



Position regarding the General Scheme of the Automatic Enrolment Retirement Saving System Bill

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INSURANCE
IRELAND

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Introduction

Insurance Ireland and its members welcome the introduction of an Automatic Enrolment (AE) system in Ireland and the opportunity to provide observations on the General Scheme of the Automatic Enrolment Retirement Savings System Bill as part of its pre-legislative scrutiny. Insurance Ireland appreciates the ambitious plans for the introduction of AE in Ireland, including the timelines for the establishment of the system as set out by the Government and it notes the immediate priority from DSP is the delivery of the system by the end of 2023, with first enrolments in 2024. Insurance Ireland has strongly supported the development of the AE system from the beginning and we join with the Government in striving for AE to be a success.



Insurance Ireland members have been providing pensions for employees and individuals for many years and have built systems in which people can make provision for their retirement within regulatory and legislative rules. As a result they have much to add to the AE debate in terms of how people engage with pensions and also how the pension landscape operates. Insurance Ireland has also been researching and reporting on the best options for a successful AE system for a number of years. In its report 'A Universal Pension for Ireland' Insurance Ireland identified best practice from a number of jurisdictions. Following further engagement with policymakers from such jurisdictions experts and the OECD, Insurance Ireland presented a comprehensive issues paper: 'A Universal Pension for Ireland – 70:30' plotting the course for 70% of those in employment in Ireland saving for a pension by 2030. The research and continuous engagement with international experts allows Insurance Ireland to lead the conversations it has with policymakers to this day.

Against this backdrop, Insurance Ireland has assessed the current proposals presented by Government, as well as engaging on previous discussions around the 2018 Strawman and the 2022 Design Principles. Given the enormous implications the new AE system will have on Irish society and future generations, we emphasise it must be progressive, balanced and future-proofed. The system must understand the challenges in today's pension systems, for example, the gender pension gap, and respond to the expected changes to the future of work to ensure that the challenges are not 'hard-wired' into a new pension infrastructure that will endure for many years to come.

Unfortunately, Insurance Ireland is not aware that any impact assessment that has been carried out has responded to these questions, as required under the revised Regulatory Impact Analysis Guidance ¹ nor has a business case been prepared to assess how the design principles respond to these challenges. This is particularly important in the new proposals as set out around decumulation, which were not previously made public in the Design Principles or Strawman.

Such assessments need to include projected tax loss to the Exchequer, a potential shift in the tax and public funding burden and fairness across society in advance of the rollout of the system. Insurance Ireland strongly supports the system which would support 750,000 workers. However, it needs to be carefully assessed how the new system secures the level-playing-field between the people in scope and available options for the other 1.78 million people in employment in Ireland and future generations. Particularly the impact on vulnerable groups, young people, single breadwinner households and single parents outside the scope (€20,000 income p.a.; minimum ages of 23 years) and the self-employed must be carefully assessed.

¹ Department of the Taoiseach: Revised RIA Guidelines How to conduct Regulatory Impact Analysis

Barriers to Entry for Low Income, Part time and Young Workers



Although the AE system as proposed in the General Scheme of the Automatic Enrolment Retirement Savings System Bill (the General Scheme) includes some provisions for employees who are below the age- or income-thresholds to voluntarily enrol in the system (i.e. *Head 6 Voluntary participation – right to opt-in*), it is still disproportionately disadvantaging low income, part-time workers, a vast amount of whom are women, and young employees.

The General Scheme includes a key barrier to low income and part-time workers, many of whom are young people, in the minimum entry age of 23 years of age. Insurance Ireland believes that this lower age limit excludes young workers at a key point in their pension saving lives. Particularly people without secondary education or early school leavers must be brought into the system as soon as possible to ensure that they can build-up sufficient pension savings. That is why we call for removal of the lower age limit.

