

EXPLANATORY MEMORANDUM TO
THE LOCAL GOVERNMENT PENSION SCHEME (NURSERY ASSISTANTS) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2016

S.R. 2016 No. 329

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Communities (“the Department”) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under sections 1 and 3 of, and Schedule 3 to, the Public Service Pensions Act (Northern Ireland) 2014 (“the 2014 Act”). The Statutory Rule is subject to the negative resolution procedure.
- 1.3. The Department of Finance has consented to the making of this Statutory Rule.

2. Purpose

- 2.1. These Regulations amend:
 - The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014 (“the Transitional Regulations”);
 - The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009 (“the Benefits Regulations”);
 - The Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009 (“the Administration Regulations”); and
 - The Local Government Pension Scheme Regulations (Northern Ireland) 2002 (“the 2002 Regulations”).
- 2.2. These Regulations protect the accrued pension rights of nursery assistants in the Local Government Pension Scheme (Northern Ireland) (LGPS NI) who opt in to the collective agreement reached on 27 March 2015 by the Joint Negotiating Council (JNC), the employer and employee negotiating machinery for the then Education and Library Boards (now the Education Authority (EA) with effect from 1 April 2015). The collective agreement followed a job evaluation for nursery assistants.
- 2.3. These Regulations will apply to nursery assistants who accept the collective agreement which makes changes to conditions of service, including whole-time conditioned hours.
- 2.4. The amendment will protect those nursery 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. Nursery Assistants employed by the Education and

Library Boards (now the EA) who accrued pension rights on the basis of a whole-time equivalent of 32.5 hours per week during the period 1 January 1995 to 27 March 2015 (inclusive) will have those rights protected. Thereafter their pension rights will be accrued on the basis of a whole-time equivalent of 36 hours per week.

- 2.5. The amendment also introduces a two stage final pension calculation for nursery assistants. The final pension calculation uses-
- a divisor of 32.5 hours per week for membership of the scheme from 1 January 1995 to 27 March 2015 (the date of the collective agreement); and
 - a divisor which is the number of contractual hours per week worked for membership after 27 March 2015.

3. Background

- 3.1. The JNC at its meeting on 27 March 2015 reached a collective agreement which included the protection of pensions accrued by certain nursery assistants during the period covered by the agreement. The nursery assistants covered by the collective agreement are those who have chosen to opt in.
- 3.2. The collective agreement reads “The Boards (now EA) agree that no current nursery assistant will lose out on their pension as a result of the implementation of job evaluation. This is because the Boards (now EA) have agreed to put in place pay protection arrangements. There is no change to accrued membership for pension calculations. This means that there will be no loss in pension entitlement from 1995 to the present day. There will also be no loss in respect of future continuous membership but pension entitlement may be affected if pay is subsequently reduced through the loss of pay protection.”
- 3.3. Nursery assistants are members of the LGPS (NI). Consequently, the LGPS Regulations must be amended to reflect the pension protection element of the collective agreement.
- 3.4. The Public Service Pensions Act (Northern Ireland) 2014 (“the 2014 Act”) sets out the framework for public service pensions from 1 April 2015. Section 3(3)(b) of the 2014 Act provides that scheme regulations may make retrospective provision.

4. Consultation

- 4.1. As required by section 21 of the 2014 Act, the Department has consulted with such persons or representatives of such persons as appeared to it to be appropriate. A total of 4 responses were received. Of the 4 responses 1 was from an employing authority, 2 from trade unions and 1 from the administering authority.
- 4.2. Copies of the consultation paper and the Department’s Response can be found at:

<https://www.communities-ni.gov.uk/topics/local-government>

5. Equality Impact

5.1. The Department, having carried out its own screening exercise, is satisfied that these Regulations will not lead to a significant discriminatory or negative differential impact on any particular Section 75 group.

6. Regulatory Impact

6.1. The Department has carried out a preliminary screening exercise in terms of the regulatory impact of these Regulations, and has determined that they will have no direct or indirect adverse impact on businesses, the voluntary and community sector (including charities) and the social economy sector.

7. Financial Implications

7.1. No Executive expenditure required.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department is satisfied that these Regulations comply 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.