
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 134

PENSIONS

The Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Amendment Regulations 2004

<i>Made</i>	- - - -	<i>17th March 2004</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>22nd March 2004</i>
<i>Coming into force</i>	- -	<i>1st May 2004</i>

The Scottish Ministers, in exercise of the powers conferred by section 7 of the Superannuation Act 1972⁽¹⁾ and of all other powers enabling them in that behalf, after consultation with such associations of local authorities as appeared to them to be concerned, such representatives of other persons likely to be affected by the proposed regulations as appeared to them to be appropriate, and not having considered consultation with any individual local authority to be desirable, all in accordance with section 7(5) of that Act, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Amendment Regulations 2004.

(2) These Regulations shall come into force on 1st May 2004.

(3) These Regulations extend to Scotland only.

Amendment of Regulations

2. The Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 1998⁽²⁾ are amended in accordance with regulation 3 of these Regulations.

Restrictions on investments

3.—(1) In regulation 11, for paragraph (2) substitute—

(1) 1972 c. 11 (“the Act”). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750), article 2, Schedule 1.
(2) S.I. 1998/2888, amended by articles 256 to 259 of S.I. 2001/3649, S.S.I. 2000/74, 2001/23 and 2003/138.

“(2) Subject to paragraph (2A), the percentages set out in Column 1 of Part I of Schedule 1 are the limits on the amount of each description of investment listed next to those percentages.

(2A) An administering authority may decide to increase those limits up to the limits set out in Column 2 of Part I of Schedule 1 (where a percentage is specified in that Column) in accordance with the requirements of regulation 11A.”.

(2) After regulation 11 insert–

“Requirements for increased limits

11A.—(1) An administering authority which decides to increase limits under regulation 11(2A) must comply with the requirements of this regulation.

(2) The administering authority must have taken proper advice.

(3) The administering authority must take account of the factors set out in regulation 9(3).

(4) The decision of the administering authority must specify in writing–

(a) the description of investment to which it applies;

(b) the limit on the amount of the investment;

(c) the reason for that decision;

(d) the period for which the decision will apply;

(e) if the authority intend to review the decision before the end of the period in (d), the date when the decision will be reviewed; and

(f) that the decision complies with these Regulations.

(5) Where the period for which the decision will apply comes to an end, the limits will be those set out in Column 1 of Part I unless before the end of that period the administering authority reviews the decision in accordance with this regulation.

(6) A decision following a review to continue to use limits increased under regulation 11(2A), whether or not the increased limits have been altered must–

(a) take account of the matters set out in paragraphs (2) and (3); and

(b) specify the matters set out in paragraph (4).

(7) Before a decision under regulation 11(2A) or paragraph (6) can take effect, the administering authority must revise and publish the written statement of investment principles which they are required to maintain under regulation 9A to include the matters specified in paragraph (4).”.

(3) For Part I of Schedule 1 substitute Part I as set out in the Schedule to these Regulations.

St Andrew’s House, Edinburgh
17th March 2004

TAVISH SCOTT
A member of the Scottish Executive

SCHEDULE

PART I

	<i>Column (1)</i> <i>Limits under regulation 11(2)</i>	<i>Column (2)</i> <i>Increased limits under regulation 11(2A)</i>
1. Any single sub- underwriting contract.	1%	5%
2. All contributions to any single partnership.	2%	5%
3. All contributions to partnerships.	5%	15%
4. All deposits with—	10%	—
(a) Any local authority, or		
(b) Any body with power to issue a precept or requisition to a local authority, or to the expenses of which a local authority can be required to contribute,		
which is an exempt person (within the meaning of the Financial Services and Markets Act 2000) ⁽³⁾ in respect of accepting deposits as a result of an order made under section 38(1) of that Act (exemption orders), and all loans (but see paragraph 12 of Part II).		
5. All investments in unlisted securities of companies.	10%	15%
6. Any single holding (but see paragraphs 13 and 14 of Part II).	10%	—
7. All deposits with any single bank, institution or person (other than the National Savings Bank).	10%	—

(3) 2000 c. 8.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

	<i>Column (1)</i> <i>Limits under regulation 11(2)</i>	<i>Column (2)</i> <i>Increased limits under regulation 11(2A)</i>
8. All sub-underwriting contracts.	15%	—
9. All investments in units or other shares of the investments subject to the trusts of unit trust schemes managed by any one body (but see paragraph 14 of Part II).	25%	35%
9A. All open-ended investment companies where the collective investment schemes constituted by the companies are managed by any one body.	25%	35%
9B. All investments in units or other shares of the investments subject to the trusts of unit trust schemes, and all investments in open-ended investment companies where the unit trust schemes and the collective investment schemes constituted by those companies are managed by any one body (but see paragraph 14 of Part II).	25%	35%
10. Any single insurance contract.	25%	35%
11. All securities transferred (or agreed to be transferred) by the authority under stock lending arrangements.	25%	—

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend regulation 11 of, and Part I of Schedule 1 to, the Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 1998 (the “principal Regulations”), which set down the limits for the different types of pension fund investments.

Regulation 3(1) amends the principal Regulations by substituting regulation 11(2) and adding regulation 11(2A).

Regulation 11(2) as substituted provides for the percentage limits as set out in Column 1 of Part I of Schedule 1 to the principal Regulations, being the limits for the different types of pension fund investments. Regulation 11(2A) allows an administering authority to increase those limits up to the percentage limits as set out in Column 2 of Part I of Schedule 1 to the principal Regulations.

Regulation 3(2) inserts Regulation 11A of the principal Regulations. This provides that when deciding to increase limits, or reviewing previously increased limits, the administering authority must take account of proper advice and of the factors in regulation 9(3) of the principal Regulations (the advisability of investing fund money in a wide variety of investments and the suitability of particular investments and types of investments). A decision to increase limits, or to continue to use previously increased limits, must specify certain matters and those matters must be published in a revised statement of investment principles before the increased limits can take effect.