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Scottish Teachers' Superannuation Scheme consultees

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Our Ref: TEA/01/02/11

22 March 2013

Dear Colleague

**Scottish Teachers' Superannuation Scheme  
Consultation on changes proposed by the Teachers' Superannuation (Scotland)  
Amendment (No. 2) Regulations 2013**

I enclose for any comments that you may have, a draft of the Teachers' Superannuation (Scotland) Amendment (No. 2) Regulations 2013. I would be grateful if you would distribute this letter and attachments as widely as possible.

A commentary on the proposed changes is attached at Annex A. The main changes relate to -

- Workplace Pension Reform (Automatic Enrolment)

**Please note the specific question (Question 1) about the opting out period following automatic enrolment at paragraph 1.7 and on the consultation response form on which we would welcome your views.**

- Additional Paternity Leave
- The rate of interest charged on the late payment of contributions
- Payment of lump sums where member is aged 75
- Short-service serious ill-health grant
- Re-employed teachers and short-service annuities
- Removal of provisions governing scheme valuations
- Annual Allowance Charge
- Teachers' AVC funds – indexing options and transfers

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

[http://www.sppa.gov.uk/index.php?option=com\\_wrapper&view=wrapper&Itemid=1490](http://www.sppa.gov.uk/index.php?option=com_wrapper&view=wrapper&Itemid=1490)

Alternatively you may complete the Consultation Response Form attached



at Annex B which can be submitted electronically to [stsspensionreform@scotland.gsi.gov.uk](mailto:stsspensionreform@scotland.gsi.gov.uk) or by post to the following address:

STSS Consultation (2013/2)  
SPPA Policy  
7 Tweedside Park  
Tweedbank  
Galashiels  
TD1 3TE

The consultation will close on Friday, 7 June 2013 and we ask that anyone wishing to respond does so by then.

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

Christine Marr  
Policy Manager, STSS



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**COMMENTARY ON THE TEACHERS' SUPERANNUATION (SCOTLAND) AMENDMENT  
(No. 2) REGULATIONS 2013****Amendment of the Teachers' Superannuation (Scotland) Regulations 2005  
(SSI 2005/393 as amended)****1. Workplace Pension Reform - Automatic enrolment (Regulations B2, B6, B7, B8 and new B8A)****1.1 Automatic Enrolment – General**

Under the Pensions Act 2008, every employer is required to automatically enrol their employees into a qualifying pension scheme if they are not already enrolled into one. The Scottish Teachers' Superannuation Scheme (STSS) more than meets the minimum standards of a 'qualifying pension scheme' and automatic enrolment for full and part-time staff has been a feature of the scheme since 1999. The vast majority of teachers will, therefore, be unaffected by automatic enrolment.

**1.2 Automatic Enrolment and current members of the STSS**

As the STSS is a 'qualifying pension scheme' under Workplace Pension Reform automatic enrolment principles, current members will simply remain enrolled – though employers have a duty to communicate with all employees about Workplace Pension Reform.

**1.3 Automatic Enrolment and employees who have opted out of the STSS**

Such individuals must be automatically enrolled on the employer staging date, although they can, of course, opt out again subsequently if they wish. A staging date is the date when individual employers are required to automatically enrol their employees into a pension scheme. An opt out form will no longer last until the individual rescinds it and will cease when the employer falls under a duty to automatically enrol/re-enrol the individual (at staging date and every three years thereafter). Employers can check their automatic enrolment staging date on the Pensions Regulator website.

**1.4 Automatic Enrolment and part-time teachers employed prior to 1 April 1999**

Teachers who were in part-time employment prior to 1 April 1999 were only required to become members of the STSS if they had a change in their contractual employment. These individuals will need to be automatically enrolled in the STSS when their employers reach their staging date. The individual can, of course, opt out subsequently if he or she so wishes.



### **1.5 Automatic Enrolment and teachers who retired and became re-employed during the period 1 April 1997 to 30 September 2001**

Teachers who were re-employed during the period 1 April 1997 to 30 September 2001 were not permitted to re-join the STSS. From 1 October 2001 such teachers were able to opt in to the STSS. Any teachers in this category will need to be automatically enrolled in the STSS when their employers reach their staging date. The individual can, of course, opt out subsequently if he or she so wishes.

### **1.6 Automatic Enrolment and teachers who have a number of employers ie multiple employments**

Previously, when a teacher opted out of the STSS the election covered all employment that was pensionable in the scheme. The opt-out/in provisions have changed so that a member can opt out or in for each employment. A teacher in multiple employment can be in the STSS for one employment and out for another.

