



Number 20 of 2024

Automatic Enrolment Retirement Savings System Act 2024



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AUTOMATIC ENROLMENT RETIREMENT SAVINGS SYSTEM ACT 2024

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Number 20 of 2024

AUTOMATIC ENROLMENT RETIREMENT SAVINGS SYSTEM ACT 2024

An Act to provide for the establishment of a body to be known as *An tÚdarás Náisiúnta um Uathrollú Coigiltis Scoir*; to provide for that body to establish, maintain and administer an automatic enrolment retirement savings system for employees in employment not covered by qualifying schemes; to provide for automatic enrolment and re-enrolment of participants in that system and for opting into and out of the system; to provide for payment of contributions by participants, their employers and the State, the investment of contributions and the payment of retirement savings out of participants' accounts; to provide for the consequential amendments of certain enactments; and to provide for related matters. [9th July, 2024]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement

- (1) This Act may be cited as the Automatic Enrolment Retirement Savings System Act 2024.
- (2) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Definitions

- In this Act—

“AE provider scheme” shall be construed in accordance with *section 69(2)*;

“Authority” has the meaning given by *section 8*;

“company” means—

- a company formed and registered under the Companies Act 2014, or
- an existing company within the meaning of that Act;

- “contributing participant” shall be construed in accordance with *section 57*;
- “contribution” means a participant contribution, an employer contribution or a State contribution;
- “employee” has the meaning given by *section 47*;
- “employer” has the meaning given by *section 47*;
- “employer contribution” means a contribution to which *section 59(2)* applies;
- “enactment” has the same meaning as it has in the Interpretation Act 2005;
- “enrolment date”, in relation to a person, means the date assigned as that person’s enrolment date under *section 50(1)* or *section 53(1)*;
- “European Union act” means—
- (a) a provision of the treaties governing the European Union, or
 - (b) an act or provision of an act adopted by an institution of the European Union, an institution of the European Communities or any other body competent under those treaties;
- “financial year” means the period which is co-extensive with a calendar year;
- “investment management provider” shall be construed in accordance with *section 68(2)*;
- “Minister” means the Minister for Social Protection;
- “NTMA” means the National Treasury Management Agency;
- “participant” shall be construed in accordance with *section 49*;
- “participant contribution” means a contribution to which *section 59(1)* applies;
- “pensionable age” has the meaning given by section 2 of the Social Welfare Consolidation Act 2005;
- “prescribe” means prescribe by regulations made by the Minister under this Act;
- “re-enrolment date”, in relation to a person, means a date assigned as that person’s re-enrolment date under *section 53(3)* or *section 55(1)*;
- “service provider” means a person engaged under *section 32*;
- “State contribution” means a contribution to which *section 60* applies.

Regulations

3. (1) The Minister may by regulation provide for any matter referred to in this Act as prescribed or to be prescribed.
- (2) Without prejudice to any provision of this Act, regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

- (3) Every regulation under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to anything previously done under it.

Service of documents

4. (1) Subject to *Part 6*, a notice or other document that is required to be sent or given to a person under this Act shall be addressed to the person concerned by name, and may be sent or given to the person in one of the following ways:
- (a) by delivering it to the person;
 - (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;
 - (c) by sending it to the person in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address;
 - (d) by making it available to the person through an electronic system in accordance with *Part 6*.
- (2) For the purpose of this section, a company shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.

Expenses

5. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of moneys provided by the Oireachtas.

PART 2

AN tÚDARÁS NÁISIÚNTA UM UATHROLLÚ COIGILTIS SCOIR

CHAPTER 1

Establishment of An tÚdarás Náisiúnta um Uathrollú Coigiltis Scoir

Definitions (*Part 2*)

6. In this Part—
- “Board” has the meaning assigned to it by *section 10*;

“chief executive” means the chief executive appointed under *section 25*;

“committee of the Board” means a committee of the Board established under *section 18, 19 or 20*;

“establishment day” means the day appointed under *section 7*;

“local authority” has the same meaning as it has in the Local Government Act 2001;

“Oireachtas Committee” means a committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (or a subcommittee of such a committee) other than—

- (a) the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General, or
- (b) the Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann.

Establishment day

7. The Minister shall, by order, appoint a day to be the establishment day for the purposes of this Act.

An tÚdarás Náisiúnta um Uathrollú Coigiltis Scoir

8. (1) There shall stand established on the establishment day a body which shall be known as *An tÚdarás Náisiúnta um Uathrollú Coigiltis Scoir* (in this Act referred to as the “Authority”) to perform the functions conferred on it by or under this Act.
- (2) The Authority—
 - (a) shall be a body corporate with perpetual succession and an official seal,
 - (b) may sue and be sued in its corporate name, and
 - (c) may acquire, hold and dispose of land or an interest in land or any other property, with the consent of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform.
- (3) The official seal of the Authority shall be authenticated—
 - (a) by the signature of any 2 members of the Board, or
 - (b) by the signatures—
 - (i) of a member of the Board, and
 - (ii) of a member of staff of the Authority authorised to act for that purpose by the Board.
- (4) Judicial notice shall be taken of the seal of the Authority, and any document purporting to be an instrument made by the Authority, and to be sealed with the seal of the Authority authenticated in accordance with *subsection (3)*, shall, unless the

contrary is shown, be received in evidence and be deemed to be such an instrument without further proof.

- (5) Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal may be entered into or executed on behalf of the Authority by any person generally or specially authorised by the Authority for that purpose.

Functions of Authority

9. (1) The Authority shall, in addition to the carrying out of other functions conferred on it by this Act—
- (a) establish, maintain and control generally the automatic enrolment retirement savings system,
 - (b) arrange for the enrolment and re-enrolment of participants in the automatic enrolment retirement savings system in accordance with *Chapter 2 of Part 3*,
 - (c) arrange for the collection of contributions in accordance with *Chapter 3 of Part 3*,
 - (d) arrange for the establishment and maintenance of accounts for participants' retirement savings and the provision of communications and services in relation to those accounts,
 - (e) arrange for the investment of contributions with investment management providers in accordance with the appropriate risk levels and investment rules under *Part 4*,
 - (f) facilitate the payment of retirement savings out of participants' accounts in accordance with *Part 5*,
 - (g) monitor and enforce compliance with this Act, and
 - (h) undertake, commission or assist in research projects and other activities relating to retirement savings services and the level of retirement savings in the State, which in the opinion of the Authority may promote an improvement in those services and public awareness of them, and make recommendations to the Minister arising from those projects or activities.
- (2) The Authority shall perform its functions in the way that appears to it best calculated—
- (a) to provide a high quality retirement savings system that—
 - (i) operates in the best interests of participants, and
 - (ii) is digital by default,and
 - (b) to provide for the management of participants' retirement savings with appropriate care and judgement.

- (3) Subject to this Act, the Authority shall be independent in the performance of its functions.
- (4) The Authority may perform any of its functions through or by any member of the staff of the Authority authorised in that behalf by the Authority.
- (5) The Authority may perform any of its functions through or by any other persons authorised in that behalf by the Authority.
- (6) The Authority shall have all such powers as are necessary or expedient for the performance of its functions.

CHAPTER 2

*Board of Authority***Establishment of Board**

10. (1) The Authority shall have a board (in this Act referred to as the “Board”) established under this Act to perform the functions of the Authority.
- (2) The Board shall, in addition to the other functions conferred on it by this Act—
 - (a) satisfy itself that appropriate systems, procedures and practices are in place for the internal performance management and accountability of the Authority in respect of—
 - (i) the performance of its functions,
 - (ii) the achievement of the objectives in the statement of strategy under *section 37*, and
 - (iii) the achievement of the performance targets in the annual plan under *section 38*,
 - and
 - (b) establish and implement arrangements for the management of the performance of the chief executive.
- (3) The Board shall be accountable to the Minister for the due performance of its functions.
- (4) The Board may delegate in writing to a committee of the Board or the chief executive any of the functions of the Authority or the Board, other than the functions under *subsection (2)*.
- (5) If a function of the Authority or the Board is delegated to the chief executive under *subsection (4)*, the delegation remains in force until the Board revokes the delegation by notice in writing given to the chief executive.
- (6) The Board shall inform the Minister in writing of any matter that it considers to require the Minister’s attention.

- (7) The Board shall retain in its possession the official seal of the Authority.

Membership of Board

- 11.** (1) The Board shall consist of such number of members appointed by the Minister as the Minister may from time to time determine.
- (2) The number of members appointed by the Minister shall be not fewer than 5 and not more than 8.
- (3) The Minister shall designate one of the members as chairperson.
- (4) In appointing persons to be members of the Board, the Minister shall have regard to the desirability of their having knowledge or experience in matters connected to—
- (a) the functions of the Authority, and
 - (b) organisational governance, management, financial administration and financial investment.
- (5) Of the members of the Board, other than the chairperson—
- (a) one shall be a person who has, in the opinion of the Minister, knowledge or experience in matters relating to the interests of employees, and
 - (b) one shall be a person who has, in the opinion of the Minister, knowledge or experience in matters relating to the interests of employers.
- (6) The duties imposed on members of the Board in the performance of their functions under this Act shall be owed by them to the Authority and the Authority alone.
- (7) The Minister shall, in so far as is practicable, endeavour to ensure that among the members of the Board there is an equitable balance between men and women.
- (8) If a member of the Board ceases to be a member in any way other than on the expiry of the member's term of office, the Minister shall, as soon as is practicable, appoint another person to fill the vacancy.
- (9) The Authority shall, as soon as is practicable after a person is appointed as a member of the Board, publish in *Iris Oifigiúil* the name of the person so appointed.

Term of office

- 12.** (1) Subject to *subsection (3)*, a member shall hold office for such term, not exceeding 4 years from the date of his or her appointment, as the Minister determines.
- (2) A member of the Board shall hold office until his or her term of office expires, unless he or she ceases to be a member under any other provision of this Part.
- (3) The Minister shall ensure that, of the members of the Board first constituted under this section—
- (a) 4 members are appointed for a term of office of 3 years from the date of appointment,

- (b) 3 members are appointed for a term of office of 4 years from the date of appointment, and
 - (c) the member who is first appointed chairperson is appointed for a term of office of 4 years from the date of appointment.
- (4) The chairperson shall hold office as chairperson for 4 years or until the end of his or her term of office as a member of the Board, whichever is the earlier.
- (5) Subject to *subsection (6)*, a member of the Board whose term of office expires or is due to expire by the effluxion of time may be reappointed to the Board under this subsection—
- (a) for not more than 2 terms, in the case of a person first appointed under *section 11(8)*, or
 - (b) for one term only, in any other case.
- (6) Subject to *subsection (7)*, a person may not be reappointed under *subsection (5)* for a term that would result in the person serving for a period of more than 8 years.
- (7) Where any term of office for which a person has been reappointed under *subsection (5)* expires or is due to expire by the effluxion of time, and the Minister is satisfied that exceptional circumstances exist, the Minister may, at the request of the Board, reappoint the person for one further term notwithstanding that the further term may result in the person serving for a period of more than 8 years.

Conditions of membership of Board

13. (1) Subject to *section 21*, a member of the Board shall hold office on such terms and conditions as the Minister, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, determines.
- (2) The Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, determine that the chairperson shall be paid additional remuneration or allowances on account of his or her responsibilities as chairperson.
- (3) A member may at any time by notice in writing to the Minister—
- (a) resign from the Board, or
 - (b) in the case of the chairperson, with or without resigning from the Board, resign from the office of chairperson.
- (4) A resignation under *subsection (3)* takes effect on the date specified in the notice to the Minister, or on the date on which the Minister receives the notice, whichever is the later.

Membership of either House of Oireachtas, European Parliament or local authority

14. A person is disqualified for membership of the Board while—

- (a) nominated as a member of Seanad Éireann,
- (b) elected as a member of either House of the Oireachtas or of the European Parliament,
- (c) entitled under the Standing Orders of either House of the Oireachtas to sit in that House,
- (d) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to be a member of the European Parliament,
- (e) a member of a local authority, or
- (f) entitled under the standing orders of a local authority to sit as a member of that local authority.

Ineligibility to become and disqualification to act as member of Board

- 15.** (1) A person is not eligible for appointment as a member of the Board, and a person who has been appointed shall cease to be a member, if he or she—
- (a) is or becomes a member of staff of the Authority,
 - (b) is convicted on indictment of an offence, or is convicted outside the State of an offence consisting of acts or omissions which would constitute an offence triable on indictment if done or made in the State,
 - (c) is convicted of an offence involving fraud or dishonesty,
 - (d) has a declaration made against him or her under section 819 of the Companies Act 2014 or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act,
 - (e) is subject to, or is deemed to be subject to, a disqualification order within the meaning of Chapter 4 of Part 14 of the Companies Act 2014 whether by virtue of that Chapter or of any other provision of that Act,
 - (f) makes a composition or arrangement with his or her creditors, or
 - (g) is removed by a competent authority for any reason (other than failure to pay a fee) from any register established for the purpose of registering members of a profession in the State or another jurisdiction.
- (2) A person is not eligible for appointment as a member of the Board if he or she is adjudicated bankrupt and such bankruptcy has not been annulled or discharged, and a person who has been appointed shall cease to be a member if he or she is adjudicated bankrupt.

Removal of member of Board

- 16.** (1) The Minister may, on the recommendation of the Board or of the Pensions Authority, remove a member of the Board from office if he or she is satisfied that—

- (a) the member has, without reasonable excuse, failed to discharge the functions of the office,
 - (b) the member has become incapable through ill-health or otherwise of performing the functions of the office,
 - (c) the member has committed stated misbehaviour (other than misbehaviour which is the basis for a conviction referred to in *section 15* as a result of which the member is required to cease to hold office in accordance with that provision),
 - (d) the member's removal is necessary for the effective and efficient performance by the Board of the functions of the Authority or of the Board, or
 - (e) the member has, in the view of the Board or of the Pensions Authority, a conflict of interest of such significance that the member should cease to hold office.
- (2) Where the Minister proposes to remove a member from office under *subsection (1)*, the Minister shall give notice in writing to the member of that proposal.
- (3) A notice under *subsection (2)* shall contain a statement informing the member—
- (a) of the reasons for the proposed removal,
 - (b) that the member may make representations to the Minister in such form and manner as may be specified,
 - (c) that any such representations must be made within a period of 20 working days from the date of the giving of the notice, or such longer period as the Minister may, having regard to the requirements of natural justice, specify in the notice, and
 - (d) that at the end of the period specified in *paragraph (c)* or in the notice, whether or not any representations are made, the Minister shall decide whether to remove the member from office.
- (4) In considering whether to remove a member from office under *subsection (1)*, the Minister shall take into account—
- (a) any representations made by the member in accordance with *paragraph (b)* and *(c)* of *subsection (3)*, and
 - (b) any other matter the Minister considers relevant.
- (5) Where, after giving notice under *subsection (2)*, the Minister decides not to remove the member from office, the Minister shall notify the member in writing of the decision.
- (6) Where, after giving notice under *subsection (2)*, the Minister decides to remove a member from office, the Minister shall—
- (a) notify the member in writing of the decision, the reasons for it and the date from which it shall take effect (which shall be a date not earlier than the date of the notice under this paragraph),

- (b) lay before each House of the Oireachtas a statement in writing of the decision and the reasons for it,
- (c) provide a statement in writing of the decision and the reasons for it to the Oireachtas Committee to which the Oireachtas has assigned the role of examining matters relating to the automatic enrolment retirement savings system, and
- (d) provide a copy of that statement to the member.

Meetings

17. (1) The Board shall hold such and so many meetings as may be necessary for the performance of its functions.
- (2) At a meeting of the Board—
- (a) the chairperson shall, if present, be the chairperson of the meeting, or
 - (b) if the chairperson is not present or if the office of chairperson is vacant, the members of the Board who are present shall choose one of their number to be the chairperson of the meeting.
- (3) Every question at a meeting of the Board on which a vote is required shall be determined by a majority of the votes of the members of the Board present and voting on the question and, in the case of an equal division of votes, the chairperson of the meeting shall have a second or casting vote.
- (4) The quorum for a meeting of the Board shall, unless the Minister otherwise directs, be half of the total number of members holding office for the time being or, if that is not a whole number, the next highest whole number.
- (5) A meeting of the Board may take place by any means of communication by which all of the members participating can hear and be heard at the same time.
- (6) A member of the Board who participates in a meeting of the Board by electronic means is taken for all purposes to be present at the meeting.
- (7) Subject to *subsection (4)*, the Board may act notwithstanding one or more vacancies among its members.
- (8) Subject to the provisions of this Act, the Board shall regulate its own procedures.

Audit and risk committee

18. (1) There shall be an audit and risk committee of the Board.
- (2) The audit and risk committee shall—
- (a) ensure the transparency and integrity of the Authority's accounting and financial reporting systems,
 - (b) ensure that appropriate systems of internal control are in place, in particular, systems for risk management and financial and operational control, and

- (c) arrange for the appointment of auditors to carry out audits of the books, accounts and other financial statements of service providers engaged under *section 32* and investment management providers appointed under *section 68* so far as they relate to the services performed for the Authority.
- (3) The members of the audit and risk committee shall comprise—
 - (a) 2 members of the Board who are not chairperson of the Board and who are appointed by the Board, and
 - (b) not less than 3 persons who are not members of the Board or members of staff of the Authority but who have acquired substantial relevant expertise and experience and who are appointed by the Board with the consent of the Minister.
- (4) The Board shall appoint one of the members appointed under *subsection (3)(a)* to be the chairperson of the audit and risk committee.
- (5) A member of the audit and risk committee shall hold office on such terms (other than as to the payment of remuneration and allowances for expenses incurred) as the Board determines at the time of the member's appointment.
- (6) The Board may regulate the procedure of the audit and risk committee but, subject to that, it shall regulate its own procedure.

Investment committee

- 19.** (1) There shall be an investment committee of the Board.
- (2) The investment committee shall—
 - (a) establish an investment strategy for the purpose of entering into and managing investment management contracts under *section 68*,
 - (b) establish risk management guidelines within the framework of the investment strategy,
 - (c) advise the Board on matters relating to the investment strategy or risk management guidelines as the Board may require, and
 - (d) effectively monitor the performance of AE provider schemes and inform the Board in writing of any matter that it considers to require the Board's attention.
 - (3) The members of the investment committee shall comprise—
 - (a) 2 members of the Board who are not chairperson of the Board and who are appointed by the Board, and
 - (b) not less than 3 persons who are not members of the Board or members of staff of the Authority but who have acquired substantial relevant expertise and experience and who are appointed by the Board with the consent of the Minister.
 - (4) The Board shall appoint one of the members appointed under *subsection (3)(a)* to be the chairperson of the investment committee.

- (5) A member of the investment committee shall hold office on such terms (other than as to the payment of remuneration and allowances for expenses incurred) as the Board determines at the time of the member's appointment.
- (6) The Board may regulate the procedure of the investment committee but, subject to that, it shall regulate its own procedure.

Other committees

- 20.** (1) The Board may establish such other committees of the Board as it considers appropriate to perform such of the functions of the Authority or the Board as may be delegated to any such committee.
- (2) The Board shall determine the terms of reference of each committee appointed under this section.
 - (3) The Board may for any reason dissolve a committee or remove any members of a committee established under this section for stated reasons.
 - (4) The members of a committee established under this section shall be appointed by the Board.
 - (5) A committee appointed under this section shall comprise, in whole or part, persons who are members of the Board.
 - (6) The Board shall appoint one of the members of a committee who is a member of the Board to be the chairperson of the committee.
 - (7) A committee shall provide the Board with such information as the Board may from time to time require in respect of the activities and operations of the committee for the purposes of the performance by the Board of its functions.
 - (8) The acts of a committee (other than a committee whose sole function is to provide advice to the Board) shall be subject to confirmation by the Board, unless the Board otherwise determines.

Remuneration and expenses of members of Board and committees of Board

- 21.** (1) A member of the Board may be paid such remuneration, and such allowances for expenses (if any), as the Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, determine.
- (2) A member of a committee of the Board, other than a member of the Board, the chief executive or any other member of staff of the Authority, may be paid such remuneration, and such allowances for expenses (if any), as the Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, determine.
 - (3) A member of the Board, the chief executive and other member of staff of the Authority shall not receive any additional fees or other form of remuneration in respect of appointment to a committee.

