EXPLANATORY MEMORANDUM TO

LOCAL GOVERNMENT PENSION SCHEME REGULATIONS (NORTHERN IRELAND) 2014

S.R. 2014 No. 188

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 the powers conferred by Article 9 of, and Schedule 3 to the Superannuation (Northern Ireland) Order 1972 (S.I. 1972/1073 (N.I. 10) and is subject to the negative resolution procedure.

2. Purpose

2.1. These Regulations establish the legal framework for the reformed Local Government Pension Scheme (Northern Ireland) (the reformed Scheme) which will come into operation on 1 April 2015. The reformed Scheme replaces the 2009 Scheme established under the-

- Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009 (S.R. 2009 No. 32);
- Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009 (S.R. 2009 No. 33); and
- Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009 (S.R. 2009 No. 34).

3. Background

3.1. The Independent Public Service Pensions Commission (the Commission), chaired by Lord Hutton of Furness, recommended that all public service pensions are reformed to make them more sustainable and affordable in the long term, and fairer to both members and the taxpayer.

3.2. The main recommendation from the Commission’s final report was that the current final salary public service pension schemes should be replaced by new schemes which would continue to be defined benefit schemes with pension entitlement linked to salary, but rather than being linked to the employee’s final salary, pension benefits would be linked to career average earnings.

3.3. In November 2011, the Westminster Government set out its preferred design for the new National Health Service, Civil Service, Teachers and Local Government pension schemes in “Public Service Pensions: Good Pensions That Last” (Cm 8214).

3.4. On 8 March 2012, the Northern Ireland Executive agreed to:

- commit to the policy for a new career average re-valued earnings (CARE) scheme model with pension age linked to State Pension

- adopt this approach consistently for each of the different public sector pension schemes in line with their equivalent schemes in Great Britain and not to adopt different approaches for Northern Ireland.

3.5. The Public Service Pensions Bill (Northern Ireland) received Royal Assent on 11 March 2014. The main purpose of the Public Service Pensions Act (Northern Ireland) 2014 (the 2014 Act) is to provide the necessary regulation making powers for the responsible departments to introduce new schemes on 1 April 2015. As these Regulations are being made before section 28 of the 2014 Act has been commenced they are being made under Article 9 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972 (the 1972 Order).

3.6. Section 28 of the 2014 Act provides for regulations made under Article 9 of the 1972 Order in respect of a person’s service on or after 1 April 2015 and which could have been made under the powers contained in the 2014 Act to have effect as if they were scheme regulations under the 2014 Act.

3.7. Certain provisions in the 2014 Act impose requirements in respect of scheme regulations under the 2014 Act, which are to some extent anticipated in these Regulations. The Department will consult later this year, prior to making amending regulations for those requirements which are not anticipated (for example, in respect of requirements in sections 5 and 7 (governance) and sections 12 and 13 (cost management) of the 2014 Act) in these Regulations.

3.8. The reformed Scheme will remain a defined benefit scheme and will provide benefits based on career average and actual pay instead of the current final salary basis. For each year's membership of the reformed Scheme-

- pension will be calculated based on pensionable pay for that year; and
- a pension equal to 1/49th of pensionable pay will be added to each member's pension account.

3.9. Annual inflationary increases will be applied to revalue pension funds in each member's pension account.

3.10. In the reformed Scheme, the normal pension age at which a member can draw benefits without actuarial reduction is the age at which state retirement pension can be drawn (but with a minimum age of 65). If the State Pension Age rises, then the normal pension age will do so too for all post-2015 service.

3.11. An actuarial reduction is applied when a pension is drawn before a member reaches his or her normal retirement age. This reduction takes account of the fact that, if a pension is paid early, the likelihood is that the pension will be in payment for a longer period of time. Where a member elects to draw his or her pension later than the normal retirement age, the pension is increased actuarially.

3.12. The reformed scheme includes an option to allow members to pay 50% of contributions for 50% of benefits (the 50/50 arrangement). The 50/50

3.13. The other main features of the reformed Scheme are as follows-

- revaluation of active members' benefits in line with a price index (currently the Consumer Prices Index (CPI));
- pensions in payment will increase in line with a price index (currently CPI);
- benefits will increase in any period of deferment in line with a price index (currently CPI);
- percentage rate of members’ contributions is tiered based on the member’s pensionable pay;
- optional lump sum commutation at a rate of £12 of lump sum for every £1 per annum of pension forgone in accordance with Her Majesty's Revenue and Customs limits and regulations;
- early and late retirement actuarial factors from age 55 to 75 on a cost neutral basis;
- a vesting period of 2 years;
- survivors’ pensions to continue to be based on an accrual rate of 1/160th and three times death in service benefit; and
- ill-health retirement pensions to be based on the current ill-health retirement arrangements.

3.14. Paragraphs 3.15 to 3.25 give further detail on how the provisions in the Regulations deliver the main features of the reformed Scheme.

3.15. Regulation 11 provides for contributions to be paid by members at a rate applicable to their annual pay and Regulation 22 defines "pensionable pay" as the total of all salary, wages, fees and other payments paid to an employee. Under regulation 25(4), the amount of pension earned in respect of those contributions is 1/49th of the member's pensionable pay received in each year.

