
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 240

**The Local Government Pension Scheme
(Remediable Service) (Scotland) Regulations 2023**

PART 2

Amendments relating to the statutory underpin

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

- 3.—**(1) The 2018 Regulations are amended as follows.
- (2) In regulation 29 (retirement benefits), after paragraph (14), insert—
- “(15) The references to an enhancement in paragraph (5), a reduction in paragraph (6) and an adjustment in paragraph (7) do not apply to any final guarantee amount that has been added to the pension account under regulation 4B or 4C of the Transitional Provisions and Savings Regulations 2014.”.
- (3) In regulation 33 (commutation and small pensions)—
- (a) after paragraph (2) insert—
- “(2A) In the case of an eligible member, the pension used to calculate a payment under paragraph (1) is to include—
- (a) where the pension is in payment—
- (i) any final guarantee amount calculated in respect of the eligible member’s pension account under regulation 4B or 4C of the Transitional Provisions and Savings Regulations 2014; and
- (ii) any revaluation adjustment or index rate adjustment that has been applied to the retirement pension account as a consequence of a final guarantee amount;
- (b) where the pension is not in payment, any final guarantee amount that would be paid were the payment under paragraph (1)(a) or (c) not to proceed; or
- (c) where the eligible member is deceased—
- (i) any survivor guarantee amount payable to the survivor member in respect of the eligible member; and
- (ii) any revaluation adjustment or index rate adjustment that has been applied to a survivor member’s pension account as a consequence of the survivor guarantee amount.”.
- (b) at the end insert—
- “(4) In this regulation—
- “eligible member” has the same meaning as in regulation 1(4) of the Transitional Provisions and Savings Regulations 2014;

“survivor guarantee amount” has the meaning given in regulation 4M(3) of the Transitional Provisions and Savings Regulations 2014.”.

- (4) In regulation 39(4)(a) (survivor benefits: partners of active members)—
- (a) after “draw”, insert “, excluding any final guarantee amount under regulation 4B or 4C of the Transitional Provisions and Savings Regulations 2014,”;
 - (b) after head (iv), insert “and”;
 - (c) in head (v), omit “and”;
 - (d) omit head (vi).
- (5) In regulation 40 (survivor benefits: children of active members)—
- (a) in sub-paragraph (4)(a)—
 - (i) after “draw”, insert “, excluding any final guarantee amount under regulation 4B or 4C of the Transitional Provisions and Savings Regulations 2014,”;
 - (ii) after head (iv), insert “and”;
 - (iii) in head (v), omit “and”;
 - (iv) omit head (vi);
 - (b) in sub-paragraph (5)(a)—
 - (i) after “draw”, insert “, excluding any final guarantee amount under regulation 4B or 4C of the Transitional Provisions and Savings Regulations 2014,”;
 - (ii) after head (iv), insert “and”;
 - (iii) in head (v), omit “and”;
 - (iv) omit head (vi);
 - (c) in sub-paragraph (9)(a)—
 - (i) after “draw”, insert “, excluding any final guarantee amount under regulation 4B or 4C of the Transitional Provisions and Savings Regulations 2014,”;
 - (ii) after head (iv), insert “and”;
 - (iii) in head (v), omit “and”;
 - (iv) omit head (vi);
 - (d) in sub-paragraph (10)(a)—
 - (i) after “draw”, insert “, excluding any final guarantee amount under regulation 4B or 4C of the Transitional Provisions and Savings Regulations 2014,”;
 - (ii) after head (iv), insert “and”;
 - (iii) in head (v), omit “and”;
 - (iv) omit head (vi).
- (6) In regulation 41 (death grants: deferred members and pension credit members)—
- (a) in paragraph (3)—
 - (i) after “annually” insert “, excluding any final guarantee amount under regulation 4B or 4C of the Transitional Provisions and Savings Regulations 2014,”;
 - (ii) at the end of sub-paragraph (a), omit “and”;
 - (iii) at the end of sub-paragraph (b), insert “and”;
 - (iv) after sub-paragraph (b), insert—

- (a) in paragraph (4)—
 - (i) after sub-paragraph (e), insert “and”;
 - (ii) in sub-paragraph (f), omit “and”;
 - (iii) omit sub-paragraph (g);
- (b) after paragraph (8) insert—

