

National updates

IRELAND

Pension (Amendment) Act 2002

Preservation of Benefits for Early Leavers

The 2002 Act makes a number of amendments to Part III of the Pensions Act, 1990. They affect occupational pension schemes as follows:

- The qualifying service needed for preserved benefit is reduced from 5 years to 2 years for those leaving service after 1 June 2002.
- Preservation requirements have been extended to include pre-1991 service where members leave after 1 June 2002 with 2 years scheme service.
- Prohibition of refunds of contributions has been extended to cover pre-January 1991 contributions in the case of scheme members leaving after 1 June 2002 who qualify for a preserved benefit.
- Revaluation requirements will apply to preserved benefit in respect of pre- and post-1991 service.
- Additional transfer options are available to
 - unfunded schemes (i.e. public sector schemes)
 - Personal Retirement Savings Accounts (PRSAs), subject to Revenue (tax authority) conditions
 - Pension arrangements outside the State, subject to Regulations*.

* These Regulations will have to be made by the Minister for Social and Family Affairs to permit payments to be made to pension arrangements outside the State. The scope of these Regulations (countries covered) is still unknown.

In effect, Part III of the Pensions Act, 1990 only applies to private pension schemes. Most public sector pension schemes are exempted from these provisions on the basis that they provide preserved benefits rights which are at least as favourable as those provided under the Act, e.g. all service, pre- and post-1991, already counts for preserved benefits purposes under public sector pension schemes and the system for revaluing such benefits is more favourable. However, it will be necessary to amend public sector schemes to reduce the qualifying service needed for preserved benefits from 5 to 2 years and public sector employers have been authorised to implement this change on an administrative basis for those leaving service after 1 June 2002.

While, as indicated above, additional transfer options are available to public sector pension schemes, full details of the circumstances and rules under which transfer values might be accepted by public sector schemes have yet to be worked out.

Personal Retirement Savings Accounts

The framework for Personal Retirement Savings Accounts (PRSAs) is set out in the 2002 Act. Details of PRSAs are summarised below:

- A PRSA is an investment vehicle used for long-term retirement provision for employees, self-employed, home
- (See page 2)

Editorial

As I write these lines, the financial markets continue their downward spiral, causing mounting apprehension among holders of both small and large portfolios. The larger institutions should manage to steer a steady course through this period thanks to their financial know-how. However, it is no less the case that these erratic movements are capable of provoking major crises of confidence in a system already shaken severely by acts of professional misconduct committed by precisely those persons who are supposedly the guarantors of the accuracy of company financial statements.

This situation demonstrates the necessity of intervention on the part of the regulatory authorities, among which notably the state. That is not to wish the addition of more regulatory red-tape, but rather to act in order to achieve a better balance between the regulatory and laissez-faire approaches.

To this end, the recent proposal for a European Directive on occupational pension funds agreed upon at the ECOFI Council meeting last June, is a step in the right direction. The proposal, which will institute a prudential framework designed to protect future pensioners, is the result of large-scale debate at the European Parliament.

In a democracy, it is the role of representatives elected by the population on a regular basis to decide on what would seem to be the best solution for the collectivity as a whole. Which is not the characteristic of those who make or break the financial markets.

But the respecting of the democratic criterion described above does not exempt democratic systems from crises of confidence. The loss of credibility experienced by various organs of collective representation is illustrated by record lows in electoral turn-out or in trade union membership, provoking a situation all the more concerning by its implications

Beyond the question of how our society functions, one finds today that its very foundations are thrown into question. Reason would surely dictate that man seek to limit the 'swing of the pendulum' to a 'sensible' level.

Thierry CHRISTOPHOUL
Original language : French

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International Seminar (19/09/02) and Pension Forum (20/09/02) – Bordeaux

As reported in the last edition, international partners of CDC-BCR will meet in Bordeaux next 19 September to exchange information and experience with regard to the benefits of international cooperation. More than 50 participants have already signed up to this event. The following day, participants will have the opportunity to meet their French counterparts through the 10th Pension Forum organized by CDC-BCR on the theme: 'Towards European Pensions'.

ISSA news

The International Social Security Association is organizing a regional (Europe) conference next 13-15 September 2002 on the theme 'New and revised approaches to social protection in Europe'.

The National Organizing Committee is co-presided by Jozsef MESZAROS, Director General, and Laszlo GERENCSEK, Deputy Director General of Hungary's Central Administration of National Pension Insurance (CANPI). Tamas HAMORI, Director of the International Department at CANPI, is responsible for the event's organization.

