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Scottish Teachers' Superannuation Scheme consultees

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28 November 2014

Dear Colleague

## **The Teachers' Pension Scheme (Consequential Provisions) (Scotland) Regulations 2015**

I enclose for any comments that you have, a draft and a short commentary on a further set of amending regulations, the Teachers' Pension Scheme (Consequential Provisions) (Scotland) Regulations 2015 in respect of the reformed Teachers' Pension Scheme (Scotland) known as the Scottish Teachers' Pension Scheme 2015. These cover a number of technical changes to over-riding pension legislation that are needed to ensure that it and the Teachers' Superannuation (Scotland) 2005 Scheme operate effectively and appropriately together. The amendments are being co-ordinated by HM Treasury, with the other public service schemes taking forward similar amending regulations at the same time.

I would be grateful if you would distribute this letter and attachments as widely as possible. A brief commentary on the proposed amendments is set out in the attached Annex.

### **This Consultation will run from 28 November 2014 to 4 January 2015**

You can respond to this consultation on line via the following link:

[https://www.surveymonkey.com/s/STSS\\_PENSION\\_SCHEME\\_REGULATIONS\\_2015](https://www.surveymonkey.com/s/STSS_PENSION_SCHEME_REGULATIONS_2015)

Alternatively you may complete the Consultation Response Form attached at Annex C which can be submitted electronically to [stsspensionsreform@scotland.gsi.gov.uk](mailto:stsspensionsreform@scotland.gsi.gov.uk) or by post to the following address:

STSS Consultation (2015 Reform Amendments)  
SPPA Policy  
7 Tweedside Park  
TWEEDBANK  
Galashiels  
TD1 3TE



A printable Consultation Response Form is available via the following link:

[http://www.sppa.gov.uk/index.php?option=com\\_content&view=article&id=714&Itemid=546](http://www.sppa.gov.uk/index.php?option=com_content&view=article&id=714&Itemid=546)

We intend to publish a summary of consultation responses in due course and would like to be able to include any response you make in that summary. However, if you ask us not to publish your response to this consultation, we will regard it as confidential, and we will treat it accordingly.

Respondents should also be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and will have to respond appropriately to any relevant request made to the SPPA under that Act for information concerning this consultation exercise.

Yours faithfully



Chad Dawtry  
Director of Policy



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School Leaders Scotland

University and College Union

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Department for Education, Northern Ireland

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## BACKGROUND

Affirmative regulations are needed to modify the existing contracting out provisions and the early leaver provisions of the Pensions Act 1993 to enable there to be a single period of service in both the old and new teachers' pension schemes for those transition members to whom the salary link applies for:

- The purposes of Guaranteed Minimum Pensions
- Transfers (so that when a member transfers pension out of one scheme it is transferred out of both schemes, and that service in the new scheme counts as service for the old scheme), and
- Revaluation

Modifications are needed to ensure that the early leaver provisions are not triggered when a transition member leaves the old scheme and remains active in the new scheme (i.e. so that they do not become deferred in the old scheme). The structure of the payment of ill-health pension for a transition member may result in the payment of a tax charge which would not otherwise be levied. Modifications are needed to prevent this.

The modifications listed above are common to nearly all public service pension schemes. Other Departments will be bringing forward similar draft transitional and consequential regulations for their schemes.



## COMMENTARY ON THE TEACHERS' PENSION SCHEME (SCOTLAND) AMENDMENT REGULATIONS 2014

### Paragraph 4 - Contracting-out

HMRC will issue a certificate to new schemes in response to an election to contract-out the new scheme. The election to contract-out the new scheme will need to contain some information as specified in regulation 4 (3) but it will not be required to contain all the currently prescribed information. Nor will some of the other requirements apply (e.g. requirement to notify earners or consult unions about the contracting out). The new scheme will still need to satisfy the 'reference scheme test', which is the statutory standard in section 12A of the Pension Schemes Act 1993.

The amendments will simplify the administrative procedures when contracting out (which will apply to the new scheme for one year). The full procedures required by the legislation would otherwise apply.

### PART 3 – Modification of early leaver and other provisions

The amendments in Part 3 only apply when a transition member has their final salary in the old scheme determined by their final salary in the 2015 scheme as they meet the requirements in paragraphs 1 or 2 of Schedule 7 to the 2013 (final salary link).

### Paragraph 6 – Certification

This regulation modifies section 15A (reduction of guaranteed minimum in consequence of pension debit) of the Pensions Schemes Act 1993 so that a person will be treated as having a single period of pensionable service in both the old and new schemes. This enables the reduction of the guaranteed minimum in the old scheme to take effect whether the member has moved to the new scheme and not transferred the GMP from the old scheme.

### Paragraph 7 - Preservation of benefit

This regulation applies to modify the protection given to early leavers for the calculation of short service benefit. The modification means that the protections are not triggered when a transition member leaves the old scheme as termination of pensionable service is to be treated for that member as termination of pensionable service in the new scheme.

