

2023 No.

PUBLIC SERVICE PENSIONS

**The Local Government Pension Scheme (Scotland)
(Amendment) Regulations 2023**

Made - - - - - ***
Laid before Parliament ***
Coming into force - - - 25th May 2023

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 1(1) and (2)(c), and section 3(1) to (3) of, and Schedule 2 to, the Public Service Pensions Act 2013(a) and all other powers enabling them to do so.

In accordance with section 21 of that Act, the Scottish Ministers consulted the representatives of such persons as appeared to the Scottish Ministers likely to be affected by these Regulations.

Citation and commencement

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Scotland) (Amendment) Regulations 2023 and come into force on 25 May 2023.

(2) These Regulations have effect from 31 March 2023.

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

2. The Local Government Pension Scheme (Scotland) Regulations 2018(b) are amended as follows.

Revaluation date: revaluation adjustments, members

3.—(1) In regulation 23—

(a) in paragraph (2)(d)—

(i) after “during the Scheme year,” insert “plus” then insert—

“(e) the revaluation adjustment which was applied on the revaluation date falling within that Scheme year,”,

(ii) after “aggregated” omit the wording from “and the revaluation adjustment” to the end.

(a) 2013 c. 25; sections 3(1) and (2) were amended by section 94(2) and (3) of the Public Service Pensions and Judicial Offices Act 2022 (2022 c. 7). Section 2 of, and Schedule 2 to, the Public Service Pensions Act 2013 set out how the powers are exercisable by the Scottish Ministers, and section 9 (revaluation) of that Act sets out how the process of revaluation is to be conducted.

(b) S.S.I. 2018/141. Relevant amendments were made by S.S.I. 2019/16 and S.S.I. 2022/153.

- (b) in paragraph (3), omit “revalued” and at the end insert—
- “(3A) On the revaluation date, the revaluation adjustment must be applied to the balance mentioned at paragraph (3) in accordance with guidance issued by the Scottish Ministers.”.
- (2) In regulation 24—
- (a) after paragraph (4), insert—
- “(4A) For the purposes of paragraph 4(a), where a member’s last day of active membership falls in the period beginning with 6 April and ending with 31 March in any Scheme year, the opening balance includes the revaluation adjustment which was applied on the revaluation date falling within that member’s last active Scheme year.
- (4B) If a member’s last day of active membership falls in the period beginning with 1 April and ending with 5 April in any Scheme year, on the revaluation date falling within that member’s last active scheme year the revaluation adjustment must be applied to the opening balance mentioned at paragraph (4)(a) in accordance with guidance issued by the Scottish Ministers.”.
- (b) in paragraph (7), for “beginning of” substitute “revaluation date in”,
- (c) in paragraph (8)—
- (i) omit “revalued”,
- (ii) for “(7)” substitute “(4)” and then insert “including any adjustment made in accordance with paragraph (4B)”,
- (iii) after “Scheme year and” insert “having applied the revaluation adjustment to the balance in accordance with paragraph (7)”, and
- (iv) at the end, insert—
- “(8A) Where an index rate adjustment is due to be made on a revaluation date, any such adjustment must be made after the revaluation adjustment is made.”.
- (3) In regulation 25—
- (a) in paragraph (3), after “24(4)” insert “and, where applicable, regulation 24(4A)”,
- (b) after paragraph (4), insert—
- “(4A) If a member’s last day of active membership falls in the period beginning with 1 April and ending with 5 April in any Scheme year, on the revaluation date falling within that member’s last active Scheme year the revaluation adjustment must be applied to the opening balance for the member’s last active Scheme year and takes effect from the date the member became entitled to immediate payment, in accordance with guidance issued by the Scottish Ministers.”.
- (c) in paragraph (6)—
- (i) for “beginning of” substitute “revaluation date in”,
- (ii) after “pensioner member” in the second place where it occurs, insert “and takes effect from the start of the Scheme year following the Scheme year in which the member became a pensioner member”,
- (d) in paragraph (7)—
- (i) omit “revalued”,
- (ii) for “(6)” substitute “(2)” and then insert “including any adjustment made in accordance with paragraph (4A)”,
- (iii) following “Scheme year and,” insert “having applied the revaluation adjustment to the balance in accordance with paragraph (6)”, and
- (iv) at the end insert—
- “(7A) Where an index rate adjustment is due to be made on a revaluation date, any such adjustment must be made after the revaluation adjustment is made.”.
- (4) In regulation 26, in paragraph (8), for “beginning of” substitute “revaluation date in”.

