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10 September 2008

Circular 04/2008

To: Chief Executives
Salaries & Wages Officers
Human Resource Officers
All Employing Authorities

Dear Colleagues

'NEW- LOOK' LOCAL GOVERNMENT PENSION SCHEME FOR NORTHERN IRELAND (LGPS (NI))

1. Purpose of this Circular

This circular has been issued to advise authorities of the following:

- a) the content of the new look Local Government Pension Scheme for Northern Ireland as drafted by the Department of Environment (the Department) which is due to come into effect on 1st April 2009;
- b) the matters which they must consider in the run up to April 2009; and
- c) the actions being taken by NILGOSC to publicise the new scheme, including employer seminars which will be held in November.

The information contained in this circular is based on NILGOSC's current understanding of the draft regulations. After the consultation period the Department of Environment (DOE) may amend the regulations which will then need to be laid before the Assembly.

2. Content

- Regulatory Background
- Similarities between the current scheme and the proposed scheme
- Summary of the main improvements under the new scheme
- The elements of the new scheme and matters to be considered by employing authorities
- Action list for employing authorities
- Employer Seminars
- Actions being taken by NILGOSC

3. Regulatory Background

On 6th June 2008, the Department issued three sets of draft regulations for consultation:

- Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2008 (Benefits Regulations);

- Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2008 (Administration Regulations); and the
- Local Government Pension Scheme (Transitional Provisions) Regulations (Northern Ireland) 2008 (Transitional Provisions Regulations).

These regulations will introduce the new Local Government Pension Scheme in Northern Ireland from 1 April 2009. The regulations are similar to the new Local Government Pension Scheme which has already been introduced in England and Wales from 1 April 2008.

The Department invites comments on the new scheme and these should be sent to Local Government Policy Division, 6th Floor, Goodwood House, 44-58 May Street, Belfast, BT1 4NN by 31st October 2008. Alternatively written responses can also be emailed to William Dobbin at William.dobbin@doeni.gov.uk. The three sets of draft regulations may be viewed on the NILGOSC website at http://www.nilgosc.org.uk/Latest%20News/Latest_News.htm.

4. Similarities between the current scheme and the proposed scheme

The pension scheme remains a final salary defined benefit scheme and the similarities between the current scheme and the proposed new scheme are as follows:

- Both schemes provide a guaranteed pension based on length of membership and final pay;
- Normal pension age is 65;
- Both schemes permit voluntary retirement from age 60;
- Both schemes permit early retirement with employer consent on or after age 55 (or from age 50 for existing members retiring before 31st March 2010);
- Both schemes provide benefits on redundancy/business efficiency grounds on or after age 55 (or from age 50 for existing members leaving before 31st March 2010);
- Ill-health benefits are payable at any age providing ill-health is permanent;
- Death grants are payable;
- Members can give up pension on a factor of £1 pension for £12 tax-free lump sum subject to HMRC limits;
- Widow's/widower's/civil partner's and eligible children's benefits are payable;
- Benefits are index-linked; and
- Flexible retirement arrangements enable members, with their employer's permission, to draw down their accrued pension rights from the scheme while continuing to work.

5. Summary of the main improvements under the new scheme

The main improvements under the new scheme are summarised as follows:

- An improved accrual rate (the rate at which pension builds up) of 1/60th (previously 1/80th) for all new and existing members on and from 1 April 2009 with the option to convert up to 25% of the 'capital' value of the pension to lump sum;
- Nominated co-habiting partners pensions are introduced;
- A 3-tier ill-health pension system;
- Members can buy extra scheme pension in multiples of £250 up to a maximum of £5,000 (either for themselves or themselves and any survivor);
- Employers may also grant extra scheme pension up to a maximum of £5,000;
- The death-in-service lump sum is increased to 3 times pensionable pay;

- The death grant payable on the death of a deferred member is increased from 3 to 5 times pension; and
- The death grant payable on the death of a pensioner is increased from 5 to 10 times pension, less pension already paid, if paid before age 75.

6. The elements of the new scheme and matters to be considered by employing authorities

6.1 Accrual Rate¹

This is the rate at which pension builds up in a final salary scheme. Under the present scheme the accrual rate is 1/80th pension and a 3/80th lump sum for every year of membership. The new scheme introduces a 1/60th accrual rate, but no automatic lump sum. However, members are still able to convert pension to lump sum at the rate of £12 of lump sum for every £1 of pension given up, providing their lump sum does not exceed 25% of the capital value of their benefits. A 1/60th accrual rate for pension plus the lump sum conversion option provides a higher level of pension benefits than the 1/80th pension and 3/80th lump sum provided by the current scheme.

