:

- Present economic conditions.
- Recent migrant flows and family formation.
- Pull factor in niche sectors of labour market.
- Large pool of migrant labour force across Europe.

This resulted in three migration assumptions (all of which will be used in this report):

- **M1** – Positive net migration by 2016, increase to +30,000 annually thereafter.
- **M2** – Positive net migration by 2018, increase to +10,000 annually thereafter.
- **M3** – Negative net migration of -5,000 annually.

The migration scenario chosen will impact the level of population change.

Question 1: The projected percentage increase of those over 65 in the next Census, 2021 and the 2061 Census?

Background Information

- The CSO does not project 50 years forward and therefore data is not available for 2061. In order to maintain the robustness of the assumptions used, projections are currently available to 2046;
- The **F2 fertility scenario and all 3 migration scenarios** will be used to illustrate a number of eventualities.
- For the purpose of this report, persons aged over 65 are defined as all persons aged 66 years and over.

Population Change for Migration Scenario 1 - M1F2 (Fig 1.A)

- In this scenario, net positive migration is expected by 2016, increasing to +30,000 annually thereafter.
- The **Immigrant** (inward migration) population tends to be relatively young.
- The population is projected to increase to 6,421,159 by 2046, an increase of 40.4% between 2011 and 2046.

- The proportion of those aged 66+ is projected to increase from 10.8% in 2011 to 21.4% in 2046.

Fig: 1.A

Scenario 1 - M1F2	2011	2016	2021	2046
Total Population	4,574,888	4,699,369	4,960,566	6,421,159
Number of Persons over 65	492,005	581,353	686,546	1,373,670
Percentage of Population over 65	10.8%	12.4%	13.8%	21.4%

Population Change for Migration Scenario 2 – M2F2 (Fig: 1.B)

- In this scenario, net positive migration is expected by 2018, increasing to +10,000 annually thereafter.
- The **Immigrant** (inward migration) population tends to be relatively young;
- The population is projected to increase to 5,635,183 by 2046, an increase of 23.2% between 2011 and 2046.
- The proportion of those aged 66+ is projected to increase from 10.8% in 2011 to 23.9% in 2046.

Fig: 1.B

Scenario 2 - M2F2	2011	2016	2021	2046
Total Population	4,574,888	4,686,484	4,875,122	5,635,183
Number of Persons over 65	492,005	581,050	684,389	1,344,654
Percentage of Population over 65	10.8%	12.4%	14.0%	23.9%

Population Change for Migration Scenario 3 – M3F2 (Fig: 1.C)

- In this scenario, net negative migration is expected for the entire period at a rate of -5,000 annually.
- The **Emigrant** (outward migration) population tends to be relatively young, therefore proportionately increasing the older population.
- The population is projected to grow due to natural increase (births minus deaths) to 4,997,418 by 2046, an increase of 9.2% between 2011 and 2046.
- The proportion of those aged 66+ is projected to increase from 10.8% in 2011 to 26.4% in 2046.

FIG: 1.C

	2011	2016	2021	2046
	Scenario 3 - M3F2			
Total Population	4,574,888	4,668,989	4,777,992	4,997,418
Number of Persons over 65	492,005	580,694	681,998	1,319,920
Percentage of Population over 65	10.8%	12.4%	14.3%	26.4%

Question 2: The projected average life expectancy for men and women in the 2031 Census?

- Life expectancy tables were calculated by the Central Statistics Office to compile "*The Population and Labour Force Projections 2016-2046*" and "*The Regional Population Projections 2016-2031*".

- It was assumed that improvements in life expectancy would continue for the foreseeable future.
- Male life expectancy at birth is projected to increase from age 78.3 in 2011 to age 83.0 in 2031 **(Fig: 2.A)**.
- Female life expectancy at birth is projected to increase from age 82.9 in 2011 to age 86.6 by 2031 **(Fig: 2.A)**.
- Based on these life expectancy forecasts a male that survives to 65.0 years in 2031 would be expected to live for an additional 21.1 years. A female that survives to age 65.0 in 2031 would be expected to live for an additional 23.7 years **(Fig: 2.A)**.