### **1.7 Opting Out and Automatic Enrolment**

It will not be possible to accept an opt out before an individual is placed (automatically enrolled) in the STSS (though as now, where an individual opts out during their first pay period, the opt out will be treated as if it occurred on the first date of employment, and employers and individuals will get contributions refunded accordingly.)

For existing staff who are opted out, this takes effect when the requirement to auto enrol (re-enrol) applies, ie on the employer's staging date.

For any new member of staff employed on, or after, 1 October 2012 he or she will need to be enrolled in the STSS and may then make an election to opt out for that employment if he or she so wishes.

**Question 1: As currently drafted the regulations provide for a member to opt-out during the first pay period in order to be treated as never having joined the scheme and so both member and employer's contributions would be refunded. The employer should refund the contributions to the member and deduct a credit of member's and employer's contributions from their next monthly remittance.**

**Do you think that the period permitted for a member to opt out after being automatically enrolled should be extended? For example, the Teachers' Pension Scheme for England and Wales and the Local Government Pension Schemes in Scotland and England and Wales allow for 3 months from the date of automatic enrolment.**

### **1.8 Opt out request to be made to the employer**

Workplace Pension Reform requires that an election to opt out is made to the employer. In future, employers will need to receive elections and pass those on to the Scottish Public Pensions Agency.



## **1.9 Opting In and Auto Enrolment**

Individuals retain the right to opt back in at any time and, under Workplace Pension Reform, can do so in respect of each individual employment.

## **1.10 Backdating elections to Opt In**

The provision will be changed to allow this to apply to each individual employment in line with Workplace Pension Reform requirements.

## **1.11 Re-enrolling staff every three years from the employer's staging date**

Automatic enrolment requires that any individual who has opted out must be re-enrolled on (or near) every third anniversary of their employer's staging date (except for anyone who has opted out within the previous 12 months) – they can, of course, subsequently opt out if they so wish.

## **1.12 Scheme limits**

- **Service length capped at 45 years**
- **Service capped at 365 days annually**

No change is needed to the STSS provisions to meet Workplace Pension Reform requirements in respect of the individuals involved here. That is, individuals with over 45 years' service, or with multiple part-time jobs, can continue to be auto-enrolled in respect of each post even if they have met these limits. Whilst they do not accrue additional service, they do continue to benefit from life and family benefit cover and do benefit from increases in salary and they are not required to make further contributions as long as they do not opt out.

## **1.13 Teachers with a full-time post and a concurrent part-time post covered by the STSS**

As is the case currently, only the full-time post can be covered by the STSS and auto enrolment to the STSS should be applied to that post. Employers will need to consider if access to an alternative pension scheme needs to be offered in respect of the secondary (part-time) post.

Further information about automatic enrolment is available in [STSS Circular 03/2013](#) which is available on the Teachers' page of the SPPA website under Circulars.

## **2. Additional Paternity Leave (Regulations C2, D1, E6, E10A, E24, E29, E34 and J4)**

Under the Additional Paternity Leave Regulations 2010 (SI 2010/1055) and the Additional Statutory Paternity Pay (General) Regulations 2010 (SI 2010/1056), these amendment regulations make provision in relation to additional paternity leave and additional statutory paternity pay, giving the same recognition to such rights under the Teachers' Superannuation (Scotland) Regulations 2005 as is given to paternity leave and statutory paternity leave.



### **3. Change of interest rate on late or backdated contributions and procedure for collection and payment (Regulations C15, H2A and H6)**

Regulation C15 has been re-worked to take account of the new 'standard rate of interest' and to provide that the employer is responsible for collecting the contributions from the teacher rather than the teacher submitting the contributions directly to SPPA (on behalf of the Scottish Ministers).

The interest rates in respect of arrears of employer and member contributions are being harmonised. Current provisions contain different rates of interest for different circumstances with no clear justification for the various rates. On grounds of simplification, a single standard rate is being introduced equal to the Superannuation Contributions Adjusted for Past Experience (SCAPE) discount rate. The SCAPE discount rate is the discount rate used to set contribution rates for the unfunded public service pension schemes through valuations and is equal to 3% + CPI for each financial year.

### **4. Payment of lump sums on or after age 75 (Regulation E8)**

In line with changes to HMRC legislation, Regulation E8 is amended so that a member who attains the age of 75 on or after 6 April 2011 is entitled to a lump sum.

### **5. Short-service serious ill health grant (Regulation E21)**

It is not possible to pay a short-service incapacity grant to a person solely on grounds of incapacity. Unless the person has limited life expectancy (less than 12 months) the grant would be an unauthorised payment.

The title of Regulation E21 has been changed to 'Short-service serious ill health grant'.

