

2014 No.

PUBLIC SERVICE PENSIONS, SCOTLAND

**The Local Government Pension Scheme (Governance) (Scotland)
Regulations 2014**

Made - - - -

Laid before the Scottish Parliament

Coming into force - -

1st April 2015

CONTENTS

1. Citation, extent, commencement and interpretation
2. Scheme Advisory Board
3. Constitution of the Scheme Advisory Board
4. Conflicts of interest
5. Pension Boards
6. Constitution of Pension Board
7. Conflicts of interest
8. Remit of Pension Board
9. Pension Committee and Pension Board disagreements
10. Training programme

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^(a) (“the 2013 Act”) and all other powers enabling them to do so.

In accordance with section 21 of the 2013 Act, they consulted the 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 2014.

(2) These Regulations extend to Scotland.

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

^(a) 2013 c.25.

(4) In these Regulations—

“the 2014 Regulations” mean the Local Government Pension Scheme (Scotland) Regulations 2014 as may be amended from time to time^(b);

“the fund” means the pension fund managed by the Scheme manager;

“local government employer” means a Scheme employer as listed in Part 1 of Schedule 2 to the 2014 Regulations or an admission body listed in paragraph 1 of Part 2 of Schedule 2 to those Regulations;

a “Pension Board” means a pension board established under section 5 of the Public Service Pensions Act 2013^(c);

a “Pensions Committee” means the pensions committee of a Scheme manager;

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

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

“the Scheme” means the Local Government Pension Scheme contained in the 2014 Regulations;

“Scheme manager” means an administering authority for the Scheme listed in Schedule 3 to the 2014 Regulations.

Scheme Advisory Board

2.—(1) There shall be an independent non-ministerial advisory committee to be known as “the Scheme Advisory Board”.

(2) The Scheme Advisory Board’s main functions are—

- (a) to provide advice to 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; or
 - (ii) any pension fund of the Scheme and any connected scheme.

(3) A person to whom advice is given under paragraph (2) must have regard to the advice.

Constitution of the Scheme Advisory Board

3.—(1) The Scheme Advisory Board will be a bipartite body with an equal number of representatives from local government employers and relevant trade unions.

(2) Subject to regulation 4, the Scheme Advisory Board shall comprise 7 local government employer and 7 relevant trade union representatives chosen by their respective organisations, with substitute representatives allowed provided they have undergone the requisite training and development to inform their role.

(3) The Chair will be rotated on an annual basis between the employers’ and the relevant trade union representatives or an independent Chair may be appointed by Scottish Ministers.

(4) There shall be two Joint Secretaries, appointed respectively by local government employers and the relevant trade unions.

(5) Advisors to the two sides and to Scottish Ministers may attend meetings of the Board (at the discretion of the Chair as to numbers) but they shall not be members of the Scheme Advisory Board.

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

Conflicts of interest

4.—(1) A representative mentioned in regulation 3(1) is not entitled to take up membership of the Scheme Advisory Board unless the Scottish Ministers are satisfied that the person to be appointed as a member of the Scheme Advisory Board does not have a conflict of interest, and may not continue as a member of the Scheme Advisory Board unless the Scottish Ministers are satisfied from time to time that the representative does not have a conflict of interest.

(2) A member of the Scheme Advisory Board, or a person proposed to be appointed as a member of the Scheme Advisory Board must provide Scottish Ministers with such information as Scottish Ministers reasonably require for the purposes of the provisions under paragraph (1).

(3) In subsection (1) “conflict of interest”, in relation to a person, means a financial or other interest which is likely to prejudice the person’s exercise of functions as a member of the Scheme Advisory Board (but does not include a financial or other interest arising merely by virtue of membership of the Scheme or any connected scheme).

Pension Boards

5.—(1) There shall be established for each Scheme manager a Pension Board with responsibility for assisting the Scheme manager in relation to the following matters.

(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;
- (c) such other matters as the 2014 Regulations may specify.

Constitution of Pension Board

6.—(1) A Pension Board shall be a bipartite body with an equal number of representatives from local government employers and relevant trade unions.

(2) A Pension Board must comprise at least (depending on size of membership) 4 local government employer and 4 relevant trade union representatives chosen by their respective organisations, with substitute representatives allowed provided they have undergone the requisite training and development to inform their role.

(3) The Chair will rotate on an annual basis between local government employer and the relevant trade union representatives.

(4) There shall be two Joint Secretaries, appointed respectively by the Scheme manager and the relevant trade unions.

(5) Advisors to the two sides may attend meetings of the Pension Board (at the discretion of the Chair as to numbers) but they shall not be members of the Scheme Advisory Board.

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

(7) In the case of disagreement on a matter relating to the establishment of a constitution, the Scheme Advisory Board shall be applied to by the Pension Board for mediation or adjudication.

