VERŻJONI ELETTRONIKA

L.N. 8 of 2015

RETIREMENT PENSIONS ACT (CAP. 514)

Retirement Pensions (Defined Benefit Retirement Schemes) Regulations, 2015

IN exercise of the powers conferred by articles 26(1) and 37(1)(i) of the Retirement Pensions Act, the Minister for Finance, acting on the advice of the Malta Financial Services Authority, has made the following regulations:-

Citation and commencement.

1. (1) The title of these regulations is the Retirement Pensions (Defined Benefit Retirement Schemes) Regulations, 2015.

(2) These regulations shall come into force on the 1st January 2015.

Interpretation. Cap. 514.

2. (1) Any reference in these regulations to the Act is a reference to the Retirement Pensions Act and subject to the provisions of sub-regulation (2) of this regulation, the provisions of article 2 of the said Act shall also apply to these regulations.

(2) In these regulations unless the context otherwise requires -

"defined benefit retirement scheme" means a retirement scheme, other than a defined contribution retirement scheme, which has as its primary purpose that of providing for the payment of fixed or determinable retirement benefits;

"technical funding requirement" means a requirement that the value of the assets of a retirement scheme shall not be:

(a) less than such amount, nor

(b) more than such amount,

as may be stipulated in terms of Pension Rules issued by the competent authority.

Applicability of regulations.

3. These regulations shall apply to every defined benefit retirement scheme which is either an occupational retirement scheme or a personal retirement scheme, providing cover against biometric risks or guaranteeing a given level of investment performance or level of benefits in terms of the Act and any reference to "retirement scheme" in these regulations shall be construed accordingly.

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Technical funding requirement.

4. Every defined benefit retirement scheme shall be subject to and shall comply with a technical funding requirement as well as with provisions regarding under-provision or over-provision of the technical funding requirement established in terms of these regulations.

Requirement for an actuarial valuation and certificate from an actuary.

5. (1) In accordance with article 16 of the Act and the Pension Rules issued thereunder, every defined benefit retirement scheme shall appoint an actuary approved by the competent authority.

(2) The retirement scheme shall obtain within such period as stipulated in Pension Rules, an actuarial valuation as set out in the Pension Rules from the retirement scheme's actuary and afterwards obtain such a valuation at such intervals as stipulated in Pension Rules.

(3) The retirement scheme shall in such circumstances, or on such dates, or within such periods as stipulated in Pension Rules obtain a certificate prepared by the retirement scheme's actuary -

(a) stating whether or not in his opinion the contributions payable towards the retirement scheme are adequate for the purpose of securing that the technical funding requirement will continue to be met throughout the prescribed period or, if it appears to him that it is not met, whether or not in his opinion it will be met by the end of that period; and

(b) indicating any relevant changes that have occurred since the last actuarial valuation was prepared.

(4) The retirement scheme shall obtain an actuarial valuation within the period stated in sub-regulation (2):

(a) in the event that the actuary states in the certificate referred to in sub-regulation (3), that in his opinion:

(i) the contributions payable towards the retirement scheme are not adequate for the purpose of securing that the technical funding requirement will continue to be met throughout the period stipulated in Pension Rules; or

(ii) the technical funding requirement is not met at the time of issue of the certificate; or

(iii) it will not be met by the end of that period; or

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(b) in such circumstances as may be stipulated in Pension Rules.

(5) If the retirement scheme obtains a valuation under sub-regulation (4), it shall do so -

(a) in the case of a valuation required by paragraph (a) thereof, within the period of three months or such other period as may be determined by the competent authority reckoned from the date of the actuarial certificate, and

(b) in any other case, within such period as may be stipulated in Pension Rules.

(6) A valuation or certificate shall be prepared in such manner, give such information and contain such statements as may be stipulated in Pension Rules.

Under-provision in a retirement scheme.

6. (1) Where an actuarial valuation shows that, on the effective date of the valuation, the value of the retirement scheme assets is less than the amount prescribed for the purposes of paragraph (a) of the definition "technical funding requirement" in regulation 2(2) (the difference shown in the valuation hereinafter referred to as "the shortfall") the employer or contributor shall -

(a) by making an appropriate payment to the retirement scheme; or

(b) by such other method as may be stipulated in Pension Rules,

secure an increase in the value of the retirement scheme assets which, taken with any contributions paid, is not less than the shortfall.

(2) The required increase in that value must be secured -

(a) before the end of such period as may be stipulated in Pension Rules reckoned from the date of the valuation; or

(b) if the actuarial valuation was obtained by reason of a statement in the certificate referred to in regulation 5(3), before the end of a period stipulated in Pension Rules reckoned from the date of the certificate.

