

Local Government Policy Division

Addressees listed below

6th Floor
Goodwood House
44-58 May Street
BELFAST
BT1 4NN

Telephone: (028) 9025 6093
Facsimile: (028) 9025 6080
Email: marie.cochrane@doeni.gov.uk

Your reference:
Our reference: DO1-09-1800
23 November 2009

Dear Consultee

LOCAL GOVERNMENT PENSION SCHEME - CLASSROOM ASSISTANTS

I enclose for consultation, a copy of the draft Local Government Pension Scheme (Amendment) Regulations, which the Department proposes to make under the powers conferred by Articles 9 and 14 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972. Comments should be received by 19 February 2010.

Classroom Assistants employed by Education and Library Boards

The draft Regulations amend both the Local Government Pension Scheme Regulations (NI) 2002 and the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (NI) 2009.

The collective agreement reached on 30 November 2007 by the employer and employee negotiating machinery for the Education and Library Boards (the Joint Negotiating Council) changed the conditions of service, including the whole-time conditioned hours, for classroom assistants employed by the Education and Library Boards. This included a buy out of historic terms and conditions.

These amendments will protect classroom assistants' pensions by changing the denominator of the fraction used to calculate their pension entitlement from a whole-time equivalent of 32.5 hours per week to 36 hours per week. This means that classroom assistants who were working 32.5 hours per week and classified as whole-time

employees will now be considered part-time for the purposes of the Local Government Pension Scheme. Classroom assistants employed by the Education and Library Boards (the Boards) who accrued pension rights on the basis of a whole-time equivalent of 32.5 hrs per week during the period from 1 January 1995 to 30 November 2007 (inclusive) will have those rights protected. Thereafter their pension rights will be accrued on the basis of a whole-time equivalent of 36 hrs per week.

Classroom Assistants employed by Voluntary Grammar Schools and Grant Maintained Integrated Schools

The Minister for Education (6th February 2009) made additional resources available to Voluntary Grammar (VG) and Grant-Maintained Integrated (GMI) schools to implement conditions of service, including pay rates, for classroom assistants employed in those schools in line with the collective agreement by the Joint Negotiating Council. Classroom assistants employed by VG and GMI schools who accrued pension rights on the basis of a whole-time equivalent of 32.5 hrs per week during the period from 1 January 1995 to 6 February 2009 (inclusive) will have those rights protected. Thereafter their pension rights will be accrued on the basis of a whole-time equivalent of 36 hrs per week.

The length of periods of pension protection required for classroom assistants employed by the Boards and the VG and GMI schools is different however the overall policy intention is to protect those classroom assistant's pensions affected by the collective agreement reached by the Joint Negotiating Council and the Minister for Education's decision to make additional resources available to VG and GMI schools.

Retrospection

It is proposed that the draft Regulations will have retrospective effect, however, no one will be adversely affected by them.

Equality

Under the terms of section 75 of the Northern Ireland Act 1998, the Department carried out screening for equality impact and is satisfied that the draft Regulations will not lead to discriminatory or negative differential impact.

This letter, the draft Regulations and the equality screening are available to view at http://www.doeni.gov.uk/index/local_government/local_government_consultations.htm.

Copies of the documents in different formats are available and may be requested using the above contact details.

Freedom of Information

The Department will publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the attached Annex on the confidentiality of consultations which will give you guidance on the legal position about any information given by you in response to this consultation.

I should be grateful to receive your email address, which will be used solely for future consultations, please entitle the email *e-consultation* followed by your organisation's name.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M Cochrane', is written over a light blue rectangular background.

Marie Cochrane

Encl.

Addressees

All the Members of the Northern Ireland Legislative Assembly

All Northern Ireland political parties, MPs and Members of the House of Lords

The Clerk and Chief Executive of each District Council

The Chief Executive of each Education and Library Board

The Chief Executive, Northern Ireland Housing Executive

Other Employing Authorities contributing to the Local Government Pension Scheme

The Northern Ireland Local Government Association

The Northern Ireland Local Government Officers' Superannuation Committee

The Northern Ireland Committee of the Irish Congress of Trade Unions

The Northern Ireland Public Service Alliance

Various Representative Bodies and Interest Groups

Equality Commission for Northern Ireland

The Freedom of Information Act 2000 – Confidentiality of Consultations

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or be treated as confidential.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:

- the Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
- the Department should not agree to hold information received from third parties "in confidence" which is not confidential in nature; and
- acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about confidentiality of responses please contact the Information Commissioner's Office (or see web site at: <http://www.informationcommissioner.gov.uk>).

