



To : THE MANAGEMENT AUTHORITIES OF PRIMARY SCHOOLS.

CIRCULAR LETTER PEN 2/04 (including amendments made to paragraphs 7.1.2 and 9.3 in accordance with Circular Pen 01/05)

Pension Scheme for Special Needs Assistants

1. INTRODUCTION.

- 1.1 Following discussions with the education partners it has been agreed to admit Special Needs Assistants employed in Primary Schools to membership of the Superannuation (Education) Scheme. The Scheme will provide that whole-time service and certain part-time service as a Special Needs Assistant will, with effect from **1st September 2001**, become pensionable on an ongoing basis. (The categories of part-time Special Needs Assistants covered by pensionability will fall to be reviewed on the conclusion of the ongoing discussions referred to at 1.3 below).
- 1.2 The Superannuation (Education) Scheme is a defined benefit scheme and provides standard public service pension benefits. A brief outline of the Superannuation Scheme is given at **Appendix 1**.
- 1.3 Two recent pieces of legislation, the **Protection of Employees (Part-time Work) Act, 2001** and the **Protection of Employees (Fixed Term Work) Act, 2003** provide for the pensionability on an ongoing basis of further categories of workers. The pay and pensions provisions of the **Protection of Employees (Part-time Work) Act 2001** are effective from 20 December 2001. What this means in regard to pensionability is that, with effect from that date, an employer may not exclude a worker, solely because the worker is part-time, from membership of a pension scheme to which a comparable wholetime worker would be admitted. In order to benefit from the provisions of the Act, the part-time worker in question must be employed for at least 20% of the hours of the comparable wholetime worker. Taking the provisions of the Act into consideration, and in order to commence from the beginning of a school year, it has been agreed that Special Needs Assistants will become pensionable on an ongoing basis with effect from **1 September 2001**.

It is emphasised that pensionability from 1 September 2001 does not confer, and will not confer, entitlement to pro rata pay from that date: the pay provisions of the Protection of Employees (Part-time Work) Act will not in any circumstances apply to periods of employment before 20 December 2001. In line with the provisions of the Act, most categories of part-time staff will now be pensionable on an ongoing basis. The **Protection of Employees (Fixed Term Work) Act, 2003** is effective from 14 July 2003. Discussions with the education partners are taking place regarding implementation of the Acts and it is expected that in due course circulars clarifying further how the Acts will be implemented will be issued. Any Special Needs Assistant to whom the pension provision apply and not already in the Scheme will then be admitted to the Scheme.

2. ELIGIBILITY FOR MEMBERSHIP.

2.1 Membership of the Scheme will be compulsory with effect from **1 September 2001** for all **Special Needs Assistants** in posts in Primary Schools who are:-

(a) of satisfactory health,

AND,

(b) (i) employed in **whole-time posts** in such schools,

OR,

(ii) employed under a **Pro-rata contract** where employed for 20% or more of the hours of a wholetime Special Needs Assistant,
[A Pro Rata Contract will normally run from 1st September to the 31st August. However a Pro Rata Contract may commence during the period 1st September to 31st October inclusive (or the first school day immediately after mid term break if mid term break terminates after 31st October)].

OR,

(iii) employed on a **Non-casual basis** i.e. under a contract that requires him/her to work for a period not less than 20% of the hours of a wholetime person during the school year but for less than a full year (e.g. replacing a Special Needs Assistant on maternity leave),

3. SATISFACTORY HEALTH

Special Needs Assistants who have already passed a medical examination for purposes of appointment will not have to undergo a medical examination for purposes of the Superannuation Scheme. Otherwise, before membership of the Scheme can be approved, the prospective member must undergo a medical examination by a doctor nominated for that purpose by the school authorities. (A sample form for certification by the nominated doctor is attached as **Appendix II** to this Circular.) In the case of a Special Needs Assistant who undergoes a medical examination on foot of this circular and who is deemed unfit by the nominated doctor, the school authorities must notify the Department immediately.