The General Scheme includes a further key barriers in the minimum entry threshold of €20,000. Insurance Ireland encourages the Joint Committee on Social Protection, Community and Rural Development and the Islands to consider and impact assess the value of such a threshold, given the cohort of workers it would exclude from participating. Again, a major risk arises to exclude those who need the system most, part-time workers, people in social care and people with a lower level of formal education. Many people who are working part-time do so to ensure that other needs can be fulfilled, i.e. family and child care.

A system with the objective to provide a basic pension income to employees and ensure early and sufficient savings for retirement must not exclude the most vulnerable cohorts in our working society.

The Gender Pension Gap

Against this background, Insurance Ireland is disappointed by the fact that the General Scheme has not gone further in ensuring fair treatment of carers, part-time and low-income earners, which are predominantly women, and they do not make any provision to mitigate the gender pension gap. Specifically, there is no detail on how the system will work for those who will take maternity leave or if it is possible for them to top up their pensions to account for any gaps in service. In fact, the General Scheme clarifies that 'top up payments' cannot be made to the AE pension, thereby prohibiting employees from maximising their retirement fund under current proposals.

On the barriers referred to above, Dr M.Claire Dale and Professor Susan St John comment in their 2020 report, 'Women and Retirement in a post COVID-19 world',

*"The age band of 23-65 years does not reflect a gender lens and the proposed threshold income of €20,000 is extraordinarily high. For women whose income is variable it is likely to be very complicated. In contrast, there is no effective threshold for New Zealand's AE scheme, and the threshold for Australia is much lower at an annual A\$5,400."*²



In New Zealand's KiwiSaver scheme a lumpsum 'KickStart' of \$1,000 for new members was put in place when the scheme commenced. On its removal later in the lifetime scheme, the loss of the subsidy had particularly adverse affects on women and low income earners, showing that additional care is required when attempting to ensure fairness and equity within the system.³ In Insurance Ireland's March 2022 report 'Mitigating the Gender Pension Gap in Ireland', we called for the abolition of the minimum entry thresholds and a KickStart' bonus for certain low-income earners in the Irish AE System.

2. Dr M.Claire Dale and Professor Susan St John 'Women and Retirement in a post COVID-19 world' (2020), page 5

3. Dr M.Claire Dale and Professor Susan St John 'Women and Retirement in a post COVID-19 world' (2020), page 29

The Pensions Council in their recent report on the Gender Pension Gap in Ireland has also argued that the AE system is not gender proof.⁴ In agreeing with this, Insurance Ireland contends that the system as proposed is a missed opportunity for Ireland to take real steps to reducing the gender pension gap and, in fact, further exacerbates the gap by excluding this cohort from being able to avail of or benefit from the system and make provision for their retirement.

The omission in the system to cater for any gaps or special leave time will impact the Irish society even more broadly in the future considering the aging population and the need to combine caring responsibilities with careers. The shift from formal employment to platform and project-based employment arrangements will lead to a substantial discontinuity in income level and employment periods, including movements from formal employment to periods of self-employment and back again. The future AE system should reflect the developments in the future of work. The targeted measures responding to the challenges leading to the gender pension gap would also mitigate substantial part of these risks.

4. The Pensions Council, Report on Gender Pension Gap (2022), page 5

Contributions

The calculation of contributions remains an area of confusion with the Design Principles indicating contributions will be calculated on gross salary and paid from net salary. The DSP have confirmed that contributions will be calculated on the gross amount as tax relief is not being provided on the contributions and this is also reflected in the General Scheme (see *Explanatory note to Head 66*). Instead, the State is providing a top-up financial incentive equivalent of 25% tax relief to ensure fairness for AE participants, 75% of whom are estimated to earn at or below the standard rate of income tax. The DSP confirmed this is designed to ensure a ‘real’ 6% contribution, however, a 6% contribution on this basis will result in an actual deduction of 7.5% for standard rate tax-payers and a 10% deduction for higher rate tax-payers. A higher than anticipated deduction from net pay, particularly in a time of sharply increasing costs of living, may well influence a higher volume of opt-outs, therefore defeating the objective of AE itself.