Fig: 2.A

Life expectancy at Birth and at Various ages for 2011			Life expectancy at Birth and at Various Ages for 2031		
Age	Males	Females	Age	Males	Females
0	78.3	82.9	0	83.0	86.6
65	17.7	20.8	65	21.1	23.7
66	16.9	20.0	66	20.3	22.8
67	16.2	19.1	67	19.5	22.0
68	15.4	18.3	68	18.7	21.1

Question 3: The number, between the age of 15 – 24 and 25 – 64, who have emigrated from the 2001 – 2011 Censuses?

The CSO conducted a Census in April 2002, April 2006 and April 2011. The Census records all those who are present in the State on Census night.

Emigration figures are published in the “Annual Population and Migration Estimates” release. The estimates are subject to revision and benchmarked against the Census of Population. The requested Emigration figures are outlined in the table below **(Fig: 3.A)**.

There was positive inward migration for many of the years 2001 – 2011. The total net effect of this positive inward migration is also outlined below **(Fig: 3.B)**.

Fig 3.A

Estimated Emigrants (Thousands) by sex, year and age group						
	15 - 24 years	25 - 64 years	15 - 24 years	25 - 64 years	15 - 24 years	25 - 64 years
	Both sexes		Males		Females	
2001	21.2	4.4	9.9	2.4	11.3	2.0
2002	18.7	3.2	9.0	1.7	9.8	1.5
2003	17.0	10.1	9.3	6.3	7.7	3.8
2004	14.1	10.5	6.3	5.7	7.8	4.9
2005	14.3	12.1	6.7	6.7	7.6	5.3
2006	15.9	16.2	8.0	8.8	7.9	7.4
2007	18.2	24.2	8.9	14.8	9.3	9.5
2008	17.8	26.9	9.7	17.1	8.1	9.7
2009	27.9	40.6	17.1	23.2	10.8	17.3
2010	26.7	39.4	13.7	25.4	13.0	14.0
2011	34.5	37.4	15.9	21.0	18.6	16.4

Fig: 3.B

Total Net Migration (Thousands) by year and component			
Year	Immigrants	Emigrants	Net migration
2001	59.0	26.2	32.8
2002	66.9	25.6	41.3
2003	60.0	29.3	30.7
2004	58.5	26.5	32.0
2005	84.6	29.4	55.1
2006	107.8	36.0	71.8
2007	151.1	46.3	104.8
2008	113.5	49.2	64.3
2009	73.7	72.0	1.6
2010	41.8	69.2	-27.5
2011	53.3	80.6	-27.4

Question 4: The number of families, with a head of household between the age of 15-24 and 25-64, who have emigrated from the 2001-2011 Censuses?

Emigration statistics are collected by means of "The Labour Force Survey", which is a sample survey. The Emigration data is compiled and grossed at an individual person level, so that it is representative of the population overall. Therefore the sample does not allow us to provide estimates at family unit level.

10. Recommendations by the Joint Committee on Public Service Oversight and Petitions to the Working Group are as follows:

10.1 Implement the changes as suggested by the Petitioner and apply these new pension rules to new entrants into the workforce;

10.2 Amend the rules of the transition pension in line with the State Pension (contributory); Request that all individuals once they reach 65 seek an extension to their employment in line with the State Pension qualifying age before qualifying for the full pension entitlement i.e. €230 per week;

10.3 Consider allowing individuals the full payment of €230 per week who are leaving employment at 65 (because they are

required to), as last year this would only have effected 1400 individuals who reached 65 and they have been making TAX and PRSI contributions continuously up to their retirement and therefore should not be treated in the same category as individuals who have been claiming other Social Welfare Benefits;

10.4 At the very least the Job Seekers Allowance should continue to be paid to individuals from 65- 66 up to 2021 from 65-67 up to 2024 and 65-68 up to 2028 and beyond;

