

2023 No.

PUBLIC SERVICE PENSIONS, ENGLAND AND WALES

**The Local Government Pension Scheme (Amendment) (No. 3)
Regulations 2023**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 1(1) and (2)(c), 3 and 8(1)(a), (2)(a), and paragraph 3(a) of Schedule 2 and paragraphs 2, 3 and 4 of Schedule 3 to, the Public Service Pensions Act 2013(a); and sections 78, 80(1), 81(1), 83(1), 84(1) and 129(1) of the Public Service Pensions and Judicial Offices Act 2022(b).

In accordance with section 21(1) of the Public Service Pensions Act 2013, the Secretary of State has consulted such persons [and the representatives of such persons] as appeared to the Secretary of State likely to be affected by these Regulations.

In accordance with section 3(5) of the Public Service Pensions Act 2013, the Lord Chancellor has obtained the consent of the Treasury before making these Regulations.

These Regulations are made in accordance with Treasury Directions made under section 85 of the Public Service Pensions and Judicial Offices Act 2022.

PART 1

General provision

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment) (No. 2) Regulations 2023.

(2) They come into force on 1st October 2023.

(3) An amendment made by these Regulations has the same extent as the provision being amended.

(4) In these Regulations—

(a) 2013 c. 25; section 3 was amended by section 94 of PSPJOA 2022 (c.7). Section 3(3)(b) allows these Regulations to have retrospective effect.

(b) 2022 c. 7.

“the 2014 Regulations” means the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014^(a);

“the 2013 Regulations” means the Local Government Pension Scheme Regulations 2013^(b).

PART 2

Amendments relating to the statutory underpin

Amendment of the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014

2.—(1) The 2014 Regulations are amended as follows.

(2) In regulation 1—

(a) in paragraph (6)—

(i) after the definition of “the Earlier Regulations” insert—

““eligible member” has the meaning given in regulation 4A(2);

“final assumed benefits” means the benefits calculated in accordance with regulation 4K;

“final guarantee amount” is the amount by which the eligible member’s final assumed benefits^(c) are exceeded by their final underpin amount^(d) (if at all) in respect of a pension account;

“final underpin amount” means the amount calculated in accordance with regulation 4L;

“final underpin date” has the meaning given in regulation 4H(1);

“provisional assumed benefits” means the benefits calculated in accordance with regulation 4I;

“provisional underpin amount” means the amount calculated in accordance with regulation 4J;

“PSP Directions 2022” means the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022^(e);

“PSPJOA 2022” means the Public Service Pensions and Judicial Offices Act 2022^(e);

(ii) after the definition of “public service pension scheme” insert—

““underpin date” has the meaning given in regulation 4G;

“underpin period” has the meaning given in regulation 4A(3)”.

(b) after paragraph (6), insert—

“(7) Where these Regulations refer to the PSP Directions 2022, a reference to “scheme manager” in those Directions is to be read as “administering authority”.”

(3) Omit regulation 4.

(4) Before regulation 5, insert—

(a) S.I. 2014/525; amended by S.I. 2018/493, 2018/1366. There are other amendments not relevant to these Regulations.

(b) S.I. 2013/2356; amended by those Regulations have been amended by S.I. 2014/44, S.I. 2014/525, S.I. 2014/1146, S.I. 2015/57, S.I. 2015/755, S.I. 2018/493, S.I.2019/1449, S.I. 2023/279 and 2023/522.

(c) See regulation 4K.

(d) See regulation 4L.

(e) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1124480/The_Public_Service_Pensions_Exercise_of_Powers_Compensation_and_Information_Directions_2022.pdf

“Statutory underpin: general

4A.—(1) Regulations 4B to 4W (provisions relating to the statutory underpin) apply in relation to an eligible member who was in pensionable service in the underpin period.

(2) An “eligible member” is a person who has remediable service^(a) in relation to the 2014 Scheme.

(3) The “underpin period” is the period—

(a) beginning with 1st April 2014; and

(b) ending with the earlier of—

(i) 31st March 2022; and

(ii) the date on which the eligible member attains—

(aa) the normal retirement age applicable to them under the 2008 Scheme;
or

(bb) where the person was not a member of the 2008 Scheme, the age of 65.

Statutory underpin: retirement, redundancy, ill health

4B.—(1) This regulation applies in relation to an eligible member whose final underpin date is that in regulation 4H(1)(a), (c), (d) or (e).

(2) The pension account to which the final underpin date relates is to be increased by the final guarantee amount calculated in relation to that pension account.

(3) The pension account is to be increased on the day after the eligible member’s final underpin date.

Statutory underpin: flexible retirement

4C.—(1) This regulation applies in relation to an eligible member whose final underpin date is that in regulation 4H(1)(b).

(2) The eligible member’s pension account is to be increased by a percentage of the final guarantee amount that is equivalent to the percentage of the retirement pension that the eligible member takes under regulation 30(6) of the 2013 Regulations.

(3) The pension account is to be increased on the day after the eligible member’s final underpin date.

(4) Where the amount of pension taken by the eligible member is less than 100%, at the eligible member’s next occurring final underpin date, a further calculation of the eligible member’s final assumed benefits and final underpin amount in relation to the benefits giving rise to the retirement pension to which paragraph (1) relates is to be completed in accordance with regulations 4K and 4L.

(5) Where, on the next occurring final underpin date, the eligible member’s final assumed benefits are exceeded by their final underpin amount, paragraph (2) applies.

(6) Paragraphs (7) to (9) apply where the eligible member—

(a) began their reduced working hours or grade of employment during the underpin period; and

(b) accrued benefits—

(i) after taking payment of a retirement pension under regulation 30(6); but

(ii) before the end of the underpin period.

(a) See section 77 of PSPJOA 2022.

(7) At the eligible member's next occurring underpin date (the "additional underpin date"), the eligible member's provisional assumed benefits and provisional underpin amount are calculated in accordance with regulations 4I and 4J, but—

- (a) the underpin period for the purpose of those calculations begins with the day on which the eligible member's reduced hours or grade began; and
- (b) those calculations are not to include any period which has already been used in the calculation of a final guarantee amount in relation to the pension account.

(8) At the eligible member's next occurring final underpin date (which may be on the same day as the additional underpin date, or after), the eligible member's final assumed benefits and final underpin amount in relation to their pension account are calculated in accordance with regulations 4K and 4L but using the provisional assumed benefits and provisional underpin amounts as provided for in paragraph (7).

