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To the addressees listed below

<http://www.sppa.gov.uk>

Tel: 01896 89 3227  
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david.lauder@scotland.gsi.gov.uk

Your ref:  
Our ref: LGT/

15 November 2010

Dear Colleague,

## **LOCAL GOVERNMENT PENSION SCHEME AMENDMENT (SCOTLAND) REGULATIONS 2011**

1. I enclose for your comments draft regulations which amend The Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008 (SSI 2008/230, as amended), The Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 (SSI 2008/228, as amended) and The Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 (SSI 1998/192).

2. The regulations provide for the protection of certain pension rights of staff who have transferred/are to transfer to the Local Government Pension Scheme as a result of Machinery of Government Changes.

3. The amendments cover the transfers of staff between the following bodies—

(i) the Scottish Legal Services Ombudsman to the Scottish Legal Complaints Commission;

(ii) the Scottish Administration to Learning and Teaching Scotland;

(iii) the Scottish Administration to Social Care and Social Work Improvement Scotland, and the transfer of pension entitlement from The Skills Development Scotland Co. Limited Retirement Benefit Scheme to the Local Government Pension Scheme.

4. The regulations also make miscellaneous amendments to the regulations mentioned at paragraph 1.

5. The amendments and legislative context of the changes are described in detail in Annex A.

6. For enquiries on this letter or the attached statutory guidance, please e-mail David Lauder ([david.lauder@scotland.gsi.gov.uk](mailto:david.lauder@scotland.gsi.gov.uk)) or telephone 01896 893000. A copy of this letter and the draft regulations will be available in the SPPA website.

7. I should be grateful for any comments you may have on the contents of the guidance by close on **24 December 2010**.

8. Please note the following important points –

(i) the draft regulations provide for certain individuals transferred to the new bodies to retain the right to a protected minimum pension age of 50 (but only in circumstances where employment is terminated on grounds of redundancy or efficiency) under Schedule 36 to the Finance Act 2004. Clearly, this protected right can only continue under the attached Regulations if the individuals already had the right to a protected minimum pension age of 50 while in employment with the “old” body. It is not the intention that these Regulations should confer the right where it did not previously exist;

(ii) the various protections afforded by these Regulations will continue in effect for as long as the individuals so covered remain in the employment of the body to which they have transferred/ will transfer. They will, however, cease to have effect if an individual moves of their own volition to the employment of another Local Government employer;

(iii) although not included in the body of the draft Regulations, consideration is being given to amending regulation 4 of the Benefits Regulations, for the purposes of clarity, to read –

*“the appropriate increase” means the amount by which the figures would be increased with effect from the first Monday falling on or after 6th April of the relevant year if they were pensions beginning on 1st April 2008 to which the Pensions (Increase) Act 1971 applied.”*

Comments are therefore also invited on this proposal.

## **Handling your response**

9. 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.

10. A Respondent Information Form is also provided at Annex B 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**

11. 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.

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

## Completed information

13. The completed Respondent Information Form and any comments you wish to make should be returned, by the deadline of **24 December 2010**, to Kim Linge, Policy Officer, Scottish Public Pension Agency, 7 Tweedside Park, Tweedbank, Galashiels TD1 3TE (tel: 01896 893229).

14. Your responses and completed Respondent Information form can be sent electronically to [locgovpensionsreform@scotland.gsi.gov.uk](mailto:locgovpensionsreform@scotland.gsi.gov.uk). If you would prefer to have a set of these consultation documents sent to you in hard copy, please do not hesitate to contact [kimberly.linge@scotland.gsi.gov.uk](mailto:kimberly.linge@scotland.gsi.gov.uk) to request a set.

## Comments and complaints

15. 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 me by telephone on 01896 893221 or by e-mail to [david.lauder@scotland.gsi.gov.uk](mailto: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

