EXPLANATORY MEMORANDUM TO

LOCAL GOVERNMENT PENSION SCHEME (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2010

S.R. 2010 No. 164

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 Articles 9 and 14 of, and Schedule 3 to the Superannuation (Northern Ireland) Order 1972 (1972 No. 1073 (NI 10)) and is subject to the negative resolution procedure.

1.3. The rule is due to come into operation on 31 May 2010.

2. Purpose

2.1. These Regulations amend the Local Government Pension Scheme Regulations (Northern Ireland) 2002 and the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009 to protect the accrued pension rights of certain classroom assistants. The classroom assistants are those who opt in to-

- the collective agreement reached on 30 November 2007 between the employer and employee negotiating machinery for the Education and Library Boards (the Joint Negotiating Council) which changed the conditions of service, including the whole-time conditioned hours, for classroom assistants employed by the Education and Library Boards; or
- a similar change in conditions of service for classroom assistants employed in voluntary grammar and grant maintained integrated schools when (6th February 2009), the Department of Education made resources available to implement a change in their conditions of service similar to the collective agreement.

2.2. The Regulations will apply to the classroom assistants who accept the collective agreement reached on 30th November 2007 or the similar change introduced on 6th February 2009 in conditions of service for classroom assistants employed in voluntary grammar and grant maintained integrated schools.

2.3. The amendment will protect those 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. Classroom assistants employed by the Education and Library 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. In the case of classroom assistants employed by voluntary grammar and grant maintained integrated schools the protection period for pension accrued on the basis of a whole-time equivalent of 32.5 hours per week is from 1 January 1995 to 6 February 2009 (inclusive).

3. Background

3.1. The employee and employer negotiating machinery of the Education and Library Boards, the Joint Negotiating Council (JNC) at its meeting on 30 November 2007 reached a collective agreement, through a unanimous vote on the management side and a majority vote on the trade union side. One trade union voted against the proposed offer but under the constitution of the JNC the collective agreement is binding on the Education and Library Boards (the Boards). The collective agreement included protection of pensions accrued.

3.2. "The Boards agreed that no current classroom assistant will lose out on their pension as a result of the implementation of job evaluation. This is because the Boards have agreed to put in place the 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 loss of pay protection."

3.3. Classroom assistants are members of the Local Government Pension Scheme. Consequently, the LGPS Regulations must be amended to reflect the pension protection element of the collective agreement.

4. Consultation

4.1. A consultation on was held from 23 November 2009 to 19 February 2010. Six responses were received, three of which made no comment. Two employing authorities (one of which represents five employing authorities) supported the proposed change and one trade union did not.

5. Equality Impact

5.1. 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 Regulations will not lead to a significant discriminatory or negative differential impact.

6. Regulatory Impact

6.1. A regulatory impact assessment has not been carried out because these Regulations have no impact on private sector firms, voluntary organisations and charities.

7. Financial Implications

7.1. No Exchequer 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. The Local Government Pension Scheme in Northern Ireland maintains broad policy parity with that in England and Wales, however in this instance the amendments contained in these Regulations are unique to Northern Ireland.

11. Additional Information

11.1. Not applicable.