(5) In regulation 27—

(a) in paragraph (5)—

- (i) for “beginning of” substitute “revaluation date in”,
- (ii) after “retirement pension” in the third place where it occurs, insert “and takes effect from the start of the Scheme year following the Scheme year in which the member became entitled to that pension”,

(b) in paragraph (6)—

- (i) omit “revalued”,
- (ii) following “Scheme year and,” insert “having applied the revaluation adjustment to the balance in accordance with paragraph (5),”, and
- (iii) at the end, insert—

“(7) Where an index rate adjustment is due to be made on a revaluation date, any such adjustment must be made immediately after the revaluation adjustment is made.”.

Survivor benefits: revaluation adjustments, survivor benefits for partners and children of active members

4.—(1) In regulation 39—

(a) in paragraph (4)(a), at the end insert—

“(aa) For the purposes of sub-paragraph (a), if the member died in the period beginning with 1 April and ending with 5 April in any Scheme year, the pension is deemed to include the revaluation adjustment that would have been due at the next revaluation date.”,

(b) in paragraph (6)—

- (i) for “beginning of” substitute “revaluation date in”,
- (ii) after “was opened,” in the second place where it occurs, insert “and takes effect from the start of the Scheme year following the Scheme year in which the survivor member’s account was opened,”,

(c) in paragraph (7)—

- (i) omit “revalued”,
- (ii) for “(6)” substitute “(3)”,
- (iii) following “Scheme year and,” insert “having applied the revaluation adjustment to the balance in accordance with paragraph (6),”, and
- (iv) at the end, insert—

“(7A) Where an index rate adjustment is due to be made on a revaluation date, any such adjustment must be made immediately after the revaluation adjustment is made.”.

(2) In regulation 40—

(a) at the end of paragraphs (4)(a), 5(a), 9(a) and 10(a) insert—

“(aa) For the purposes of sub-paragraph (a), if the member died in the period beginning with 1 April and ending with 5 April in any Scheme year, the pension is deemed to include the revaluation adjustment that would have been due at the next revaluation date.”,

(b) in paragraph (13)—

- (i) for “beginning of” substitute “revaluation date in”,
- (ii) after “was opened,” in the second place where it occurs, insert “and takes effect from the start of the Scheme year following the Scheme year in which the survivor member's account was opened,”,

(c) in paragraph (14)—

- (i) omit “revalued”,
- (ii) for “(13)” substitute “(3) or (8)”,
- (iii) following “Scheme year and,” insert “having applied the revaluation adjustment to the balance in accordance with paragraph (13),”,
- (iv) at the end, insert—
“(15) Where an index rate adjustment is due to be made on a revaluation date, any such adjustment must be made immediately after the revaluation adjustment is made.”.

Survivor benefits: revaluation adjustments, death grants: deferred members and pension credit members

5.—(1) In regulation 41—

(a) after paragraph (3) insert—

“(3A) For the purposes of paragraph (3), if the member—

- (a) died in the period beginning with 1 April and ending with 5 April in the Scheme year following the Scheme year that the member ceased to be an active member, or
- (b) ceased to be an active member and became a deferred member in the period beginning with 1 April and ending with 5 April in a Scheme year and subsequently died within that same period,

the pension is deemed to include the revaluation adjustment that would have been due at the next revaluation date.”,

(b) in paragraph (4), before “.” insert “, and paragraph (3A) does not apply”.