(9) Where the eligible member's final assumed benefits are exceeded by their final underpin amount, paragraph (2) or, as the case may be, regulation 4B(2) (retirement, redundancy, ill health) applies.

Statutory underpin: lump sum payments

4D.—(1) This regulation applies to an eligible member who has a final underpin date by virtue of regulation 4H(1)(f) (lump sum payment).

(2) Where this regulation applies the eligible member's pension account is not to be increased by any final guarantee amount relating to the pension account(a).

Statutory underpin: transfers

4E.—(1) This regulation applies to an eligible member who has a final underpin date by virtue of regulation 4H(1)(g) or (h) (transfer to a different scheme).

(2) Where this regulation applies—

- (a) no final guarantee amount is to be determined in relation to the pension account; and
- (b) either—
 - (i) where regulation 4H(1)(g) applies to the eligible member, regulation 96 of the 2013 Regulations applies; or
 - (ii) where regulation 4H(1)(h) applies to the eligible member, regulation 98 of the 2013 Regulations applies.

Statutory underpin: members taking a repayment of contributions

4F.—(1) This regulation applies in relation to an eligible member who has a final underpin date by virtue of regulation 4H(i) (receipt of repayment under regulation 18 of the 2013 Regulations).

(2) An eligible member to whom this regulation applies, is not entitled to a final guarantee amount in respect of any repaid contributions.

Statutory underpin: underpin date

4G. An eligible member's underpin date, in relation to a pension account, is the earliest of—

- (a) the last day on which the eligible member is an active member of the 2014 Scheme;

(a) Instead, the final guarantee amount is to be used in the calculation of the lump sum, for which see regulation 34(2A)(b) of the 2013 Regulations.

- (b) the date on which the eligible member attains—
 - (i) the normal retirement age applicable to the eligible member under the 2008 Scheme; or
 - (ii) where the eligible member is not a member of the 2008 Scheme, the age of 65; and
- (c) where the eligible member elects to receive an immediate payment of all or part of the retirement pension under regulation 30(6) of the 2013 Regulations, the day before the date on which the eligible member’s reduced working hours or grade of employment begins.

Statutory underpin: final underpin date

4H.—(1) An eligible member’s final underpin date, in relation to a pension account, is the earliest of the following dates which occur either at the same time as, or after, an underpin date applicable to that pension account—

- (a) the day before the date on which a pension under regulation 30(1), (3) or (5) of the 2013 Regulations commences;
- (b) where the eligible member elects to receive an immediate payment of all or part of the retirement pension under regulation 30(6) of the 2013 Regulations, the day before the date on which the eligible member’s reduced working hours or grade of employment begins (and see regulation 4C for cases where the eligible member takes flexible retirement);
- (c) the day before the date on which a pension under regulation 30(7) of the 2013 Regulations commences (pension by virtue of dismissal from employment);
- (d) the day before the date on which a pension under regulation 35(1) of the 2013 Regulations commences (pension on grounds of ill health);
- (e) the day before the date on which a pension pursuant to a request made under regulation 38(1) or (4) of the 2013 Regulations commences (deferred members);
- (f) where the eligible member takes payment of a lump sum under regulation 34(1)(a) or (c) of the 2013 Regulations (trivial commutation) in relation to the pension, the day before the date used to calculate the sum;
- (g) where, in accordance with regulation 96(1) of the 2013 Regulations (payment out of pension fund), the eligible member applies for a transfer under Chapters 1 or 2 of Part 4ZA of the Pension Schemes Act 1993, the date used to calculate the cash equivalent transfer value paid;
- (h) where a transfer payment is made in respect of the eligible member under regulation 98 of the 2013 Regulations (bulk transfer), the date used to calculate the value of the transfer payment; and
- (i) the date on which the eligible member receives a repayment of contributions under regulation 18 of the 2013 Regulations relating to the pension account (and see regulation 4F for the effect of receiving that repayment on the final guarantee amount).

(2) Where regulation 4C (flexible retirement) applies, paragraph (1) applies as if for “the earliest of the following events” there were substituted “the next occurring of the following events”.

Statutory underpin: calculation of provisional assumed benefits

4I.—(1) The eligible member’s “provisional assumed benefits” are calculated by assessing, at the eligible member’s underpin date, the benefits the eligible member would have been entitled to under the 2014 Scheme over the underpin period if—

- (a) the eligible member had paid contributions under regulation 9 of the 2013 Regulations in respect of the underpin period—

- (i) including—
 - (aa) in respect of any period of absence from work because of illness or injury, child-related leave or reserve forces service leave;
 - (bb) where, on the underpin date, the eligible member left active membership with an entitlement to Tier 1 or Tier 2 benefits under regulation 35(5) or (6) respectively of the 2013 Regulations, any adjustment under regulation 39 of those Regulations (calculation of ill-health pension amounts) in respect of the underpin period;
 - (cc) in respect of any period of absence from work with no pensionable pay in consequence of a trade dispute if the eligible member elected to cover that period by entering into an arrangement under regulation 16 of the 2013 Regulations (additional pension contributions); and
 - (dd) in respect of any period of absence from work with permission with no pensionable pay in respect of which the eligible member or their Scheme employer elected to cover that period by entering into an arrangement under regulation 16 of the 2013 Regulations (additional pension contributions); but
- (ii) excluding contributions paid in respect of—
 - (aa) any period where the eligible member was not an active member; and
 - (bb) any period of unpaid absence from work without permission;
- (b) the eligible member or their Scheme employer had, in respect of the underpin period, paid no additional contributions under—
 - (i) regulation 16 of the 2013 Regulations, other than additional contributions paid under that regulation to cover a period of absence from work with no pensionable pay, as is set out in sub-paragraph (a)(i);
 - (ii) regulation 17 of the 2013 Regulations;
 - (iii) regulation 25(1) of the Local Government Pension Scheme (Administration) Regulations 2008(a); or
 - (iv) regulation 60(1) of the Local Government Pension Scheme Regulations 1997(b);
- (c) the eligible member had not been awarded additional annual pension under regulation 31 of the 2013 Regulations;
- (d) the scheme had received no transfer value payment in respect of the eligible member, except for a transfer value payment received from—
 - (i) a Chapter 1 scheme(c);
 - (ii) a judicial scheme(d); or
 - (iii) another local government scheme(e),
 where service in that scheme was remediable service;
- (e) the revaluation adjustment (as defined in Schedule 1 of the 2013 Regulations) that would have applied to the eligible member’s provisional assumed benefits had they been benefits built up in an active member’s pension account, had been made up to and including the eligible member’s underpin date;
- (f) no transfer value payment had been credited to the eligible member’s pension account under regulation 10(5) or (6); and

