



## Public Consultation on Retired Workers Access to Industrial Relations Mechanisms for Pension Related Issues

The purpose of this consultation is to seek your views on proposals arising from a Private Members Bill for the introduction of a statutory right for retired persons to be included in collective trade disputes and how to balance the proposed new rights for retired persons with the current rights and interests of workers and employers who engage in the bargaining process, along with considering;

- What, if any, additionality could the proposals provide to the existing protections for retired persons including those provided by the Pensions Authority, the Financial Services and the Pensions Ombudsman;
- The effectiveness of the existing timeframe which already allows a retired person access to the industrial relations bodies in a period of 6-months post-retirement for matters arising pre-retirement please see section 26A [Revised Acts \(lawreform.ie\)](http://lawreform.ie) and
- Whether there is the potential for new or enhanced methods of consultation through the introduction of alternative systems, networks or fora which might assist retired workers in engaging more fully on pension related issues.

The document provides space for your responses to the questions set out.

Your Name: Arthur MCSWINEY, Chmn, c/o Paddy KILDUFF, Secretary, RASA-Pensions Sub-Committee

Organisation (if applicable): **RETIRED AVIATION STAFF ASSOCIATION (RASA)**

Telephone Number: 086-820 7465 (Paddy Kilduff)

E-mail: [paddykilduff@ymail.com](mailto:paddykilduff@ymail.com), [rasadub@gmail.com](mailto:rasadub@gmail.com)

Please indicate if this submission is made in a personal/employee capacity, an employer capacity or on behalf of your institution, organisation or group.

**Made by RASA on behalf of its Penioner Members in the Irish Airlines Pension Scheme**

Name of company, institution, organisation or group covered by this submission:

**Retired Aviation Staff Association (RASA)**

Respondents are requested to make their submissions by email to:

[irsection@enterprise.gov.ie](mailto:irsection@enterprise.gov.ie)

**The closing date for submissions is Friday 22<sup>nd</sup> April at 3pm.**

# RETIRED AVIATION STAFF ASSOCIATION



COMHLACHAS IAR-FHOIREANN EITILEORACHTA  
A.L.S.A.A. Complex, Old Airport Road, Tubberbunny,  
Swords, Co Dublin, K67 YV06, Ireland

Phone: (01) 8144977 - Email: [rasadub@gmail.com](mailto:rasadub@gmail.com)

Twitter: @rasatweet: Website:

<https://sites.google.com/site/retiredaviationstaffassoc/>

## RETIRED AVIATION STAFF ASSOCIATION [RASA]

### RESPONSE TO THE DEPARTMENT OF ENTERPRISE, TRADE AND EMPLOYMENT PUBLIC CONSULTATION ON RETIRED WORKERS ACCESS TO INDUSTRIAL RELATIONS MECHANISMS FOR PENSION RELATED ISSUES.

#### PREFACE:

RASA welcomes the opportunity to submit our response to the Public Consultation on retired workers access to Industrial Relations mechanisms for pension related issues. This public consultation is seeking views on proposals arising out of the Private Member's Industrial Relations Provisions in Respect of Pension Entitlements of Retired Workers Bill 2021.

Members of Retired Aviation Staff Association [RASA] are former employees of significant state-owned organisations, Aer Lingus and Dublin Airport Authority (formerly Aer Rianta) and are members of a multi-employer sponsored Cross Border Occupational Defined Benefit "Irish Airlines (General Employees) Superannuation Scheme" [IASS].

Our IASS occupational pension scheme came into existence in 1950 as a private perpetual trust. Within the 1954 Deed/Rules, the pension scheme, when established, was considered and administered as if it were a civil service pension scheme. Today the average age of RASA pensioners who are drawing down their IASS pension benefit fixed at time of draw down is 74 years (born 1940's) and includes individuals 90+ years, early retirees and pensioners who have not yet reached the normal retirement age within the IASS occupational pension scheme.

As soon as an employee became permanent and reached the age of 20 years, he/she joined the multi-employer sponsored Irish Airlines (General Employees) Superannuation Scheme. Contributions to this scheme were deducted at source from pay for up to 45 years for a pension based on salary and pensionable service up to a maximum of 40 years.

