

2015 No. 57

PUBLIC SERVICE PENSIONS, ENGLAND AND WALES

**The Local Government Pension Scheme (Amendment)
(Governance) Regulations 2015**

Made - - - - - *26th January 2015*

Laid before Parliament *28th January 2015*

Coming into force in accordance with regulation 1(3)

These Regulations are made in exercise of the powers conferred by sections 1, 3, 5(7), 7(2), 12(6) and 12(7) of, and Schedule 3 to, the Public Service Pensions Act 2013(a).

In accordance with section 21 of that Act, the Secretary of State has consulted the representatives of such persons as appeared to the Secretary of State to be likely to be affected by these Regulations.

In accordance with section 3(5) of that Act, these Regulations are made with the consent of the Treasury.

The Secretary of State makes the following Regulations:

Citation, interpretation, commencement and extent

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment) (Governance) Regulations 2015.

(2) In these Regulations “the Principal Regulations” means the Local Government Pension Scheme Regulations 2013(b).

(3) These Regulations come into force as follows—

- (a) on 20th February 2015, this regulation and regulations 2, 8 and 9—
 - (i) so far as they insert regulation 105 (delegation) into the Principal Regulations,
 - (ii) so far as they insert regulation 106 (local pension boards: establishment) into the Principal Regulations for the purposes of the obtaining of approval from the Secretary of State under paragraphs (2) to (4) of that regulation, and
 - (iii) so far as they insert regulations 107 (local pensions boards: membership), 108 (local pensions boards: conflicts of interest), 111 (scheme advisory board: membership) and 112 (scheme advisory board: conflict of interest) into the Principal Regulations

(a) 2013 c. 25. Sections 5, 7 and 12 of that Act come into force in relation to regulations relating to local government workers on 1 April 2015 – see S.I. 2015/4.

(b) S.I. 2013/2356.

for the purposes of appointment of members of local pension boards and the Local Government Pension Scheme Advisory Board; and

(b) on 1st April 2015—

- (i) this regulation and regulations 2, 8 and 9 so far as not already commenced, and
- (ii) the remainder of these Regulations.

(4) These Regulations extend to England and Wales.

Amendment of the Local Government Pension Scheme Regulations 2013

2. The Principal Regulations are amended in accordance with regulations 3 to 9.

3. Omit regulation 53(4) (scheme managers: establishment of pension board).

4. In regulation 55(1)(d) for “regulation 53(4) (Scheme managers)” substitute “regulation 106 (local pension boards: establishment)”.

5. Omit regulation 63 (aggregate Scheme costs).

6. Omit regulation 65 (aggregate Scheme costs: revised certificates).

7. In regulation 66 (supply of copies of valuations, certificates etc) for “regulations 62 (actuarial valuations of pension funds), 64 (special circumstances where revised actuarial valuations and certificates must be obtained) or 65 (aggregate Scheme costs: revised certificates)” substitute “regulations 62 (actuarial valuation of pension funds) or 64 (special circumstances where revised actuarial valuations and certificates must be obtained)”.

8. In Schedule 1 (interpretation)—

(a) after the entry for “local government service” insert—

““Local Government Pension Scheme Advisory Board” means the board established under regulation 110 (Scheme advisory board: establishment);

“local pension board” means a board established under regulation 106 (local pension boards: establishment);” and

(b) after the entry for “the Scheme” insert—

““Scheme actuary” means the actuary appointed under regulation 114 (Scheme actuary);”.

9. After regulation 104(a) insert—

“PART 3

Governance

Delegation

105.—(1) The Secretary of State may delegate any function under these Regulations.

(2) An administering authority may delegate any function under these Regulations including this power to delegate.

Local pension boards: establishment

106.—(1) Each administering authority shall no later than 1st April 2015 establish a pension board (“a local pension board”) responsible for assisting it—

(a) Regulation 104 was inserted by S.I. 2014/1146.

- (a) to secure compliance with—
 - (i) these Regulations,
 - (ii) any other legislation relating to the governance and administration of the Scheme and any connected scheme^(a), and
 - (iii) any requirements imposed by the Pensions Regulator in relation to the Scheme and any connected scheme; and
- (b) to ensure the effective and efficient governance and administration of the Scheme and any connected scheme.

(2) Where the Scheme manager is a committee of a local authority the local pension board may be the same committee if approval in writing has been obtained from the Secretary of State.

(3) Where the administration and management of a Scheme is wholly or mainly shared by two or more administering authorities, those administering authorities may establish a joint local pension board if approval in writing has been obtained from the Secretary of State.

