

EXPLANATORY MEMORANDUM TO
THE LOCAL GOVERNMENT PENSION SCHEME (BUCKINGHAMSHIRE
STRUCTURAL CHANGES) (AMENDMENT) REGULATIONS 2020

2020 No. 123

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 These Regulations amend the Local Government Pension Scheme Regulations 2013 further to the implementation by order (S.I. 2019/957) of local government reorganisation in Buckinghamshire.
- 2.2 The Regulations make amendments reflecting the transfer of the local government pension fund maintained by Buckinghamshire County Council, which is being abolished, to the new Buckinghamshire Council.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Application

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England and Wales.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The Buckinghamshire (Structural Changes) Order 2019 (“the 2019 Order”) provides for the dissolution of Buckinghamshire County Council and of the four district councils, Aylesbury Vale, Chiltern, South Bucks and Wycombe, within the administrative County of Buckinghamshire. That Order also provides for the establishment of a new unitary Buckinghamshire Council, which will take on the functions, responsibilities, assets and liabilities of the dissolved councils on 1st April 2020.

- 6.2 The Public Service Pensions Act 2013 (“the 2013 Act”) enables the Secretary of State to make regulations creating schemes of pensions for, amongst others, local government workers.
- 6.3 In England and Wales, such a scheme is created by the Local Government Pension Scheme Regulations 2013 (“the 2013 Regulations”). The 2013 Regulations were made exercising powers in the Superannuation Act 1972. Section 28 of the 2013 Act provides for them to take effect as scheme regulations.
- 6.4 The Scheme created by the 2013 Regulations is a funded scheme administered by 88 administering authorities specified in Part 1 of Schedule 3 to those regulations.

7. Policy background

What is being done and why?

- 7.1 In 2017 the Government made a manifesto commitment to support those local authorities that wish to combine to serve their communities better and is committed to consider locally-led proposals from councils that wish to reorganise. The Order bringing about local government reorganisation in Buckinghamshire was made in May 2019 and provides for a reorganisation date of 1st April 2020.
- 7.2 Buckinghamshire County Council currently maintains a pension fund including bodies across the county of Buckinghamshire, including but not limited to Buckinghamshire County Council, Aylesbury Vale District Council, Chiltern District Council, South Bucks District Council, Wycombe District Council, town, parish and community councils; Milton Keynes Council; Buckinghamshire Fire and Rescue Service; Thames Valley Police; numerous schools in the area.
- 7.3 Primarily, the effect of these Regulations, together with the 2019 Order, is that from 1st April 2020, Buckinghamshire Council is required to maintain a pension fund and be an administering authority in place of Buckinghamshire County Council. This ensures continuity and prevents interruption of service for the Buckinghamshire Pension Fund’s scheme employers and scheme members.
- 7.4 The regulations also incorporate two further, consequential changes:
- a) Amendments to Regulation 64 of the 2013 Regulations provide that no exit payments or exit credits are due following the exit of the councils being dissolved. Exit payments and exit credits are the amounts that would usually be payable where an employer leaves the scheme, either in deficit (where the scheme employer may have to pay the pension fund an exit payment) or in surplus (where the scheme employer may be owed an exit credit from the pension fund). In this case, the assets and liabilities of the dissolving councils (and any predecessor authority) will vest in the new Council from 1st April 2020.
- b) Amendments to Part 2 of Schedule 3 of the 2013 Regulations provide that, from 1st April 2020, Buckinghamshire Council is the appropriate administering authority for employees of Milton Keynes Council. Whilst Buckinghamshire Council will also be the appropriate administering authority for many other scheme employers, general provisions in Part 2 of Schedule 3 mean that Buckinghamshire Council does not need to be explicitly named in order for it to be the appropriate administering authority for these bodies.

7.5 The Regulations do not themselves transfer the property, rights and liabilities of the Buckinghamshire Pension Fund to Buckinghamshire Council as there are general provisions which apply. Regulation 7 of the Local Government (Structural Changes) (Transfer of Functions, Property, Rights and Liabilities) Regulations 2008¹ transfers property, rights and liabilities of closing councils following reorganisation and where there is only one successor council.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 The amendments made by these Regulations are relatively minor and it is not considered necessary to consolidate the 2013 Regulations at this time.

10. Consultation outcome

10.1 The Ministry of Housing, Communities and Local Government undertook a consultation on a draft of these Regulations between 24 December and 28 January 2020. The Department consulted: Buckinghamshire County Council; the district councils in Buckinghamshire; the Buckinghamshire local pension board, which represents scheme employees and employers in Buckinghamshire; Milton Keynes Council; and the Local Government Pension Scheme Advisory Board, which represents scheme employees and employers nationally.

10.2 All bodies responded to the consultation to confirm their support of the proposed changes and all comments were carefully considered.

11. Guidance

11.1 No guidance has been prepared for this instrument. The Department works with and supports local authorities as they implement reorganisation of local government, such as unitarisation in Buckinghamshire.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because it does not relate to the activities of businesses, charities or voluntary bodies.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 These Regulations make minor amendments to reflect the transfer of the local government pension fund in Buckinghamshire. The new council remains subject to the audit and accountability regimes applicable to the generality of local government.

¹ <http://www.legislation.gov.uk/uksi/2008/2176/part/3/made>

14.2 These Regulations do not include a statutory review clause.

15. Contact

15.1 Con Hargrave at the Ministry of Housing, Communities and Local Government Telephone: 0303 444 8393 or email: con.hargrave@communities.gov.uk can be contacted with any queries regarding the instrument.

15.2 Suzie Clarke, Deputy Director for Local Government Finance Reform and Pensions at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.

15.3 Luke Hall MP at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.