6.2 Automatic entry from 1st April 2009²

All employees who have a contract of 3 months or more and who are under age 75 will be eligible for membership of the LGPS (NI). **Please note that employees with a contract of less than 3 months will be ineligible to join the scheme.**

Employees with more than one contract will have the right to opt out of membership in all or some of their employments³. This is a change from the current practice which is that a member must be in the scheme for all employments.

All existing members at 31st March 2009 will transfer to the new scheme but see the comments under 'Existing Casual Employees'.

All existing employees who have opted out at 31 March 2009 will not be auto enrolled at 1st April 2009 but will have the right to opt in if they have a contract for 3 months or more and are under age 75.

The old rule that an employee who opted out more than once could not rejoin unless the employer agreed has not been carried forward into the new scheme. Employers will need to remove that provision from their policy statement.

Employers may also wish to circulate information on the new scheme to all employees who have previously opted out.

6.3 Existing casual employees at 31st March 2009

Employers will need to be aware that existing casual members will now be able to opt out of the scheme even if they have other continuing employments.

Employers will also need to identify whether, in the case of existing contributors to the scheme who are casual employees, there is mutuality of obligation in employment law i.e. there is a contract of employment between the parties where the employer is obligated to offer work and the employee is obligated to accept work when it is

¹ Draft LGPS (Benefits, Membership and Contributions) Regulations (NI) 2008 – Regulation 7 (5)

² Draft LGPS (Benefits, Membership and Contributions) Regulations (NI) 2008 – Regulation 2 and Draft LGPS (Administration) Regulations (NI) 2008 Regulation 9

³ Draft LGPS (Administration) Regulations (NI) 2008 – Regulation 10 (3)

offered. This is as a consequence of the House of Lords Decision in the case of Carmichael and Others v National Power plc. The clear implication of this House of Lords decision for casuals was that a contract of employment can only exist when work is offered by the authority and is accepted by the employee.⁴ Those employees with mutuality of obligation in employment law will be able to remain in the scheme on and from 1 April 2009. Technically those employees, where the relationship between the employer and the existing casual member means there is no mutuality of obligation, should be removed from the scheme on the first day on or after 1st April when they are not offered work or are offered work but do not accept it.

6.4 New Casual employees from 1st April 2009

Employers will need to amend their procedures to establish whether or not, for new casual employees, there is mutuality of obligation in employment law in order that personnel and payroll can establish their eligibility for membership.

If there is mutuality of obligation, and the mutuality of obligation is open ended (or for at least 3 months) that person will be eligible to join the scheme and remain in the scheme until such time as the mutuality of obligation ends.

If there is not mutuality of obligation between the employer and the employee i.e. the employer is not obligated to offer work and the person is not obligated to accept it, then they are no longer eligible for membership. For example employees who work as part of a bank of casual staff will not have mutuality of obligation and will therefore not be able to join the scheme.

6.5 Contribution Banding for Employees⁵

The current employees' contribution rate is fixed at 6% of pensionable pay apart from certain pre-1 February 2003 members who have a protected contribution rate of 5%.

The new scheme introduces contribution banding from 1st April 2009. Employers are required to determine the contribution rate for each active member and inform each member of their contribution rate before 1st April 2009. The contribution rates are as follows:

Band	Range	Contribution Rate
1	£0 - £12,000	5.5%
2	£12,001 - £14,000	5.8%
3	£14,001 - £18,000	5.9%
4	£18,001 - £30,000	6.5%
5	£30,001 - £40,000	6.8%
6	£40,001 - £75,000	7.2%
7	More than £75,000	7.5%

The Range will be revised each year from 1st April by the same rise in the Retail Prices Index, which is applied to pensions in payment under the Pensions (Increase) Review Orders. The first revision is expected to be from 1 April 2010 and not 1 April 2009 as per the draft regulations (awaiting confirmation from the Department).

⁴ This House of Lords decision is appended to an old LGPC Circular (circular 87 of June 2000) at <http://www.lge.gov.uk/lge/aio/56226>.