ISSA is presently carrying out research into investment activities undertaken by social security organisations. At the most recent ISSA General Assembly (2001), the creation of a working group was decided upon, charged with discussing themes of common interest and defining the framework for a longer-term study.

CDC-BCR will host the first meeting of this technical working group which will be held in Paris next 9-10 December 2002.

makers, carers, unemployed or any other category of person. It is a personal contract between an individual and an authorised PRSA provider in the form of an investment account.

- There are two types of PRSA – standard and non-standard. However, all PRSAs must be approved by the Pensions Board and the Revenue Commissioners (tax authority) and contain common features governing investment, charges, minimum level of contributions and disclosure requirements by the provider to the contributor.

- The characteristics of a Standard PRSA include a cap on charges set at a maximum of 5% of contributions paid and 1% per annum of the PRSA assets. It may only invest in pooled funds and the market and sale of it may not be dependent on the purchase of any other product, e.g. life assurance.

- An employer who is not operating an occupational pension scheme or whose scheme limits membership eligibility or imposes a waiting period is obliged to provide access to at least one Standard PRSA for employees and to make deductions from payroll at the employees' request.

- Charges for non-Standard PRSAs may be discretionary and do not have a stated maximum level.

- PRSAs are portable and interface with other pension arrangements such as Retirement Annuity Contracts and Additional Voluntary Contribution arrangements.

- All PRSA approved products are subject to regulation by the Pensions Board, in conjunction with the Revenue Commissioners, in order to provide for the protection of PRSA contributors and the need for effective supervision of the production, marketing and sale of such products.

Pensions Ombudsman

The 2002 Act provides for the introduction of a Pensions Ombudsman who will have the power to investigate and determine complaints of maladministration and disputes of fact or law in relation to occupational pension schemes and PRSAs. The time limit for bringing cases to the Ombudsman will be:

- 6 years from the date of the act giving rise to the complaint/dispute,

- 3 years from the date on which the person became aware or ought to have become aware of the act,

- a longer period if the Ombudsman decided that this is reasonable,

- an absolute limit of 6 years in the case of complaints and disputes arising prior to the passing of the Act.

The Ombudsman will have the power to give any directions necessary to resolve the complaint or dispute. In addition, the Ombudsman can give financial redress but this cannot exceed the actual loss of benefit under the scheme or PRSA. The Ombudsman will not have the power to award legal costs. All decisions of the Ombudsman will be binding between the parties subject to a right of appeal to the High Court.

The office of Pensions Ombudsman will be established on the day the relevant provisions of the Act are commenced. This will be done by order made by the Minister for Social and Family Affairs who will also appoint the Ombudsman. The office of the Pensions Ombudsman will be staffed by civil servants.

*Source: The Pensions Board
Bulletin 1:2002*

Additional comments by Damian Smyth
Original language: English

European Union

The ECOFIN Council meeting (council of member-state finance ministers) of last 4 June 2002 gave its seal of approval to the proposed directive on occupational pension schemes. The proposal lays out a prudential framework in the domain of technical management (scheme piloting mechanisms) by imposing permanent evaluation of the coverage ratio of financial assets-liabilities. As well as reducing the scope of national government intervention, the proposal also lays down a prudential framework with regard to investment activities.

Finally, the proposal seeks to reassert the principle of free movement of services by allowing an institution from one Member-State to manage occupational schemes in other EU Member-States.

IRELAND

Local Authority Members (Gratuity) Regulations, 2002

The Minister for the Environment and Local Government recently made regulations providing for the payment of a retirement gratuity to local authority members. The main features of the gratuity arrangements are as follows:

■ Any period of service as a member of a local authority from 4 May 2000 reckons as service for the purposes of the gratuity.

■ The maximum gratuity is three times the rate of representational payment (RP*) on the date membership ceases and is payable after 20 years' service (*this equates to an accrual rate of 3/20ths of RP for each year of service with fractions of years counting pro-rata*). The maximum service allowable is 20 years

■ The minimum service required for the gratuity is 3 years.

■ The gratuity will be paid on retirement at or after age 50.

■ The gratuity will be paid before age 50 where retirement is due to ill health or where the member dies in office.