Another significant deviation from both the 2018 Strawman and the AE Design Principles paper is the tax treatment at decumulation. Within the General Scheme, it is noted that it will operate on an EET (exempt, exempt, taxed) basis, however it further notes that on decumulation the lumpsum is temporarily tax free, therefore operating on an EEE (exempt, exempt, exempt) basis. This puts existing pensions at risk as the AE system is essentially tax free while existing pensions remain liable for tax on decumulation. We note the intention of this to be a ‘temporary’ provision while pension pots are accumulating, however there is no detail on how long this would be in place, how it will be removed, and how this does not discriminate against those who have been saving into pensions for years and will receive less options at retirement.

The Interdepartmental Pensions Reform and Taxation Group (IDPRTG) made substantial efforts to ensure simplification and a level-playing field between pensions and it is of vital importance that there is fair treatment across all pensions. However, the General Scheme does not provide any flexibility in terms of portability of retirement savings funds between the current pension systems and the auto-enrolment system and this important issue is left for consideration at a later stage by the CPA. While being a substantial measure for a major group of the Irish working population, the AE system will not cater for all.

CSO figures show there are over 2.5 million people in employment in Ireland in 2022. A system which excludes the beneficiaries of the AE system from sharing the burden for its own regime disproportionately disadvantages all other workers saving for their retirement in Ireland.

In addition, to the groups described above, self-employed, owners of small businesses, farmers and others will have to carry the additional burden. There should be a careful assessment of how the final AE system will be funded and how the necessary burden can be shared in a proportionate and fair manner to safeguard public interest across Irish society.

Finally, it has been noted within the General Scheme that changes can be made by the Minister for Social Protection by way of regulation (see for instance Heads 58 and 59), however, changes to the taxation system can only be made by primary legislation, otherwise they can be challenged and found to be unconstitutional.

The 2018 Strawman and the Central Processing Agency

Insurance Ireland and its members would strongly encourage the reconsideration of the 2018 Strawman as a more appropriate means for the delivery of the AE system. The 2018 Strawman outlined that the registered providers would have a direct relationship with the AE member, would collect and invest contributions, and would be responsible for administration and record keeping. The General Scheme, similar to the AE Design Principles paper, provides that the member's relationship will be with the Central Processing Agency (CPA) and the role of the four registered providers will be purely to act as fund managers for the CPA. Whilst this might be seen as a minor change, what it means in practice is a much broader role for the CPA and is likely to involve building complex infrastructure from scratch. The General Scheme also places more onus on employers in terms of calculating the contributions, which was not envisioned in the Strawman and would create an excessive administrative burden especially for SMEs.

Over time, it is expected by the DSP that the CPA will become self-funding, although significant establishment costs will be involved. Insurance Ireland was pleased to note after a meeting with the DSP that there are no plans to levy private pensions or amend pension tax relief in any way, therefore the costs of establishing the CPA will be met from by the Exchequer. Again, the question remains of how the establishment and operation is funded through the budget and how the burden is shared.

The design and build of the proposed CPA will be a complex project which, in our view, is likely to take much longer to implement than the timelines provided for by the DSP so far. Aside from the build itself, the aim for legislation establishing the CPA to be enacted in Q3 2023, in our experience, is optimistic. It is also of concern to Insurance Ireland and our members that the DSP will be competing for the same scarce talent and resources in the establishment of the CPA when there is already a skills shortage. This has the potential to further escalate up operating costs for the DSP which much be absorbed within the AE system or by the tax payer.



