

2015 No. 465

PUBLIC SERVICE PENSIONS, ENGLAND

**The Firefighters' Pension Scheme (Amendment) (Governance)
Regulations 2015**

<i>Made</i> - - - -	<i>3rd March 2015</i>
<i>Laid before Parliament</i>	<i>5th March 2015</i>
<i>Coming into force</i> - -	<i>1st April 2015</i>

These Regulations are made in exercise of the powers conferred by sections 1, 3, 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 application

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

(2) In these Regulations “the Principal Regulations” means the Firefighters' Pension Scheme (England) Regulations 2014(b).

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

(4) These Regulations apply in England only.

Amendment of the Firefighters' Pension Scheme (England) Regulations 2014

2. The Principal Regulations are amended in accordance with regulations 3 to 5.

3. In regulation 3 (interpretation)—

(a) after the entry for “ financial year” insert—

(a) 2013 c. 25.
(b) S.I. 2014/2848.

““Firefighters’ Pension Scheme Advisory Board” means the board established under regulation 4E (scheme advisory board: establishment);” and

(b) after the entry for “leaving year” insert—

““local pension board” means a board established under regulation 4A (local pension boards: establishment);”.

4. After regulation 4 (scheme manager) insert—

“Local pension boards: establishment

4A.—(1) Each scheme manager must no later than 1st April 2015 establish a pension board (“a local pension board”) responsible for assisting it—

(a) to secure compliance with—

(i) these Regulations,

(ii) any other legislation relating to the governance and administration of this scheme and any connected scheme^(a), and

(iii) any requirements imposed by the Pensions Regulator in relation to this scheme and any connected scheme; and

(b) to ensure the effective and efficient governance and administration of this scheme and any connected scheme.

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

(3) Approval under paragraph (2) may be given subject to such conditions as the Secretary of State thinks fit and may be withdrawn if any conditions are not met or if in the opinion of the Secretary of State it is no longer appropriate for the approval to continue.

(4) Subject to paragraph (5), a scheme manager 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.

(5) 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).

(6) 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.

Local pension boards: membership

4B.—(1) Subject to paragraphs (2) to (4) each scheme manager must 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) A local pension board must include an equal number, which is no less than 4 in total, of employer representatives and member representatives and for these purposes the scheme manager must be satisfied that—

(a) a person to be appointed to the local pension board as an employer representative has the capacity to represent the employer; and

(b) a person to be appointed to the local pension board as a member representative has the capacity to represent members.

(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.

(3) A member of the authority who is a member of the local pension board must be appointed as either an employer representative or a member representative.

(4) No member or officer of an authority who is responsible for the discharge of any function under these Regulations (apart from any function relating to a local pension board or the Firefighters' Pension Scheme Advisory Board) may be a member of the local pension board of that authority.

Local pension boards: conflict of interest

4C.—(1) Each scheme manager 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) A scheme manager 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 a scheme manager must provide that scheme manager with such information as the scheme manager reasonably requires for the purposes of paragraph (1).

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

Local pension boards: guidance

4D. A scheme manager must have regard to guidance issued by the Secretary of State in relation to local pension boards.

Scheme advisory board: establishment

4E.—(1) A scheme advisory board (“the Firefighters’ Pension Scheme Advisory Board”) is established.

(2) The function of the Firefighters’ Pension Scheme Advisory Board is to provide advice in response to a request from the Secretary of State on the desirability of making changes to this scheme and any connected scheme.

(3) The Firefighters’ Pension Scheme Advisory Board also has the function of providing advice to scheme managers and local pension boards in relation to the effective and efficient administration and management of this scheme and any connected scheme.

(4) Subject to these Regulations, the Firefighters’ 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.

(5) The Firefighters’ 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

4F.—(1) The Firefighters’ Pension Scheme Advisory Board shall consist of a chairman and at least two, and no more than 14, persons appointed by the Secretary of State.

(2) When deciding whether to make an appointment 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.

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

(3) A member of the Firefighters' 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 Firefighters' Pension Scheme Advisory Board may, with the agreement of the Board, appoint a maximum of three persons to be non-voting advisory members of the Boards.

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

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

(7) A member of a sub-committee of the Firefighters' 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

4G.—(1) Before appointing any person to be a member of the Firefighters' 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 Firefighters' Pension Scheme Advisory Board has a conflict of interest.

(3) A person who is to be appointed as a member of the Firefighters' 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 Firefighters' 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

4H.—(1) The Firefighters' Pension Scheme Advisory Board must prepare an annual budget for approval by the Secretary of State.

(2) The expenses of the Firefighters' Pension Scheme Advisory Board are to be defrayed by scheme managers in such proportions as are determined by the Board based on the approved budget and the number of members of this scheme and connected schemes for which each scheme manager is responsible.

(3) A scheme manager must pay the amount it is required to pay under this regulation at such time or times as the Firefighters' Pension Scheme Advisory Board may determine."

5. After regulation 150 insert—

“Employer cost cap

150A.—(1) The employer cost cap for this scheme is 16.8% of pensionable earnings of members of this scheme.

(2) Where the cost of this scheme, calculated following a valuation in accordance with Treasury directions under section 11 of the 2013 Act is more than the margins specified in regulations made under section 12(5) of the 2013 Act^(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 scheme managers, 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.

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

(b) See regulation 3 of S.I. 2014/575.

(3) The procedure specified for the purposes of section 12(6)(a) of the 2013 Act is consultation for such period as the Secretary of State considers appropriate with the Firefighters' 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 the date on which the consultation period ends, the Secretary of State must take steps to adjust the rate at which benefits accrue under regulation 34 (amount of pension for a scheme year) so that the target cost for this scheme is achieved.”.

We consent to the making of these Regulations

Alun Cairns
David Evennett

2nd March 2015

Two of the Lords Commissioners of Her Majesty's Treasury

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

Penny Mordaunt
Parliamentary Under Secretary of State

3rd March 2015

Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Firefighters' Pension Scheme (England) Regulations 2014 (“the 2014 Regulations”) to make provision in respect of governance of the Scheme.

Regulation 2 commences the regulations from 1st April 2015.

Regulation 4 inserts new regulations 4A to 4H into Part 3 of the 2014 Regulations.

New regulations 4A to 4D make provision for each scheme manager to establish a local pension board to assist it to comply with its legal obligations relating to the scheme and connected schemes. Local pension boards must have equal representation of employer representatives and member representatives.

Regulations 4E to 4H establish the Firefighters' Pension Scheme Advisory Board to advise the Secretary of State, fire and rescue authorities and local pension boards in relation to this scheme and connected schemes. Provision is made for the appointment of members to the Board and for its funding.

Regulation 5 inserts new regulation 150A into the 2014 Regulations. It 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.

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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