Draft LGPS (Scotland) Regulations 2018 –Technical Review

Extant regulations	Draft LGPS (Scotland) Regulations 2018	LGPC Review
2	2	**Introductory** **Comment** It is not clear why the changes have been introduced by way of a consolidation given that there have been limited changes since the scheme was introduced in 2015. We suggest that the changes are introduced by way of an amending SSI. to SSI 2014/64 as opposed to a consolidation, which normally only occurs where there has been significant changes to the original S.S.I. In addition, the consolidation and draft changes are intended to come into effect on 1 April 2018, however, there are a number of instances where we feel that the effective date of the change should be brought forward. These have been noted accordingly within this report. **Draft change** The LGPS (Scotland) Regulations 2018 are a consolidation of SSI. 2014/164 as amended by SSI. 2014/164 as amended by the Local Government Pension Scheme (Scotland) Amendment Regulations 2015 (SSI. 2015/87), the Local Government Pension Scheme (Scotland) Amendment (No. 2) Regulations 2015 (SSI. 2015/448) and the Local Government Pension Scheme (Scotland) Amendment Regulations 2016 (SSI. 2016/32), plus further amendments. The consolidation and draft changes are intended to come into effect on 1 April 2018.

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3(6)(e)	3(6)(e)	**Active membership** **Comment** Scotland LGPC query 79 – agreed, though we would suggest that the effective date of this change is backdated to 6 April 2016, i.e. the day after contracted-out ended. **Background** By adding the words ‘contracted-out’ before National Insurance, this ensures that LGPS administering authorities do not have to provide a pension benefit to members unnecessarily. Without this change regulation 3(6)(e) says that if a member has paid NICs whilst an active member and ceases active membership after the end of the tax year preceding that in which the member attains pensionable age, they must be provided a benefit from the scheme. When the LGPS was a contracted out scheme, this was necessary because in that situation we could not pay a Contributions Equivalent Premium (CEP) to contract them back into the state second pension, and so we needed to provide them a contracted-out benefit. Following the abolition of contracting out, there is no need to provide members with a benefit in this situation. **Draft change** Regulation 3(6)(e) has been amended as follows: *(e) the member has paid contracted-out National Insurance contributions whilst an active member and ceases active membership after the end of the tax year preceding that in which the member attains pensionable age;*
15(1)	15(1)	**Employer contributions during absence** **Comment** We note that a new term of ‘assumed pay’ has appeared in regulation 15(1) and we are unsure if this is intentional? Note: KL confirmed in email to LGPC on 13/12/2017 that “*The regs should continue to refer to ‘assumed pensionable pay’*” **Draft change**

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		Regulation 15(1) has been amended as follows: *15(1) A Scheme employer must pay contributions on the assumed pensionable pay of an active member on child-related leave or on actual pay received if ~~where~~ this is greater than assumed ~~pensionable~~ pay*.
17(14)	Deleted	**Additional Voluntary Contributions** **Comment** Scottish LGPC query 125 – agreed. However, we feel that regulation 17(12) should also be deleted because a special lump sum death benefit charge could be due under section 206 (special lump sum death benefits charge) of the Finance Act 2004 prior to age 75, where the payment is made after the period of 2 years from the member's date of death, or from the date the administering authority could reasonably have been expected to have become aware of the member's death. Regulation 17(12) reads as if there can only be a special lump sum death benefits charge when the member has attained the age of 75. In addition, regulation 17(5) of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 would also need to be amended for the same reasons set out in the background section below by adding at the end "with the exception of regulations 32(4) and 35(4) of the Benefits Regulations, regulation 37(9) of the 1998 Regulations and regulation E11ZA(6) of the 1987 Regulations". Note that regulations 32(4) and 35(4) of the Benefits Regulations also cover pension credit members by virtue of regulation 95(4) of the Administration Regulations and regulation 37(9) of the 1998 Regulations covers pension credit members by virtue of regulation 150(4) of the 1998 Regulations. Also, we believe regulations 94(7) of the Administration Regulations and 149(5) of the 1998 Regulations should not be included in the exceptions listed at the end of regulation 17(5) of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014. **Background** Prior to the effective date of the Finance (No.2) Act 2015 if a member died before age 75, any defined benefits lump sum death benefit, if not paid before the expiry of the period of 2 years from the member's date of death, or from the date the administering authority could reasonably have been expected to have become aware of

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		the member's death, had to be paid to the member's personal representatives (i.e. to the deceased's estate). The wording of the regulations was to ensure that payment was made within the prescribed 2 year period as, otherwise, any lump sum paid after that period would have been an unauthorised payment. However, the Finance (No.2) Act 2015 introduced two new rules to make the system fairer. Firstly, the Act requires specifies that defined benefit lump sum death benefits made on or after 6 April 2016 (where the member is under 75 at their death) do not have to be made within the 2 year period to be authorised defined benefits lump sum death benefits or in the case of AVCs uncrystallised funds lump sum death benefit. They can now be made outside that time limit and still be an authorised defined benefit lump sum death benefit. Secondly, it would result in a fairer tax treatment (which was one of the purposes of the change made by the Act). Instead of being forced to pay the lump sum to the personal representatives (i.e. to the deceased's estate) at the end of 2 years, the administering authority could, instead, make a payment beyond the 2 year period to an individual or individuals (other than someone who is receiving the payment in their capacity as a trustee, personal representative, director of a company, partner in a firm or member of a limited liability partnership). Where they make a payment to an individual or individuals, rather than to someone who is receiving the payment in their capacity as a trustee, personal representative, director of a company, partner in a firm or member of a limited liability partnership, the payment would be treated as the recipient's pension income and tax deducted under PAYE (which in most cases would be less than 45%). If payment was made to someone who is receiving the payment in their capacity as a trustee, personal representative, director of a company, partner in a firm or member of a limited liability partnership, it would be taxed at the rate of 45%. Any tax on defined benefits lump sum death benefits or uncrystallised funds lump sum death benefits which the administering authority may be responsible for would be covered by regulation 85 of the LGPS (Scotland) Regulations 2014. **Draft change** Regulation 17(14) has been deleted: ~~*17(14) If the total of payments due under paragraph (12) have not been paid before the expiry of two years beginning with the date of the member's death or, where the administering authority did not know about the member's death within that period, beginning with the date on which the administering authority could*~~