10.5 Amend the current requirement of an individual needing to have a yearly average of 48 PRSI contributions for every working year since they commenced their first employment, this should be amended to a defined number of yearly contributions up to a maximum of 40 years. There is definitely an inequality issue here as if you started working at an early age you are required to have a yearly average of 48 PRSI contributions for every single year up to 66, then 67 and 68 and so on;

10.6 Apply an automatic entitlement to 52 full PRSI contributions (not modified contributions) for each year during the transition years between 65-66 up to 2021, 65-67 up to 2024 and from 65-68 from 2028 and beyond;

10.7 Recommend the implementation of legislation which would put as a guide only a retirement age, for example the legislation could state that retirement age be no younger than 66 but can be older based on the terms and conditions of employment and the person's physical and mental ability to continue working;

10.8 The Joint Committee, so that all parties to the debate have the same access to independent data, recommends that in relation to the data to be used in the review, the Central Statistics Office should be the source used. The State sees the need for a 'Statutorily Independent Office' to supply the statistics that are to be used by Departments and State Bodies in the context of any public policy debate or change thereto.

10.9 Section 10 of the Social Welfare Consolidation Act, 2005 requires that the Minister, at 5 year intervals, carry out actuarial reviews of the financial condition of the SIF and the report be laid in both Houses within 6 months; This should be amended to require the use of CSO data when undertaking the 5 yearly actuarial reviews. Members have concerns here that an outside institution is being paid from taxpayer funds - how are the findings verified, especially where there appears to be a contradiction in their findings with CSO data.

10.10 Equality and Fairness be applied across the board in any new qualifying criteria for the State Contributory Pension.

10.11 If the Working Group decides to recommend any changes to the current criteria which could have a monetary value to individuals then these changes must apply retrospectively to all since the changes were first implemented.

11. Reasons for Recommendations

The Joint Committee were particularly seized in regard to the matter of "equality and fairness". When both the petitioner and ICTU appeared before the Joint

Committee, particular emphasis was made of there not being "equality and fairness" being applied across the board in terms of the new qualifying criteria for the State Contributory Pension. The Joint Committee are most concerned that "equality and fairness" apply.

The Joint Committee, wish to raise with the Minister and the new Working Group that the Joint Committee are in agreement with the Petitioner in terms of there not being "equality and fairness" being applied across the board in terms of the new qualifying criteria for the State Contributory Pension.

In this regard, the younger you start working the more years you have to have worked to have the required yearly contribution average for a full pension. This can disadvantage a returned to full-time education or leaving the work force for a number of years for matters such as child-care. In such circumstances a worker may not achieve the required yearly average to receive a full pension. Apart from 'principal' of the more you paid in, the more you will get out; consideration should be given to a dual approach - a yearly average or a minimum number of years, at the least any policy must be equality and fairness proofed.

Individuals may decide to work longer based on their financial position; however currently, if an employer does not want to retain an individual past the age of 65, then there is no legal obligation on them to do so, and the individual finds themselves in a situation where they have to claim either Job Seekers Allowance or Benefit. This is the same payment which is paid to individuals who are unemployed; therefore, why is a person who has been in employment, be it part time or full time, only getting the same benefit when they are *de facto* if not *de jure* retiring? In most cases this is a difference of €42 per week as the full weekly amount of Job Seekers is only €188 compared to the pension payment of €230.

This Department or State advice or policy could create a situation which beings the laws the Oireachtas passes in disrepute – advising a person retiring to break a law by applying for a job seeks allowance when they are retiring and not seeking employment. The Joint Committee regards this as an appalling vista.

In addition the Department of SP state in their response that the "*transition pension had an associated retirement condition which was seen as a barrier to working after retirement. No such obstacle exists with the State pension (contributory)*". Why did they abolish the transition pension, should they not have amended the qualifying criteria in line with the State Pension (contributory)?

While the Department of Jobs, Enterprise and Innovation are claiming legislation for a retirement age could have a negative impact, they could implement the legislation in a way that states a persons' earliest retirement age must be 66, however an individual can work longer depending on the terms and conditions agreed with their employer. The Joint Committee considers that in any legislative approach, the drafters should have regard to defining entitlements not by what they are, but what they are not.

