Status: *This version of this Instrument contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2016 No. 946

PUBLIC SERVICE PENSIONS, ENGLAND AND WALES

The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016

Made - - - -	*21st September 2016*
Laid before Parliament	*23rd September 2016*
Coming into force - -	*1st November 2016*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 1(1) and 3(1) to (4) of, and Schedule 3 to, the Public Service Pensions Act 2013(**1**).

In accordance with section 21(1) of that Act, the Secretary of State has consulted such persons and 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.

PROSPECTIVE

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016.

(2) These Regulations come into force on 1st November 2016.

(3) These Regulations extend to England and Wales.

Commencement Information

I1 Reg. 1 in force at 1.11.2016, see **reg. 1(2)**

(**1**) 2013 c. 25; see section 2 of and Schedule 2 to that Act as to how the power is exercisable by the Secretary of State.

Interpretation

2.—(1) In these Regulations—

"the 2000 Act" means the Financial Services and Markets Act 2000(**2**);

"the 2013 Regulations" means the Local Government Pension Scheme Regulations 2013(**3**);

"the Transitional Regulations" means the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014(**4**);

"authority" means an administering authority listed in Part 1 of Schedule 3 to the 2013 Regulations;

"fund money" means money that is or should be in a pension fund maintained by an authority;

"proper advice" means the advice of a person whom the authority reasonably considers to be qualified by their ability in and practical experience of financial matters;

"the Scheme" means the scheme established by the 2013 Regulations.

(2) Any restrictions imposed by these Regulations apply to authorities which have the power within section 1 of the Localism Act 2011(**5**) (local authority's general power of competence) or section 5A(1) of the Fire and Rescue Services Act 2004(**6**) in the exercise of those powers.

(3) Any authority which does not have the powers mentioned in paragraph (2) has, by virtue of these Regulations the power to do anything authorised or required by these Regulations.

Commencement Information

I2 Reg. 2 in force at 1.11.2016, see **reg. 1(2)**

Investment

3.—(1) In these Regulations "investment" includes—

(a) a contract entered into in the course of dealing in financial futures, traded options or derivatives;

(b) a contribution to a limited partnership in an unquoted securities investment;

(c) a contract of insurance if it is a contract of a relevant class, and is entered into with a person within paragraph (2) for whom entering into the contract constitutes the carrying on of a regulated activity within the meaning of section 22 of the 2000 Act(**7**).

(2) The persons within this paragraph are—

(a) a person who has permission under Part 4A of the 2000 Act (permission to carry on regulated activities)(**8**) to effect or carry out contracts of insurance of a relevant class;

(b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the 2000 Act (EEA passport rights), which has permission under paragraph 15 of that Schedule(**9**) to effect or carry out contracts of insurance of a relevant class; and

(**2**) 2000 c. 8.
(**3**) S.I. 2013/2356.
(**4**) S.I. 2014/525.
(**5**) 2011 c. 20.
(**6**) 2004 c. 21; section 5A was inserted by section 9(1) of the Localism Act 2011.
(**7**) Section 22 was amended by section 7(1) of the Financial Services Act 2012 (c. 21).
(**8**) Part 4A of the 2000 Act was inserted by section 11(2) of the Financial Services Act 2012.
(**9**) Paragraph 15 was amended by S.I. 2003/2066, 2007/3253, 2012/1906,2013/1881 and 2015/575.

(c) a person who does not fall within sub-paragraph (a) or (b) whose head office is in an EEA state other than the United Kingdom, and who is permitted by the law of that state to effect or carry out contracts of insurance of a relevant class.

(3) A contract of insurance is of a relevant class for the purposes of paragraphs (1)(c) and (2) if it is—

(a) a contract of insurance on human life or a contract to pay an annuity on human life where the benefits are wholly or partly to be determined by reference to the value of, or income from, property of any description (whether or not specified in the contract) or by reference to fluctuations in, or an index of, the value of property of any description (whether or not so specified); or

(b) a contract to manage the investments of pension funds, whether or not combined with a contract of insurance covering either conservation of capital or payment of minimum interest.

(4) For the purposes of this regulation—

"limited partnership" has the meaning given in the Limited Partnerships Act 1907(**10**);

"recognised stock exchange" has the same meaning as in section 1005 of the Income Tax Act 2007(**11**);

"traded option" means an option quoted on a recognised stock exchange; and

"unquoted securities investment partnership" means a partnership for investing in securities which are not quoted on a recognised stock exchange when the partnership buys them.

Commencement Information

I3 Reg. 3 in force at 1.11.2016, see **reg. 1(2)**

Management of a pension fund

4.—(1) An authority must credit to its pension fund(**12**), in addition to any sum otherwise required to be credited by virtue of the 2013 Regulations or the Transitional Regulations—

(a) the amounts payable by it or payable to it under regulations 15(3)(b), 67 and 68 of the 2013 Regulations (employer's contributions and further payments);

(b) all amounts received under regulation 69(1)(a) of the 2013 Regulations (member contributions);

(c) all income arising from investment of the fund; and

(d) all capital money deriving from such investment.

(2) In the case of an authority which maintains more than one pension fund, as respects sums which relate to specific members, the references in this regulation to the authority's pension fund is to the fund which is the appropriate fund(**13**) for the member in question in accordance with the 2013 Regulations.