⁵ Draft LGPS (Benefits, Membership and Contributions) Regulations (NI) 2008 – Regulation 3
Draft LGPS (Transitional) Regulations (NI) 2008 – Regulation 9

The Band for part-time members is that for the whole-time equivalent employment but contributions will only be paid on the actual part-time pay. This is to ensure that there is no less favourable treatment of part-time employees.

A whole-time term-time worker is not treated as part-timer. In other words, the pay is not brought up to a 52 week pay in order to determine the contribution bands. To determine the whole-time equivalent pay for a part-time term-timer, the pay is brought up to the number of weeks which the term-timer works e.g. 43.2 weeks. A 'term-time worker' is defined as a person whose contract of employment provides for regular pattern of periods of work and periods of no work so as to result in a recognisable cycle of work consisting of one year.

It should be noted that a 'family friendly' pattern of employment where an employee works 11 months out of 12 months is not to be treated as term-time under the new regulations but is treated as part-time.

An employee who has several posts will have a contribution rate calculated separately for each post.

The employer may revise the contribution rate for a member when there is a permanent material change to the terms and conditions of a member's employment which affect his pensionable pay during a financial year and the date from which it applies. The employer is required to notify the member of any change. It should be noted that NILGOSC's pension administration software can only accept 4 changes in Band per year per employment.

Employers will need to establish a policy on how existing employees will be allocated to a contribution band before 1 April 2009, how to allocate a new employee to a contribution band on or after 1 April 2009 and when to revise a contribution band. There is no requirement for employing authorities to have a written policy on the allocation of bands to individual members, however, a written policy may make it easier for payroll departments to implement the employer's policy.

While employers have the flexibility to design a policy which suits their organisation it would be helpful if the majority of employers adopted a common approach. Therefore we intend to issue general guidance to employing authorities on allocation of employees to contribution bands. Hopefully this guidance will address most scenarios. I expect to issue this guidance in draft in November.

Furthermore, employers will need to have a procedure for dealing with queries relating to a member's contribution band. The employer is required by the regulations to notify their employees of the band on which they will pay contributions. The regulations require that employers notify employees of the employer's address from which they may obtain information on the decision and of the right of appeal to the county court.

Employers will need to ensure that their payroll system is updated to cater for tiered employee contributions. This may require payroll programmes to be amended to ensure the following:

- It can allocate staff to the correct band (or bands if an employee has two jobs each one of which falls into a different band),
- It can update the bands in line with Pensions Increase each April, and
- It can reallocate employees to a different band at any time during the year.

6.6 Lower Rates Rights members⁶

These are existing manual members who had a right to pay a 5% contribution rate because they were employed in a manual capacity at 31 January 2003. These lower rates rights members will pay contributions in accordance with the following table:

Year commencing	Contribution Rate
1 st April 2009	5.25%
1 st April 2010	5.5%
1 st April 2011	6.5% or the contribution rate applicable to the member's pay range, whichever is lower
1 st April 2012	Contribution rate applicable to the member's pay range

6.7 Absences from 1st April 2009⁷

The regulations regarding authorised absence remain the same, however, employers should note that if a member goes on unpaid leave of absence or maternity leave, paternity leave or adoption leave, he/she must continue to pay for any added years they were purchasing under the old scheme, and for any additional pension they are purchasing under the Additional Regular Contributions (ARCs) in the new scheme based on the pay they would have received had they not been on leave.

6.8 Final Pay/Certificates of Protection⁸

Benefits are to be calculated on final pay, being the last year's pensionable pay, or either of the two preceding years if higher, plus the average of any fees received in the last three years. If a member's pensionable pay is reduced because he/she chooses to remain in employment at a lower grade or with less responsibility he/she may choose to have his/her benefits based on the average of 3 consecutive years in the last 10 years ending on a 31st March (plus RPI from the end of the 3 year period).

Employers will need to ensure that payroll data is kept for 10 years in respect of any cases where the member's pay has reduced in the circumstances outlined above.

No new Certificates of Protection can be issued in respect of reductions in pay or restrictions in pay which are outside of the employee's control on or after 1st April 2009.

6.9 Additional regular contributions (ARCs)⁹

From April 2009, members will be able to buy additional pension in multiples of £250 up to a maximum of £5,000. This additional pension may be purchased either to provide a pension for themselves only or a pension for themselves plus any survivor. If this additional pension is taken earlier or later than normal retirement age then it is either actuarially reduced or increased respectively.