Retired Aviation Staff Association has raised all of our concerns and issues with Government Ministers/Employers/Social Partners for decades. The lack of access to the State's Industrial Relations mechanism is one such issue and our concerns were reinforced when in recent years we have experienced the effects of decisions made by those at the negotiating table that has reduced our basic monthly pension income in retirement of up to 22.53%. RASA pensioners were not permitted to be at the discussions/negotiations and unlike other members of the IASS did not receive a transfer value/buy-out/annuity in respect of their IASS pension benefit reductions.

IASS pensioners were deliberately excluded, isolated from the Industrial Relations processes where these decisions were taken on our monthly income – a process not open to retired workers.

22 April 2022

***NOTHING ABOUT US WITHOUT US.***

## Question 1: Duties of Pension Scheme Trustees

Given the legal and regulatory obligations imposed on pension scheme trustees (see: [section 50 - prescribed guidance - version 3 february 2015 .pdf \(pensionsauthority.ie\)](#)), in particular, their fiduciary duty to serve all scheme members impartially, and the opportunity for member submissions as part of any scheme restructuring process, what is the effectiveness of the current arrangements and are there any other suggestions as to how the interests and concerns of retired workers could better inform trustees in their work consistent with the existing legal framework?

### RASA RESPONSE

1. RASA and its members have a very deep understanding and lived experience of our Defined Benefit occupational pension scheme. RASA's lived experience demonstrates how the Section 50 application process and the ineffectiveness of the current arrangements isolated and excluded pensioners from decisions in relation to their basic pension in payment – the outcome of which reduced the basic monthly pension income for pensioners.
2. Over the period of up to 45 years contributions RASA members did experience requests from employers and trustees following actuarial review to increase pension contributions for the purpose of maintaining benefits and the purchasing power of pensions based on service and salary to be determined at time of draw down. This occurred up to 7 times during a 45-year period of contributions for some pensioners.
3. Restructuring/changes to our pension scheme were often driven by Government and requiring rule changes. These were balloted on by members of the scheme and approved by Trustees [which includes an employer member]. Also, all rule changes were signed off in advance by Government and employers. Employers have power of veto over rule changes.
4. There is a three-person Trustee Board with one employee member and one employer member and independent Chair. There is an upper age limit of 70 years for Trustee. Therefore, the average pensioner within IASS would not be eligible for this role and would not have a seat at this table. Under the Rules of the Scheme, a Superannuation Committee is appointed to act in an advisory capacity to the Trustee and to fulfil certain functions. There are 4 employer and 4 member representatives. There is a ballot of members every three years and all members, including pensioners, are eligible for election. However there have been no meetings of this committee since 2014 and the Committee were told that proposed changes following an Industrial Relations process has nothing to do with them. The Section 50 rule changes were not balloted on by scheme members either.
5. **No Cost-of-Living Payment:** In 2008 the Trustees wrote to Irish pensioners advising them of the risk to the scheme following the Financial/Banking Crisis and that there would be no cost-of-living adjustment. However, due to statutory UK protection this did not apply to UK pensioner members. The letter referred to the current difficult time for pension schemes generally and who were also experiencing difficulties in satisfying the statutory Minimum Funding Standards. At the same time there was a significant attitude change amongst employers towards supporting Defined Benefit pensions along with corporate restructuring e.g. the exiting of one of the participating employers from the multi-employer scheme and the proposed sale of Aer Lingus.
6. This was the first time in the history of the IASS pension scheme that pensioners have experienced 0% cost of living increases. Even in 1980's during a period of high double digits inflation pensioners received 80% of CPI for a period of 7 years which was later restored. Current pensioners have had 0% CPI adjustment for 14 years to date.

