

Ref: P18/25/16

27 April 2016

To Heads of Departments/Offices

Circular 15 of 2016: Guidance on the application of sections 52(6) and (7) of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012.

A Dhuine Uasail

1. Section 52(6) of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 (the 2012 Act) provides that where a public servant has accrued pensionable service under one or more pre-existing public service pension schemes then, subject to subsection (7), no more than the equivalent of 40 years' service in total may be taken into account in calculating any pensions or lump sums payable under those schemes¹. Subsection (7) allows persons who had accrued more than the equivalent of 40 years' service before the passing of that Act in July 2012 to retain the benefit of service accrued up to 27 July 2012.
2. The restriction to a maximum of 40 years (or such higher number of years as may be allowable under subsection (7)) does not require service to be restricted to *specific* years. Consequently, where it can be reasonably facilitated, an employer processing a retirement application may allow a retiree to forgo less valuable pension service so that more valuable service (within the overall allowable limit) may be availed of. However, under no circumstances should an employer facilitate an approach which could have the effect of avoiding the provisions of any court order affecting a pension applying to a particular period of service (e.g. a pension adjustment order).
3. The following approach to calculating aggregate pension benefits in a manner most favourable to the retiree but remaining within the mandatory limit on pensionable service prescribed by the section, may be used in any case where the 40 year limit has been reached or exceeded.

¹ It should be noted that the requirement to pay pension *contributions* is not affected by this provision.

- Step 1. Establish (from service records and consultation with the person retiring) the total number of years accrued up to and including 27 July 2012. This will require conversion of service in fast-accrual schemes, and assistance for this purpose from the employer operating the relevant scheme should be sought as necessary in each case.
- Step 2. Establish the total number of years accrued at retirement, i.e. the total number of years of pensionable service (in "equivalent of 40 years' service" terms) across all relevant schemes both up to and after 27 July 2012. The necessary details may be established by reference to the attached declaration under Section 51 (Duty to make declarations, etc.) of the 2012 Act and service records.
- Step 3. If the total number of years at step 1 exceeds 40 years' equivalent, then this is the total allowable. If the total number of years at step 1 is less than 40, then 40 years' equivalent is the allowable maximum.
- Step 4. Before the maximum limit is applied, the pensionable entitlements under each scheme should be set out. Then, the most financially beneficial combination of service *within the allowable maximum under step 3* should be calculated and presented to the retiree as an option for consideration. Some of these years may be post 27 July 2012. Any non-monetary issues which could be regarded as giving rise to a benefit, e.g. differences in retirement age between schemes, should also be highlighted. While the pros and cons of options may be discussed, given the variety of factors involved, employers should be cautious of giving financial advice.
- Step 5. Consult the retiree as to which combination of service on the basis of the information at step 4, s/he wishes to elect for. Basing some pension on years post 27 July 2012 may mean that some years pre 27 July 2012 may not be availed of for pension purposes, and the retiree may be required to forgo pension based on those years in order to maximise the total value of the pension. The prior formal consent of the retiree to any such substitution arrangement should be obtained. The retiree must also provide the employer with confirmation from the previous employer that any adjustment necessary under this step, including recoupment of relevant lump-sum will be given effect.

4. A retiree seeking to avail of the option set out at paragraph 2 and 3 should also be required to sign the attached declaration under Section 51 (3) of the 2012 Act stating what element of their pension entitlements, if any, is subject to a court order affecting their pension. NB For privacy and data protection reasons, this form should only be sent to retirees exercising that option.

5. Please bring this Circular to the notice of all public service bodies under the aegis of your Department. Any queries about this matter should be referred to Breda Scanlan at 6045442 or pensions@per.gov.ie.

Mise le meas,


Oonagh Buckley,

Assistant Secretary,

Remuneration, Industrial Relations and Pensions Division.

Declaration under Section 51 (Duty to make declarations, etc.) of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012

I hereby declare that I am / am not (*delete as appropriate*) in receipt of any remuneration (pay) from any public service body.

Signed: _____

Name (Block Capitals): _____

PPSN: _____

Date: _____

I hereby declare that I am entitled to the following pension benefit(s) / am in receipt of remuneration from a public service body (*delete as appropriate*), as specified below:

PENSION BENEFIT

Description	
Annual gross pension	
Paying authority	

REMUNERATION

Description	
Annual gross pay	
Paying authority	

Signed: _____

Name (Block Capitals): _____

PPSN: _____

Date: _____

Declaration under Section 51(3) (Duty to make declarations, etc.) of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012
- Pension Adjustment Order

For use where a retiree is prepared to forgo part of an earlier pension.

1. Has a Pension Adjustment Order been granted in respect of a pension benefit payable to you by a Public Service Body?

Yes

No

2. If Yes, please provide details of the Pension Adjustment Order:

PENSION ADJUSTMENT ORDER

Date of Order	
Pension Scheme	
Paying authority	

I hereby declare that I have read and understood the contents of Circular 15/2016, that I am prepared to be bound by its terms and that, to the best of my knowledge, information and belief, the information provided herein is true, complete and accurate.

Signed: _____

Name (Block Capitals): _____

PPSN: _____

Date: _____