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To the listed addressees

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Our ref: LGT/01/21-23/00

14 February 2008

Dear Sir/Madam

THE LOCAL GOVERNMENT PENSION SCHEME (BENEFITS, MEMBERSHIP AND CONTRIBUTIONS) (SCOTLAND) REGULATIONS 2008
THE LOCAL GOVERNMENT PENSION SCHEME (ADMINISTRATION) (SCOTLAND) REGULATIONS 2008
THE LOCAL GOVERNMENT PENSION SCHEME (TRANSITIONAL PROVISIONS) (SCOTLAND) REGULATIONS 2008

1. With the agreement of Scottish Ministers, I enclose 3 x sets of draft regulations which set out the new Local Government Pension Scheme [LGPS] in Scotland for introduction in April 2009.
2. Your views on these draft regulations are now invited and they should be returned to the SPPA **NO LATER THAN 27 MARCH 2008**.

Background

3. The Scottish Local Government Pensions Advisory Group (SLOGPAG), consisting of representatives from COSLA, trades unions and the Scottish Government, has held tripartite discussions in order to jointly develop consensus based proposals for a new LGPS in Scotland. The overall aim was to reform the LGPS to ensure that it is cost effective, viable and sustainable over the longer term. The new LGPS is also required to meet the needs of the modern workforce, through the provision of a valued set of benefits to members and a useful tool for employers to aid recruitment and workforce change. The new scheme will provide equal access for all local government employees to a set of scheme benefits that are both fair and affordable.

4. The Scottish Government today issued a Press Release to announce the agreement reached by SLOGPAG. A copy of the Press Release and Heads of Agreement document, signed by all parties involved in discussions, can be accessed on the [Local Government](#) page of the Pensions Reform and Taxation area of the SPPA website. A summary of the features of the new scheme is attached at **Annex A**.

Consultation Papers

Benefit Regulations: The Benefit Regulations introduce such features as a 1/60th accrual rate with the option to convert up to 25% of the value of the pension to a lump sum, improved death in service benefits, and tiered contribution rates for employees based on a tax-banded approach and an average employee contribution rate overall of 6.3% and introduce benefits for cohabiting partners.

The Benefit Regulations also introduce a two tier ill-health benefit provision. Both tiers will require the member to be permanently incapable of carrying out their job. In the first tier, where there is no reasonable prospect of undertaking gainful employment before age 65 the accrued benefits payable would be enhanced by 100% of prospective service to age 65. Under the second tier, where there is a reasonable prospect of undertaking gainful employment before age 65 accrued pension benefits would be enhanced by 25% of prospective service to age 65.

Provision for a third tier will be made available outwith the pension scheme itself, under the Local Government (Discretionary Payments and injury Benefits) (Scotland) Regulations 1998. A separate consultation exercise on the regulations for this tier will be carried out in due course

A copy of the Derivation Table is attached at **Annex B**

5. **Administration Regulations:** The Administration Regulations consists primarily of the extant provisions of the 1998 regulations that need to be carried forward as part of the new scheme arrangements with effect from 1 April 2009. A copy of the Derivation Table is attached at **Annex C**

The Regulations are divided into the following Parts–

Part 1 deals with citation, commencement and extent and also refers to Schedule 1 which provides definitions of expressions used in the regulations;

Part 2 sets out rules relating to membership of the Scheme. Regulation 10 (joining the Scheme) does not require any person who is eligible to be a member of the Scheme to apply to be such;

Part 3 deals with contributions. Regulation 21 (additional regular contributions) sets out the applicable procedure in circumstances where a member chooses to pay additional contributions under Regulation 13 of the Benefits Regulations. Regulations 23 - 25 simplify and update provisions dealing with additional voluntary contributions and shared cost additional voluntary contributions;

Part 4 deals with pension funds and employers' payments. It also includes a new provision (Regulation 28) requiring Administering Authorities to prepare and publish a governance compliance statement setting out how they deal with their function in relation to maintaining a pension fund. It also includes a change to the Certificate of Protection provision (Regulation 44) to include the circumstance of a member's pay being reduced as a result of ill-health;

Part 5 deals with payment of benefits;

Part 6 deals with determination of questions and disputes. Regulation 52 requires the employing authority to decide what contribution rate a member must pay. This is consequential on regulation 4 of the Benefits Regulations, which provide that the contribution rate a member pays is based on the member's pensionable pay and a range of pay bands. It also maintains the provision allowing reference of a disagreement to Scottish Ministers for reconsideration, including a requirement that the application must contain any relevant supporting documentation.

