Provest

Pensions Newsletter
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The pensions landscape in Ireland is most definitely evolving and is undergoing unprecedented change as a result of the Auto Enrolment Retirement Savings System Bill, changes in the State Pension Age, Defined Benefit Risk Settlement Opportunities and Pension Scheme consolidation primarily driven by IORP II. It should not be forgotten that the transposition of the IORP II Directive into Irish law was the most significant change to pension regulation in more that 30 years and Trustee Boards and Sponsors spent a considerable amount of time during 2023 attempting to achieve IORP II compliance.

In our Newsletter, we will address the following topical issues:

- **Changes to the State Pension Age** and PRSI Exemption Age effective from 1 January 2024
- **Auto-Enrolment** – the key points to note and the implications for Employers in Ireland
- The key findings of **The Pensions Authority Engagement and Audit Findings Report** which was released on 18 December 2023
- An update on the current examination of the **Standard Fund Threshold Regime**. The Minister for Finance, Michael McGrath, instructed an independent expert, Dr. Donal de Buitléir, to conduct this examination with support from the Department of Finance
- An update on **General Scheme of the Employment** (Restriction of Certain Mandatory Retirement Ages) Bill 2024

We do hope the articles contained in our newsletter stimulate and provoke discussion and we would encourage you to contact us should you have any queries or require clarification on any point.

John Kearney
Director

Changes to the State Pension

The maximum weekly rate of the State Pension increased by €12 to €277.30 per week or €14,420 per annum effective from 1 January 2024. For those who will turn age 66 after 1 January 2024 (born after 1 January 1958), a new option exists from 1 January 2024. An individual can opt to take the State Pension at age 66 (standard State Pension Age) or one can opt to defer taking it at a later age resulting in a higher pension amount being paid at that time as per the following table:

Maximum State Pension (Deferral Option)

Age pension claimed	Maximum weekly amount
66	€277.30
67	€290.30
68	€304.80
69	€320.30
70	€337.20

Why would someone defer drawing the State Pension?

- Individuals may not have 520 (10 years) reckonable contributions - by extending their working career and paying PRSI for a prolonged period, they may reach the 520 threshold and therefore become entitled to the State Pension.
- Individuals may not be entitled to the maximum State Pension at age 66 – they may be entitled to a larger starting amount if they continue working and improving their PRSI record.
- Individuals in receipt of income from employment at age 66. In this case, the State Pension payments may be subject to the higher rate of Income Tax. If the State Pension was deferred until the individual actually retires, they potentially may only pay standard rate tax on it.

Changes to the PRSI Exemption Age

With effect from 1 January 2024, the upper age limit for PRSI exemption changed from age 66 to age 70. An individual's PRSI ceasing age will, for those attaining age 66 in 2024 or later, be linked to the age at which they claim the State Pension to a maximum age of age 70.

Any person born on or after 1 January 1958, receiving a withdrawal/imputed distribution from their Approved Retirement Fund (and Vested PRSAs) will be liable to PRSI at the rate of 4% if this person is not in receipt of the State Pension. Prior to this change, any withdrawals from an Approved Retirement Fund that was paid to a person aged over 66 were not liable to PRSI.

If individuals are in receipt of the State Pension before attaining age 70, it is imperative that they notify their Advisers immediately to ensure the Approved Retirement Fund providers deduct the correct amount of PRSI from the next payment.

An individual may also request a copy of their PRSI record by registering at https://services.mywelfare.ie/ We would encourage those approaching age 62 to check their PRSI record to see if they will be entitled to the maximum State Pension or not.

Changes to the calculation of the State Pension rate payable

An individual claiming the State Pension in 2024 will receive a pension the higher of that calculated on the Total Contribution Approach and on the Yearly Average basis.

With effect from 1 January 2025, the Yearly Average basis will be phased out over 10 years so that by 2035, the State Pension will be determined entirely on the Total Contribution Approach.

Under the Total Contribution Approach, an individual will get the maximum State Pension of they have at least 2,080 weeks (40 years) of reckonable contributions. If an individual has less than 2,080 reckonable contributions at that time, they will get a proportion of the State Pension.

