

**To: PRESIDENT, DUBLIN INSTITUTE OF TECHNOLOGY  
DIRECTOR EACH INSTITUTE OF TECHNOLOGY**

CIRCULAR LETTER PEN 04/04

New entrants to employment in Institutes of Technology from 1 April 2004:-

Raising the minimum pension age to 65

Abolition of the maximum age for retirement

1. The Public Service Superannuation (Miscellaneous Provisions) Bill 2004 has now been enacted. Its effect is to change the superannuation terms for new entrants to the public service appointed on or after 1 April 2004. A Table outlining the changes is attached at Appendix 1. The full text of the Act will shortly be available on the Department of Finance website, [www.finance.gov.ie](http://www.finance.gov.ie).

2. In the case of the majority of public servants, (including teachers, lecturers and staff in the education sector generally), the Act provides that

· 65 is the minimum age at which pension may be paid to new entrants;

· new entrants will not be required to retire on grounds of age.

3. The Act also makes consequential provisions, such as removing penalties for new entrants who serve beyond the age of 65.

4. It is essential for Institutes to ensure that new appointees are made fully aware of and are treated in accordance with the revised arrangements. Accordingly, in the case of staff taking up duty on or after 1 April 2004, Institutes will need to determine, at the outset, whether an employee should be treated as a 'new entrant' for the purposes of the Act. For this purpose, Institutes will need to establish the recent previous public sector employment history (if any) of each new employee. Once that has been established, the potential employee should be given a clear written statement as to which superannuation arrangements apply to him or her.

5. An outline of the type of statement that could be used is attached at Appendix 2. This should form part of the offer of appointment so that the person is fully aware of his or her superannuation position before taking up appointment. It should be signed by the new appointee and should remain on the personnel records.

6. Extracts from the Act are enclosed in relation to the definition of new entrant and including the definition of "public service body" and "public service pension scheme". These extracts, together with a copy of Schedule 1 of the Act, which lists certain bodies to which the definition of "public service body" does not apply, are attached as Appendix 3. Appendix 3 should be copied and issued to all those appointed on or after 1 April 2004, (along with any other documentation on superannuation which would normally be issued).

7. As stated, the full definition of new entrant as set out in the Act is included as Appendix 3 of this Circular.

In general terms, a new entrant to employment in an Institute is a person who enters employment in the Institute on or after 1 April 2004, (including employment in a temporary or fixed-term capacity, whether full-time or part-time), and either:-

(1) has not previously served, (whether in a pensionable or non-pensionable capacity), in a public service body or a body listed in Schedule 1 of the Act or

(2) has served, (whether in a pensionable or non-pensionable capacity), in such a body prior to 1 April 2004 but whose employment by the body terminated more than 26 weeks prior to employment by the Institute.

8. There are a number of exceptions to this general rule. A person who enters employment in a Institute on or after 1 April 2004 will not be treated as a new entrant where any of the following circumstances apply:-

(1) The person is taking up employment in the Institute on foot of a written offer of appointment which was made before 1 April 2004 and the terms of which would be contravened if the person were to be treated as a new entrant.

(Note that the person does not have to have accepted the offer before 1 April 2004. Note also that the exception does not apply to persons who are on panels awaiting offers of appointment.)

(2) The person, on 31 March 2004, is on secondment from the public service to a body not in the public service, either within or outside the State or both, and is entitled to resume his or her office or position or another office or position within the public service.

(3) The person, on 31 March 2004, is absent on leave with or without pay from the public service and is entitled to resume his or her office or position or another office or position within the public service.

(4) The person was serving in a public service body or a body listed in Schedule 1 of the Act prior to 1 April 2004 and left their employment and took up employment as a public servant on or after 1 April 2004 –

(a) under the same contract of employment, or

(b) not later than 26 weeks following the last day of service prior to 1 April 2004.

(5) The person has, on or before 31 March 2004, held the office of President of Ireland.

(6) The person, on 31 March 2004, holds or is on secondment from or is on approved leave, with or without pay, from the office or position of

(a) a member of the judiciary

(b) the Master of the High Court

(c) a taxing master

(d) a county registrar

(7) The person is a person who, immediately before 1 April 2004, stood admitted as a Trainee Garda to the Garda College at Templemore.