■ On retirement due to ill health, added years may be allowed on the following basis:

- for service of not less than 3 and not more than 5 years, an amount of added service equal to the member's service may be allowed, subject to the member's total potential service to age 65 not being exceeded,

- for service of not less than 5 and not more than 10 years, the greater of the following may be allowed –

■ 10 years less service, subject to the member's total potential service to age 65 not being exceeded or

■ 3 and 1/3rd years, subject to the member's total potential service to age 50 not being exceeded,

- for service of not less than 10 years, 3 and 1/3rd years may be allowed, subject to the member's total potential service to age 50 not being exceeded.

The sum of actual service and added years may not exceed 20 years.

■ Since certain members may not have been in the same local authority band for RP purposes for their entire service, it is necessary to make an adjustment to cater for this. The way this is done is to reckon all periods of service pro-rata to service as a member of a city/county council and to calculate the gratuity on the RP rate for a member of a county/city council on retirement.

■ The formula for calculating the gratuity is – $A \times B \times 3/20$, where

A is Service as adjusted, i.e. in line with pro-rata arrangement referred to;

B is the current RP rate for a city/county councillor on the person's retirement.

■ Where a person ceases to be a councillor before age 50 (*whether volun-*

tarily or as a result of failure to be re-elected) the gratuity will be preserved until age 50, i.e. it will be paid when the person reaches age 50 and will be based on the RP rate applicable at that point.

■ A further gratuity may be paid to a former member who received a gratuity where he or she becomes a member subsequently, provided he or she has at least 3 years' subsequent service and the actual service and any added years allowed for the purposes of the original gratuity did not exceed 20 years. In such a case, the further gratuity will be limited to :

- the person's subsequent service as a member, or
- 20 years less the original service and added years, whichever is the less.

Damian Smyth

Original language : English

* RP is a payment in the form of an annual allowance which was introduced for serving local authority members from 1 January 2002. A lump sum amount representing retrospection to 4 May 2000, the date the legislation providing for this new payment was published, was also paid. There are 4 bands of RP, with the highest payable to city/county councillors and the lowest payable to councillors of small towns.

BELGIUM

E-Government in social security

Social security

As it stands, employers are bound by law to notify various social security authorities each time they hire a new employee, and must also supply quarterly information on salaries and hours worked.

Employers are thus required to deal with a variety of different bodies and

may be required to provide several times over very similar information through various forms.

The information requested by the social security authorities may be provided on a regular basis, as in the case of the quarterly social security declaration, or occasionally, as in the case of an occupational accident.

E-government in social security

The project aimed at bringing e-government into social security will enable a thorough re-organisation to be undertaken as with regard to the different relationships between public authorities, citizens and employers. This modification in the nature of contacts between the different actors will involve

the use of modern technologies and media, notably the internet.

The social security e-government project has as its main objective a major reduction of the administrative load for employers. This in turn will bring about:

- a reduction of the different types of declaration
- a decrease in the number of times employers are called upon by social security authorities
- a decrease in the time required to fill in the remaining forms/declarations, notably by reducing the number of sections.

The social security e-government project has three main parts :

- the employment declaration form (DIMONA in Belgian)
- the introduction of a multi-functional electronic declaration form (DMFA)
- the introduction of a simplified electronic version of the 'social risk' declaration form (DRS)

The employment declaration form – DIMONA

The employment declaration, equally known as 'Dimona', is the form used by the employer to inform the social security

authorities of the hiring of a new employee or the departure of an existing employee. The aim of the Dimona form is that the social security authorities be informed immediately of the dates of commencement and termination of an employment contract. This explains the name of the form 'DIMONA': Déclaration IMMédiate – ONmidellijke Aangifte.

This declaration form will be applicable from 01.01.2003 for all employers and will be transmitted to the social security authorities in the form of an electronic notification by one of the following means :

- voice server (using a touch-tone telephone)
- internet (using the Social Security portal – www.securitesociale.be – on the web)
- file transfer

The multi-functional electronic declaration form – DMFA

The multi-functional electronic social security declaration form or DMFA is the future version of the existing quarterly social security declaration form. Indeed, the present form will undergo a number of changes and will be totally re-structured,

thus allowing it to become, as of 01.01.2003, the 'platform' for contacts between employers and social security authorities. Transmission of the form will be uniquely electronic, either via the web portal or through other electronic media or networks.

The information collected in this way will be available to all of the different social security bodies via an internal network called the 'Banque Carrefour' ('Crossroads Bank').