Revaluation date: revaluation adjustments, survivor benefits for partners and children of deferred members

6.—(1) In regulation 42—

(a) after paragraph (4), insert—

“(4A) For the purposes of paragraph (4), if the member—

- (a) died in the period beginning with 1 April and ending with 5 April in the Scheme year following the Scheme year that the member ceased to be an active member, or
- (b) ceased to be an active member and became a deferred member in the period beginning with 1 April and ending with 5 April in a Scheme year and subsequently died within that same period,

the pension is deemed to include the revaluation adjustment that would have been due at the next revaluation date.”,

(b) in paragraph (6)—

(i) for “beginning of” substitute “revaluation date in”,

(ii) after “was opened,” in the second place where it occurs, insert “and takes effect from the start of the Scheme year following the Scheme year in which the survivor member's account was opened,”,

(c) in paragraph (7)(a)—

(i) omit “revalued”,

(ii) in the second place where it occurs, for “(6)” substitute “(3)”,

(iii) following “Scheme year” insert “and the revaluation adjustment is applied to the balance in accordance with paragraph (6)”,

(d) after paragraph (7), insert—

“(7A) Where an index rate adjustment is due to be made on a revaluation date, any such adjustment must be made immediately after the revaluation adjustment is made.”.

(2) In regulation 43—

(a) after paragraph (4), insert—

“(4A) For the purposes of paragraph (4), if the member—

- (a) died in the period beginning with 1 April and ending with 5 April in the Scheme year following the Scheme year that the member ceased to be an active member, or
- (b) ceased to be an active member and became a deferred member in the period beginning with 1 April and ending with 5 April in a Scheme year and subsequently died within that same period,

the pension is deemed to include the revaluation adjustment that would have been due at the next revaluation date.”,

(b) after paragraph (5), insert—

“(5A) For the purposes of paragraph (5), if the member—

- (a) died in the period beginning with 1 April and ending with 5 April in the Scheme year following the Scheme year that the member ceased to be an active member, or
- (b) ceased to be an active member and became a deferred member in the period beginning with 1 April and ending with 5 April in a Scheme year and subsequently died within that same period,

the pension is deemed to include the revaluation adjustment that would have been due at the next revaluation date.”,

(c) after paragraph (9), insert—

“(9A) For the purposes of paragraph (9), if the member—

- (a) died in the period beginning with 1 April and ending with 5 April in the Scheme year following the Scheme year that the member ceased to be an active member, or
- (b) ceased to be an active member and became a deferred member in the period beginning with 1 April and ending with 5 April in a Scheme year and subsequently died within that same period,

the pension is deemed to include the revaluation adjustment that would have been due at the next revaluation date.”,

(d) after paragraph (10), insert—

“(10A) For the purposes of paragraph (10), if the member—

- (a) died in the period beginning with 1 April and ending with 5 April in the Scheme year following the Scheme year that the member ceased to be an active member, or
- (b) ceased to be an active member and became a deferred member in the period beginning with 1 April and ending with 5 April in a Scheme year and subsequently died within that same period,

the pension is deemed to include the revaluation adjustment that would have been due at the next revaluation date.”,

(e) in paragraph (13)—

- (i) for “beginning of” substitute “revaluation date in”,
- (ii) after “was opened,” in the second place where it occurs, insert “and takes effect from the start of the Scheme year following the Scheme year in which the survivor account was opened.”,

(f) in paragraph (14)(a)—

- (i) omit “revalued”,
- (ii) in the second place where it occurs, for “(13)” substitute “(3) or (8)”,
- (iii) following “Scheme year” insert “and the revaluation adjustment is applied to the balance in accordance with paragraph (13)”,

(g) after paragraph (14), insert—

“(14A) Where an index rate adjustment is due to be made on a revaluation date, any such adjustment must be made immediately after the revaluation adjustment is made.”.