The additional pension purchased may be commuted for cash when it comes into payment under the same terms as the rest of the pension.

⁶ Draft LGPS (Transitional Provisions) Regulations (NI) 2008 – Regulation 10

⁷ Draft LGPS (Administration) Regulations (NI) 2008 – Regulations 15, 16, 17, 18

⁸ Draft LGPS (Benefits, Membership and Contributions) Regulations (NI) 2008 – Regulations 8, 9, 10, 11

⁹ Draft LGPS (Administration) Regulations (NI) 2008 – Regulation 20 and 21 and Draft LGPS (Benefits, Membership and Contributions) Regulations (NI) 2008 – Regulation 14

6.10 Employer option to award additional pension¹⁰

An employing authority may increase the pension of a member by not more than £5,000 a year payable from his/her normal retirement date. This facility is in addition to the power of an employing authority to increase membership by up to 10 years. It should be noted that this facility only increases the member's pension and has no impact on any survivor's benefits.

The additional pension awarded may be commuted for cash when it comes into payment under the same terms as the rest of the pension.

Employers will need to determine a policy on this new discretion.

6.11 Power of employing authority to increase total membership of members¹¹

An employing authority may augment the membership of a member as in the current regulations. However, it should be noted that the maximum period which may be augmented is 10 years. Your discretionary policy should already reflect this change which was introduced by the LGPS (Amendment No 3) Regulations (Northern Ireland) 2007 with effect from 1 April 2007. There is no longer a restriction to potential service to age 65.

Employers will need to amend their augmentation policy to remove any reference to an age 65 restriction.

6.12 Additional Voluntary Contributions (AVCs)¹²

There are no changes to the regulations regarding AVCs and members can continue to contribute to AVCs up to 50% of their pensionable pay by regular contributions.

6.13 Retirement Benefits (post 31 March 2009 membership only)¹³

Retirement benefits continue to be payable at age 65 without reduction. The pension for any membership accrued on or after 1 April 2009 is calculated as:

$1/60 \times \text{final pensionable pay} \times \text{membership (post 31}^{\text{st}} \text{ March 2009)}$.

There is no automatic lump sum but members continue to have the option to convert pension to lump sum at the rate of £12 lump sum for every £1 of pension given up. This is subject to the HMRC rules which state that maximum lump sum cannot exceed 25% of the 'capital value' of pension benefits. The 'capital value' is approximately 20 times the annual pension plus the value of the lump sum and AVC fund, after commutation.

6.14 Retirement Benefits (pre and post 31 March 2009 membership)¹⁴

Retirement benefits calculated as a result of LGPS (NI) membership built up to 31 March 2009 will continue to be calculated as an annual pension based on $1/80^{\text{th}}$ of

¹⁰ Draft LGPS (Benefits, Membership and Contributions) Regulations (NI) 2008 – Regulation 13 and Draft LGPS (Administration) Regulations (NI) 2008 – Regulation 36

¹¹ Draft LGPS (Benefits, Membership and Contributions) Regulations (NI) 2008 – Regulation 12 and Draft LGPS (Administration) Regulations (NI) 2008 – Regulation 36

¹² Draft LGPS (Benefits, Membership and Contributions) Regulations (NI) 2008 – Regulation 15 and Draft LGPS (Administration) Regulations (NI) 2008 – Regulation 22,23 and 24

¹³ Draft LGPS (Benefits, Membership and Contributions) Regulations (NI) 2008 – Regulation 16

¹⁴ Draft LGPS (Transitional) Regulations (NI) 2008 – Regulation 3

final year's pensionable pay **and** an automatic tax-free lump sum of three times the pension. Any retirement benefits which are built up on or after 1 April 2009 will provide an annual pension based on 1/60th of final year's pensionable pay. There is no automatic lump sum on post 31 March 2009 membership. Therefore, a member whose membership straddles 1st April 2009 will have pension benefits based on both 1/80th and 1/60th accrual rates and a lump sum of 3 times the 1/80th pension. However, the final benefits are calculated using the final year's pensionable pay as outlined in section 6.8.

A member may exchange part of total pension (1/80th and 1/60th) for extra lump sum if they so wish. The conversion rate is as described under section 6.13.

6.15 Retirement after normal retirement age¹⁵

Members continue to be able to remain in the scheme after age 65 (if their employer allows them to remain in employment); however, all benefits must be paid no later than the day before the member's 75th birthday even if he/she is not retired. It should be noted that under the new scheme the entire pension will be actuarially increased to compensate the member for working after age 65.