Insurers, as taxpayers contributing €1.6bn to the Exchequer annually, have a reasonable expectation that significant Government projects, like the major policy commitment to establish the CPA, should be properly planned and costed. It should be subject to robust examination and analysis in terms of timelines, budgets and oversight by the Department for Public Expenditure and Reform. This is particularly the case in the context of pressures on public spending and a high inflation environment, where budgets may change soon after formulation. Insurance Ireland encourages consideration be given to whether alternatives are available to achieve the same outcome at a lower cost/risk. We are also of the opinion that there should be more transparency around the impact assessment of this significant project from a financial and societal perspective and call for the assessment to be made publicly available immediately.

The proposal that member money will flow through the CPA, a further deviation from the 2018 Strawman, adds considerably to the complexity and risk of the project. According to the Irish Fiscal Advisory Council's May 2022 report, the AE fund would potentially accumulate €21 billion in contributions by year 10⁵. This would make the CPA a significant provider of financial services. Insurance Ireland notes the confirmation by the DSP in a meeting that the CPA will be considered as an IORP and therefore subject to IORPs II governance and prudential rules which is also stated in Head 68(2). The new IORPs II rules that came into force on 21st April 2022 pose significantly higher level of responsibility on providers and trustees and these will have to be applied to the AE system in the same way as any other pension. However, it should be questioned whether there is understanding as to the significant resources and time needed to deliver such a system without an impact assessment.

Further, there are considerable concerns about the independence of the operation of the CPA and its designated supervisor, the Pensions Authority, given that both State bodies are reporting to and depending on the same Department (the DSP). Principles of good governance need to be ensured.

The intention may be that many of the functions of the CPA will be outsourced. This does not reduce the risk carried by the State and the ultimate responsibility for compliance by the CPA. Financial services and pension providers are subject to very complex regulations regarding their outsourced business and certain safeguards have to be put in place to outsource elements of the operation. It is one of the tenets of Central Bank of Ireland (CBI) regulation of financial services that an activity can be outsourced but not the responsibility for it. It will be important to identify the potential risks arising (e.g., counter-party defaults, money not invested promptly, pricing or administration errors, accountability and control mechanism), where responsibility lies and ensure appropriate oversight by the Board of the CPA. Indeed, as the AE system will be the largest provider of financial services in time, should it also be subject to conduct regulation from the CBI, as all other pension providers are, to ensure consistency for consumers?

It is apparent from the General Scheme that the AE system will no longer operate as a trust, but as a body corporate. It is worthy of note that the NEST AE system in the UK experienced complications in relation to State Aid on this basis. Given the AE system will require borrowings from the State, it is important that specific attention is paid to ensure that the AE system is delivered and operated in such a way that it is compliant with the European Union's State Aid rules, otherwise further delays may be inevitable as the system is being delivered.

Communications

Pension planning is a long-term business and members starting to save should be given clear information on how their accumulated fund will be distributed at retirement.

The primary purpose of the AE system will be to give members an adequate level of income replacement in retirement. In addition, it may provide a lumpsum at retirement which has been a traditional part of Irish pension systems for years. The General Scheme as currently drafted does not give any indication how post-retirement drawdown will be structured. As discussed above, initially the AE system will allow members take 100% of their fund as a lumpsum. It appears the intention is to include a post-retirement income facility at some point but there is no indication of what form this will take or when this will be developed. Therefore, communications to the 750,000 people who will join the AE system on its launch in 2024 is that the system is allowing a 100% lumpsum.

The launch of the AE system will be the biggest pension event in the history of the State and communicating on this temporary basis will create expectations which will be hard to shift when the structure changes to accommodate drawdown. A fundamental change such as this after a few short years will undermine confidence in a new system that promised to simplify and democratise pension provision.

We strongly encourage that from the very start correct expectations are set by requiring savers put 75% of their fund into a drawdown product such as an Approved Retirement Fund (ARF) or an annuity and that these expectations are clearly communicated to AE system members. Further drawdown options should be developed over time, but it will prove invaluable to have created correct expectations and communicated these expectations to AE system members from the very start.