Survivor benefits: revaluation adjustments, death grants and survivor benefits: pensioner members

7.—(1) In regulation 44, at the end insert—

“(5) For the purposes of a death grant payable in accordance with paragraph (3) (but not for the purposes of a death grant derived from a pension credit payable in accordance with paragraph (4)), if the member—

- (a) died in the period beginning with 1 April and ending with 5 April in the Scheme year following the Scheme year that the member ceased to be an active member, or
- (b) ceased to be an active member in the period beginning with 1 April and ending with 5 April in a Scheme year and subsequently died within that same period,

the pension the member would have been entitled to receive as retirement pension at the date of death is deemed to include the revaluation adjustment that would have been due at the next revaluation date.”.

(2) In regulation 45—

(a) after paragraph (4), insert—

“(4A) For the purposes of paragraph (4), if the member—

- (a) died in the period beginning with 1 April and ending with 5 April in the Scheme year following the Scheme year that the member ceased to be an active member, or
- (b) ceased to be an active member in the period beginning with 1 April and ending with 5 April in a Scheme year and subsequently died within that same period,

the pension is deemed to include the revaluation adjustment that would have been due at the next revaluation date.”

(b) in paragraph (6)—

- (i) for “beginning of” substitute “revaluation date in”,
- (ii) after “was opened,” in the second place where it occurs, insert “and takes effect from the start of the Scheme year following the Scheme year in which the member became a pensioner member,”,

(c) in paragraph (7)(a)—

- (i) omit “revalued”,
- (ii) in the second place where it occurs, for “(6)” substitute “(3)”,
- (iii) following “Scheme year” insert “and the revaluation adjustment is applied to the balance in accordance with paragraph (6)”,

(d) after paragraph (7), insert—

“(7A) Where an index rate adjustment is due to be made on a revaluation date, any such adjustment must be made immediately after the revaluation adjustment is made.”.

(3) In regulation 46—

(a) after paragraph (4) insert—

“(4A) For the purposes of paragraph (4), if the member—

- (a) died in the period beginning with 1 April and ending with 5 April in the Scheme year following the Scheme year that the member ceased to be an active member, or
- (b) ceased to be an active member in the period beginning with 1 April and ending with 5 April in a Scheme year and subsequently died within that same period,

the pension is deemed to include the revaluation adjustment that would have been due at the next revaluation date.”.

(b) after paragraph (5) insert—

- “(5A) For the purposes of paragraph (5), if the member—
- (a) died in the period beginning with 1 April and ending with 5 April in the Scheme year following the Scheme year that the member ceased to be an active member, or
 - (b) ceased to be an active member in the period beginning with 1 April and ending with 5 April in a Scheme year and subsequently died within that same period,
- the pension is deemed to include the revaluation adjustment that would have been due at the next revaluation date.”,
- (c) after paragraph (9) insert—
- “(9A) For the purposes of paragraph (9), if the member—
- (a) died in the period beginning with 1 April and ending with 5 April in the Scheme year following the Scheme year that the member ceased to be an active member, or
 - (b) ceased to be an active member in the period beginning with 1 April and ending with 5 April in a Scheme year and subsequently died within that same period,
- the pension is deemed to include the revaluation adjustment that would have been due at the next revaluation date.”,
- (d) after paragraph (10) insert—
- “(10A) For the purposes of paragraph (10), if the member—
- (a) died in the period beginning with 1st April and ending with 5 April in the Scheme year following the Scheme year that the member ceased to be an active member, or
 - (b) ceased to be an active member in the period beginning with 1 April and ending with 5 April in a Scheme year and subsequently died within that same period,
- the pension is deemed to include the revaluation adjustment that would have been due at the next revaluation date.”,
- (e) in paragraph (13)—
- (i) for “beginning of ” substitute “revaluation date in”,
 - (ii) after “was opened,” in the second place where it occurs, insert “and takes effect from the start of the Scheme year following the Scheme year in which the member became a pensioner member,”,
- (f) in paragraph (14)(a)—
- (i) omit “revalued”,
 - (ii) in the second place where it occurs, for “(13)” substitute “(3) or (8)”,
 - (iii) following “Scheme year” insert “and the revaluation adjustment is applied to the balance in accordance with paragraph (13)”,
- (g) after paragraph (14) insert—
- “(14A) Where an index rate adjustment is due to be made on a revaluation date, any such adjustment must be made immediately after the revaluation adjustment is made.”.

