



PUBLIC SECTOR PENSIONS AUTHORITY

Response to the Consultation relating to the draft Isle of Man Government Unified Scheme (Amendment) Scheme 2015

July 2015

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Part 1 – Introduction

The proposed amendments are administrative or clarifying in nature and not in any way linked to any of the proposed changes or recommendations set out in the Public Sector Pensions Working Group's Report - "Fairness and Sustainability".

Many of the amendments are as a consequence of the Scheme being a relatively new Scheme in pension terms and therefore requiring changes to be made as the administration processes are put into practice.

The PSPA wishes to reassure members that these are routine administrative amendments, which if left unchanged, may impact on the day to day administration of the scheme.

Set out below is a summary of the amendments proposed.

1. Definitions and Interpretation

a) Comparable Alternative Employment

This amendment inserts a definition of Comparable Alternative Employment which is currently undefined. This definition relates to rule 37, Incapacity Pension for Active Members and rule 38, Incapacity Pension for Deferred Members. Comparable Alternative Employment is stated in both of these rules and in particular when considering the effect of re-employment of pensioner members who are in receipt of Upper Tier Ill Health pensions.

b) Compensation Regulations

This amendment updates the definition of the Compensation Regulations replacing the Interim Compensation Scheme 2012 with the Public Sector Compensation Scheme 2013.

This definition relates to the new compensation arrangements introduced in 2013.

2. Overriding Provisions

De-Minimus Levels

This is an administrative amendment that introduces de minimus levels to be followed when administering the impact on pension benefits, due to changes in pay, which may reduce or increase the members' final pensionable pay on which the final award was based on. The proposed levels are £10 for awards and £20 for Transfers.

3. Pensionable Service

This amendment seeks to clarify the current rule and relates only to the doubling of service for Mental Health Officers (MHO). This revised rule adds clarity to the fact that when MHOs have accrued the maximum 40 years' service prior to age 55, their service accrual will cease and only commence again from age 55.

4. Pensionable Pay

This amendment is to reflect current administrative practice when recording member's annual pensionable pay, in that the pensionable pay recorded is that which is actually paid to a member, rather than what may be due to a member in any particular period.

5. Eligibility and Joining the Scheme

1. This is an administrative amendment to rule 14.1 which expands the current rule to include those pensioners who are in receipt of a public sector pension attributable to previous pensionable service covered by their previous public sector employment.
2. This amendment deletes rule 14.7 and 14.8 as these rules are no longer relevant due to the scheme being in force for over two years. If, in the future, the employer wishes to place a new recruit in one of the Protected Sections, then this can be done via the Augmentation rule and the employer, rather than the scheme will bear the cost of providing higher benefits.

6. Calculation of Short Service Benefit

This amendment corrects a typographical error and changes "22.5" to "22.2A", as there is no rule "22.5".

7. Incapacity Pension for Active Members

This amendment corrects typographical errors. In addition it simplifies rule 37.9(a) by deleting the reference to rule 37.2(a), and thereby accords with rule 37.8 which applies to all Upper or Lower Tier Pensions. In addition it seeks to assist those who are seeking to return to work, but have retired through ill-health by abating their ill-health pension rather than suspending the pension.

8. Lump Sum on Retirement

This administrative amendment clarifies the existing rule 41.4 to ensure that the commutation rates at Table 2 can apply only to those Section 7 members (firefighters), who at the time of joining the Unified Scheme, were eligible for these rates.

9. Payment of Lump Sum Death Benefits

This administrative amendment expands the rule 48.1 to enable members to nominate an incorporated body or unincorporated body, as well as a person or persons.

10. Payment of Lump Sum Death Benefits

This amendment expands the current rule 48.1 to allow Existing Deferred Members and Existing Pensioners to make a nomination.

11. Nomination of a Surviving Nominated Partner

This amendment expands the current rule 49.1 to allow Existing Deferred Members and Existing Pensioners to make a nomination.

12. Death of a Pensioner Member

This amendment enables the surviving adult dependant of an Existing Pensioner Member to receive a pension.

13. Death of a Deferred Member

This amendment is administrative and simply corrects rule 52.2 to include "and days".

14. Transfers to this Scheme

This is administrative in nature and clarifies the pay used to calculate transfer values to the scheme.

Part 2 - The Consultation Exercise

Detailed information was provided on the PSPA and Isle of Man Government website in the form of the draft Scheme and a summary of the provisions.

Trade union and staff representatives were given advance notice of the consultation and scheme members were consulted about the proposals by way of an "All Staff" email pointing to further information and copies of the draft Order on the PSPA website. Managers were asked to bring the consultation to the attention of colleagues without access to a computer. Relevant employing authorities, the Treasury, staff representatives and trade unions were also invited to comment. The Consultation ran from 16th April 2015 to noon on 16th July 2015. There were no requests for this period to be extended.

