



**Department of the Environment  
An Roinn Comhshaoil**



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Circular Letter S. 12/91

11 December 1991

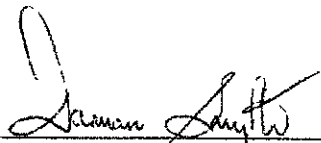
**Superannuation - Overtime**

A Chara

- 1 I am directed by the Minister for the Environment to refer to circular letter S 2/79 of 23 May, 1979 which deals with the superannuation of overtime payments. In view of the amount of time that has elapsed since the issue of the circular letter and in the light of experience since then it is considered desirable to re-state the principles governing the reckonability of overtime payments for superannuation purposes.
- 2 Overtime payments are not reckonable under most public sector superannuation schemes. Under the Local Government Superannuation Code they are excluded by virtue of articles 26(1)(a) and 48(1)(a) of the Local Government (Superannuation Revision) (Consolidation) Scheme, 1986 and articles 24(1)(a) and 43(1)(a) of the Local Government (Superannuation) Act, 1956 (Consolidation) Scheme, 1987. However, under articles 26(2) and 48(2) of the 1986 Scheme and articles 24(2) and 43(2) of the 1987 Scheme the Minister may, if he thinks fit, direct that payments for overtime shall be part of salary or wages of a particular officer or employee, of officers or employees of a particular class, or of every officer or employee.
3. It follows from the statutory provisions that overtime payments may only reckon for superannuation purposes in **exceptional circumstances and where specified conditions are fulfilled**. Accordingly, the Minister will only be prepared to direct that payments for overtime shall be part of salary or wages for superannuation purposes at the time of cesser of office or employment of the person concerned and where the specified conditions set out in paragraph 4 are fulfilled
- 4 The conditions are that the work in respect of which the overtime payments were made -
  - (a) was scheduled work attached to the office or employment (i.e. the particulars of office or conditions of employment specified that the holder of the office or employment has to perform the particular work on an overtime basis); where a schedule of work is not available the local authority should confirm -
    - (1) that the overtime was not optional, (i.e. that the person in question had to work the overtime and could not refuse to work it), and

- (11) that the overtime was part and parcel of the employment of the person in question;
  - (b) was work of a regular and recurring nature (i.e. that the particular officer or employee was required to perform the duties during specified hours on specified days); and
  - (c) was work of a kind which could only be performed outside of, and in addition to, the normal hours of work of the grade to which the officer or employee belonged
- 5 The Minister will not be prepared to give a direction that payments for overtime shall be part of salary or wages for superannuation purposes where -
- (I) the overtime was occasioned by work volume or staff shortages;
  - (II) the amount of overtime worked fluctuated (i.e. where there was no regular and recurring pattern to the overtime worked), or
  - (III) where the overtime work could have been performed within normal hours.
- 6 Superannuation contributions will be payable in arrears on all overtime payments in respect of which a Ministerial direction is given. Such contributions should be recovered by the local authority by retaining the amount due out of the lump sum or gratuity payable to or in respect of the officer or employee at the time of cesser of office or employment. Where there is no lump sum or gratuity the amount due should be recovered by way of periodic deduction from the pension payable to the officer or employee. The amount of the periodic deduction should be equal to the amount of the pension payable in respect of the overtime payments which are taken into account in calculating the superannuation award
7. Applications for Minister's sanction in respect of overtime payments should in future be submitted on the standard form appended to this circular letter.
8. Any queries in relation to this circular letter should be addressed to the Superannuation Section, Government Offices, Ballina, Co Mayo (Phone 096-70677, extensions 406, 407 and 408).

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Damian Smyth  
Assistant Principal  
Superannuation Section  
Ext 2722

To each local authority and body to which the local government superannuation code applies

Appendix to Circular Letter S.12/91

Application for Minister's sanction to include overtime payments  
as salary/wages for superannuation purposes

1. Name of local authority \_\_\_\_\_
2. Name of officer/employee  
(delete as appropriate) \_\_\_\_\_
3. Grade of officer/employee  
(delete as appropriate) \_\_\_\_\_
4. Under which Scheme was s/he pensionable  
(1986/1987)?  
(delete as appropriate) \_\_\_\_\_
5. Was the overtime work scheduled work  
attached to the office/employment?  
(Enclose copy of work schedule stating  
overtime requirements, if available) \_\_\_\_\_ (YES/NO)
  - (a) to this end could the person  
refuse to work the overtime? and \_\_\_\_\_ (YES/NO)
  - (b) was the overtime part and parcel  
of the employment of the person? \_\_\_\_\_ (YES/NO)
6. Was the work of a regular and recurring  
nature as defined in paragraph 4(b) of  
circular letter S.12/91? \_\_\_\_\_ (YES/NO)
7. Was the work of a kind which could only  
be performed outside of and in addition  
to normal working hours? \_\_\_\_\_ (YES/NO)
8. Does the overtime satisfy the conditions  
set out in circular letter S 12/91 in all  
other respects? \_\_\_\_\_ (YES/NO)
9. Please set out the number of overtime  
hours in the relevant period for which a  
direction is sought \_\_\_\_\_

Signed: \_\_\_\_\_

Grade: \_\_\_\_\_

Date: \_\_\_\_\_