

EXPLANATORY MEMORANDUM TO

Local Government (Disqualification)(Prescribed Offices and Employments) Regulations (Northern Ireland) 2014

SR 2014 No. 292

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under section 4(1)(a) of the Local Government Act (Northern Ireland) 1972 (the 1972 Act), as amended by section 5 of the Local Government Act (Northern Ireland) 2014, and is subject to the negative resolution procedure.

2. Purpose

- 2.1 The Rule prescribes the offices and employments on a council that will disqualify the holder for being elected or being a councillor, following the removal of the blanket prohibition on council employees being councillors.
- 2.1 The effect of these rules is to prohibit:
- a council employee from being a councillor on the council by which he or she is employed;
 - those officers that a council is required by law to appoint, such as the clerk to the council, from being a councillor on any council; and
 - any employee that holds an employment, the maximum remuneration of which is above spinal column point 32 on the pay scale determined by the National Joint Council for Local Government Services, from being a councillor on any council.

3. Background

- 3.1 Section 4(1)(a) of the 1972 Act provided for a blanket prohibition on an employee of a council being a councillor whether by election or otherwise. This meant that a person employed by a council in any capacity could not stand for election as a councillor or be co-opted to fill a vacancy in the office of elected representative of a council.
- 3.2 Section 5 of the Local Government Act (Northern Ireland) 2014 amends section 4(1) of the 1972 Act to remove the blanket prohibition on a council employee becoming a councillor, whether by election or otherwise. An enabling power is, however, provided for the Department to prescribe those offices and

employments that would continue to disqualify the holder from being a councillor.

4. Consultation

- 4.1 The Department issued a consultation document on 28 July 2014 seeking views by 5 September 2014 on the Department's proposals to make the local Government (Disqualification)(Prescribed Offices and Employments) Regulations (Northern Ireland) 2014.
- 4.2 Eleven organisations, mainly representing the local government sector, responded to the consultation. The responses broadly supported prohibiting senior officers from being councillors. Issues were raised by a number of respondents in relation to the use of the maximum remuneration of the employment as the determining factor for disqualification.
- 4.3 On the basis of legal advice obtained, the Department considers that the use of the maximum level of remuneration for the specification of disqualifying employments is the most appropriate as it provides legal certainty for council employees regarding which employments would be subject to disqualification.

5. Equality Impact

- 5.1 The Department carried out an Equality Screening with consideration given to compliance with section 75 of the Northern Ireland Act 1998. A full Equality Impact Assessment was not considered necessary as the disqualification will apply equally across all the groups specified in that section.

6. Regulatory Impact

- 6.1 A Regulatory Impact Assessment is not necessary, because the proposals result in no costs or savings, or restriction on business.

7. Financial Implications

- 7.1 There are no financial implications arising from the implementation of the Rule.

8. Section 24 of the Northern Ireland Act 1998

- 8.1 The proposal is considered compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1 Not applicable.

10. Parity or Replicatory Measure

- 10.1 Not applicable.

11. Additional Information

11.1 Not applicable.