Part 3 – The Responses

The PSPA wishes to thank those who responded to the consultation for their suggestions and comments.

There were 19 responses to the consultation, 14 from individuals, 4 from Government Departments and 1 from a Trade Union.

In summary:

One respondent sought clarification of some of the terms used and claimed that the changes discriminated against single persons.

One respondent misunderstood and thought that the Amendment Scheme was introducing a requirement for members to work for 45 years and another sought confirmation that the changes to scheme eligibility were not being applied retrospectively.

One respondent was critical of the way in which the consultation had been presented as it referred to the number of the rule that was being changed and considered this required a familiarity and understanding of the scheme.

One respondent and two of the Government Departments offered suggestions of a drafting nature.

The remaining two Government Departments had no comments to make.

The remaining 9 individual respondents supported a member notice circulated by Prospect which claimed that the change to the rule concerning Comparable Alternative Employment was outrageous and contrary to any reasonable interpretation of the term "comparable alternative employment". Prospect recommended that instead, the definition of "comparable alternative employment" used in the Local Government Pension Scheme be substituted.

Apart from the above comments regarding comparable alternative employment, the remaining comments received from Prospect were broadly positive. These comments related to other aspects of the scheme as follows:

De minimus levels

Prospect considered it reasonable for there to be de minimus levels and that they apply equally to under and overpayments.

Pensionable service

Prospect noted that the explanatory memorandum stated that this amendment covers Mental Health Officers but the Scheme rules suggest they also cover Pre-Fresh Start Prison Officers. Prospect also noted that whilst there are no age discrimination regulations in the Isle of Man if there were these rules might fall foul of them – and Prospect understood that the IOM Government is committed to best practice on equality issues. However, Prospect noted that as the limits already exist, the amendment scheme just clarifies them so there is no issue with the amendment scheme itself on this point.

Pensionable pay

Prospect considered that the amendment scheme is codifying what actually happens in practice. Prospect also sought clarification that if a pay increase was awarded late would it be accounted for in the calculation of pension award?

Lump sum on retirement

Prospect assumed this amendment reflects what firefighters and their representatives understood to currently be the case.

Transfers to this scheme

Prospect sought clarification that this amendment was administrative in nature, but didn't view it as being to the disadvantage of members so did not have a major issue with it.

Death in retirement – 5 year guarantee

During the consultation exercise, the PSPA was advised of an additional area in which, in the view of the respondent the Scheme Rules required clarification. In particular they noted that should a pensioner member die within 5 years of their pension becoming payable, a

lump sum is payable of an amount equal to 5 years pension less the amount of any pension paid up to the date of death. The respondent suggested that the rules relating to this needed clarifying that no account should be taken of payment of part of a month's pension to the deceased member in the month in which the member died.

Part 4 – Conclusions

The Public Sector Pensions Authority (PSPA) having carefully considered the comments made wishes to comment as follows:

Comparable Alternative Employment

The definition of "Comparable Alternative Employment" was suggested with regard to rule 37 and rule 38 of the Government Unified Scheme (GUS) rather than as a definition of Comparable Alternative Employment to be used when deciding if an employee meets the criteria for Lower Tier Ill Health. Rules 37.8 and Rule 37.9a deal with the re-employment of pensioners either in government or outside of government. Rules 38.4 and Rule 38.5 deal with the re-employment of deferred pensioners in the same way.

GUS allows members in receipt of an ill-health retirement pension to continue to work to supplement their ill-health retirement pension, providing their earnings together with their ill-health pension doesn't exceed 90% of their pre-retirement annual pensionable pay. A scheme member who receives an ill-health retirement pension and takes up employment that takes them over the 90% threshold will have their ill-health pension abated.

However, the PSPA does intend to revise the draft Amendment Scheme to clarify that the definition of "comparable alternative employment" referred to applies only when assessing whether an existing ill-health pensioners ill-health pension should be abated on account of resumption of employment and not when assessing whether a member is eligible for the grant of Lower Tier Ill-health benefit in the first instance as this is a distinctly separate and different issue.

Therefore the definition of Comparable Alternative Employment below will apply to rules 14.3, 37.8, 37.9(a), 38.4 and 38.5(a) only.

"Comparable Alternative Employment" in relation to rules 14.3, 37.8, 37.9(a), 38.4 and 38.5(a) means employment, whether with an Employing Authority or not, in respect of which a Pensioner Member's annual earnings when added to their pension from this scheme is equal to or exceeds 90% of the value of the Pensioner Members pre-retirement annual pensionable pay, increased, in respect of each 12 month period after the date before the first day they take up re-employment, in line with the Index the date at which the Pensioner Member commences re-employment."