- (4) Any remuneration or allowances for expenses determined in accordance with *subsection (1) or (2)* shall be payable by the Authority out of moneys at its disposal.

Disclosure of interests by member of Board or of committee of Board

22. (1) This section applies to a person who is—

- (a) a member of the Board, or
- (b) a member of any committee of the Board,

where that person or a connected person has a material interest in any matter which falls to be considered by the Board or a committee of the Board.

(2) A person to whom this section applies—

- (a) shall, in advance of any consideration of the matter, disclose that material interest to the Board or the committee of the Board concerned,
- (b) shall take no part in the deliberation in relation to the matter,
- (c) shall withdraw from a meeting at which the matter is being considered for so long as it is being so considered and shall not be counted towards a quorum for any question at the meeting on which a vote is required,
- (d) shall not influence or seek to influence a decision to be made in relation to the matter,
- (e) shall not make any recommendation to the Board or the committee of the Board concerned or its members in relation to the matter, and
- (f) shall not vote or otherwise act on a decision relating to the matter.

(3) Where a person discloses a material interest in a matter under *subsection (2)*—

- (a) the disclosure shall be recorded in the minutes of the meeting, and
- (b) the Board or the committee of the Board concerned may, at its discretion, refer to the disclosure in the Authority's annual report.

(4) If a person fails to disclose a material interest pursuant to *subsection (2)*, and with that person present the Board or the committee of the Board concerned makes a decision on the matter—

- (a) the decision is not invalid, and shall be taken to have always been valid, if the Board or the committee of the Board concerned subsequently reconsiders the matter without that member present and confirms the decision, and
- (b) a contract entered into by the Board or the committee of the Board concerned in consequence of the decision is not, by reason only of that fact, invalid or unenforceable.

(5) If at a meeting of the Board or the committee of the Board concerned a question arises as to whether or not a course of conduct, if pursued by a person, would constitute a failure by him or her to comply with *subsection (2)*—

- (a) the chairperson presiding over the meeting shall determine the question, or
 - (b) if the question arises in relation to the chairperson presiding over the meeting, he or she shall retire from the chair and the question shall be determined by majority vote of the remaining members,
- and in either case the determination shall be final and shall be recorded in the minutes of the meeting.
- (6) Where the Minister is satisfied, on being informed by the Board, that a member of the Board has contravened *subsection (2)*, the Minister shall decide the appropriate action to be taken in relation to that person which may include, on the recommendation of the Board, removal from office under *section 16* and, where a person is removed from office pursuant to this subsection, he or she shall thenceforth be disqualified for membership of the Board.
 - (7) Where the Authority is satisfied that a person who is a member of a committee of the Board but not a member of the Board has contravened *subsection (2)*, the Board shall decide the appropriate action (which may include removal from office) to be taken in relation to that person.
 - (8) For the purposes of this section and *section 23*, “connected person” and “material interest” shall be construed in accordance with section 2 of the Ethics in Public Office Act 1995.

Disclosure of interests by members of staff of Authority or other persons

- 23.** (1) Where a function falls to be performed by a member of the staff of the Authority, or a consultant or adviser engaged under *section 31* and, where that member of staff, consultant or adviser, or a connected person, has a material interest in a matter to which the function relates, the member of staff, consultant or adviser—
- (a) shall disclose to the chief executive the fact of his or her interest and its nature,
 - (b) shall not perform the function, and
 - (c) shall neither influence nor seek to influence a decision to be made in the matter nor make any recommendation in relation to the matter.
- (2) *Subsection (1)* does not apply to functions relating to contracts or proposed contracts of employment of members of the staff of the Authority with the Authority.
- (3) Where the chief executive is satisfied that a person has contravened *subsection (1)*, the chief executive shall decide the appropriate action to be taken, which may include termination of the person’s contract of employment or contract for services.

Prohibition on unauthorised disclosure of confidential information

- 24.** (1) Subject to *subsection (2)*, a person shall not disclose confidential information obtained by him or her while performing functions as—

- (a) a member of the Board, a member of a committee of the Board or a member of the staff of the Authority,
 - (b) a consultant or adviser or other person providing services to the Authority or as a member of the staff of such adviser or consultant or other person,
 - (c) a member, a member of a committee or a member of the staff of the Pensions Authority, or
 - (d) a consultant or adviser or other person providing services to the Pensions Authority.
- (2) A person does not contravene *subsection (1)* by disclosing confidential information if the disclosure—
- (a) is made in the performance of functions of the Authority,
 - (b) is made in the performance of functions of the Pensions Authority,
 - (c) is made to or authorised by the Authority, the Board, or the chief executive,
 - (d) is made by a person in the circumstances referred to in section 35(2) of the Ethics in Public Office Act 1995,
 - (e) is a protected disclosure within the meaning of the Protected Disclosures Act 2014,
 - (f) is required or permitted by law, or
 - (g) is made to a member of the Garda Síochána and, in the opinion of the person making the disclosure, the information may relate to the commission of an offence (whether an offence under this Act or not).
- (3) A person who contravenes *subsection (1)* shall be guilty of an offence.
- (4) In this section, “confidential information” means—
- (a) information of a commercially sensitive nature submitted to the Authority by contractors, consultants or any other person for the purposes of the performance of the Authority’s functions, or
 - (b) other information that is expressed by the Authority to be confidential either as regards particular information or as regards information of a particular class or description.

CHAPTER 3

*Staff of Authority, engagement of consultants, advisers and service providers***Appointment of chief executive**

25. (1) Subject to *subsection (2)*, the Board shall, with the consent of the Minister, appoint a person recruited in accordance with the Public Service Management (Recruitment and

Appointments) Act 2004 and the Civil Service Regulation Act 1956 to be the chief executive of the Authority (in this Act referred to as the “chief executive”).

- (2) The Minister may, before the establishment day, designate a person to be appointed as the first chief executive of the Authority.
- (3) Where, immediately before the establishment day, a person stands designated under *subsection (2)*, the person shall, on that day, stand appointed as the first chief executive of the Authority.
- (4) The chief executive shall be a civil servant in the Civil Service of the State and shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration, allowances for expenses and superannuation) as may be determined, by the Minister with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform.
- (5) The chief executive shall not hold any other office or employment or carry on any business without the consent of the Board.
- (6) The chief executive shall not be a member of the Board, but he or she shall be entitled, in accordance with procedures established by the Board or a committee of the Board, as the case may be, to attend meetings of the Board or committee and shall be entitled to speak at and give advice at such meetings.
- (7) If the chief executive—
 - (a) dies, resigns or is removed from office, or
 - (b) is for any reason temporarily unable to continue to perform his or her functions,

the Board, with the approval of the Minister, may nominate such member or members of the staff of the Authority as it considers appropriate to perform the functions of the chief executive until—

 - (i) in the circumstances mentioned in *paragraph (a)*, a new chief executive is appointed in accordance with this section, or
 - (ii) in the circumstances mentioned in *paragraph (b)*, the chief executive is able to resume the performance of his or her functions.
- (8) The chief executive may resign his or her office by notice in writing to the Minister, copied to the chairperson of the Board, and the resignation shall take effect on the date specified in the notice or the date on which the Minister receives the notice, whichever is later.
- (9) References in this Act to the chief executive shall be construed as including references to a person nominated under *subsection (7)*.

Functions of chief executive

26. (1) The chief executive shall—
- (a) implement the policies and decisions of the Board,

- (b) carry on and manage and control generally the staff, the administration and business of the Authority,
 - (c) be accountable to the Board for the efficient and effective management of the Authority and for the due performance of his or her functions,
 - (d) provide the Board with such information (including information with respect to the performance of those functions in so far as they relate to the financial affairs of the Authority) as the Board may require, and
 - (e) perform such other functions (if any) as may be determined by the Authority.
- (2) The chief executive may make proposals to the Board on any matter relating to its functions.

Delegation of functions

27. (1) The chief executive may delegate any of his or her functions, other than a function that is subject to a condition specified by the Board that the function shall not be delegated, to a member of staff of the Authority and the member of staff shall be accountable to the chief executive for the performance of the functions so delegated.
- (2) The chief executive shall be accountable to the Board for the performance of functions delegated by him or her under *subsection (1)*.
- (3) The chief executive may revoke a delegation made by him or her under *subsection (1)*.
- (4) In this section, “functions” includes a function delegated by the Authority to the chief executive, except one delegated subject to a condition that the function shall not be delegated by the chief executive to another person.

Membership of either House of Oireachtas, European Parliament or local authority

28. A person is not eligible for appointment as chief executive or a member of staff of the Authority, while—
- (a) nominated as a member of Seanad Éireann,
 - (b) elected as a member of either House of the Oireachtas or of the European Parliament,
 - (c) entitled under the Standing Orders of either House of the Oireachtas to sit in that House,
 - (d) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to be a member of the European Parliament,
 - (e) a member of a local authority, or
 - (f) entitled under the standing orders of a local authority to sit as a member of that local authority.

Removal of chief executive

29. (1) The Board may, by a simple majority, remove the chief executive from office if it is satisfied that one or more of the grounds specified in *subsection (2)* apply to the chief executive.
- (2) The grounds referred to in *subsection (1)* are that—
- (a) the chief executive has become incapable, through ill-health, of performing his or her functions,
 - (b) the chief executive has committed stated misbehaviour, or
 - (c) the removal of the chief executive is necessary for the effective and efficient performance of the Authority's functions.
- (3) Where the Board proposes to remove the chief executive from office under *subsection (1)*, it shall notify the chief executive in writing of the proposal.
- (4) A notice under *subsection (3)* shall include a statement—
- (a) of the reasons for the proposed removal,
 - (b) that the chief executive may make representations to the Board in such form and manner as may be prescribed,
 - (c) that any such representations must be made within a period of 20 working days from the date of the giving of the notice, or such longer period as the Board may, having regard to the requirements of natural justice, specify in the notice, and
 - (d) that at the end of the period referred to in *paragraph (c)* or in the notice, whether or not any representations are made, the Board shall decide whether to remove the chief executive from office.
- (5) In considering whether to remove the chief executive from office under *subsection (1)*, the Board shall take into account—
- (a) any representations made pursuant to *paragraph (b)* and *(c)* of *subsection (4)*, and
 - (b) any other matter that the Board considers relevant for the purposes of its decision.
- (6) Where, after giving notice under *subsection (3)*, the Board decides not to remove the chief executive from office, the Board shall notify the chief executive in writing of the decision.
- (7) Where, after giving notice under *subsection (3)*, the Board decides to remove the chief executive from office, it shall—
- (a) notify the chief executive and the Minister, in writing, of the decision, the reasons for it and the date from which it shall take effect (which shall be a date not earlier than the date of the notice under this paragraph),
 - (b) lay before each House of the Oireachtas a statement in writing of the decision and the reasons for it,

- (c) provide a statement in writing of the decision and the reasons for it to the Oireachtas Committee to which the Oireachtas has assigned the role of examining matters relating to the automatic enrolment retirement savings system, and
- (d) provide a copy of the statement referred to in *paragraph (b)* to the chief executive.

Staff of Authority

30. (1) The Authority may, with the approval of the Minister and the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, appoint such persons to be members of the staff of the Authority as it may determine.
- (2) The terms and conditions of service of a member of the staff of the Authority and the grade at which he or she serves shall be such as may be determined by the Authority, with the approval of the Minister and the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform.
- (3) Appointments under this section shall be subject to the Public Service Management (Recruitment and Appointments) Act 2004 and the Civil Service Regulation Acts 1956 to 2005.
- (4) A member of the staff of the Authority shall be a civil servant in the Civil Service of the State.
- (5) The Authority is the appropriate authority (within the meaning of the Civil Service Regulation Acts 1956 to 2005) in relation to members of its staff.
- (6) The Authority may make arrangements with—
- (a) a public body, or
 - (b) any other person,
- for the engagement with the Authority on a temporary basis of a person in the service of, or employed by, such public body or person.
- (7) A person who is engaged on a temporary basis with the Authority pursuant to an arrangement under *subsection (6)* shall be under the direction and control of the chief executive during the period of engagement.
- (8) The Minister may make available to the Authority premises, equipment, services and other resources for the performance by the Authority of its functions.
- (9) The Minister may, subject to agreement with the chief executive (by whatever name called) of any public body, provide for the provision of resources under *subsection (8)*.
- (10) In this section, “public body” means—
- (a) a Minister of the Government,
 - (b) a local authority,

- (c) a body (other than a company) established by or under an enactment, or
- (d) a company established pursuant to a power conferred by or under an enactment, and financed wholly or partly by—
 - (i) moneys provided, or loans made or guaranteed, by a Minister of the Government, or
 - (ii) the issue of shares held by or on behalf of a Minister of the Government.

Engagement of consultants and advisers

- 31.** (1) The Authority may engage such consultants and advisers for such period and subject to such terms and conditions as it considers necessary or expedient for the performance of its functions.
- (2) Fees due to a consultant or adviser engaged under this section shall, having regard to guidelines issued from time to time by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid by the Authority out of moneys at its disposal.
- (3) The Authority shall comply with any directions concerning the engagement of consultants and advisers which the Minister, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, may give to it.

Engagement of service providers

- 32.** (1) The Authority may engage persons to provide services, other than investment management services, where the Authority considers it necessary or expedient for the performance of its functions.
- (2) Contracts for the provision of services to the Authority by service providers shall include conditions requiring that each service provider—
- (a) operates to the highest standards of honesty and fairness and with due skill, care, prudence and diligence in conducting its business activities under the contract so as to assist the Authority in the performance of its functions,
 - (b) effectively employs the resources and procedures that are necessary for the proper performance of such business activities,
 - (c) makes every effort to avoid or manage conflicts of interest and to declare any such conflict (actual or potential) to the Authority,
 - (d) complies with any regulatory regime to which it is subject,
 - (e) fully cooperates with auditors appointed by the Authority to carry out an audit of the books, accounts and other financial statements of the service provider in so far as they relate to the services performed for the Authority, and
 - (f) complies with requests for information from the Authority.

- (3) Fees due to a service provider are payable by the Authority out of moneys at its disposal.

CHAPTER 4

*Funding, reporting and accountability***Appearance before Public Accounts Committee**

33. (1) The chief executive shall, whenever required in writing to do so by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the accounts and reports of the Comptroller and Auditor General (in this section referred to as the “Committee”), give evidence to the Committee in relation to—
- (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General that the Authority is required by or under this Act or any other enactment to prepare,
 - (b) the economy and efficiency of the Authority in the use of its resources,
 - (c) the systems, procedures and practices employed by the Authority for the purpose of evaluating the effectiveness of its operations, and
 - (d) any matter affecting the Authority referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993 or in any other report of the Comptroller and Auditor General, in so far as it relates to a matter specified in *paragraph (a), (b) or (c)*, that is laid before Dáil Éireann.
- (2) In the performance of his or her duties under this section, the chief executive shall not question or express an opinion on the merits of—
- (a) any policy of the Government or of a Minister of the Government, or
 - (b) the objectives of such a policy.
- (3) When appearing before the Committee, the chief executive shall appear as an accountable person and not as an accounting officer.
- (4) Any evidence given under *subsection (1)* shall, subject to preserving confidentiality in relation to such commercially sensitive information as determined by the Authority, relate to the policies of the Authority.

Appearances before committees of Houses of Oireachtas

34. (1) Subject to *subsection (2)*, the chief executive shall, at the request in writing of an Oireachtas Committee, attend before it to give an account of the general administration of the Authority.

- (2) The chief executive shall not be required to give an account before an Oireachtas Committee of any matter which is the subject of proceedings before a court or tribunal in the State.
- (3) Where the chief executive is of the opinion that a matter in respect of which he or she is requested to give an account before an Oireachtas Committee is a matter to which *subsection (2)* applies, he or she shall inform the Oireachtas Committee of that opinion and the reasons for the opinion and, unless the information is conveyed to that Oireachtas Committee at a time when the chief executive is before it, the information shall be so conveyed in writing.
- (4) Where the chief executive has informed an Oireachtas Committee of his or her opinion in accordance with *subsection (3)* and the Oireachtas Committee does not withdraw its request on the matter the subject of that opinion—
 - (a) the chief executive may, not later than 21 days after being informed by the Oireachtas Committee of its decision not to do so, apply to the High Court in a summary manner for determination of the question whether the matter is one to which *subsection (2)* applies, or
 - (b) the chairperson of the Oireachtas Committee may, on behalf of the Oireachtas Committee, make such an application not later than 21 days after informing the chief executive of its decision not to do so,and the High Court shall determine the matter.
- (5) Pending the determination of an application under *subsection (4)*, the chief executive shall not attend before the Oireachtas Committee to give account for the matter the subject of the application.
- (6) If the High Court determines that the matter concerned is one to which *subsection (2)* applies, the Oireachtas Committee shall withdraw the request referred to in *subsection (1)*, but if the High Court determines that *subsection (2)* does not apply, the chief executive shall attend before the Oireachtas Committee to give account for the matter.
- (7) In the performance of his or her duties under this section, the chief executive shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.
- (8) With the permission of the chairperson of the Oireachtas Committee making the request under *subsection (1)*, a member of staff of the Authority nominated by the chief executive may attend before the Oireachtas Committee in place of the chief executive to give an account of the general administration of the Authority, and in that case a reference in *subsections (2) to (7)* to the chief executive shall be read as including a reference to the person attending in his or her place.

Expenses of Authority

- 35.** (1) The Minister may, having consulted with the chief executive and with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, prescribe—
- (a) the fees payable to the Authority in relation to the performance by it of its functions,
 - (b) the fees payable to the Authority for the purpose of meeting the cost of services provided by investment management providers,
 - (c) the persons by whom such fees are to be paid,
 - (d) when such fees are to be paid, and
 - (e) any general or specific exemptions from the payment of fees,
- and different provision may be made in respect of different classes or types of functions and different services or activities provided or carried out by the Authority in connection with the performance of those functions.
- (2) In prescribing the fees payable to the Authority under *subsection (1)(a)*, the Minister shall take account of the expenses incurred by the Authority in the performance of its functions.
- (3) The chief executive shall determine—
- (a) the manner or method of payment of any fees payable to the Authority, and
 - (b) the form in which the payment of any such fees shall be recorded, including the provision of a receipt in respect of such payment.
- (4) The expenses incurred by the Authority in the performance of its functions shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of moneys provided by the Oireachtas.

Power to borrow

- 36.** (1) The Authority may, with the consent of the Minister, the Minister for Finance and the Minister for Public Expenditure, National Development Plan Delivery and Reform and subject to such conditions (if any) as they may specify, from time to time, borrow money (whether on the security of the assets of the Authority or not).
- (2) The aggregate standing borrowed under this section at any one time shall not exceed such amount as the Minister may, with the consent of the Minister for Finance and the Minister for Public Expenditure, National Development Plan Delivery and Reform, determine.

Statement of strategy

- 37.** (1) The Board shall—

- (a) not later than 6 months after the commencement of this section, prepare and submit to the Minister a statement of strategy in respect of the period of 3 years immediately following the year in which the statement of strategy is so submitted, and
 - (b) not later than 3 months before the expiry of the period of 3 years to which the statement of strategy for the time being in effect applies, prepare and submit to the Minister a statement of strategy in respect of the period of 3 years immediately following the year in which the first-mentioned statement of strategy expires.
- (2) The Board shall, before preparing and submitting a statement of strategy in accordance with *subsection (1)*, seek and obtain the advice of the chief executive in relation thereto.
- (3) The Board shall, in the preparation of a statement of strategy, have regard to the need to ensure the most effective and efficient use of the resources available to the Authority.
- (4) A statement of strategy shall—
 - (a) except in the case of the statement of strategy first prepared, submitted and approved under this section, contain a review of the implementation of the immediately preceding statement of strategy,
 - (b) include the objectives, intended outputs and related strategies (including use of resources) of the Authority,
 - (c) specify the manner in which the Board proposes to assess the effectiveness of the implementation of the statement of strategy,
 - (d) include a statement setting out the approach taken to give effect to *section 9(2)*,
 - (e) include any other matters that the Minister may from time to time direct, and
 - (f) be prepared in a form and manner that is in accordance with any directions issued from time to time by the Minister.
- (5) The Minister shall, as soon as is practicable after a statement of strategy has been submitted to him or her under *subsection (1)* or resubmitted pursuant to a direction under *paragraph (c)*—
 - (a) approve the statement of strategy,
 - (b) approve the statement of strategy subject to such modifications as he or she may specify, or
 - (c) refuse to approve the statement of strategy and require the Board, by direction in writing, to prepare and submit to the Minister a revised statement of strategy.
- (6) The Board shall comply with a direction under this section by such date as may be specified in the direction.