The confirmation of plans for a comprehensive, targeted communications campaign for employers is welcome to ensure they understand AE and its implications on them and their employees. The development of a communications strategy will form part of the work taking place across 2022 and 2023. This is more important than ever given the fact that employers will be tasked with calculating employer contributions, which represents a deviation from both the 2018 Strawman and the AE Design Principles.

While the theory of AE is to leverage inertia in terms of stimulating pensions savings, and notwithstanding that employees will not be able to withdraw their contributions until after the first six months, Insurance Ireland believes that without increased support to help employers understand and promote the benefits of AE with their employees, we will see larger than anticipated opt-outs – particularly in a time of high inflation. As such, Insurance Ireland strongly agrees that a comprehensive and focused communications strategy to educate employers should be rolled out as part of the introduction of AE, including their responsibilities in calculating the contributions as per Head 27.

CONCLUSIONS

The Irish pensions landscape is extremely complicated with multiple and often overlapping products and rules. Employees will likely move through different employments in their working lives, and there must be the ability for AE pensions to coexist with traditional pension arrangements, particularly at retirement. If people have difficulties with AE, it could result in damage to the reputation of pensions generally, for example.

There is a lack of detail on how the two systems will co-exist in terms of transfers and how the 'pot follows member' approach will work outside of the AE ecosystem. The importance of simplifying the current structure was recognised in the 2020 report of the IDPRTG, making a number of recommendations which are currently being progressed.⁶ Insurance Ireland would like to see these implemented as soon as possible.

The 2018 Strawman envisaged that much of the necessary functionality would be met by providers in the marketplace, such as insurers, with existing highly regulated infrastructure in place to manage the client relationship from the setting up of the plan, through the accumulation/savings period potentially lasting many years to the administration of retirements. This is still an option. The extent to which insurers can participate in the AE system is a decision for the Government but our members' vast experience of pensions provision gives them a valuable perspective and understanding of the issues involved, as well as a highly regulated pension saving infrastructure already in place.

It is in everyone's interest that the AE system should be a success, raising awareness in the population generally of the importance of planning for retirement. Insurance Ireland encourages the Joint Committee on Social Protection, Community and Rural Development and the Islands to look beyond the increased pension access and coverage the AE system will bring but also consider the adequacy of pensions the AE system will deliver and the improvements the above considerations could bring

6. Government of Ireland, Report of the Interdepartmental Pensions Reform & Taxation Group 2020 (2020), section 3

Feedback Related to Specific Parts and Heads within the General Scheme

The AE system is a publicly provided or, at least, strongly incentivised system, provisions ensuring the interests of the system member (e.g. information transparency) should be aligned to any private pension product, at minimum.

Part 3 dealing with contributions

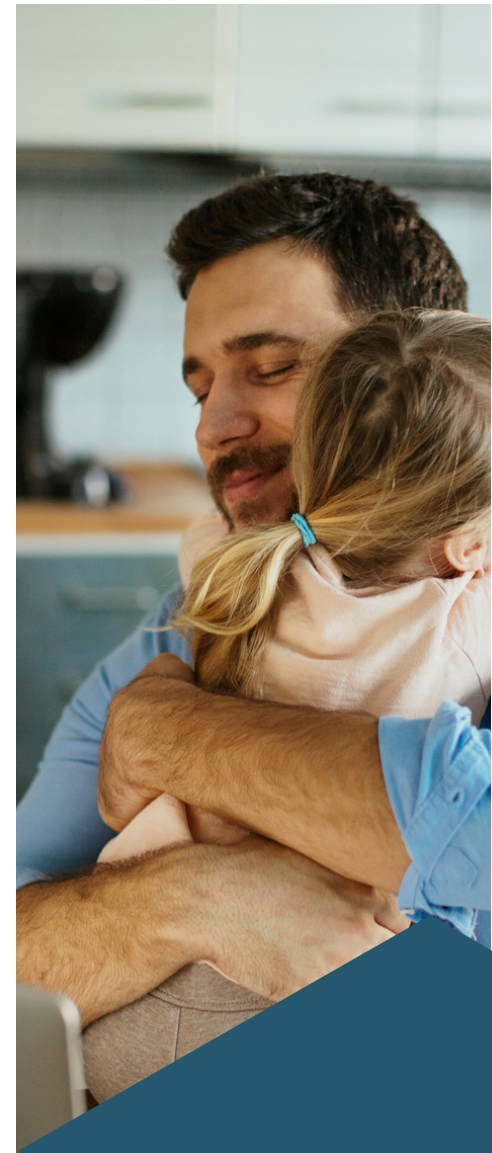
- On Head 9, a salary cap for employees does not appear to exist vs. €115k salary cap for other pension arrangements.
- Further, it appears there is no scope or clarity around potential for Additional Voluntary Contributions (according to the General Scheme, this will be left for a later stage – see Explanatory note to Head 63).
- There is a salary cap for employers at €80k vs. no salary cap in other pension arrangements.
- Government contribution capped at salary of €80k, which doesn't align to tax relief equivalent if someone earns above €80k.