– employees have certainty as to a retirement age and can make provision for that age or opt for later retirement; this then will bring certainty to terms of any employment contract

It is no longer acceptable that the decision of a retirement age is left between an employer and employee when agreeing the terms and conditions of their employment contract. The state should have a legislated minimum retirement age, but with provision for later retirement; this will bring certainty to the terms of the employment contract – employees and employers then have certainty as to a retirement age and can make provision for that age or opt for later retirement.

There needs to be legislation to deal with this area, so that by this 'policy decision' citizens are not disproportionately disadvantaged. Where the state now set that the State Pension age is 66 increasing to 67 and 68 by 2028, then this should be the legislated 'natural' retirement age for employment purposes with the attendant gain that legislation can be changed if and when required. Further, by keeping individuals in employment until an older age this is then preventing a younger person from accessing work, who also will be in a better position to work longer hours or heavy physical work.

Padraig Mac Lochlainn, T.D.
Chairman
2015

APPENDIX 1: Petition No P00033/13 - Text of Petition and Background of Petition as supplied by the Petitioner.

Text of Petition

The Government proposes to rise the State Pension age to 66 from January 1st. 2014. These changes apply not only to new entrants to the workforce but also those who have been in the system for decades. E.G. A person born in 1949 will reach age 65 in 2014. As was common at the time they might have left school and started working in 1963 at age 14, paying tax and social insurance for 51 years in the expectation they would retire with a pension at age 65. Now they find they will have to sign on for Job Seekers Allowance for one year and be actively seeking a new job. There is no compulsion on their employer to keep them on if the person wishes to work on for another year. Contrast this with changes to pension arrangements in the public sector. Any changes introduced apply to new entrants only, those in the sector before the changes take place keep on to their existing arrangements. In the interest of equality, fairness, and justice the proposed raising of the State Pension age to 66 should apply to new entrants to the workforce, those already in and contributing to system should receive the pension at age 65 as would have been their normal expectation for decades.

Background Supplied by Petitioner

I work in Kerry Ingredients and Flavours in Listowel, Co. Kerry. A group of my colleagues and I have been lobbying our local TDs, Minister Jimmy Deenihan TD and Arthur J. Spring TD emphasising our opposition to the proposed changes. At present, our employer has no plans to keep us on after we reach age 65. In my own case, when I reach retirement age I will have worked morning, evening, and night shifts and three out of every four weekends for forty three years. By then I think I will want to hang up my overalls, not work on for another three years or start looking for a new job. We ask that the following points be taken into account and be legislated for:

- (1) Workers already in the system be allowed to retire with the State Pension at 65 if they wish.
- (2) The proposed raising of the State Pension age should apply to new entrants to the workforce.
- (3) Legislation be passed compelling employers to retain employees beyond age 65 if the employee wishes to remain on in the workforce.

APPENDIX 2: Orders of Reference of the Joint Committee

Orders of Reference of the Joint Committee on Public Service Oversight and Petitions

That, notwithstanding anything in Standing Orders—

- (1) the Order of the Dáil of 8th June, 2011 relating to the Joint Committee on Investigations, Oversight and Petitions, as amended by the Order of the Dáil of 29th September, 2011, is amended—
 - (a) in paragraph (1) by the deletion of all words from and including “Investigations,” down to and including “2011” and the substitution of “Public Service Oversight and Petitions, to consider the activities specified in Standing Order 165A.”, and
 - (b) by the deletion of paragraphs (2) and (3) and the substitution of the following:
 - “(2) Standing Orders 165A to 165E, inclusive, shall apply to the Joint Committee.”,
- and
- (2) the Order of the Dáil of 9th June 2011 relating to membership of the Joint Committee on Investigations, Oversight and Petitions is amended by the deletion of all words from and including “Investigations, Oversight and Petitions” and the substitution of “Public Service Oversight and Petitions”.
- (3) until further notice in the 31st Dáil, the Standing Orders of Dáil Éireann relative to Public Business are hereby amended—
 - (i) by the adoption of the following additional Standing Orders:

“Joint Committee on Public Service Oversight and Petitions.

