

From: Colette Heaney  
Pensions Division

Date: 4 June 2024

1. Minister

**COR-1277-2024: Naomi Long MLA re CSP Pension Issue Section 40 (1).**

**Issue:** Mrs Naomi Long, MLA, has contacted you on behalf of her constituent Section 40 (1) relating to accessing his Classic pension.

**Timing:** Routine

**FOI Implications:** In the event of a request for disclosure of information contained in this submission under the FOI Act, the request would be considered in the context of the relevant provisions of the legislation, including any relevant exemptions that may be applicable. In respect of the subject matter of this paper you may wish to note that a FOI request for disclosure on the numbers of individuals who have availed of the anomaly has been received and processed.

**Presentational Issues:** Has the potential to generate significant interest amongst members, employee representatives and potential media attention.

**Financial Implications:** None.

**Equality implications:** None.

**Legislative Implications:** None.

**Recommendation:** That you issue the attached letter at Annex A.

**Detail**

1. Section 40 (1)

## Section 40 (1)

2. This 'anomaly' exists in the Civil Service Pension Scheme rules, which effectively enables civil servants to opt out of the pension scheme prior to their 60<sup>th</sup> birthday, request to have their accrued entitlements in the 'Classic' arrangement put into payment from their 60<sup>th</sup> birthday and continue in full-time service beyond age 60, without the normal terms for re-employment and abatement being applied. However, this is contrary to the policy intent, in that these preserved benefits should only become payable once the individual has left the service.
3. This 'anomaly' is not publicised by Scheme administrators here or in GB. Initially, CSP did action member opt out requests and paid members their preserved Classic benefits on request at 60. It was anticipated that this anomaly would not be available once all members were moved to the alpha scheme. However, this was not the case.
4. It was at this point that CSP sought legal advice from DSO, as well as engaged with the Cabinet Office, who is responsible for the equivalent Civil Service Pension Scheme in GB and where the anomaly is also a feature of their rules.

5. **Section 42**

6. The Department is currently pursuing a conjoined approach with Cabinet Office and have commissioned Government legal counsel in GB, to seek their views on how to best to progress on this matter. It will take time to receive definitive legal counsel. **Section 42**

7.

## Section 42

Where an application is received the individual is informed:

*'CSP acknowledge this anomaly currently exists, however as it is not policy intent, CSP have therefore sought legal advice in the matter. Until further guidance is received, we will not proceed with your application'.*

8. FOI DoF/2023-0478 (copy attached separately) raised the question about the number of NICS employees who have availed of the anomaly. From 2019 to date 13 employees have availed of this anomaly. Approximately 15 cases are either paused pending legal advice or have made enquiries about the anomaly for past or future retirement.

### Conclusion

9. I recommend that you issue the attached letter at **Annex A**.

## Section 40 (2)

**Colette Heaney**  
**Director of Pensions Division**  
Ext: Section 40 (2)

cc: Neil Gibson  
Mark McLaughlin  
Ciarrai Conlan  
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Section 40 (2)

## Annex A

### From the Minister of Finance

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Our reference: COR-1277-2024

Date: XX June 2024

Naomi Long MLA, a chara

**CSP PENSION ISSUE - Section 40 (1), HE DOES NOT HAVE ACCESS TO HIS CLASSIC PENSION**

Thank you for your email dated 29 May 2024 on behalf of your constituent, Section 40 (1)

Civil Service Pensions (CSP), within my Department have confirmed that an anomaly exists in the Civil Service Pension Scheme rules whereby, civil servants who opt out of the scheme prior to age 60 can claim their Classic pension benefits at 60 and continue in full-time service beyond age 60, without abatement or reduction to service. Under these rules the civil servant can opt back into the Scheme again and accrue further pension benefits. This is contrary to the policy intent of the Scheme i.e. that these preserved benefits should only become payable once the individual has left the service.

CSP are awaiting legal guidance on this issue and any applications seeking to avail of this anomaly, including Section 40 (1), have been paused until this guidance has been received.

CSP do not provide advice as to whether an individual opts out or opts in to the pension scheme, this is the individual's decision and CSP will act on the instructions provided. They have, however, confirmed that re-joining the Civil Service Pension Scheme will have no impact on Section 40 (1) claim for his Classic pension.

CSP have confirmed that Section 40 (1) has invoked the Internal Dispute Resolution (IDR) procedures. Until further guidance is received, CSP will continue to pause applications of this nature and will be unable to provide a comprehensive response to Section 40 (1) dispute.

In response to each of your points:

- Civil Service Pensions have confirmed that Section 40 (1) will receive a full explanation once the legal position and a way forward is confirmed.
- As outlined above Section 40 (1) may re-join the alpha pension scheme without it impacting on his claim.
- Civil Service Pension do not actively encourage those in a similar position to apply for a preserved pension. All such applications have been requested by the individual and are currently paused.
- Until the legal guidance is received CSP are not in a position to confirm how the matter will be rectified.

I hope this reply clarifies the current position.

**Is mise le meas**

**DR CAOIMHE ARCHIBALD MLA  
MINISTER OF FINANCE**