9. Senators, TDs and Office Holders.

Special provisions, as follows, apply in the case of service given as a Senator, TD or Office Holder.

(a) Where, before 1 April 2004, a person was a member of either House of the Oireachtas or the European Parliament, or was a holder of a qualifying office (eg a Ministerial office), then

such person shall not be regarded as a new entrant for the purposes of any superannuation benefit payable in respect of membership of the Oireachtas or the European Parliament or in respect of any qualifying office.

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

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

(a) under the same contract of employment, or

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

11. As can be seen, the definition of “new entrant” is complex. If the Institute has any difficulty in deciding whether or not a prospective employee is or is not a new entrant (or in relation to any other aspects of this Circular), the Department should be contacted at the address given below.

PENSIONS (IOT),  
DEPARTMENT OF EDUCATION,  
CORNAMADDY,  
ATHLONE

Enquiries by phone should be made to 090 64 83658 or 090 64 74621 extensions 3633, 3635 or 3657.

Enquiries by Email should be addressed to [margaret.daly@education.gov.ie](mailto:margaret.daly@education.gov.ie)

12. With regard to future appointments, Institutes will need to ensure that the terms and conditions of any posts advertised by them in the future reflect the provisions of the Act, both in terms of minimum pension age and the removal of the compulsory retirement age.

13. An information notice for circulation to all staff serving on 31 March 2004 is also enclosed, (Appendix 4 refers).

John Feeney  
Principal Officer  
Pensions Unit

1 April 2004

**Appendix 1 of Circular PEN 04/04**

**PUBLIC SERVICE SUPERANNUATION (MISCELLANEOUS PROVISIONS) ACT  
2004**

**SUMMARY OF CHANGES IN PENSION AGES & SPECIAL TERMS FOR NEW  
ENTRANTS TO THE PUBLIC SERVICE**

<b>GROUP</b>	<b>TERMS</b>	<b>CURRENT</b>	<b>PROVISIONS IN ACT</b>
<b>CIVIL SERVANTS, NURSES, LOCAL GOVERNMENT STAFF and OTHERS</b>	Earliest age at which pension can be paid <sup>[1]</sup>	60	<b>65</b>
	Compulsory retirement age	65	<b>None</b>
	<b>Fast accrual</b>	NO	No change
<b>GARDAI</b>	Earliest age at which pension can be paid	50  <i>(subject to 30 years' service)</i>	<b>55</b>
	Compulsory retirement age	57/60/65  <i>(depending on rank/date of appointment)</i>	<b>60</b>  <i>(subject to health, fitness &amp; competency certification after age 55)</i>
	<b>Fast accrual</b>	YES	No change
<b>PRISON OFFICERS</b>	Earliest age at which pension can be paid	50  <i>(subject to 30 years' service)</i>	<b>55</b>
		60	<b>60</b>

<b>GROUP</b>	<b>TERMS</b>	<b>CURRENT</b>	<b>PROVISIONS IN ACT</b>	
	Compulsory retirement age			
	<b>Fast accrual</b>	YES	No change	
<b>PSYCHIATRIC NURSES/CONSULTANTS</b>	Earliest age at which pension can be paid	55	<b>65</b>	
	Compulsory retirement age	65	<b>None</b>	
	<b>Fast accrual</b> <i>(max benefits after 30 years' service)</i>	YES	<b>Change to standard accrual</b>	
<b>TEACHERS</b>	Earliest age at which pension can be paid	55 <i>(subject to 35 years' service)</i>	<b>65</b>	
	Compulsory retirement age	65	<b>None</b>	
	<b>Fast accrual</b>	NO	No change	
<b>FIRE BRIGADE</b>	<b>“Fire-fighters”</b>	Earliest age at which pension can be paid	55	No change
		Compulsory retirement age	55	No change
	<b>“Officers”</b>	<b>Fast accrual</b>	YES	No change
		Earliest age at which pension can be paid	55	<b>65</b>
	Compulsory retirement age	65	<b>None</b>	

