

No 13/2018

Memorandum for Executive Council

SUBJECT

Pensions (Amendment) Regulations, 2018

Memorandum by The Financial Secretary

ADVICE SOUGHT

- 1. Executive Council is asked to consider and approve the Pensions (Amendment) Regulations, 2018 to come into force on the date of publication.**

BACKGROUND & CONSIDERATIONS

2. In considering a recent pension case an anomaly in the Pensions Regulations 2012 with regard to calculating pensionable service under the Pensions Ordinance 2012 was identified.
3. Regulation 7, *Leave without salary* specifically excludes any leave without salary from calculation of pensionable service.

“No period during which an officer has been absent from duty on leave without salary shall be taken into account as pensionable service unless such leave has been granted on grounds of public policy with the approval of the Governor.”

4. The case highlighted that during the 1980s, the majority of maternity leave was unpaid. Under the regulations when calculating pensionable service and therefore pension entitlement, we cannot take that unpaid leave into account, despite it being maternity leave. Such, cannot be regarded as unpaid leave *on grounds of public policy*.
5. It is the intention of the Government that maternity leave should be counted towards pensionable service and a policy was issued to this effect in the 1990s. However, during the drafting of the Pensions Regulations in 2012 this was omitted and an exception to the main stance on unpaid leave was not included in the Pensions Regulations that would allow unpaid maternity leave to be counted towards pensionable service.
6. In addition, it was also highlighted that unpaid paternity leave and adoption leave should also be counted towards pensionable service.
7. This is a fair and equitable policy that supports and reflects family life and values in St Helena.
8. Executive Council is asked to consider an exception provision to be added to Regulation 7 that allows unpaid

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maternity leave, unpaid paternity leave and unpaid adoption leave to be counted towards pensionable service.

9. The SHG Code of Management now contains more generous provisions with regard to maternity, paternity and adoption leave. Maternity leave; up to 12 weeks; is now paid in full, 6 weeks on half pay and a further 8 weeks could be granted unpaid. In most situations employees use their annual leave to supplement maternity leave.
10. In addition to this a reference error has been identified under Regulation 10(1)(c)(ii) where it references Regulations 22 and 23 that do not exist in the current Pensions Regulations. This is an erroneous reference that occurred in the drafting of the Pensions Regulations back in 2011 and refers to Regulations that existed in the previous Pensions Regulations of Abolition of office and reorganisation; and Officers injured or contracting diseases in the discharge of their duties, respectively.
11. The equivalent provisions are contained in Regulations 13 and 14 under the Pensions Regulations 2012 and therefore there should be a textual amendment to correct this.

FINANCIAL IMPLICATIONS

12. This will mainly effect those officers who had unpaid leave granted in the 1980s. The impact is likely to be immaterial financially.
13. There are no financial implications from implementing the textual amendment. There have been no pensions approved since the implementation of these current Pensions Regulations that has been effected by this reference error.

ECONOMIC IMPLICATIONS

14. There are no significant macro-economic implications from this change.

PUBLIC / SOCIAL IMPACT

15. There will be no major public or social impact resulting from this paper.

ENVIRONMENTAL IMPACT

16. There will be no direct environmental impacts resulting from this paper as this relates to the pension entitlements of public officers.

PREVIOUS CONSULTATION / COMMITTEE INPUT

17. This issue was discussed at Chairperson's Assembly on 15 March 2017 and subsequent to that amendments were made.
18. This will be discussed with all Elected Members in Info LegCo before presentation to ExCo.

PUBLIC REACTION

19. Public reaction is expected to be minimal as there are minimal financial implications and no direct economic, social or environmental impacts resulting from this. However, the public will be made aware that SHG is ensuring that public officers who had or will have unpaid

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maternity leave, paternity leave or adoption leave are treated fairly from a pensions perspective.

PUBLICITY

20. This should be stated in the ExCo Report and associated broadcast.
21. The approved Regulations will need to be laid as a Sessional Paper at the next formal sitting of Legislative Council after 23 March 2018 and will become a public document as required by the Pensions Ordinance.

SUPPORT TO STRATEGIC OBJECTIVES

22. These Amendment Regulations deal with pension rights and is an administrative amendment and is not linked directly to a specific national goal under the 10 Year Plan.
23. It is recommended that this is held in the open session.

OPEN/CLOSED SESSION

DLR

Corporate Finance
The Castle

20 March 2018