



**Isle of Man
Government**

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Policy on Re-Employment of Public Service Staff Following Retirement

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Policy on Re-Employment of Public Service Staff Following Retirement

1. Policy Statement

It is Isle of Man Government policy that a staff member's employment in the Public Service will cease on a permanent basis upon their retiring¹.

This policy sets out principles relating to the re-employment of staff whose employment with the Isle of Man Government has ceased, or is due to cease, and who are in receipt, or due to be in receipt, of retirement scheme benefits.

2. Scope

2.1 This policy applies to all staff employed² by the Isle of Man Government, Departments, Boards and Offices excluding the following:

- i. Staff in hard to recruit positions where there is a skills shortage
- ii. Qualified teachers on the Department of Education and Children Supply Register
- iii. Registered Nurses on the Department of Health Bank and in the Department of Social Care
- iv. Doctors on the Department of Health Bank
- v. Seasonal staff
- vi. Casual workers
- vii. School crossing patrol officers, seasonal cycling instructors, sessional lecturers, special needs escorts and any staff who are hard to recruit below the normal retirement age
- viii. Members of staff reaching their contractual retirement age while engaged on a key project where they have particular expertise that is crucial to its success
- ix. Consultants or independent contractors, employed on an hourly or daily basis, acting as business advisers for the Department of Economic Development (e.g. the Small Business Start Up Scheme)
- x. Police Officers with specialist skills (not available internally) to undertake specific time bound projects
- xi. Staff employed by IOM Post Office (IOMPO) who have reached their contractual retirement age, but who wish to continue in the service of IOMPO (as per IOMPO 2010 transitional arrangements)
- xii. Teachers awarded Phased Retirement by the Department of Education and Children in accordance with the Rules of the Teachers' Superannuation Order 2011.³

2.2 This list may be changed by the Council of Ministers in accordance with the changing requirements of the Public Service.

2.3 Individuals who fall into any of the 'excluded' categories above are not required to follow the recruitment processes set out within this Policy.

¹ For the purposes of this policy, **retired** will refer to any individual who is in receipt of retirement scheme benefits

² This Policy will apply to all IOM Government employees under whichever term and conditions they are employed/appointed.

³ This point added on 9 April 2014

- 2.4 The provisions of this Policy are applicable to all appointments from 1 March 2014.

3. Re-employment of Public Service Staff

- 3.1 A staff member not excepted by virtue of Section 2 above who takes a retirement scheme benefit will not be eligible for re-employment unless approval is given by the Accounting Officer.
- 3.2 These restrictions will also apply to employment by way of a contract for services as an independent consultant or partnership or a company (e.g. personal service company) or any other working relationship.
- 3.3 In determining whether an individual may be re-employed, the Accounting Officer will take into account the following:
- i. The specific skills, experience and/or qualifications required for performance of the duties of a particular position
 - ii. Whether the employing authority would find it difficult to replace the individual in the short term
 - iii. Whether the individual is involved in a time bound project upon reaching their contractual retirement age, and if so, whether it would be detrimental to the Department, Board or Office for the individual to retire during the course of the project
 - iv. The steps that the organisation has taken to fill the employment opportunity (extent of advertising etc)
 - v. The type, level and conditions attached to any compensation scheme benefit received by the individual when they left the employment of the Isle of Man Government
 - vi. Resource planning and funding
 - vii. Consideration of the business need of the Department, Board or Office at the time of application for a job
 - viii. The individual's past work performance and conduct/absence record
 - ix. The health of the individual and level of attendance
 - x. The impact of re-employing an individual who is retired in respect of succession, preventing promotion or development opportunities for other staff, or the development of the overall workforce diversity profile in relation to the wider community
 - xi. The implications, if any, of potential risk of an individual retaining continuity of employment for employment rights protection purposes (the rules of which are contained in the Employment Act 2006 Schedule 5). For further advice contact the Office of Human Resources or Manx Industrial Relations Service
 - xii. Any other relevant factors

4. Appointment Procedures and Considerations

- 4.1 A job vacancy in respect of a retiring individual must be advertised and made available to suitably qualified individuals via a process of fair and open

competition. A retired individual may apply for the job subject to satisfying the criteria above.

- 4.2 Recruitment for the position must follow the usual process.
 - 4.3 A retired individual will be required to declare as part of the recruitment process that they were in receipt of a Government pension.
 - 4.4 If a retired individual is re-employed, this must be by way of a new contract of employment.
 - 4.5 In accordance with paragraph 12(3)(a) of Schedule 5 of the Employment Act 2006, continuous employment is broken if the individual is in receipt of either:
 - Retirement Scheme Benefits under the Public Sector Pensions Act 2011, or
 - A payment equivalent to a redundancy payment under section 29(3) of the Redundancy Payments Act 1990.
 - 4.6 Staff who retire and take their pension benefits and then return to work cannot join any public sector pension scheme to earn additional pension⁴.
 - 4.7 The member of staff is responsible for understanding any taxation implications (including penalties) which may arise as a result of re-employment following receipt of a redundancy or early retirement scheme benefit.
5. **Note:** This policy should be referred to in conjunction with:
- The Isle of Man Government Retirement Policy
http://www.gov.im/lib/docs/hr/HR_Policies/isleofmangovernmentretirementpo.pdf
 - The Employment Act 2006
<http://www.gov.im/lib/docs/ded/employmentrights/acts/employmentact2006.pdf>
 - The Public Sector Pensions Act 2011
http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2011/2011-0018/PublicSectorPensionsAct2011_1.pdf
 - Redundancy Payments Act 1990
http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/1990/1990-0018/RedundancyPaymentsAct1990_1.pdf

6. Glossary of Terms

Casual Worker	Worker who is employed on an "as and when required" basis, where there is no mutuality of obligation.
'Hard-to-recruit' position	This may be dictated by supply and demand for individuals with particular skills. This may be different at different times, and will be for the employer to determine.
Retirement Scheme Benefits	Any benefits paid out by an Isle of Man Government public sector pension scheme to individuals or groups as defined in Section 3(3) of the Public Sector Pensions Act 2011.
Seasonal Worker	Worker who is employed to carry out work which is only carried out during certain seasons of the year e.g. TT-related support staff or conductors on IOM Railways.

⁴ Teachers who retire, claiming their pension and then return to teaching are permitted, by virtue of the 'Teachers Superannuation order 2010' to re-join the scheme and earn additional pension.