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		~~*reasonably have been expected to have become aware of the member's death, an amount equal to the shortfall must be paid to the member's personal representatives.*~~
17(15)	Deleted	**Additional Voluntary Contributions** **Comment** We are not clear why as this regulation has been deleted as its purpose continues to apply? **Draft change** Regulation 17(15) has been deleted: ~~*17(15) Regulations 70 (first instance decisions) and 89 (forfeiture of pension rights after conviction for employment-related offences) do not apply in relation to an annuity purchased under paragraph (7)(b)(ii) and regulation 19(1)(b) (exclusion of rights to return of contributions) does not apply to any AVCs paid by the member".*~~
17		**Additional Voluntary Contributions** **Comment** To be consistent with the insertion of regulation 18(7), we believe a further area not addressed within the LGPS (Scotland) Regulations is that concerning "non-life-assurance AVC pots attached to a deferred refund". Although it is highly unlikely that we will have someone with a deferred refund who has paid AVCs (let alone a case where that person then dies before the deferred refund is paid), if we do, the AVC pot would not be a defined benefit lump sum death benefit, but an uncrystallised funds lump sum death benefit. Accordingly, we would suggest that regulation 17 of the LGPS (Scotland) Regulations 2014 (in respect of members who left active membership of the scheme on or after 1 April 2015), and regulation 15 of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 (in respect of members who left active membership of the scheme prior to 1 April 2015) are amended and that the effective date of this amendment is backdated to 1 April 2015 (Scottish LGPC query 129).
17	17	**Additional Voluntary Contributions**

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32	32	**Comment** On 28 July 2016 Derek Mackay MSP wrote to the scheme managers of the LGPS Scotland and confirmed that "*This letter constitutes guidance to LGPS(S) scheme managers to exercise the permissive scheme rules override to allow UFPLS payments to be made until such time as the legislative changes can be made*". Although there is reference in annex A to new regulation 17(11) to UFPLS, no such change appears to have been included within this consultation? Other than the desire for consistency (which can be achieved at local level), for which we see no reason to try to legislate and trying to do so adds a great deal of complexity to the regulations, we suggest that our preference would be to simply insert the following statement into the regulations "*An UFPLS may be paid from AVC funds, subject to administering authority discretion*." Additionally Annex A makes reference to amend regulation 33 "*so that all lump sum payments are taken into account when identifying the limit on taking benefits in the form of a lump sum".* We believe that any such amendment should be included within regulation 32 (Election for lump sum instead of pension) and not as suggested regulation 33 (Commutation and small pensions). We would suggest that the effective date of this amendment is backdated to the 28 July 2016, i.e. the date from which the permissive over-ride was issued. **Annex A extract** "*In order to meet the policy aims of the UK Government's 'Freedom and Choice in Pensions', it is proposed to amend regulation 17 to refer to the increased flexibility provided by the Taxation of Pensions Act 2014 which introduced a limited right for scheme trustees and managers pay flexible pensions and lump sums from defined contribution pension savings, and allow all of the funds to be taken as an authorised taxed lump sum.* *As a consequence of the introduction of new Regulation 17(11), it is proposed to amend Regulation 33 so that all lump sum payments are taken into account when identifying the limit on taking benefits in the form of a lump sum*".

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	18(7)	**Right to return of contributions** **Comment** Scottish LGPC query 129 – agreed, though we would suggest that the effective date of this change is backdated to 1 April 2015. In addition, we believe that regulation 17 of the Transitional Provisions 2014 (in respect of members who left active membership of the scheme prior to 1 April 2015) also requires an equivalent amendment. **Background** Where the member has died prior to payment of a deferred refund, the monies should be paid as a Defined Benefit Lump Sum Death Benefit (DBLSDB) under section 168 of the Finance Act 2004. **Draft change** New draft regulation 18(7) has been inserted: *18(7) If a member dies before repayment of the deferred refund, these shall be treated as a lump sum death benefit for the purposes of Part 2 of Schedule 29 to the Finance Act 2004 and taxed accordingly.*
21(4)	21(4) 21(6) 21(7)	**Assumed Pensionable Pay** **Comment** **Regulation 21(4)** – We believe reference to paragraphs (5A) and (5B) should be amended to (6) and (7). **Regulation 21(6) -** We accept the need for this amendment but would suggest, for the sake of even-handedness, that it is tweaked to account for those cases where the pensionable pay should be lower (Scottish LGPC query 18). **Regulation 21(7) –** We are of the view that in order to ensure that only fees relating to that employment (if the member has more than one) are taken into account and to cater for situations where the member has been in

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		the employment for less than three years we think regulation should include a specific reference to those fees. This would cover those cases where a member receives basic pay and fees under a single contract of employment. In such a case the assumed pensionable pay would be the aggregate of the assumed pensionable pay calculated in the normal way for the basic pay and that calculated under paragraph (5B) for the fees (Scottish LGPC query 21). **Draft change** Regulation 21(4) has been amended as follows: *21(4) Subject to paragraphs (5A) and (5B), the annual rate of assumed pensionable pay for an employment for a Scheme year is—* The following new regulations have been inserted: *21(6) Where the pensionable pay received by a member during the period specified in paragraph (4)(a)(i) or (4)(b)(i) was in the opinion of the Scheme employer, materially higher or lower than that member normally received, for the purposes of this regulation the Scheme employer may substitute for the pensionable pay the member received, a higher or lower level of pensionable pay to reflect the level of pensionable pay that the member would normally have received.* *21(7)Where any pensionable pay that has been received by a member includes fees of the kind listed in regulation 20(2)(o)(i) to (iv) (returning officer fees), for the purposes of this regulation the annual rate of pensionable pay relating to those fees for the period specified in paragraph (4)(a)(i) or (4)(b)(i) is the annual average of that pay during the three years preceding the date the ill-health retirement or death occurred.*
	21(4)(b)(v)	**Assumed Pensionable Pay** **Comment** Scottish LGPC query 81 We believe the change made to regulation 21(4)(b) (in respect of weekly paid members) also needs to be inserted into regulation 21(4)(a) (in respect of monthly paid members) as the change applies equally to both groups.

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		In addition, the draft change does not appear to addresses a further issue. What about those cases where the member has never received 3 months' pay (e.g. e.g. a monthly paid member joins the scheme on 1st October and dies in service on 6th October; or a monthly paid employee joins on 1st October and goes on to maternity leave 2 weeks later), in such an instance the annual contractual pay would be the only reference that could be used. **Draft change** New regulation 21(4)(b)(v) has been inserted which states: *21(4)(b)(v) if the member received no pensionable pay relating to that employment in the 12 weeks preceding the commencement of the pay period in which the absence commenced, APP should be calculated on the pensionable pay the member received relating to that employment in the three months [or 12 weeks] preceding the pay period in which they last received pensionable pay in that employment.*
	26(8)	**Retirement pension accounts: deferred and pension credit members** **Comment** Scottish LGPC query 91 – agreed though we would suggest that the effective date of this change is back dated to 1 April 2015. **Background** Regulations 42(5) and 43(12) provide that if a member ceases to be an active member, becomes a deferred member and dies all within the same Scheme year, the survivor accounts are still credited with a proportion of the revaluation adjustment that the member would have received at the beginning of the Scheme year following cessation of active membership. We also believe that the same provision is also needed in regulation 26 to deal with cases where a member ceases to be an active member, becomes a deferred member and starts to draw pension all within the same Scheme year. **Draft change** New regulation 26(8) has been inserted which states:

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		26(8) If the member ceased to be an active member, became a deferred member and a pensioner member within the same Scheme year, the balance in the member's retirement pension account at the end of the Scheme year in which the retirement pension account was opened is adjusted at the beginning of the following Scheme year by the revaluation adjustment applicable to the Scheme year in which the retirement pension account was opened, in accordance with actuarial guidance issued by the Scottish Ministers.
	29(4) 31(2)	**29 Retirement** **31 Commencement of Pensions** **Comment** Scottish LGPC query 85 – agreed though we believe that the effective date of this change should be backdated to 1 April 2015. Scottish LGPC query 86 – agreed though we believe that the effective date of this change should be backdated to 1 April 2015. However, as a result of draft amendment to regulation 31(2) we believe the references within regulation 31(3) should be amended from '(3) and (4)' to '(4) and (5)'. **Background** The above regulation now caters for those employees who **are** in local government service (as defined in Schedule 1) and who attain age 75 i.e. those who remain contributing to the Scheme until age 75 or who opted out of the Scheme before then, but have remained in the employment from which they opted out until age 75. Their benefits should be payable from age 75 and the above draft amendment caters for this group. In addition, as a result of the above draft amendment, a further draft amendment is needed to regulation 31 (Commencement of Pensions) to confirm that where an employee remains in service past age 75, the first pay period begins with the member's 75th birthday. **Draft change**

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		New regulation 29(4) has been inserted: *29(4) A member who is an employee in local government service on the day before attaining age 75 must have their retirement pension paid from age 75 even if the member remains in local government service beyond that age* New regulation 31(2) has been inserted: *31(2)The first pay period for which any retirement pension is payable in accordance with regulation 29(4) begins with the member's 75th birthday*.
29(7)(b)	29(8)(b)	**Retirement** **Comment** Although annex A of the consultation indicates that an amendment will be made to regulation 29(7)(b) to remove the unintended consequence of requiring that a member with both deferred and active pension accounts has to take benefits relating to both accounts, where both accounts are in relation to the same employment and where employment is terminated due to redundancy or business efficiency and the member is required to take retirement benefits because they are aged over 55. Regulation 29(7)(b) does not appear to have been amended with any draft changes and remains as new regulation 29(8)(b)? Should this changed be enacted we would suggest that its effective date is backdated to 1 April 2015. **Draft change noted in Annex A** Annex A indicates that an amendment will be made to regulation 29(7)(b) to remove the following highlighted in red: *(7) Where an active member who has attained the age of 55 or over is dismissed from an employment by reason of redundancy or business efficiency, or whose employment is terminated by mutual consent on grounds of business efficiency, that member is entitled to, and must take immediate payment of—* *(a) retirement pension relating to that employment payable under regulation 16 (additional pension contributions), adjusted by the amount shown as appropriate in actuarial guidance issued by the Scottish Ministers; and*

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		(b) any other retirement pension relating to that active membership payable under these Regulations, without reduction.
29(10)	29(11)	**Retirement** **Comment** Scottish LGPC query 83 – Agreed though we believe the effective date of this change should be backdated to 1 April 2015. **Background** There are cases where, at the effective date of the pension sharing order, the pension credit member is already over normal pension age and, in some cases, already over age 75. The draft amendment caters for these cases. **Draft change** Regulation 29(10 now regulation 29(11) has been amended as follows: *29(11) Subject to paragraph (12), a pension credit member who attains normal pension age or who is, at the effective date of the pension sharing order, already at or over normal pension age is entitled to, and must take, immediate payment of a retirement pension deriving from the pension credit, without reduction, irrespective of whether that pension credit member is also an employee in local government service.*
29(13)	deleted	**Retirement** **Comment** Agreed regulation 29(13) is being removed so that members who reach age 55 and who elect to take early payment of their pension, with an actuarial reduction from the date of payment to at least age 60, do not need their employer's consent. However, we should note that schedule 2, paragraph 2(3) of the Transitional Regulations (Scotland) 2014 will also need an amendment as this paragraph makes reference to the fact that where a member elects for payment prior to age 60, employer consent is required.

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		Can you confirm the position for members who left active membership of the scheme prior to the effective date of the consolidated regulations? **Draft change** Regulation 29(13) has been deleted: ~~*29(13) An election under paragraph (5) made by a member aged less than 60 is ineffective without the consent of the member's-*~~ ~~*(a) Scheme employer;*~~ ~~*(b) former Scheme employer; or*~~ ~~*(c) appropriate administering authority where the member's former Scheme employer has ceased to be a Scheme employer".*~~
32(1) 32(4)(c)	32(1) 32(4)(c)	**Election for lump sum instead of pension** **Comment** Scottish LGPC query 90 – agreed Scottish LGPC query 123 – agreed **Background** Regulation 32(1) only allows the retirement pension to be commuted. Schedule 1 says that "retirement pension" includes earned pension and additional pension but it is not entirely clear whether this includes the revaluation adjustment. The above adjustment makes this clear. Additionally, to avoid a second BCE having to take place during the April after leaving active membership, the exclusion inserted into regulation 32(4) provides that the increase in value or a member's CARE pot derived from the application of a Treasury Order at one second after midnight of the 31st March following the date of cessation of active membership is excluded from the amount of pension that the member can commute under regulation 32. These changes also link to the draft change that has been inserted into regulation 26(8).

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		Draft change Regulation 32(1) has been amended as follows: *32(1) Subject to paragraph (4), a member entitled to a retirement pension under the Scheme may by written notice given to the appropriate administering authority before the benefit crystallisation event in respect of which any benefits are payable, commute the retirement pension payable (including any revaluation adjustment), or part thereof, at a rate of £12 for every £1 of annual pension commuted.* Regulation 32(4)(c) has been amended as follows: *32(4)(c) Paragraph (1) does not apply to—* *(a) a pension credit member where the member of the Scheme to whom the Pension Sharing Order applied has made an election under this regulation before the valuation date used when implementing the Pension Sharing Order;* *(b) any additional pension purchased by the member under regulation 17(6)(b)(i) (additional voluntary contributions);* (c) *the amount by which the member's account is adjusted by the revaluation adjustment applicable at the beginning of the Scheme year following that in which the member ceased to be an active member*.
38(4) 41(4) 44(5)	Deleted Deleted Deleted	**Death grants: active members** **Death grants: deferred members and pension credit members** **Death grants: pensioner members** **Comment** Scottish LGPC query 125 – agreed. In addition, we believe that regulation 17(5) of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 would also need to be amended for the same reasons set out in the background section below by adding at the end "with the exception of regulations 32(4) and 35(4) of the Benefits Regulations, regulation 37(9) of the 1998 Regulations and regulation E11ZA(6) of the 1987 Regulations". Note that regulations 32(4) and 35(4) of the Benefits Regulations also cover pension credit members by virtue of regulation 95(4) of the Administration Regulations and regulation 37(9) of the 1998 Regulations covers pension credit members by virtue

