

CIRCULAR LETTER PEN 13/03

Personal Retirement Savings Accounts (PRSAs) Employers' Obligations

1. A PRSA is a contract between an individual and an authorised PRSA provider in the form of an investment account that can be used for retirement.
2. Section 121 of the Pensions Act 1990, as inserted by section 3 of the Pensions (Amendment) Act 2002, obliges all employers to facilitate access to Personal Retirement Saving Accounts (PRSAs) for some categories of employers in certain circumstances. This section of the Act comes into operation on 15 September 2003 following the signing of the required commencement order by the minister for Social and Family Affairs.
3. The obligation arises where an employer does not operate a pension scheme, limits eligibility for membership of a scheme or imposes a waiting period for membership greater than six months from the start of employment. In any such case, the Pensions Act imposes requirements on employers in respect of “excluded employees”. Since the Education Sector Superannuation Scheme contain some restrictions on eligibility for membership, **it follows that institutes of Technology will be subject to the PRSA requirements of the Pensions Act. Most public service bodies will be similarly affected.**
4. The term “excluded employee” includes
 - i. employees who are not members of a pension scheme or who, if they are members of a pension scheme, will not accrue entitlement to long-service benefit by minimum retirement age, and
 - ii. those employees whose pension scheme does not allow the payment of voluntary contributions such as AVC contributions or notional service contributions.
5. In the case of employees on Institutes of Technology it is expected that, pursuant to the Protection of Employees (Part-Time Work) Act 2001 and the Protection of Employees (Fixed-term Work) Act 2003, the vast majority of employees will be pensionable under the terms of the Education Sector Superannuation Scheme. The exceptions will be, mainly,
 - a) part-time employees who have no comparators (permanent, temporary wholetime or part-time) that are already pensionable;

- b) part-time employees who have pensionable comparators but are employed for less than 20% of the hours of comparable wholetime employees;
 - c) wholetime employees who are employed on the basis of a fixed-term contract and who have no comparators (permanent, temporary wholetime or part-time) that are already pensionable;
 - d) employees who have not satisfied the medical requirement for pensionability;
 - e) lecturers who are not fully-qualified academically, (with the exception of certain EPT and Pro Rata lecturers as specified in Circular Pen 16/02).
6. The precise details governing pensionability of the additional categories of employees have still to be determined and will be the subject of a further circular letter.
7. In the meantime, pending further clarification, any employees who are not pensionable or whose pensionable status is in doubt should be advised of their right to contribute to a PRSA. If it later transpires that the employees are not excluded employees (i.e. that they are pensionable) it will open to them, in accordance with the rules of the PRSA scheme, to transfer PRSA assets (contributions plus any accrued interest) to the superannuation scheme.
8. An employer who is subject to the PRSA obligations in the Pension Act is required to: -
- Enter into a contractual arrangement with one or more PRSA providers to enable excluded employees to participate in a standard PRSA;
 - Notify excluded employees that they have a right to contribute to a standard PRSA administered by a provider with whom the employer has a contractual arrangement;
 - Allow the PRSA provider or intermediary reasonable access to excluded employees at their workplace for the purpose of concluding standard PRSA contracts;
 - Allow reasonable paid leave of absence to enable excluded employees to set up a standard PRSA, subject to work requirements;
 - Make deductions from payroll at the excluded employee's request in respect of the standard PRSA administered by the provider with whom the employer has a contractual arrangement.
9. Employers are also required to pay over contributions by employees to a PRSA within 21 days of the end of the month in which the contributions are deducted

and to advise the provider and contributing employees in writing at least once a month of the amount deducted in respect of PRSAs in the preceding month.

10. It should be noted that there is no obligation on an employer to make a contribution to a PRSA; and it is not envisaged that public service employers would do so. Nor is there any requirement under the legislation to facilitate access by non-excluded employees to a PRSA, to facilitate access by any employees to non-standard PRSAs, or to enter contractual arrangements with more than one PRSA provider. It is a matter for individual public service bodies to determine their own practice in these latter regards. However, in doing so, public service employers should make every effort to ensure that the practice adopted cannot be viewed as conveying favourable status to any particular PRSA provider.
11. It should also be noted that in order for an employee who is a member of an occupational pension scheme to avail of tax relief in respect of PRSA contributions, those contributions must be made to an AVC-type scheme. Pensionable employees who indicate an intention to avail of a PRSA should accordingly be advised to clarify their tax position with the relevant PRSA provider or with the Revenue Commissioners.
12. Further information regarding Employers' Obligations in relation to PRSAs, including a booklet for the information of employers, can be obtained from the Pensions Board, Verschoyle House, 28/30 Lower mount Street, Dublin 2

Telephone	=	01 6131900
Fax	=	01 6318602
Email	=	pb@pensionboard.ie
Website	=	www.pensionboard.ie

13. Enquiries by Institutes regarding the provisions of this Circular should be addressed to the Department at the address given below.

**PENSIONS SECTION (IOT)
DEPARTMENT OF EDUCATION & SCIENCE
CORNMADDY, ATHLONE
CO. WESTMEATH**

Enquiries by phone should be made to 0902-83657, 0902-83658 or 0902-84004 or 01-8374700, extensions 3657, 3658 or 4004.

John Feeney
Principal Officer
Pensions Unit

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