### Paragraph 8 - Revaluation of preserved benefit

This regulation modifies section 87 of the Pensions Schemes Act 1993 concerning the revaluation of benefits so that the revaluation takes effect after the member leaves pensionable service in the new scheme. Whilst the individual is an active member of the 2015 scheme the transition member will not be treated as a deferred member of the old scheme. The transition member will also benefit from the final salary link so that revaluation before pensionable service ends in the new scheme is not intended.

### Paragraph 9 - Protection of increases in guaranteed minimum pensions

This regulation concerns the protection of increases in guaranteed minimum pensions which contracted out schemes had to provide until 1997. For this purposes regulation 9 provides that the cessation date when a person ceases to be in contracted-out employment under the old scheme (and from which GMPs may need to be increased) is treated as the date when the person leaves their new scheme, and not the date when they transfer from the old scheme to the new scheme.

### Paragraph 10 - Protection of increases in guaranteed minimum pensions after abolition of contracting-out

This regulation is required as section 87 is to be amended from April 2016 to implement the



abolition of contracting-out for defined benefit schemes. Regulation 10 will come into force at the same time whilst regulation 9 will cease to have effect (see regulation 1 (2) for commencement).

#### **Paragraph 11 - Transfer values**

This regulation modifies chapter 4 of Part 4 which concerns cash equivalent transfers for early leavers. This regulation provides that a person will not acquire the right to a cash equivalent under the old scheme until pensionable service terminates in the new scheme, rather than when the person leaves the old scheme on transferring to the new scheme. However, where calculations of benefit are made based on length of service in the old or the new scheme, the two schemes are then treated separately.

#### **Paragraph 12 - Transfer values regulations**

This modifies the Occupational Pension Schemes (Transfer Values) Regulations 1996 to enable scheme manager to delay transfers of preserved benefits until after the transition member has left new scheme employment.

#### **Paragraph 13 - Cash transfers and contribution refunds**

Chapter 5 of Part 4 concerns cash transfer sums or contribution refunds for those who leave a scheme after 3 months but within 2 years or before their benefits have vested. The Regulations provide that a person will not acquire the rights under Chapter 5 until pensionable service terminates in the new scheme, rather than when the person transfers into the new scheme. The statutory time periods are also measured as though the person had one continuous period of service.

#### **PART 4 - Modification of tax regime**

##### **Paragraphs 14 and 15 – Lifetime allowance charge and Annual allowance charge**

These amendments ensure that where a member with service under both arrangements retires on the grounds of ill-health there is not double counting of benefits for tax purposes. This ensures that such transitional members are not disadvantaged in respect of annual or lifetime allowance arrangements.

#### **PART – Modification of short service benefit provisions**

##### **Paragraph 16 – Short service benefit**

This paragraph provides that where a deferred member takes pension benefits before normal pension age, no account is to be taken of the standard reduction, applied to the benefits of active members taking pension benefits before the normal pension age, for the purpose of the short service benefit provisions contained in the 1993 Act (Chapter 1 of Part IV).



# CONSULTATION RESPONSE FORM

## SCOTTISH TEACHERS SUPERANNUATION SCHEME

### CONSULTATION ON THE DRAFT TEACHERS' PENSION SCHEME (CONSEQUENTIAL PROVISIONS) (SCOTLAND) REGULATIONS 2015

(please complete and return to the address at the end of the form to ensure that we handle your response appropriately).

#### 1. Name/Organisation

Organisation Name

Title

Surname

Forename

#### 2. Postal Address





Postcode

Phone

Email

**3. Permissions - I am responding as...** (please complete either sections (a), (b) and (d) or sections (c) and (d):

**Individual** or **Group/Organisation**

**(a)** Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

*Please state yes or no: \_\_\_\_\_*

**(b)** Where confidentiality is not requested, we will make your responses available to the public on the following basis

*Please state yes to one of the following:*

Yes, make my response, name and address all available .....

or

Yes, make my response available, but not my name and address .....

or

Yes, make my response and name available, but not my address .....

**(c)** The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

*Please state yes or no: .....*

**(d)** We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

*Please state yes or no: .....*



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## ABOUT YOU

I am responding ...

- as a scheme member
- on behalf of an Employer Organisation
- on behalf of a Trade Union/Staff Association
- other (please specify)

What is your gender?

- I am female
- I am male

I am employed as...

- a primary school teacher (local authority)
- a secondary school teacher (local authority)
- a head teacher or depute head teacher (local authority)
- an educational psychologist
- a lecturer in further or higher education
- a teacher in an independent school
- I'm retired
- other (please specify)

What is your working pattern?

- I work part-time
- I work full-time
- Not applicable



## CONSULTATION COMMENTS

Please use this space to provide any further comments on any of the other planned amendments.

Comments:

Please e-mail your response to [stsspensionsreform@scotland.gsi.gov.uk](mailto:stsspensionsreform@scotland.gsi.gov.uk) or send via mail to:

STSS Consultation (2015 reform)  
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The closing date for receipt of comments is **Sunday 4<sup>th</sup> January 2015.**



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