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		of regulation 150(4) of the 1998 Regulations. Also, we believe regulations 94(7) of the Administration Regulations and 149(5) of the 1998 Regulations should not be included in the exceptions listed at the end of regulation 17(5) of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014. **Background** Prior to the effective date of the Finance (No.2) Act 2015 if a member died before age 75, any defined benefits lump sum death benefit, if not paid before the expiry of the period of 2 years from the member's date of death, or from the date the administering authority could reasonably have been expected to have become aware of the member's death, had to be paid to the member's personal representatives (i.e. to the deceased's estate). The wording of the regulations was to ensure that payment was made within the prescribed 2 year period as, otherwise, any lump sum paid after that period would have been an unauthorised payment. However, the Finance (No.2) Act 2015 introduced two new rules to make the system fairer. Firstly, the Act requires specifies that defined benefit lump sum death benefits made on or after 6 April 2016 (where the member is under 75 at their death) do not have to be made within the 2 year period to be authorised defined benefits lump sum death benefits or in the case of AVCs uncrystallised funds lump sum death benefit. They can now be made outside that time limit and still be an authorised defined benefit lump sum death benefit. Secondly, it would result in a fairer tax treatment (which was one of the purposes of the change made by the Act). Instead of being forced to pay the lump sum to the personal representatives (i.e. to the deceased's estate) at the end of 2 years, the administering authority could, instead, make a payment beyond the 2 year period to an individual or individuals (other than someone who is receiving the payment in their capacity as a trustee, personal representative, director of a company, partner in a firm or member of a limited liability partnership). Where they make a payment to an individual or individuals, rather than to someone who is receiving the payment in their capacity as a trustee, personal representative, director of a company, partner in a firm or member of a limited liability partnership, the payment would be treated as the recipient's pension income and tax deducted under PAYE (which in most cases would be less than 45%). If payment was made to someone who is receiving the payment in their capacity as a trustee, personal representative, director of a company, partner in a firm or member of a limited liability partnership, it would be taxed at the rate of 45%.

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		Any tax on defined benefits lump sum death benefits or uncrystallised funds lump sum death benefits which the administering authority may be responsible for would be covered by regulation 85 of the LGPS (Scotland) Regulations 2014. **Draft change** Regulation 38(4), 41(4) and 44(5) has been deleted which stated: ~~*If the administering authority has not made payments under paragraph (1) equalling in aggregate the member's death grant before the expiry of two years beginning with the date of the member's death or, where the administering authority did not know about the member's death within that period, beginning with the date on which the administering authority could reasonably be expected to have become aware of the member's death, they must pay an amount equal to the shortfall to the member's personal representatives.*~~
40(4)(a)(vi)	40(4)(a)(vi)	**Survivor benefits: children of active members** **Comment** When calculating a child's pension where there is only one eligible child and a partner's pension is payable, the appropriate fraction should be 60/320, however, this seems to have been inadvertently changed to 60/160, we presume this is an error as Annex A makes no reference to these fundamental changes? **Draft change** The fraction in regulation 40(4)(a)(vi) has been amended as follows: *(vi) the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by ~~60/320~~ 60/160.*
40(9)(a)(iv) 40(9)(a)(v) 40(9)(a)(vi)	40(9)(a)(iv) 40(9)(a)(v) 40(9)(a)(vi)	**Survivor benefits: children of active members** **Comment** When calculating a child's pension where there is only one eligible child and no partner's pension is payable, the appropriate fraction should be 1/240, 49/240 and 60/240 as appropriate, however, this seems to have been inadvertently changed to 1/320, 49/320 and 60/160 as appropriate, we presume this is an error as Annex A makes no reference to these fundamental changes?

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		Draft change The fraction in regulation 40(9)(a)(iv), 40(9)(a)(v) and 40(9)(a)(vi) has been changed from: *(iv) the member's earned pension had accrued at a rate of ~~1/240th~~ 1/320th of pensionable pay.* *(v) the amount of any earned pension credited under regulation 99(1) (effect of acceptance of transfer value) has been multiplied by ~~49/240~~ 49/320; and* *(vi) the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by ~~60/240~~ 60/160.*
40(12)	40(13)	**Survivor benefits: children of active members** **Comment** Scottish LGPC query 92 – agreed though we believe that the effective date of this change should be backdated to 1 April 2015. **Draft change** Regulation 40(13) which was regulation 40(12) as amended as follows: *40(13) The balance in the survivor member's pension account at the end of the Scheme year in which the survivor member's account was opened is adjusted at the beginning of the following Scheme year by the ~~valuation~~ revaluation adjustment applicable to the Scheme year in which the survivor member's account was opened, in accordance with ~~actuarial~~ guidance issued by the Scottish Ministers.*
42(4)(e)	Deleted	**Survivor benefits: partners of deferred members** **Comment** When calculating the survivor benefits for the partner of a deferred member, regulation 42(4) sets out how the accrual rate to be used to determine the partner's pension. This appears to have been inadvertently deleted, we presume this is an error? **Draft change** The following regulation has been deleted:

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		~~*(e) the member's earned pension had accrued at a rate of 1/160th of pensionable pay;*~~
43(4)(g)	43(4)(f)	**Survivor benefits: children of deferred members** **Comment** When calculating a child's pension where there is only one eligible child and a partner's pension is payable, the appropriate fraction should be 60/320, however, this seems to have been inadvertently changed to 60/160, we presume this is an error as Annex A makes no reference to this fundamental change? **Draft change** The fraction in regulation 43(4)(g) which is now regulation 43(4)(f) has been amended as follows: *~~(g)~~ (f) the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by ~~60/320~~ 60/160.*
43(9)(g)	43(9)(f)	**Survivor benefits: children of deferred members** **Comment** When calculating a child's pension where there is only one eligible child and no partner's pension is payable, the appropriate fraction should be 60/240, however, this seems to have been inadvertently changed to 60/160, we presume this is an error as Annex A makes no reference to this fundamental change? **Draft change** The fraction in regulation43(9)(g) which is now regulation 43(9)(f has amended as follows: *~~(g)~~ (f) (the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by ~~60/240~~ 60/160.*
43(10)(g)	43(10)(f)	**Survivor benefits: children of deferred members** **Comment**