Previously only benefits accrued up to age 65 were actuarially increased on late retirement and there was no actuarial increase on benefits accrued after age 65. The increase which applies under the current scheme is 0.02% for each day of delay in the case of the member's pension and 0.01% in the case of the retirement grant. This increase is calculated before any pension is given up for lump sum under the 12:1 commutation factors.

6.16 Flexible Retirement¹⁶

Flexible retirement arrangements are amended to allow members over age 55 (age 50 for existing members until 1 April 2010), who, with their employer's consent, reduce their hours or grade, to make a request to the Committee to receive all or part of their benefits while continuing to work. Under the current scheme it is only possible to draw all of their benefits on flexible retirement. Employers may need to amend their policy statement to include payment of part of their benefits.

At this stage it is unclear how payment of part of a member's benefits can be implemented. Guidance will be required from the Government Actuary on this matter.

6.17 Redundancy and Business Efficiency¹⁷

It should be noted that immediate payment of pension benefits following redundancy/business efficiency retirement is now on or after age 55. Existing members at 31st March 2009 may have redundancy/business efficiency benefits paid on or after age 50 only on leaving before 31st March 2010.

6.17 Ill-health retirement¹⁸

The new regulations introduce a three-tier ill-health benefits system in the event of **permanent** ill-health for active members. The three tiers are as follows:

- **Tier 1** - If the member is permanently incapable of carrying out their job and has no reasonable prospect of gaining any employment before age 65, the pension is based on accrued membership plus 100% of prospective membership between leaving and age 65.

¹⁵ Draft LGPS (Benefits, Membership and Contributions) Regulations (NI) 2008 – Regulation 17

¹⁶ Draft LGPS (Benefits, Membership and Contributions) Regulations (NI) 2008 – Regulation 18

¹⁷ Draft LGPS (Benefits, Membership and Contributions) Regulations (NI) 2008 – Regulation 19

¹⁸ Draft LGPS (Benefits, Membership and Contributions) Regulations (NI) 2008 – Regulation 20

- **Tier 2** – If the member is permanently incapable of carrying out their job and has no reasonable prospect of obtaining gainful employment within 3 years of leaving but is likely to obtain gainful employment before age 65, then the pension is based on accrued membership plus 25% of prospective membership between leaving and age 65.
- **Tier 3** – If the member is permanently incapable of carrying out their job and is likely to be able to obtain gainful employment within 3 years of leaving, the pension payable is the accrued pension with no enhancement. This ill-health pension is payable for a maximum period of 3 years. The member is required to notify the Committee if gainful employment is commenced and the ill-health pension will be stopped. The Committee is also required to carry out a medical review after 18 months to determine if the member is still capable of undertaking gainful employment within 3 years of leaving or if the member is likely to obtain gainful employment before normal retirement age. The Committee will then decide whether Tier 2 benefits should be paid or if Tier 3 benefits remain in payment.

'Gainful employment' is defined as paid employment for not less than 30 hours in each week for a period of not less than 12 months.

'Permanently incapable' is defined as the member will, more likely than not, be incapable until, at the earliest, his 65th birthday.

In the new scheme it is no longer possible to commute benefits in the event of serious ill-health.

It should be noted that there is protection for any existing member who is age 45 before 1st April 2009. In this case, the membership enhancement under the 2002 Regulations is used if that would provide a higher enhancement period.

There is also additional protection until 1st October 2009 for all existing members of the scheme¹⁹ if the ill-health benefits under the new scheme would place them in a worse position that they would have been under the 2002 Regulations; then the 2002 Regulations continue to apply.

Finally, under the current regulations the ill-health enhancement for a part-timer is based on average hours over the period of scheme membership or full-time enhancement if the person had membership of 13 1/3rd or more years in which they had been full-time. The new regulations base the ill-health enhancement on the hours which the employee is working at the date of leaving.

I understand that statutory guidance, provided by DOE, will provide that where the independent occupational health doctor is satisfied that a member has reduced his/her hours of work because of the medical condition which results in the termination of employment, then the ill-health benefits will be calculated as if the normal hours of work (prior to ill-health) for that member applied.

