

**EXPLANATORY MEMORANDUM TO THE
LOCAL GOVERNMENT PENSION SCHEME AND MANAGEMENT AND
INVESTMENT OF FUNDS (AMENDMENT) REGULATIONS 2005**

2005 No.2004

1. This explanatory memorandum has been prepared by the Office of the Deputy Prime Minister and is laid before Parliament by Command of Her Majesty.

This memorandum includes information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 The Regulations amend the Local Government Pension Scheme Regulations 1997 and the Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998 (the “Principal Regulations” and the “Investment Regulations” respectively).
- 2.2 The Regulations increase the Scheme limit on investments in securities transferred under stock lending arrangements.
- 2.3 The Regulations make three minor amendments to update references to take account of the Fire and Rescue Services Act 2004; they also update references to “qualified in occupational health medicine”; and they take account of orders under the Countryside and Rights of Way Act 2000 which transfer functions from local authorities to conservation boards.

3. **Matters of special interest to the Joint Committee on the Merits of Statutory Instruments**

- 3.1 Regulations made in relation to the Local Government Pension Scheme are made in exercise of the powers conferred by section 7 and 12 of the Superannuation Act 1972. Section 12 of the Superannuation Act 1972 provides that regulations made under section 7 of that Act may have retrospective effect.
- 3.2 The amendments made by regulations 3, 5, 6 and 7 have retrospective effect.
- 3.3 Regulations 3, 5 and 6 are consequent on the commencement of the Fire and Rescue Services Act 2004 in England and Wales to reflect the different commencement dates.
- 3.4 Regulation 7 is consequent on orders made under s86 of the Countryside and Rights of Way Act 2000 (SIs 2004/1777 and 2004/1778) regarding the transfer of functions from local authorities to conservation boards.

4. Legislative Background

- 4.1 The rules governing the Local Government Pension Scheme (the “Scheme”) are found in the Principal Regulations and the Investment Regulations.
- 4.2 Section 12 of the Superannuation Act 1972 provides that regulations made under section 7 of that Act may have retrospective effect.
- 4.3 The commencement orders under the Fire and Rescue Services Act 2004 are the Fire and Rescue Services Act 2004 (Commencement) (England and Scotland) Order 2004 and the Fire and Rescue Services Act 2004 (Commencement) (Wales) Order 2004 (SIs 2004/2304 and 2004/2917 respectively).

5. Extent

- 5.1 This instrument extends to England and Wales.
- 5.2 The amendments made by regulations 3, 5 and 6 have effect on different dates as between England and Wales.

6. European Convention on Human Rights

- 6.1 Not applicable.

7. Policy background

- 7.1 The amendments have been made after consultation with interested parties ie Scheme administering authorities; participating employers which are local, police, or fire and rescue authorities; trade unions; representative organisations for local government employers, relevant local government professionals, investment managers, and pension schemes; the Audit Commission; the financial services regulator; relevant government departments, and the Scottish and Northern Irish counterparts of the Scheme.
- 7.2 The Investment Regulations contain various prudential limits. As part of a move towards a more flexible prudential approach for investments, the amendments made by regulations 9 to 11 would allow more of a pension fund's securities to be transferred under stock lending arrangements, subject to certain safeguards. These amendments extend the investment approach adopted for other forms of investments as set out in the Local Government Pension Scheme (Management and Investment of Funds) (Amendment) Regulations 2003 (SI 2003/2719).
- 7.3 Of those consultees who responded on the stock lending proposal, a large majority were content (92% of the 26 responses). The concerns of a small minority (2 responses) have been addressed by stressing prudential caution more strongly as set out at regulation 9 of the Regulations.

7.4 The remainder of the Regulations are minor technical amendments and reflect the advice received from relevant consultees.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is not expected to be significant.

9. Contact

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