<b>GROUP</b>	<b>TERMS</b>	<b>CURRENT</b>	<b>PROVISIONS IN ACT</b>
	<b>Fast accrual</b> <i>(max benefits after 30 years' service)</i>	YES	<b>Remove, but uniform accrual will apply</b>
<b>PERMANENT DEFENCE FORCE</b>  <b>Enlisted Personnel</b>	Earliest age at which pension can be paid	After 21 years' service (no age specified)	<b>50</b>
	Compulsory retirement age	60	No change
	<b>Fast Accrual</b> <i>(max benefits after 31 years' service)</i>	YES	<b>Scheme to be made by Mins/Defence &amp; Finance</b>
	Earliest age at which pension can be paid	After 12 years service (no age specified)	<b>50</b>
<b>Officers</b>	Compulsory retirement age	Varies	No change
	<b>Fast Accrual</b> <i>(max benefits from 23-24 years' service depending on rank)</i>	YES	<b>Scheme to be made by Mins/Defence &amp; Finance</b>
<b>SENATORS, TDs and OFFICE HOLDERS</b>	Earliest age at which pension can be paid	50	<b>65</b>

<b>GROUP</b>	<b>TERMS</b>	<b>CURRENT</b>	<b>PROVISIONS IN ACT</b>
	Compulsory retirement age	None	No change
	<b>Fast Accrual</b>	YES	No change
<b>JUDICIARY</b>	Earliest age at which pension can be paid	65 – 70	<b>No change</b>
	Compulsory retirement age	65 – 70	
	<b>Fast Accrual</b>	YES	No change

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<sup>11</sup> This refers to “established” staff. “Unestablished” staff (eg Services Officers) already have a single retirement age of 65.

OUTLINE OF STATEMENT  
REGARDING SUPERANNUATION PROVISIONS AND RETIREMENT AGES  
TO BE GIVEN TO ALL PEOPLE TAKING UP APPOINTMENT IN INSTITUTES  
ON OR AFTER 1 APRIL 2004

1. The Public Service Superannuation (Miscellaneous Provisions) Act 2004 was passed on 25 March 2004. The Act introduces new superannuation and retirement provisions for new entrants to the public service. The term “new entrant” is defined in Section 2 of the Act. A copy of that Section, together with extracts from the Act defining “public service body” and “public service pension scheme” and listing certain bodies to which the definition of “public service body” does not apply, are attached for your information - (Appendix 3 refers).

(The following paragraph is appropriate in the case of a new entrant)

2. On the basis of the information supplied by you in relation to your previous employment history, you are deemed to be a new entrant. All staff of Institutes of Technology are, where eligible, admitted to membership of the Education Sector Superannuation Scheme. The superannuation position of new entrants who become members of the Scheme is as follows:-

2.1 The minimum age for payment of pension to new entrants is 65.

2.2 New entrants will not be required to retire on grounds of age.

2.3 At retirement, a new entrant will qualify for a retirement gratuity at the rate of 3/80th of retiring pay for each year of service, subject to a maximum of 40 years' service, and a pension at the rate of 1/80th of co-ordinated retiring pay for each year of service, subject to a maximum of 40 years' service. Co-ordinated pay is pay less twice the maximum personal rate of Old Age Contributory Pension.

Rate of Pension Contribution

Officers and employees pay different rates of pension contribution. The new entrant should be provided with one of the following statements:

2.4 Rate of pension contribution (Officer post):-

Pension contributions will be payable at the rate of 3% of pay (including 1.5% of pay towards the Spouses' and Children's Scheme) + 3.5% of co-ordinated pay. OR

2.4 Rate of pension contribution (Employee post):-

Pension contributions will be payable at the rate of 1.5% of pay + 5% of co-ordinated pay (including 1.5% of co-ordinated pay towards the Spouses' and Children's Scheme).



OR

(The following paragraph is appropriate in the case of a newly-appointed member of staff who is not a new entrant)

3. On the basis of the information supplied by you in relation to your previous employment history, you are deemed not to be a new entrant. All staff of Institutes of Technology are, where eligible, admitted to membership of the Education Sector Superannuation Scheme. The superannuation position of staff who become members of the Scheme and are not new entrants is as follows:-

3.1 The minimum age for payment of pension is 60.

3.2 Compulsory Retirement Age:-

Note A for Information of the Institute

Compulsory retirement age in the case of a newly-appointed member of staff who is not a “new entrant” will depend on whether the staff member is appointed to an employee post or an officer post. Officers are required to retire at the end of the school year in which they attain age 65.