(a) S.I. 2008/239; revoked by S.I. 2014/525; there are other amending instruments not relevant to these Regulations.
 (b) S.I. 1997/1612; relevant amending instruments are S.I. 1998/1238; S.I. 1999/1212; S.I. 2007/1488; revoked by S.I. 2008/2387.
 (c) For the meaning of “Chapter 1 scheme” see Chapter 1 of PSPJOA 2022.
 (d) For the meaning of “judicial scheme” see Chapter 2 of PSPJOA 2022;
 (e) For the meaning of “local government scheme” see section 86(1) of PSPJOA 2022.

- (g) where the balance in the eligible member's pension account at the underpin date had been adjusted on account of any pension debit or Scheme pays election, that adjustment had not occurred.
- (2) Where paragraph (1)(a)(i)(cc) or (dd) apply, the additional pension purchased is to be included in the provisional assumed benefits as if it was pension credited to the eligible member's pension account on the earliest of—
- (a) 31st March in the scheme year in which the absence ended;
 - (b) 31st March 2022; and
 - (c) the member's underpin date.
- (3) Where paragraph (2) applies, if the eligible member fails to pay all of the additional pension contributions due, only the amount of additional pension credited to the pension account is to be included in the provisional assumed benefits (but see paragraph (4)).
- (4) Paragraph (3) does not apply if the eligible member fails to pay all the additional pension contributions due because—
- (a) the eligible member left active membership of the 2014 Scheme under regulation 35 of the 2013 Regulations with an entitlement to Tier 1 or Tier 2 benefits under regulation 35(5) or (6) respectively of those Regulations; or
 - (b) the eligible member died as an active member.
- (5) Where paragraph (3) does not apply, the eligible member is treated as having paid the additional pension contributions referred to in paragraph (1)(a)(i)(cc) or (dd) in full.

Statutory underpin: calculation of the provisional underpin amount

4J.—(1) The eligible member's provisional underpin amount is calculated by assessing the benefits the eligible member would have been entitled to under the 2008 Scheme over the underpin period at the eligible member's underpin date if—

- (a) the member had accrued membership under the 2008 Scheme, rather than the 2014 Scheme;
- (b) the period of membership taken into account for the purposes of sub-paragraph (a) is—
 - (i) the period during which the member has paid, or is treated as having paid, contributions under regulations 9 or 10 (contributions and reduced contributions) of the 2013 Regulations;
 - (ii) any period of unpaid absence due to a trade dispute, or absence from work with permission, otherwise than because of illness or injury, child related leave, or reserve forces service leave, if that period was covered by additional pension contributions under regulation 16 of the 2013 Regulations; and
 - (iii) where the member became entitled to Tier 1 or Tier 2 benefits under regulation 35 of the 2013 Regulations, any additional period of membership that would have been added to the member's total membership under regulation 20(2) of the Benefits Regulations (in respect of a Tier 1 pension) or regulation 20(3) (in respect of a Tier 2 pension), up to the end of the underpin period, had that regulation applied at the underpin date;
- (c) the eligible member's final pay used to calculate the provisional underpin amount is calculated in accordance with regulations 8 to 11 of the Benefits Regulations and those regulations apply in relation to the eligible member as if those Regulations were still in force at the underpin date;
- (d) the eligible member had been credited with 2008 Scheme benefits in respect of remediable service transferred from—
 - (i) a Chapter 1 scheme;
 - (ii) a judicial scheme; or

(iii) another local government scheme; and

(e) where the balance in the eligible member's pension account at the underpin date had been adjusted on account of any pension debit or Scheme pays election, that adjustment had not occurred.

(2) Where paragraph (1)(b)(ii) applies, the unpaid period to be used in relation to the provisional underpin amount is equal to the period of absence for which the additional pension contributions have been paid.

(3) Paragraph (2) does not apply if the eligible member fails to pay all the additional pension contributions due because—

(a) the eligible member left active membership of the 2014 Scheme with an entitlement to Tier 1 or Tier 2 benefits under regulation 35(5) or (6) respectively of the 2013 Regulations; or

(b) the eligible member died.

(4) Where paragraph (2) does not apply, any part of the period of absence falling within the underpin period that is covered by the arrangement under regulation 16(1) of the 2013 Regulations (additional contributions) entered into by the eligible member is to be included in the calculation of the provisional underpin amount.

Statutory underpin: calculation of final assumed benefits

4K.—(1) An eligible member's final assumed benefits are calculated by adjusting their provisional assumed benefits at the eligible member's final underpin date in accordance with this regulation.

(2) Where the eligible member's underpin date is not the same date as their final underpin date, apply any revaluation adjustment or index rate adjustment that would have applied to a deferred benefit in the 2014 Scheme as if the last day of scheme membership was the underpin date.

(3) Where regulation 30(4) of the 2013 Regulations (receipt of payment after normal pension age) applies to the eligible member, apply the enhancement as set out in that provision.

(4) Where regulation 30(5) (member who has attained age of 55 or older but not normal pension age) or (6) (member who has attained age of 55 or older who reduced working hours or grade) of the 2013 Regulations applies to the eligible member and their benefits under the 2014 Scheme are being reduced as set out in that provision, apply an equivalent reduction.

(5) Where paragraph (4) applies, also reflect in the reduction such transitional provisions under Schedule 2 as apply (if any).

(6) Where—

(a) the eligible member's provisional assumed benefits include an additional pension under regulation 16 of the 2013 Regulations;

(b) the member is taking payment of their pension before the normal pension age applicable to them under the 2014 Scheme; and

(c) regulation 30(7)(a) of the 2013 Regulations (dismissal from employment) applies to reduce the amount of pension payable,

the additional pension referred to in paragraph (a) is to be reduced in accordance with regulation 30(7)(a) of the 2013 Regulations.