The 'social risk' declaration form – DRS

In the event of illness, industrial accident or redundancy, the worker's situation must be communicated to the social security body concerned. The introduction of the multi-functional declaration form will allow harmonisation and simplification of the 'social risk' declarations. Implementation will be gradual, from 01.01.2003 to 2005, when all risks will have been integrated into the reform. Within this framework, the declaration will be made accessible via electronic media.

Nicolas Jeurissen
Original language: French

UNITED KINGDOM

Result of the LGPS' stocktake

At last year's conference in Stockholm part of the UK report was the announcement of a stocktake exercise into the issues which the Local Government Pension Scheme in England and Wales was having to face. There was no intention of attempting the root and branch reforms under consideration, for a variety of reasons, in a number of Member States. Rather we were trying to examine the issues causing concern to all members of the scheme – employees and employers and elected members who have ultimate responsibility at local level for the prudent management of the Scheme as a whole. The stocktake itself was broadly welcomed, once it became clear precisely what the intentions behind the exercise were.

In part this meant reassuring members that we did not have a pre-conceived agenda, and that we were acting in response to the concerns which various parties had brought to our attention.

Having reported to our Minister, and keeping our colleagues in Scotland and Northern Ireland with parallel responsibilities in the picture we announced the end of the first phase of the exercise on 16 May 2002.

The main findings of this first phase can be summarised as follows:-

- The LGPS continues to meet the needs of career, full-time local authority employees. It is however seen to be benefit provision as changes in local government employment patterns and

workforce characteristics have greater impact.

■ A sensible and balanced simplification of the present Scheme's legal framework (since the Scheme is created through a series of legislation) would be both cost effective and of clear benefit to employees' and employers' attraction to the Scheme, and also their understanding of it. There is also a need for more authoritative centrally provided guidance, with a need identified to take action to correct any extant deficiencies in the current regulatory provisions

- The understandable principal focus of Elected Members, who are responsible at local level for the ongoing management and prudent stewardship of each of the 88 separate pension

funds which constitute the LGPS, is on the management and investment of those LGPS pension funds. Historically this has been done with a considerable degree of success. But an increased focus is needed on the resourcing and quality of benefit administration along the lines of initiatives taken by a small number of authorities who can demonstrate the kind of best practise which their colleagues may wish to emulate. and

■ The statutory provisions of the Scheme require an actuarial valuation of the assets and liabilities of each of the funds every 3 years. The recent and current valuation exercise, which took place as at 31 March 2001. demonstrates that there is ongoing compliance with the solvency requirements of the Scheme's provisions. But there is a need to be cautious about the long term (20-50years plus) solvency profile of the LGPS funds, particularly if membership levels of current full time contributors fall, if investment returns (primarily in equities) fail to recover to the successful levels of the 1980s and 1990s, if inflation

keeps low and longevity trends are both maintained and/or exceeded.

None of these issues, either singularly or collectively, impact in the short term to create any serious long standing effects on the scheme. However, given this Department's stewardship responsibilities for the Scheme as a whole, we believe that there is sufficient justification to take forward a series of topic papers to explore the best means of dealing with these main issues identified.

At this stage in the process it has to be emphasised that neither the initial stocktake nor the next planned consultation phase are intended to produce early regulatory amendments. Rather the intention is to devise workable policy options which, if our Ministers were to subsequently agree, could be developed and taken forward as Scheme amendments. These are only done through an extensive process of engagement and consultation, but not along the formal social partnership lines that exist in other Member States.

Several important tasks now fall to us to take forward. Our Ministers have agreed to a wide ranging consultation with LGPS interests on the key issues set out above by means of several discussion papers, working seminars and bi-lateral meetings. A timetable setting out to explain these steps will be issued with the initial discussion paper. A series of papers are about to be issued, with the aim of seeking opinions and contributions on discrete topics. Initially these will be on the following:-

- Simplification of the Scheme's regulatory framework;
- An assessment of all the options for a revised benefit package for new employees;
- Consideration of how best to enhance the Scheme's benefit administration capacity to deliver a quality service; and,
- Establish new means to monitor the Scheme's ongoing sustainability.

Normally these papers will be made available on our website, and we hope to be able to share with you all in due course the results of this exercise.

Brian Town

Original language : English

FRANCE

Application of EU jurisprudence

Following on to the CJEC judgements in the Griesmar and Mouflin cases of 29 November and 13 December 2001, the Conseil d'Etat (- the highest French administrative tribunal) has recently made two interesting rulings with regard to the application in France of the EU principle of sexual equality.

