EXECUTIVE NOTE

THE LOCAL GOVERNMENT PENSION SCHEME (SCOTLAND) AMENDMENT (NO. 2) REGULATIONS 2006 SSI/2006/468

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

Policy Objectives

This instrument makes amendments to the Local Government Pension Scheme (Scotland) Regulations 1998 in accordance with regulations 3 to 7, 8(1), and 9 to 40 of these Regulations.

The Regulations introduce significant flexibilities into the scheme's legal framework to reflect the simplified tax regime provided by the Finance Act 2004.

The Finance Act 2004 provisions introduced a single tax regime from 6 April 2006 which will:

- Allow the maximum sum an individual can put into their pension scheme in a single tax year (from 2006) to be a sum equal to their annual salary (up to a maximum of £215,000). If the maximum amount is exceeded then a tax charge will fall due;
- Introduce a capital limit of £1.5 million which may be built up over a person's working lifetime. Where the total capital value of an individual's pension rights breaches this lifetime limit, a tax recovery charge will be made. (To put this into context, only employees earning in excess of £130,000 per annum and with 40 years membership of a scheme, with accrual rates as per the current LGPS, would be affected. This follows from the method of calculating the capital value which is based on multiplying pension by 20 and adding any lump sum);
- Require that the definition of "eligible child" be amended so as to restrict children's pensions to under 23's (subject to some transitional payments for those currently in full time education or where the relevant member's pension is already being paid);
- Allow individuals to contribute towards concurrent pension arrangements in respect of the same employment;
- Require that benefits start to be drawn by age 75.

The Act also allows the following changes and these are included in the Regulations:

- The release of a pension from a scheme operated by an employer by whom they are still employed;
- The removal of the maximum number of years which can be used in the calculation of benefits – these limits on contributions will be removed, but a limit will be placed on the amount of added years that can be purchased from the Scheme.
- Up to 25% of capital value of the pension (including AVC benefits) to be paid as a lump sum;
- The removal of the 15% limit on contributions;

- The deletion of age restrictions which applied under the former tax regime;
- The removal of the earnings cap;
- The introduction of new provisions for the calculation of benefits and tax liabilities for high earners.

Some mandatory tax changes are backdated to 6 April 2006.

Consultation

Consultation exercises were conducted from July to September 2005 and in July 2006, which set out the planned amendments to the Local Government Pension Scheme (Scotland) Regulations 1998, in order that they comply with provisions as set out in the Finance Act 2004. This included consultation with local authorities, with employer and employee representatives, and with other Government Departments. The proposed changes were generally welcomed and the technical points raised were used to inform the development of the Regulations.

Financial effects

An assessment of the financial impact was included in the Regulatory Impact Assessment that accompanied the Finance Act 2004.

Scottish Public Pensions Agency
14 September 2006