6.18 Ill-health release of Deferred Benefits²⁰

Under the current scheme, the criterion for release of deferred benefits on the grounds of ill-health is that the member has to be certified as being permanently incapable of being able to perform the duties of his/her former employment by reason of ill-health or infirmity of the body until at least age 65. The new scheme has

¹⁹ Draft LGPS (Transitional) Regulations (NI) 2008 – Regulation 5

²⁰ Draft LGPS (Benefits, Membership and Contributions) Regulations (NI) 2008 – Regulation 31

different criteria. In order to obtain early release, the member must be permanently incapable of discharging efficiently the duties of the former employment by reason of ill-health or infirmity of the mind or body and due to that ill-health is certified as being unable to obtain gainful employment (whether in local government or otherwise) before reaching his normal retirement age or at least 3 years, whichever is sooner.

'Gainful employment' is defined under the section 6.17.

6.18 Death grants²¹

The new scheme increases the death grant from 2 to 3 times pensionable pay for death-in-service, an increase from 3 to 5 times pension if a deferred member dies and an increase from 5 to 10 times pension, less pension already paid, if a pensioner dies before age 75.

6.19 Survivor benefits²²

Spouse's pensions are based, as now, on a 1/160th accrual rate, however, there is a change in the way widowers' pensions are calculated. If the partner (now a widower) married the member before retirement then the scheme member's entire membership counts towards the pension. Previously only membership from 1 April 1972 counted towards a widower's pension. The survivor benefits payable on 'post-retirement' relationships remain the same as in the current scheme i.e. if the member marries the partner after retirement then a widow's pension is based on the member's post 5 April 1978 contracted out membership and a widower's pension is based on the member's post 5 April 1988 membership. Civil partners' and the new nominated cohabiting partner's pensions are to be based on a 1/160th accrual rate but only on membership post 5th April 1988.

Children's pensions are paid to eligible children, the amount depending on the number of children and whether there is a spouse's, civil partner's or cohabiting partner's pension payable. The minimum 10 year membership guarantee for children's pensions has been removed from the scheme but for deaths-in-service, children's pensions are calculated on the deceased member's full prospective service to age 65.

Survivor's pensions following death-in-service are now based on the deceased's notional membership to age 65.

The short-term survivor's pension payable at a higher rate for the first 3 or 6 months after death has been removed due to the increased lump sum death benefits.

6.20 Nominated cohabiting partner²³

The new scheme provides for a member to nominate a 'nominated cohabiting partner', of either the opposite or same sex, to receive a survivor's pension subject to the terms in the regulations which are as follows:

- Both the scheme member and their nominated cohabiting partner must be free to marry or form a civil partnership with each other, and
- They are both living together as if they were husband and wife, or civil partners, and

²¹ Draft LGPS (Benefits, Membership and Contributions) Regulations (NI) 2008 – Regulations 23, 32 and 35

²² Draft LGPS (Benefits, Membership and Contributions) Regulations (NI) 2008 – Regulations 24, 27, 28,33, 34, 36 and 37

²³ Draft LGPS (Benefits, Membership and Contributions) Regulations (NI) 2008 – Regulation 25

- Neither the scheme member nor the nominated cohabiting partner are living with anyone else as if they were husband and wife, or civil partners, and
- Either the nominated cohabiting partner is financially dependant on the scheme member or they are both financially interdependent on each other.

All of the above conditions have to have been met for a continuous period of at least 2 years immediately prior to the scheme member's death and a nomination, signed by both parties, has to be effective in order for a survivor's pension to be payable.

A nomination ceases to be effective if any of the following apply:

- either the scheme member or the nominated cohabiting partner gives written notice to the Committee to cancel the nomination; or
- the scheme member makes a subsequent nomination; or
- either party marries or forms a civil partnership or lives with a third person as if they were husband and wife or civil partners; or
- the nominated partner predeceases the scheme member.

It will not be possible for members to nominate a cohabiting partner before the introduction of the new scheme on 1st April 2009. To ensure that there is no confusion these nomination forms will be entitled 'Nomination of Cohabiting Partner'. The nomination form, LGS20, which is currently used to nominate beneficiaries for a member's death grant will be renamed 'Death Grant Expression of Wish' form.

It is important to note that only active members who have contributed to the scheme on or after 1 April 2009 can nominate cohabiting partners. Members who deferred their benefits before 1 April 2009 and pensioners cannot nominate a cohabiting partner.

