

2015 No. 60

PUBLIC SERVICE PENSIONS

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

Made - - - - - *17th February 2015*

Laid before the Scottish Parliament *19th February 2015*

Coming into force - - - *1st April 2015*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 1, 2, 5 and 7 of, and paragraph 3(b) of Schedule 2 to, the Public Service Pensions Act 2013(a) and all other powers enabling them to do so.

In accordance with section 21 of that Act, they consulted representatives of such persons as appeared to them likely to be affected by these Regulations.

Citation, extent, commencement and interpretation

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

(2) These Regulations extend to Scotland.

(3) These Regulations come into force on 1st April 2015.

(4) In these Regulations—

“the 2014 Regulations” mean the Local Government Pension Scheme (Scotland) Regulations 2014(b);

“Pension Board” means a pension board established under regulation 5;

“Pension Committee” means the committee of a scheme manager with responsibility for pensions;

“the Pensions Regulator” means the Pensions Regulator established by section 1 of the Pensions Act 2004(c);

“relevant fund” means the pension fund or funds managed by a scheme manager in relation to whom a Pension Board has been established;

“relevant trade unions” means those trade unions which are accustomed from time to time to represent employees of local government in Scotland in negotiations with scheme employers;

“the Scheme” means the Local Government Pension Scheme established by the 2014 Regulations;

(a) 2013 c.25.
(b) S.S.I. 2014/164.
(c) 2004 c.35.

“scheme employer” means a scheme employer listed in Part 1 of Schedule 2 to the 2014 Regulations or an admission body described in paragraph 1 of Part 2 of that Schedule; and
“scheme manager” means an administering authority for the Scheme listed in Schedule 3 to the 2014 Regulations.

Scheme Advisory Board

- 2.—(1) There is established an advisory board (“the Scheme Advisory Board”).
- (2) The Scheme Advisory Board’s main functions are—
- (a) to provide advice to the Scottish Ministers, at the Scottish Ministers’ request, on the desirability of changes to the Scheme; and
 - (b) to provide advice (on request or otherwise) to the scheme managers or the Scheme’s pension boards in relation to the effective and efficient administration and management of—
 - (i) the Scheme and any statutory pension scheme that is connected with it; and
 - (ii) any pension fund of the Scheme and any connected scheme.

Constitution of the Scheme Advisory Board

- 3.—(1) The Scheme Advisory Board is to comprise—
- (a) 7 representatives appointed by scheme employers; and
 - (b) 7 representatives appointed by relevant trade unions.
- (2) Each set of representatives referred to in paragraph (1) is to nominate one of their number for appointment as Chair of the Scheme Advisory Board.
- (3) The persons nominated under paragraph (2) are to be appointed as Chair of the Scheme Advisory Board for alternate years.
- (4) No person may be appointed as Chair of the Scheme Advisory Board unless that appointment has been approved by the Scottish Ministers.
- (5) The Scheme Advisory Board is to have two Joint Secretaries, one of whom is to be appointed by the scheme employers and the other by relevant trade unions.
- (6) Persons other than members of the Scheme Advisory Board may attend meetings of the Scheme Advisory Board (at the discretion of the Chair as to numbers).
- (7) The reasonable administration costs of the Scheme Advisory Board are to be met out of the relevant funds.

Conflicts of interest

- 4.—(1) A person—
- (a) may not be appointed as a member of the Scheme Advisory Board unless the Scottish Ministers are satisfied that the person does not have a conflict of interest; and
 - (b) may not continue as a member of the Scheme Advisory Board if the Scottish Ministers are no longer satisfied that the person does not have a conflict of interest.
- (2) The Scottish Ministers must from time to time satisfy themselves that none of the members of the Scheme Advisory Board has a conflict of interest.
- (3) A member of the Scheme Advisory Board, or a person proposed to be appointed as a member of the Scheme Advisory Board, must provide the Scottish Ministers with such information as the Scottish Ministers reasonably require for the purposes of paragraphs (1) and (2).

Pension Boards

5.—(1) There is established in relation to each scheme manager a board with responsibility for assisting the scheme manager in relation to the matters specified in paragraph (2) (a “Pension Board”).

(2) Those matters are—

- (a) securing compliance with the 2014 Regulations and other legislation relating to the governance and administration of the Scheme and any statutory pension scheme that is connected with it;
- (b) securing compliance with requirements imposed in relation to the Scheme and any connected scheme by the Pensions Regulator.

Constitution of Pension Board

6.—(1) A Pension Board is to comprise an equal number of representatives appointed by scheme employers and relevant trade unions.

(2) A Pension Board is to comprise at least—

- (a) 4 representatives appointed by scheme employers; and
- (b) 4 representatives appointed by relevant trade unions.

(3) Each set of representatives referred to in paragraph (1) is to nominate one of their number for appointment as Chair of the Pension Board of which they are a member.

(4) The persons nominated under paragraph (3) are to be appointed as Chair of the Pension Board for alternate years.