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		When calculating a child's pension where there is more than one eligible child and no partner's pension is payable, the appropriate fraction should be 60/120, however, this seems to have been inadvertently changed to 60/160, we presume this is an error as Annex A makes no reference to this fundamental change? **Draft change** The fraction in regulation 43(10)(g) which is now regulation 43(10)(f) has been amended as follows: ~~(g)~~ *(f) (the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by ~~60/120~~ 60/160.*
43(10A)	43(11)	**Survivor benefits: children of deferred members** **Comment** It is not clear as to why the references to paragraphs 5(c), 9(c) and 10(c) have been removed from the opening paragraph in draft regulation 43(11) as these references seem to still be valid as they concern how to attribute additional pension where the member has elected as such following an absence? **Draft change** Regulation 43(10A) which is now regulation 43(11) has been amended as follows: *~~43(10A)~~ 43(11) Additional pension purchased under regulation 16 is not excluded for the purposes of paragraph~~s~~ (4)(c)~~, (5)(c), (9)(c) and (10)(c)~~ where the member has elected to purchase that additional pension to cover the amount of pension which would otherwise have accrued but for*
45(4)(a) 46(4)(a) 46(9)(a) 46(10)(a)	45(4)(a) 46(4)(a) 46(9)(a) 46(10)(a)	**Survivor benefits: partners of pensioner members** **Survivor benefits: children of pensioner members** **Comment** Scottish LGPC query 50 – completed by way of regulations 28 and 29 of the Local Government Pension Scheme (Scotland) Amendment Regulations 2015 [SSI 2015/87]. Paragraphs 45(8) and 46(14) was inserted from 1 April 2015 by Local Government Pension Scheme (Scotland) Amendment Regulations 2015, SSI 2015/87 (regulations 28 and 29) and stated "*For the purposes of paragraph*

Extant regulations	Draft LGPS (Scotland) Regulations 2018	LGPC Review
		46(4)(a), (5)(a), (9)(a) and (10)(a), earned pension also includes any amount awarded under regulations 37(1)(a) or (2)(a)." Therefore, we believe that the draft changes set out below are superfluous. In addition, if they are to be inserted by way of each individual paragraph, we believe that paragraph 46(5)(a) should also be amended to be consistent. **Background** The draft change provides that the amount of enhanced pension awarded under regulation 37(1)(a) or 37(2)(a) should be included when calculating the survivor's pension or children's pension of a member who had previously retired on ill health grounds with a Tier 1 or Tier 2 pension. **Draft changes** Regulation 45(4)(a) has been amended as follows: *45(4)(a) the member's earned pension (including any amount added under regulations 37(1)(a) or 37(2)(a) (enhancement of member's Tier 1 and Tier 2 benefits)) had accrued at a rate of 1/160th of pensionable pay;* Regulation 46(4)(a) has been changed amended as follows: *46(4)(a) the member's earned pension (including any amount added under regulations 37(1)(a) or 37(2)(a) (enhancement of member's Tier 1 and Tier 2 benefits)) had accrued at a rate of 1/320th of pensionable pay;* Regulation 46(9)(a) has been amended as follows: *46(9)(a) the member's earned pension (including any amount added under regulations 37(1)(a) or 37(2)(a) (enhancement of member's Tier 1 and Tier 2 benefits)) had accrued at a rate of 1/240th of pensionable pay;* Regulation 46(10)(a) has been amended as follows: *46(10)(a) the member's earned pension (including any amount added under regulations 37(1)(a) or 37(2)(a) (enhancement of member's Tier 1 and Tier 2 benefits)) had accrued at a rate of 1/120th of pensionable pay;*
48	48	**Limit on the total amount of benefits** **Comment** Scottish LGPC query 51

Extant regulations	Draft LGPS (Scotland) Regulations 2018	LGPC Review
		Regulation 48(1) sets out that a person is entitled to receive benefits up to the value of their lifetime allowance (except to the extent that guidance provided by Scottish Ministers provides otherwise) and regulation 48(2) defines a person's lifetime allowance "*to be construed in accordance with section 218 of and Schedule 36 to the Finance Act 2004 and Schedule 6 to the Finance Act 2014 and, where applicable, is to include primary protection, enhanced protection or fixed protection within the meaning of those provisions*" Accordingly, regulation 48(2) provides for a person to receive benefits up to the value of their lifetime allowance (section 218 Finance Act 2004) and where appropriate to use Primary Protection (Schedule 36 Finance Act 2004), Enhanced Protection (Schedule 36 Finance Act 2004) and Individual Protection 2014 (Schedule 6 Finance Act 2014). However, the following protections to a person's lifetime allowance are not included within regulation 48(2) and we are not convinced that the changes made to regulation 48(1) makes such provision: • Individual Protection 2016 – Schedule 4 Finance Act 2016 • Fixed Protection 2016 – Schedule 4 Finance Act 2016 • Fixed Protection 2014 – Schedule 22 Finance Act 2013 • Fixed Protection – Schedule 22 Finance Act 2011 We also believe that the effective date providing for the above protections should be backdated to the relevant effective date of each protection in accordance with the over-riding provisions. **Background** This regulation needs to be amended to allow for the various LTA protections that have been issued over the years **Draft changes** Regulation 48(1) has been changed as follows: *48(1) ~~Except to the extent that actuarial guidance issued by the Scottish Ministers provides otherwise~~ No person is entitled under any provision of these Regulations to receive benefits the capital value of which exceed that person's lifetime allowance, except in accordance with actuarial guidance issued by the Scottish Ministers and any benefits to which a person is entitled are restricted accordingly.*

Extant regulations	Draft LGPS (Scotland) Regulations 2018	LGPC Review
54(2)	54(2)	**Accounts and Audit** **Comment** Scottish LGPC query 84 – agreed though we believe that the effective date of this change should be backdated to 9 April 2015 in line with the changes made to section 238 of the Finance Act 2004 by virtue of the Finance (No.2) Act 2015. **Background** The Finance (No.2) Act 2015 harmonised the pension input periods of all registered pension schemes, to ending on 5 April with effect from 5 April 2016. **Draft change** Regulation 54(2) is amended as follows: *54(2) The pension input period for the purposes of section 238 of the Finance Act 2004 is the year ending on ~~31 March~~ 5 April 2016 and each year ending on ~~31 March~~ 5 April after that year.*
56(4)(a) 60(5) deleted 60(7) deleted	56(4)(a) 60(5) replaced	**Funding strategy statement** **Actuarial valuations of pension funds** **Comment** Agreed though we believe that the effective date of this change should be backdated to 1 April 2015. **Background** The intention behind this change is to account for future changes to the CIPFA guidance, without needing to amend the regulations. In addition, rather than set out the definition of primary and secondary contribution rates within the regulations, these have been replaced with reference to the definitions within the CIPFA guidance. **Draft change**