Where the medical report deems the Special Needs Assistant unfit, the Special Needs Assistant will not be formally admitted to the pension scheme but will be eligible to have his/her existing contract, provided that there are no changes except in regard to the number of hours involved, renewed on the usual conditions. Any contributions provisionally deducted will be returned through the payroll.

A Special Needs Assistant who fails to attend for a medical examination without good cause may be regarded as having failed the examination.

4. MEMBERSHIP.

Membership of the scheme will be compulsory for all eligible Special Needs Assistants. It **will not be necessary** for a Special Needs Assistant to apply for membership of the Scheme. It will be a condition for appointment to a post that a Special Needs Assistant passes a medical examination by a doctor nominated by the school authorities.

Special Needs Assistants who are otherwise eligible, who have not already undergone a medical examination for purposes of appointment and who are in service on or after **6 April 2004** will be referred for a medical examination by the school authorities as soon as possible after that date.

- 4.3 **Ongoing deductions** from salary for superannuation purposes will be made with effect **from 6 April 2004** (or as soon as possible thereafter) in the case of pensionable Special Needs Assistants who are employed in primary schools and are on the Department's payroll. The deductions will be made provisionally in the case of a Special Needs Assistant who has been referred for a medical examination. In the event of a person failing the medical examination a refund of the superannuation contributions paid provisionally will be made.

Transitional arrangements in regard to contributions due in respect of certain Special Needs Assistants employed in primary schools will apply as set out in paragraph 6 below.

5. COMMENCEMENT DATE OF MEMBERSHIP OF THE SCHEME.

- 5.1 Special Needs Assistants will be **formally admitted** to the Scheme from **6 April 2004** (or as soon thereafter as ongoing deductions from pay, other than provisional deductions, commence).

Membership will be backdated where the member had reckonable service as a Special Needs Assistant prior to the date of formal admission. The **effective date of admission** to the Scheme in the case of such a member will be **1 September 2001** or date of appointment as a Special Needs Assistant, if later.

- 5.2 **Arrears** of contributions will be due in respect of the period between the effective date of admission to the Scheme and the commencement of ongoing deductions, other than provisional deductions. Membership of the Scheme requires that arrears must be paid.

The arrears will be recovered by increasing the ongoing contribution by instalments over an agreed period, not exceeding the length of the service to which the arrears relate, until all arrears have been collected. This will be done as soon as practicable after the commencement of ongoing deduction. In this regard, deduction of arrears for Special Needs Assistants in Primary Schools, who are paid through the Department's payroll, will commence in September 2004.

6. TRANSITIONAL ARRANGEMENTS IN REGARD TO CONTRIBUTIONS.

- 6.1 **Primary Schools:** Special Needs Assistants in **Primary Schools** are in the main paid salary through a payroll operated by the Department of Education and Science. Pension contributions in respect of pensionable Special Needs Assistants on payroll will be paid by deduction from salary. Deductions will commence with effect from 6 April 2004 and therefore the first deduction will appear in the payment that issues on 22nd April 2004.

Contributions will be deducted on a **provisional basis** from salary in the case of Special Needs Assistants paid through the payroll operated by the Department where the hours being worked are less than 20% of the hours of a wholetime Special Needs Assistant. Where at the end of the school-year the number of hours worked amount in aggregate to 20% of the hours of a wholetime Special Needs Assistant all the service will be pensionable. If however the threshold of 20% is not reached at the end of the school-year, then the monies provisionally deducted will be refunded to the Special Needs Assistant or alternatively the Special Needs Assistant may opt to have the contributions paid to her/his Personal Retirement Savings Account (PRSA). This arrangement will be reviewed in the light of the outcome of discussions on the implementation of the Protection of Employees (Part-Time Work) Act 2001.