No general upper age limit has been specified for employees but for many years the Department of Environment has recommended to local authorities (and to VECs and Institutes of Technology) that persons appointed to employee posts should retire not later than their 66th birthday, (the age at which entitlement to Old Age Contributory Pension commences).

In the case of newly appointed staff who are not new entrants, it would be appropriate to include an upper age limit for retirement in their conditions of appointment, ie retirement at the end of the school year in which the employee attains age 65. Such a stipulation would bring the retirement ages for officers and employees who are not new entrants into line.

3.3 Rate of Accrual – See Note B following

3.4 Rate of Contribution – See Note B following

Note B for information of the Institute

Rate of Contribution and Rate of Accrual

Contributions and pension in the case of persons appointed to employee posts will be co-ordinated.

Contributions and pension in the case of persons appointed to officer posts will be co-ordinated unless the appointment is to a permanent post and the staff member has, immediately prior to appointment, been in continuous employment in the public sector in an employment to which a reduced rate of PRSI – Class B, C or D – applies.

Note that co-ordination will apply on a transitional basis, pending appointment to a permanent post, in the case of LECTURERS who are appointed to temporary wholetime or EPT posts and who, immediately prior to appointment, were in continuous employment in the public sector in an employment to which a reduced rate of PRSI applies.

Rate of Accrual – provide the staff member with one of the following statements:

3.3 Rate of accrual, (Member who pays the Class A rate of PRSI):-

The member will accrue entitlement to retirement pension at the rate of 1/80th of co-ordinated retiring pay for each year of service, subject to a maximum of 40 years' service. Co-ordinated pay is pay less twice the maximum personal rate of Old Age Contributory Pension. OR

3.3 Rate of accrual, (Member who pays the Class D rate of PRSI):-

The member will accrue entitlement to retirement pension at the rate of 1/80th of retiring pay for each year of service, subject to a maximum of 40 years' service.

Rate of Pension Contribution – provide the staff member with one of the following statements:

3.4 Rate of pension contribution (Member appointed to an Employee post):-

Pension contributions will be payable at the rate of 1.5% of pay + 5% of co-ordinated pay (including 1.5% of co-ordinated pay towards the Spouses' and Children's Scheme). OR

3.4 Rate of pension contribution (Member appointed to a Lecturer post in respect of which the Class A rate of PRSI is payable on a transitional basis – see Note B above):-

Pension contributions will be payable at the rate of 1.5% of pay + 5% of co-ordinated pay (including 1.5% of co-ordinated pay towards the Spouses' and Children's Scheme). OR

3.4 Rate of pension contribution (Member appointed to an Officer post in respect of which the Class A rate of PRSI is payable on an ongoing basis – see Note B above):-

Pension contributions will be payable at the rate of 3% of pay (including 1.5% of pay towards the Spouses' and Children's Scheme) + 3.5% of co-ordinated pay. OR

3.4 Rate of pension contribution (Member is appointed to a post in respect of which the Class D rate of PRSI is payable – see Note B above):-

Pension contributions will be payable at the rate of 6.5% of pay (including 1.5% of pay towards the Spouses' and Children's Scheme).

3. To be signed by appointee

The implications of the Public Service Superannuation (Miscellaneous Provisions) Act 2004 have been explained to me. A copy of the definition of "new entrant" has been given to me. I have considered that definition and I agree/do not agree with the decision in my case. (If you do not agree with the decision, please state your reasons.)

Signed .....

Date .....

Extracts from the Public Service Superannuation (Miscellaneous Provisions) Act 2004

New entrant.

2 - (1) Subject to subsections (2) to (6), reference in this Act to “new entrant” means a person who is not serving in a public service body, or a body to which Schedule 1 relates, on 31 March 2004 but becomes a public servant on or after 1 April 2004.

