**POLICY NOTE**

# THE LOCAL GOVERNMENT PENSION SCHEME (REMEDIABLE SERVICE) (SCOTLAND) (MISCELLANEOUS AMENDMENT) REGULATIONS 2024

**SSI 2024/374**

The above instrument was made in exercise of the powers conferred by sections 1, 2 and 3 and Schedule 2 of the Public Services Pensions Act 2013. The instrument is subject to negative procedure.

**Purpose of the instrument.**

These Regulations make changes to The Local Government Pension Scheme (Remediable Service) (Scotland) Regulations 2023. These regulatory changes are required as a result of changes made to the Local Government Pension Scheme (LGPS) England &Wales (E&W) McCloud regulations, after Scottish Ministers laid regulations in Scotland in October 2023. These minor amendments will bring the Scottish LGPS scheme in line with the schemes in E&W and Northern Ireland (NI). They also include a change to the requirement for Administering authorities (AAs) to provide McCloud underpin information to the 2023/24 benefits statements and a further dispensation for the period 2024/25, if the required information is not available to AAs.

## Policy Objectives

When the Government reformed public service pension schemes in 2014 and 2015, transitional protections were introduced for older members. In December 2018, the Court of Appeal ruled that younger members of the Judicial and Firefghters'pension schemes had been unlawfully discriminated against because the protections did not apply to them. This ruling is called the McCloud judgment and the UK Government decided that this judgement affected all public service schemes. On 1 October 2023, the Local Government Pension Scheme (LGPS) Regulations were amended in Scotland to remedy the unlawful discrimination identified by the courts in the 'McCloud' judgement. Appropriate changes were made to the final salary statutory underpin protection.

Subsequent to those changes in 2023, the UK Government made further amendments which Scottish Ministers consider should be incorporated to the Scottish regulations in order to bring the scheme in line with the schemes in E&W and NI.

Changes to these regulations are important to limit any further risks to legal challenge regarding unlawful age discrimination, and ensure the remedy works as intended. The regulations are due to be laid on 12 December 2024.

**UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility**

The Scottish Ministers have made the following statement regarding children's rights. In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Local Government Pension Scheme (Remediable Service) (Scotland) (Miscellaneous Amendment) Regulations 2024 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

**EU Alignment Consideration**

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

**Consultation**

An 8 week consultation was carried out commencing on 2 September 2024 to 28 October 2024. The UK Government had already consulted on these changes. There were three responses, in agreement with the proposed changes.

**Impact Assessments**

These Regulations have no new impact on business or the voluntary sector.

**Financial Effects**

These Regulations have no new Business and Regulatory Impact Assessment (BRIA) conducted upon on them as the financial aspects of these regulations remain unchanged. Scottish Ministers confirm that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

**Equality Impact Assessment**

An Equality Impact Assessment was carried out for the Local Government Pension Scheme (Remediable Service) (Scotland) Regulations. These Amendments to those Regulations provide further assurance that Scottish Ministers are committed to avoiding further unlawful age discrimination, as first identified by the Court of Appeal ruling in their judgement of the 'McCloud' case.

Scottish Public Pensions Agency
An Agency of the Scottish Government

3 December 2024