(4) Approval under paragraphs (2) or (3) may be given subject to such conditions as the Secretary of State thinks fit.

(5) The Secretary of State may withdraw an approval if any conditions under paragraph (4) are not met or if in the opinion of the Secretary of State it is no longer appropriate for the approval to continue.

(6) Subject to paragraph (7), an administering authority may determine the procedures applicable to a local pension board, including as to the establishment of sub-committees, formation of joint committees and payment of expenses.

(7) Except where a local pension board is a committee approved under paragraph (2), no member of a local pension board shall have a right to vote on any question unless that member is an employer representative or a member representative^(b).

(8) A local pension board shall have the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

(9) The expenses of a local pension board are to be regarded as part of the costs of administration of the fund held by the administering authority.

Local pension boards: membership

107.—(1) Subject to this regulation each administering authority shall determine—

- (a) the membership of the local pension board;
- (b) the manner in which members of the local pension board may be appointed and removed;
- (c) the terms of appointment of members of the local pension board.

(2) An administering authority must appoint to the local pension board an equal number, which is no less than 4 in total, of employer representatives and member representatives and for these purposes the administering authority must be satisfied that—

- (a) a person to be appointed to the local pension board as an employer representative has the capacity to represent employers; and
- (b) a person to be appointed to the local pension board as a member representative has the capacity to represent members.

(3) Except where a local pension board is a committee approved under regulation 106(2) (committee that is a Scheme manager is also local pension board)—

(a) See section 4(6) of the Public Service Pensions Act 2013 for the definition of connected scheme.
 (b) See section 5(6) of the Public Service Pensions Act 2013 for definitions of these terms.

- (a) no officer or elected member of an administering authority who is responsible for the discharge of any function under these Regulations (apart from any function relating to local pension boards or the Local Government Pension Scheme Advisory Board) may be a member of the local pension board of that authority; and
- (b) any elected member of the administering authority who is a member of the local pension board must be appointed as either an employer representative or a member representative.

(4) Where a local pension board is a committee approved under regulation 106(2) (committee that is a Scheme manager is also local pension board) the administering authority must designate an equal number which is no less than 4 in total of the members of that committee as employer representatives and member representatives and for these purposes the administering authority must be satisfied that—

- (a) a person to be designated as an employer representative has the capacity to represent employers; and
- (b) a person to be designated as a member representative has the capacity to represent members.

Local pension boards: conflict of interest

108.—(1) Each administering authority must be satisfied that any person to be appointed as a member of a local pension board does not have a conflict of interest^(a).

(2) An administering authority must be satisfied from time to time that none of the members of a local pension board has a conflict of interest.

(3) A person who is to be appointed as a member of a local pension board by an administering authority must provide that authority with such information as the authority reasonably requires for the purposes of paragraph (1).

(4) A person who is a member of a local pension board must provide the administering authority which made the appointment with such information as that authority reasonably requires for the purposes of paragraph (2).

Local pension boards: guidance

109. An administering authority must have regard to guidance issued by the Secretary of State in relation to local pension boards.

Scheme advisory board: establishment

110.—(1) A scheme advisory board (“the Local Government Pension Scheme Advisory Board”) is established.

(2) The function of the Local Government Pension Scheme Advisory Board is to provide advice to the Secretary of State on the desirability of making changes to the Scheme.

(3) The Local Government Pension Scheme Advisory Board also has the function of providing advice to administering authorities and local pension boards in relation to the effective and efficient administration and management of the Scheme and any connected scheme and their pension funds.

(4) Subject to these Regulations, the Local Government Pension Scheme Advisory Board may determine its own procedures including as to voting rights, the establishment of sub-committees, formation of joint committees and the payment of remuneration and expenses.

(a) See section 5(5) of the Public Service Pensions Act 2013 for the meaning of “conflict of interest”.

(5) The Local Government Pension Scheme Advisory Board shall have the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

Scheme advisory board: membership

111.—(1) The Local Government Pension Scheme Advisory Board shall consist of a Chairman and at least 2, and no more than 12 members appointed by the Secretary of State.

(2) When deciding whether to make appointments under paragraph (1), the Secretary of State must have regard to the desirability of there being equal representation of persons representing the interests of Scheme employers and persons representing the interests of members.

(3) A member of the Local Government Pension Scheme Advisory Board is to hold and vacate office in accordance with the terms of that member's appointment.

(4) The Chairman of the Local Government Pension Scheme Advisory Board may, with the agreement of the Board, appoint a maximum of 3 persons to be non-voting advisory members of the Board.

(5) An advisory member of the Local Government Pension Scheme Advisory Board is to hold and vacate that position in accordance with the terms of that member's appointment.