7. **Pension Levy Deductions:** Pension Levy legislation was introduced in 2011. The amount paid to Government is €39m. This resulted in more deductions to pensioners' monthly basic pension income of 2.53%. It was described as a temporary levy to 2015 but unlike similar pension levy introduced at the time this pension levy deduction is still being deducted from RASA and its member's monthly income. There has been no restoration.
8. Both the 0% cost of living increase and the pension levy deductions only affected Irish IASS pensioners. UK pensioners have statutory right and protection to a cost-of-living increase. Current arrangements or existing Irish legislation does not protect Irish retired workers in receipt of their pension from these actions and deduction.
9. During the same timeframe, [from 2010], the IASS was a matter of concern to pensioners and Trade Unions representing future pensioners in the scheme and the issue went to the Labour Relations Commission. There were ongoing bilateral talks/discussions and negotiations around the IASS Defined Benefit pension scheme between various groupings such as Trade Unions/ICTU/LRC/Government. RASA were told repeatedly – *you have no right to be here!*
10. Very early on in these negotiations there was a consensus between these groupings, DAA/Aer Lingus/ICTU and Trustees for the 'freeze and de-risking' approach within the legal framework of 100% pensions in payment protection. This provided the shape of any Section 50 application to the Pension Board for MFS purposes.
11. However, to get this over the line these groupings required legislative changes. So, a targeted approach to reduce pensioners' basic pensions in payment occurred when in 2013 a Joint Statement from ICTU, IBEC, IAPF and the Society of Actuaries of Ireland called on the Government to reduce the 100% legislative protection of pensions in payment in retirement.
12. **Section 50:** On Christmas Day 2013 with the signing into law of the Social Welfare & Pensions (No 2) Act in 2013 the call for targeting basic pensions in payment was implemented. Again, this only targeted Irish pensionable service and not UK/EU service. To get to this stage required a high degree of coordination between all parties/groupings which excluded pensioners. It is very clear that significant legal and actuarial resources were utilised by them in dealing with this issue. None of these resources or avenues were available to RASA or its members. Pensioners concerns were ignored and RASA and its members were isolated and kept out of all of these Industrial Relation's processes.
13. The outcome of these discussions/negotiations and legislative changes resulted in a revised Section 50 MFS funding proposal approved by sponsoring employers' Boards and Government and an S50 application signed off by all participating Employers and Trustees for submission to the Pension Board in December 2014.
14. This Section 50 application required the ongoing and permanent reduction to pensions in payment to be applied unilaterally to the maximum extent permitted under the new 2013 Social Welfare & Pensions Act from January 2015.
15. This application imposed an explicit actuarially calculated debt to be transferred to those in receipt of pension and whose average age was 72 years. This debt, that pensioners did not know they had, was based on actuarial assumptions using different methodologies between schemes for valuing assets and liabilities, and other key metrics around life expectancy and discount rates. While the optics of this application indicated equal benefit changes between current and future pensioners it did not reflect the fact that future pensioners pension scheme benefit reductions were bought out by employers by way of bulk/transfer value to other

approved pension schemes outside of the IASS scheme. There was no similar buy out of pension-in-payment benefit reduction or annuities purchased for current pensioners.

16. In effect, an actuarial calculated debt based on variable and time-based assumptions was transferred and charged to existing IASS pensioners with immediate effect which reduced their monthly pension income of up to 22.53%. For the first time an implicit actuarially calculated future debt based on assumptions became explicit and repayments demanded from existing pensioners in receipt of pension. A total of c€44m has been paid out by pensioners since January 2015 for a debt/charge that RASA and its members did not know about till after the event.
17. It is understood that there are no other pension schemes where there has been such a statutory diminution to pensioners benefits under Section 50 and it only applied to pension income for Irish pensioners and not EU/UK.
18. Since 2008 a significant number of Defined Benefit pension schemes have restructured their schemes which may involve being closed to new members and/or frozen and the sponsoring employers may have reduced the occupational pension scheme liabilities by way of bulk buy-outs and/or enhanced transfer values and annuities for all of its members including pensioners.
19. RASA pensioners have experienced over the years a number of 'actuarially calculated' deficit/debt which has turned out to be less than calculated. The scheme is now in surplus and is able to provide full transfer value to other approved private pension arrangements or via the Public Sector Network Transfer pension schemes but no cost of living except UK statutory inflation.
20. Pensioners trusted the 'system' throughout their life course. Pensioners place a high value on the Social Contract and trust in others. This social contract changed and trust is broken.