The question of the contributions due in respect of Special Needs Assistants employed and paid directly by Boards of Management of Primary Schools will be considered further following the outcome of discussions on the terms of the Protection of Employees (Part-Time Work) Act 2001 and the Protection of Employees (Fixed Term Work) Act 2003. In the meantime no pension contributions need be deducted by school authorities. On the outcome of these discussions, arrears of contributions will, as appropriate, be payable.

7. SUPERANNUATION CONTRIBUTIONS AND PRSI CONTRIBUTIONS.

7.1 Ongoing liability for the Class A rate of PRSI, (as amended by Circular Pen 01/05).

- 7.1.1 Special Needs Assistants pay PRSI at Class A rate and will have ongoing liability for the Class A rate of PRSI throughout their service.
- 7.1.2 A person who has ongoing liability for the Class A rate of PRSI throughout his/her service will be liable, from effective date of admission to ongoing pensionable service, for a superannuation contribution at the **Ongoing Co-ordinated Rate**. The Ongoing Co-ordinated Rate is made up of 1.5% of Current Pay and 5% of **Current Co-ordinated Pay** (including 1.5% of Current Co-ordinated Pay towards the Spouses' Scheme).

Note that **Current Co-ordinated Pay** means Current Pay less twice the maximum personal rate of Social Welfare Old Age Contributory Pension.

8. SPECIAL NEEDS ASSISTANTS, IF ANY, WHO HAVE RETIRED OR DIED SINCE 1 SEPTEMBER 2001.

Eligible service given by a Special Needs Assistant who has retired prior to the commencement of ongoing deductions will be regarded as pensionable. Eligible service given by a Special Needs Assistant who has died prior to the commencement of ongoing deductions will be regarded as pensionable provided the person has already passed a medical examination as a condition of appointment. Such service will also be regarded as pensionable where the person has not undergone a medical examination but death is due to a cause which would not have been likely to result in the person's failing a medical examination if one had been carried out on or about 1 September 2001 or at the time of appointment, if later.

Appropriate contributions will be offset against superannuation benefits. The contributions will consist of arrears in respect of the period from 1 September 2001 (or date of appointment, if later) to date of retirement or death-in-service and a buyback contribution in respect of any reckonable service given prior to 1 September 2001. The buyback of service contribution will be a co-ordinated contribution and will be based on pay at retirement or death-in-service. A Spouses' and Children's Scheme contribution in respect of **potential service** will also be charged, where appropriate.

9. BUYBACK OF SERVICE GIVEN BEFORE 1 SEPTEMBER 2001.

- 9.1 The scheme will provide for the buyback for pension purposes of all past reckonable service, i.e. wholetime service and certain part-time service, as a Special Needs Assistant given before 1 September 2001.
- 9.2 **Reckonable service which may be bought back.**
(a) **Wholetime service** given prior to 1 September 2001, and,
(b) **Part-time service** given in any week before 1 September 2001 provided the part-time service in the week comes to at least 18 hours.
- 9.3 **Rate of Buy-back Contribution (as amended by Circular Pen 01/05)**
The buyback contribution for past reckonable service will be payable by Special Needs Assistants who have been appointed to wholetime posts. The contribution will, subject to paragraph 9.4 following, be based on pay at the time the payment is being made. The position regarding the buyback of service by Special Needs Assistants who are serving in Part-Time posts will be clarified at a later date as outlined at paragraph 9.5 below.

The rate of the buyback contribution for **reckonable past service**, whether wholetime or part-time, payable by a **Special Needs Assistant** will be:-

- Main Scheme
 - 1.5% of Current Pay AND
 - 3.5% of Current Co-ordinated Pay
- plus**
- Spouses and Children's Scheme
 - 1.5% of Current Co-ordinated Pay

Special Needs Assistants will however have the option of paying this **Spouses and Children's** contribution either at the rate of 1.5% of current Co-ordinated pay (as outlined above) or deferring payment to retirement and paying 1% of Co-ordinated pay current at retirement by deduction from retirement lump sum.

