EXPLANATORY MEMORANDUM TO

Local Government Pension Scheme (Councillors) (Amendment) Regulations (Northern Ireland) 2011

S.R. 2011 No. 117

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 Article 9 of the Superannuation (Northern Ireland) Order 1972 and is subject to the negative resolution procedure.

2. Purpose

2.1. The Statutory Rule makes changes to the following Regulations to enable councillors to become members of the Local Government Pension Scheme (Northern Ireland) ("the Scheme") from the fourth day after the next local government elections.

- Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009;
- Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009; and
- The Local Government (Discretionary Payments) Regulations (Northern Ireland) 2001.

3. Background

3.1. The Statutory Rule will implement a recommendation made by the Councillors' Remuneration Working Group (CRWG) in its report in June 2006 that councillors should be able to participate in the Scheme after the next local government elections.

3.2. Councillor membership of the Scheme has been based on the following recommendations of the CRWG.

- Pension provision should be open to all councillors.
- Councillors should be able to join the Local Government Pension Scheme.
- The normal retirement age should be the same as for other members of the Scheme (age 65).
- Calculations should be based on career average to reflect the possibility that councillors may hold positions of responsibility with higher remuneration at various times in their council career.

- Pension provision should be available from the next local government elections.

3.3. Councillors in Northern Ireland will, like their counterparts in Great Britain have a pension calculated on a career average basis. Pensionable pay for a councillor would be the total of the Basic Allowance and Special Responsibility Allowance paid in a year. Councillors will contribute on the same basis as other members. The accrual rate for the pension will be the same as for other members of the Scheme, one–sixtieth. There will be arrangements for ill-health retirements and survivor benefits.

3.4. The Local Government (Discretionary Payments) Regulations (Northern Ireland) 2001 have been amended to exclude councillors from eligibility for additional discretionary payments.

3.5. At the time the CRWG's report was published (June 2006) it was expected that the next local government elections would be held in 2009 and would be to a smaller number of local government districts. The date of the elections and local government reorganisation was subsequently changed to May 2011. As it has not been possible to achieve that date the Minister agreed that provision should be made to enable councillors elected in the May 2011 local government elections to join the Scheme.

4. Consultation

4.1. As required by Article 9 of the Superannuation (Northern Ireland) Order 1972, the Department has carried out a consultation with such associations of local authorities, individual local authorities and such representatives of persons affected by the draft Statutory Rule as appear to the Department to be appropriate. A total of 14 responses were received. Eight employing authorities, one trade union and one local government representative body supported the proposed councillors' pension amendments. One employing authority did not support the proposed councillors' pension amendments. Two of the respondents which have been categorised as other bodies did not comment on the consultation document. Another body made comments about the detail of the draft Statutory Rule but did not state if it supported or opposed the proposal to introduce pensions for councillors.

5. Equality Impact

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

6. Regulatory Impact

6.1. A regulatory impact assessment has not been produced for these Regulations as it has no impact on the cost of businesses, charities, social economy enterprises or voluntary sector and does not have a significant financial impact on any public bodies.

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 Rule complies 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 the policy of broad parity with that in England and Wales.

10.2. Occupational pensions is a reserved matter and therefore the responsibility of the United Kingdom Government. Northern Ireland Ministers, however, have devolved powers to make changes to public pension schemes in Northern Ireland. In practice, this generally means ensuring that scheme regulations are consistent with administrative and legal requirements in Northern Ireland. A Northern Ireland Minister may, however, choose to use executively devolved powers to make more substantial changes (which of course must comply with UK and EU law). In this instance the councillors' pension amendments have been based on the provisions currently in place for councillors in Scotland.

11. Additional Information

11.1. Not applicable.