165A. (1) There shall stand established, following the reassembly of the Dáil subsequent to a General Election, a Standing Committee, which shall be joined with a similar Committee of the Seanad, to form the Joint Committee on Public Service Oversight and Petitions.

(2) The Standing Committee shall consist of fifteen members of Dáil Éireann. The quorum of the Joint Committee shall be six, of whom at least one shall be a member of Dáil Éireann and one a member of Seanad Éireann. The Chairman of the Joint Committee shall be a member of Dáil Éireann.

(3) The Joint Committee shall have oversight of public service delivery generally, with a particular focus on investigating and identifying improvements in the delivery of such services to citizens.

(4) (a) There shall stand established, following the reassembly of the Dáil subsequent to a General Election, a sub-Committee which shall be called the sub-Committee on the Ombudsman, which shall be joined with a similar sub-Committee of the Seanad Committee, to form the Joint sub-Committee on the Ombudsman.

(b) The sub-Committee shall consist of all fifteen members of the Standing Committee. The quorum of the Joint sub-Committee shall be six, of whom at least one shall be a member of Dáil Éireann and one a member of Seanad Éireann. The Chairman of the Joint Committee shall be the Chairman of the Joint sub-Committee.

- (5) (a) There shall stand established, following the reassembly of the Dáil subsequent to a General Election, a sub-Committee which shall be called the sub-Committee on Public Petitions, which shall be joined with a similar sub-Committee of the Seanad Committee, to form the Joint sub-Committee on Public Petitions.
- (b) The sub-Committee shall consist of all fifteen members of the Standing Committee. The quorum of the Joint sub-Committee shall be six, of whom at least one shall be a member of Dáil Éireann and one a member of Seanad Éireann. The Chairman of the Joint Committee shall be the Chairman of the Joint sub-Committee.
- (6) Without prejudice to the generality of paragraph (3),
 - (a) the Joint sub-Committee on the Ombudsman shall consider—
 - (i) the reports of the Ombudsman which are laid before the Houses of the Oireachtas under the Ombudsman Acts 1980 to 1984,
 - (ii) motions pursuant to section 2 of the Ombudsman Act 1980, which shall stand referred to the Joint Committee for consideration and report to the Houses of the Oireachtas thereon, and
 - (iii) such other matters as may be referred to the Joint sub-Committee by the Houses of the Oireachtas,
 - (b) the Joint sub-Committee on Public Petitions shall consider—
 - (i) public petitions addressed to the Houses of the Oireachtas which shall stand referred to the Joint sub-Committee in accordance with Standing Orders 165B to 165E, inclusive, and
 - (ii) such other matters as may be referred to the Joint sub-Committee by the Houses of the Oireachtas,
 - (c) the Joint Committee shall consider—
 - (i) the quality and standards of public service delivery informed by its sub-Committees' consideration of the reports and petitions under paragraphs (a) and (b), including the effectiveness of public service complaints and redress systems,
 - (ii) such other matters as may be referred to the Joint Committee by the Houses of the Oireachtas, and
 - (iii) any other related matters.
- (7) The Joint Committee and the Joint sub-Committee on Public Petitions shall have the following powers:
 - (a) the powers defined in Standing Order 83, other than paragraphs (2A), (4A), (4B) and (6A) thereof; and
 - (b) power to refer any matter which has been considered by it (and which has been concluded to be of sufficient importance to require additional consideration) to the relevant Joint Committee appointed under Standing Order 82A for further consideration and report back to the Committee.
- (8) The Joint sub-Committee on the Ombudsman shall have the

following powers:

- (a) the powers defined in Standing Order 83, other than paragraphs (4A), (4B) and (6A) thereof; and
 - (b) power to refer any matter which has been considered by it (and which has been concluded to be of sufficient importance to require additional consideration) to the relevant Joint Committee appointed under Standing Order 82A for further consideration and report back to the Committee.
- (9) Each Joint sub-Committee shall have the power to report directly to the Dáil
- (10) The provisions of Standing Order 92, other than paragraph (1) thereof, shall apply to the Joint Committee and its sub-Committees.
- (11) In carrying out their roles under this Standing Order—
- (a) the Joint sub-Committee on the Ombudsman—
 - (i) shall agree guidelines on collaborative working between the Joint sub-Committee and the Ombudsman, including a right of initiative for the Joint sub-Committee in bringing specific matters to the attention of the Ombudsman, and
 - (ii) may liaise with such other Ombudsmen, regulatory public bodies or bodies established for the purpose of redress, as the Joint sub-Committee considers appropriate,
 - (b) the Joint sub-Committee on Public Petitions may engage with the Committee on Petitions of the European Parliament including in relation to the European Citizens' Initiative.
- (12) It shall be an instruction to the Joint Committee and its sub-Committees that they shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Standing Order 163 and/or the Comptroller and Auditor General (Amendment) Act 1993.
- (13) The Joint Committee shall prepare an annual work programme and an annual report as outlined in Standing Order 86, which shall be laid before both Houses of the Oireachtas.
- (14) The Joint Committee shall review its role generally on an ongoing basis and may make recommendations for change by way of report to the Committees on Procedure and Privileges of both Houses.

Lodging a petition.

165B. (1) A petition may be addressed to the Houses of the Oireachtas on a matter of general public concern or interest in relation to their legislative powers or an issue of public policy.

(2) A petition may be lodged by an individual person, a body corporate or an unincorporated association of persons.

(3) A petition shall clearly indicate—

- (a) the name of the petitioner;
- (b) an address of the petitioner to which all communications concerning the petition should be sent; and
- (c) the name and address of any person supporting the petition.

(4) All petitions addressed to the Houses of the Oireachtas shall stand referred to a Committee or sub-Committee empowered to consider petitions under this Standing Order and Standing Orders 165C, D and E (referred to in this Standing Order and Standing Orders 165C, D and E as “the Committee”).

(5) The Committee shall, from time to time, determine—

- (a) the proper form of petitions,
- (b) the manner in which petitions are to be lodged with the Houses, and
- (c) such other matters in relation to the consideration of petitions as the Committee considers appropriate and which are not otherwise provided for in these Standing Orders.

Admissibility of petitions.

165C. (1) A petition is admissible unless it—

- (a) requests the Dáil to do anything other than the Dáil has power to do;
- (b) does not comply with Standing Orders or is otherwise not in proper form;
- (c) is *sub judice* within the meaning of Standing Order 57;
- (d) contains the name or names of individuals;
- (e) contains language which is offensive or in the nature of being defamatory;
- (f) is the same as, or in substantially similar terms to, a petition brought by or on behalf of the same person, body corporate or unincorporated association during the lifetime of that Dáil and which was closed by agreement of the Committee;
- (g) is frivolous, vexatious or otherwise constitutes an abuse of the petitions system;
- (h) requires the Committee to consider an individual complaint which has been the subject of a decision by the Ombudsman, by another Ombudsman, or by a regulatory public body or a body established for the purpose of redress.

(2) In relation to admissible petitions, where a petition deals with

- (a) local or regional matters,

- (b) matters which are more appropriate to a regulatory public body or a body established for the purpose of redress,

the Committee shall establish that all available avenues of appeal or redress have been utilised by the petitioner prior to the Committee considering the matter.

- (3) The Committee shall consider and decide in a case of dispute whether a petition is admissible and shall notify the petitioner of its decision and of the reasons for that decision.

Action on petitions.

- 165D. (1) If a petition is admissible, the Committee shall take such action as it considers appropriate in relation to that petition.
- (2) Without prejudice to the generality of paragraph (1), the Committee may—
 - (a) refer the petition to the Ombudsman, another Ombudsman or a regulatory public body or a body established for the purpose of redress;
 - (b) refer the petition to any other Committee as it considers appropriate, with a request for further consideration and report back to the Committee;
 - (c) report to the Dáil with recommendations, including a request that the report be debated by the Dáil
 - (3) The Committee shall notify the petitioner of any action taken under paragraph (2).