Auto-Enrolment Uncovered

The Minister for Social Protection, Minister Heather Humphreys, has received Cabinet approval for the Automatic Enrolment Retirement Savings System and it is expected that the Bill will begin its passage through the Oireachtas immediately. It is understood that Minister Humphreys wants to have the Bill enacted as quickly as possible so that the first contribution can commence on 1 January 2025. As the only country within the OECD without a mandatory or quasi-mandatory retirement savings system, the objective of auto-enrolment is to ensure that every worker will have access to a work placed pension to supplement or compliment the state pension.

AIM OF THE GOVERNMENT

The Government's aim is to substantially increase the number of employees who are currently saving for their retirement, which will result in approximately 800,000 new pension savers. This is most welcome because our rapidly ageing population is going to place an intolerable strain on the state pension.

KEY POINTS TO NOTE ON AUTO-ENROLMENT

- A new National Automatic Enrolment Retirement Savings Authority will be established to oversee and manage the scheme.
- Employees between the ages of 23 and 60 who earn in excess of €20,000 per annum from all employments, and who are not already participating in a qualifying pension scheme, will be automatically enrolled in a pension arrangement.
- The Scheme will use a similar model to the old Special Savings Incentive Accounts (SSIA) with employees making a contribution, matched by their employer and topped up by the State.
- Contributions will start at 1.5% of gross earnings and will increase on a phased basis over a ten-year period to 6%. For every €1 saved by the employee, the employer matches this with a €1 contribution subject to an upper limit on earnings of €80,000. The State will also make a contribution at a rate of €1 for every €3 saved by the employee.
- The scheme will operate a default investment strategy, which will be operated on a 'lifecycle' basis but employees will also have the option to choose from a range of alternative funds with varying risk levels (High, Medium and Low Risk).
- Employers will be permitted to use their own occupational pension plan (or a Personal Retirement Savings Account) to meet the auto-enrolment requirements.
- Existing pension arrangements will not be required to meet certain standards to avail of an auto-enrolment exemption. However, in time, when contributions for the auto-enrolment scheme increase, existing pension arrangements will also have to meet additional minimum standards in order to be a qualifying pension plan for auto-enrolment purposes.
- The definition of employee is anticipated to cover all persons who are directly employed, including variable hours staff, seasonal workers, short-term contract workers and workers on leave of absence.

CAN AN EMPLOYEE OPT OUT OF AUTO-ENROLMENT?

There will be provisions in the legislation to allow workers to opt out or suspend contributions should they wish to after a mandatory participation period of six months. In circumstances where someone does opt-out or suspend their contributions, they will be automatically re-enrolled after two years. Experience from other countries shows that once employees are auto enrolled, very few decide to leave the system.

IMPLICATIONS FOR EMPLOYERS

Auto-enrolment will have significant implications for many employers as it will present compliance and operational challenge as well as give rise to additional business costs. It is vital that all employers understand the extent to which it might impact them and the immediate and longer-term implications for their business and their employees.

WHAT ARE THE KEY INITIAL QUESTIONS THAT EMPLOYERS WILL NEED TO CONSIDER?

Auto-enrolment will affect all employers in some way, and some quite considerably. As part of the planning and budgeting process, employers will need to consider the following questions:

- Which employees will be affected, both at the outset and in the future?
- What are the immediate and longer-term business impacts and, in particular, how much will auto-enrolment cost?
- What options are available to meet auto-enrolment requirements and what key decisions will need to be made?
- Will payroll systems need to be adapted to cater for increased contributions to their pension systems either to cater for increased contributions to their pension scheme or to remit contributions to the Auto-Enrolment Scheme?
- What are the provisions in the employment contracts?
- How could existing benefit arrangements be impacted?

WHAT WILL BE THE IMPACT OF AUTO-ENROLMENT ON EMPLOYERS?

