

**To The Chief Executive Officer of each Vocational Education Committee**

Employment of Retired Teachers in Second-level Schools.

Dear Chief Executive Officer,

From January 2006, the Department of Education and Science has included in its payroll operation the function of making salary payments to casual and non casual teachers employed in Secondary and Community / Comprehensive schools. (Previously, these payments were made by the schools on the basis of recoupment from the Department.)

In this context, it has come to the Department's attention that a number of retired teachers who were formerly employed by Vocational Education Committees are currently employed as casual or non casual teachers in those schools.

The terms relating to the employment of retired teachers to undertake subsequent teaching employment were outlined in Paragraph 9 of Circular Pay 27/05 which issued to the Managerial Authorities of Secondary and Community/ Comprehensive schools in December, 2005. A copy of Paragraph 9 is attached as Appendix A.

The Information Booklet, "Your Questions Answered", was supplied to Committees in December 2001. Paragraph 30 of the Booklet deals with "Returning to Work after Retirement" and covers, where relevant, returning to work in the public sector generally, not just returning to teaching employment. Copies of the Booklet were supplied by the Department to Schools and Colleges, with a request to provide each member of the teaching staff and staff dealing with teachers' pensions with a copy. A copy of Paragraph 30, updated to reflect special provisions relating to employment by the State Examinations Commission and included in the Circulars issued in recent years regarding the Early Retirement (Three-Strands) Scheme for Teachers, is attached as Appendix B.

Paragraph 10 of Circular Pay 27/05 outlined the position regarding teachers from whom recognition had been withdrawn. A copy of Paragraph 10 is attached as Appendix C.

Vocational Education Committees should advise retiring and retired teachers, awarded pension by the Committee, of the terms of Appendices A, B and C. In addition, Vocational Education Committees should advise these teachers to consult the Committee where, following retirement, they are giving consideration to returning to teaching or taking up any employment in the education sector of the public service or, in the case of a teacher awarded a pension under the Early Retirement (Three-Strands) Scheme for Teachers, taking up employment in any capacity in any area of the public sector or, in the case of a teacher awarded a disability pension, taking up employment of any kind.

Vocational Education Committees should also advise these teachers that where a pensioned teacher fails to notify the Committee of a return to teaching or other employment and where such return results in an overpayment of pension, such overpayment will be repayable by the pensioner.

The position regarding hours of teaching for casual and non casual teachers was outlined in Paragraph 12 of Circular Pay 27/05. A copy of Paragraph 12 is attached as Appendix D. A casual or non casual teacher may in certain cases be employed in both a Secondary or Community/ Comprehensive school and in a second level school under a Vocational Education Committee during the same period. Accordingly Vocational Education Committees should advise casual and non casual teachers of the terms of Appendix D.

Retired teachers should be advised to familiarise themselves with the terms of Circular Letter PEN 3/04 – “New Entrants to Employment from 1 April, 2004”, before commencing employment in a casual or non casual capacity in a second level school.

P. Maloney,  
Principal Officer.  
Payroll Division.

## Appendix A

### **Paragraph 9 of Circular Pay 27/05** **Returning to Teaching after Retirement**

#### **9. Retired Teachers**

Retired teachers should, before again undertaking employment as a teacher, take into account the impact such employment would have on pension. The eligibility of a teacher who has retired on pension to return to work and the impact of such a return on the continued payment of pension is determined by the category of pension in payment, the nature of the work being undertaken and the remuneration associated with that work.

A teacher who has retired with a pension awarded on grounds of disability may not return to teaching unless the Department is satisfied, on the basis of the medical evidence provided, that the teacher is no longer incapable of carrying out teaching duties. In the event of the Department being so satisfied, payment of pension would cease.

A teacher who has retired with a pension awarded under Strand 1 or Strand 2 of the Early Retirement Scheme for Teachers undertakes, in accepting the pension, not to return to teaching. Such a teacher may not be employed in any teaching capacity.

A teacher who has retired under Strand 3 may return to teaching if he or she so wishes and may, without affecting the teacher's right to the resumption of the early retirement pension, undertake casual or intermittent teaching. For the purposes of the Early Retirement Scheme, a period of employment which extends over more than 3 months cannot be regarded as casual and periods of employment which in aggregate extend over more than 50% of the school year cannot be regarded as casual or intermittent. (Note that the definition of "casual" for purposes of Strand 3 of the Early Retirement Scheme is not the same as the definition of "casual" for purposes of a Casual or Non-casual teaching contract.)

Generally, where the nature of the pension does not debar a return to teaching, such a return may cause the pension to be abated. Abatement is a standard feature of public service pension schemes and is the mechanism used to ensure that the combined earnings (pension plus pay) do not exceed the up-rated pay on which the pension is based. Abatement will lead to the suspension of the pension where a teacher returns to wholetime service under a Permanent, Temporary or Non-casual contract and may lead to the payment of a reduced pension where the teacher returns to part-time service of more than 11 hours per week under a Regular Part-time or Non-casual contract. Abatement may also lead to the payment of a reduced pension in respect of any period where a teacher, employed under a Casual contract, has given service in excess of 150 hours in the academic year and is employed for more than 11 hours per week. Abatement would not arise in respect of any period where the teacher is employed under a Casual contract and has given not more than 150 hours service in the academic year.