### **6. Provision for short service annuity: unauthorised payments (New regulation E21A)**

This regulation is necessary to deal with circumstances where a person's only entitlement would be to a repayment, but a repayment would be an unauthorised payment (ie because the repayment is linked to further employment). Under the current regulations a re-employed member who does not qualify for further benefits because he or she has been re-employed for less than a year is entitled to a repayment of contributions. However, such payments are regarded by HMRC as unauthorised payments and subject to an "unauthorised payment" charge. In order to avoid an unauthorised payment, a teacher will instead be paid a short service annuity which will be added to their existing entitlement. The annuity will be based on factors provided by the scheme actuary and does not allow for any lump sum to be paid.



**7. Clarification that a death grant is payable to a teacher with a normal pension age of 65 who has preserved benefits equal to that of a teacher with a normal pension age of 60 (Regulation E24)**

Teachers with a normal pension age of 65 have no automatic lump sum. Regulation E24 has been amended to clarify that a death grant is payable to a teacher with an normal pension age of 65 who has left the STSS with preserved benefits. The amount of such a death grant would be the same as for a teacher with a normal pension age of 60 who has preserved benefits ie

reckonable service/80 x pensionable salary at date of leaving + relevant PI.

**8. Acceptance of transfer values (Regulation G2)**

There has been a long-standing administrative arrangement where teachers in the STSS who have comparable British service (ie the Teachers' Pension Scheme for England and Wales and the Teachers' Pension Scheme in Northern Ireland) can transfer that service to the STSS at any time prior to retirement subject to certain criteria. The amendment to Regulation G2 makes statutory provision for this arrangement.

**9. Removal of provisions governing scheme valuations (Regulation H2 and H3)**

The 2005 Regulations currently include provisions for contribution rates to be determined following an actuarial review of the scheme. They also provide that a valuation has to be undertaken with the consent of HM Treasury.

HM Treasury required that further actuarial reviews of the STSS, along with those of other public service pension schemes, be put on hold whilst the UK Government considered the implications of the change to its discount rate for unfunded public sector pension schemes, that had been announced by the Chancellor in Budget 2011. HM Treasury subsequently determined that resources should be used to take the valuations forward for the reformed schemes to be introduced from 2015 rather than conclude those valuations that had been put on hold.

Since then, the UK Government has brought forward the 2012 Public Service Pensions Bill to describe the future legislative framework for its programme of reforms, which include reform of the STSS by April 2015. That Bill, which is expected to become law (the Public Services Pensions Act 2013) by the summer of 2013, will include new arrangements for undertaking scheme valuations and managing future cost pressures, including an employer cost cap. The forthcoming Act will give HM Treasury the power to dictate how such valuations and cost management arrangements should operate. Consequently, current provisions are being amended to reflect that process.

**10. Reduction of benefits: annual allowance charge (New regulation J6BA)**

As a consequence of the Finance Act 2011, this new regulation provides for a reduction in benefit where the member elects that the scheme pays an annual



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allowance tax charge on their behalf.

**Amendment of the Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Regulations 1995 (SI 1995/2814 as amended)**

11. The amendments in regulations 20 and 22 provide an option, additional to those presently available, to a person making elections regarding annuities to be purchased. The additional option is for the annuity to increase in accordance with a prices index other than the retail prices index (for example, the consumer prices index).

The effect of the amendment in regulation 21(1) is that individuals who have already become entitled to retirement benefits may request the payment of a transfer value to another registered pension scheme of funds arising from the investment of additional voluntary contributions, in addition to others who may already do so. The amendment in paragraph 21(2) of that Schedule provides that such a transfer value is not payable where the individual has made an election for the purchase of an annuity and, if relevant, payment of a lump sum.



**CONSULTATION RESPONSE FORM: SCOTTISH TEACHERS  
SUPERANNUATION SCHEME CONSULTATION ON MISCELLANEOUS AMENDMENTS  
TO THE 2005 REGULATIONS (INCLUDING PROVISION FOR AUTOMATIC  
ENROLMENT)** (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: .....*

**ABOUT YOU**



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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 QUESTIONS

**Question 1:** As currently drafted the regulations provide for a member to opt-out during the first pay period in order to be treated as never having joined the scheme and so both member and employer's contributions would be refunded. The employer should refund the contributions to the member and deduct a credit of member's and employer's contributions from their next monthly remittance.

Do you think that the period permitted for a member to opt out after being automatically enrolled should be extended? For example, the Teachers' Pension Scheme for England and Wales and the Local Government Pension Schemes in Scotland and England and Wales allow for 3 months from the date of automatic enrolment.

Yes

No

Comments:

Please use this space to provide any further comments on the draft Teachers' Superannuation (Scotland) Amendment (No.2) Regulations 2013.



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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 (2013/2)  
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The closing date for receipt of comments is **7 June 2013**.



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