(7) This regulation is subject to regulation 4N (effect of uplift of Tier 3 benefits to Tier 2 benefits).

Statutory underpin: calculation of final underpin amount

4L.—(1) An eligible member’s final underpin amount is calculated by adjusting their provisional underpin amount at the eligible member’s final underpin date in accordance with this regulation.

(2) Add any amount by which it would be increased if it were a pension to which the Pensions (Increase) Act 1971(a) applied, which relates to the period—

- (a) beginning with the day after the day on which the period used for the purposes of calculating the eligible member’s final pay under regulations 8 to 11 of the Benefits Regulations ends; and
- (b) ending with the eligible member’s final underpin date.

(3) Where regulation 30(4) (receipt of payment after normal pension age) of the 2013 Regulations applies to the eligible member, apply the enhancement as set out in that provision.

(4) Where regulation 30(5) (member who has attained age of 55 or older but not normal pension age) or (6) (member who has attained age of 55 or older who reduced working hours or grade) of the 2013 Regulations applies, the eligible member is under the normal retirement age applicable to them under the 2008 Scheme, or, where the person was not a member of the 2008 Scheme, the age of 65, and the eligible member’s benefits under the 2014 Scheme are being reduced as set out in that provision, apply an equivalent reduction.

(5) Where paragraph (4) applies, the reduction is also to reflect such transitional provisions under Schedule 2 as apply (if any).

(7) This regulation is subject to regulation 4N (effect of uplift of Tier 3 benefits to Tier 2 benefits).

Statutory underpin: effect of cessation of Tier 3 benefits

4M.—(1) This regulation applies in relation to an eligible member—

- (a) who takes payment of Tier 3 benefits under regulation 35(7) of the 2013 Regulations; but
- (b) whose Tier 3 benefits subsequently cease by virtue of—
 - (i) the eligible member having been entitled to Tier 3 benefits for three years;
 - (ii) regulation 37(3) of the 2013 Regulations (starting employment); or
 - (iii) regulation 37(7)(c) of those Regulations (cessation of benefit following review).

(2) Where this regulation applies—

- (a) the eligible member ceases to be entitled to any future payments of any final guarantee amount to which the person became entitled by virtue of being entitled to Tier 3 benefits from the date those benefits cease; and
- (b) regulations 4A to 4W (as appropriate) apply in relation to the eligible member as if they had never previously had a final underpin date in relation to the pension account.

Statutory underpin: effect of uplift of Tier 3 benefits to Tier 2 benefits

4N.—(1) This regulation applies in relation to an eligible member—

- (a) who takes payment of Tier 3 benefits under regulation 35(7) of the 2013 Regulations; and
- (b) whose Tier 3 benefits subsequently cease—

(a) 1971 c. 56.

- (i) by virtue of being awarded Tier 2 benefits under regulation 37(7)(b) or (10) of the 2013 Regulations; or
 - (ii) for a different reason but who is awarded Tier 2 benefits following a request for review made by the eligible member under regulation 37(10) within 3 years of those benefits ceasing.
- (2) Where this regulation applies—
- (a) the eligible member’s provisional assumed benefits and provisional underpin amount are recalculated (in accordance with regulations 4I and 4J respectively) from the date on which the eligible member became entitled to Tier 3 benefits as if the member was entitled to Tier 2 benefits from that date; and
 - (b) the amounts recalculated under sub-paragraph (a) are to be used to recalculate the eligible member’s final assumed benefits and final underpin amounts (in accordance with regulations 4K and 4L respectively).
- (3) The recalculated final assumed benefits and final underpin amount are to be used to determine the eligible member’s final guarantee amount (“the recalculated final guarantee amount”).
- (4) The recalculated final guarantee amount is to have applied to it such revaluation adjustment or index rate adjustment as would have applied had it been in payment from the date the Tier 3 benefits commenced.
- (5) Where the eligible member has previously had a final guarantee amount calculated in respect of their previously awarded Tier 3 benefits, the amount by which that is exceeded by the recalculated final guarantee amount is to be added to the eligible member’s pension account.
- (6) Where paragraph (5) does not apply, the recalculated final guarantee amount is to be added to the eligible member’s pension account.
- (7) Notwithstanding regulation 4B(3), the amount to be added under paragraph (5) or (6) is to be added from the date the eligible member is awarded Tier 2 benefits.

Statutory underpin: survivor’s guarantee amount calculation

- 40.**—(1) This regulation applies where—
- (a) an eligible member dies; and
 - (b) as a result, a survivor member’s pension becomes payable under regulation 41, 42, 44, 45, 47 or 48 of the 2013 Regulations.
- (2) A proportion of a survivor guarantee amount is to be added to a survivor member’s pension account in accordance with this regulation on the day after the eligible member’s death.
- (3) A “survivor guarantee amount” is the amount by which an eligible member’s adjusted assumed benefits are exceeded by their adjusted underpin amount.
- (4) The eligible member’s adjusted assumed benefits are calculated by adjusting their provisional assumed benefits as follows—
- (a) where the eligible member’s date of death is the same as their underpin date, increase the eligible member’s provisional assumed benefits by an amount equivalent to that which would be applicable to the eligible member under regulation 39(1)(a) (calculation of ill-health pension amounts) of the 2013 Regulations if the eligible member was entitled to Tier 1 benefits; and
 - (b) where the eligible member’s date of death is not the same date as their underpin date, apply any revaluation adjustment or index rate adjustment that would have applied to a deferred benefit in the 2014 Scheme as if the last day of scheme membership was the underpin date.
- (5) The increase referred to in paragraph (4)(a) applies in relation to the period—