2009 No.

LOCAL GOVERNMENT

**Local Government Pension Scheme (Amendment) Regulations
(Northern Ireland) 2009**

Made - - - - - ***

Coming into operation - - - - - ***

The Department of the Environment makes these Regulations in exercise of the powers conferred by Articles 9 and 14 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(a) and now vested in it(b).

In accordance with Article 9 of that Order the Department has consulted with the Northern Ireland Local Government Association, the Northern Ireland Local Government Officers' Superannuation Committee and such representatives of other persons likely to be affected by the Regulations as appeared to be appropriate.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2009 and come into operation on [insert prospective date]

(2) In these Regulations—

“the 2002 Regulations” means the Local Government Pension Scheme Regulations (Northern Ireland) 2002(c); and

“the 2009 Regulations” means the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009(d).

Retrospection

2. The amendments in regulations 4 and 5 have effect from 30th November 2007.

Amendment of the 2002 Regulations

3. Regulations 4 and 5 have effect in relation to the 2002 Regulations to the extent that the 2002 Regulations continue in force by virtue of the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009(a).

(a) S.I. 1972/1073 (N.I. 10); Art. 9 was amended by Art. 34 S.I. 2005/1968 (N.I. 18); Art. 14 was amended by Art. 12 S.I. 1990/1509 (N.I. 13).
(b) S.R. & O (N.I.) 1973 No. 504 Article 7(1); S.I. 1976/424 (N.I. 6).
(c) S.R. 2002 No. 352; relevant amending Regulations are
(d) S.R. 2009 No. 32.

Amendment of regulation 10 of the 2002 Regulations

4. In regulation 10 (length of period of membership: calculation of benefit)—

(a) for paragraph (4) substitute—

“(4) The numerator of that fraction is the number of contractual hours during the part-time service and, subject to paragraphs (4A) and (4B), its denominator is the number of contractual hours of that employment if it were a whole-time basis.

(4A) In the case of a qualifying member, the denominator is—

(a) for the calculation of any benefits for any period between 1 January 1995 and 30th November 2007, 32.5 hours; and

(b) for the calculation of any benefits for any period thereafter, the number of contractual hours of that employment if it were on a whole-time basis.

(4B) In the case of a newly qualifying member paragraph (4A) applies as if for “30th November 2007” there was substituted “6th February 2009”.”; and

(b) after paragraph (5) insert—

(6) In this regulation and regulation 19—

““the Agreement” means the Collective Agreement for the Joint Negotiating Council of the Education and Library Boards dated 30th November 2007;

“newly qualifying member” means a member who is employed as a classroom assistant by a voluntary grammar school or a grant maintained integrated school within the meaning of the Education Reform (Northern Ireland) Order 1989;

“qualifying member” means a member who was party to the agreement;”.

Amendment of regulation 19 of the 2002 Regulations

5. In regulation 19(calculations)—

(a) in paragraph (1) at the beginning insert “Subject to paragraphs (10) to (13)”.”; and

(b) after paragraph (9) insert—

“(10) In the case of a qualifying member, the amount of benefit payable in respect of any period between 1st January 1995 and 30th November 2007 is calculated by multiplying his interim pay by the appropriate multiplier.

(11) The appropriate multiplier is $\frac{x}{80}$ where “x” represents the qualifying member’s membership between 1st January 1995 and 30th November 2007 calculated in accordance with regulation 10.

(12) In the case of a qualifying member, the amount of benefit payable for any period between 1st January 1995 and 30th November 2007 is calculated in accordance with paragraph (1) and (2) but as if for the words “the member’s total membership” in paragraph (2) there were substituted “the member’s membership from 30th November 2007”.

(13) In this regulation interim pay means the final pay that would have been for a single comparable employment with a weekly contract of 32.5 hours.

(14) In the case of a newly qualifying member, paragraphs (10) to (13) apply as if for each reference to “30th November 2007” there was substituted “6th February 2009”.”

Amendment of regulation 22 of the 2002 Regulations

6. In regulation 22(3) (final pay) at the beginning insert “Subject to regulation 19(10) to (13)”.

Amendment of regulation 8 of the 2009 Regulations

7. In regulation 8(3) (final pay: general) of the 2009 Regulations at the beginning insert “Subject to regulation 19(13) of the 2002 Regulations”.

Sealed with the Official Seal of the *** on ***

Wesley Shannon

A senior officer of the Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Local Government Pension Scheme Regulations (Northern Ireland) 2002 (the 2002 Regulations) in so far as they remain in effect by virtue the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009 and the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009 (the 2009 Regulations).

Article 14 of the Superannuation (Northern Ireland) Order 1972 confers express powers to make Regulations retrospective. These Regulations are retrospective, however no one will be adversely affected by this retrospection.