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To the addressees below

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12 July 2018

Dear Sir/Madam

DRAFT REGULATIONS - THE LOCAL GOVERNMENT PENSION SCHEME (SCOTLAND) PENSIONS AMENDMENT (INCREASED PENSION ENTITLEMENT) REGULATIONS 2018

1. I attach for your comments the draft Local Government Pension Scheme (Scotland) Pensions Amendment (Increased Pension Entitlement) Regulations 2018.
2. Contracted out employment was abolished from April 2016 with the introduction of the new single tier State Pension. Guaranteed Minimum Pensions (GMP) accrued for contracted-out service between April 1978 and April 1997. They reflect the level of earnings related state pension a member would have received had they not been contracted out. With the ending of contracting out public service schemes are undertaking a reconciliation of their GMP data with HMRC which is currently scheduled to conclude no later than December 2018.
3. For those scheme members who reached state pension age before April 2016 and had claimed their state pension the annual indexation of GMP is shared between the scheme and the Department for Work and Pension (DWP). Any GMP accrued between April 1978 and April 1988 DWP pays the full indexation. For any GMP accrued between April 1988 and April 1997 the scheme pays any annual increase up to the value of 3% with any remainder paid by DWP.
4. In cases where either no GMP details are held or the GMP data is incorrect, the result can be indexation has been applied incorrectly leading to an overpayment which is compounded year-on-year by further incorrect indexation being applied. The GMP reconciliation exercise will establish what the correct GMP rate is and allow for affected pensions to be corrected.
5. There may also be a small number of cases where the incorrect GMP data has led to an underpayment of pension. In these cases the affected pension will be corrected going



forward with any arrears being paid to the pensioner.

The Indexation of GMPs for those reaching state pension age after April 2016 is fully paid by the scheme so similar errors will not arise going forward from that date.

6. A similar exercise was undertaken in 2008/2009 which identified GMP related overpayments across the public service schemes. At that time Scottish Ministers chose to allow the pension in payment to remain unadjusted going forward for affected pensioners in the Police, Firefighter and Local Government Pension schemes. This was achieved by introducing legislation that provided for a new scheme award known as an Increased Pension Entitlement (IPE) which reflected the GMP-related overpayment. Scottish Ministers have decided that a similar approach should be taken for GMP-related overpayments that arise from the current reconciliation exercise. Again this means that affected pensioners in the Police, Firefighters' and Local Government schemes will see their existing level of pension maintained by the award of an IPE. Full details of this decision were set out in Local Government Pension Scheme (Scotland) Pension Scheme [Circular 2018/1](#).

7. The circular advised that amendment regulations providing for the IPE would be issued later in the year. The attached draft regulations provide for the introduction of an IPE for affected pensions identified as part of the reconciliation exercise. It remains the case that some Local Government Pension Fund Administrators will not be able to identify which pensioners are affected until the reconciliation exercise concludes in late 2018 but the draft regulations have been prepared ahead of that so that the legislation can be ready when details of the affected pensioners becomes clear.

8. The draft regulations effectively make amendments to the existing provisions which introduced an IPE in 2009. There are no changes to the approach taken in 2009 and the aim of the draft amendments is to:

- (i) Calculate the value of the IPE which is based on the annual GMP related overpayment for 2018/19. This will reflect those cases where a GMP was not held but should have been and also where a GMP was held but post reconciliation the amount held has been confirmed as being incorrect.
- (ii) Apply the IPE from 8 April 2019 which will allow the annual indexation to be applied. Although entitlement to an IPE begins on 8 April 2019 the effect of the Pensions (Increase) Act 1971 is that annual increases must apply to an IPE from the beginning date of the original pension award (usually the day after the person's date of retirement). The IPE is defined as the amount a pension would have to be at the beginning date of a pension in order for that amount, after annual increases have been applied, to equal the GMP related payment.
- (iii) The regulations provide for payments made before 8 April 2019 to be authorised but any overpayments accrued prior to 8 April 2019 will be for the scheme's Accountable Officer to determine.
- (iv) The net outcome aims to allow the affected member's pension to continue at its current rate but from 8 April 2019 award an IPE which will be subject to the applicable PI on that date with the members pension indexed reflecting the corrected GMP record.



Consultation

10. Comments are invited on the draft regulations. You may complete the Consultation Response Form attached at Annex A which can be submitted electronically to kimberly.linge@gov.scot or by post to the following address:

Local Government Pensions Consultation, SPPA Policy, 7 Tweedside Park, Tweedbank, Galashiels, TD1 3TE. A printable Consultation Response Form is included at Annex A.

The consultation will close on 11 October 2018 and we ask that anyone wishing to respond does so by then.

11. We intend to publish a summary of consultation responses as soon as possible after the consultation closes. We 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. 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

12. The proposed changes are set out in the [attached regulations](#).

Handling your response

13. 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.

14. A [Printable Response Form](#) is also provided 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

15. Where respondents have given permission for their response to be made public 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.

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

Completed information

17. The completed Printable Response Form and any comments you wish to make should be returned, by **Thursday 11 October 2018**, to Kimberly Linge, Policy Manager, Scottish Public Pension Agency, 7 Tweedside Park, Tweedbank, Galashiels TD1 3TE.



11. Copies of the proposals 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 contact kimberly.linge@gov.scot to request a set.

Comments and complaints

12. Information on the Scottish Government Consultation Process can be found in Annex B of this letter. If you have any comments about how this consultation exercise has been conducted, please contact Lorimer Mackenzie by telephone on 01896 892474 or by e-mail to lorimer.mackenzie@gov.scot.

Yours faithfully

Kimberly Linge
Policy Manager, LGPS

Addressees

Actuarial firms
AMICUS
Audit Scotland
CIPFA
Convention of Scottish Local Authorities
Department for Communities and Local Government (E&W)
Department for Communities (Northern Ireland)
Educational Institute for Scotland
GMB
Government Actuary's Department
HM Treasury
LGPS(S) Pension Funds
LGPS(S) Scheduled Bodies
LGPS(S) Scheme Advisory Board
National Association of Councillors
National Association of Pension Funds (NAPF)
NILGOSC
SOLACE
STUC
Secretary, LGPC
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UNISON
Unite the Union
Women's National Commission