## Question 2: Access to Industrial Relations Mechanisms for Retired Workers on Pension Matters

- A. Is there a need for the views of retired worker members of pension schemes to be included in the consideration of pension entitlements as part of collectively bargained agreements; if so, how can this be best achieved?
- B. Are there any mechanisms that could provide a way for retired worker members of pension schemes to engage with pension trustees in advance of a separate collectively bargained agreement impacting on pensions?
- C. Are there any disadvantages or challenges that introducing such a mechanism might impose on the voluntary dispute resolution mechanism? If so, what are these?
- D. Could there be any deterrent effect of such a mechanism on the willingness of parties to engage in collectively bargained agreements and as part of the existing IR structures more generally?

### RASA RESPONSE

#### Exclusion of Pensioners from State's Industrial Relations Mechanism.

1. RASA were told time and time again that they have no right to access Industrial Relations mechanisms where their pension benefits and entitlements were being discussed and negatively impacted.
2. **Expert Panel:** The Government established an Expert Panel in March 2014 in conjunction with the employers' organisation IBEC and ICTU representing Trade Unions to review the situation of the pension scheme at that time, engage with the stakeholders of the scheme and to make final recommendations.
3. The formation of the Expert Panel and its recommendations were relied upon heavily by the Government Departments, the Unions, the Employers, Trustees and others.
4. RASA engaged with the Expert Panel in March 2014 and presented the pensioners case to the panel. The Panel accepted there was a genuine and good case however they said they could not deal with it as this was an Industrial Relations process and we were excluded
5. The Terms of Reference did not allow for pensioners to be STAKEHOLDERS in their own pension scheme. The Expert Panel set up by Government were limited to only considering the position of future pensioners who were represented by Trade Unions and the Employers.
6. RASA and its members were directly targeted for reductions in basic income. Pensioners need to be at the table and have a right to have a voice. Pensioners need to be able to protect their pension property right to their retirement income that is being drawn down from a Defined Benefit Pension scheme and determined on retirement.

### Question 3: Retired Workers and Collective Bargaining

**The existing legal position is that industrial relations is about the relationship between employers and workers. Could the views of retired workers be balanced with those of workers and employers engaged in negotiations to reach collectively bargained agreements? If so, on what basis?**

**In the event that a majority of retired workers were opposed to pension changes proposed as part of a collectively bargained pay agreement which a majority of workers wished to accept, could these competing positions be reasonably resolved within the context of the current IR landscape and legislative provisions?**

#### **RASA RESPONSE**

1. The membership of the multi-employer IASS pension scheme is made up of one third active, one third deferred and one third retired workers in receipt of pension.
2. In Autumn 2014 the Trustees/Employers organised a Communications Roadshow around Ireland and UK to brief IASS pension scheme members about the proposed restructuring of their pension scheme and the nature of IR proposals to buy out/transfer value of pension benefits within the IASS pension scheme.
3. These briefing sessions were arranged by each of the sponsoring employers with separate briefing sessions for active and deferred pensioners.
4. There were no briefing sessions organised for retired workers by the employers or Trustee. Therefore one-third of the membership of the pension scheme were deliberately excluded.
5. RASA made requests for Briefing Sessions similar to what was provided for the majority of members of the scheme to Trustees and Employers but these were refused.
6. Therefore, two thirds of the members of the pension scheme were included in existing industrial relations mechanism to discuss pension issues. This Industrial Relations process resulted in passing on a debt of €175m to existing pensioners in January 2015. This is actual cash taken out of a pensioner's income every month and under the S50 direction will be deducted from pensioners monthly income up to the average age of 97 years.
7. RASA and its members want to have a voice and seat at the table where discussions and negotiations affecting our pensions in payment. Our pensions are determined and fixed at the point of draw down/retirement for life, based on rules of a Defined Benefit Scheme.