Some of the key potential impacts can be summarised as follows:

Employers with an existing pension arrangement

Those employers who provide existing pension plans to employees may consider amending their plan design so that they can avail of an auto-enrolment exemption. It is our view that where an employer currently provides an occupational pension plan this will likely be, for most employers and many employees, a better total retirement benefits solution for both the employer and employees than the Auto-Enrolment Scheme. However, employers who have smaller workforces, or who employ staff on lower incomes and/or typically for shorter periods, may actually find the auto-enrolment scheme a more suitable option.
It is imperative that each employer considers their pension plan strategy in the context of their own workforce.

Costs

Adhering to the auto-enrolment requirements will lead to additional immediate and long terms costs and these may include:

- Increased pension contributions
- Implementation costs
- Increased administration, consultancy, legal and payroll costs

Administration Processes

Administration processes will need to be reviewed to accommodate the automatic enrolment of eligible employees as there is no waiting period to enrol an employee in the auto-enrolment scheme. If an existing pension arrangement operates a waiting period, then it is likely that some employees will be automatically enrolled into the auto-enrolment scheme. However, they will be able to opt-out after six months and join the existing pension arrangement if they choose to.

Payroll Processes

According to the Department of Social Protection, Employers will "need to make a separate return through payroll directly to the central body administering the scheme". This means employers will have to satisfy themselves that their payroll software is up to date come launch time.

In summary, the introduction of auto-enrolment is a positive development, will narrow the gender pension gap, significantly increase the number savings for retirement and will result in people not being solely reliant on the state pension in retirement.

The Pensions Authority Engagement and Audit Findings Report 2023

The purpose of the recently published Engagement and Audit Findings Report is to share observations on the key findings identified during the Pensions Authority's engagement and audit activity during 2023. The engagements included face-to face meetings with large Defined Benefit Schemes and Defined Contribution Master Trusts.

KEY OBSERVATIONS FROM A DEFINED BENEFIT PERSPECTIVE

- Engagements with trustee boards of large Defined Benefit Schemes focussed on their governance systems and findings indicated that progress had been made over 2023 towards meeting the enhanced governance standards.

- The Authority was largely satisfied that the trustee boards it met had an effective process of governance in place. Those trustee boards had their scheme policies in place, had appointed their key function holders and had a structured approach for their trustee meetings and their decision making.

- All the trustee boards the Authority met had an objective of de-risking the scheme over time, either to address the scheme's approaching maturity and/or to reduce the reliance on the employer covenant. Additionally, all the trustee boards had regular engagement with the sponsoring employer on investment strategy, funding, and the sponsor contribution commitment.

- The Authority reminded all Defined Benefit Schemes that regular engagement with the sponsoring employer is required, and the Authority reminded trustees that they must give priority to the best interests of the members in such engagements. The Authority also expects an evidence-based view of the strength of the sponsor's covenant to the scheme to form a key component of the trustees own-risk assessment.

- Trustees have been required to have Key Function Holders in place since 1 January 2023 and to notify the Authority of the outsourcing of a key function. A sample audit by the Authority found that approximately 28% of Defined Benefit Schemes audited had not appointed Key Function Holders as they were in the process of winding-up. The report noted that 16% had not appointed Key Function Holders as they were undergoing a review process with the sponsor that could lead to the Defined Benefit Scheme being wound up. A further 56% had appointed Key Function Holders but had not notified the Authority of the outsourcing of the key functions.

KEY OBSERVATIONS FROM A MASTER TRUST PERSPECTIVE

At the time of preparation of the Authority's report, there were 17 Master Trusts (6 of which were only established at the end of 2022 or in 2023) registered with the Authority and the following table outlines the aggregate of members, employers and asset value information as of 31 October 2023:

Total on 31 October 2023		
Number of members	**Active** **Deferred**	276,812 124,235
Assets under management		€17.7 billion
Number of participating employers		20,822

Some specific findings on the 11 more established Master Trusts can be summarised as following:

ADMINISTRATION CAPACITY

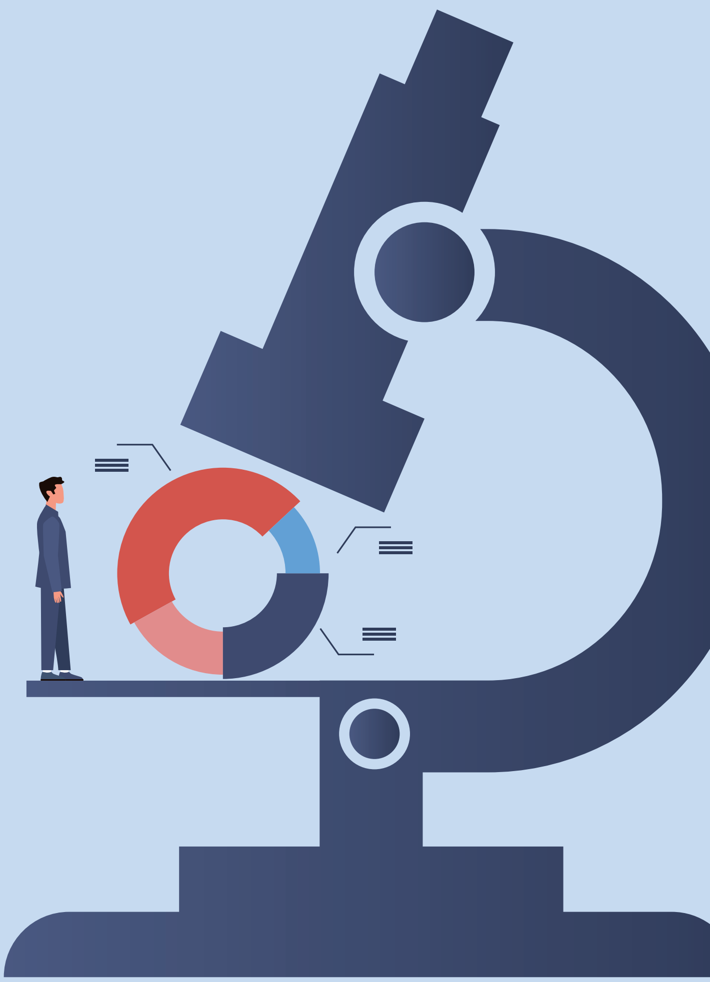
Several trustee boards advised that their Master Trust were under administrative pressure because of the ongoing consolidation of the Defined Contribution sector which has led to the onboarding of a large number of transferring employers and members into Master Trusts. The Authority stated that it expects trustees to satisfy themselves that their Master Trust's administration standards are fit for purpose and to take appropriate action if this is not the case.

CONTINUITY PLANS

The Authority found that 5 of the Master Trusts did not meet their Continuity Plan (CP) income projections. The purposes of the CP is to assist trustees with ensuring their Master Trust viability. The reason provided by trustees included, employers being reluctant to engage with the Master Trust trustee, the pace of onboarding new employers and issues with moving to new IT systems to support the Maser Trust.

SUPPORT FOR RETIRING MEMBERS

The Authority found that the practices varied widely amongst Master Trusts in relation to the information and supports in place for retiring members. In one Master Trust, it was noted that members were provided with information on their impending retirement three months before their retirement date, whereas in another Master Trust, members were furnished with information on retirement several years before retirement date.



ENGAGEMENT WITH EMPLOYERS

The Authority reviewed Master Trust practices around engagement with employers and found varying standards in place. The Authority are of the view that Trustee Boards must consider communications and engagement with employers as well as members, and the type and frequency of these communications must be documented in a formal written policy.

The Authority stated that it expects all trustees and their advisers to carefully consider these findings and use them as a basis for evaluating their practices and making improvements where necessary.

General Scheme of the Employment

(Restriction of Certain Mandatory Retirement Ages)

Bill 2024

In response to the Pensions Commission Recommendations and Implementation Plan, the Government committed to a range of pension reforms which included a commitment relating to contractual mandatory retirement age. The policy objective is to introduce measures which allow, but do not compel, an employee to stay in employment until they can access the State Pension. The General Scheme of the Employment (Restriction of Certain Mandatory Retirement Ages) Bill 2024 has now been published.