6.21 Deferring drawing a pension²⁴

There has been no change to the regulations for a deferred member delaying drawing their pension. A deferred member may defer drawing their pension until the day before age 75. However, a member retiring at or after age 65 will now also have the option of deferring their benefit until the day before age 75 at the latest.

6.22 Employing authority decisions²⁵

Employing authorities are reminded that both the current and the new regulations require employing authorities to decide the following in relation to each of their employees who is a member:

- Whether he/she is a whole-time, a variable-time or a part-time employee, or whether his/her employment is of a casual nature;
- Which of his/her emoluments are remuneration on which contributions are payable;
- What rate of contributions the employee is liable to pay to the fund; and
- If he/she is a part-time employee the proportion which his contractual minimum hours of employment each week bear to those of a comparable whole-time employment.

The regulations also require that employing authorities notify a member, in writing, of any of the above decisions and also provide a conspicuous statement which directs the employee's attention to the employer's address where they may obtain further information about the decision and to his/her right of appeal to the county court under the appropriate regulation.

²⁴ Draft LGPS (Administration) Regulations (NI) 2008 – Regulation 46 (6)

²⁵ Draft LGPS (Administration) Regulations (NI) 2008 – Regulation 51 and 53

6.23 Cost sharing²⁶

The Department's consultation letter confirms that under the current arrangements increases in the cost of providing benefits are met solely by increases in the employer contribution rate. The member contribution rate remains static. Increasing costs in the Scheme impact directly on employers but can also impact on ratepayers and taxpayers in Northern Ireland. It is therefore important that the scheme remains affordable for members, employers, ratepayers and taxpayers. In common with the Local Government Pension Scheme in Great Britain it is intended to introduce a cost sharing mechanism.

Following a separate consultation paper on cost sharing principles the Department will issue guidance before 31st March 2010, for the Committee and employing authorities on a cost sharing mechanism. This guidance will describe the manner in which the costs of the scheme will be met by employers and members after 31st March 2011.

6.24 Pensions Administration Strategy - Additional costs arising from an employing authority's level of performance²⁷

The draft regulations enable the Committee to publish a Pensions Administration Strategy, if it wishes, after consulting with employing authorities, which will set out the levels of performance which the Committee and employing authorities are expected to achieve. Should the Committee incur additional costs because of an employing authority's level of performance in carrying out its functions, then the Committee will be able to charge the employing authority any additional costs incurred. If the employing authority and the Committee cannot agree on the charge being levied it will require determination by the Department.

6.25 85-year-rule protections²⁸

The 85-year-rule was removed from the Scheme on 1st October 2006. All members of the scheme at 30 September 2006 accrue membership under the 85-year-rule until 31 March 2008. The protections for members subject to the 85-year-rule in the current regulations are carried forward into the new Scheme as follows:

- If a qualifying member is age 60 and retires by 31 March 2016 and would have satisfied the 85-year-rule, no actuarial reduction will apply.
- If a qualifying member is aged 60 and would have satisfied the 85-year-rule between 1 April 2016 and 31 March 2020 and chooses to retire an actuarial reduction will apply on a tapered basis for membership accrued from 1 April 2008.

No changes are proposed to the protections.

7. Action list for employing authorities

Annex A contains a 'To do' list for employing authorities. It should be noted that this list is based on the draft regulations and may be subject to change.

8. Employer Seminars

You will receive notification in the coming weeks detailing which of the seminars listed below that your employing authority has been invited to. It is recommended that you send two staff members - one from Payroll and one from Human Resources. Please note that numbers are limited due to space restrictions and normally only two employees from

²⁶ Draft LGPS (Benefits, Membership and Contributions) Regulations (NI) 2008 – Regulation 40

²⁷ Draft LGPS (Administration) Regulations (NI) 2008 – Regulation 38, 39 and 62

²⁸ Draft LGPS (Transitional) Regulations (NI) 2008 – Regulation 11 and Schedule 2

each employing authority will be allowed to attend. However, we recognise that a few of the large employing authorities have sizeable Human Resources and Payroll departments and will require more than 2 places. We will endeavour to accommodate this and will also ensure that the presentation materials are made available for attendees to take back to their workplace.

We may hold a waiting list for spaces which become available and, if the numbers are significant, organise a further seminar. Please do not contact us in advance of receiving your invitation letter.