- (7) The Authority shall not implement a statement of strategy unless it has been approved by the Minister in accordance with *paragraph (a) or (b) of subsection (5)*.
- (8) The Minister shall, as soon as is practicable after having approved a statement of strategy in accordance with *paragraph (a) or (b) of subsection (5)*, cause a copy of that statement to be laid before each House of the Oireachtas.
- (9) The Board shall, as soon as is practicable after the approval of a statement of strategy in accordance with *paragraph (a) or (b) of subsection (5)*, cause that statement to be published on a website maintained by or on behalf of the Authority and, where the Board considers it appropriate, in such other manner as it shall determine.

Annual plan

- 38.** (1) The Board shall prepare and submit to the Minister, at least 2 months before the commencement of each financial year, an annual plan relating to the performance of its functions, including—
- (a) the objectives and intended outputs of the Authority for that year and its strategy for achieving those objectives and outputs, having regard to the statement of strategy under *section 37* in effect in relation to that year,
 - (b) the Authority's priorities for its work to achieve those objectives and outputs, and
 - (c) any other matter that the Minister may direct.
- (2) The Authority shall, in preparing each annual plan, have regard to the need to ensure the most effective, efficient and economical use of its resources.
- (3) The Authority shall give a copy of the annual plan to such committees of either or both Houses of the Oireachtas as the Minister may direct.

Accounts and audits

- 39.** (1) The Authority shall keep, or cause to be kept, in such form as may be approved by the Minister, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, all proper and usual accounts (in this section referred to as "annual accounts") of all moneys received or expended by it and, in particular, shall keep in such form as may be approved by the Minister accounts and records of—
- (a) all income and expenditure of the Authority,
 - (b) the source of all income and the subject matter of the expenditure,
 - (c) all property, assets and liabilities of the Authority, and
 - (d) such other special accounts (if any) as the relevant Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, from time to time direct.
- (2) Annual accounts shall be submitted by the Authority, not later than 1 March in the year immediately following the financial year to which they relate or on such earlier

date as the Minister may from time to time specify, for audit to the Comptroller and Auditor General.

- (3) Within one month of the Comptroller and Auditor General issuing an audit certificate for the accounts of the Authority, a copy of—
- (a) the accounts, and
 - (b) the report of the Comptroller and Auditor General on the accounts,
- shall be presented to the Minister who, within 2 months after their receipt, shall cause copies of them to be laid before each House of the Oireachtas.
- (4) The Authority shall furnish to the Minister any information the Minister may require it to furnish in respect of any balance sheet, account or report of the Authority.
- (5) The Board and the chief executive and other members of staff of the Authority, whenever so requested by the Minister, shall—
- (a) permit any person appointed by the Minister to examine the books or other records of account of the Authority in respect of any financial year or other period, and
 - (b) facilitate the examination,
- and the Authority shall pay such audit fee as may be fixed by the Minister for the examination.

Annual report

- 40.** (1) The Authority shall, not later than 30 June in each year, prepare and submit to the Minister an annual report in writing on the performance of its functions during the preceding year.
- (2) Notwithstanding *subsection (1)*, if, but for this subsection, the first annual report under this section would relate to a period of less than 6 months, the report shall relate to that period and to the year immediately following that period and shall be made as soon as may be, but not later than 6 months after the end of that year.
- (3) An annual report shall include—
- (a) a statement on the activities undertaken by the Authority,
 - (b) a general report on the complaints and reviews received by the Authority during the period concerned indicating—
 - (i) the total number of complaints received,
 - (ii) the total number of reviews and appeals received under *Part 8*,
 - (iii) the nature of the complaints, reviews and appeals received, and
 - (iv) the outcome of any investigations into the complaints, reviews and appeals,
 - (c) a review of the performance of the AE provider schemes over—

- (i) the 5 preceding calendar years,
 - (ii) the 10 preceding calendar years, and
 - (iii) any other periods of such duration as may be determined by the Board,
and
 - (d) any other particulars that the Authority considers appropriate or as the Minister may direct.
- (4) The Minister shall, as soon as may be after receiving the annual report, cause copies of the annual report to be laid before each House of the Oireachtas.
- (5) The Authority shall arrange for an annual report to be published, on a website maintained by or on behalf of the Authority or in any other manner as the Minister may specify, as soon as is practicable after copies of the report are laid before each House of the Oireachtas.

Request from Minister to Authority for report

41. The Minister may, from time to time as he or she considers appropriate, request the Authority to make a report to him or her on any matter relating to the functions of the Authority or the Board, and the Authority shall comply with the request within the period specified in the request or within such other period as may be agreed by the Minister and the Authority.

Production of statistical data

42. (1) The Authority shall publish on a website maintained by or on behalf of the Authority—
- (a) aggregate statistical data relating to participation in the automatic enrolment retirement savings system,
 - (b) statistical data relating to the types of investments held by AE provider schemes,
and
 - (c) such other statistical information as may be prescribed.
- (2) The Authority shall perform the functions in *subsection (1)* in a transparent, independent and accountable manner with due respect for the protection of confidential information.

Power to monitor, review and make recommendations

43. (1) The Authority shall monitor and review the operation and effectiveness of this Act and the automatic enrolment retirement savings system, including the adequacy of the functions assigned to the Authority.

- (2) A review under *subsection (1)* shall be conducted not later than 5 years after the coming into operation of this section and, thereafter, from time to time as the Authority may determine.
- (3) A review under *subsection (1)* shall include consideration of the following matters:
 - (a) the earnings threshold for enrolment set out in *section 50(3)*;
 - (b) the ages between which a person is eligible for enrolment;
 - (c) the ages between which a person is eligible to opt in under *section 53*;
 - (d) the required employment status of persons eligible for enrolment;
 - (e) the provision of insurances and other benefits by the Authority in relation to retirement savings;
 - (f) the range of AE provider schemes offered by the Authority;
 - (g) the rates of contribution under *section 61*;
 - (h) the provision of draw-down options under *section 80*;
 - (i) any other matter that may be directed by the Minister from time to time.
- (4) The Authority shall, following a review under *subsection (1)*, prepare a report of the findings of the review and set out such recommendations, if any, as it considers appropriate.
- (5) The Authority shall submit a report and recommendations, if any, prepared under *subsection (4)* to the Minister for his or her consideration and the Minister shall have regard to any such recommendations.
- (6) The Minister shall, as soon as may be after receiving a report under *subsection (5)*, cause copies of the report to be laid before each House of the Oireachtas.
- (7) The Authority shall publish the report of the findings of a review and its recommendations, if any, on a website maintained by or on behalf of the Authority.

CHAPTER 5

Supervisory report by Pensions Authority

Supervisory report by Pensions Authority

- 44.** (1) After the end of each reporting period the Pensions Authority shall, in accordance with *section 45*, prepare and submit to the Minister a report, referred to in this section as a “supervisory report”.
- (2) For the purpose of preparing a supervisory report the Pensions Authority shall review—
- (a) the performance by the Authority and the Board of their functions in the reporting period,

- (b) the operation and effectiveness in the reporting period of the Authority's systems of governance and systems of operation, including in relation to—
 - (i) the systems, procedures and practices for the internal performance management and accountability of the Authority under *section 10(2)(a)*,
 - (ii) the arrangements for the management of the performance of the chief executive under *section 10(2)(b)*,
 - (iii) the systems of internal control put in place under *section 18(2)(b)*,
 - (iv) the risk management guidelines established under *section 19(2)(b)*,
 - (v) the system for monitoring of the AE provider schemes under *section 19(2)(d)*,
 - (vi) procedures for appointment of investment management providers under *section 68*, and
 - (vii) procedures for the engagement and oversight of service providers under *section 32*,and
- (c) the operation and effectiveness of this Act in the reporting period, including in particular—
 - (i) the appropriateness of the provision made by *section 105* as to the information to be provided to participants,
 - (ii) the suitability of the composition of the Board having regard to the knowledge and experience of its members in matters connected to—
 - (I) the functions of the Authority, and
 - (II) organisational governance, management, financial administration and financial investment,
 - (iii) the suitability of the composition of the audit and risk committee and the investment committee, having regard to the relevant expertise and experience of its members,
 - (iv) the appropriateness of the fees payable to the Authority pursuant to regulations made under *section 35*, and
 - (v) the risks that may affect the automatic enrolment retirement savings system and the ability of the Authority to assess and manage those risks.
- (3) A supervisory report shall, in so far as is practicable, take into account developments in matters referred to in *subsection (2)* since the end of the reporting period.
- (4) Where the Pensions Authority, by notice in writing, requires the Board to supply, within a reasonable period specified in the notice, information specified in the notice which it requires for the purpose of preparing a supervisory report, the Board shall provide the Pensions Authority with the information within that period.

- (5) A supervisory report shall contain—
- (a) the Pensions Authority’s findings on its review under *subsection (2)*,
 - (b) its assessment at the date of the report of the arrangements referred to in *subparagraph (i) to (vii) of subsection (2)(b)*,
 - (c) its assessment at the date of the report of the operation and effectiveness of this Act, including the matters referred to in *subparagraph (i) to (v) of subsection (2)(c)*, and
 - (d) any recommendations the Pensions Authority considers appropriate in relation to matters referred to in *subsection (2)*.
- (6) In this section, “reporting period” means—
- (a) where the period beginning with the day on which this section comes into operation and ending with 31 December in the same year is not less than 6 months, that period, or
 - (b) where the period beginning with the day on which this section comes into operation and ending with 31 December in the same year is less than 6 months, that period together with the following year,
- and each subsequent year.

Preparation and submission of supervisory report by Pensions Authority

- 45.** (1) Before submitting a supervisory report to the Minister the Pensions Authority shall, not later than 31 March after the reporting period to which the report relates, send the Board a draft of the report.
- (2) A draft report submitted under *subsection (1)* shall be accompanied by—
- (a) a copy of any material relied on by the Pensions Authority in preparing the draft report, and
 - (b) a notice in writing stating that the Board may, not later than 6 weeks from the date on which it receives the notice, or such further period as the Pensions Authority considers necessary, make submissions in writing to the Pensions Authority on the draft report.
- (3) The Pensions Authority shall, as soon as is practicable after the expiration of the period referred to in *subsection (2)(b)*, and having considered any submissions made in accordance with the notice under that subsection, make any revisions to the draft report which in the opinion of the Pensions Authority are warranted, and finalise the report.
- (4) The Pensions Authority shall include as an appendix to the report a copy of any submissions made under *subsection (2)(b)*.

- (5) The Pensions Authority shall submit the report to the Minister as soon as is practicable after it has been finalised and not later than 30 June after the reporting period to which it relates.
- (6) When the Pensions Authority submits the report to the Minister, it shall also send a copy of it to the Board.
- (7) The Minister shall, as soon as may be after receiving a report under *subsection (5)*, cause copies of the report to be laid before each House of the Oireachtas.
- (8) The Minister shall, not later than 6 weeks after receiving a report under *subsection (5)*, send a copy of the report to the Comptroller and Auditor General.
- (9) In this section, “reporting period” and “supervisory report” have the same meaning as in *section 44*.

Annual fee payable to Pensions Authority

- 46.** (1) The Authority shall pay an annual fee to the Pensions Authority.
- (2) The fee shall be paid out of moneys at the disposal of the Authority.
- (3) The Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, prescribe the amount of the fee.

PART 3

ENROLMENT AND CONTRIBUTIONS

CHAPTER 1

Preliminary

Interpretation (*Part 3*)

- 47.** (1) In this Part—

“*emoluments*” means emoluments, within the meaning of Chapter 4 of Part 42 of the Taxes Consolidation Act 1997, to which that Chapter applies;

“*employee*” means any person in receipt of emoluments;

“*employer*” means any person paying emoluments (and, in relation to an employee, means the person paying emoluments to the employee);

“*exempt employment*” has the meaning given by *section 51*;

“*gross pay*” and “*total gross pay*” shall be construed in accordance with *subsections (2) and (3)*;

“*opt-out date*” shall be construed in accordance with *section 54(3)* and references to having opted out shall be construed accordingly;

“payroll notification” means a notification that—

- (a) is issued by the Authority to an employer in respect of an employee, and
- (b) contains information relating to the calculation and deduction of contributions in accordance with this Part;

“years 1 to 3” means the period of 3 years beginning with the date on which *section 61* comes into operation;

“years 4 to 6” means the period of 3 years immediately following years 1 to 3;

“years 7 to 9” means the period of 3 years immediately following years 4 to 6.

- (2) References in this Part to a person’s gross pay in relation to a payment of emoluments, in a case where regulations under Chapter 4 of Part 42 of the Taxes Consolidation Act 1997 require the person’s employer to notify an amount to the Revenue Commissioners, on or before making a payment, as the person’s gross pay, are references to the amount that the regulations require to be notified.
- (3) Where *subsection (2)* does not apply, references in this Part to a person’s gross pay in relation to a payment of emoluments are references to the amount calculated by the Authority, on the basis of information required to be notified by the person’s employer to the Revenue Commissioners, as the emoluments of that person in the period to which the payment of emoluments relates—
 - (a) taking into account, in the case of emoluments to which *section 985A* of the Taxes Consolidation Act 1997 applies, the amount of notional payments which *subsection (2)* of that section treats the employer as making, and
 - (b) without deducting amounts that fall to be deducted for any reason by the employer from the payment of emoluments.
- (4) For the purposes of this Part, a person’s total gross pay in a period is the sum of the amounts of the person’s gross pay in relation to all payments of emoluments in the period.
- (5) References in this Part to payments of emoluments include references to payments on account of emoluments.

Death of employer

- 48. Where an employer dies, anything which the employer would have been liable to do under this Part shall be done by the employer’s personal representative, or, in the case of an employer who paid emoluments on behalf of another person, by the person succeeding the employer or, if there is no such person, the person on whose behalf the employer paid emoluments.

CHAPTER 2

Enrolment

Participants

49. For the purpose of this Act, a person becomes a participant on the enrolment date assigned to that person under *section 50(1)* or *53(1)*.

Automatic enrolment

50. (1) Where the Authority determines that a person satisfies the conditions for enrolment in any pay reference period, the Authority shall assign the last day of that period as the person's enrolment date.
- (2) The conditions for enrolment for any pay reference period are—
- (a) that on the last day of the pay reference period the person is aged at least 23 years and under 60 years,
 - (b) that on that day the person is an employee in employment that is not exempt employment, and
 - (c) that the person's total gross pay in all employments, including exempt employments, in the pay reference period is not less than the earnings threshold.
- (3) The earnings threshold for the purposes of *subsection (2)(c)* is:
- (a) where the pay reference period is a year, €20,000;
 - (b) where the pay reference period is more or less than a year, an amount proportionately more or less than €20,000.
- (4) For the purposes of this section, a “pay reference period” in any circumstances means a period determined by the Authority as a pay reference period in relation to those circumstances.
- (5) A pay reference period may be a period beginning before the commencement of this section.
- (6) Where under *subsection (1)* the Authority determines that a person satisfies the conditions for enrolment, the Authority shall give notice of the determination and of the enrolment date to any person treated for the purposes of the determination as that person's employer in employment that is not exempt employment.
- (7) An employer to whom notice is given under *subsection (6)* shall give notice of the determination and the enrolment date to the employee concerned.
- (8) An employer to whom notice is given under *subsection (6)*, who fails to give notice of the determination and the enrolment date in accordance with *subsection (7)*, is guilty of an offence.

Exempt employment

- 51.** (1) For the purposes of this Act, an employee’s employment is exempt employment at any time if at that time—
- (a) it satisfies the employee contributions test under *subsection (2)*, or
 - (b) it satisfies the employer contributions test under *subsection (3)*.
- (2) For the purposes of *subsection (1)*, an employment satisfies the employee contributions test at any time if—
- (a) the employee’s emoluments in respect of employment at that time in that employment are subject to the deduction of amounts for the purpose of the employee making contributions for the benefit of the employee to a qualifying occupational pension scheme, qualifying PRSA, qualifying trust RAC or qualifying PEPP, and
 - (b) under regulations under Chapter 4 of Part 42 of the Taxes Consolidation Act 1997 the deduction of amounts referred to in *paragraph (a)* is required to be notified by the employer to the Revenue Commissioners on or before making a payment of emoluments in respect of the employment.
- (3) For the purposes of *subsection (1)*, an employment satisfies the employer contributions test at any time if—
- (a) the employer makes contributions for the benefit of the employee, in respect of the employment of the employee at that time in that employment, to a qualifying occupational pension scheme, qualifying PRSA, qualifying trust RAC or qualifying PEPP, and
 - (b) under regulations under Chapter 4 of Part 42 of the Taxes Consolidation Act 1997 the payment of contributions referred to in *paragraph (a)* is required to be notified by the employer to the Revenue Commissioners on or before making a payment of emoluments in respect of the employment.
- (4) For the purpose of this section, a “qualifying occupational pension scheme” means—
- (a) if standards in relation to occupational pension schemes apply for the purposes of this section under regulations made under *section 52*, an occupational pension scheme which meets those standards, or
 - (b) in any other case, any occupational pension scheme.
- (5) For the purpose of this section, a “qualifying PRSA” means—
- (a) if standards in relation to PRSAs apply for the purposes of this section under regulations made under *section 52*, a PRSA which meets those standards, or
 - (b) in any other case, any PRSA.
- (6) For the purpose of this section, a “qualifying trust RAC” means—
- (a) if standards in relation to trust RACs apply for the purposes of this section under regulations made under *section 52*, a trust RAC which meets those standards, or

- (b) in any other case, any trust RAC.
- (7) For the purpose of this section, a “qualifying PEPP” means—
 - (a) if standards in relation to PEPPs apply for the purposes of this section under regulations made under *section 52*, a PEPP which meets those standards, or
 - (b) in any other case, any PEPP.
- (8) In this section and *section 52*, “occupational pension scheme”, “PRSA” and “trust RAC” have the meaning given by section 2(1) of the Pensions Act 1990, and “PEPP” has the same meaning as in Regulation (EU) No. 2019/1238 of the European Parliament and Council of 20 June 2019¹.

Standards for purposes of *section 51*

- 52.** (1) The Authority, in consultation with the Pensions Authority, shall draw up—
- (a) standards to apply for the purposes of *section 51* in relation to occupational pension schemes,
 - (b) standards to apply for the purposes of *section 51* in relation to PRSAs,
 - (c) standards to apply for the purposes of *section 51* in relation to trust RACs, and
 - (d) standards to apply for the purposes of *section 51* in relation to PEPPs.
- (2) The standards drawn up under this section shall relate to levels of contribution by employers and employees, and any other matter that the Authority, in consultation with the Pensions Authority, considers appropriate.
- (3) In drawing up standards under this section, the Authority—
- (a) shall have regard to the operation of this Act in relation to participants, and
 - (b) shall aim to secure that the standards drawn up, as they affect employees in respect of whom contributions are made to a qualifying occupational pension scheme, qualifying PRSA, qualifying trust RAC or qualifying PEPP, are at least as favourable as corresponding standards affecting employees who are participants under this Act.
- (4) The Authority, in consultation with the Pensions Authority, shall keep under review and may from time to time revise the standards drawn up under this section.
- (5) Where standards are drawn up or revised under this section, the Minister may by regulations make provision setting out the standards and providing for them to apply for the purposes of *section 51* from a date prescribed by the regulation.
- (6) The Authority and the Minister shall exercise their functions under this section with a view to ensuring that the first standards drawn up under each of *paragraphs (a), (b), (c) and (d) of subsection (1)* apply for the purposes of *section 51* from a date no later than the beginning of years 7 to 9.

¹ OJ No. L198, 25.7.2019, p.1.