The definition used in the assessment as to whether or not a member meets the criteria for an ill-health retirement is as laid out in the PSPA [Ill-health Retirement Guide](#) on the PSPA website (www.pspa.im) under the Unified Scheme heading, where a copy of the [GUS Rules](#) can also be found under Resources – Forms and Publications.

Nomination by single persons of family members to receive a pension or lump sum

In relation to the comment relating to single scheme members being unable to nominate a family member to receive a pension in the event of their death and the view that this discriminated against single persons, the PSPA makes the following comments.

There are two types of nominations that can be made in the Unified Scheme:

- (a) nominations for a lump sum death benefit; and
- (b) nomination of a Surviving Nominated Partner to receive a pension.

With regard to (a) lump sum death benefits, under the rules of the Isle of Man Government Unified Scheme 2011 a lump sum death benefit is payable if a member dies in service. Members can nominate any individual (including a child or family member) or an incorporated or unincorporated body, for example a bank, partnership or a firm of advocates. The amendment clarifies this within the scheme Rules, which are the legal basis under which the scheme is administered.

With regard to (b) under the Rules of the Scheme, members may nominate a Surviving Nominated Partner (spouse, civil or nominated) to receive a pension. In the event of the members death a pension may be paid to a Surviving Nominated Partner and any dependent children.

The PSPA has not amended the scheme rules to in relation to (b) given that in the overarching pensions legislation in either the Isle of Man or in the United Kingdom 'survivors pensions' are generally only provided to those individuals who have a legal or financial dependency on the member at the point of death.

Eligibility and Joining the Scheme

This concerns an administrative amendment to rule 14.1 which expands the current rule to include those pensioners who are in receipt of a public sector pension attributable to previous pensionable service covered by their previous public sector employment.

Currently rule 14.1 prevents members already receiving a pension under GUS from joining the scheme. The amendment expands this definition, so that those who in future who are receiving a pension from one of the old schemes whose members transferred into GUS are also unable to join GUS. It does not prevent members from continuing to receive their pension, should they return to work for an Employing Authority whose employees are eligible to join GUS, but prevents these pensioners from joining the scheme.

The PSPA wishes to confirm that this amendment will not be applied retrospectively and that those already in receipt of a Government pension calculated under the members old scheme rules, but have taken up employment and thereby are active members of GUS, will not be penalised or their pension be subjected to change.

De-Minimus Levels

From time to time after making a payment, the PSPA is informed of a change in the members pay which reduces or increases their final pensionable pay. Final pensionable pay is the pay used to work out members benefits and is the annual average of the best three consecutive years pay in the last 13 years, revalued (except for the last year's pay) by the increase in inflation. Where this results in an overpayment, or underpayment of pension, Cash Equivalent Transfer, refund of contributions or other award, the PSPA is proposing to ignore it unless requested not to do so by the member, if the difference in Final Pensionable Pay is not more than £20 in the case of Cash Equivalent Transfers and not more than £10 in the case of other awards.

Pensionable Service

Although the rule that this amendment applies to refers to Pre-Fresh Start Prison Officer's as well as Mental Health Officers (MHO's), it only affects MHO's as there are no longer any active Pre-Fresh Start Prison Officer members who would be affected by this.

Pensionable pay

This amendment reflects current employer and PSPA administrative practice when recording member's annual pensionable pay, in that the pensionable pay recorded is that which is actually paid to a member in any scheme year (1st April to 31st March), rather than what may be due to a member in any particular period. Pay increases applied late after the making of an award would lead to a revision being made to that award.

Lump sum on retirement

This administrative amendment clarifies the existing rule 41.4 to ensure that the commutation rates at Table 2 can apply only to those Section 7 members (firefighters), who at the time of joining the Unified Scheme, were eligible for these rates. Specifically it applies to a group of firefighters who were existing members of the 'Firemen's Scheme' on their transfer to GUS and protected the commutation rates which they (already) had under their old scheme. The amendment does not change scheme provisions.

Transfers to this scheme

This is administrative in nature and clarifies the pay to be used to calculate the pensionable service purchased by a transfer in payment to the scheme, in particular in those cases where there is a late receipt of a transfer payment.

Legislative Drafting Comments

The comments made with regard to legislative drafting have been noted and amendments to the final draft of the Scheme have been made where appropriate.

Next Steps

The PSPA will therefore proceed to finalise the Isle of Man Government Unified Scheme (Amendment) Scheme 2015 for implementation and will recommend to the Council of Ministers that the Scheme be approved and thereafter, passed to Tynwald for approval.

List of respondents to the Consultation

14 individuals.

4 Government Departments.

1 Trade Union