- 9.4 **Arrangements for the Buyback of reckonable service by Special Needs Assistants in wholetime posts.**
Any Special Needs Assistant in a **wholetime** post who wishes to buy back reckonable service given prior to 1 September 2001 must make a formal application to do so to the Department. An application form for this purpose is at **Appendix III** of this Circular.

A Special Needs Assistant who is currently in a wholetime post and who applies for buy-back not later than 31 March 2005 will pay the buyback contribution based on pay on 20 December 2001 or where the Special Needs Assistant was in part-time service on or after that date, s/he will pay the buyback contribution based on the wholetime equivalent of pay on 20 December 2001. Where the Special Needs Assistant's employment commenced after 20 December 2001 the contribution will be based on pay or the wholetime equivalent of pay, as appropriate, on the date employment commenced.

Where the application to buyback reckonable service is made outside the above timeframe, by a Special Needs Assistant in a wholetime post at the date of issue of this Circular, the contributions will be based on pay at the date of the application.

Separate copies of the form at Appendix III to this Circular should be completed by the Special Needs Assistant and the school authority of each school in which the Special Needs Assistant worked prior to 1 September 2001.

- 9.5 **Special Needs Assistants serving in Part-time Posts.**

The question of the buy back of service by Special Needs Assistants who are serving in part-time posts is under consideration in the context of implementing the **Protection of Employees (Part-time Work) Act, 2001** and the **Protection of Employees (Fixed Term Work) Act, 2003**. A further circular in this regard will be issued on the outcome of these considerations.

- 9.6 **Payment of the Buy-back Contributions.**

Once the Department has established the overall amount of service to be bought-back it will advise the Special Needs Assistant by letter of the details and request payment of the appropriate contribution.

The Special Needs Assistant will have 2 months from the date of the letter to:

- (i) Make payment in one lump sum, or
- (ii) Opt to pay by instalments over **the shorter of** a period of 5 years or a period corresponding to the duration of the period to which the buyback relates. Instalment payments will commence immediately this option is chosen.

Where the Special Needs Assistant receives details by letter and decides against making payment or does not respond within the two-month timeframe, the quotation will lapse. The Special Needs Assistant may however make a further application at any date up to the date of retirement in which case the buyback contribution will then be calculated by reference the rate of pay applicable at that later date.

9.7 Arrangements for the crediting of whole-time and part-time service which has been bought back.

Each year of wholetime service given prior to 1 September 2001 will be counted as a year of pensionable service.

Part-time service (of 18 hours or more) given in any week prior to 1 September 2001 will be reckoned in the proportion which the total reckonable hours bear to comparable wholetime service.

For example, part-time service given in 25 reckonable weeks in 1998 and amounting to a total of 500 hours in those weeks would, where wholetime service comes to 41 hours per week, be reckoned as $500/2139 = 0.2338$ of a year of pensionable service or 85 days, (where $2139 = 41 \text{ hours} \times 52.18 \text{ weeks}$).

10. ARREARS

Scheme members who owe **arrears** of contributions in respect of ongoing pensionable service given since 1 September 2001 will pay the arrears due, when they have been appointed to relevant posts, (i.e. wholetime or pro-rata), **and** have commenced payment of ongoing contributions. Collection of the arrears will, in the case of Special Needs Assistants who are already in relevant service and are being paid through the Department's payroll, commence on 1 September 2004, (or as soon as possible thereafter). Where the Special Needs Assistant has opted to buy back earlier service by instalments, the collection of the arrears may be deferred until the contributions for the bought back service have been paid.

11. TRANSFERABILITY OF RECKONABLE SERVICE.

Reckonable Service under this scheme, (whether wholetime or part-time) which is given by a Special Needs Assistant who later transfers to pensionable service in an organisation which is a member of one of the public sector transfer networks may be transferred to that organisation for pensions purposes.