“(9) The pension that the member would have been entitled to, for the purpose of calculating the amount of pension payable under paragraph (3), is not to include any final guarantee amount that has been added to the pension under regulation 4B or 4C of the Transitional Provisions and Savings Regulations 2014.”.
- (10) In regulation 46 (survivor benefits: children of pensioner members)—
 - (a) in paragraph (4)—
 - (i) after sub-paragraph (e), insert “and”;
 - (ii) in sub-paragraph (f), omit “and”;
 - (iii) omit sub-paragraph (g);
 - (b) in paragraph (5)—
 - (i) after sub-paragraph (e), insert “and”;
 - (ii) in sub-paragraph (f), omit “and”;
 - (iii) omit sub-paragraph (g);
 - (c) in paragraph (9)—
 - (i) after sub-paragraph (e), insert “and”;
 - (ii) in sub-paragraph (f), omit “and”;
 - (iii) omit sub-paragraph (g);
 - (d) in paragraph (10)—
 - (i) after sub-paragraph (e), insert “and”;
 - (ii) in sub-paragraph (f), omit “and”;
 - (iii) omit sub-paragraph (g);
 - (e) after paragraph (10) insert—

“(10A) The pension that the member would have been entitled to, for the purpose of calculating the amount of pension payable under paragraphs (3) and (8), is not to include any final guarantee amount that has been added to the pension under regulation 4B or 4C of the Transitional Provisions and Savings Regulations 2014.”.
- (11) In regulation 60 (actuarial valuations of pension funds), after paragraph (5) insert—

“(5A) Compensation paid by the scheme to a person by virtue of section 82(1) of PSPJOA 2022 or additional benefits payable by virtue of regulation 4Q of the Transitional Provisions and Savings Regulations 2014 are liabilities for the purpose of the actuarial valuation under paragraph (1)(a).”.
- (12) In regulation 61 (special circumstances where revised actuarial valuations and certificates must be obtained), after paragraph (2A) insert—

“(2B) Compensation paid by the scheme to a person by virtue of section 82(1) of PSPJOA 2022 or additional benefits payable by virtue of regulation 4Q of the Transitional Provisions and Savings Regulations 2014 are liabilities for the purpose of the actuarial valuation under paragraph (2)(a).”.
- (13) In regulation 76 (interest on late payment of certain benefits), before paragraph (1), insert—

- “(A1) This regulation does not apply to sums in respect of which interest is payable under—
- (a) regulation 4T of the Transitional Provisions and Savings Regulations 2014; or
 - (b) regulation 14 of the Local Government Pension Scheme (Remediable Service) (Scotland) Regulations 2023.”.
- (14) In regulation 91 (rights to payment out of pension fund)—
- (a) after paragraph (1) insert—

“(1A) Where a transfer under paragraph (1) is applied for by an eligible member and is not a Club Transfer, the value of the transfer is to be calculated in accordance with actuarial guidance issued by the Scottish Ministers, taking into account the member’s provisional underpin amount and provisional assumed benefits, which are calculated in accordance with regulations 4I and 4J of the Transitional Provisions and Savings Regulations 2014.”;
 - (b) after paragraph (3) insert—

“(4) “Eligible member” has the same meaning as in regulation 4A(2) of the Transitional Provisions and Savings Regulations 2014.”.
- (15) In regulation 93 (bulk transfers etc), at the end, insert—
- “(9) This regulation is subject to regulation 10(6) of the Local Government Pension Scheme (Remediable Service) (Scotland) Regulations 2023 (transfer payments out of the fund before 1 October 2023).”.
- (16) In regulation 94 (calculation of amount of transfer payment), after paragraph (2) insert—
- “(2A) The actuary must take into account the member’s provisional underpin amount and provisional assumed benefits, which are calculated in relation to the member in accordance with regulations 4I and 4J of the Transitional Provisions and Savings Regulations 2014.”.
- (17) In schedule 1 (interpretation)—
- (a) after the definition of “European pensions institution”, insert—

““final guarantee amount” has the meaning given in regulation 1(4) of the Transitional Provisions and Savings Regulations 2014;”;
 - (b) after the definition of “permanently incapable”, insert—

““PSPJOA 2022” means the Public Service Pensions and Judicial Offices Act 2022;”.