Extant regulations	Draft LGPS (Scotland) Regulations 2018	LGPC Review
		Regulation 56(4)(a) is amended as follows: *56(4) In preparing, maintaining and reviewing the statement, the administering authority must have regard to—* *(a) the guidance set out in the current version of the document published ~~in October 2012~~ by CIPFA, the Chartered Institute of Public Finance and Accountancy and called "Preparing and maintaining a Funding Strategy Statement in the Local Government Pension Scheme ~~2012~~";* New regulation 60(5) now reads: *60(5) Definitions of the primary and secondary rates of an employer's contribution, and those for the whole fund, are set out in the current version of document published by CIPFA called "Preparing and Maintaining a Funding Strategy Statement in the Local Government Pension Scheme"* Extant regulations 60(5) and 60(7) have been deleted: *~~(5) The primary rate of an employer's contribution is the amount in respect of the cost of future accruals which, in the actuary's opinion, should be paid to a fund by all bodies whose employees contribute to it so as to secure its solvency, expressed as a percentage of the pay of their employees who are active members.~~* *~~(7) The secondary rate of an employer's contributions is any percentage or amount by which, in the actuary's opinion, contributions at the primary rate should, in the case of a Scheme employer, be increased or reduced by reason of any circumstances peculiar to that employer.~~*
58(1)(aa)	58(1)(d)	**Statements of policy about discretionary functions** **Comment** New draft regulation 58(1)(d) has been consolidated from extant regulation 58(1)(aa). However, the reference to regulation 29(13) requires further amendment as draft regulation 29(13) now refers to a pension credit member as follows "*A pension credit member who has attained the age of 55 or over may elect to receive immediate payment of a retirement pension deriving from the pension credit, reduced by the amount shown as appropriate in actuarial guidance issued by the Scottish Ministers, irrespective of whether the pension credit member is also an employee in local government service*". Extant regulation 29(13) has been deleted within the consolidated regulations to provide for a member to elect for payment of their benefits from age 55 without employer consent. However, there is still a requirement for an

Extant regulations	Draft LGPS (Scotland) Regulations 2018	LGPC Review
		employer to maintain a policy on whether or not they wish to 'switch on' the 85 year rule under paragraph 1(1)(c) of schedule 2 of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014, in respect of a member who elects for early payment of their benefits on or after age 55 and prior to age 60. **Draft change** Regulation 58(1) is amended as follows: *58(1) A Scheme employer must prepare a written statement of its policy in relation to the exercise of its functions under regulations—* *(a) 16(2)(e) and 16(4)(d) (funding of additional pension);* ~~*(aa)29(13) (early retirement);*~~ *(b) 29(6) (flexible retirement);* *(c) 29(8) (waiving of actuarial reduction);* *(d) 29(13) (early retirement); and* *(e) 30 (award of additional pension),*
61 Already deleted 63 already deleted	61 reinstated	**Aggregate scheme costs** **Aggregate scheme costs: revised certificates** **Comment** Regulations 61 and 63 were revoked from 1 April 2016 by regulations 7 and 8 of the Local Government Pension Scheme (Scotland) Amendment Regulations 2016 [SSI 2016/32] and replaced with regulations 103 (Scheme actuary) and 104 (Employer cost cap). However, regulation 61 has been reinstated within these draft regulations and we would be grateful if it could be clarified as to why this regulation has been reinstated? Due to the consolidation regulation 63 remains deleted and adjusts the regulation numbering thereafter (i.e. extant regulation 64 becomes regulation 63 within the draft regulations and each regulation number thereafter is adjusted accordingly). If it is not intentional that regulation 61 should have been reinstated, then the

Extant regulations	Draft LGPS (Scotland) Regulations 2018	LGPC Review
		adjustment to the numbering will begin from extant regulation 62 (i.e. extant regulation 62 will become regulation 61 and the regulation numbers thereafter adjusted accordingly).
62	62	**Special circumstances where revised actuarial valuations and certificates must be obtained** **Comment** We understand that the changes made to regulation 62 are intended to give more flexibility for administering authorities to manage liabilities when employers leave the Scheme and to provide for an 'exit credit' to exiting employers if appropriate. We support this principle though have the following comments to make: In regulation 62(3) we note that the time limit (for a period of up to 3 years) by which an administering authority may issue a suspension notice to suspend the employer's liability to pay an exit payment has been removed and in regulation 62(4) where a suspension notice has been issued, the employer must continue to make contributions towards the liabilities of the fund in respect of benefits in respect of the employer's current and former employees as the administering authority reasonably requires. This seems to have created the situation whereby an exiting employer has been issued with a suspension notice must continue to make regular contributions to the fund indefinitely, rather than making an exit payment (because the suspension notice is no longer time bound). We presume that this is to avoid the risks of such a payment proving to be too much or too little in the long term and as such support the additional flexibility these changes provide However we would suggest that the conditions for suspension are retained and expanded in order to ensure that the administering authority has properly assessed the risks of such a suspension. For example as follows *62(3) An administering authority may by written notice ("suspension notice") to an employer suspend that employer's liability to pay an exit payment starting from the date when that employer would otherwise become an exiting employer, if either of the conditions in paragraph (3B) are met.* *(3B) The conditions mentioned in paragraph (3) are that in the reasonable opinion of the administering authority:-*

Extant regulations	Draft LGPS (Scotland) Regulations 2018	LGPC Review
		(i) The employer is likely to have one or more active members contributing to the fund within a period of no longer than three years starting from the date when that employer would otherwise become an exiting employer; or *(ii) The employer has sufficient finances to continue to meet its long term liabilities in the Scheme* **Draft changes** Regulation 62(1) has been amended as follows: *62(1) Subject to paragraph (3), if a person—* *(a) ceases to be a Scheme employer (including ceasing to be an admission body participating in the Scheme), or* *(b) is or was a Scheme employer, but, irrespective of whether that employer employs active members contributing to one or more other funds, no longer has an active member contributing towards a fund ("a relevant fund") which has liabilities in respect of benefits in respect of current and former employees of that employer,* *that person becomes "an exiting employer" in relation to the relevant fund for the purposes of this regulation and is liable to pay an exit payment or to receive an exit credit .* Regulation 62(2) has been amended as follows: *62(2) When a person becomes an exiting employer, the appropriate administering authority must obtain—* *(a) an actuarial valuation as at the exit date of the liabilities of the fund in respect of benefits in respect of the exiting employer's current and former employees; and* *(b) a revised rates and adjustments certificate showing the exit payment due from the exiting employer, or exit credit payable to the exiting employer, in respect of those benefits.* Regulation 62(2A) which is now regulation 62(3) has been amended as follows:

Extant regulations	Draft LGPS (Scotland) Regulations 2018	LGPC Review
		62(3) An administering authority may by written notice ("suspension notice") to an ~~exiting~~ employer suspend that employer's liability to pay an exit payment ~~for a period of up to 3 years~~ starting from the date when that employer would otherwise become an exiting employer, ~~if the condition in paragraph (2B) is met.~~ Regulation 62(2B) has been deleted: *~~2B) The condition mentioned in paragraph (2A) is that in the reasonable opinion of the administering authority the employer is likely to have one or more active members contributing to the fund within the period specified in the suspension notice.~~* Regulation 62(2C) which is now regulation 62(4) has been amended as follows: *62(4) If an administering authority serves a suspension notice ~~on an~~ the employer~~, unless that suspension notice is withdrawn, paragraph (2) does not apply in respect of that employer, but the employer~~ must continue to make such contributions towards the liabilities of the fund in respect of benefits in respect of the employer's current and former employees as the administering authority reasonably requires.* Regulation 62(8) which is now regulation 62(10) has been amended as follows: *62(10) For the purposes of this regulation—* *"exiting employer" means an employer of any of the descriptions specified in paragraph (1);* *"exit payment" means the assets required to be paid by the exiting employer over such period of time as the administering authority considers reasonable, to meet the liabilities specified in paragraph (2);* *"exit credit" means the amount required to be paid to the exiting employer by the administering authority to meet the excess of assets in the fund relating to that employer over the liabilities specified in paragraph (2)(a);* *"exit date" means the date on which the employer becomes an exiting employer; and* *"related employer" means any Scheme employer or other such contracting body which is a party to the admission agreement (other than an administering authority in its role as an administering authority).*