Right to opt in

53. (1) Where a person who is not a participant makes an application under this section and the Authority determines by reference to a date (the “proposed enrolment date”) that the person is entitled under *subsection (2)* to opt in, the Authority shall assign that date as the person’s enrolment date.
- (2) A person is entitled under this subsection to opt in if on the proposed enrolment date—
- (a) the person has reached the age of 18 years and is under pensionable age, and
 - (b) the person is an employee in employment that is not exempt employment.
- (3) Where a participant who has opted out makes an application under this section and the Authority determines by reference to a date (the “proposed re-enrolment date”) that the participant is entitled under *subsection (4)* to opt in, the Authority shall assign that date as the person’s re-enrolment date.
- (4) A participant is entitled under this subsection to opt in if on the proposed re-enrolment date the participant—
- (a) is under pensionable age, and
 - (b) is an employee in employment that is not exempt employment.
- (5) Where the Authority determines under *subsection (1)* or *(3)* that a person is not entitled to opt in, it shall refuse the application and notify the participant in writing of the refusal.
- (6) A notice under *subsection (5)* shall—
- (a) give the reasons for the refusal, and
 - (b) state that the person is entitled to a review of the determination under *section 114*.
- (7) Where the Authority determines under *subsection (1)* or *(3)* that a person is entitled to opt in, the Authority shall give notice of the determination and of the enrolment date referred to in *subsection (1)* or the re-enrolment date referred to in *subsection (3)* to any person treated for the purposes of the determination as that person’s employer in employment that is not exempt employment.
- (8) An employer to whom notice is given under *subsection (7)* shall give notice of the determination and the enrolment date or re-enrolment date, as the case may be, to the employee concerned.
- (9) An employer to whom notice is given under *subsection (7)*, who fails to give notice of the determination and the enrolment date or re-enrolment date in accordance with *subsection (8)*, is guilty of an offence.

Right to opt-out

54. (1) Where a participant makes an application to the Authority under this section in an opt-out window, the Authority shall assign a date as the participant’s opt-out date.

- (2) Each of the following is an “opt-out window”:
- (a) the period which is more than 6 months but not more than 8 months after the date on which notice of enrolment is given to the participant under *section 50(7)*;
 - (b) the period which is more than 6 months but not more than 8 months after the date on which notice of re-enrolment is given to the participant under *section 55(3)*;
 - (c) the period which is more than 6 months but not more than 8 months after the end of years 1 to 3;
 - (d) the period which is more than 6 months but not more than 8 months after the end of years 4 to 6;
 - (e) the period which is more than 6 months but not more than 8 months after the end of years 7 to 9.
- (3) In this Part—
- (a) “opt-out date”, in relation to a person, means a date assigned under *subsection (1)* as the person’s opt-out date, and
 - (b) a participant is treated as having opted out for the period beginning with the opt-out date and ending with any subsequent re-enrolment date.

Automatic re-enrolment

- 55.** (1) Where a person has opted out, and the Authority determines by reference to a date (the “proposed re-enrolment date”) that the person satisfies the conditions for re-enrolment, the Authority shall assign that date as the person’s re-enrolment date.
- (2) A person satisfies the conditions for re-enrolment if—
- (a) the proposed re-enrolment date is after the period of 2 years beginning with the opt-out date,
 - (b) on the proposed re-enrolment date the person is under pensionable age, and
 - (c) on the proposed re-enrolment date the person is an employee in employment that is not exempt employment.
- (3) Where under *subsection (1)* the Authority determines that a person satisfies the conditions for re-enrolment, the Authority shall give notice of the determination and of the re-enrolment date to—
- (a) that person, and
 - (b) any person treated for the purposes of the determination as that person’s employer in employment that is not exempt employment.

Power to amend age limits and earnings threshold

- 56.** (1) The Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform—

- (a) prescribe a different age than an age specified in *section 50(2)(a)*;
 - (b) prescribe a different amount than the amount specified in *section 50(3)*;
 - (c) prescribe a different age than an age specified in *section 53(2)(a)*.
- (2) The age or amount prescribed under *subsection (1)* shall be such as the Minister considers appropriate having regard to the following:
- (a) the general state of society and of the economy;
 - (b) the public interest and the interests of employees and employers;
 - (c) the impact that the substitution may have—
 - (i) on society and the economy, and
 - (ii) on employees or employers, generally or in particular sectors or particular kinds of employment;
 - (d) annual and quarterly data on earnings and labour costs published by the Central Statistics Office;
 - (e) expert opinion, research and national or international reports that the Minister considers relevant relating to the matters referred to in *paragraphs (a) to (d)*;
 - (f) the views of the Authority;
 - (g) the views of trade unions and of employer representative bodies;
 - (h) any other matters the Minister considers relevant.

CHAPTER 3

Contributions

Contributing participants

- 57.** (1) For the purposes of this Act, subject to *subsections (2) and (3)*, a participant who is under pensionable age is a contributing participant.
- (2) A participant who has opted out—
- (a) ceases to be a contributing participant on the opt-out date, and
 - (b) if assigned a re-enrolment date, becomes a contributing participant again on that date.
- (3) A participant who suspends contributions under *section 62* ceases to be a contributing participant for the period of suspension.

Contributions

- 58.** (1) In the case of each contributing participant—
- (a) a participant contribution,

- (b) an employer contribution, and
- (c) a State contribution,

shall, subject to *subsection (3)*, be paid to the Authority at the appropriate rate on the participant's gross pay in relation to each payment of emoluments in each employment that is not an exempt employment.

- (2) The appropriate rate of any contribution is the rate determined by *section 61*.
- (3) Where a payment of emoluments is made to a participant on any day in a financial year, no contribution is payable on so much of the participant's gross pay in relation to that payment as, taken with the participant's total gross pay, in all employments that are not exempt employments, in the part of the financial year before that day, exceeds €80,000.
- (4) The information necessary for the calculation and payment of contributions payable under this section shall be notified by the Authority—
 - (a) by a payroll notification to the employer, in the case of participant contributions and employer contributions, and
 - (b) by a notification under *section 60* to the Minister, in the case of State contributions.
- (5) A payroll notification or notification under *section 60* may include, in the calculation of contributions to which it relates, an adjustment for any error in the amount of past contributions.

Payment of participant contribution and employer contribution

- 59.** (1) Where an employer of a participant has received a payroll notification relating to the participant, the employer shall, in accordance with the notification, on or before making any payment of emoluments to the participant—
- (a) calculate the participant contribution payable in respect of the payment of emoluments,
 - (b) deduct the amount of the contribution from the emoluments, and
 - (c) pay the contribution to the Authority.
- (2) An employer at the same time as paying any participant contribution in respect of the payment of emoluments, shall, in accordance with the payroll notification referred to in *subsection (1)*—
- (a) calculate the employer contribution payable in respect of the payment of emoluments, and
 - (b) pay the contribution to the Authority.
- (3) Where an employer pays to the Authority a contribution deducted from emoluments in accordance with *subsection (1)*, the employer is acquitted and discharged of the sum

represented by the contribution as if the employer had actually paid that sum to the employee.

Payment of State contribution

60. Where the Minister receives a notification from the Authority relating to State contributions payable in respect of a participant, the Minister shall in accordance with the notification—
- (a) calculate the contributions payable, and
 - (b) pay the contributions to the Authority.

Rates of contribution

61. (1) The rate of participant contributions and employer contributions in respect of a contributing participant in any employment shall be:
- (a) for a payment of emoluments in years 1 to 3, 1.5 per cent;
 - (b) for a payment of emoluments in years 4 to 6, 3 per cent;
 - (c) for a payment of emoluments in years 7 to 9, 4.5 per cent;
 - (d) for a payment of emoluments after the end of years 7 to 9, 6 per cent.
- (2) The rate of State contributions in respect of a contributing participant shall be:
- (a) for a payment of emoluments in years 1 to 3, 0.5 per cent;
 - (b) for a payment of emoluments in years 4 to 6, 1 per cent;
 - (c) for a payment of emoluments in years 7 to 9, 1.5 per cent;
 - (d) for a payment of emoluments after the end of years 7 to 9, 2 per cent.

Suspension of contributions

62. (1) A participant may suspend contributions in accordance with this section.
- (2) A period of suspension may begin at any time that is—
- (a) not less than 6 months after the enrolment date or any re-enrolment date of the participant, and
 - (b) not less than 6 months after the end of any earlier period of suspension.
- (3) A period of suspension ends:
- (a) on any date notified by the participant to the Authority;
 - (b) if no date is notified under *paragraph (a)*, at the end of the period of 2 years beginning with the start of the period.
- (4) A date notified under *subsection (3)(a)* shall be not less than one year and not more than 2 years after the start of the period of suspension.

- (5) The Authority may specify, and publish on a website maintained by or on behalf of the Authority, the procedure for suspending contributions or ending a period of suspension, including requirements as to—
- (a) the form and content of a notice from a participant to suspend contributions or end a period of suspension, and
 - (b) the period within which the notice shall be given.

Repayment of contributions on opting out

- 63.** (1) Where a participant has opted out, the Authority shall repay to the participant, subject to *subsection (3)*, the participant contributions paid by the participant in respect of payments of emoluments in the mandatory participation period.
- (2) In *subsection (1)*, the “mandatory participation period” means—
- (a) where the participant opted out in the opt-out window referred to in *section 54(2)(a)*, the period beginning with the enrolment date and ending with the opt-out date,
 - (b) where the participant opted out in the opt-out window referred to in *section 54(2)(b)*, the period beginning with the re-enrolment date referred to in *section 54(2)(b)* and ending with the opt-out date,
 - (c) where the participant opted out in the opt-out window referred to in *section 54(2)(c)*, the period beginning with the first day after years 1 to 3 and ending with the opt-out date,
 - (d) where the participant opted out in the opt-out window referred to in *section 54(2)(d)*, the period beginning with the first day after years 4 to 6 and ending with the opt-out date, and
 - (e) where the participant opted out in the opt-out window referred to in *section 54(2)(e)*, the period beginning with the first day after years 7 to 9 and ending with the opt-out date.
- (3) Where the participant opted out in an opt-out window referred to in *section 54(2)(c)*, *(d)* or *(e)*, only the additional amount of a participant contribution shall be repaid under *subsection (1)*.
- (4) In *subsection (3)*, the “additional amount” of a participant contribution is:
- (a) where the participant opted out in the opt-out window referred to in *section 54(2)(c)*, the difference between the contribution paid and the contribution that would have been payable if the rate applicable in years 1 to 3 continued to apply;
 - (b) where the participant opted out in the opt-out window referred to in *section 54(2)(d)*, the difference between the contribution paid and the contribution that would have been payable if the rate applicable in years 4 to 6 continued to apply;

- (c) where the participant opted out in the opt-out window referred to in *section 54(2)(e)*, the difference between the contribution paid and the contribution that would have been payable if the rate applicable in years 7 to 9 continued to apply.

Repayment of contributions in prescribed circumstances

- 64.** (1) The Authority shall repay contributions paid by or in respect of a person in such circumstances and in such manner and in accordance with such procedure as shall be prescribed.
- (2) The Minister shall make regulations providing for the circumstances in which repayments shall be made by the Authority and the manner and procedure for such repayment and, without prejudice to the foregoing, any such regulations shall in particular make provision for—
- (a) the repayment of contributions in the case of any overpayment of contributions for which adjustment is not made in accordance with this Part or regulations made under this Part, and
- (b) the making of a repayment where the person to whom it would have been made has died or cannot be traced.
- (3) For the purposes of this section, an overpayment of contributions includes a payment of contributions in circumstances where the factual basis on which the payment is made is found to have been incorrect or requires to be adjusted in the light of a later decision, if the factual basis as corrected or adjusted ought to have resulted in a lower payment, or in no payment.

Power to amend earnings limit

- 65.** (1) The Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, prescribe a different amount than the amount specified in *section 58(3)*.
- (2) An amount prescribed under *subsection (1)* shall be such as the Minister considers appropriate having regard to the matters referred to in *section 56(2)*.

CHAPTER 4

Further power to make regulations

Further power to make regulations

- 66.** (1) The Minister may make regulations providing for any of the following matters:
- (a) the provision to the Authority by an employer, on or before making a payment of emoluments, of information in relation to payments of emoluments and contributions, and any other prescribed information or documents;

- (b) the provision of information to the Authority by an employer in relation to an employee where the employee's employment with the employer begins or ends;
- (c) the priority to be given to the deduction of contributions under this Part over other deductions, except deductions in respect of tax, pay related social insurance or the universal social charge;
- (d) the payment of contributions in respect of emoluments to which section 985A of the Taxes Consolidation Act 1997 applies, or other emoluments in the form of shares or stocks, including the payment of contributions in cases where there is an insufficiency of payments of emoluments actually made;
- (e) the application of this Part in cases where a person is treated for the purposes of a provision of the Taxes Consolidation Act 1997 as making a payment of emoluments;
- (f) the application of this Part in relation to payments which are treated for the purposes of a provision of the Taxes Consolidation Act 1997 as payments of emoluments;
- (g) the application of this Part where an employer is treated by a provision of the Taxes Consolidation Act 1997 as making a payment of emoluments of an amount different from the amount actually paid;
- (h) the operation of this Part in circumstances where—
 - (i) an employee receives emoluments in respect of employment in a trade, business, concern or undertaking, or in connection with property, or receives an annuity or pension, and
 - (ii) there is a change in the employer from whom the employee receives the emoluments or annuity or pension;
- (i) the deduction and payment of contributions under this Part where emoluments in respect of an employment are paid after the end of the employment;
- (j) the operation of this Part in circumstances in which—
 - (i) the electronic system put in place by the Authority for the efficient operation of this Part is not functioning or is not functioning properly at any particular time such that a person is unable to comply with an obligation under this Part, or
 - (ii) a person is unable to use that electronic system at any particular time because of a general or partial systems failure of an internet service provider or of an electricity service provider, occurring in the general locality of or affecting the person's place of business,or in the circumstances of a technology systems failure within the meaning given by section 983 of the Taxes Consolidation Act 1997.

- (2) In *subsection (1)(b)*, the reference to employment with the employer, in the case of an employer who pays emoluments on behalf of another person, is a reference to employment with the person on whose behalf the employer pays emoluments.

PART 4

INVESTMENT

Definitions (Part 4)**67.** In this Part—

“AE provider scheme” has the meaning given by *section 69(2)*;

“alternative investment fund” has the same meaning as in the European Union (Alternative Investment Fund Managers) Regulations 2013 (S.I. No. 257 of 2013);

“appropriate risk level” shall be construed in accordance with *section 70(2)* and *(3)*;

“investment management contract” shall be construed in accordance with *section 68(3)*;

“risk level” means a risk level specified in, or in regulations under, *section 69*;

“UCITS” means a collective investment scheme authorised by the Central Bank under the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 (S.I. No. 352 of 2011);

“unit”, in relation to an AE provider scheme, includes a share and any other instrument granting an entitlement to share in the investments or relevant income of a UCITS or an alternative investment fund.

Investment management providers

- 68.** (1) The Authority shall appoint a person or persons to provide investment management services for the purposes of this Part.
- (2) A person appointed under *subsection (1)* is referred to in this Act as an “investment management provider”.
- (3) An appointment under *subsection (1)* shall be made, and the services to which the appointment relates shall be provided, under a contract between the Authority and the investment management provider, referred to in this Part as an “investment management contract”.
- (4) An investment management contract shall include—
- (a) provision under which the investment management provider and any subcontractor shall be a regulated financial service provider,
- (b) provision under which the provider or any subcontractor may be subject to a penalty, which may include termination of the contract or subcontract for any contravention of financial services legislation if it appears to the Authority that

the contravention affects or may affect the provision of the services to which the contract relates,

- (c) any other provision required by this Act, and
- (d) any other provision that the Authority considers appropriate.

(5) In this section—

“financial services” and “regulated financial service provider” have the same meaning as in the Central Bank Act 1942;

“financial services legislation”, in relation to a person falling within any paragraph of the definition of “regulated financial service provider” in section 2(1) of the Central Bank Act 1942, means—

- (a) the legislation providing for the regulation or supervision, as referred to in that paragraph, of the business of that person, and
- (b) any other legislation applying to the provision of financial services under the investment management contract between the Authority and that person.

AE provider schemes and risk levels

- 69.** (1) An investment management contract shall require the investment management provider to provide a UCITS or an alternative investment fund for the purposes of this Part within each of the risk levels that have effect in accordance with *subsection (3)*.
- (2) A UCITS or an alternative investment fund provided in accordance with *subsection (1)* is referred to in this Act as an “AE provider scheme”.
- (3) The risk levels for the purposes of this Part are—
- (a) the higher risk level, consisting of AE provider schemes with a risk rating of 5, 6 or 7,
 - (b) the medium risk level, consisting of AE provider schemes with a risk rating of 3 or 4,
 - (c) the lower risk level, consisting of AE provider schemes with a risk rating of 1 or 2,
- or such other risk levels as may be prescribed under *subsection (4)*.
- (4) The Minister may prescribe risk levels in place of the risk levels set out in *subsection (3)*, provided that at any time—
- (a) there are at least 3 prescribed risk levels, and
 - (b) each prescribed risk level consists of AE provider schemes whose risk rating (within the meaning given by *subsection (5)*) is a number, or within a range of numbers, prescribed.
- (5) For the purposes of this section, “risk rating”, in relation to an AE provider scheme, means the number assigned to the scheme on a scale representing risk from a low of 1

to a high of 7, where the scale and methodology used satisfy the conditions which apply in relation to the scheme under regulations under *subsection (6)*.

- (6) The Minister may make regulations prescribing the conditions to be satisfied by a scale and methodology used for the purposes of *subsection (5)* to indicate the level of risk of AE provider schemes, and different conditions may be prescribed in relation to schemes of different classes.
- (7) In making regulations under *subsection (6)* the Minister shall have regard to—
- (a) any scale and methodology applying under an enactment or European Union act for the purpose of indicating the level of risk of a UCITS or alternative investment fund,
 - (b) custom and practice in the financial industry in applying scales and methodologies referred to in *paragraph (a)* or other scales and methodologies for the purpose of indicating the level of risk of a UCITS or alternative investment fund,
 - (c) the extent to which a scale and methodology referred to in *paragraph (a)* and custom and practice referred to in *paragraph (b)* are applicable to AE provider schemes to which the regulations apply and appropriate for the purposes of this section, and
 - (d) without prejudice to *paragraph (c)*, the extent to which a scale and methodology, and custom and practice, referred to in that paragraph take into account climate-related risks.

Assignment of contributions to appropriate risk level

- 70.** (1) Amounts received by the Authority as contributions in respect of a participant shall be assigned by the Authority to the appropriate risk level.
- (2) Where the participant has selected a risk level by a procedure determined under *subsection (3)*, the appropriate risk level is that level.
- (3) The Authority shall determine—
- (a) the procedure by which a participant may select a risk level for the purposes of *subsection (2)*, and
 - (b) the time or times at which a participant may select a risk level for those purposes.
- (4) Where *subsection (2)* does not apply, the appropriate risk level, subject to *subsection (5)*, is:
- (a) where the period before the participant reaches pensionable age is more than 15 years, the higher risk level;
 - (b) where that period is 15 years or less, but more than 5 years, the medium risk level;
 - (c) where that period is 5 years or less, the lower risk level.

- (5) The Minister may make regulations specifying, for cases where *subsection (2)* does not apply, the appropriate risk level in relation to any period specified in the regulations before the participant reaches pensionable age.
- (6) Regulations under *subsection (5)* may provide—
 - (a) for different risk levels to be the appropriate risk level in relation to different parts of the participant's contributions, and
 - (b) for this Part to apply, for the purposes of provision under *paragraph (a)*, in relation to a part of a participant's contributions as it would apply, but for the regulations, in relation to the participant's contributions as a whole.

Power to provide for selection of more than one risk level

- 71.** (1) The Minister may by regulations provide—
- (a) that, in circumstances specified in the regulations, a participant may, under *section 70(2)*, select different risk levels in relation to different parts of the participant's contributions, and
 - (b) for this Part to apply, for the purposes of provision under *paragraph (a)*, in relation to a part of a participant's contributions as it would apply, but for the regulations, in relation to the participant's contributions as a whole.
- (2) Before making regulations under *subsection (1)* the Minister shall request the Authority to carry out an assessment of the existing operation of this Part.
- (3) The Minister may make regulations under *subsection (1)* only if—
- (a) the making of the regulations is recommended—
 - (i) by the Authority after carrying out an assessment in accordance with a request under *subsection (2)*, and
 - (ii) by one or more persons appointed by the Minister to consider the matter,and
 - (b) the Minister is satisfied that it is in the interests of participants to make the regulations.
- (4) A person may be appointed for the purposes of *subsection (3)(a)(ii)* only if the Minister is satisfied that the person is sufficiently independent of the Minister and the Authority.

