

POLICY NOTE

THE LOCAL GOVERNMENT PENSION SCHEME (GOVERNANCE) (SCOTLAND) REGULATIONS 2015

SSI 2015/60

1. Purpose of the instrument

The Scottish Ministers, having had regard to the desirability of securing the effective and efficient governance and administration of the Scheme and any connected scheme, make the following Regulations in exercise of the powers conferred by section 1 of the Public Service Pensions Act 2013() (“the 2013 Act”) and all other powers enabling them to do so.

In accordance with section 21 of the 2013 Act, Scottish Ministers consulted the representatives of such persons as appeared to them likely to be affected by these Regulations. These Regulations will be made under section 1 of the Public Service Pensions Act 2013 and include provisions in relation to Pension boards and a Scheme Advisory Board that are required to be included in regulations made under that section, in terms of sections 5 and 7 of that Act.

They also include further provisions agreed by the Scottish Local Government Pension Scheme Advisory Group for the new Local Government Pension Scheme (contained in the Local Government Superannuation Regulations (Scotland) 2014) and agreed in a series of bilateral meetings between COSLA and the Trade Unions representing local government employees in Scotland.

2. Legislative context

2.1 The Public Service Pensions Act 2013 (the 2013 Act) set out requirements for scheme governance, regulation and administration to ensure transparency and accountability following the review of public sector pensions by Lord Hutton of Furness in 2011.

2.2 The Act introduced a new governance framework, recommending independent oversight by The Pensions Regulator (TPR) for public sector pension schemes. It also introduced a number of mandatory roles including Responsible Authority; Scheme Manager; Pension Board and Scheme Advisory Board.

2.3 The Scottish Local Government Advisory Group discussed and agreed the new governance framework which sets out the mandatory roles required by the 2013 Act and are written into this statutory instrument.

3. Territorial Extent and Application

This instrument applies to Scotland.

4. Policy background

4.1 During the previous scheme reforms in 2008, the 'Heads of Agreement' set out plans to encourage good practice in governance arrangements around advisory, consultation and communication arrangements for the Local Government fund authorities, by setting out the minimum standards of governance that were expected of Scottish Local Government pension funds in those respects.

4.2 In 2011 guidance was issued to all administering authorities in Scotland with statutory responsibilities under the Local Government Pension Scheme (LGPS) setting out compliance standards against which LGPS administering authorities were asked to measure their governance arrangements.

4.3 The reform of the LGPS Governance arrangements follows in the wake of Lord Hutton's report of March 2011 and the resulting Public Service Pensions Act 2013.

4.4 The policy intention is to introduce this new statutory governance framework and set out the mandatory roles of Responsible Authority; Scheme Manager; Pension Board and Scheme Advisory Board which also includes independent oversight by The Pensions Regulator.

5. Consultation

A six week technical consultation exercise on the draft Local Government Pension Scheme (Governance) (Scotland) Regulations commenced on 30 September 2014 and ended on 11 November 2014. The results of the consultation can be found on the SPPA website at www.sppa.gov.uk/localgovernment/consultations.

6. Impact Assessments

6.1 An [Equality Impact Assessment](#) was completed before the introduction of the new Local Government Pension Scheme (Scotland) Regulations in 2014. The Governance requirements of the new scheme were discussed and agreed in consultation. The regulations ensure that all members and employers are represented and that the systems, processes and controls across key governance functions are consistent with those set out in The Pensions Regulator's Code of practice 13 (Governance and administration of occupational defined contribution trust-based schemes) and therefore it is considered that the Governance regulations do not require a separate assessment.

6.2 A [Business and Regulatory Impact Assessment](#) was carried out for the purposes of the the new Local Government Pension Scheme (Scotland) Regulations in 2014. It has been agreed in consultation that the costs incurred as a result of setting up the new pension boards and Scheme Advisory Board will be met from the appropriate fund authorities.

The new governance requirements of the new Local Government Pension Scheme 2015 scheme follow from the new scheme and it is considered that the Governance regulations do not require a separate assessment.

An executive summary is attached at Annex A of this note for ease of reference.

7. **Contact**

If you have any queries regarding this instrument, please contact Kimberly Linge at the Scottish Public Pensions Agency;
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Scottish Public Pensions Agency
An Agency of the Scottish Government

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Annex A

Executive Summary of New Scheme

These Regulations made under section 1 of the Public Service Pensions Act 2013 include provisions in relation to Pension boards and a Scheme Advisory Board that are required to be included in regulations. They also include provisions agreed by the Scottish Local Government Pension Scheme Advisory Group in a series of bilateral meetings between COSLA and the Trade Unions representing local government employees in Scotland. Headline features of the new scheme include:

a) **Scheme Advisory Board**

The Scheme Advisory Board is the body responsible for providing advice to the Responsible Authority (Scottish Ministers), on the desirability of changes to the scheme. The Scheme Advisory Board also provides advice to the Scheme Managers and Pension Boards in relation to the effective and efficient administration and management of the scheme.

b) **Constitution of the Scheme Advisory Board**

It will be a bipartite body with representatives from Scheme employers and Trade Unions. The Scottish Government will be present as observers. The Chair will be rotated between Scheme employer and Trade Union representatives on an annual basis and will be drawn from the board membership. The secretariat will be provided by two Joint Secretaries, appointed by COSLA and the Trade Unions.

c) **Conflicts of Interest**

In relation to a member of the Scheme Advisory Board or a Pensions Board a conflicts of interest is a financial or other interest which is likely to prejudice the person's exercise of functions as a member of the board (but does not include a financial or other interest arising merely by virtue of membership of the Scheme or any connected scheme).

d) **Pension Boards**

Pension Boards will be established covering each fund in Scotland and will be the body responsible for assisting the Scheme Manager in relation to compliance with scheme regulations and the requirements of the Pensions Regulator.

e) Constitution of Pension Board

A Pension Board shall be a bipartite body with an equal number of representatives from Scheme employers and relevant trade unions with at least 4 Scheme employer and 4 relevant trade union representatives chosen by their respective organisations. Issues relating to membership of the Pension Board will be resolved by the Scheme Manager in conjunction with the joint secretaries.

f) Remit of Pensions Board

The Pension Board may, in carrying out its duties under regulation 5, consider any matter concerning pensions it deems relevant to the activities of a Pension Fund including; reports, fund performance, policy, investments of the fund and its investment principles. It may also seek a report from the Scheme manager on any aspect of the fund.

g) Reflecting Pension Committee and Pension Board differences

In the event of a disagreement on a decision of the Pension Committee, the Pension Board may request the Pension Committee to review the decision. If there is no agreement after the Pension Committee after the review, the difference in view between the Pension Board and the Pension Committee will be published on the fund website and included in the fund annual report. The Scheme Advisory Board may consider the decision and take a view and provide advice to the Scheme manager or the Pension Board.

h) Training Programme

The Pension Committee and Pension Board must agree and implement a programme of training in respect of all members of each Pension Committee and each Pension Board to ensure that they are adequately trained to properly perform their respective duties.