

## **EXECUTIVE NOTE**

### **THE LOCAL GOVERNMENT PENSION SCHEME (TRANSITIONAL PROVISIONS) (SCOTLAND) REGULATIONS 2008 – SSI 2008/229**

The above instrument is made in exercise of the powers conferred by sections 7 and 12 of and schedule 3 to the Superannuation Act 1972. These powers have been executively devolved to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions of the Scottish Ministers etc) Order 1999 (SI 1999/1750). The Instrument is subject to negative resolution procedure.

#### **Background**

In 2002, the UK Government published a Green Paper entitled “Simplicity, security and choice: Working and saving for retirement” which set out the need modernise public sector pension schemes and to contain the costs at a sustainable level in the light of major demographic changes, including rising longevity. The UK Government announced in 2003 that it intended to proceed with its reform of public service pension schemes and, in 2004, the Scottish Public Pensions Agency (SPPA) consulted with stakeholders on proposed changes to the LGPS in Scotland, in a consultation document called ‘Facing the Future’, which was aimed at securing changes to the scheme to address affordability issues and its future sustainability.

In 2005, Scottish Ministers announced their intention to remove the Rule of 85 because it breached the terms of the EC Directive on equality in the workplace. This led to a joint statement by COSLA and the Unions on the overarching principles for both dealing with the removal of the Rule of 85 and the future development of the local government scheme. Discussions around the removal of the Rule of 85 were protracted and consideration of the new scheme was delayed until these were completed.

A tripartite group, called SLOGPAG<sup>1</sup>, was established in November 2006 to jointly develop the “new” LGPS for Scotland. The group consisted of representatives of COSLA (on behalf of councils and administering authorities), Unions and the Scottish Government.

In July 2007, SLOGPAG issued a joint consultation paper on proposals for the new LGPS. This included certain areas where agreement had not been reached within the group. In finalising proposals for the new scheme, the group took account of consultation responses and worked to resolve the few remaining outstanding issues. On 18 January, 2008, the group agreed proposals for a new LGPS and these are set out in the Heads of Agreement, which can be viewed on the SPPA’s website. .

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<sup>1</sup> SLOGPAG stands for Scottish Local Government Pensions Advisory Group

## **Policy Objectives**

The overall aim has been 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.

The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I.1998/366) (“the 1998 Regulations”) as amended, constitute the occupational pension scheme (“the 1998 Scheme”) for local government employees in Scotland, other than teachers, police officers and firefighters until 31st March 2009. On 1st April 2009 the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008 (SSI. 2008/229) (“the Transitional Regulations”) come into force and make provision to protect the benefits accrued by members of the 1998 Scheme before 1<sup>st</sup> April 2009, and to protect their rights.

As well as setting out provisions relating to transitional protection, this instrument deals with the revocation (subject to savings) of the Local Government Superannuation (Scotland) Regulations 1987 (“the 1987 Regulations”) (so far as they continue to operate) and the Local Government Pension Scheme Regulations 1998 (“the 1998 Regulations”) and of a number of Regulations that amend the 1987 Regulations or the 1998 Regulations or make provision dependent on them, which are set out in Schedule 1 attached to the SSI. Schedule 2 deals with transitional provision in respect of the “Rule of 85”. (The Rule of 85 was a provision which allowed members to access their benefits before the scheme’s normal retirement age of 65, if they met the criteria that their age and length of service totalled at least 85. The Rule was removed from the scheme in 2006 on the basis of age discrimination.)

The new Local Government Pension Scheme which is to come into existence on 1<sup>st</sup> April 2009 is constituted by the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008 and the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008.

## **Consultation**

Two consultation exercises were carried out in relation to the new Local Government Pension Scheme in Scotland. The first consultation held between 31<sup>st</sup> July 2007 and 31<sup>st</sup> October 2007 was on a consultation paper on proposals developed during the tripartite discussions within SLOGPAG.

Comments received were considered by SLOGPAG and discussions continued until final agreement was reached and a Heads of Agreement document, signed by all parties involved in discussions was signed. The Press Release which announced that agreement had been reached and the Heads of Agreement documents can be accessed on the SPPA website (Pensions Reform and Taxation – Local Government).

A second, technical, consultation exercise was carried out on the 3 sets of draft Regulations between 14<sup>th</sup> February 2008 and 27<sup>th</sup> March 2008.

## **Financial effects**

The aim of pensions reform has been to reduce costs for employers and pension funds. The new scheme provisions give a commitment to introducing a cost-sharing mechanism into the scheme from 2010 to ensure a more equitable share of the costs of providing the scheme benefits between employers and employees.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of businesses, charities or voluntary bodies and does not have a significant financial impact on any public bodies.

Scottish Public Pensions Agency  
6 June 2007