Investment of contributions

- 72.** (1) Subject to any fees payable under regulations made under *section 35*, an amount assigned by the Authority to a risk level, in accordance with *section 70(1)*, shall be transferred by the Authority to the investment management providers.

- (2) Where there is more than one investment management provider, an amount to be transferred under *subsection (1)* shall be divided by the Authority equally between the providers.
- (3) In transferring an amount to an investment management provider under *subsection (1)* the Authority shall not disclose information to the provider that would identify any participant.
- (4) An investment management contract shall provide—
 - (a) for any amount transferred to the investment management provider under *subsection (1)* to be invested by the provider in units in the AE provider scheme provided by that provider within the appropriate risk level,
 - (b) for the provider to notify the Authority of the units issued, and
 - (c) for the units to be registered by the provider in the name of the Authority.
- (5) Units in which an amount transferred under *subsection (1)* is invested—
 - (a) are held by the Authority on behalf of the participant concerned, and
 - (b) shall be recorded by the Authority in the participant’s account.

Transfer between AE provider schemes

- 73.** (1) Where there is a change from one risk level (the “old level”) to another (the “new level”) as the appropriate risk level in relation to a participant for the purposes of *section 70(1)*, any investments held by the Authority on behalf of the participant in the form of units in an AE provider scheme within the old level shall be transferred in accordance with regulations to an AE provider scheme within the new level, subject to any provision made under *section 70* or *section 71*.
- (2) Investment management contracts shall include provision for the transfer of investments between AE provider schemes in connection with a person becoming or ceasing to be an investment management provider.
 - (3) Provision included in investment management contracts shall ensure that—
 - (a) in relation to any participant, any amount transferred is transferred to an AE provider scheme within the appropriate risk level, and
 - (b) any amount transferred from an AE provider scheme provided by a person ceasing to be an investment management provider, at a time when there are two or more other investment management providers, is divided equally between AE provider schemes provided by those other providers.

Investment rules

- 74.** (1) An investment management provider shall invest the resources of each AE provider scheme provided by that provider—

- (a) in accordance with the prudent person rule (within the meaning of the Directive of 2016), and
 - (b) without prejudice to the generality of *paragraph (a)*, in accordance with this section.
- (2) When investing the resources of an AE provider scheme, an investment management provider—
- (a) shall invest those resources in the best long term interests of the participants on whose behalf units in the scheme are held, and in the case of a potential conflict of interest, shall ensure that the investment is made in the sole interest of those participants,
 - (b) in accordance with the prudent person rule referred to in *subsection (1)(a)*, shall take into account the potential long-term impact of investment decisions on environmental, social and governance factors,
 - (c) shall invest the resources of the scheme in such a manner as to ensure the security, quality, liquidity and profitability of the portfolio as a whole,
 - (d) shall invest the resources of the scheme predominantly in regulated markets and, where there is investment in assets which are not admitted to trading on a regulated financial market, shall keep any such investment to prudent levels,
 - (e) shall comply with *subsection (3)* if investing in derivative instruments,
 - (f) shall invest in such a manner that the resources are properly diversified in such a way as to avoid excessive reliance on any particular asset, issuer or group of undertakings and accumulations of risk in the portfolio as a whole, and
 - (g) for the purposes of *paragraph (f)*, where the provider invests in assets issued by the same issuer or by issuers belonging to the same group, shall invest in a manner that does not expose the scheme to excessive risk concentration.
- (3) Investment by an investment management provider in derivative instruments shall be possible in so far as such instruments contribute to a reduction in investment risks or facilitate efficient portfolio management, and—
- (a) they shall be valued on a prudent basis, taking into account the underlying asset,
 - (b) they shall be included in the valuation of the assets of the scheme, and
 - (c) the provider shall avoid excessive risk exposure to a single counterparty and to other derivative operations.
- (4) For the purposes of *subsection (2)*—
- (a) investment in a collective investment undertaking shall be treated as being invested in a regulated market in accordance with *paragraph (d)* of *subsection (2)* and diversified in accordance with *paragraph (f)* of that subsection to the extent that the investments held by that undertaking are themselves so invested,

- (b) investment in an insurance policy falling within the class of insurance specified at paragraph III of Annex II of the Solvency II Directive shall be treated as invested on a regulated market in accordance with *paragraph (d)* of *subsection (2)* and diversified in accordance with *paragraph (f)* of that subsection to the extent that the selection, by the investment management provider concerned, of the investments by which the return on the insurance policy will be determined complies with those paragraphs,
 - (c) investment in an insurance policy the terms of which provide that the proceeds of the insurance policy at maturity will be equal to or greater than the amount of the investment over the term of the insurance policy, shall be treated as invested on a regulated market in accordance with *paragraph (d)* of *subsection (2)* and diversified in accordance with *paragraph (f)* of that subsection,
 - (d) investment in an insurance policy of a type to which Article 2(3)(a)(ii) of the Solvency II Directive relates shall be treated as invested on a regulated market in accordance with *paragraph (d)* of *subsection (2)* and diversified in accordance with *paragraph (f)* of that subsection, and
 - (e) investment in bonds issued by the government of any Member State shall be treated as diversified in accordance with *paragraph (f)* of *subsection (2)*.
- (5) In this section—
- “collective investment undertaking” means—
- (a) an investment undertaking within the meaning given by section 739B of the Taxes Consolidation Act 1997,
 - (b) a unit trust which neither is, nor is deemed to be, an authorised unit trust scheme within the meaning of the Unit Trusts Act 1990,
 - (c) an undertaking for collective investment in transferable securities within the meaning given by Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009² on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast), situated in any Member State,
 - (d) a common contractual fund within the meaning of section 739I(1)(a)(i) of the Taxes Consolidation Act 1997, or
 - (e) an alternative investment fund within the meaning given by Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011³ on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No. 1060/2009 and (EU) No. 1095/2010, situated in any Member State;

² OJ No. L302, 17.11.2009, p. 32

³ OJ No. L174, 1.7.2011, p. 1

“Directive of 2016” means Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016⁴ on the activities and supervision of institutions for occupational retirement provision (IORPs) (recast);

“insurance policy” means an insurance policy or contract of assurance issued by any person who is the holder of an authorisation—

- (a) granted by the Central Bank of Ireland under the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485 of 2015), or
- (b) granted by the authority charged with the duty of supervising the activities of insurance undertakings in a Member State other than the State in accordance with the Solvency II Directive;

“Solvency II Directive” means Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009⁵ on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast).

- (6) Subject to *subsection (5)*, a word or expression used in this section or *section 75* and in subsection (2), (3) or (5) of section 59AB of the Pensions Act 1990 has, unless the context otherwise requires, the same meaning in this section or *section 75* as it has in subsection (2), (3) or (5) of section 59AB of the Pensions Act 1990.

Contractual provision on environmental and other matters

- 75.** (1) An investment management contract shall require the investment management provider to—
- (a) make provision in its risk management system to take account of risks arising from environmental, social and governance factors,
 - (b) conduct, at intervals of not more than 3 years, an assessment of the risks referred to in *paragraph (a)*, and report to the Authority on the assessment, and
 - (c) prepare, and from time to time revise, a statement describing how considerations arising from environmental, social and governance factors affect its investment decisions.
- (2) An investment management provider shall provide the Authority or any participant on request with a copy of its statement prepared in accordance with *subsection (1)(c)*.
- (3) An investment management contract shall include provision for the obligations of the State under international agreements on environmental sustainability and climate change to be taken into account in carrying out the contract.

Participants’ accounts

- 76.** The Authority shall keep an account for each participant, recording—
- (a) the contributions received by the Authority in respect of the participant,

⁴ OJ No. L354, 23.12.2016, p. 37

⁵ OJ No. L335, 17.12.2009, p. 1

- (b) any repayment of contributions under *section 63* or *64*,
- (c) the information referred to in *section 72(5)(b)*,
- (d) any fee charged to the participant pursuant to regulations made under *section 35*,
- (e) any decision or application made by the participant for the purposes of any provision of this Part, *Part 3* or *5*,
- (f) any determination made by the Authority in relation to the participant, and
- (g) any other information the Authority considers appropriate.

Amendment of Investment Intermediaries Act 1995

77. Section 2(6) of the Investment Intermediaries Act 1995 is amended—

- (a) in paragraph (n)(ii), by the substitution of “1990), or” for “1990).”, and
- (b) by the insertion of the following paragraph after paragraph (n):

“(o) *An tÚdarás Náisiúnta um Uathrollú Coigiltis Scoir*.”.

PART 5

PAYMENT OUT OF ACCOUNTS

CHAPTER 1

Interpretation and general

Interpretation (*Part 5*)

78. In this Part—

“balance” means the amount credited to a participant’s account under *section 82(1)* or *section 86(1)(c)*;

“personal representative” has the same meaning as it has in the Succession Act 1965;

“redemption value” in relation to units in an AE provider scheme on any date means—

- (a) where the units are redeemed on that date, the amount of the proceeds of the redemption, and
- (b) where the units are redeemed after that date, the amount determined to be their value on that date by procedures specified by the Authority and published by it on a website maintained by or on behalf of the Authority.

Notification and verification of death

- 79.** (1) The Authority shall specify, and publish on a website maintained by or on behalf of the Authority, the requirements for the notification and verification of deaths for the purpose of this Part.
- (2) For the purpose of this Part, a death is notified to the Authority when, in a manner that complies with the requirements specified under *subsection (1)*—
- (a) a person authorised to do so by those requirements notifies the Authority of the death, or
 - (b) the Authority identifies the death in the records of Oifig an Ard-Chláraitheora.
- (3) A notification of death referred to in *subsection (2)(a)* shall be disregarded for the purposes of this Part if the Authority takes the steps to verify the death that comply with the requirements specified under *subsection (1)*, and after doing so is unable to verify it.

Provision of benefits under arrangements made by Authority

- 80.** The Minister may, by regulations, make provision under which an amount that would otherwise fall to be paid to a participant under *Chapter 2* or *3* may, at the option of the participant, be applied by the Authority by way of—
- (a) the purchase of an annuity,
 - (b) the transfer into an approved retirement fund (within the meaning of section 784A of the Taxes Consolidation Act 1997), or
 - (c) a similar or related arrangement,
- for the payment of benefits to or in respect of the participant.

CHAPTER 2

*Payment, other than early payment, to or in respect of participant***Redemption date**

- 81.** (1) Subject to *subsection (2)*, a participant's redemption date for the purposes of this Chapter is the date on which the participant reaches pensionable age.
- (2) Where a participant dies without reaching pensionable age, the participant's redemption date for the purposes of this Chapter is the earlier of the following dates:
- (a) the date on which the death is notified to the Authority;
 - (b) the date on which the participant would have reached pensionable age.

Redemption of units

- 82.** (1) On or as soon as is practicable after a participant's redemption date, the Authority shall—
- (a) ascertain the number of units in any AE provider scheme that the Authority holds on behalf of the participant,
 - (b) instruct the investment management provider providing the scheme to redeem that number of units and pay the proceeds to the Authority within a time specified by the Authority,
 - (c) credit to the participant's account an amount equal to the redemption value of the units on the participant's redemption date after deducting any fees payable under regulations made in accordance with *section 35*, and
 - (d) send to the participant, subject to *subsection (2)*, a notification that the balance in the participant's account is eligible for withdrawal in accordance with this Part.
- (2) Where, before sending a notification under *subsection (1)(d)*, the Authority is notified of the death of the participant, the notification under *subsection (1)(d)* shall be sent to the participant's personal representative.

Payment to participant at or after pensionable age

- 83.** (1) Where a participant makes an application to the Authority to withdraw the balance referred to in a notification under *section 82(1)(d)*, the Authority shall promptly—
- (a) pay the amount as a lump sum to the participant, or
 - (b) where regulations under *section 80* apply, transfer the amount in accordance with the regulations for the payment of benefits to or in respect of the participant.
- (2) The Authority shall specify, and publish on a website maintained by or on behalf of the Authority, the procedure for applications and payments made in accordance with *subsection (1)*.

Payment in the event of death of participant

- 84.** (1) Where—
- (a) a notification under *section 82(1)(d)* has been given by the Authority, and
 - (b) before or after the giving of that notification, the death of the participant has been notified to the Authority,
- an application may be made to the Authority by the participant's personal representative to withdraw the balance referred to in the notification under *section 82(1)(d)*.
- (2) Where a participant's personal representative makes an application to the Authority under *subsection (1)*, the Authority shall promptly pay the balance in the participant's account to the personal representative.

- (3) The Authority shall specify, and publish on a website maintained by or on behalf of the Authority, the procedure for applications and payments made in accordance with *subsections (1) and (2)*.

CHAPTER 3

*Early payment on grounds of incapacity or exceptional ill-health***Application for early payment on grounds of incapacity or exceptional ill-health**

- 85.** (1) A participant may apply to the Authority for early access to his or her balance on the grounds that, before reaching pensionable age, the participant—
- (a) has retired through incapacity, or
 - (b) is in exceptional circumstances of ill-health.
- (2) Where the Authority is satisfied of the grounds stated in an application under *subsection (1)*, the Authority shall allow the application.
- (3) Where the Authority determines that an applicant does not meet the requirements of *subsection (1)* and of regulations made under *subsection (5)*, it shall refuse the application and notify the participant in writing of the refusal.
- (4) A notification under *subsection (3)* shall:
- (a) give the reasons for the refusal;
 - (b) state that the participant is entitled to a review of the determination under *section 114*.
- (5) The Minister may prescribe the circumstances in which a participant is to be regarded for the purpose of this section as—
- (a) (i) retiring, and
 - (ii) doing so through incapacity,
 - or
 - (b) being in exceptional circumstances of ill-health.
- (6) Without prejudice to *subsection (5)*, regulations under that subsection may provide for retirement through incapacity to include circumstances in which—
- (a) incapacity affects a participant who is not employed at the time, or
 - (b) incapacity affects a participant's earning capacity.

Redemption of units for early payment

- 86.** (1) On or as soon as is practicable after the date on which an application by a participant under *section 85* is allowed under *subsection (2)* of that section, on review under *section 114* or on appeal under *section 116*, the Authority shall—

- (a) ascertain the number of units in any AE provider scheme that the Authority holds on behalf of the participant,
 - (b) instruct the investment management provider providing the scheme to redeem that number of units and pay the proceeds to the Authority within a time specified by the Authority,
 - (c) credit to the participant's account after deducting any fees payable in accordance with regulations made under *section 35*—
 - (i) the redemption value of the units at the date the application is allowed, or
 - (ii) where *subsection (2)* applies, the amount referred to in that subsection,and
 - (d) send to the participant a notification that the balance in the participant's account is eligible for withdrawal in accordance with this Part.
- (2) Where an application by a participant under *section 85* is refused by the Authority but allowed on review under *section 114* or on appeal under *section 116*, the amount to be credited under *subsection (1)(c)*, subject to any fees payable in accordance with regulations made under *section 35*, is—
- (a) in the case of units in any AE provider scheme that the Authority held on behalf of the participant at the date of the refusal, the greater of—
 - (i) the redemption value of the units at the date the application is allowed, and
 - (ii) the redemption value of the units at the date of the refusal,and
 - (b) in the case of units acquired after the date of the refusal and held by the Authority on behalf of the participant, the greater of—
 - (i) the redemption value of the units at the date the application is allowed, and
 - (ii) the acquisition price of the units.
- (3) In this section, “acquisition price” means, in relation to a unit, the amount transferred to an investment management provider to invest in that unit under *section 72(1)*.

Making of early payment

- 87.** Where the Authority gives a notification under *section 86(1)(d)*, it shall also promptly—
- (a) pay to the participant as a lump sum the amount of the balance referred to in the notification, or
 - (b) where regulations under *section 80* apply, transfer that amount in accordance with the regulations for the payment of benefits to or in respect of the participant.

Procedure for applications and payments under Chapter 3

88. The Authority shall specify, and publish on a website maintained by or on behalf of the Authority, the procedure for the making of applications and payments in accordance with this Chapter and regulations made under it.

CHAPTER 4

*Unclaimed balances***Interpretation (Chapter 4)**

89. (1) In this Chapter—

“correspondence address” means:

- (a) in the case of a participant, the participant’s last known address for correspondence according to the records of the Authority;
- (b) in the case of any other person, any address that appears to the Authority to be an address for correspondence, or the last known address for correspondence, for that person;

“dormancy period” means any period of 15 years ending with—

- (a) 30 September 2041, or
- (b) 30 September in any later year;

“register” means the register of unclaimed balances, established under *section 94*;

“specified event” means:

- (a) an application under *section 83(1)* or *section 84(1)*;
- (b) a communication within the meaning of *section 100*;

“unclaimed balance” has the meaning given in *section 90*.

- (2) This Chapter and the Dormant Accounts Acts 2001 to 2012 may be cited together as the Dormant Accounts Acts 2001 to 2024.

Unclaimed balances

90. (1) For the purposes of this Chapter, a balance is an unclaimed balance if a dormancy period, beginning on or after the date on which a notification of eligibility for withdrawal was issued, has ended, and in the dormancy period—
- (a) the Authority has issued a notification of eligibility for withdrawal,
 - (b) since the date of the notification, a dormancy period has ended, and
 - (c) a specified event did not take place in relation to the balance during the dormancy period.

- (2) In *subsection (1)*, “notification of eligibility for withdrawal”, in relation to a balance, means a notification issued by the Authority under *section 82(1)(d)* or *section 86(1)(d)* that the balance is eligible for withdrawal.

Notice of unclaimed balance

91. (1) Subject to *subsection (2)*, the Authority shall take all reasonable steps to give the participant entitled to an unclaimed balance, as soon as is practicable after the end of the dormancy period referred to in *section 90(1)*, written notice of the following:
- (a) that there is an unclaimed balance to which the participant appears to be entitled;
 - (b) that if a specified event does not occur in relation to the unclaimed balance on or before 31 March next following, the balance will be transferred to the Dormant Accounts Fund without further notice to the participant;
 - (c) that the participant is entitled to claim the balance in accordance with this Part;
 - (d) any other matters that may be prescribed.
- (2) Where the participant’s death has been notified to the Authority, the Authority shall take all reasonable steps to give notice of the matters in *subsection (1)(a), (b), (c) and (d)* to the participant’s personal representative as soon as is practicable after the end of the dormancy period referred to in *section 90(1)*.
- (3) Where the Authority has a correspondence address for the recipient, a notice under *subsection (1) or (2)* shall be sent by ordinary post to that address.
- (4) The Minister may prescribe additional steps for the Authority to take to give a person notice of an unclaimed balance under this section.

Publication of notice

92. (1) Where there are unclaimed balances in respect of which the Authority has taken all reasonable steps to notify a person under *section 91(1) or (2)*, and those steps have failed, the Authority shall publish a notice in 2 or more daily newspapers circulating in the State and in *Iris Oifigiúil*.
- (2) The notice shall be published—
- (a) in the case of the first notice, on 31 October 2041, and
 - (b) in any other case, in each subsequent year, on the first working day in November in that year.
- (3) The notice shall be in such form as may be prescribed by the Minister with the consent of the Minister for Rural and Community Development or in a form to the like effect and shall contain the following information:
- (a) the name and address of the Authority;
 - (b) that the Authority holds unclaimed balances;

- (c) that if in relation to unclaimed balances referred to in *subsection (1)* no specified event occurs on or before 31 March next following, the unclaimed balance will be transferred to the Dormant Accounts Fund without further notice to the participant or personal representative;
 - (d) that any interested person should contact the Authority to establish if he or she is entitled to claim any unclaimed balance;
 - (e) that claims in respect of unclaimed balances may be made by participants under *section 83(1)* or by participants' personal representatives under *section 84(1)*;
 - (f) any additional information that may be prescribed by the Minister with the consent of the Minister for Rural and Community Development.
- (4) Copies of a notice published under this section shall be published on a website maintained by or on behalf of the Authority.