(8) The administration costs of the Pension Board shall be met by the relevant fund.

(9) It shall be normal practice for the Pensions Board to meet at the same place and at the same time as the Pensions Committee and to consider the same agenda; in which case the Chair of the Pensions Committee shall act as chair of both meetings.

Conflicts of interest

7.—(1) A representative mentioned in regulation 6(1) is not entitled to take up membership of the Pension Board unless the Scheme manager is satisfied that the person to be appointed as a member of the

Pension Board does not have a conflict of interest, and may not continue as a member of the Pension Board unless the Scheme manager is satisfied from time to time that the representative does not have a conflict of interest.

(2) 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 require for the purposes of the provisions under paragraph (1).

(3) In subsection (1) “conflict of interest”, in relation to a person, means a financial or other interest which is likely to prejudice the person’s exercise of functions as a member of the Pension Board (but does not include a financial or other interest arising merely by virtue of membership of the Scheme or any connected scheme).

Remit of Pension Board

8.—(1) The Pension Board may consider any matter concerning pensions it deems relevant to the activities of a Pensions Committee including—

- (a) any reports produced for the Pensions Committee;
- (b) the fund’s annual report;
- (c) external voting and engagement provisions [of the Pensions Committee];
- (d) the fund’s performance and administration;
- (e) actuarial reports and valuations in respect of the fund; and
- (f) funding policy in respect of the fund.

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

(3) The Pension Board may requisition a report from the Scheme manager on any aspect of the fund and the Scheme manager must provide such a report within a reasonable time.

Pension Committee and Pension Board disagreements

9.—(1) In the event of at least half of the members of the Pension Board disagreeing with the Pension Committee on any decision of the Pensions Committee, the Pension Board may request the Pension Committee in writing to review the decision and the Pensions Committee must accede to the request, if one of the grounds of review mentioned in paragraph (2) is set forth in the letter of request for a review as applying to the decision.

(2) The grounds of review are—

- (a) that there is evidence or information which it is considered needs re-evaluating, or there is new evidence or data which the Pensions Committee did not access or was not aware of at the point of decision making and which is considered material to the decision taken;
- (b) that the decision of the Pensions Committee could be considered illegal or beyond the powers of the 2014 Regulations;
- (c) that the decision of the Pensions Committee is contrary to a relevant Code of Practice published by the Pensions Regulator; or
- (d) that 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 is no agreement after the matter has been referred back to the Pensions Committee and the pensions committee has reviewed its decision, then the difference in view between the Pension Board and the Pensions Committee should be published in the form of a joint secretarial report on the fund website and included in the fund annual report.

(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.

(5) The fact that a Pension Board disagrees with a decision of a Pensions Committee or the decision is being reviewed under paragraphs (1) or (4) shall not affect the legal validity of such a decision.

Training programme

10. Subject to any advice from the Scheme Advisory Board provided under regulation 2(2)(b) of these Regulations or any advice or requirement issued by the Pensions Regulator, each Pensions Committee and each Pension Board must agree and implement a programme of training in respect of all members of each Pensions Committee and each Pension Board to ensure (without prejudice to the duties of the individual members themselves in this regard) that they are adequately trained properly to perform their respective duties.

St Andrew's House,
Edinburgh

2014

A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Order)

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 made under that section in terms of sections 5 and 7 of that Act. They also include further provisions agreed by a Sub Group of SLOGPAG for the new Local Government Pension Scheme (contained in the Local Government Pension Scheme (Scotland) Regulations 2014) and also agreed in a series of bilateral meetings between COSLA and the Trade Unions representing local government employees in/Scotland.

Regulation 1 covers citation, commencement and extent and also gives definitions.

Regulation 2 sets up the Scheme Advisory Board as required by section 7 of the Public Service Pensions Act 2013 whose main functions are (a) to provide advice to 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.

Regulation 3 provides for the constitution of the Scheme Advisory Board, providing that it must have equal representation on it of 7 local government employer (as defined in regulation 1 of the Regulations) 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 as required by section 7(4) of the Public Service Pensions Act 2013.

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 as required by section 5 of the Public Service Pensions Act 2013, again with equal representation of local government employers and representatives of relevant Trade Unions. It also provides that it shall be normal practice for the pension board to meet at the same place and at the same time as the Pensions Committee and to consider the same agenda; in which case the Chair of the Pensions Committee shall act as chair of both meetings.

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 Pensions Committee.

Regulation 10 provides that pension boards and Pensions Committees must agree and implement a programme of training for their members but the members still have personal responsibilities to ensure that they are properly trained to carry out their functions.

These Regulations do not cover provisions in relation to employer cost cap as provided for in section 12 of the Public Service Pensions Act 2013. A cost cap will be set on the completion of the necessary actuarial work expected to conclude towards the end of 2015. An amendment to the Scheme will be made at that time to include the cost cap.