(6) The Chairman of the Local Government Pension Scheme Advisory Board may, with the agreement of the Board, appoint persons who are not members of the Local Government Pension Scheme Advisory Board to be members of sub-committees of that Board.

(7) A member of a sub-committee of the Local Government Pension Scheme Advisory Board is to hold and vacate office in accordance with the terms of that member's appointment.

Scheme advisory board: conflict of interest

112.—(1) Before appointing any person to be a member of the Local Government Pension Scheme Advisory Board, the Secretary of State must be satisfied that the person does not have a conflict of interest^(a).

(2) The Secretary of State must be satisfied from time to time that none of the members of the Local Government Pension Scheme Advisory Board has a conflict of interest.

(3) A person who is to be appointed as a member of the Local Government Pension Scheme Advisory Board must provide the Secretary of State with such information as the Secretary of State reasonably requires for the purposes of paragraph (1).

(4) A person who is a member of the Local Government Pension Scheme Advisory Board must provide the Secretary of State with such information as the Secretary of State reasonably requires for the purposes of paragraph (2).

Scheme advisory board: funding

113.—(1) The expenses of the Local Government Pension Scheme Advisory Board are to be treated as administration costs of the Scheme and are to be defrayed by the administering authorities within the Scheme in such proportions as shall be determined by the Board.

(2) The Local Government Pension Scheme Advisory Board must identify the amount to be paid by each administering authority towards its annual costs based on—

(a) its annual budget approved by the Secretary of State; and

(a) See section 7(5) of the Public Service Pensions Act 2013 for the meaning of "conflict of interest".

(b) the number of persons for which the administering authority is the appropriate administering authority.

(3) An administering authority must pay the amount it is required to pay under this regulation at such time or times as the Local Government Pension Scheme Advisory Board may determine.

Scheme actuary

114.—(1) The Secretary of State must appoint an actuary as Scheme actuary to carry out valuations of the Scheme and any connected scheme in accordance with Treasury directions made under section 11 of the Public Service Pensions Act 2013^(a) (“the Treasury directions”).

(2) The person appointed as Scheme actuary under paragraph (1) must, in the opinion of the Secretary of State, be appropriately qualified to carry out a valuation of the Scheme.

(3) The Secretary of State must secure that the Scheme actuary carries out actuarial valuations of the assets and liabilities of the Scheme on the dates specified in regulation 62(1)(a) (actuarial valuations of pension funds) and prepare valuation reports in accordance with the Treasury directions, within such period as enables the requirements in those directions to be met.

(4) An administering authority must provide the Scheme actuary with any data that the Scheme actuary reasonably requires, in accordance with the Treasury directions, in order to carry out a valuation and prepare a report on the valuation.

Employer cost cap

115.—(1) The employer cost cap for the Scheme is 14.6% of pensionable earnings of members of the Scheme.

(2) Where the cost of the Scheme, calculated following a valuation in accordance with Treasury directions under section 11 of the Public Service Pensions Act 2013 is more than the margins specified in regulations made under section 12(5) of the Public Service Pensions Act 2013^(b) (“the Cost Cap Regulations”) above or below the employer cost cap, the Secretary of State must follow the procedure specified in paragraph (3) for reaching agreement with administering authorities, employers and members (or representatives of employers and members) as to the steps required to achieve the target cost specified in the Cost Cap Regulations.

(3) The procedure specified for the purposes of section 12(6)(a) of the Public Service Pensions Act 2013 is consultation for such period as the Secretary of State considers appropriate with the Local Government Pension Scheme Advisory Board with a view to reaching an agreement endorsed by all members of that Board.

(4) If, following such consultation, agreement is not reached within 3 months of date on which the consultation period ends, the Secretary of State must take steps to adjust the rate at which benefits accrue under regulation 23(4) or (5) (active member’s pension accounts) so that the target cost for the Scheme is achieved.

Scheme advisory board: additional functions

116.—(1) The Local Government Pension Scheme Advisory Board (“the Board”) must obtain a Scheme cost assessment from the Scheme actuary detailing the overall cost of the Scheme and the proportions of that cost being met by Scheme employers and members on the dates specified in regulation 62(1)(a) (actuarial valuations of pension funds).

(a) 2013 c. 25.

(b) 2013 c. 25; see regulation 3 of S.I. 2014/575.

(2) Subject to paragraphs (5) and (6), where the overall cost of the Scheme is above or below the target overall cost, the Board may make recommendations to the Secretary of State as to the steps to take to bring the overall cost of the Scheme back to the target overall cost.