(5) A Pension Board is to have two Joint Secretaries, one of whom is to be appointed by the scheme employers and the other by relevant trade unions.

(6) Persons other than the members of a Pension Board may attend meetings of that Board (at the discretion of the Chair as to numbers).

(7) The Scottish Ministers may publish a model constitution setting out administrative arrangements for Pension Boards which a Pension Board may adopt or tailor to their circumstances.

(8) In the case of disagreement on a matter relating to the establishment of a constitution, the Pension Board is to apply to the Scheme Advisory Board for advice on resolving the disagreement.

(9) The reasonable administration costs of a Pension Board are to be met out of the relevant fund.

(10) A Pension Board—

- (a) is to meet at the same place and time as the Pension Committee of the scheme manager to consider the same agenda as the Committee; but
- (b) the Pension Board may meet separately from the Pension Committee with the agreement of the Pension Committee.

(11) If a meeting to which paragraph (10)(a) refers takes place the Chair of the Pension Committee is entitled to act as Chair of that meeting.

Conflicts of interest

7.—(1) A person—

- (a) may not be appointed as a member of a Pension Board unless the scheme manager is satisfied that the person does not have a conflict of interest; and
- (b) may not continue as a member of the Pension Board if the scheme manager is no longer satisfied that the person does not have a conflict of interest.

(2) The scheme manager must from time to time satisfy themselves that none of the members of the Pension Board has a conflict of interest.

(3) A member of the Pension Board, or a person proposed to be appointed as a member of the Pension Board, must provide the scheme manager with such information as the scheme manager reasonably requires for the purposes of paragraphs (1) and (2).

Remit of Pension Board

8.—(1) A Pension Board may, in carrying out its duties under regulation 5, consider any matter concerning pensions it deems relevant to the activities of the relevant fund including—

- (a) any reports produced for the Pension Committee;
- (b) the annual report referred to in regulation 55 of the 2014 Regulations;
- (c) external voting and engagement provisions of the fund in respect of the fund's investments;
- (d) fund performance and administration;
- (e) actuarial reports and valuations in respect of the relevant fund; and
- (f) funding strategy in respect of the relevant fund.

(2) A Pension Board may monitor the investments of the relevant fund and its investment principles and strategy and any guidance to which it is subject.

(3) A Pension Board may seek a report from the scheme manager on any aspect of the relevant fund and the scheme manager must provide such a report within a timescale agreed by the Board and the scheme manager.

Pension Board and Pension Committee differences

9.—(1) If, in carrying out their duties under regulation 5, at least half of the members of a Pension Board disagree with a decision of the relevant Pension Committee, the Board may request the Pension Committee in writing to review that decision.

(2) The grounds of review referred to in paragraph (1) are that—

- (a) there is evidence or data on which the Pension Committee relied when making their decision which is considered to be unreliable or there is new evidence or data which the Pension Committee did not access or was not aware of at the point of making the decision which is considered material to the decision taken;
- (b) the decision of the Pension Committee is arguably beyond the powers of the 2014 Regulations or otherwise unlawful;
- (c) the decision of the Pension Committee is contrary to a relevant Code of Practice published by the Pensions Regulator; or
- (d) the decision is not in the interest of the continued financial viability of the Scheme or the relevant fund or is against the principles of proper and responsible administration of the Scheme or relevant fund.

(3) If there remains disagreement after the Pension Committee has reviewed its decision, then the difference in view between the Pension Committee and the Pension Board is to be published in the form of a joint secretarial report on the website for the relevant fund and included in the annual report referred to in regulation 55 of the 2014 Regulations.

(4) Where paragraph (3) applies, the Scheme Advisory Board may (either on its own initiative or at the request of one of the disagreeing parties) consider the relevant decision, take a view on the matter and, if considered appropriate, provide advice to the scheme manager or the Pension Board in relation to the matter.

St Andrew's House,
Edinburgh
17th February 2015

JOHN SWINNEY
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations include provisions relating to the establishment of a Scheme Advisory Board and pension boards for the purposes of the Local Government Pension Scheme.

Regulation 2 establishes the Scheme Advisory Board whose main functions are (a) to provide advice to the Scottish Ministers on the desirability of changes to the Scheme; and (b) to provide advice to the scheme managers or the Scheme's pension boards.

Regulation 3 provides for the constitution of the Scheme Advisory Board, providing that it must have equal representation on it of 7 scheme employer and 7 relevant trade union representatives chosen by their respective organisations.

Regulation 4 provides against conflicts of interest of members of the Scheme Advisory Board.

Regulation 5 provides for the establishment for each scheme manager of a Pension Board with responsibility for assisting the scheme manager.

Regulation 6 provides for the constitution of pension boards, again with equal representation of Scheme employers and relevant Trade Unions.

Regulation 7 provides against conflicts of interest of members of pension boards.

Regulation 8 sets out the remit of pension boards.

Regulation 9 provides for a process of review in case of a disagreement on certain matters between a Pension Board and a Pension Committee.

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