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

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

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

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

(3) Where—

(a) a person on 31 March 2004—

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

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

and

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

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

Extracts from the Public Service Superannuation (Miscellaneous Provisions) Act 2004

(4) Where—

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

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

(i) under the same contract of employment, or

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

or

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

and where—

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

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

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

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

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

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

(a) under the same contract of employment, or

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

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

Extracts from the Public Service Superannuation (Miscellaneous Provisions) Act 2004

“public service body” means—

- (a) the Civil Service,
- (b) the Garda Síochána,
- (c) the Permanent Defence Force,
- (d) a local authority for the purposes of the Local Government Act 2001,
- (e) a health board,
- (f) a vocational education committee established under section 7 of the Vocational Education Act 1930,
- (g) a body, other than a body set out in Schedule 1—
  - (i) established by or under any enactment (other than the Companies Acts 1963 to 2003), or
  - (ii) established under the Companies Acts 1963 to 2003 in pursuance of powers conferred by or under another enactment, and financed wholly or partly by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government,

and in respect of which a public service pension scheme exists or applies or may be made –  
(copy of definition from Section 1 of the Act below for ease of reference),

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

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

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

- (a) is provided for under the Superannuation Acts 1834 to 1963 or any other enactment to like effect, or
- (b) is made by a relevant Minister or which has been approved or requires the approval or consent, however expressed, of either or both a relevant Minister and the Minister, but is not a scheme or arrangement in respect of a body or category of bodies set out in Schedule 1;

## SCHEDULE 1

### BODIES TO WHICH THE DEFINITION OF “PUBLIC SERVICE BODY” DOES NOT APPLY

1. A body which has an occupational pension scheme or arrangement that is made or may be made under the agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland establishing Implementation Bodies done at Dublin on 8 March 1999.

2. Aer Lingus Group p.l.c.

3. Aer Rianta c.p.t.

4. Arramara Teoranta.

5. Bord Gáis Éireann.

6. Bord na gCon.

7. Bord na Móna.

8. Córas Iompair Éireann.

9. Coillte Teoranta.

10. Electricity Supply Board.

11. A harbour authority within the meaning of the Harbours Act 1946 or company to which section 7 of the Harbours Act 1996 relates.

12. Horse Racing Ireland.

13. Irish National Stud Company Limited.

14. Irish Aviation Authority.

15. An Post.

16. An Post National Lottery Company.

17. Radio Teilifís Éireann.

18. Railway Procurement Agency.

19. Voluntary Health Insurance Board.

20. A subsidiary of any body to which this Schedule relates, including a subsidiary of any subsidiary.

Appendix 4 of Circular PEN 04/04

INFORMATION NOTICE REGARDING SUPERANNUATION PROVISIONS  
AND RETIREMENT AGES  
FOR CIRCULATION TO ALL STAFF SERVING IN THE INSTITUTE  
ON 31 MARCH 2004

1. The Public Service Superannuation (Miscellaneous Provisions) Act 2004 was passed on 25 March 2004. The Act introduces new superannuation and retirement provisions for new entrants to the public service appointed on or after 1 April 2004.

2. In summary, the Act

- introduces a minimum age of 50 at which pension may be paid to new entrants to the Permanent Defence Force;
- increases to 55 the minimum age at which pension may be paid to new entrants to the Garda Síochána and the Prison Service; [the minimum age at which pension may be paid to new entrant fire-fighters remains unchanged at 55];
- makes 65 the minimum age at which pension may be paid to all other new entrants to the public service;
- increases the compulsory retirement age for new entrants to the Gardaí to 60, (subject to health, fitness and capability conditions); [the compulsory age for members of the Prison Service remains unchanged at 60; the compulsory age for fire-fighters remains unchanged at 55; the compulsory retirement ages for members of the Permanent Defence Force remain unchanged];
- provides that all other new entrants to the public service will not be required to retire on grounds of age;
- makes consequential provisions, such as removing penalties for new entrants who serve beyond the age of 65 and providing that fast accrual will not apply to new entrants to certain posts in the fire brigade or the psychiatric services.

3. Position of serving staff

The Act does not change the terms and conditions of public servants who are serving on 31 March 2004. Public servants who are serving on that date should, however, note the provisions of section 2(6) of the Act, which deals with the position of serving public servants who subsequently leave the public service.

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

- (a) under the same contract of employment, or
- (b) as a public servant no later than 26 weeks following the last day of service prior to cessation.

4. The full text of the Act is available on the Department of Finance website, [www.finance.gov.ie](http://www.finance.gov.ie).