(3) Except in such circumstances as may be stipulated in Pension Rules, if the employer or contributor referred to in sub-regulation (1) fail to secure the required increase in value before the end of the period applicable under sub-regulation (2), the retirement

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scheme administrator, or the retirement scheme actuary shall within the period of thirty days reckoned from the end of that period, give written notice of that fact to the competent authority, members and beneficiaries of the retirement scheme.

(4) Except in such circumstances as may be stipulated in Pension Rules, if the employer referred to in sub-regulation (1) fails to secure the required increase in value before the end of the period applicable under sub-regulation (2), then so much of the shortfall as, at any subsequent time, has not been met by an increase in value made under sub-regulation (1) or otherwise by contributions made before the end of that period, such shortfall shall be recoverable by the retirement scheme from the employer and the provisions of article 19(5) of the Act shall *mutatis mutandis* apply with regard to any such debt; and, in the case of a personal retirement scheme, such amounts shall be recoverable from the contributor.

(5) The competent authority may extend, or further extend the period referred to in sub-regulation (2), and where it refuses to extend or further extend the period, it shall give written notice to the retirement scheme of the refusal together with a statement of reasons for its decision.

Over-provision in a retirement scheme.

7. (1) Where an actuarial valuation shows that, on the effective date of the valuation, the value of the retirement scheme assets is more than the amount prescribed for the purposes of paragraph (b) of the definition "technical funding requirement" in regulation 2(2) (the difference shown in the valuation hereinafter referred to as "the excess"), the competent authority may issue a directive to the employer or contributor and the retirement scheme to take such steps by such method as may be approved by the competent authority to secure an appropriate reduction in the value of the retirement scheme assets.

(2) The required reduction in that value must be secured before the end of such period as may be specified in the directive.

(3) If the employer or contributor and retirement scheme fail to secure the required reduction in value before the end of the period applicable under sub-regulation (2), the retirement scheme shall, within the period of thirty days reckoned from the end of that period, give written notice of that fact to the competent authority, members and beneficiaries of the retirement scheme.

(4) The competent authority may extend, or further extend the period referred to in sub-regulation (2), and where it refuses to extend, or further extend the period, it shall give written notice to the

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retirement scheme of the refusal together with a statement of reasons for the decision.

Requirement for a schedule of payments.

8. (1) A schedule of payments shall be prepared by the retirement scheme before the end of such period as may be stipulated in Pension Rules, reckoned from the date of the first actuarial valuation for the retirement scheme, and shall thereafter be revised before the end of such period as may be prescribed, reckoned from the date of the signing of each subsequent actuarial valuation.

(2) Where from time to time, such revisions are agreed by the retirement scheme and the employer or contributor, and where applicable, any other contributor to the retirement scheme, and any such revision in the rates of contributions is certified by the actuary of the retirement scheme as meeting the requirements of the Act, or as may be prescribed or in the circumstances referred to in paragraph (b) of sub-regulation (3), the schedule of payments may be revised.

(3) The matters contained in the schedule of payments as revised shall be:

(a) matters previously agreed between the retirement scheme and the employer, and where applicable, any other contributor to the retirement scheme, or

(b) where no such agreement has been reached:

(i) the rates of contributions determined by the retirement scheme and the actuary of the retirement scheme and certified by the actuary of the retirement scheme, being such rates as in their opinion are adequate for the purpose of securing that the technical funding requirement will continue to be met throughout the prescribed period or where it appears to them that the technical funding requirement is not being met, such rates as are adequate for such requirement to be met by the end of that period; and

(ii) any other matters determined by the retirement scheme and the actuary of the retirement scheme.

(4) An agreement for the purposes of paragraph (a) of sub-regulation (3) shall be made during such period as may be stipulated in Pension Rules, beginning with the signing of the last preceding actuarial valuation for the retirement scheme.

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(5) The actuary shall not certify the schedule of payments -

(a) where it appears to him that the technical funding requirement is met, unless he is of the opinion that the rates are adequate for the purpose of securing that the requirement will continue to be met throughout the period stipulated in Pension Rules, and

(b) in any other case, unless he is of the opinion that the rates are adequate for the purpose of securing that the requirement will be met by the end of that period.

(6) The competent authority may extend, or further extend the period referred to in sub-regulation (1), and where it refuses to extend, or further extend such period, it shall give written notice to the retirement scheme of the refusal together with a statement of reasons for the decisions.

Pension Rules.

9. The competent authority may from time to time issue Pension Rules in terms of article 37(4) of the Act for the better carrying out of the provisions of these regulations.

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