Amendments to definitions

8. In Schedule 1—

- (a) in paragraph (a) of the definition of “revaluation adjustment”, after “transferred” in the second place where it occurs, insert “and which is applied to the balance on the same day as the percentage increase or decrease referred to in paragraph (b)”,
- (b) in paragraph (b) of the definition of “revaluation adjustment”—
 - (i) after “prices” insert “in relation to the Scheme set out”,
 - (ii) after “2013” insert “in relation to the previous Scheme year”, and
 - (iii) omit the wording from “at the beginning” to the end,
- (c) after the definition of “revaluation adjustment” insert—

“revaluation date” means 6 April,”.

St Andrew's House
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Local Government Pension Scheme (Scotland) Regulations 2014 (“the 2014 Regulations”) established the Local Government Pension Scheme (Scotland) (“the Scheme”) as a career average revalued earnings scheme in accordance with section 8(2)(a) of the Public Service Pensions Act 2013 (“the Act”). The Local Government Pension Scheme (Scotland) Regulations 2018 (“the 2018 Regulations”) consolidated with certain amendments the 2014 Regulations.

According to section 8(4) of the Act, a person’s pensionable earnings under a career average revalued earnings scheme must be revalued each year until the person leaves pensionable service, based upon the revaluation adjustment for the relevant period specified in a Treasury order made under section 9(2) of the Act.

These Regulations amend the provisions of the 2018 Regulations in relation to the process of making revaluation adjustments which currently require the revaluation adjustment to be made at the beginning of the Scheme year, meaning that on 1 April each year, members’ pensions are revalued to take account of the impact of inflation over the previous scheme year (1 April to 31 March). Currently, tax liabilities may arise because the timing of the Scheme revaluation process on 1st April is not aligned with HMRC’s process for assessing the annual allowance tax charge under the Finance Act 2004.

The overall effect of the changes made by these Regulations to the 2018 Regulations is that the revaluation adjustment is made on 6 April each year, so that the Scheme revaluation is brought into alignment with the HMRC process for assessing the annual allowance tax charge. These Regulations will have no effect on the amount of Scheme benefits to which members are entitled.

Regulation 3 of these Regulations amends regulations 23 to 27 of the 2018 Regulations in relation to active members, and members who change status within a Scheme year, (by becoming deferred members of the Scheme, or by taking full or flexible retirement).

The amendments specify that the revaluation adjustment made to the member’s pension account must take place on the ‘revaluation date’. This change means that the inflation figure used for the revaluation adjustment in the tax year commencing 6 April is the same as the inflation figure used for any tax calculation specified by HMRC for annual allowance purposes, under the Finance Act 2004.

Regulation 3 of these Regulations also makes consequential changes to the 2018 Regulations, to ensure that the correct figures are used in the calculation of the opening balance for each Scheme year, and to ensure that (depending upon the date within a Scheme year that the member changes status), the opening balance for their deferred, retired or flexible retirement pension account correctly reflects the relevant revaluation adjustment.

Finally, the amendments to regulations 24, 25 and 27 of the 2018 Regulations made by regulation 3 of these Regulations clarify that in the event an index rate adjustment in accordance with the Pensions (Increase) Act 1971 is required to be made on the revaluation date, such index adjustment should be made after the revaluation adjustment.