(3) Where the proportion of the overall cost of the Scheme which is met by contributions by employers is above or below the target proportion, the Board may make recommendations to the Secretary of State as to the steps to take to bring the proportion of the overall cost of the Scheme which is met by contributions by employers and members back to the target proportion.

(4) The Board must, before obtaining a Scheme cost assessment under paragraph (1), prepare and publish a statement setting out its policy concerning recommendations to the Secretary of State about the steps to be taken to bring the overall cost of the Scheme back to the target overall cost and the proportions of that cost met by Scheme employers and members, back to the target proportion.

(5) The Board must not make recommendations under paragraph (2) if steps are required to be taken under regulation 115 (employer cost cap).

(6) Subject to paragraph (5) the Board must make recommendations under paragraph (2) if the overall cost of the Scheme is above or below the target overall cost by 2% or more of pensionable earnings of members.

(7) In this regulation—

“the overall cost of the Scheme” means the total cost as calculated by the Scheme actuary as part of a Scheme cost assessment making use of the data provided under regulation 114(4) (Scheme actuary) according to such methodology and assumptions as are determined by the Board;

“the target overall cost” is 19.5% of the pensionable earnings of members of the Scheme;

“the target proportion” means Scheme employers meeting two-thirds and members meeting one-third of the overall cost of the Scheme.

(8) Each administering authority must provide the Scheme actuary with any data that the Scheme actuary requires in order to carry out any valuations and produce reports in accordance with directions from the Board for the purposes of this regulation.

(9) Unless the Board is prevented by paragraph (5) from making recommendations under this regulation, it must, within 23 months of the date on which a Scheme cost assessment is obtained under paragraph (1), publish a report setting out—

- (a) the overall cost of the Scheme;
- (b) the proportions of the overall costs of the Scheme met by employers and members;
- (c) the assumptions and methodology used by the Scheme actuary; and
- (d) any recommendations made to the Secretary of State under this regulation.

(10) The Board must send a copy of a report published under paragraph (9) to the Secretary of State and the Scheme actuary.

(11) The Secretary of State must publish a response to a report received under paragraph (10) within six months of the date on which that report is received.”.

We consent to the making of these Regulations

Mark Lancaster
Gavin Barwell

23rd January 2015

Two of the Lords Commissioners of Her Majesty's Treasury

Signed by authority of the Secretary of State for Communities and Local Government

Kris Hopkins

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Government Pension Scheme Regulations 2013 (“the 2013 Regulations”) to make provision in respect of governance of the Scheme.

Regulation 1 commences the substantive provisions from 20th February 2015 for the purposes of making appointments to local pension boards and the Scheme Advisory Board, and brings the provisions fully into force from 1st April 2015.

Regulations 3 to 8 make minor amendments to the 2013 Regulations consequential to the substantive provisions.

Regulation 9 inserts a new Part 3 into the 2013 Regulations.

New regulation 105 permits the Secretary of State to delegate functions under the 2013 Regulations. It permits administering authorities to delegate their functions and also for any delegated function to be sub-delegated.

New regulations 106 to 109 make provision for each administering authority to establish a local pension board to assist it to comply with its legal obligations relating to the Scheme. Where a local authority discharges its pension functions through a committee, it can, with the approval of the Secretary of State appoint that existing committee to be the local pension board. Local pension boards must have equal representation of employer representatives and member representatives who must not be officers or councillors of the administering authority responsible for the discharge of local government pension functions.

Regulations 110 to 113 establish the Local Government Pension Scheme Advisory Board to advise the Secretary of State, administering authorities and local pension boards in relation to the Scheme. Provision is made for the appointment of members to the Board and for its funding.

Regulation 114 requires the Secretary of State to appoint a Scheme actuary to carry out valuations of the Scheme.

Regulation 115 sets the employer cost cap and requires the Secretary of State to seek agreement from those affected as to the changes to the design of the Scheme necessary to bring costs back to that level if valuation reports indicate that costs have varied by more than a margin specified in regulations made by the Treasury. If agreement can not be reached the Secretary of State must make amendments to the Scheme to vary the rate of accrual of benefits to bring the costs of the Scheme back to the employer cost cap level.

Regulation 116 confers additional functions on the Local Government Pension Scheme Advisory Board to monitor the overall costs of the Scheme and the proportion of those costs met by employers and members respectively and to make recommendations to the Secretary of State for changes to the Scheme where overall costs or respective proportions met by employer or member contributions vary from the initial costs.

No impact assessment has been prepared for this instrument as no impact on the costs of business or the voluntary sector is foreseen.

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