Part 7 deals with policy statements and information;



Part 8 deals with special adjustments;

Part 9 deals with transfers. Regulation 83 sets out the provisions which apply where a variable time employee transfers from one pension fund to another.

Part 10 deals with pension sharing.

6. Transitional Provisions Regulations:

These Regulations will effect the revocation of the Local Government Pension Scheme (Scotland) Regulations 1998, but certain parts of those Regulations will continue to apply in respect of future periods and the revocation does not affect any of the rights relating to deferred and pensioner members of the Scheme and the periods of membership used in calculating their benefits and other entitlements accruing to 31 March 2009.

Regulations 3 and 4 deal with active and deferred members respectively, who can count periods of membership both before and after 1 April 2009.

Reg 7 deals with limits on death benefits for persons who become deferred members after 31 March 2009, where there is membership both before and after 31 March 2009.

Provisions relating to pension sharing on divorce are reproduced in the Administration Regulations.

The transitional protection following the removal of the rule of 85 is continued by the Transitional Provisions Regulations. Consultees are asked whether the protections should cover flexible retirement cases under regulation 18 of the Benefits Regulations as well as those choosing to leave early under regulation 30 of the Benefits Regulations.

The Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 1998 are not revoked.

Handling your response

7. All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

8. A Respondent Information Form is also provided at **Annex D** for completion and return to SPPA. Using this form will simplify our task of collating responses and will make the process more efficient.

Next steps in the process

9. Where respondents have given permission for their response to be made public (see the attached Respondent Information Form), these will be made available to the public in the Scottish Government Library after the consultation period. We will check all responses where agreement to publish has been given for any potentially defamatory material before logging them in the library. You can make arrangements to view responses by contacting the SG Library on 0131 244 4556. Responses can be copied and sent to you, but a charge may be made for this service.

10. Once the consultation has closed we will consider all responses when preparing the final Regulations.



Completed information

11. The completed Respondent Information Form and any comments you wish to make should be returned, by the deadline of **27 March 2008**, to Jean Steel, Policy Officer, Scottish Public Pension Agency, 7 Tweedside Park, Tweedbank, Galashiels TD1 3TE (tel: 01896 893229).

12. Copies of the Draft Regulations and Respondent Information form can be accessed on the [Pension Reforms & Taxation](#) area of the SPPA website. Your responses and completed Respondent Information form can be sent electronically to locgovpensionsreform@scotland.gsi.gov.uk. If you would prefer to have a set of these consultation documents and draft regulations sent to you in hard copy, please do not hesitate to contact jill.grainger@Scotland.gsi.gov.uk by e-mail or telephone 01896 893226 to request a set.

Comments and complaints

13. Information on the Scottish Government Consultation Process can be found in Annex D of this letter. If you have any comments about how this consultation exercise has been conducted, please contact Chad Dawtry by telephone on 01896 893221 or by e-mail to chad.dawtry@scotland.gsi.gov.uk.

14. If you wish to discuss the proposals for the new scheme in more detail please do not hesitate to contact myself either by telephone on 01896 893227 or by e-mail to david.lauder@scotland.gsi.gov.uk.

Yours faithfully



D Lauder
Policy Manager, LGPS

Addressees

COSLA
TGWU
GMB
STUC
UNISON
AMICUS
Secretary, LGPC
Educational Institute for Scotland
Union of Construction, Allied Trades and Technicians
Audit Scotland
National Association of Pension Funds
Scottish Local Government Pension Scheduled Bodies
Scottish Local Government Pension Funds
CIPFA
Women's National Commission
Other Relevant Government Departments
SOLACE
SLARC
NAC