Part 4 dealing with opt-out and suspension

- There are some differences in how the AE system will operate in practice vs. Defined Contribution (DC)/Master Trust (MT). There appears to be more flexibility than in DC schemes where members have less flexibility to take contribution holidays, etc, once they become members. This puts AE system participants and employers at an advantage to DC/MT users.
- On Head 12, where an employee opts out at rate increase (i.e. years 4,7 and 10) it appears they can get a refund of contributions, however in most instances for DC schemes, a refund is only permitted in the first two years before vesting comes into play. This is a difference as in the way the Head is worded there is scope to get money back out of the AE system much later in the savings cycle, it is questionable what the refund will be (total contributions, contributions minus some cost elements, present value of assigned assets). It is understood that it will not be the whole contribution made and it is unclear who bears the risk where the present value of assigned assets is lower than the refund to which the individual is entitled.

Part 6 dealing with contribution collection

- In Heads 25, 26 and 27 there does not appear to be a definitive notice of the timelines to remit contributions, whereas the DC scheme is quite prescriptive in it being 21 days from the end of the month in which the contribution is deducted.



Part 8 dealing with investment profiles available to AE participants

- Heads 34 and 35 deal with investment choice. Insurers are very familiar with the requirements for appropriate risk profiling to support correct decision making where the member chooses to go outside of defaults. There is no provision for this in the AE system.
- Further, there seems to be little reference to an intent to implement ESG investment principles within the General Scheme.

Part 11 dealing with communication and information

- Head 46, it is argued is vague, but we would challenge the quality and independence of advice as offered by the CPA vs. a regulated financial broker, as available to DC schemes.
- Further, advice appears to be limited to switching from default. There is a much wider range of issues or queries which employers and/or AE system participants may have. This puts AE system participants and employers at a disadvantage to DC/MT.

Part 15 dealing with Retirement Benefits

- On Heads 58 and 59 dealing with future lump sums and the possibility of adding future 'at retirement' options, the sole purpose of retirement planning is for the provision of an income in retirement and it is an absolute requirement that retirement savers know what their options will be at the time that the pension contract is entered into, as per existing pension rules and IORPsII.
- Insurance Ireland does not agree with the statement 'nobody will be drawing down for a number of years' to be an acceptable one as within those number of years there is distinct inequity in tax treatment between users of the AE system and those not.
- Further, this approach seems to contradict Head 45 which deals with benefit statements

“(e) A statement which specifies the level of benefit which could reasonably be expected at a specified date or dates to be payable at retirement age based on the value of the retirement savings fund at the date of the statement.”

Part 17 dealing with Review and Evaluation

·On Head 63 providing for power to assess, review, evaluate and make recommendations, we are of the opinion that a reasonable period for a review of the AE system effectiveness should be provided for in the General Scheme as the wording 'from time to time' in Subhead 1 is extremely vague.



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