HYMANS ROBERTSON

Briefing note

Local Government Pension Scheme (Scotland) (Amendment) Regulations 2024 – the headlines

Laura McInroy
Senior Actuarial Consultant
Actuarial Public

Claire McDines
Trainee GAP Consultant
Actuarial Public

On 8 February 2024, the Scottish Public Pensions Agency (SPPA) published amendments to the Local Government Pension Scheme (Scotland) Regulations 2018. There are changes to three areas:

1. **The CARE annual revaluation date**
2. **Triennial actuarial valuations**
3. **Employer cessation valuations**

The new regulations will come into force on 31 March 2024, and be backdated to 31 March 2023.

We've summarised the amendments below, along with some thoughts on each area.

1 Stability of contribution rates

What does the statement say?

The previous version of the Regulations required administering authorities to revalue pension benefits in the LGPS on 1 April each year (ie the beginning of each scheme year) to allow for the impact of inflation. From 2015/16, however, HMRC realigned the accounting period over which pension growth is measured for annual allowance purposes to reflect the financial year (ie 6 April to 5 April). This misalignment of LGPS scheme year and HMRC financial year had the potential to impact annual growth against the annual allowance, although until 2022/23 any impact had been negligible due to inflation remaining consistently low.

Unfortunately, the impact of the misalignment was brought into stark focus in 2022/23, where the difference between LGPS CARE revaluation and HMRC annual allowance revaluation equated to 7%. This could have resulted in significant tax charges for anyone impacted by the annual allowance during 2022/23. Given that the annual allowance is designed to reflect the increase in a member's pension it was considered appropriate to adjust the revaluation date for LGPS benefits from 2023 to fully align with the HMRC date.

Under the amended Regulations, therefore, the revaluation date for pension benefits in the LGPS is moved to 6 April each year, aligning it with the HMRC annual allowance assessment period. This change was made to the LGPS in England and Wales on 6 April 2023 and is now being made to the scheme in Scotland. The change is backdated to 31 March 2023 to reflect the fact that Scottish administering authorities applied revaluation on 6 April 2023, giving legal effect to annual revisions during the 2023/24 scheme year.

Individual member entitlements are not impacted by this change in revaluation date. It has been introduced purely to ensure any imbalance with HMRC is removed and avoid scheme members being adversely impacted by the annual allowance.

Our thoughts

We welcome the realignment of the LGPS revaluation date to reflect the date used by HMRC for annual allowance purposes. We believe that this provides a fair solution to ensure that scheme members are not adversely impacted by the annual allowance resulting from an unintended quirk of HMRC changing its revaluation date in 2015/16, while at the same time not having an adverse impact on individual member entitlements.

2 Actuarial valuation of pension funds (Regulation 60)

What changes have been made?

The previous version of the Regulations required administering authorities to obtain a valuation of the assets and liabilities of the fund on both an ongoing basis and a cessation basis at triennial valuation dates (Regulation 60(1)(a)). The Regulations also required that the Rates and Adjustments certificate must specify the amount of an employer's liabilities on both an ongoing basis and a cessation basis (Regulation 60 (6A)).

Under the amended Regulations, the whole fund valuation will only be required on an ongoing basis, with the cessation basis removed. The requirement to specify the amount of an employer's liabilities in the Rates and Adjustments certificate (on any basis) has also been removed.

Our thoughts

We welcome the removal of the requirement to show whole fund liabilities on a cessation basis in the formal valuation report, and for the need to disclose employer liabilities on any basis in the Rates and Adjustments (R&A) certificate. The main reasons for this are:

- Some employers are unlikely to ever cease participation in the LGPS because they are scheduled bodies that are open to new entrants, therefore any notion of a 'cessation basis' will be irrelevant for them. They are generally valued using ongoing assumptions and form most of a whole fund's liabilities.
- There is no formal definition of a 'cessation basis' in the Regulations. In practice, the cessation basis used for different employers within an LGPS fund may vary depending on individual employer circumstances (eg guarantor status). A statement of liabilities on a single 'cessation basis' may lead to confusion from some employers about their level of liability to the fund.
- We believe that the R&A certificate, as a public document, should focus only on the contribution rate for each employer. Funds will disclose individual employer liabilities, alongside other valuation output, on a private basis with each employer as part of the consultation process during the valuation year.

Whilst we welcome the removal of these requirements to include this information in publicly available documents, we do believe it is best practice for funds to separately communicate an appropriate cessation basis funding position to the relevant participating employers only as part of the triennial valuation process. From our communications with SPPA, we understand they too consider this to be best practice.

3 Special circumstances where revised actuarial valuations and certificates must be obtained (Regulation 61)

What changes have been made?

The previous version of the Regulations required the administering authority to obtain a cessation valuation and revised Rates and Adjustments certificate as at the date of an employer's exit from the scheme (under Regulation 61 (2)). This would "remain fixed for a period of 90 days" (Regulation 61 (2A)).

Under the amended Regulation 61 (2A), an employer proposing to exit the scheme may request an indicative cessation valuation as at a specific date which, should the employer exit the scheme within the subsequent 90 days, must be used in substitution for a valuation as at the employer's actual exit date. The amended Regulations also require that administering authorities provide an indicative cessation valuation on request,unless an employer has made a request for an indicative cessation valuation within the previous 12 months (new Regulation: 61 (2B)).

Our thoughts

We welcome the removal of the requirement for a cessation valuation as at an employer's exit date to be "fixed for a period of 90 days" due to ambiguity about the meaning of this statement. The amended regulations are clear on the requirements of the administering authority regarding cessation valuations, which is positive. However, we are concerned that the new wording (implementing a policy agreed by the Scottish Scheme Advisory Board) causes an asymmetric risk to funds, in addition to other practical issues to consider regarding the approach to indicative cessation valuations, for example:

- **CARE pot accrual**
  Should any allowance be made within indicative cessation valuations for expected future benefit accrual over the 90 days from the valuation date?
- **Employer controlled risks (eg salary increases, redundancies, ill health early retirements)**
  How will the administering authority manage the risk that the employer awards higher than expected salary increases within the 90 days from the valuation date? Or if an employee retires earlier than expected, resulting in a funding strain?
- **Market uncertainty**
  Should liability valuations include a loading to mitigate the risk of adverse market movements in the 90-day period from the valuation date which may affect asset and/or liability values?
- **Membership data**
  Currently, indicative cessation valuations are generally carried out by funds on an approximate 'roll forward' basis using membership data from the previous actuarial valuation. Funds may instead want to apply up-to-date membership data in the valuation to avoid 'crystallising' an exit amount that is either overstated or understated (due to the use of old data).

We would recommend that funds review their cessation policies and/or funding strategy statements to ensure any agreed changes in approach are appropriately documented.

London | Birmingham | Glasgow | Edinburgh

T 020 7082 6000 | www.hymans.co.uk