Extant regulations	Draft LGPS (Scotland) Regulations 2018	LGPC Review
74(5)	73(5)	**Reference of disagreement for reconsideration by Scottish Ministers** **Comment** Scottish LGPC query 75 – completed by virtue of regulation 23 of the Local Government Pension Scheme (Scotland) Amendment (No 2) Regulations 2015 [SSI 2015/448] with effect from 1 April 2015. The words "Scheme employer" had been substituted for the words "employing authority" from 2 February 2016 but with effect from 1 April 2015 because there is no definition of employing authority in Schedule 1 and everywhere else in the regulations we refer to the Scheme employer. However, this adjustment has been reversed within the draft changes and we are not clear if this is intentional? **Draft change** Regulation 74(4) which is now regulation 73(5) has been amended as follows: *73(5) An application by a member or prospective member or a person claiming to be such must also set out his or her national insurance number (if any) and the name of the employing authority ~~Scheme employer~~.*
82(3)	81(3)	**Non assignability** **Comment** Agreed, the references to the extant legislation have been updated. **Draft change** Regulation 82(3) which is now regulation 81(3) has been amended as follows: *81(3) On the bankruptcy of a person entitled to a benefit under the Scheme no part of the benefit passes to any trustee or other person acting on behalf of the creditors, except in accordance with a debtor contribution order under section ~~under section 32A or 32F~~ 90(1) or 95(1) of the Bankruptcy (Scotland) Act 2016 ~~1985~~*
88(2)(a)	87(2)(a)	**Information to be supplied by employees** **Comment**

Extant regulations	Draft LGPS (Scotland) Regulations 2018	LGPC Review
		Although 'the Scheme' is defined within Schedule 1 as a scheme established under these regulations, we understand that the intention behind extant regulation 88(2)(a) is for a member to provide a statement in writing listing all their previous periods of membership of a public service pension scheme (including the Local Government Pension Scheme). By removing the words 'Local Government Pension' this would seem to exclude previous periods of membership within the Local Government Pension Scheme established under earlier legislation. We would suggest that these words are reinserted. **Draft change** Regulation 88(2)(a) which is now regulation 87(2)(a) is amended as follows: *88(2)(a) a statement in writing listing all the person's previous periods of membership of a public service pension scheme (including the ~~Local Government Pension~~ Scheme); and*
94(1)	93(1)	**Right to a payment out of the fund** **Comment** As a result of the amendments made to the Pension Schemes Act 1993 by the Pension Schemes Act 2015 we would suggest that the words "Chapter 4 or 5 of Part 4 of the Pension Schemes Act 1993" in regulation 93(1) should be amended to "Chapter 1 or 2 of Part 4ZA or Chapter II of Part IVA of the Pension Schemes Act 1993". Chapters 1 and 2 of Part 4ZA cater, respectively, for those entitled to a deferred benefit and those with 3 or more months membership who are not entitled to a deferred benefit; and Chapter II of Part IVA caters for transfers out for Pension Credit members. We also believe that the effective date of this change, should it proceed, should be backdated to 1 April 2015.
98(2)	97(2)	**Inward transfer of pension rights** **Comment** We are unsure as to why the words 'in this regulation' have been inserted into the opening line of regulation 98(2)? **Draft change** Regulation 98(2) which is now regulation 97(2) has been amended as follows:

Extant regulations	Draft LGPS (Scotland) Regulations 2018	LGPC Review
		98(2) "Relevant pension rights" in this regulation are— *(a) accrued rights under a registered pension scheme other than rights to benefits under the scheme which are attributable (directly or indirectly) to a pension credit; and* *(b) accrued rights under a European pensions institution.*
94 98 99	93 97 98	**Rights to payment out of pension fund** **Inward transfers of pension rights** **Effect of acceptance of a transfer value** **Comment** Annex A (as titled above) mentions that it is proposed to amend: • "regulation 94 so that the relevant administering authority calculates the transfer in accordance with provisions in the guidance issued by Scottish Ministers, and • Where there has been an inward transfer of pension rights, Regulation 99 is being amended to require that the amount of earned pension is calculated in accordance with actuarial guidance issued by the Scottish Ministers". However, we are not clear as to where these changes have been made within extant regulations 94, 98 or 99 (new draft regulations 93, 97 or 98) as the draft regulations appear to replicate the extant regulations (but for the change in regulation number). However, please see our comment concerning extant regulation 100 (new draft regulation 99)
100	99	**Changes of administering authority** **Comment** Draft regulation 99(2) (which was regulation 100(2)) appears to have inadvertently merged with what was extant regulation 100(3) with an added new sentence which does not appear to serve any purpose. Please can you clarify? **Draft change**

Extant regulations	Draft LGPS (Scotland) Regulations 2018	LGPC Review
		Regulations 100(2) and 100(3) which is now regulation 99(2) has been amended from: *100(2) An administering authority which has ceased to be a member's appropriate administering authority must make a transfer value payment to the member's new appropriate administering authority in accordance with actuarial guidance issued by the Scottish Ministers.* *100(3) Where paragraph (2) applies as respects 10 or more members by virtue of a single event, the amount of the payment under that paragraph shall be determined by agreement between an actuary appointed by the administering authority by which the payment must be made and an actuary appointed by the administering authority to which it must be made.* To: *99(2) An administering authority which has ceased to be a member's appropriate administering authority must make a transfer value payment to the member's new appropriate administering authority in accordance with actuarial guidance issued by the Scottish Ministers. (b) in any other case in accordance with actuarial guidance issued by Scottish Ministers. Where paragraph (2) applies as respects 10 or more members by virtue of a single event, the amount of the payment under that paragraph shall be determined by agreement between an actuary appointed by the administering authority by which the payment must be made and an actuary appointed by the administering authority to which it must be made.*
	104 Schedule 6	**Revocations, Savings and transitional provisions** **Schedule 6** **Comment** No comment **Draft change** New regulation 104 has been inserted as follows: *104(1) The Regulations specified in Schedule 6 are revoked.* *104(2) Anything done under or by virtue of any regulation revoked by these Regulations if it could have been done under or for the purpose of these Regulations, will be deemed to have been done under or by virtue of the corresponding provision of these Regulations and anything begun under or by virtue of any such regulation may be continued under these Regulations as if begun under these Regulations.*