- (a) beginning with the day after the eligible member's death; and
 - (b) ending with the earlier of—
 - (i) 31st March 2022; and
 - (ii) the day before the date on which the eligible member attains—
 - (aa) the normal retirement age applicable to them under the 2008 Scheme; or
 - (bb) where the person was not a member of the 2008 Scheme, the age of 65.
- (6) The eligible member's adjusted underpin amount is calculated by adjusting their provisional underpin amount as follows—
- (a) where the eligible member's date of death is the same as their underpin date, the eligible member's provisional underpin amount is to be increased according to any additional period of membership that would have been added to the member's total membership under regulation 20(2) of the Benefits Regulations up to 31st March 2022 if the member's employment had been terminated on grounds of ill-health or infirmity of mind or body; and
 - (b) add any increase that would apply were the adjusted underpin amount a pension to which the Pensions (Increase) Act 1971 applied, which relates to the period—
 - (i) beginning with the day after the day on which the period used for the purposes of calculating the eligible member's final pay under regulations 8 to 11 of the Benefits Regulations ends; and
 - (ii) ending with the eligible member's date of death.
- (7) Where, in the opinion of the scheme manager, the eligible member was in part-time service at the date of their death wholly or partly as the result of the condition that caused or contributed to the member's death, for the purposes of paragraph (6)(a) no account is to be taken of any reduction in membership due to such reduction in service as is attributable to that condition.
- (8) A survivor pension paid under a provision listed in column 2 of the following table is to be increased by the proportion of the survivor guarantee amount specified in the corresponding entry in column 3 of the table, or, in the case of the third and fifth entries, according to the formula specified in that column—

<i>1. Type of survivor pension</i>	<i>2. Provision of the 2013 Regulations under which the pension is paid</i>	<i>3. Proportion of survivor guarantee amount to be added</i>
Partner pension: spouse, civil partner or cohabiting partner	41(4), 44(4), 47(4)	49/160
Child's pension: one eligible child	42(4), 45(4), 48(4)	49/320
Child's pension: more than one eligible child	42(5), 45(5), 48(5)	<u>(49/160)</u> E
Child's pension: one eligible child and no survivor pension paid to deceased member's partner	42(9), 45(9), 48(9)	49/240
Child's pension: more than one eligible child and no survivor pension paid to deceased member's partner	42(10), 45(10), 48(10)	<u>(49/120)</u> E

(9) In the formula in the third and fifth entries in the table, "E" is the number of eligible children (within the meaning given in Schedule 1 to the 2013 Regulations).

(10) The amount of a pension payable under regulation 47(3), 48(3) or 48(8) of the 2013 Regulations is not to take account of any final guarantee amount that was added to the eligible member's pension prior to their death.

Statutory underpin: death grants

4P.—(1) This regulation applies where—

- (a) an eligible member who is a deferred member or deferred pensioner member of the 2014 Scheme dies; and
- (b) as a result, a death grant becomes payable under regulation 43 of the 2013 Regulations.

(2) A deferred guarantee amount relating to the eligible member is to be included in the amount the eligible member would have been entitled to receive as retirement pension annually for the purposes of the calculation of a death grant under regulation 43(3) of the 2013 Regulations.

(3) A “deferred guarantee amount” is the amount by which the eligible member's deferred assumed benefits are exceeded by their deferred underpin amount.

(4) An eligible member's deferred assumed benefits are calculated by adjusting their provisional assumed benefits to apply any revaluation adjustment or index rate adjustment that would have applied to a deferred benefit in the 2014 Scheme as if the last day of scheme membership was the underpin date.

(5) An eligible member's deferred underpin amount is calculated by adjusting their provisional underpin to apply any amount by which it would be increased if it were a pension to which the Pensions (Increase) Act 1971 applied, which relates to the period—

- (a) beginning with the day after the day on which the final pay period [used for the purposes of calculating the eligible member's final pay under] regulations 8 to 11 of the Benefits Regulations ends; and
- (b) ending with the date of the eligible member's death.

Statutory underpin: multiple pension accounts

4Q.—(1) This regulation applies to an eligible member who—

- (a) has an aggregated pension account; and
- (b) does not have a continuous break in active membership of a public service pension scheme of more than 5 years.

(2) The provisional assumed benefits and the provisional underpin amount calculated in relation to the eligible member's inactive pension account prior to it being aggregated with the eligible member's active pension account are extinguished.

(3) The underpin date for the purpose of regulations 4I and 4J in their application to the aggregated account is the underpin date that relates to the active pension account.

(4) Where the pension accounts were held concurrently before being aggregated, paragraphs (2) and (3) do not apply if the eligible member had attained the normal retirement age applicable to them under the 2008 Scheme before they ceased to be an active member in relation to all inactive accounts.

(5) Where the pension accounts were held consecutively before being aggregated, paragraphs (2) and (3) do not apply if the eligible member has attained the normal retirement age applicable to them under the 2008 Scheme on the first day of their membership of the active pension account

(6) Where paragraph (4) or (5) applies—

- (a) the provisional assumed benefits and provisional underpin amount calculated in relation to the inactive account prior to it being aggregated with the eligible member's active pension account are applied to the active pension account; and

- (b) that provisional underpin amount and provisional assumed benefits are to be used as the basis for the calculations of the final underpin amount and final assumed benefits, adjusted assumed benefits and adjusted underpin amount under regulation 4O, or deferred assumed benefits and deferred underpin amount under regulation 4P, as the case may be, for the active pension account.

(7) In this regulation—

- (a) pension accounts are held concurrently if the eligible member has active membership of the 2014 Scheme in the active pension account at the same time as active membership of the 2014 Scheme in the inactive pension account;
- (b) pension accounts are held consecutively if they are not held concurrently.

(8) In this regulation—

“active pension account” means a pension account in respect of which the eligible member is an active member;

“aggregated pension account” is a pension account that has been aggregated under regulation 22(5), (6), (7) or (8) of the 2013 Regulations;

“inactive pension account” means a pension account in respect of which the eligible member is no longer an active member.

Statutory underpin: divorce and dissolution of civil partnership

4R.—(1) This regulation applies where the cash equivalent of an eligible member’s retirement benefits is, for the purpose of section 29 of the Welfare Reform and Pensions Act 1999(a), calculated in accordance with regulation 4 of the Pension Sharing (Valuation) Regulations 2000(b).

(2) Where this regulation applies, the cash equivalent of the retirement benefits is to be calculated in accordance with actuarial guidance issued by the Secretary of State.

Payment of indirect compensation

4S.—(1) An administering authority may, in respect of a compensatable loss that is a Part 4 tax loss incurred by an eligible member—

- (a) not pay an amount under section 82 of PSPJOA 2022 by way of compensation in respect of the loss; and
- (b) instead pay the eligible member additional benefits under the 2014 Scheme.

(2) This regulation is subject to the requirements of regulation 4T (applications for compensation).