Regulation 4 of these Regulations amends regulations 39 and 40 of the 2018 Regulations (in relation to survivor benefits for the partners and children of active members), and makes consequential changes to reflect the fact that the revaluation adjustment is now to take place at the new ‘revaluation date’. The purpose of these changes is to ensure that, notwithstanding the change in the revaluation date, there is no change to the amount of Scheme benefits to which survivors are entitled.

Regulation 4 ensures firstly that if the person died within the period 1 to 5 April within a Scheme year (ahead of the revaluation date) the survivors of the deceased member receive the correct amount in the year the survivor members account is opened, based upon the pension that the deceased member would have been entitled to receive. Secondly, the amendments ensure that for

all deceased active members, the adjustment to the survivor members account at the end of the Scheme year in which the survivor member's account was opened is adjusted to reflect the correct figures from the start of the next Scheme year, taking account of the change to the revaluation date. Finally, the amendments to regulations 39 and 40 of the 2018 Regulations made by regulation 4 of these Regulations clarify that in the event an index rate adjustment in accordance with the Pensions (Increase) Act 1971 is required to be made on the revaluation date, such index adjustment should be made after the revaluation adjustment.

Regulation 5 of these Regulations amends regulation 41 of the 2018 Regulations in relation to death grants relating to deceased deferred and pension credit members. The purpose of these changes is to ensure that, notwithstanding the change in the revaluation date, there is no change to the amount of Scheme benefits to which survivors are entitled. The changes ensure that for deferred members, where the person died within the period 1 to 5 April within a Scheme year (ahead of the revaluation date), the death grant reflects the correct pension entitlement, factoring in the relevant revaluation adjustment.

Regulation 6 of these Regulations amends regulations 42 and 43 of the 2018 Regulations in relation to survivor benefits for partners and children of deceased deferred members and similarly to regulation 4, makes consequential changes to reflect the fact that the revaluation adjustment is now to take place at the new 'revaluation date'. The purpose of these changes is to ensure that, notwithstanding the change in the revaluation date, there is no change to the amount of Scheme benefits to which survivors are entitled. Regulation 6 ensures firstly that if the person left service and died all within the same period 1 to 5 April within a Scheme year (ahead of the revaluation date), or secondly if the person left service, and subsequently died within the period 1 to 5 April in a following Scheme year the survivors receive the correct adjusted amount. Finally, the amendments to regulations 42 and 43 of the 2018 Regulations made by regulation 6 of these Regulations clarify that in the event an index rate adjustment in accordance with the Pensions (Increase) Act 1971 is required to be made on the revaluation date, such index adjustment should be made after the revaluation adjustment.

Regulation 7 of these Regulations amends regulation 44 of the 2018 Regulations in relation to death grants relating to deceased pensioner members, and regulations 45 and 46 of the 2018 regulations relating to survivor benefits in relation to such a member. The changes to regulation 44 of the 2018 Regulations ensure that where the pensioner member died within the period 1 to 5 April within a Scheme year (ahead of the revaluation date), any death grant payable reflects the correct pension entitlement, factoring in the relevant revaluation adjustment. The purpose of these changes is to ensure that, notwithstanding the change in the revaluation date, there is no change to the amount of Scheme benefits to which survivors are entitled. The changes to regulations 45 and 46 of the 2018 Regulations in relation to survivor benefits for partners and children of deceased pensioner members make consequential changes to reflect the fact that the revaluation adjustment is now to take place at the new 'revaluation date', similarly to the changes made by Regulation 6 of these Regulations. Finally, the amendments to regulations 45 and 46 of the 2018 Regulations made by regulation 7 of these Regulations clarify that in the event an index rate adjustment in accordance with the Pensions (Increase) Act 1971 is required to be made on the revaluation date, such index adjustment should be made after the revaluation adjustment.

Regulation 8 of these Regulations amends the definition of "revaluation adjustment" at Schedule 1 of the 2018 Regulations, and inserts a new definition of "revaluation date", so that the revaluation date is fixed as 6 April which aligns with the start of the tax year, rather than taking place at the end of a tax year.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, public or voluntary sector is foreseen.