The first of these¹, which follows on to the Conseil d'Etat's referral of the Griesmar case to the CJEC, extends to male civil-servants the right to pension enhancement for having raised children (for at least nine years). This provision of the French civil and military pension code had hitherto been reserved uniquely for female public employees. In light of the CJEC's ruling in this domain, this decision would seem quite logical.

However, the second ruling², regarding the rules governing pension rights for widow(er)s is more surprising, in that in this domain the Conseil d'Etat decided not to bother referring the matter to the CJEC. Indeed, in response to the submission to the Conseil d'Etat of the Choukroun case, in which the plaintiff contested the public employer's refusal to grant him a widower pension on the grounds that he had not reached the legal age required for men, the Conseil d'Etat directly applied article 141 of the Amsterdam Treaty and thus judged that the provisions of the civil and military pensions code were indeed contrary to the principle of equality of treatment laid down by the treaty. The refusal was thus reversed, allowing Mr Choukroun to benefit from the measure.

It will hardly be surprising thus, that the Conseil d'Etat use the same interpretation in the Mouflin case and declare, in accordance with CJCE jurisprudence, that the restricting to female public employees of the possibility to take early-retirement in order to care full-time for a dependant spouse be equally discriminatory.

The provisions of the civil and military pensions code have come under under increasing criticism and in view of the likely financial implications of the recent rulings, the government will surely be obliged to modify the current legislation in haste.

Marina Mauclair

Original language: French

¹ Griesmar ruling of 30 July 2002

² Choukroun ruling of 5 June 2002

in short

Agenda

The next Board meeting will take place in Rome on 23 October. The Legal expert commission and all working groups will also meet on 22 and 23 October.

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Open Forum

Pensions and portfolios

Taking into account the fact that the determinant factor with regard to the capacity of pension funds to cover their liabilities is the degree of profitability of invested funds on the financial markets, it would seem useful to carry out an evaluation of evolutions in these markets, in particular stock exchanges, many of which today find themselves confronted with an uncertain future as a result of the persistent slide observed since the second half 2000.

The decline of fixed-yields bonds combined with an increase in life-expectancy,...has led pension funds to modify their investment policies regarding the weighting/distribution of different asset-categories. This modification is typically characterized by an increase in the proportion of variable-yield products, and for fixed-yield portfolios by an increase in risk due to the more or less direct integration of corporate bonds/shares, often via complex financial instruments.

This change of strategy has meant that pension funds, for whom most of the invested funds were previously in fixed-yield products due to the positive financial environment and the beneficial effects of the globalization of markets, have been exposed to the full effects of recent downturns, notably with regard to variable-yield portfolios, while certain fixed-yield investments now look very uncertain amidst a complex short-term environment. The poor reliability of analysts' financial forecasts has been compounded by auditing of dubious quality and, with regard to certain top executives, a lack of professionalism and perhaps even of honesty.

In the midst of financial markets that have slid to almost unbelievably low levels and that now face an uncertain future, we as managers must recognize that the graphical analyses and financial ratios for a large number of securities as from end 2000 were giving out warning signals suggesting that it would be wise to adopt a more prudent approach with

regard to investment policy for variable-yield products.

Those managers having adopted this more sensible approach will have been unable to avoid posting losses in both 2001 and 2002, but these losses will be unlikely to exceed 5% of total assets, whilst funds displaying losses of over 10% will have been guilty of over-confidence.

One result of the present episode with regard to pensions will be the strengthening of the defined contribution funded model vis-à-vis the defined benefit model. Investment policy, especially asset-group weighting, will undergo major review. The proportion of variable-yield and other more volatile products, although in theory acceptable, will be corrected to take account of the maximal percentage in terms of losses that the corresponding fund could withstand in a worst case scenario, even if that means reducing long-term yield forecasts. As managers we know as well as anyone the characteristics of funds and their different needs.

Whatever the case may be, we cannot and must not forget that we are managers in the longer term and that this necessitates that we stand accountable for risks engaged, and that we respect the fundamental rules of investment in general. These include: not buying (or at least limiting acquisition of) products with which we are not entirely familiar, or which don't offer a sufficient level of liquidity for the level of risk involved in an environment where financial products are ever more sophisticated; applying systematically the fundamental analysis criteria and developing the capacity to realize profits on securities transactions.

Of course, these rules appear obvious but in my opinion, they are the best guidelines that exist and yet are also the ones that are too easily forgotten.

José Carlos GARAY SOLAUN
Original language: Spanish