(3) When exercising the power in paragraph (1) to pay additional benefits, the administering authority must comply with the requirements contained in direction 33(1) of the PSP Directions 2022 in relation to the exercise of those powers as those requirements apply to the power to pay amounts by way of compensation by virtue of section 82(1) of PSPJOA 2022 (and the reference in direction 33(1)(f)(iii) to direction 34 is to be read accordingly).

(4) The administering authority must obtain advice from an actuary before determining what additional benefits to pay to a member.

(5) When determining what additional benefits to pay to a member under this regulation, the administering authority must, in accordance with the actuarial advice obtained under paragraph (4), apply any actuarial factors that were in force when the pension debit was calculated originally.

(a) 1999 c. 30.

(b) 2000/1052; regulation 4 was substituted by S.I. 2016/289.

(6) Direction 36 of the PSP Directions 2022 (indirect compensation) applies to this regulation for the purpose of determining whether a Part 4 tax loss is compensatable^(a).

Applications for compensation

4T.—(1) Compensation owed by the 2014 Scheme to a person by virtue of section 82(1) of PSPJOA 2022 (compensatable loss incurred by members or personal representatives) or additional benefits payable by virtue of regulation 4S may be paid only on the making of an application to the administering authority by the appropriate person in such form and manner as determined by the administering authority, subject to paragraph (2).

(2) Where the relevant amounts owed by the scheme to a person by virtue of section 82(1) or 83(1) (indirect compensation) of PSPJOA 2022 are in respect of a Part 4 tax loss mentioned in direction 33(6)(a) or 36(3)(a) of the PSP Directions 2022, the application mentioned in paragraph (1) must include the following—

- (a) a calculation obtained by the appropriate person from HMRC (by virtue of HMRC’s compensation function by virtue of section 104 of PSPJOA 2022), of any compensation or indirect compensation owed by the scheme to the person in relation to each out-of-scope tax year;
- (b) a signed declaration by the appropriate person that the information provided to HMRC in order to obtain the calculation mentioned in sub-paragraph (a), and the calculation itself, is correct and complete to the best of their knowledge and belief; and
- (c) a warning that, if false information is given, the appropriate person signing the declaration mentioned in sub-paragraph (b) may face civil action or prosecution, or both.

(3) The administering authority must determine the relevant amounts (if any) owed by the scheme to a person by virtue of section 82(1) or 83(1) of PSPJOA 2022 following receipt of the application mentioned in paragraph (1).

(4) The administering authority must provide the appropriate person with an explanation of how the relevant amounts (if any) have been determined under paragraph (3).

(5) The appropriate person may appeal against a determination by the administering authority under paragraph (3) by notice in writing to the administering authority, together with a reasoned explanation of a proposed alternative amount, supported by any evidence the appropriate person considers relevant.

(6) If an appeal is made under paragraph (5), the administering authority must decide whether to alter its determination, and provide to the appropriate person—

- (a) an altered determination, or confirmation that the original determination stands;
- (b) a reasoned explanation of its decision; and
- (c) a description of the dispute resolution arrangements that apply to the scheme under section 50 of the Pensions Act 1995^(b).

(7) In this regulation, a tax year is “out-of-scope” in relation to an individual where—

- (a) that individual is unable to recover from HMRC the amount of overpaid income tax paid in relation to that tax year by that individual that gives rise to their Part 4 tax loss, and
- (b) the reason for that is because the individual may no longer make a claim under the Income Tax Acts to recover from HMRC the amount of overpaid income tax because the statutory time limit has passed.

(8) In this regulation—

(a) For the meaning of compensatable, see section 82(3) of PSPJOA 2022.

(b) 1995 c. 26. Section 50 was substituted by section 273 of the Pensions Act 2004 (c. 35).

“HMRC” means His Majesty’s Revenue and Customs;

“the appropriate person” means the member or, if the member is deceased, the member’s personal representatives.

Payment of compensation or indirect compensation out of pension fund

4U. Compensation owed by the 2014 Scheme to a person by virtue of section 82(1) of PSPJOA 2022 (compensatable losses incurred by members) or additional benefits payable by virtue of regulation 4S may be paid by the administering authority from the pension fund concerned.

Interest on indirect compensation

4V.—(1) This regulation applies where an administering authority pays additional benefit to an eligible member under regulation 4S (indirect compensation).

(2) Interest is to be paid in respect of the additional benefit in accordance with regulation 11 of the Local Government Pension Scheme (Amendment) (No. 2) Regulations 2023.

(5) In regulation 9—

(a) in paragraph (1), after “service”, in the second place it appears, insert “that is not remediable service”

(b) after paragraph (1), insert—

“(1ZA) Where a transfer payment is received into the 2014 Scheme in respect of a person from a different public service pension scheme which includes a payment in respect of remediable service, the payment in respect of remediable service entitles the person to benefits under the 2014 Scheme.

(1ZB) For the purposes of these Regulations, so long as there has been no continuous break of more than five years in active membership of a public service pension scheme, a payment in respect of remediable service to which paragraph (1ZA) applies is to be treated as a pension to which regulation 4A to 4F applies.”;

(c) omit paragraph (1A).

(6) Omit regulation 24(4)(a) (underpin age for a person in relation to whom regulation 15 of the 2008 Scheme Transitional Regulations has effect).

Amendment of the Local Government Pension Scheme Regulations 2013

3.—(1) The 2013 Regulations are amended as follows.

(2) In regulation 28 (deferred pensioner member accounts), after paragraph (2) insert—

“(2A) The amount of accrued pension referred to in paragraph (2) is not to include—

(a) any final guarantee amount calculated in relation to the member’s discontinued Tier 3 benefits; or

(b) any revaluation adjustment or index rate adjustment that has been applied to the retirement pension account as a consequence of a final guarantee amount.”.

(3) In regulation 30 (retirement benefits), after paragraph (12A) insert—

“(12B) The references to an enhancement in paragraph (4), a reduction in paragraph (5) and an adjustment in paragraph (6) do not apply to any final guarantee amount that has been added to the pension account under regulation 4B of the 2014 Regulations.”.