The amount of reckonable service to be credited and the contribution payable for the service in question, where contributions have not already been paid in full to the Department, will be calculated by the Department. Any outstanding contributions due will be payable to the public sector organisation to which the person has transferred.

Similarly, prior pensionable service in an organisation which is a member of one of the public sector transfer networks may be transferred to this Scheme where a Special Needs Assistant is in pensionable service under this Scheme.

12. SPECIAL NEEDS ASSISTANTS WHO WERE MEMBERS OF THE NOMINATED HEALTH AGENCIES SUPERANNUATION SCHEME AT 30 MARCH 2001.

A small number of Special Needs Assistants, who were employed in special primary schools which were part-funded by the Department of Health and Children, were members of the Nominated Health Agencies Superannuation Scheme up to 30 March 2001 when this Department began making direct payment of salary to Special Needs Assistants. In these exceptional circumstances membership of the Superannuation (Education) Scheme may commence with effect from 31 March 2001.

Any Special Needs Assistant who was contributing to the Nominated Health Agencies Superannuation Scheme up to 30 March 2001 should write to the address given at the end of this Circular giving the school roll number, details of when the employment commenced, when s/he became a member of that pension scheme, and the rate of pension contribution (if known) that s/he was paying. The Department will then arrange to follow up on the matter and communicate directly with the particular Special Needs Assistant.

13. INCOME TAX RELIEF.

Full tax relief is **automatically granted at source** on superannuation contributions which are deducted from salary payments made.

14. ENQUIRIES.

Enquiries regarding the provisions of this Circular may be made by:

- E-Mail to sna_pensions@education.gov.ie.
- by letter addressed to the Department at the address given below.

PENSION SECTION (SNA),
DEPARTMENT OF EDUCATION AND SCIENCE,
CORNAMADDY,
ATHLONE

- by phone to 090 - 648 4005 or 090 – 648 4006; OR,
090 - 6474621 or 01-8734700: extensions 4005 or 4006.

An information booklet on the Scheme, in a question and answer format, is in course of preparation and will be issued to Special Needs Assistants in the very near future.

15. CIRCULATION.

The contents of this circular should be brought to the attention of all Special Needs Assistants including those on career break or other approved leave of absence.

This circular should be retained for future reference in the school. It may also be accessed on the Department of Education & Science website at www.education.ie under Education Personnel / Special Needs Assistants.

John Feeney
Principal Officer
Pensions Unit

15 April 2004.

Appendix 1 of Circular Pen 2/04

BRIEF OUTLINE OF THE SUPERANNUATION SCHEME

1. The Superannuation Provisions consist of two Schemes (i) the main Scheme - which provides essentially for pension and lump sum at retirement or for the payment of a Death Gratuity where a member dies in service and (ii) the associated Spouses' and Childrens' Pension Scheme which provides for Widow's/Widower's pension and/or Children's Pension.
2. The value of the superannuation benefits is related to pensionable service, subject to a maximum of 40 years, and to pensionable remuneration at retirement or, where death in service occurs, at death.

Added years of pensionable service, subject to a maximum in most circumstances of 6 and 2/3 years, may be credited to a member who retires on health grounds having completed at least 5 years pensionable service.

In the event of death in service, a Death Gratuity of not less than one year's salary at the rate applicable at the date of death and not more than 1.5 times that rate of salary will be payable. If there is a surviving spouse and/or dependent children, the deceased member will be credited with added years of pensionable service which will bring total pensionable service, for purposes of calculating the Spouses' and Children's Pension, up to 40 years or up to the amount which the member would have had by compulsory retirement age, whichever is less.

3. A Special Needs Assistant, other than a New Entrant, (see paragraph 6 below), must retire at the end of the school year in which he/she reaches age 65 but may retire voluntarily any time after reaching age 60.
4. The main Superannuation Scheme provides for ongoing deductions from salary from the date of admission to the Scheme until retirement or death in service.

