POLICY NOTE

THE POLICE PENSIONS (SCOTLAND) AMENDMENT REGULATIONS 2022

SSI 2022/101

The above instrument was made in exercise of the powers conferred by section 1(1), (2)(g) 2 and 3 of, and Schedule 3 to, the Public Service Pensions Act 2013 ("the 2013 Act"). It is subject to negative procedure.

The Regulations implement reforms to the Police Pension Schemes under the Public Service Pensions and Judicial Offices Act ("the 2022 Act") in respect of pensions for Police Officers in Scotland.

Policy Objectives

Occupational pensions policy is reserved to the UK Government. The 2013 Act introduced reforms to public service pension schemes including those in devolved nations. The aim of the reforms was to implement the recommendations of the Independent Public Service Pensions Commission: Final Report, to make public service pensions, which due to increased workforce longevity had increasingly been paid for by taxpayers, more affordable and sustainable. New pension schemes were introduced from 1 April 2015, characterised through a higher normal pension age (NPA) for all scheme members, calculating benefits on a career average revalued earnings (CARE) basis rather than through final salary, and the introduction of a cost control mechanism.

Transitional protection provided for some scheme members, dependent on proximity to their NPA on 31 March 2012, to be either "fully protected" or "taper protected". Members in these categories were allowed to remain in their legacy scheme permanently, or for a set period before transitioning to the reformed CARE scheme before 31 March 2022.

In 2018, following a successful challenge by members of the judicial and firefighters' pension schemes, the transitional protections were found to be discriminatory against younger members by the Court of Appeal, as protection was only offered to older scheme members. The UK government accepted this ruling had implications for all public service schemes that contained similar transitional protection arrangements and introduced legislation through the 2022 Act to remedy the discrimination caused by these transitional protections.

The purpose of the amendments in this instrument, in implementation of the 2022 Act, is to ensure that the pension schemes governed by The Police Pensions Regulations 1987 ("the 1987 Scheme") and the Police Pensions Regulations (Scotland) 2007 ("the 2006 Scheme") will, except for limited purposes, be closed to the accrual of pension benefits with effect from 1st April 2022. Any members currently in pensionable service under those pension schemes will, on that date, begin to accrue benefits in the scheme established by the 2015 Regulations.

A further instrument is being prepared that will complete the statutory arrangements as set out in the 2022 Act.

The Amendments

This instrument achieves the purposes of closing the legacy schemes at 31 March 2022, moving all active members to the 2015 Scheme on 1 April 2022 and ensuring that rules around additional pension elections and transfers in to the existing scheme for transitional members are applied consistently to those previously classed as full protection members.

Regulation 1 establishes the title of the Regulations and the commencement date is set at 1 April 2022.

Regulation 2 defines the closing date of the legacy schemes as 31 March 2022 and the transition date for "full protection" members as 1 April 2022. This regulation also defines the date 31 March 2022 as the date at which full protection members cease to be full protection members of the legacy schemes.

Consultation

To comply with the requirements of section 21 of the 2013 Act, a public consultation was undertaken from 24 November 2021 and closed on 18 January 2022. Those consulted were Police pension scheme members, employers, related trade unions and relevant Scottish and UK Government Departments. Consultation responses showed general agreement with the purpose and nature of the amendments. Some respondents expressed disagreement with the nature and intention of the overarching 2015 Remedy that has been set out in the 2022 Act. 32 responses were received to the consultation and a summary of the consultation responses will be made available on the Scottish Public Pensions Agency's website www.sppa.gov.uk.

Impact Assessments

An initial Equality Impact Assessment has been completed and was included with the public consultation. This assessment will continue to be reviewed and updated and a full assessment will be published with the second and final instrument.

A fairer Scotland duty assessment was not carried out. The policy set out in this SSI is technical in nature and implements reserved UK legal changes. Accordingly, the Fairer Scotland Duty Assessment is not considered to be applicable here.

Financial Effects

This policy introduces further reform to the pension scheme for police officers in Scotland, following court judgment and public consultation. This policy does not impose any additional costs or reduce existing costs for business, third or public sector organisations and on that basis no Business and Regulatory Impact Assessment is required for these Regulations.

Scottish Public Pensions Agency
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17 March 2022