STATUTORY INSTRUMENTS

2020 No. 893

PUBLIC SERVICE PENSIONS, ENGLAND AND WALES

The Local Government Pension Scheme (Amendment) (No. 2) Regulations 2020

Made - - - -	*24th August 2020*
Laid before Parliament	*27th August 2020*
Coming into force - -	*23rd September 2020*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 1, 2(1) and 3 of, and paragraph 3(a) of Schedule 2 and paragraph 9 of Schedule 3 to, the Public Service Pensions Act 2013(**a**).

In accordance with section 21 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.

Citation and commencement

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment) (No. 2) Regulations 2020.

(2) These Regulations come into force on 23rd September 2020.

Amendment of the Local Government Pension Scheme Regulations 2013

2. The Local Government Pension Scheme Regulations 2013(**b**) are amended in accordance with regulations 3 and 4.

3. In regulation 64 (special circumstances where revised actuarial valuations and certificates must be obtained)(**c**)—

(a) after paragraph (7) insert—

"(7A) An administering authority may enter into a written agreement with an exiting Scheme 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").

(**a**) 2013 c.25. See section 28 of the Act which provides for regulations made under section 7 of the Superannuation Act 1972 (c. 11) to have effect as scheme regulations under section 3 of the Act.
(**b**) S.I. 2013/2356.
(**c**) Regulation 64 was amended by S.I. 2014/1146, S.I. 2015/755, S.I 2017/612, 2018/493, S.I 2020/123 and by S.I. 2020/179.

(7B) An administering authority may enter into a deferred debt agreement with an exiting Scheme employer where—

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

(b) the funding strategy mentioned in regulation 58 (funding strategy statements) has set out the administering authority's policy on deferred debt agreements; and

(c) the administering authority has—

(i) consulted the exiting Scheme employer; and

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

(7C) Where a deferred debt agreement has been entered into under paragraph (7A)—

(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 62(5) (actuarial valuations of pension funds); and

(ii) pay the secondary rate of contributions as determined under regulation 62(7) as revised from time to time following an actuarial valuation until the termination of the deferred debt agreement.

(7D) 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.

(7E) 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;

(b) the period specified, or as varied, under paragraph (7D) 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 arrangement 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 secondary contributions 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.

(7F) Paragraph (7E)(c) does not apply where the administering authority serves a notice on the deferred employer that the administering authority is satisfied that the event would not be likely to significantly weaken the deferred employer's ability to meet the contributions payable under the deferred debt agreement in the next 12 months.

(7G) On the termination of a deferred debt agreement under paragraph (7E) a deferred employer becomes an exiting employer in relation to the relevant fund for the purposes of this regulation.".

(b) in paragraph (8), before the definition of "exit credit", insert—

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

4. After regulation 64 (special circumstances where revised actuarial valuations and certificates must be obtained), insert—

“Revision of rates and adjustments certificate: Scheme employer contributions

64A.—(1) An administering authority may obtain a revision of the rates and adjustments certificate under regulation 62 (actuarial valuations of pension funds) showing any resulting changes to the contributions of a Scheme employer or employers where—

(a) the funding strategy mentioned in regulation 58 (funding strategy statements) sets out the administering authority’s policy on amending contributions between valuations; and

(b) one of the following conditions applies—

(i) it appears likely to the administering authority that the amount of the liabilities arising or likely to arise has changed significantly since the last valuation;

(ii) it appears likely to the administering authority that there has been a significant change in the ability of the Scheme employer or employers to meet the obligations of employers in the Scheme; or

(iii) a Scheme employer or employers have requested a review of Scheme employer contributions and have undertaken to meet the costs of that review.

(2) In revising the certificate, an administering authority must—

(a) consult the Scheme employer or employers; and

(b) have regard to the views of an actuary appointed by the administering authority.

Revision of actuarial certificates: exit payments

64B.—(1) Where the funding strategy mentioned in regulation 58 (funding strategy statements) sets out the administering authority’s policy on spreading exit payments, that administering authority may obtain a revision of the rates and adjustments certificate under regulation 62 (actuarial valuations of pension funds) to show the proportion of the exit payment to be paid by the exiting Scheme employer in each year after the exit date over such period as the administering authority considers reasonable.

(2) In revising the certificate, an administering authority must—

(a) consult the exiting Scheme employer; and

(b) have regard to the views of an actuary appointed by the administering authority.”.

We consent to the making of these Regulations.

Maggie Throup
James Morris
21st August 2020 Two of the Lords Commissioners of Her Majesty’s Treasury

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

Simon Clarke
Minister of State
24th August 2020 Ministry of Housing, Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Government Pension Scheme Regulations 2013. Regulation 3 amends regulation 64 of the Local Government Pension Scheme Regulations 2013 to enable an administering authority and a Scheme employer to agree to defer exit payments in return for an ongoing commitment to meet their existing liabilities in a deferred debt agreement. Regulation 4 inserts regulation 64A to enable an administering authority to obtain a revised rates and adjustments certificate to show changes to Scheme employer contributions, and regulation 64B to enable administering authorities to offer employers exiting the Local Government Pension Scheme to spread exit payments by obtaining a revised rates and adjustments certificate setting out the proportion of the exit payments that is to be paid in each year after exit, over a period to be determined by the administering authority.

No impact assessment has been produced for these Regulations because no impact on the private or voluntary sectors is foreseen.

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