The Bill, once drafted, will apply to clauses in contracts of employment, whether express or implied, which oblige an employee to retire at an age which is below the age at which the employee can first access the State Pension (referred to as 'the pensionable age'). The pensionable age is currently 66 years.

The General Scheme gives the following options to the employee:

- to retire at the Mandatory Retirement Age (MRA) contained in his/her contract of employment, whatever age that may be;
- to continue working to the pensionable age; or
- where applicable, to retire at any age between the Mandatory Retirement Age and the pensionable age.

The main provisions of the Bill will also provide that:

- Certain exemptions are included, particularly in relation to retirement ages which are set out in law and apply to some public servants, or in relation to contractual retirement ages for physically demanding or public-safety critical professions - but only in situations where the employer can objectively justify the retirement age.
- In line with other employment rights legislation, employees will have the right to redress if their employer imposes a mandatory retirement age which is lower than the State Pension Age without their consent.
- There is no impact on employment equality legislation which will continue to operate as normal.

The Minister for Enterprise, Trade and Employment stated that he is *"very pleased that government has agreed to the drafting of this important legislation. We know that people are living longer and healthier lives which is hugely positive. The series of landmark reforms the government committed to in response to the Pensions Commission report, which are being led by my colleague Minister Heather Humphreys, will ensure the pensions system is sustainable in the face of demographic change and that people relying on the State Pension have adequate and predictable income in retirement.*

"In addition to these reforms, the introduction of this legislation is a crucial step in improving adequacy of income for older workers and effectively creates a new employment right.

"This Bill will reaffirm our long-standing policy to encourage and support longer and fuller working lives, where older people are facilitated in continuing in employment, if they wish to, until the age at which they can first access the State Pension."

TARGETED EXAMINATION OF THE STANDARD FUND THRESHOLD REGIME

The Standard Fund Threshold (SFT) is the maximum amount which can be funded for an individual within a tax-exempt fund. The SFT was introduced in the Finance Act 2005 at €5m and subsequently increased to €5.418m. The Finance Act 2011 reduced the SFT from €5.418m to €2.3m with effect from 7 December 2010. The SFT reduced from €2.3m to €2.0m from 1 January 2014.

Given that the SFT has remained unchanged since 2014, many believe it is time for the SFT to be reviewed and adjusted to take account of:

- changes in the standard of living;
- changes in the national average wage;
- changes in life expectancy;
- the impact of inflation; and
- changes in interest rates

The Commission on Taxation and Social Welfare Report of 2022 recommended "*the periodic benchmarking of the Standard Fund Threshold to an appropriate and fair level of estimated retirement income*" but did not recommend a particular level of retirement income for this purpose.

In December 2023, the Minister for Finance, Michael McGrath, appointed Dr Donal de Buitléir to conduct a targeted and focused examination of the SFT regime. The examination will consider the role of the SFT in the current pension landscape, the current calibration of the SFT and its potential impacts on recruitment and retention, as well the rate at which the SFT should be set at.

The first step in the examination was a public consultation which opened in December 2023 and ran until 26 January 2024. Some of what has been suggested heretofore as part of the Public Consultation process can be summarised as follows:

- Increase the SFT to take account CPI/Earnings Indexation for the last 10 years:
  - 21.5% increase in CPI over that period;
  - 34% wage inflation over the same period;
  - The suggested SFT is ranging from anywhere between €2.65m to €3.475m
- Automatic indexation to apply going forward
- Public Sector encashment option to extend to Private Sector

Minister McGrath has stated that the review will consider the impact of any changes to the SFT on the overall tax expenditure associated with pension provision and its associated distribution with a decision on any changes expected by the end of the third quarter of 2024.

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Mark O'Sullivan
QFA, FIIPM, QPT, MComm
Managing Director

Kieran McAuliffe
CFP ®, QFA, TMITI
Director

John Kearney
BSc, MIIPM, QFA
Director

Una Jennings
QFA, SIA
Operations Manager

Provest Private Clients & Pension Consultants
5 The Mall, Maryborough Woods, Douglas, Cork T12 XN9Y, Ireland
T+353 (0) 21 2010123 | **E** info@provest.ie