Transfer of moneys to Dormant Accounts Fund

93. (1) Where in respect of an unclaimed balance—

- (a) notice under *section 91(1)* or (2) is given by the Authority and a specified event does not occur in relation to the unclaimed balance before the date specified in *section 91(1)(b)*, or
- (b) notice under *section 92(1)* is given by the Authority and a specified event does not occur in relation to the unclaimed balance before the date specified in *section 92(3)(c)*,

the Authority shall, not later than 30 April next following, transfer to the Dormant Accounts Fund the value of the unclaimed balance after deducting any fees payable under regulations made in accordance with *section 35*.

- (2) On making a transfer to the Dormant Accounts Fund under this section the Authority shall furnish to the NTMA a written statement specifying the total amount of moneys transferred.

Register of unclaimed balances

94. (1) The Authority shall keep a register of unclaimed balances.

- (2) The Authority shall enter in the register the following particulars of an unclaimed balance in respect of which moneys are transferred to the Dormant Accounts Fund under *section 93*:
- (a) the participant's name and, except where *section 91(2)* applies, the correspondence address, if any, of the participant;
 - (b) where *section 91(2)* applies, the name and correspondence address of the participant's personal representative, if known;
 - (c) the date on which a notice was sent under *section 91*;

- (d) where a notice under *section 92* applied to the unclaimed balance, the date on which the notice was published;
 - (e) the date on which the balance became an unclaimed balance in accordance with *section 90*;
 - (f) the date of the transfer to the Dormant Accounts Fund and the amount transferred;
 - (g) where notice to the NTMA has been given under *section 97*, the date on which moneys were paid and the amount paid in accordance with that section—
 - (i) by the NTMA to the Authority, and
 - (ii) by the Authority to the applicant under that section;
 - (h) any other matters that may be prescribed by the Minister with the consent of the Minister for Rural and Community Development.
- (3) The register may be kept in any form subject to its being capable of being converted into a legible form and being used to make a legible copy or reproduction of any entry in the register.
- (4) A person may inspect the register in relation to an unclaimed balance where the person—
- (a) proves to the satisfaction of the Authority that, in relation to that unclaimed balance, he or she is, or may be, the participant or the participant’s personal representative, or
 - (b) proves to the satisfaction of the Authority that, in relation to that unclaimed balance, he or she is authorised by the participant or the participant’s personal representative to make the inspection.
- (5) The Authority shall, from time to time, review each entry in the register and if it becomes aware that any particular in the register is incorrect or has ceased to be correct, it shall make such alteration to the register as it considers necessary.

Disclosure of information for statistical purposes

95. (1) The Minister, following consultation with the Minister for Rural and Community Development, may, for statistical purposes only, make regulations providing for the disclosure by the Authority of the information specified in *subsection (2)*—
- (a) to the persons and subject to the conditions (including the payment of charges by the person seeking the information concerned) and restrictions that the Minister may prescribe, and
 - (b) in a form that has undergone anonymisation.
- (2) The information referred to in *subsection (1)* may include—
- (a) prescribed information from the register,

- (b) the number of unclaimed balances, and
 - (c) the number of transfers to the Dormant Accounts Fund and the amount transferred.
- (3) The Authority shall, not later than the tenth working day after 30 April in each year, furnish a statement, in writing, to the Minister specifying—
- (a) the total value of its unclaimed balances, and
 - (b) the total number of unclaimed balances,
- and the first statement shall be furnished not later than 10 working days after 30 April 2042.

Rights of participants

96. The transfer of moneys to the Dormant Accounts Fund under *section 93* is without prejudice to the rights of any person under this Part.

Application for unclaimed balance

97. (1) Where a person who makes an application for an unclaimed balance in respect of which moneys have been transferred to the Dormant Accounts Fund under *section 93* proves to the satisfaction of the Authority that the person making the application (referred to in this section as the “applicant”) is the participant or the participant’s personal representative, the Authority shall—
- (a) give written confirmation to the applicant that the Authority is satisfied that he or she is the participant or the participant’s personal representative,
 - (b) within 10 working days after giving the confirmation, give written notice to the NTMA of the value of the balance, and
 - (c) send to the applicant a copy of the notice under *paragraph (b)* to the NTMA.
- (2) The NTMA shall pay to the Authority, within 21 days after the date of the notice, the value of the balance as stated in the notice given under *subsection (1)(b)*.
- (3) Within 5 working days after receipt of payment under *subsection (2)*, the Authority shall—
- (a) subject to any fees payable under regulations made in accordance with *section 35*—
 - (i) pay to the applicant the amount of the balance, or
 - (ii) where regulations under *section 80* apply and the applicant is the participant, at the written request of the applicant, apply the moneys in accordance with the regulations,
- and

- (b) provide to the applicant a written statement of the moneys payable under the unclaimed balance and of any charges or deductions made.

Confidentiality

98. Where the Authority—

- (a) transfers moneys to the Dormant Accounts Fund under *section 93*, or
(b) gives notice to the NTMA under *section 97(1)(b)*,

the Authority shall not refer to a participant or his or her personal representative by name or in any manner by which he or she could be identified as being a participant or personal representative.

Statement of compliance

99. (1) The Authority shall furnish a statement of compliance to the Pensions Authority, not later than one month after the end of each financial year, stating, if this is the case, that it has complied with this Part in respect of the following:
- (a) the publication of a notice under *section 92*;
(b) the transfer of moneys to the Dormant Accounts Fund under *section 93*;
(c) the keeping of a register in accordance with *section 94*;
(d) the processing of applications under *section 97*.
- (2) The statement shall be signed by a person authorised, in writing, by the Authority and shall include any qualifications or explanations that the Authority considers appropriate.

PART 6

COMMUNICATIONS AND SERVICES

Definitions (*Part 6*)

100. In this Part—

“communication” includes a communication for giving information or a notification, notice or other document that is required to be sent or given to a person under this Act, for making an application or a request, or for any other purpose;

“electronic system” means a secure information technology platform, portal, web application, digital application or other similar interface maintained by, or on behalf of, the Authority which requires personal log-in details.

Electronic system to be used by default

101. (1) Subject to this section and to *section 103*—

- (a) any communication made for any of the purposes of this Act by the Authority to a participant or employer, or by an employer or participant to the Authority, and
- (b) any service provided for any of the purposes of this Act by the Authority to a participant or employer,

shall be made or provided by making it available to the recipient through an electronic system provided by the Authority for that purpose.

- (2) For the purposes of this Act, a communication made by the Authority to any person is made available to that person through an electronic system if—
 - (a) the communication is available to view on the electronic system,
 - (b) the person has received any details necessary for accessing the relevant part of the electronic system, and
 - (c) where required by *subsection (4)*, a notification that a communication is available to view on the electronic system has been sent to the person in one of the ways referred to in *subsection (3)*.
- (3) The ways in which a notification may be sent to a person for the purposes of *subsection (2)(c)* are:
 - (a) by sending it to the person by electronic means to an e-mail address or telephone number that the person has provided to receive notifications for the purposes of *subsection (2)(c)*;
 - (b) by sending it by post to an address which the person has provided to receive notifications for the purposes of *subsection (2)(c)*;
 - (c) by any other means agreed between the person and the Authority.
- (4) A notification referred to in *subsection (2)(c)* is required to be sent to a person only if the person—
 - (a) has provided the Authority with an e-mail address or telephone number for the purposes of *subsection (3)(a)*,
 - (b) has provided the Authority with an address for the purposes of *subsection (3)(b)*,
or
 - (c) has an agreement with the Authority for the purposes of *subsection (3)(c)*.
- (5) This section does not apply to a requirement to give notice under *section 91* or *92* or to give information to the public.

Provision of information to public by Authority

102. The Authority—

- (a) shall provide, on a website maintained by or on behalf of the Authority, and

(b) may provide in any other way it considers appropriate,
information for the public about the Authority and about the operation of this Act.

Provision for communications and services otherwise than online

- 103.** (1) The Authority shall make arrangements under which any person to whom it is required to give a communication under this Act may apply to have the communication provided by the Authority as a printed copy.
- (2) The Authority shall make arrangements under which—
- (a) any person who under this Act may make an application, and
 - (b) any person to whom any service under this Act may be provided,
- may apply to make the application or have the service provided otherwise than online or through an electronic system.
- (3) The Authority shall specify, and publish on a website maintained by or on behalf of the Authority, the procedure for applications under *subsections (1) and (2)*.

Powers to make provision for purposes of communications and services

- 104.** (1) The Minister may make regulations providing for any of the following matters:
- (a) the information of a prescribed description to be provided by the Authority under *section 102*;
 - (b) the information of a prescribed description to be provided—
 - (i) by the Authority, and
 - (ii) where required, by an employer,upon a determination under *section 50, 53 or 55*;
 - (c) the information of a prescribed description to be provided by the Authority upon the issuing of a notification under *section 58*;
 - (d) other communications or services of a prescribed description to be provided by the Authority, through electronic systems or otherwise, to participants, prospective participants, employers, or prospective or past employers for the purposes of any provision of this Act;
 - (e) the form in which information referred to in *paragraph (a), (b) or (c)* or communications referred to in *paragraph (d)* are to be provided;
 - (f) the manner in which services referred to in *paragraph (d)* are to be provided.
- (2) Subject to this Act and regulations under *subsection (1)*, the Authority may specify, and publish on a website maintained by or on behalf of the Authority, requirements as to—

- (a) the form and content of any communication to be given by the Authority to participants, prospective participants, employers, or prospective or past employers for the purposes of any provision of this Act,
- (b) the form and content of any communication to be given to the Authority by any participant, prospective participant, employer, or prospective or past employer for the purposes of any provision of this Act,
- (c) the form and content of any communications to be given by an employer upon a determination under *section 50, 53 or 55*,
- (d) services to be provided by the Authority, through the electronic systems or otherwise, to participants, prospective participants, employers, or prospective or past employers for the purposes of any provision of this Act, and
- (e) the manner in which services referred to in *paragraph (d)* are to be provided.

Participants' annual statements

- 105.** (1) The Authority shall at intervals of not more than 12 months provide a statement (in this section referred to as an “annual statement”) to each participant.
- (2) An annual statement shall include—
- (a) information relating to the participant’s account as of the statement date,
 - (b) information relating to the participant, including the date that the participant is projected to reach pensionable age,
 - (c) information on the AE provider scheme within the appropriate risk level (within the meaning of *Part 4*) in relation to the participant,
 - (d) information on retirement savings projections based on the pensionable age as specified in *paragraph (b)* and future contributions, and a disclaimer that those projections may differ from the final value of the contributions received and, if the future retirement savings projections are based on economic scenarios, that information shall also include a best estimate scenario and an unfavourable scenario, taking into consideration the appropriate risk level referred to in *paragraph (c)*,
 - (e) information on the accrued retirement savings taking into consideration the appropriate risk level referred to in *paragraph (c)*,
 - (f) information on the contributions paid by the participant, his or her employer in each employment that is not an exempt employment, and the State into the AE provider scheme within the appropriate risk level (within the meaning of *Part 4*) in relation to the participant, at least over the preceding 12 months, and
 - (g) a breakdown of the costs deducted by the Authority at least over the preceding 12 months.

- (3) An annual statement shall in particular state whether there has been any material change in the information contained in the annual statement in comparison to the immediately preceding statement, and, if so, set out what that change is.
- (4) Where a participant has transferred between AE provider schemes or risk levels during the period to which an annual statement relates, the annual statement shall include the information specified in *subsection (2)* for each appropriate risk level, within the meaning of *Part 4*.
- (5) An annual statement—
 - (a) if provided by electronic means, shall be provided not later than the end of the period of 6 months beginning with the statement date, and
 - (b) if provided otherwise than by electronic means, shall be provided within such time as may be prescribed.
- (6) The Minister may make regulations specifying—
 - (a) the nature of the information referred to in any of *paragraphs (a) to (f)* of *subsection (2)* which is to be included in an annual statement,
 - (b) the period to which an annual statement is to relate, and
 - (c) the form and content of annual statements.

Amendment and application of Freedom of Information Act 2014

- 106.** (1) The Freedom of Information Act 2014 is amended, in Part 1 of Schedule 1—
- (a) in paragraph (an), as inserted by section 20 of the Protected Disclosures (Amendment) Act 2022, by the substitution of “functions;” for “functions.”,
 - (b) by the designation of paragraph (an), as inserted by section 24 of the Personal Injuries Resolution Board Act 2022, as paragraph (ao),
 - (c) in paragraph (ao), as designated by *paragraph (b)* of this subsection, by the substitution of “2003;” for “2003.”, and
 - (d) by the insertion of the following paragraph after paragraph (ao):
 - “(ap) *An tÚdarás Náisiúnta um Uathrollú Coigiltis Scoir*, in the performance of its functions under the *Automatic Enrolment Retirement Savings System Act 2024*, in so far as it relates to records—
 - (i) containing confidential personal information relating to the financial or business affairs of any individual or company,
 - (ii) relating to or received for the purposes of performing, or in the discharging of, any of its statutory functions (other than when that information is contained in records in summary or aggregate form, such that persons cannot be identified from the record),

- (iii) concerning companies, firms, funds or any other entities with or in which it has invested or could potentially make an investment, or
 - (iv) concerning the terms and conditions on which a person holds a position as a member of staff of *An tÚdarás Náisiúnta um Uathrollú Coigiltis Scoir*, other than when that information is contained in records in summary or collective form such that individuals cannot be identified from the record.”.
- (2) Notwithstanding section 6(12) of the Freedom of Information Act 2014, the obligations under that Act shall apply to the Authority on and from the date of its establishment in accordance with *Part 2*.

PART 7

INFORMATION SHARING AND DATA PROTECTION

Definition (*Part 7*)

107. In this Part, “Act of 2018” means the Data Protection Act 2018.

Information sharing

- 108.** (1) The Authority and a specified body may share information where it is necessary and proportionate for the purpose of the performance of a function of the Authority or the specified body under this Act.
- (2) Information shared under *subsection (1)* between the Authority and the Revenue Commissioners may include information required by the Authority for the performance of its functions under *Part 3* or *Part 5*.
- (3) The Authority may share information with an investment management provider or a service provider where it is necessary and proportionate for the performance of its functions under this Act.
- (4) The Minister may prescribe—
- (a) subject to *subsection (1)* and (3), specific information that may be shared under those subsections,
 - (b) the purposes for which the information may be shared under *subsection (1)* or (3), including the persons with whom the information may be shared, and
 - (c) subject to *subsection (1)* and (3), such conditions as the Minister considers appropriate to impose on the sharing of the information.
- (5) In this section, “specified body” means:
- (a) a Minister of the Government;

- (b) the Comptroller and Auditor General;
- (c) the Revenue Commissioners;
- (d) the Pensions Authority;
- (e) the Central Bank of Ireland;
- (f) the Workplace Relations Commission;
- (g) the Financial Services and Pensions Ombudsman;
- (h) the National Shared Services Office;
- (i) the Office of the Ombudsman;
- (j) the Central Statistics Office;
- (k) the NTMA;
- (l) Oifig an Ard-Chláraitheora;
- (m) such other body as may be prescribed by the Minister for the purposes of this section.

Disclosure of certain information to Minister for Enterprise, Trade and Employment, etc.

- 109.** (1) Notwithstanding any obligation to maintain secrecy or any other restriction on the disclosure or production of information obtained by or furnished to the Authority, the Authority may transfer to the Minister for Enterprise, Trade and Employment or the Workplace Relations Commission such information held by the Authority in relation to a person's enrolment under this Act as may be required by the Workplace Relations Commission for the performance of its functions and information of this type held by the Minister for Enterprise, Trade and Employment or the Workplace Relations Commission may be transferred by the Minister for Enterprise, Trade and Employment or the Workplace Relations Commission, as the case may be, to the Authority.
- (2) Information transferred by the Authority under *subsection (1)* to the Minister for Enterprise, Trade and Employment or the Workplace Relations Commission may be used only by the Minister for Enterprise, Trade and Employment or the Workplace Relations Commission, as the case may be, in the exercise of their powers and functions in relation to employment rights compliance and shall not be disclosed by the Minister for Enterprise, Trade and Employment or the Workplace Relations Commission to any other person (other than to each other) for any other purpose whatsoever.

Amendment of Social Welfare Consolidation Act 2005

110. The Social Welfare Consolidation Act 2005 is amended—

- (a) in section 265(1), in paragraph (a) of the definition of “relevant purpose”—

- (i) by the substitution, in subparagraph (v), of “section 16 of the Student Support Act 2011,” for “section 16 of the Student Support Act 2011, or”,
- (ii) by the substitution, in subparagraph (vi), of “the Civil Legal Aid Act 1995, or” for “the Civil Legal Aid Act 1995,”, and
- (iii) by the insertion of the following subparagraph after subparagraph (vi):

“(vii) the provision of a service under the *Automatic Enrolment Retirement Savings System Act 2024*,”,

and

- (b) in Schedule 5, in paragraph 1(4), by the insertion of the following after “the Central Bank of Ireland, when carrying out its functions in relation to the Central Credit Register,”:

“*An tÚdarás Náisiúnta um Uathrollú Coigiltis Scoir*,”.

Processing of personal data and special categories of personal data

111. (1) The Authority may process personal data, including special categories of personal data, in accordance with the General Data Protection Regulation and the Act of 2018 and any regulations under *section 112* where necessary and proportionate for the performance of its functions under this Act.

(2) Subject to *subsection (3)*, a service provider may process personal data, including special categories of personal data, in accordance with the General Data Protection Regulation and the Act of 2018 and any regulations under *section 112* where necessary and proportionate for the performance of his, her or its functions under this Act.

(3) A service provider may not process personal data in accordance with Part 5 of the Act of 2018.

(4) For the purposes of this Act, the Authority is designated as controller in relation to personal data processed by it for the purposes of the performance of its functions under this Act, and shall put in place appropriate data processing contracts, where necessary, with each service provider.

(5) In this section—

“controller” means a controller within the meaning of the General Data Protection Regulation;

“General Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016⁶ on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

“special categories of personal data” has the same meaning as it has in the Act of 2018.

⁶ OJ No. L119, 4.5.2016, p. 1

- (6) A word or expression that is used in this section or *section 112* and in the General Data Protection Regulation or the Act of 2018 has, unless the context otherwise requires, the same meaning in those sections that it has in the General Data Protection Regulation or the Act of 2018.

Regulations for purposes of data protection

112. The Minister may for the purposes of this Act prescribe:

- (a) the types and forms of processing which may be carried out;
- (b) the personal data that may be processed;
- (c) the circumstances in which the personal data may be processed, including specifying the persons to whom the data may be disclosed;
- (d) suitable and specific measures, including measures set out in section 36(1) of the Act of 2018, to safeguard the fundamental rights and freedoms of data subjects in the processing of personal data, including special categories of personal data under this Act;
- (e) where the processing involves data relating to the health of a data subject, additional measures to be taken to safeguard the processing of that data;
- (f) the period of time during which personal data or special categories of personal data may be processed;
- (g) where possible, the proposed time limit within which each category of personal data shall be erased.

PART 8

REVIEWS AND APPEALS

Definitions (*Part 8*)

113. In this Part—

“appeals officer” has the meaning given to it in *section 115(1)*;

“applicant” means a person who makes a review request;

“relevant determination”, in relation to a review request or an appeal under *section 116*, means the determination to which the request or appeal relates;

“review request” means a request referred to in *subsection (1)* of *section 114*, made in accordance with *subsection (2)* of that section;

“reviewer” in relation to a review request, means the person appointed under *section 114(3)* to review the relevant determination.