## Appendix B

### Returning to Work after Retirement

#### Extract from “Your Questions Answered” (Including an update in relation to employment by the State Examinations Commission

30 **If I return to work following retirement, will this affect payment of my teacher’s pension?**

This depends on the nature of the pension awarded and on the type of work undertaken. Generally, the pension can continue **unless the employment is in the education sector of the public service**. Exceptions to this general rule are pensions awarded under the Early Retirement Scheme for Teachers and Disability Pensions.

- (1) The **Early Retirement Scheme for Teachers** specifically provides that pension will cease if the retired teacher takes up employment in any capacity in any area of the public service and that pension will not be resumed until the retired teacher’s 60<sup>th</sup> birthday or the date on which employment ceases, **whichever is later**. The Early Retirement Scheme also provides that, on eventual resumption of pension, the added years previously awarded under the Scheme will not be reckoned in the calculation of the resumed pension.

Exceptionally, the Early Retirement Scheme provides that a teacher who retires on the grounds of being surplus to requirements, (i.e. under **Strand 3** of the Scheme), **may undertake substitute or part-time teaching** provided it is on a casual or intermittent basis. It is a matter for the teacher who has retired under Strand 3, **BEFORE** taking up an offer of employment as a substitute or part-time teacher, to establish whether the employment will be of a casual or intermittent nature. In this connection, a period of employment which extends over more than 3 months cannot be regarded as casual and periods of employment which in aggregate extend over more than 50% of the school year cannot be regarded as casual or intermittent.

Exceptionally, also, a teacher who retires under **Strand 2 or Strand 3** may, without affecting payment of his or her early retirement pension, undertake work as an examiner or superintendent in connection with the Certificate Examinations of the State Examinations Commission.

Note that acceptance by teachers of early retirement under **Strands 1 and 2** of the Early Retirement Scheme is subject to their agreement that they will not be eligible for future employment in any capacity as a teacher/lecturer in any school or college recognised and funded directly or indirectly by the Department of Education and Science.

- (2) A **Disability Pension** is awarded where the VEC is satisfied that a teacher is suffering from an illness which renders the teacher permanently unfit for teaching. It does not necessarily follow that the teacher would be unfit to undertake other work.

In the event of the retired teacher undertaking other work, **outside the education sector of the public service**, pension would be continued provided that the VEC was satisfied that the retired teacher **remained permanently unfit for teaching**.

Payment of pension would cease, and would not resume before age 60, in the event that the VEC is satisfied that the retired teacher is no longer permanently unfit for teaching. Upon resumption, the pension would be based on actual pensionable service and any added years previously awarded because of ill health would not be reckonable.

Note that entitlement to a Disability Pension is open to review by the VEC from time to time, as considered necessary. Any employment which is taken up could lead to a review of a teacher's continuing entitlement to a Disability Pension.

Where the nature of the pension does not debar continuation but the employment undertaken is **as a wholetime teacher or lecturer**, pension stops.

Where the nature of the pension does not debar continuation but the employment undertaken is in **the education sector of the public service**, (other than as a wholetime teacher or lecturer), the teacher's pension will be continued provided that the aggregate of the rates of pay and pension do not exceed the old rate of pay, (i.e. the pensionable remuneration on which the pension was based, uprated to current rates). Where the new rate of pay exceeds the old rate of pay, pension is not payable. Where the new rate of pay is less than the old rate of pay, but the aggregate of new pay and pension exceeds the old rate of pay, the pension payable is correspondingly reduced.

**The education sector of the public service** includes all teaching posts funded by the Department of Education and Science, all employment in recognised schools, Institutes of Technology, Universities and VECs and all employment in other bodies related to education and funded by the Department of Education and Science.

## Appendix C

### **Paragraph 10 of Circular Pay 27/05**

#### **10. Teachers from whom Recognition has been withdrawn**

School authorities are reminded that they should verify, in the case of any applicant for any teaching employment, that recognition as a teacher has not been withdrawn. A teacher from whom recognition has been withdrawn may not subsequently be employed in any teaching capacity.

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## Appendix D

### **Paragraph 12 of Circular Pay 27/05**

#### **12. Hours of Teaching**

A casual / non casual teacher may be paid for substitution work for a maximum of twenty two hours per week. Full time teachers cannot be paid for casual or non casual work. A regular part time teacher may be paid for additional casual hours subject to a combined maximum of twenty two hours per week. Job-sharing teachers may not engage in casual or non casual teaching. A teacher on career break is prohibited from engaging in non casual teaching and can only be employed in a casual capacity on an exceptional basis.