Extant regulations	Draft LGPS (Scotland) Regulations 2018	LGPC Review
		The following schedule has been inserted: *SCHEDULE 1 Regulation 104* *1. The following instruments are revoked:* *(a) The Local Government Pension Scheme (Scotland) Regulations 2014 (S.S.I. 2014/164;* *(b) The Local Government Pension Scheme (Scotland) Amendment Regulations 2015 (S.S.I. 2015/87);* *(c) The Local Government Pension Scheme (Scotland) Amendment (No. 2) Regulations 2015 (S.S.I. 2015/448); and* (d) *The Local Government Pension Scheme (Scotland) Amendment Regulations 2016 (S.S.I. 2016/32).*
	Schedule 1	**Interpretation** **Comment** Definitions of Club memorandum, Club transfer and Public Sector Transfer Club have been inserted into schedule 1. However, we believe that the effective date of this change should be backdated to 1 April 2015. However, in our view the definition of a Club transfer is not simply a transfer of employment between members of the Public Sector Transfer Club, in fact, such a transfer can take place where it is not a Club transfer. We would suggest that the definition is tightened to reflect the requirements of paragraph 4.4 of the Club memorandum which prescribes that in order for a transfer of employment between members of the Public Sector Transfer Club to be a Club transfer the break between ceasing membership of the sending pension scheme and joining the receiving scheme in which the person is an active member when making the application for a Club Transfer, is not more than 5 years. **Draft change** The following definitions have been inserted into schedule 1: *“Club Memorandum” means the current memorandum published by the Cabinet Office under the title “The Public Sector Transfer Club – memorandum by the Cabinet Office”;*

Extant regulations	Draft LGPS (Scotland) Regulations 2018	LGPC Review
		"Club Transfer" means a transfer of employment between members of the Public Sector Transfer Club; *"Public Sector Transfer Club" means the arrangements approved by the Secretary of State and detailed in the Club Memorandum as providing reciprocal arrangements between the Scheme and other registered occupational pension schemes for making and receiving transfer value payments;*
Schedule 1	Deleted	**Interpretation** **Comment** We are unclear as to why the definition of 'local government service' has been removed from schedule 1 when the term remains to be used throughout extant regulations 2, 29, 49 and 100 (new draft regulation 99)? **Draft change** The following definition has been removed from schedule 1: ~~*"local government service" means an employment by virtue of which the person employed is or has been a member of the Scheme;*~~
Schedule 1	Schedule 1	**Interpretation** **Comment** The words 'in relation to an active member' has been deleted to provide for the fact that partner's pensions can also be provided to the partners of deferred and pensioner members. Though we believe that the effective date of this change should be backdated to 1 April 2015. However, we note that the insertion made by regulation 45 of the Local Government Pension Scheme (Scotland) Amendment Regulations 2015 [SSI 2015/87] effective from 1 April 2015 which states "(including a same sex spouse)" has been deleted and we are unsure as to why? **Draft change** The definition of partner has been amended within schedule 1 as follows:

Extant regulations	Draft LGPS (Scotland) Regulations 2018	LGPC Review
		"partner" ~~in relation to an active member~~ means a spouse ~~(including a same sex spouse),~~ civil partner or cohabiting partner;
Schedule 1	Schedule 1	**Interpretation** **Comment** We agree with the revised definition of 'revaluation adjustment' providing, the amendment we have requested to the definition of "Club Transfer" is taken into account, thus meaning that the sending scheme in-service revaluation adjustment will, quite correctly, not apply where the break between the sending scheme and joining the LGPS Fund is more than 5 years. Though we believe that the effective date of this change should be backdated to 1 April 2015. **Draft change** The definition of revaluation adjustment has been changed from: *~~"revaluation adjustment" means the percentage specified as the change in prices in the relevant Treasury order made under section 9(2) of the Public Service Pensions Act 2013 which is to be applied to the sum in a pension account at the beginning of the next scheme year;~~* To: "*revaluation adjustment" means—* *(a) in the case of a balance transferred under a Club Transfer, the revaluation adjustment that would have applied to that balance if it had not been transferred; and* *(b) in any other case the percentage specified as the change in prices in the relevant Treasury order made under section 9(2) of the Public Service Pensions Act 2013 which is to be applied to a sum in a pension account at the beginning of the next scheme year.;*
Schedule 1	Schedule 1	**Interpretation** **Comment**

Extant regulations	Draft LGPS (Scotland) Regulations 2018	LGPC Review
		Scottish LGPC query 66 - We note that the definition of SCAVC has been moved to the correct location within the alphabetical listing within schedule 1 though we believe that the effective date of this change should be backdated to 1 April 2015.
Schedule 1	Schedule 1	**Interpretation** **Comment** Scottish LGPC query 88 – agreed though we believe that the effective date of this change should be backdated to 1 April 2015. **Draft change** The definition of statutory pay within schedule 1 has been amended as follows: *"statutory pay" means any statutory sick, maternity, paternity, shared parental or adoption pay~~, or sick pay~~ payable under the Social Security Contributions and Benefits Act 1992(**1**);*
Schedule 5 paragraph 6	Schedule 5 paragraph 6	**Councillors** **Comment** Scottish LGPC query 69 – agreed to account for those councillors that go on reserve forces leave, though we believe that the effective date of this change should be backdated to 1 April 2015. **Draft change** Paragraph 6 has been amended as follows: *6. ~~Omit~~ Regulation 21 (assumed pensionable pay) not needed except whilst a councillor is on reserve forces service leave.*
Schedule 5 paragraph 7	Schedule 5 paragraph 7	**Councillors** **Comment**

(**1**) 1992 c.4.

Extant regulations	Draft LGPS (Scotland) Regulations 2018	LGPC Review
		The references in paragraph 7 reflect the extant 2014 Regulations as opposed to the draft LGPS (Scotland) Regulations 2018. We believe that the following references should be updated: ***7.****After regulation ~~22(8)~~ 22(10) insert—* *~~“(9)~~ (11) In the case of a deferred member who has been a councillor member, an election under paragraph ~~6A~~ 7 or ~~6B~~ 8 may only aggregate councillor membership with former councillor membership and, as the case may be, membership which is not councillor membership with former membership which is not councillor membership.”.*
Schedule 5 paragraph 9(a)	Schedule 5 paragraph 9(a)	**Councillors** **Comment** We believe that the reference to paragraph (2) in paragraph 9(a) should be to paragraph (1) as follows: ***8.****In regulation 34 (early leavers: ill-health)—* *(a) for paragraph (1) substitute—* *~~“(2)~~ (1) Where a councillor member ceases to be a member of the member’s local authority on the grounds of ill-health or infirmity of mind or body before reaching normal pension age, the member is entitled to and must take early payment of a retirement pension if that member satisfies the conditions in paragraph (3) of this regulation.”; and*