SCOTTISH STATUTORY INSTRUMENTS

2022 No. 153

The Local Government Pension Scheme (Scotland) (Miscellaneous Amendments) Regulations 2022

Amendment of the Local Government Pension Scheme (Scotland) Regulations 2018

10.—(1) In regulation 61 (special circumstances where revised actuarial valuations and certificates must be obtained)—

(a) after paragraph (2) insert—

"(2A) An actuarial valuation as at the exit date obtained in accordance with paragraph (2) will remain fixed for a period of 90 days.",

(b) in paragraph (3) at the end insert "A suspension notice must specify the period during which the suspension notice is to apply, but an administering authority may withdraw a suspension notice prior to the expiry of the suspension period, at its discretion.",

(2) after paragraph (4) insert—

"(4A) An administering authority may enter into a written agreement with an exiting employer for that employer to defer their obligation to make an exit payment and continue to make contributions at the secondary rate ("a deferred debt agreement").

(4B) An administering authority may only enter into a deferred debt agreement with an exiting employer where—

(a) the last active member in respect of that Scheme employer has left the fund;

(b) the funding strategy mentioned in regulation 56 (funding strategy statement) has set out the administering authority's policy on deferred debt agreements; and

(c) the administering authority has—

(i) consulted the exiting employer; and

(ii) had regard to the views of an actuary appointed by the administering authority.

(4C) Where a deferred debt agreement has been entered into under paragraph (4A)—

(a) the exiting employer becomes a deferred employer on the date specified in the agreement;

(b) the deferred employer must—

(i) meet all requirements on Scheme employers except the requirement to pay the primary rate of contributions as determined under regulation 60(8)(a) (actuarial valuations of pension funds); and

(ii) pay the secondary rate of contributions as determined under regulation 60(8)(b) as revised from time to time following an actuarial valuation until the termination of the deferred debt agreement.

(4D) A deferred debt agreement must include express provision for it to remain in force for a specified period, which may be varied by agreement of the administering authority and the deferred employer.

(4E) A deferred debt agreement terminates on the first date on which one of the following events occurs—

(a) the deferred employer enrols new active members in the relevant fund;

(b) the period specified, or as varied, under paragraph (4D) elapses;

(c) the take-over, amalgamation, insolvency, winding up or liquidation of the deferred employer;

(d) the administering authority serves a notice on the deferred employer that the administering authority is reasonably satisfied that the deferred employer's ability to meet the contributions payable under the deferred debt agreement has weakened materially or is likely to weaken materially in the next 12 months; or

(e) an actuary appointed by the administering authority assesses that the deferred employer has paid sufficient contributions at the secondary rate to cover the exit payment that would have been due under paragraph (1) if the employer had become an exiting employer on the calculation date.

(4F) Paragraph (4E)(c) does not apply where the administering authority serves a notice on the deferred employer that the administering authority is reasonably satisfied that the event would not be likely to materially weaken the deferred employer's ability to meet the contributions payable under the deferred debt agreement in the next 12 months.

(4G) On the termination of a deferred debt agreement under paragraph (4E)(b), (c), (d) or (e), a deferred employer becomes an exiting employer in relation to the relevant fund for the purposes of this regulation.",

(3) before the definition of "exit credit" in paragraph (10) insert—

""deferred employer" means an exiting employer which enters into a deferred debt agreement with an administering authority.".