(3) Interest under regulation 71 of the 2013 Regulations (interest on late payments by Scheme employers) must be credited to the pension fund to which the overdue payment is due.

(**10**) 1907 c. 24.
(**11**) 2007 c. 3; section 1005 was substituted by the Finance Act 2007 (c. 11) and amended by the Taxation (International and Other Provisions) Act 2010 (c. 8).
(**12**) An administering authority is required to maintain a pension fund by regulation 53(1) of, and paragraph 1 of Schedule 3 to the 2013 Regulations.
(**13**) See regulation 53(2) of and Part 2 of Schedule 3 to the 2013 Regulations for provisions relating to an administering authority becoming the "appropriate administering authority" in relation to a person.

(4) An authority must pay any benefits to which any person is entitled by virtue of the 2013 Regulations or the Transitional Regulations from its pension fund.

(5) Any costs, charges and expenses incurred administering a pension fund may be paid from it except for charges prescribed by regulations made under sections 23, 24 or 41 of the Welfare Reform and Pensions Act 1999(**14**) (charges in relation to pension sharing costs).

Commencement Information

I4 Reg. 4 in force at 1.11.2016, see **reg. 1(2)**

Restriction on power to borrow

5.—(1) Except as provided in this regulation, an authority must not borrow money where the borrowing is liable to be repaid out of its pension fund.

(2) Subject to paragraph (3), an authority may borrow by way of temporary loan or overdraft which is liable to be repaid out of its pension fund, any sums which it may require for the purpose of—

(a) paying benefits due under the Scheme; or

(b) to meet investment commitments arising from the implementation of a decision by it to change the balance between different types of investment.

(3) An authority may only borrow money under paragraph (2) if, at the time of the borrowing, the authority reasonably believes that the sum borrowed and interest charged in respect of that sum can be repaid out of its pension fund within 90 days of the borrowing.

Commencement Information

I5 Reg. 5 in force at 1.11.2016, see **reg. 1(2)**

Separate bank account

6.—(1) An authority must hold in a separate account kept by it with a deposit-taker all fund money.

(2) "Deposit-taker" for the purposes of paragraph (1) means—

(a) a person who has permission under Part 4A of the 2000 Act (permission to carry on regulated activities) to carry on the activities specified by article 5 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (accepting deposits)(**15**);

(b) an EEA firm of the kind mentioned in paragraph 5(b)(**16**) of Schedule 3 to the 2000 Act (EEA passport rights) which has permission under paragraph 15 of that Schedule(**17**) to accept deposits;

(c) the Bank of England or the central bank of an EEA state other than the United Kingdom; or

(d) the National Savings Bank.

(**14**) 1999 c. 30; see S.I. 2000/1047 and S.I. 2000/1049.
(**15**) S.I. 2001/544; article 5 was amended by S.I. 2002/682.
(**16**) Sub-paragraph (b) of paragraph (5) was substituted by S.I. 2006/3211 and then further substituted by S.I. 2013/3115.
(**17**) Paragraph 15 has been amended by S.I. 2003/2066, S.I. 2007/3253, 2012/1906, 2013/1881 and 2015/575.

(3) An authority must secure that the deposit-taker may not exercise a right of set-off in relation to the account referred to in paragraph (1) in respect of any other account held by the authority or any party connected to the authority.

Commencement Information

I6 Reg. 6 in force at 1.11.2016, see **reg. 1(2)**

Investment strategy statement

7.—(1) An authority must, after taking proper advice, formulate an investment strategy which must be in accordance with guidance issued from time to time by the Secretary of State.

(2) The authority's investment strategy must include—

(a) a requirement to invest fund money in a wide variety of investments;

(b) the authority's assessment of the suitability of particular investments and types of investments;

(c) the authority's approach to risk, including the ways in which risks are to be assessed and managed;

(d) the authority's approach to pooling investments, including the use of collective investment vehicles and shared services;

(e) the authority's policy on how social, environmental and corporate governance considerations are taken into account in the selection, non-selection, retention and realisation of investments; and

(f) the authority's policy on the exercise of the rights (including voting rights) attaching to investments.

(3) The authority's investment strategy must set out the maximum percentage of the total value of all investments of fund money that it will invest in particular investments or classes of investment.

(4) The authority's investment strategy may not permit more than 5% of the total value of all investments of fund money to be invested in entities which are connected with that authority within the meaning of section 212 of the Local Government and Public Involvement in Health Act 2007(**18**).

(5) The authority must consult such persons as it considers appropriate as to the proposed contents of its investment strategy.

(6) The authority must publish a statement of its investment strategy formulated under paragraph (1) and the first such statement must be published no later than 1st April 2017.

(7) The authority must review and if necessary revise its investment strategy from time to time, and at least every 3 years, and publish a statement of any revisions.

(8) The authority must invest, in accordance with its investment strategy, any fund money that is not needed immediately to make payments from the fund.

Commencement Information

I7 Reg. 7 in force at 1.11.2016, see **reg. 1(2)**

(**18**) 2007 c. 28; section 212 was amended by the Police Reform and Social Responsibility Act 2011 (c. 13) and there are prospective amendments made by the Local Audit and Accountability Act 2014 (c. 2).