(4) In regulation 34 (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)(a) or (c) 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 of the 2014 Regulations; 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; or
- (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.”.
- (b) at the end, insert—
 - “(4) In this regulation—
 - “eligible member” has the same meaning as in regulation 1(6) of the 2014 Regulations.
- (5) In regulation 43 (death grants: deferred members, pension credit members and deferred pensioner members)—
 - (a) in paragraph (3), after “annually” insert “, including any deferred guarantee amount included under regulation 4P of the 2014 Regulations”; and
 - (b) after paragraph (3A) insert—
 - “(3B) In paragraph (3) “deferred guarantee amount” has the meaning given in regulation 4P(3) of the 2014 Regulations.”.
- (6) In regulation 48 (survivor benefits: children of pensioner members), after paragraph (10A) insert—
 - “(10B) 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 of the 2014 Regulations.”
- (7) In regulation 62 (actuarial valuations of pension funds), after paragraph (6) insert—
 - “(6A) Compensation owed by the scheme to a person by virtue of section 82(1) of PSPJOA 2022 or additional benefits payable by virtue of regulation 4O of the 2014 Regulations are liabilities for the purpose of the actuarial valuation under paragraph (1)(a).”
- (8) In regulation 64 (special circumstances where revised actuarial valuations and certificates must be obtained), after paragraph (2) insert—
 - “(2ZAA) Compensation owed by the scheme to a person by virtue of section 82(1) of PSPJOA 2022 or additional benefits payable by virtue of regulation 4O of the 2014 Regulations are liabilities for the purpose of the actuarial valuation under paragraph (2)(a).”
- (9) In regulation 81 (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 4V of the 2014 Regulations; or
 - (b) regulation 11 of the Local Government Pension Scheme (Amendment) (No. 2) Regulations 2023.”.
- (10) In regulation 96 (rights to payment out of pension fund)—
 - (a) after paragraph (1A), insert—
 - “(1B) 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 Secretary of State, 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 2014 Regulations.”.
 - (b) after paragraph (3), insert—

(4) “Eligible member” has the same meaning as in regulation 4A(2) of the 2014 Regulations.”.

(11) In regulation 99 (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 2014 Regulations.”.

(12) In Schedule 1 (interpretation)—

(a) at the beginning insert—

““the 2014 Regulations” means the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014;”;

(b) after the definition of “European pensions institution”, insert—

““final guarantee amount” has the meaning given in regulation 4B(3) of the 2014 Regulations;”;

(c) after the definition of “permanently incapable”, insert—

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

PART 3

Retrospective application

Retrospective application and interpretation of this Part

4.—(1) A person in category A is a person—

- (a) who has, or, in the case of a deceased person, had, remediable service;
- (b) to whom regulation 4 of the 2014 Regulations (statutory underpin) did not apply; and
- (c) who died, or in relation to whom one of the dates set out in regulation 4H(1) of the 2014 Regulations (final underpin dates) occurred, before 1st October 2023.

(2) A person in category B is a person—

- (a) who has, or, in the case of a deceased person, had, remediable service;
- (b) to whom regulation 4 of the 2014 Regulations applied;
- (c) who died, or in relation to whom one of the dates set out in regulation 4H(1) of the 2014 Regulations (final underpin dates) occurred, before 1st October 2023; and
- (d) who was not entitled to an increase in their pension account under regulation 4 of the 2014 Regulations.

(3) A person in category C is a person—

- (a) who has, or, in the case of a deceased person, had, remediable service;
- (b) to whom regulation 4 of the 2014 Regulations applied;
- (c) who died, or in relation to whom one of the dates set out in regulation 4H(1) of the 2014 Regulations (final underpin dates) occurred, before 1st October 2023; and
- (d) who was, or, in spite of being deceased, would have been, entitled to an increase in their pension account under regulation 4 of the 2014 Regulations.

(4) In their application in relation to the person in accordance with this Part, the amendments made by regulations 2 and 3 have effect as if they were in force from 1st April 2014.

(5) In this Part, references to regulation 4 of the 2014 Regulations are to it as it had effect immediately before 1st October 2023.

(6) In this Part, “final guarantee amount” has the meaning given in regulation 4B(4) of the 2014 Regulations.

Retrospective application: members who retired or died before 1st October 2023

5.—(1) This regulation applies to a person in category A, B or C.

(2) Regulations 4A to 4W of the 2014 Regulations (statutory underpin) are to be applied to the person and it is to be determined whether they are entitled to a final guarantee amount.

(3) Where the person is in category A or B but did not die before 1st October 2023, any final guarantee amount to which the person is or was entitled is to be added to the person's pension account without undue delay.

(4) Where the person is in category C but did not die before 1st October 2023 and the person is entitled to a final guarantee amount that exceeds the amount by which their pension was increased under regulation 4, the difference is to be added to the person's pension account without undue delay.

(5) Where the person is in category A or B and died before 1st October 2023, any final guarantee amount to which the person was entitled is to be paid in accordance with regulation 82 of the 2013 Regulations.

(6) Where the person is in category C, died before 1st October 2023 and was entitled to a final guarantee amount that exceeds the amount by which their pension was, or would, in spite of their being deceased, have been, increased under regulation 4 of the 2014 Regulations, the difference is to be paid in accordance with regulation 82 of the 2013 Regulations.

(7) Where the person elects or elected to commute the amount of pension payable under regulation 33 of the 2013 Regulations (election for lump sum instead of pension), that regulation is to be applied in relation to the final guarantee amount or, as the case may be, the difference between that and the amount payable under regulation 4 of the 2014 Regulations, as if no benefit crystallisation event had happened in relation to the pension account to which the final guarantee amount relates.

Retrospective application: members who died before 1st October 2023; death grants

6.—(1) This regulation applies to a person in category A, B or C—

- (a) who is deceased; and
- (b) in respect of whom a death grant was paid under regulation 43 of the 2013 Regulations before 1st October 2023.

(2) Provisional assumed benefits and a provisional underpin amount are to be calculated in relation to the person in accordance with regulations 4I and 4J respectively of the 2014 Regulations.

(3) Following this, regulation 4P of those Regulations (statutory underpin: death grants) is to be applied in relation to the person, subject to paragraphs (4) and (5).

(4) Where a deferred guarantee amount is payable in respect of the person, the death grant is to be recalculated in accordance with regulation 43 of the 2013 Regulations, with the deferred guarantee amount included in the amount the person would have been entitled to receive as retirement pension annually for the purposes of the recalculation.

(5) Where the recalculated death grant exceeds the death grant that has already been paid in respect of the person, the difference is to be paid by the administering authority, without undue delay—

- (a) where there was a single recipient of the death grant, to that recipient; or
- (b) where there was more than one recipient, to those recipients in the same proportions as they were paid the death grant.