#### Question 4: Implications for Workers and Employers

**If you are an employer or worker, do you believe that including the views of retired workers on changes to pension entitlements proposed as part of collectively bargained agreements, would have any implications (including costs) for either the effectiveness of the current structure for dispute resolution/IR agreements (e.g. positive or negative impacts on industrial harmony) or on the level of pension cover?**

#### **RASA RESPONSE**

1. RASA represents retired workers. We do not consider that workers and employers should be fearful of the views of retired workers.
2. RASA considers that retired workers lived experience and wisdom will enhance and add positive value to any discussions or negotiations for all members of their Defined Benefit pension schemes.
3. This would avoid the situation where Government Officials and State Experts displayed a lack of awareness of the actual financial impact of the calculations used under Section 50 application to reduce the pensions in payment fixed at retirement.
4. RASA supports the proposals within the Industrial Relations Provisions in Respect of Pension Entitlements of Retired Workers Bill 2021.
5. This Bill outlines the changes that would be made following the enactment of this Bill that will provide positive impacts on the Industrial Relations process.



## Question 5: Redress Mechanisms for Retired Workers

### How effective are the current redress mechanisms for retired workers?

#### RASA RESPONSE

1. As already demonstrated in our responses pensioners' property rights were not protected and current redress mechanisms do not exist for retired workers in practice.
2. RASA and its members were told by all parties that the current IR mechanisms is not for us and that there is no place for pensioners to go but to the High Court.
3. We were told by the Government Expert Panel that while we have a genuine and good case, we were not stakeholders in our pension scheme and the only avenue of redress is to bring our case to the High Court.
4. At the end of January 2015 Trustees of the Pension Scheme wrote to IASS pensioners to outline that our pensions in payment were being reduced with effect from January 1 2015 unilaterally following Industrial Relations, Trustees, Employers negotiations and agreement without any compensation such as annuities or buy-out.
5. A few weeks earlier in December 2014 RASA were told at a meeting by the Pension Regulator/Authority that they have not received any proposal to reduce our pensions in payment. However, they did confirm they have received hundreds of individual letters from pensioners expressing their opinion on joint Trustee/Employer proposals for unilateral pension cuts to their monthly pension in payment income.
6. On notification at the end of January 2015 RASA/IASS pensioners had no option but to seek legal advice in order to take our case to the High Court as suggested by all the parties involved in this decision which was made about us without us.
7. This High Court case was taken by pensioners at considerable cost and time. It involved nearly 70 days of pretrial hearings/ motions/orders etc and 20 days trial over 5 years at a cost to pensioners of just under €3m. Please note that the average age of the IASS pensioner was 72 years at the start of this process and now in 2022 is 79 years with an average pension of €13,500. An electronic judgement was delivered in June 2020 and reflects very well the IR process and exclusion of pensioners from the decisions about them without them which required a high degree of coordination with significant legal and actuarial resources utilised to reach this decision that involved cuts to our monthly income.
8. The Government Departments signing off on the impact of the actual reductions to our pensions in payment confirmed in the High Court that they did not intend the actual outcome of the proposals and recommendations. Their focus was on the future pensioners and to get the numbers right to make a Section 50 application for approval.
9. If pensioners/retired workers were provided with access to an Industrial Relations mechanism/Forum this would not have happened.
10. Today, in 2022, there is absolutely nothing to stop the same thing happening tomorrow, next year and we could have current pensions in payment reduced further if nothing changes.

**Any other comments including the potential for new or enhanced methods for consultation:**

## **RASA RESPONSE**

### **RIGHT TO INCOME SECURITY & PROTECTION IN RETIREMENT**

1. RASA would welcome the opportunity to contribute further to this process.
2. RASA acknowledge and support the submission made by the Retired Workers Network which is a Collective Network working under the aegis of the Irish Senior Citizens Parliament.
3. The goal of the “Collective Network” is at the end of this process the Industrial Relations Provisions in Respect of Pension Entitlements of Retired Workers Bill 2021, will move successfully through the various stages in the Houses of the Oireachtas, and ultimately be incorporated into legislation and will give retired workers a voice and seat the table where discussions and decisions are made that impact their pensions.