Closing of petitions.

- 165E. (1) The Committee may close a petition at any time.
- (2) Where the Committee closes a petition it shall notify the petitioner that the petition is closed and of the reasons for closing it.”,

and

- (ii) by the insertion in Standing Order 82 of the following subparagraph after paragraph (2)(c):
“(ad) that it shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Service Oversight and Petitions in the exercise of its functions under Standing Order 165A.”.

APPENDIX 3: Membership of Committee

List of Members of the Joint Oireachtas Committee on Public Service Oversight and Petitions

Chairman: Pádraig MacLochlainn TD (SF)

Vice Chairman: Derek Nolan (LAB)

Deputies: Richard Boyd-Barrett TD (PBP)
Paul J Connaughton TD (FG)
Pat Deering TD (FG)
John Halligan TD (Ind)
Sean Kenny TD (Lab)
Seamus Kirk TD (FF)
Michael P. Kitt TD (FF)
Michael Healy-Rae TD (Ind)
Anthony Lawlor (FG)
Michelle Mulherin TD (FG)
Mary Mitchell O'Connor TD (FG)
Aengus Ó Snodaigh TD (SF)
Jack Wall TD (Lab)

Senators: Tony Mulcahy (FG)
Trevor Ó Clochartaigh (SF)
Susan O'Keeffe (LAB)
Ned O'Sullivan (FF)

1. Deputy Seán O Ferghail was appointed in place of Deputy Dara Calleary on 28 February 2012
2. Senator Thomas Byrne was appointed in place of Senator Darragh O'Brien on 14 June 2012
3. Deputy Richard Boyd-Barrett was appointed in place of Deputy Mick Wallace on 27 June 2012
4. The Committee on Investigations, Oversight and Petitions was renamed the Committee on Public Service Oversight and Petitions on 11 July 2012
5. Deputy Noel Harrington was appointed in place of Deputy John Paul Phelan on 28 November 2012
6. Deputy Peadar Tóibín resigned as Chairman with effect from 10 December 2012
7. Senator Thomas Byrne was discharged from the Committee on 19 December 2012
8. Deputy Pádraig Mac Lochlainn was appointed in place of Deputy Peadar Tóibín on 16 January 2013 and was elected as Chairman to the Committee on 30 January 2013.
9. Deputy Mick Wallace was appointed in place of Deputy Joan Collins on 23 January 2013
10. Deputy Seamus Kirk was appointed in place of Deputy Charlie McConalogue on 18 July 2013
11. Deputy Michael P. Kitt was appointed in place of Deputy Seán Ó Ferghail on 18 July 2013
12. Deputy Helen McEntee was appointed in place of Deputy Peter Mathews on 18 July 2013
13. Deputy Jack Wall was appointed in place of Deputy Michael Conaghan on the 7 October 2013.
14. Deputy Willie Penrose was appointed in place of Deputy Michael McCarthy on the 9 October 2013.
15. Deputy John Halligan was appointed in place of Deputy Mick Wallace on 5 February 2014

16. Deputy Patrick O'Donovan was appointed in place of Deputy Alan Farrell on the 12 February 2014
17. Deputy Sean Kenny was appointed in place of Deputy Willie Penrose on the 5 March 2014
18. Senator Ned O'Sullivan was appointed on the 6 March 2014
19. Deputy Flanagan Automatically discharged from the Committee on his appointment as Minister For Children and Youth Affairs on the 15 May 2014
20. Deputy Pat Deering was appointed in place of Deputy Charlie Flanagan on the 16th June 2015
21. Deputy Paul J Connaughton was appointed in place of Deputy Helen McEntee on the 16th June 2015
22. Deputy Anthony Lawlor was appointed in place of Deputy Patrick O'Donovan on the 16th June 2015
23. Deputy Mary Mitchell O'Connor was appointed in place of Deputy Noel Harrington on the 16th June 2015
24. Senator Jimmy Harte was discharged from the Joint Committee on 23rd September 2015.