3.16. Regulation 12 provides for members to elect to pay reduced contributions equivalent to 50 per cent of the normal rate set out in Regulation 11. Regulation 25(5) provides that for any period where Regulation 12 applies, the amount of earned pension is 1/98th of the member's pensionable pay, that is, 50 per cent of the normal rate at which pension is accrued.

3.17. Regulation 20 provides for members to elect to receive a return of their contributions provided that their qualifying service is less than two years.

3.18. Regulation 25(2), when read in conjunction with the definition of "revaluation adjustment" in Schedule 1 to the Regulations, provides that the balance in the member's pension account must be adjusted at the end of each scheme year by the revaluation adjustment as defined in an order made by the Department of Finance and Personnel under section 9(2) of the 2014 Act.

3.19. Regulation 31 sets out the various circumstances where pension benefits may be taken, in particular when a member attains normal pension age. Schedule 1 defines "normal pension age" as "the pensionable age of a person as specified from time to time in Schedule 2 to the Pensions (Northern Ireland) Order 1995 or, if higher, 65". It also provides for members to retire and take their pension benefits at any age between 55 and 75. If retirement occurs before or after the member's normal pension age, the pension is reduced or increased respectively in accordance with actuarial guidance issued by the Department.

3.20. Revaluation of deferred and pensioner members’ benefits is by virtue of the Pensions (Increase) Act (Northern Ireland) 1971. Regulations 26(7), 27(6) and 28(6) provide for the balances in appropriate accounts to be increased to reflect that revaluation.

3.21. Regulation 32 (2) provides for an increase in the maximum amount of additional pension that an employer may award annually to an active member from £5,000 to £6,500. The annual percentage increase for pensions in payment will be applied to this amount.

3.22. Regulation 34 allows members to commute their pension for lump sum at a rate of £12 for every £1 of annual pension commuted.

3.23. Regulations 36 to 39 provide for ill-health retirement benefits based on the ill-health retirement arrangements in the 2009 Scheme.

3.24. Regulation 40 to 55 provide for spouses' and partners' pensions to be based on an accrual rate of 1/160th and three times death in service benefit. Provision is also made for survivor benefits to be paid to the eligible children on the death of a member.

3.25. Councillors aged less than 75 have been eligible to join the Scheme since the local government elections in May 2011. To reflect the fact that councillors are elected members and not employees, some aspects of the Scheme are modified for councillor members. The modifications are set out in Schedule 4 to these Regulations.

3.26. Paragraphs 3.27 to 3.29 outline those elements of the reformed Scheme which are not included in these Regulations, but which will be introduced later by amending Regulations.

3.27. **Governance.** Under sections 5 and 7 of the 2014 Act, the Department is required to establish a scheme advisory board and a pension board for the Local Government Pension Scheme (Northern Ireland). The Department will carry out a consultation on draft regulations later this year.

3.28. **Cost Management.** Under section 12 of the 2014 Act, the reformed Scheme must set an employer cost cap, expressed as a percentage of pensionable earnings of members of the reformed Scheme, for the purpose of measuring changes in the cost of the Scheme. The employer cost cap is to be set in accordance with a Department of Finance and Personnel direction. A consultation will be carried out on the draft amending regulations for employer cost cap and associated provisions later this year.

3.29. **Club transfers.** The Public Sector Club (the Club) is a network of public and private sector occupational pension schemes which makes it easier for employees who move between employers covered by the separate

4. Consultation

4.1. As required by Article 9 of the 1972 Order, the Department has consulted with such associations of local authorities, individual local authorities and such representatives of persons affected by the proposals for the reformed Scheme as appeared to the Department to be appropriate.

4.2. Two consultations were held; an initial consultation on the scheme design proposals from 11 April to 6 June 2013 and a second consultation which included two sets of draft regulations from 12 December 2013 to 28 February 2014. A total of 59 responses were received – 40 responses during the first consultation and 19 responses during the second consultation. Of those who responded, 89% were in favour of the change to a CARE based pension scheme.

4.3. Copies of each consultation paper, and the Department's Response can be found at:

http://www.doeni.gov.uk/index/local_government/local_goverment_pension_scheme_2015.htm

5. Equality Impact

5.1. An equality screening exercise by the Department of Finance and Personnel concluded that a full equality impact assessment was not required for the Public Service Pension Bill (Northern Ireland) which would give effect to the reformed public sector pension schemes based on CARE with retirement age linked to state pension age.

5.2. The Department, having carried out its own screening exercise, is satisfied that these Regulations and the Local Government Pension Scheme (Amendment and Transitional) Regulations (Northern Ireland) 2014 which provide for the reformed Scheme will not lead to a significant discriminatory or negative differential impact on any particular Section 75 group.

6. Regulatory Impact

6.1. The majority of members of the Local Government Pension Scheme are employed in the public sector. The intention in developing the new Scheme is to ensure that there are no significant adverse effects on ratepayers and taxpayers and to ensure the ongoing solvency, cost stability and viability of the Scheme. A regulatory impact assessment has not been carried out because private sector firms, voluntary organisations and charities which are employing authorities will also benefit from the achievement of these objectives.

7. Financial Implications

7.1. No Executive expenditure is required.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department is satisfied that the 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.