Date	Time	Location
Tuesday 4 th November 2008	10.15am – 1.00pm	Coleraine Borough Council – Training Room / Committee Room
Thursday 6 th November 2008	10.15am – 1.00pm	WELB – Library Headquarters – Lecture Room
Tuesday 11 th November 2008	10.15am – 1.00pm	Lough Neagh Discovery Centre – Island View Suite
Thursday 13 th November 2008	10.15am – 1.00pm	NILGOSC – Committee Room
Tuesday 18 th November 2008	10.15am – 1.00pm	NILGOSC – Committee Room
Thursday 20 th November 2008	10.15am – 1.00pm	NILGOSC – Committee Room

9. Actions being taken by NILGOSC

Website – the NILGOSC website at www.nilgosc.org.uk has been updated with a 'new scheme section'. This contains the draft regulations, a summary of the new scheme and a Frequently Asked Questions section. Please keep visiting the website to keep up-to-date on the new scheme.

Posters - An electronic (pdf) copy of a poster outlining the scheme changes will be available to download from the website in November. Paper copies of the poster should be available for distribution at the employer seminars.

Members' News, Deferred Members' News and Pensioners' News – these annual publications will be issued to all members, deferred members and pensioners by 31st October 2008. Each publication will detail the main changes which relate to those categories of members.

Draft guidance on allocation of employees to contribution bands – This will be issued to employing authorities at the employer seminars. Hopefully this will address the majority of scenarios e.g. when to revise contribution bands, how to deal with arrears, how to deal with profit related pay, bonuses etc. The guidance may have to be revised once the regulations are made.

NILGOSC Forms and Guides – NILGOSC is currently working on updating the scheme literature, guides and forms. These will not be printed until the regulations are made, probably in December, and will then be distributed to employing authorities.

Article on new scheme for use in staff magazines – A general article on the new scheme is being written and will be available from October. We will be happy to provide this for publication on staff intranets or internal newsletters. Please email Michelle Mullan at michelle.mullan@nilgosc.org.uk if you would like a copy of this article.

10. Any questions

If you have any questions regarding the content of this circular please contact either myself, Mark Wright, Trevor Davidson or any member of the Pensions Development Team at NILGOSC.

Yours sincerely

A handwritten signature in black ink that reads "Zena Kee". The signature is written in a cursive style with a large initial 'Z' and a long, sweeping underline.

Zena Kee
Pensions Manager

ANNEX A

Action List for Employing Authorities

What needs to be done?	By when?
Ensure payroll can hold an individual contribution rate and record up to 4 changes per year	31 st March 2009
Allocate each member an individual contribution rate under the new scheme	31 st March 2009
Inform each member of their allocated contribution rate	31 st March 2009
Ensure that payroll software can hold different contribution rates for an employee in respect of multiple employments	31 st March 2009
Determine how to respond to appeals regarding allocation to contribution bands	31 st March 2009
It is recommended that employers draft a policy on attribution to contribution bands	
Consider under which circumstances you might change a member's contribution rate should their earnings change after March 2009.	31 st March 2009
Identify existing casual members and review contracts of employment	31 st March 2009
Establish which members cannot remain in the scheme, based on the new entry requirements, and inform both the member and NILGOSC	31 st March 2009
Determine how you will pick up cases where an employee with less than 3 months service has their contract extended and should be offered the chance to backdate their scheme membership.	31 st March 2009
Review any potential terminal illness cases as there is no commutation on serious ill-health under the new scheme	31 st March 2009
Each employer must review, update and produce a written statement on the following employer discretions: <ul style="list-style-type: none">• Augmentation – update existing policy to remove any references to age 65.• Employer awarding additional pension up to a maximum of £5,000 per annum – formulate a policy• Employee opting out more than once – remove this discretion as this old rule has not been carried forward into the new scheme• Flexible retirement – update policy to include part benefits being drawn under flexible retirement	30 th June 2009
Consider how to retain member's pensionable pay details as at 31 March each year for a continuous 10 year period	31 st March 2010
There will be a change to year end posting for 2010, so employers will need to be aware that software may need to be changed during 2009 to meet the specification. This specification will be issued by NILGOSC as soon as possible after the regulations are made.	Early in 2009
Review any potential redundancy/business efficiency cases where the member (existing at 31 st March 2009) falls between age 50 and below age 55 before 31 st March 2010. After 31 st March 2010 redundancy/business efficiency pensions are only payable to members aged 55 or more.	31 st March 2010
Consider whether to circulate employees who have opted out of the current scheme with details of the new scheme	31 st March 2009