The Spouses' and Children's Scheme provides for ongoing deductions from salary and also provides, where a member retires on health grounds or dies in service, for the deduction of contributions from the Disability Retirement Gratuity or Death Gratuity in respect of any added years which may be credited to the deceased member for the purposes of a Spouses' and/or Children's pension. The Scheme makes provision for pensions to be payable to spouses and children even where the marriage/births take place after retirement but there is no provision for a refund of contributions where the member retires unmarried or dies unmarried.

5. Arrangements are being made to provide Special Needs Assistants with documentation explaining the details of the Superannuation Scheme.
6. New provisions, announced by the Minister for Finance in his Budget statement in December 2003, increase the minimum age for pension to age 65 for new entrants on or after 1 April 2004 and abolish the compulsory retirement age for those new entrants. Legislation giving effect to these new provisions has recently been enacted and further details will issue in due course.

Appendix II of Circular Pen 2/04

Certificate of medical fitness as a Special Needs Assistant

TO BE COMPLETED BY A MEDICAL PRACTITIONER NOMINATED BY THE BOARD OF MANAGEMENT.

Surname: _____

Forename(s): _____

I certify that I have examined the above named and found that s/he is fit to undertake duties as a Special Needs Assistant.

Medical Examiner's Name: _____ Signature: _____

Block Letters.

Date: _____

Address: _____

Medical Examiner's Official Stamp

Appendix III of Circular Pen 2/04 (Page 1 of 2)
Buy-back of Past Service as a Special Needs Assistant for Superannuation purposes.

**CERTIFICATE OF PAID SERVICE AS A SPECIAL NEEDS ASSISTANT
GIVEN PRIOR TO 1 SEPTEMBER 2001.**

Notes on completion of form:

Part 1: The Special Needs Assistant should complete this part of the form BEFORE submitting it to the school authority.

Part 2: The school authority should note the following when completing this part. The completed form should be returned to the Special Needs Assistant.

Periods of Service: Only periods of paid service need be listed i.e. where the Special Needs Assistant was paid directly by the school. Service should be shown in periods of unbroken service. The minimum period reckonable is a week in which at least 18 hours was assigned to the Special Needs Assistant.

Employment Status: Show status as (i) Wholetime (WHT) or (ii) Part-time (P/T)

Approved Hours per Week: List only those periods of employment where the Special Needs Assistant was assigned at least 18 hours per week.

Signatory: This certificate MUST be signed by the Chairperson of the Board of Management or the Principal of the school in which the service was given.

Part 1. – to be completed by the Special Needs Assistant.

In accordance with paragraph 9 of Circular Pen 2/04 I wish to buy-back for superannuation purposes reckonable service given as a Special Needs Assistant prior to 1 September 2001

Special Needs Assistant's Name	
Date of Birth	
Payroll Number	
PPS No.	

To the Authority of

School Name	
School Address	

To the best of my recollection, I worked in your school in the following period(s)

From	To

Appendix III of Circular Pen 2/04 (Page 2 of 2)

I would be grateful if you would check your records regarding this service and complete Part 2 of this form.

On completion, please return this form to me at the following address:

Signed: _____ Date: _____
Special Needs Assistant

Part 2 - to be completed by the certifying School Authority.

Details of Service:

Period of Service		Employment Status (WHT or P/T)	Approved hours worked per week
Start Date	End Date		

Roll Number:	
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I certify that the details of employment listed above are in accordance with the records of paid employment for this school and that these details are true and correct in all respects to the best of my knowledge and belief.

Signed: _____ Date: _____

Name (capitals) _____
Chairperson of Board of Management / Principal

Official School Stamp

N.B. When parts 1 and 2 have been completed the Special Needs Assistant should return the form to: Pensions Section (SNA), Department of Education & Science, Cornamaddy, Athlone, Co. Westmeath.