Determinations subject to internal review

- 114.** (1) This section applies if a person makes a request in writing to the Authority in accordance with the requirements set out in *subsection (2)* for a review of any of the following:
- (a) a determination of the Authority under *section 50* that the applicant satisfies or does not satisfy the conditions for enrolment in *subsection (2)* of that section;
 - (b) a determination of the Authority under *section 51* whether—
 - (i) an occupational pension scheme (within the meaning of *section 51*) in relation to which the applicant is a member, or an employer any of whose employees are members, is a qualifying occupational pension scheme,
 - (ii) a PRSA (within the meaning of *section 51*) in relation to which the applicant is a contributor, or an employer any of whose employees are contributors, is a qualifying PRSA,
 - (iii) a trust RAC (within the meaning of *section 51*) in relation to which the applicant is a member, or an employer any of whose employees are members, is a qualifying trust RAC, or
 - (iv) a PEPP (within the meaning of *section 51*) in relation to which the applicant is a contributor, or an employer any of whose employees are contributors, is a qualifying PEPP;
 - (c) a determination of the Authority under *section 53* that the applicant does not satisfy the conditions for entitlement to opt in under *subsection (2)* or *(4)* of that section;
 - (d) a determination of the Authority under *section 55* that the applicant satisfies or does not satisfy the conditions for re-enrolment in *subsection (2)* of that section;
 - (e) a determination of the Authority under *section 85* that the applicant does not satisfy the conditions for a withdrawal under *subsection (1)* of that section;
 - (f) a determination of the Authority under *section 47* of the gross pay of the applicant or an employee of the applicant.
- (2) The requirements referred to in *subsection (1)* are that the request—
- (a) is submitted to the Authority—
 - (i) within 30 days of the applicant receiving notice of the determination, or
 - (ii) where the request relates to a determination referred to in *paragraphs (a), (b), (d) or (f)* of *subsection (1)*, within such longer period as the Authority may consider just and equitable in all the circumstances to allow,
 - (b) states the reasons why the determination should be changed, and
 - (c) is in a form that complies with any requirements published by the Authority on a website maintained by or on behalf of the Authority.

- (3) On receiving a review request, the Authority shall appoint a member of its staff to review the relevant determination.
- (4) Subject to *subsection (5)*, the reviewer shall, as soon as is practicable after being appointed and in any case within such period as may be prescribed, make a decision—
 - (a) determining whether or not, for any reason stated in accordance with *subsection (2)(b)*, the relevant determination should be changed, and
 - (b) accordingly either—
 - (i) confirming the relevant determination, or
 - (ii) substituting for the relevant determination any determination that the reviewer considers appropriate in accordance with this Act.
- (5) If a review request does not comply with the requirements in *subsection (2)*, the reviewer shall dismiss the request and give notice to the applicant of the dismissal and the reasons for it.
- (6) As soon as is practicable after making a decision under *subsection (4)*, and in any case within such period as may be prescribed, the reviewer shall—
 - (a) give notice in writing to the applicant of the decision, the reasons for it and the financial effect, if any, of the decision under *section 118*, and
 - (b) inform the applicant—
 - (i) of his or her right to appeal the decision under *section 116*, and
 - (ii) of the procedure for making an appeal.
- (7) The reviewer shall give a copy of the decision under *subsection (4)* and the reasons for it to—
 - (a) the person responsible for the relevant determination, and
 - (b) in the case of a review of a determination specified in *paragraph (b) or (f) of subsection (1)*, any person treated for the purposes of the determination, or any substituted determination, as an employer in employment that is not exempt employment, if different to the applicant.
- (8) Where a decision under *subsection (4)* substitutes a determination regarding whether employment is exempt employment, the employer in that employment shall notify all affected employees of the decision and any financial effect that the decision has under *section 118*.
- (9) A decision under *subsection (4)* takes effect at the end of the period referred to in *section 116(1)*, unless an appeal is brought under that section.
- (10) The Minister may make regulations in relation to the procedures for the conduct of reviews under this section, which may include procedures relating to the time limits for the deciding of reviews under *subsection (4)* and the giving of notices under *subsection (6)*.

Appeals officer

- 115.** (1) The Minister shall appoint a panel of suitable persons from among the staff of the Authority (each referred to in this Part as an “appeals officer”) to consider appeals received under *section 116(1)*.
- (2) An appeals officer shall be independent in the performance of his or her functions under this Act.
- (3) The Minister may revoke an appointment under *subsection (1)* for stated reasons.

Appeals

- 116.** (1) An applicant who is dissatisfied with a decision of the reviewer under *section 114(4)* may, within 30 days of the date on which the notification under *section 114(5)* is sent to him or her, appeal the decision.
- (2) An appeal under this section—
- (a) shall be sent to the reviewer,
 - (b) shall state the reasons for the appeal, and
 - (c) shall be in a form that complies with, and be accompanied by such documents as may be specified in, any requirements published by the Authority on a website maintained by or on behalf of the Authority.
- (3) Where an appeal is made under this section, the reviewer shall, without delay, assign the appeal to an appeals officer, who shall consider the appeal in accordance with this section.
- (4) An appeals officer considering an appeal under this section shall not be confined to the grounds on which the decision under appeal was based, but shall decide the matter the subject of the appeal as if it were being decided for the first time.
- (5) For the purposes of an appeal under this section, the appeals officer may by notice in writing to an applicant or reviewer, as the case may be, require the applicant or reviewer to provide, within such reasonable period as the appeals officer may specify, documentation or information in relation to any matter that may be relevant to the appeal.
- (6) An appeals officer considering an appeal under this section shall—
- (a) consider written submissions, including documentation or information provided under *subsection (5)* or in accordance with regulations under *subsection (13)*, made by the applicant and by or on behalf of the reviewer, and
 - (b) determine the appeal as soon as is practicable and in any case within such period as may be prescribed.
- (7) Where an appeal relates to a determination specified in *section 114(1)(b)*, an appeals officer may consult with the Pensions Authority in advance of determining the appeal.

- (8) An appeals officer, having considered an appeal in accordance with *subsection (6)*, shall make a decision either—
- (a) confirming the relevant determination, or
 - (b) substituting for the relevant determination any determination that the appeals officer considers appropriate in accordance with this Act.
- (9) The appeals officer shall notify the applicant in writing of the decision as soon as is practicable after the making of the decision and in any case within such period as may be prescribed, which notification shall—
- (a) give the reasons for the decision,
 - (b) state the financial effect, if any, of the decision under *section 118*,
 - (c) inform the applicant of his or her right to appeal the decision to the High Court under *section 117*, and
 - (d) where the applicant is a participant or a person claiming to be a participant, inform the applicant that he or she may contact the Financial Services and Pensions Ombudsman if he or she remains unsatisfied.
- (10) The appeals officer shall give a copy of the notification under *subsection (9)* to—
- (a) the reviewer, and
 - (b) in the case of a review of a determination specified in *paragraph (b)* or *(f)* of *section 114(1)*, any person treated for the purposes of the relevant determination or any substituted determination as an employer in employment that is not exempt employment, if different to the applicant.
- (11) Where a decision under *subsection (8)* substitutes a determination regarding whether employment is exempt employment, the employer in that employment shall notify all affected employees of the decision and any financial effect that the decision has under *section 118*.
- (12) A decision under *subsection (8)* takes effect at the end of the period (or whichever is the later of the periods) referred to in *section 117(1)*, unless an appeal is brought under that section.
- (13) The Minister may make regulations in relation to the procedures for the conduct of appeals under this section, which may include procedures relating to—
- (a) the time limits for the deciding of appeals,
 - (b) the making of submissions to the appeals officer,
 - (c) the form and manner (which may include by electronic means) in which the appeal and submissions referred to in *paragraph (b)* may be made, and
 - (d) the making of requests for further documentation or information by the appeals officer.

Appeal to High Court

- 117.** (1) The applicant, within 28 days of the date on which a notification under *section 116(9)* is sent to him or her, or any person treated for the purposes of the relevant determination or any substituted determination as an employer in employment that is not exempt employment, if different to the applicant, within 28 days of the date on which the notification under *section 116(10)* is sent to him or her, may appeal the determination of the appeals officer to the High Court on a point of law.
- (2) A decision of the High Court following an appeal under *subsection (1)* shall—
- (a) where appropriate, specify the period within which effect shall be given to the decision, and
 - (b) be final and conclusive.

Effect of decision

- 118.** (1) Where a decision under *section 114(4)* or *116(8)* substitutes for a relevant determination specified in *paragraph (a), (b), (d) or (f)* of *section 114(1)* a determination that results in a person to whom the determination applies no longer being a contributing participant—
- (a) that person shall be treated as not having been assigned an enrolment date or re-enrolment date (as the case may be), and
 - (b) any contribution paid in respect of the person as a result of the relevant determination shall be repaid by the Authority—
 - (i) in the case of a participant contribution, to that person,
 - (ii) in the case of an employer contribution, to the employer concerned, and
 - (iii) in the case of a State contribution, to the Exchequer.
- (2) Where a decision under *section 114(4)* or *116(8)* substitutes for a relevant determination specified in *paragraph (a), (b), (c), (d) or (f)* of *section 114(1)* a determination resulting in a person to whom the determination applies becoming a contributing participant—
- (a) that person shall be treated as having been assigned an enrolment date or re-enrolment date (as the case may be) of the date of the relevant determination, and
 - (b) any contribution that would have been payable in respect of that person from the date of the relevant determination shall be paid—
 - (i) in the case of a participant contribution, by that person,
 - (ii) in the case of an employer contribution, by the employer concerned, and
 - (iii) in the case of a State contribution, by the Exchequer.

- (3) Contributions payable under *subsection (2)(b)* shall be paid in accordance with the procedure specified by the Authority and published by it on a website maintained by or on behalf of the Authority.
- (4) Where a decision under *section 114(4)* or *116(8)* substitutes a determination resulting in employment becoming exempt employment—
 - (a) any affected employee who is not the applicant shall be treated as having not been assigned an enrolment date or re-enrolment date (as the case may be), and
 - (b) any contribution paid in respect of that affected employee as a result of the relevant determination shall be repaid by the Authority—
 - (i) in the case of a participant contribution, to that employee,
 - (ii) in the case of an employer contribution, to the employer concerned, and
 - (iii) in the case of a State contribution, to the Exchequer.
- (5) Where a decision under *section 114(4)* or *116(8)* substitutes a determination resulting in exempt employment becoming employment that is not exempt employment—
 - (a) any affected employee who is not the applicant shall be treated as having been assigned an enrolment date or re-enrolment date (as the case may be) of the date of the relevant decision, and
 - (b) any contributions payable in respect of that employee shall be payable from that date.

Amendment of Financial Services and Pensions Ombudsman Act 2017

119. The Financial Services and Pensions Ombudsman Act 2017 is amended—

- (a) in section 2(1)—
 - (i) by the insertion of the following definition:

“ ‘automatic enrolment retirement savings system’ means the retirement savings system established under the *Automatic Enrolment Retirement Savings System Act 2024*;”,
 - (ii) in the definition of “member”—
 - (I) in paragraph (a)—
 - (A) by the insertion of “other than the automatic enrolment retirement savings system,” after “a scheme,” and
 - (B) by the substitution of “State,” for “State, and”,
 - and
 - (II) by the insertion of the following paragraph after paragraph (a):

- “(aa) in relation to the automatic enrolment retirement savings system, a participant within the meaning of *section 2* of the *Automatic Enrolment Retirement Savings System Act 2024*, and”,
- (iii) by the substitution of the following definition for the definition of “pension provider”:
- “ ‘pension provider’ means—
- (a) in relation to a scheme, other than the automatic enrolment retirement savings system, any of the following:
- (i) any employer who adheres to the scheme;
- (ii) any person or undertaking that provides services to the scheme as a trustee, administrator, registered administrator for the purposes of Part VIA of the Act of 1990, consultant or advisor, investment manager, custodian, paying agent, insurer or actuary;
- (iii) any person to whom the implementation or interpretation of the rules of the scheme is entrusted;
- (iv) any other person of a class specified in regulations made by the Minister under section 4,
- and
- (b) in relation to the automatic enrolment retirement savings system, *An tÚdarás Náisiúnta um Uathrollú Coigiltis Scoir*,”
- and
- (iv) in the definition of “scheme”, by the substitution of “, a trust RAC or the automatic enrolment retirement savings system” for “or a trust RAC”,
- and
- (b) in section 4(2), by the substitution, in subparagraph (c)(ii), of “subparagraph (a)(iv)” for “paragraph (d)”.

PART 9

COMPLIANCE AND ENFORCEMENT

CHAPTER 1

*Interpretation***Interpretation (Part 9)**

120. (1) In this Part—

“Act of 2015” means the Workplace Relations Act 2015;

“authorised officer” means a person appointed under *section 121*;

“compliance notice” has the meaning assigned to it by *section 123*;

“fixed payment notice” has the meaning assigned to it by *section 124*;

“record” includes, in addition to a record in writing—

- (a) a disc, tape, sound-track or other device in which information, sounds or signals are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in legible or audible form,
- (b) a film, tape or other device in which visual images are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in visual form, and
- (c) a photograph,

and any reference to a copy of a record includes—

- (i) in the case of a record to which *paragraph (a)* applies, a transcript of the sounds or signals embodied therein,
- (ii) in the case of a record to which *paragraph (b)* applies, a still reproduction of the images embodied therein, and
- (iii) in the case of a record to which *paragraph (a)* and *(b)* apply, such a transcript together with such a still reproduction.

(2) In this Part—

- (a) references to participating in the automatic enrolment retirement savings system are references to—
 - (i) making an application under *section 53(1)* or *(3)*, or
 - (ii) being or continuing to be a contributing participant, including by a decision—
 - (I) not to make an application under *section 54*, or
 - (II) not to suspend contributions under *section 62*,and
- (b) references to contributions payable by an employer, or which an employer is liable to pay, include employer contributions and participant contributions.

CHAPTER 2

*Authorised officers and compliance***Authorised officers**

- 121.** (1) The chief executive may, with the consent of the Minister, appoint such and so many persons as he or she considers appropriate to be an authorised officer for the purposes of this Act.
- (2) A person appointed to be an authorised officer under this section shall on his or her appointment be furnished with a warrant of his or her appointment, and when exercising a power conferred by this Act shall, if requested by any person affected thereby, produce such warrant to that person for inspection.
- (3) An appointment under this section shall cease—
- (a) if the chief executive revokes the appointment,
 - (b) if the appointment is for a fixed period, on the expiry of that period, or
 - (c) in the case of a person who is a member of the staff of the Authority, if the person ceases to be a member of the staff.

Powers of authorised officers

- 122.** (1) For the purposes of this Act, an authorised officer may—
- (a) subject to *subsection (3)*, enter (if necessary by the use of reasonable force) at all reasonable times any place of work or any premises at which he or she has reasonable grounds for believing that records or documents relating to the employment of persons and payment of contributions for those persons are kept,
 - (b) at such place of work or premises, inspect and take copies of, any books, records or other documents (including books, records or documents stored in non-legible form), or extracts therefrom, that he or she finds in the course of his or her inspection,
 - (c) remove any such books, documents or records from such place of work or premises and retain them for such period as he or she reasonably considers to be necessary for the purposes of his or her functions under this Act,
 - (d) require any person at the place of work or premises concerned to give the authorised officer such information and assistance as the authorised officer may reasonably require for the purposes of his or her functions under this Act,
 - (e) require any person at the place of work or premises concerned, including the owner or person in charge of that place or premises, to produce to the authorised officer such books, documents or other records (and in the case of documents or records stored in non-legible form, a legible reproduction thereof) that are in that person's possession or procurement, or under that person's control, as he or she may reasonably require for the purposes of his or her functions under this Act,

- (f) require any person, whom the authorised officer has reasonable grounds for believing to be, or to have been, an employer or employee, to answer such questions as the authorised officer may ask relative to any matter under this Act and to make a declaration of the truth of the answers to those questions, and
 - (g) require any person by or on whose behalf data equipment is or has been used or any person having charge of, or otherwise concerned with the operation of, the data equipment or any associated apparatus or material, to afford the authorised officer all reasonable assistance in relation to it and assist in the retrieval of information from such data equipment, apparatus or material.
- (2) When performing a function under this Act, an authorised officer may, subject to any warrant under *subsection (4)*, be accompanied by such number of other authorised officers or members of the Garda Síochána as he or she considers appropriate.
- (3) An authorised officer shall not enter a dwelling, other than—
- (a) with the consent of the occupier, or
 - (b) pursuant to a warrant under *subsection (4)*.
- (4) Upon the sworn information of an authorised officer, a judge of the District Court may, if satisfied that there are reasonable grounds for believing that information, books, documents or other records (including information, books, documents or records stored in non-legible form) required by an authorised officer under this section is or are held at any dwelling, issue a warrant authorising a named authorised officer, accompanied by such other authorised officers or members of the Garda Síochána as may be necessary, at any time or times, before the expiration of one month from the date of issue of the warrant, to enter (if necessary by the use of reasonable force) the dwelling and perform the functions of an authorised officer under *paragraphs (b), (c), (d), (e), (f) and (g) of subsection (1)*.
- (5) A person shall be guilty of an offence if he or she—
- (a) obstructs or interferes with an authorised officer or a member of the Garda Síochána in the course of exercising a power conferred on him or her by this Act or a warrant under *subsection (4)* or impedes the exercise by the authorised officer or member, as the case may be, of such power, or
 - (b) fails or refuses to comply with a requirement of an authorised officer or member of the Garda Síochána under this section, or in purported compliance with such requirement gives information or makes a declaration to the authorised officer or member that he or she knows to be false or misleading in any material respect.
- (6) Where an authorised officer believes, upon reasonable grounds, that a person has committed an offence under this Act, he or she may require that person to provide him or her with his or her name and the address at which he or she ordinarily resides.
- (7) A statement or admission made by a person pursuant to a requirement under *subsection (1)* shall not be admissible as evidence in proceedings brought against the person for an offence (other than an offence under *subsection (5)*).

(8) In this section—

“data equipment” means any electronic, photographic, magnetic, optical or other equipment for processing data;

“employer”, in a case where emoluments are paid on behalf of another person, includes a reference to that other person;

“place of work” has the same meaning as it has in the Safety, Health and Welfare at Work Act 2005;

“premises” includes a vehicle, aircraft, vessel, ship, railway carriage or other means of transport.

Compliance notice

123. (1) Where an authorised officer is satisfied that a person has contravened a provision to which this section applies, the authorised officer may serve a notice (in this Part referred to as a “compliance notice”) on the person.

(2) A compliance notice shall—

(a) state the grounds for the authorised officer being satisfied that there has been a contravention referred to in *subsection (1)*,

(b) for the purpose of ensuring compliance by the person concerned with a provision to which this section applies, require the person to do or refrain from doing such act or acts specified in the notice by such date as is so specified, and

(c) contain information regarding the bringing of an appeal under *subsection (5)* against the notice, including the manner in which an appeal shall be brought.

(3) A compliance notice shall not specify a date in accordance with *subsection (2)(b)* that falls on or before the date by which an appeal under *subsection (5)* may be brought.

(4) An authorised officer may—

(a) withdraw a compliance notice at any time, as he or she considers appropriate, or

(b) where no appeal is brought under *subsection (5)*, specify a date extending the period specified in the notice for the purposes of *subsection (2)(b)*, and notify the person in writing accordingly.

(5) A person may appeal a compliance notice served on him or her to the District Court not later than 14 days after the service of the compliance notice concerned.

(6) The authorised officer and the appellant concerned shall be entitled to be heard and to adduce evidence at the hearing of an appeal under *subsection (5)*.

(7) The District Court shall, upon an appeal under *subsection (5)*, do one of the following:

(a) affirm the compliance notice concerned;

(b) direct the authorised officer to withdraw the compliance notice concerned.

- (8) An authorised officer shall comply with a direction under *subsection (7)(b)*.
- (9) A person who fails to comply with a compliance notice by the specified date is guilty of an offence.
- (10) This section shall not operate to prevent or restrict—
 - (a) the entitlement of any person to bring proceedings for the purpose of securing compliance with this Act by a person, or
 - (b) the bringing or prosecuting of any proceedings for an offence under this Act.
- (11) In this section, “specified date” means, in relation to a compliance notice—
 - (a) the date specified in the notice in accordance with *subsection (2)(b)*, where no appeal against the notice is brought under *subsection (5)*, or
 - (b) the day falling immediately after the expiration of the period of 7 days from the date on which the District Court so affirms the notice, where an appeal against the notice is brought under *subsection (5)* and the District Court affirms the notice in accordance with *subsection (7)(a)*.
- (12) This section applies to *sections 128 and 131*.

Fixed payment notice

- 124.** (1) Where an authorised officer has reasonable grounds for believing that a person is committing, or has committed, a relevant offence, the authorised officer may serve a notice in writing (in this Part referred to as a “fixed payment notice”) in the prescribed form stating that—
- (a) the person is alleged to have committed the relevant offence concerned,
 - (b) the person may, during the period of 21 days beginning on the date of the fixed payment notice, make to the Authority a payment of such amount or amounts as may be prescribed, being an amount of not more than €5,000 accompanied by the notice or copy thereof,
 - (c) the person is not obliged to make the payment specified in the notice,
 - (d) a prosecution of the person in respect of the alleged relevant offence will not be instituted during the period of 21 days beginning on the date of the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged relevant offence will be instituted, and
 - (e) in default of such payment, the person shall be prosecuted for the alleged relevant offence.
- (2) Where a fixed payment notice is served under *subsection (1)*—
- (a) the person to whom it applies may make a payment in accordance with *subsection (1)(b)*,

- (b) the Authority shall receive and retain the payment and issue a receipt for the payment,
 - (c) any payment received by the Authority shall not be recoverable by the person who made it, and
 - (d) a prosecution in respect of the alleged relevant offence to which the notice relates shall not be instituted during the period specified in *subsection (1)(b)* and, if payment so specified is made during that period, no prosecution in respect of the alleged relevant offence will be instituted.
- (3) In proceedings for a relevant offence, it shall be a defence for the defendant to prove that he or she has made a payment in accordance with this section, pursuant to a fixed payment notice served in respect of the offence.
- (4) The Minister may prescribe the amount of a fixed payment and may prescribe different amounts for different offences.
- (5) In this section, “relevant offence” means an offence under *section 128* or *131*.

Legal privilege

- 125.** (1) Subject to *subsection (2)*, nothing in this Act shall compel the disclosure by any person of privileged legal material or authorise the taking of privileged legal material.
- (2) The disclosure of information may be compelled, or possession of it taken, pursuant to this Act, notwithstanding that it is apprehended that the information is privileged legal material provided that the compelling of its disclosure or the taking of its possession is done by means whereby the confidentiality of the information can be maintained (as against the person compelling such disclosure or taking such possession) pending the determination by the High Court of the issue as to whether the information is privileged legal material.
- (3) Without prejudice to *subsection (4)*, where, in the circumstances referred to in *subsection (2)*, information has been disclosed or taken possession of pursuant to this Act, the person—
- (a) to whom such information has been so disclosed, or
 - (b) who has taken possession of it,
- shall (unless the person has, within the period subsequently mentioned in this subsection, been served with notice of an application under *subsection (4)* in relation to the matter concerned) apply to the High Court for a determination as to whether the information is privileged legal material and an application under this section shall be made within 30 days after the disclosure or the taking of possession.
- (4) A person who, in the circumstances referred to in *subsection (2)*, is compelled to disclose information, or from whose possession information is taken, pursuant to this Act, may apply to the High Court for a determination as to whether the information is privileged legal material.

- (5) Pending the making of a final determination of an application under *subsection (3) or (4)*, the High Court may give such interim or interlocutory directions as the court considers appropriate including, without prejudice to the generality of the foregoing, directions as to—
- (a) the preservation of the information, in whole or in part, in a safe and secure place in any manner specified by the court, or
 - (b) the appointment of a person with suitable legal qualifications possessing the level of experience, and the independence from any interest falling to be determined between the parties concerned, that the court considers to be appropriate for the purpose of—
 - (i) examining the information, and
 - (ii) preparing a report for the court with a view to assisting or facilitating the court in the making by the court of its determination as to whether the information is privileged legal material.
- (6) An application under *subsection (3), (4) or (5)* shall be by motion and may, if the High Court directs, be heard otherwise than in public.
- (7) In this section—
- “computer” includes a personal organiser or any other electronic means of information storage or retrieval;
- “information” means information contained in a book, document or record, a computer or otherwise;
- “privileged legal material” means information which, in the opinion of the court, a person is entitled to refuse to produce on the grounds of legal professional privilege.

Authority may publish information respecting certain persons

- 126.** (1) The Authority shall keep and maintain a list (in this section referred to as the “automatic enrolment retirement savings system non-compliance list”) of persons on whom a fine or other penalty is imposed by a court under this Act.
- (2) Subject to *subsection (4)*, the automatic enrolment retirement savings system non-compliance list shall specify, in respect of each person listed therein—
- (a) the name, trading name, legal identity and address of the premises or the name and electronic or web address of any website (or other location online) where the offence was committed,
 - (b) the relevant provision of this Act under which the fine or penalty was imposed, and
 - (c) such particulars as the Authority considers appropriate in respect of the matters occasioning the fine or penalty and the amount or nature of that fine or penalty.

- (3) The Authority may, in any form or manner as it considers appropriate, publish or cause to be published, including on a website maintained by or on behalf of the Authority, all or any part of the automatic enrolment retirement savings system non-compliance list.
- (4) An entry in the automatic enrolment retirement savings system non-compliance list in relation to the imposition of a fine or other penalty shall be deleted not more than 2 years after the date of the imposition of the fine or penalty.

CHAPTER 3

*Penalisation and hindering of employees***Protection of employees from penalisation**

- 127.** (1) An employer shall not penalise or threaten penalisation of an employee, or cause or permit any other person to penalise or threaten penalisation against an employee, for participating or proposing to participate in the automatic enrolment retirement savings system.
- (2) If a penalisation of an employee, in contravention of *subsection (1)*, constitutes a dismissal of the employee within the meaning of the Unfair Dismissals Acts 1977 to 2015, relief may not be granted to the employee in respect of that penalisation both under this Act and under those Acts.
 - (3) In this section, “penalisation” means any act or omission by an employer or a person acting on behalf of an employer that affects an employee to his or her detriment with respect to any term or condition of his or her employment and, without prejudice to the generality of the foregoing, includes—
 - (a) suspension, lay-off or dismissal (including a dismissal within the meaning of the Unfair Dismissals Acts 1977 to 2015), or the threat of suspension, lay-off or dismissal,
 - (b) demotion or loss of opportunity for promotion or withholding of promotion,
 - (c) transfer of duties, change of location of place of work, reduction in wages or change in working hours,
 - (d) the imposition or the administering of any discipline, reprimand or other penalty (including a financial penalty),
 - (e) coercion or intimidation, harassment or ostracism,
 - (f) discrimination, disadvantage or unfair treatment,
 - (g) injury, damage or loss,
 - (h) threat of reprisal,
 - (i) withholding of training,
 - (j) a negative performance assessment or employment reference,

- (k) failure to convert a temporary employment contract into a permanent one, where the employee had a legitimate expectation that he or she would be offered permanent employment, and
 - (l) failure to renew or early termination of a temporary employment contract.
- (4) In this section, “employer”, in a case where emoluments are paid on behalf of another person, includes a reference to that other person.

Hindering employee from participating in automatic enrolment

- 128.** A person who hinders or attempts to hinder an employee from participating in the automatic enrolment retirement savings system commits an offence.

CHAPTER 4

Workplace relations

Decision under section 41 or 44 of Act of 2015

- 129.** (1) A decision of an adjudication officer under section 41 of the Act of 2015 in relation to a dispute between an employee and his or her employer relating to any matter concerning *section 127 or 128* (or any matter arising out of or related to the employee participating in the automatic enrolment retirement savings system) may include such directions to the parties to the dispute as the adjudication officer considers necessary or expedient for the resolution of the dispute or matter and such other redress as the adjudication officer considers appropriate having regard to all of the circumstances and the provisions of this Act, and accordingly may—
- (a) direct that the employer facilitate the employee to participate in the automatic enrolment retirement savings system in accordance with *Chapter 2 of Part 3*,
 - (b) require the employer to pay any contribution due for that employee from the date on which the employee should have been enrolled as a participant,
 - (c) require the employer to rectify, within a specified time (being not later than 42 days after the date the decision is communicated to the employer) or in a specified manner, any matter, including the payment of any amount, in respect of which the employer is in contravention of this Act,
 - (d) award compensation in favour of the employee concerned to be paid by the employer concerned, or
 - (e) specify both a direction in *paragraph (a)*, a requirement in *paragraph (b) or (c)*, or both, and an award referred to in *paragraph (d)*.
- (2) An award of compensation referred to in *subsection (1)(d)* shall be of such amount as the adjudication officer considers just and equitable having regard to all the circumstances but shall not exceed 4 weeks’ remuneration in respect of the employee’s employment calculated in such manner as may be prescribed.

- (3) A decision of the Labour Court under section 44 of the Act of 2015, on appeal from a decision of an adjudication officer to which this section applies, shall affirm, vary or set aside the decision.
- (4) In this section, in relation to cases where a person’s employment has ceased, references to an employer include references to a former employer, and references to an employee include references to a former employee.
- (5) In this section—
- “employer”, in a case where emoluments are paid on behalf of another person, includes a reference to that other person;
- “remuneration” includes allowances in the nature of pay and benefits in lieu of or in addition to pay.

Amendment of Act of 2015

130. The Act of 2015 is amended—

- (a) in section 2, in the definition of “official body”—
- (i) in paragraph (n), by the substitution of “Authority,” for “Authority, or”, and
- (ii) by the insertion of the following paragraph after paragraph (n):
- “(na) *An tÚdarás Náisiúnta um Uathrollú Coigiltis Scoir, or*”,
- (b) in section 41(7)—
- (i) by the substitution in paragraph (i) of “dispute, and” for “dispute.”, and
- (ii) by the insertion of the following paragraph after paragraph (g):
- “(ga) in the case of a dispute relating to *sections 127 and 128* of the *Automatic Enrolment Retirement Savings Act 2024*, it has been referred to the Director General after the expiration of the period of 6 months beginning on the day immediately following the date of the occurrence of the dispute.”,
- (c) in Schedule 1, by the insertion in Part 2 of the following paragraph after paragraph 20 (inserted by section 35 of the Protected Disclosures (Amendment) Act 2022):
- “21. *Sections 127 and 128* of the *Automatic Enrolment Retirement Savings System Act 2024*”,
- (d) in Schedule 5, by the insertion in Part 1 of the following paragraph after paragraph 30:
- “31. *Sections 127 and 128* of the *Automatic Enrolment Retirement Savings System Act 2024*”,
- and

(e) in Schedule 6—

(i) by the insertion in Part 1 of the following paragraph after paragraph 40 (inserted by section 40(e) of the Work Life Balance and Miscellaneous Provisions Act 2023):

“41. *Section 129 of the Automatic Enrolment Retirement Savings System Act 2024*”,

and

(ii) by the insertion in Part 2 of the following paragraph after paragraph 40 (inserted by section 40(e) of the Work Life Balance and Miscellaneous Provisions Act 2023):

“41. *Section 129 of the Automatic Enrolment Retirement Savings System Act 2024*”.

CHAPTER 5

Offences

Offences in relation to contributions

131. (1) An employer who—

- (a) fails to pay at or within a prescribed time any contribution which he or she is liable to pay under *section 59*, or
- (b) makes a deduction from the gross pay of an employee in respect of any contribution which the employer is liable under *section 59* to pay and fails to pay at or within a prescribed time the contribution in respect of which the deduction was made,

is guilty of an offence.

(2) An employer, or a servant or agent acting on behalf of the employer, who, for the purpose of evading or reducing the amount of an employer’s liability in respect of a contribution which the employer is liable to pay under *section 59* and which he or she has not paid—

- (a) knowingly makes any statement or representation (whether written or verbal) which is to his or her knowledge false or misleading in any material respect, or knowingly conceals any material fact, or
- (b) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he or she knows to be false in a material particular,

is guilty of an offence.

(3) If an offence under *subsection (1)* is committed by an employer who pays emoluments on behalf of another person and the offence is proved to have been committed with

the consent or connivance of that other person, that other person shall, as well as the employer, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

- (4) Where an employer has been convicted under *subsection (1)* of the offence of failing to pay any contributions which he or she is liable under *section 59* to pay, the employer is liable to pay to the Authority a sum equal to the amount which the employer has failed to pay and an interest rate calculated in accordance with *section 138* and, on such conviction, if notice of the intention to do so has been served with the summons or warrant, evidence may be given of the failure on the part of the employer to pay other contributions in respect of the same person during the 3 years immediately before the date when the notice was so served, and on proof of that failure the court may order the employer to pay to the Authority a sum equal to the total of all the contributions which the employer is so proved to have failed to pay and an interest rate calculated in accordance with *section 138*, and the employer's right of appeal against the conviction under *subsection (1)* shall include a right to appeal against that order.
- (5) Where a person (referred to in this subsection as “the principal”) has been convicted of an offence under *subsection (3)* on proof that an offence by an employer under *subsection (1)*, of failing to pay any contributions which the employer is liable under *section 59* to pay, was committed with the consent or connivance of the principal, the principal is liable to pay to the Authority a sum equal to the amount which the employer has failed to pay and an interest rate calculated in accordance with *section 138* and, on such conviction, if notice of the intention to do so has been served with the summons or warrant, evidence may be given of the failure on the part of the employer to pay other contributions in respect of the same person during the 3 years immediately before the date when the notice was so served, and on proof of that failure the court may order the principal to pay to the Authority a sum equal to the total of all the contributions which the employer is so proved to have failed to pay and an interest rate calculated in accordance with *section 138*, and the principal's right of appeal against the conviction under *subsection (3)* shall include a right to appeal against that order.
- (6) Where a sum is payable under *subsection (4)* and *subsection (5)* in respect of the same unpaid contributions, the sum may be recovered under either (but not both) of those subsections.
- (7) Any sum paid under *subsection (4)* or *(5)* shall be treated as a payment in satisfaction of the unpaid contributions, and those contributions shall not be recoverable by any person from the employee.

Offences and penalties

132. (1) A person guilty of an offence under *section 24(3)*, *50(8)*, *53(9)*, *128* or *131* shall be liable on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months or both.
- (2) A person guilty of an offence under *section 122(5)*, *123(9)* or *140* shall be liable—

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months or both, or
 - (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 3 years or both.
- (3) Where an offence under this Act is committed by a body corporate and is proved to have been so committed with the consent or connivance of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.
- (4) Where the affairs of a body corporate are managed by its members, *subsection (3)* applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

Summary proceedings

- 133.** Summary proceedings for an offence under this Act may be brought and prosecuted by the Authority.

Costs

- 134.** Where a person is convicted of an offence under this Act the court shall order the person to pay to the Authority the costs and expenses, measured by the court, incurred by the Authority in relation to the investigation, detection and prosecution of the offence unless the court is satisfied that there are special and substantial reasons for not so doing.

Time limit for instituting summary proceedings

- 135.** Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under this Act may be instituted at any time within three years from the date on which the offence was alleged to have been committed.

Admissibility of certain documents in proceedings for offence

- 136.** (1) In proceedings for an offence under this Act—
- (a) a payroll document, or a document that purports to be a payroll document, shall be admissible as evidence of the matters specified in the document,
 - (b) a document (other than a payroll document) prepared or kept in the ordinary course of business, or that purports to have been prepared or kept in the ordinary course of business, by a person who had, or may reasonably be considered to have had, personal knowledge of the matters specified in the document shall be admissible as evidence of the matters specified in the document, and

- (c) a document that purports to be a reproduction in legible form of a document to which *paragraph (a) or (b)* applies stored in non-legible form shall be admissible as evidence of the matters specified therein, if the court before which the proceedings have been brought is satisfied that it was reproduced in the course of the normal operation of the reproduction system concerned.
- (2) *Subsection (1)(b) and subsection (1)(c)* (in so far as it relates to a document to which *subsection (1)(b)* applies) shall not apply to a document—
- (a) containing information that is privileged from disclosure in proceedings for an offence,
- (b) prepared for the purposes, or in contemplation, of—
- (i) the investigation of any offence,
- (ii) an investigation or inquiry carried out pursuant to or under any enactment,
- (iii) any proceedings whether civil or criminal, or
- (iv) proceedings of a disciplinary nature,
- or
- (c) prepared after the alleged commission of the offence concerned.
- (3) Nothing in this section shall operate to render inadmissible in proceedings for an offence any document as evidence of any matter specified therein, that is so admissible by virtue of any rule of law or enactment other than this Act.
- (4) In this section—
- “business” includes any trade, profession or other occupation carried on—
- (a) for reward or otherwise, and
- (b) either in the State or outside the State;
- “employer”, in a case where emoluments are paid on behalf of another person, includes a reference to that other person;
- “payroll document” means a payslip, payroll ledger, book of account or other document prepared or kept by or on behalf of an employer in respect of one or more than one of his or her employees that contains a record of payments or deductions made by, or on behalf of, that employer in respect of the employee or employees concerned.

Presumptions in proceedings for offence

- 137.** (1) In proceedings for an offence under this Act, it shall be presumed, unless the contrary is shown, that a payroll document referred to in *section 136* found on the premises of any employer relates to an employee of that employer.

- (2) Where a document is retrieved from an electronic storage and retrieval system, it shall be presumed, unless the contrary is shown, that the person who ordinarily uses that system is the author of the document.
- (3) In this section—
- (a) “employer” has the same meaning as in *section 136*, and
- (b) in relation to cases where a person’s employment has ceased, references to an employer include references to a former employer, and references to an employee include references to a former employee.

CHAPTER 6

*Miscellaneous***Interest on arrears of contributions**

138. (1) Any contribution payable by an employer shall carry interest from the date when the contribution becomes due and payable until payment and the amount of that interest shall be determined in accordance with *subsection (2)*.

- (2) The interest referred to in *subsection (1)* shall be determined by the following formula—

$$C \times D \times P$$

where—

C is the contribution due and payable which remains unpaid,

D is the number of days (including part of a day) during which the contribution remains unpaid, and

P is the rate of interest payable at a daily rate of 0.0274 per cent.

- (3) The interest payable under this section shall be—
- (a) payable without any deduction of income tax and shall not be allowed as a deduction in computing any income, profits or losses for any of the purposes of the Tax Acts, and
- (b) deemed to be a debt due to the Authority and shall be payable to the Authority.
- (4) In proceedings under this section—
- (a) a certificate signed by an authorised officer certifying that a stated amount of interest is due and payable by the person against whom the proceedings were instituted shall be evidence until the contrary is proven that that amount is so due and payable, and
- (b) a certificate so certifying and purporting to be signed as specified in this subsection may be tendered in evidence without proof and shall be deemed until the contrary is proved to have been signed by an authorised officer.

- (5) In this section, “Tax Acts” has the same meaning that it has in section 1(2) of the Taxes Consolidation Act 1997.

Court may order employer or employee to pay arrears of contributions

- 139.** (1) The Authority may apply to the court for an order requiring an employer or an employee to pay arrears of contributions.
- (2) An application under *subsection (1)* to the District Court shall be to a judge of the District Court for the time being assigned to the district court district within which the employer or employee, in respect of which the application under *subsection (1)* is made, is located.
- (3) An application under *subsection (1)* to the Circuit Court shall be to a judge of the Circuit Court for the circuit within which the employer or employee, in respect of which the application under *subsection (1)* is made, is located.
- (4) The court may make an order under *subsection (1)* if it is satisfied—
- (a) that any contributions payable to the Authority by an employer have become due and remain unpaid, or
 - (b) that any participant contributions payable to the Authority by an employee have not been deducted by the employer from the gross pay of the employee and have not been paid to the Authority.
- (5) In making an order under this section, the court may make an order—
- (a) that any contribution payable in respect of an employee from a date specified by the court shall be paid to the Authority by the employer concerned,
 - (b) that any participant contributions in respect of an employee from a date specified by the court shall be paid to the Authority by the employee concerned,
 - (c) that the employee shall be treated as having been assigned an enrolment date or re-enrolment date (as the case may be) as of a date specified by the court, and
 - (d) that interest is applied on the contributions payable to the Authority in accordance with *section 138*.
- (6) In this section, in relation to cases where a person’s employment has ceased, references to an employer include references to a former employer, and references to an employee include references to a former employee.
- (7) In this section—
- (a) “court” means—
 - (i) the District Court,
 - (ii) the Circuit Court, or
 - (iii) the High Court,
- and

- (b) “employer”, in a case where emoluments are paid on behalf of another person, includes, except in *subsection (4)*, a reference to that other person.

Forgery of documents

- 140.** (1) A person who forges, or utters knowing it to be forged, a notice, certificate or other document purporting to be issued, granted or given under this Act (in this section referred to as a “forged document”) is guilty of an offence.
- (2) A person who alters with intent to defraud or deceive, or utters knowing it to be so altered, a notice, certificate or other document issued, granted or given under this Act (in this section referred to as an “altered document”) is guilty of an offence.
- (3) A person who, without lawful authority, has in his or her possession a forged document or an altered document is guilty of an offence.

Recovery of moneys

- 141.** The Authority may recover an amount due under *sections 131, 138 and 139* as a simple contract debt in any court of competent jurisdiction from the person by whom it is payable.