(6) In this regulation “deferred guarantee amount” has the meaning given in regulation 4P(3) of the 2014 Regulations.

Retrospective application: members who died before 1st October 2023; survivor benefits

7.—(1) This regulation applies to a person in category A, B or C—

- (a) who is deceased; and
- (b) in respect of whom a survivor member's pension was paid under regulation 41, 42, 44, 45, 47 or 48 of the 2013 Regulations before 1st October 2023.

(2) Provisional assumed benefits and a provisional underpin amount are to be calculated in relation to the person in accordance with regulations 4I and 4J respectively of the 2014 Regulations.

(3) Following this, regulation 4O of those Regulations is to be applied in relation to the person subject to paragraph (4).

(4) Notwithstanding regulation 4O(2) of the 2014 Regulations—

- (a) where the person is in category A or B and a proportion of a survivor guarantee amount is payable in respect of the person, it is to be added to the survivor member's pension account in question without undue delay;
- (b) where the person is in category C and a survivor member's pension, including any survivor guarantee amount, payable in respect of the person exceeds the survivor member's pension that has already been paid in relation to the person, the difference is to be added to the survivor member's pension account in question without undue delay.

(5) In this regulation "survivor guarantee amount" has the meaning given in regulation 4O(3) of the 2014 Regulations.

Retrospective application: members who took a transfer out of the fund before 1st October 2023

8.—(1) This regulation applies to a person in category A, B or C who had a transfer out under regulation 96(2) of the 2013 Regulations before 1st October 2023 ("the original transfer").

(2) The person's provisional assumed benefits and a provisional underpin amount are to be calculated in accordance with regulations 4I and 4J respectively of the 2014 Regulations.

(3) Where the original transfer was a Club Transfer, the transfer value is to be recalculated in accordance with the Club Memorandum relating to that transfer.

(4) Where the original transfer was not a Club Transfer, the value of the transfer is to be recalculated in accordance with actuarial guidance issued by the Secretary of State, taking into account the member's provisional underpin amount and provisional assumed benefits.

(5) In both cases, where the recalculated transfer value exceeds the value of the original transfer, the difference is to be paid to the scheme that received the original transfer.

(6) In this regulation, "Club Memorandum" and "Club Transfer" have the meanings given in Schedule 1 to the 2013 Regulations.

Retrospective application: commutation payments taken before 1st October 2023

9.—(1) This regulation applies to a person in category A, B or C who took payment of a lump sum under regulation 34(1)(a) or (c) of the 2013 Regulations (trivial commutation) before 1st October 2023 ("the original payment").

(2) Regulations 4A to 4W of the 2014 Regulations are to be applied to the person and it is to be determined whether they are entitled to a final guarantee amount.

(3) Where the person is entitled to a final guarantee amount, the original payment is to be recalculated based on the pension that the person was entitled to at the time the original payment was made but including the final guarantee amount, in accordance with actuarial guidance issued by the Secretary of State that applied at that time.

(4) Notwithstanding regulation 34(3) of the 2013 Regulations (member entitled to no further benefits after payment), where the recalculated payment exceeds the original payment, the difference is to be paid to the person without undue delay.

Retrospective application: divorce or dissolution of civil partnership before 1st October 2023.

10.—(1) This regulation applies to a person with remediable service—

- (a) who was divorced, or dissolved a civil partnership, between 1st April 2014 and 1st October 2023; and
- (b) whose retirement benefits were, because of that divorce or dissolution of civil partnership, calculated for the purpose of section 29 of the Welfare Reform and Pensions Act 1999 (“the original calculation”).

(2) The cash equivalent value of the person’s retirement benefits for the purpose of section 29 of the Welfare Reform and Pensions Act 1999 is to be recalculated as at the date on which the original calculation was made in accordance with actuarial guidance issued by the Secretary of State.

(3) Where one of the dates set out in regulation 4H(1) of the 2014 Regulations (final underpin dates) occurred in relation to the person before the date on which their divorce was made final, or their civil partnership was dissolved, the recalculation must take into account any final guarantee amount to which the person is entitled.

(4) Where one of the dates set out in regulation 4G of the 2014 Regulations (underpin dates) occurred in relation to the person before the date on which their divorce was made final, or their civil partnership was dissolved, the recalculation must take into account the provisional underpin amount and provisional assumed benefits calculated under regulations 4I and 4J respectively of the 2014 Regulations.

(5) If the recalculated cash equivalent value exceeds the original calculation, the pension credit awarded to their spouse or civil partner (“the pension credit member”) is to be recalculated based on the recalculated cash equivalent value and on the same basis as that which applied for the purposes of the original calculation.

(6) If the pension credit member’s pension is in payment on 1st October 2023—

- (a) it is to be recalculated based on the recalculated pension credit;
- (b) the difference between the recalculated pension credit and the pension in payment is to be added to the pension credit member’s pension credit member account, from the date that they first took payment of the pension.

Interest on payments under the statutory underpin

11.—(1) This regulation applies in relation to a person to whom regulation 5(3), (4), (5), (6) or (7), 6(5), 7(4)(a) or (b), 8(5), 9(4) or 10(6)(b) applies.

(2) An administering authority must pay interest in respect of—

- (a) the amount to be added to the person’s pension account under regulation 5(3) or (4) (retired members);
- (b) the amount to be paid in accordance with regulation 82 under regulation 5(5) or (6) (deceased members);
- (c) where regulation 5(7) applies (person elected to commute amount of pension), any new lump sum arising from the amount added to the person’s account under regulation 5(3) or (4);
- (d) the amount to be paid under regulation 6(5) (death grants);
- (e) the amount to be added to the survivor member’s pension account under regulation 7(4)(a) or (b) (survivor member’s pension account);
- (f) the amount to be paid to the scheme under regulation 8(5) (transfers out);
- (g) the amount to be paid to the member under regulation 9(4) (commutation payments);
- (h) the amount to be added under regulation 10(6)(b) (difference between recalculated pension credit and pension in payment).

- (3) The interest is to be paid—
- (a) where paragraph (2)(a), (b), (c), (f) or (g) applies, to the person;
 - (b) where paragraph (2)(d) applies, to the recipient of the death grant;
 - (c) where paragraph (2)(e) applies, to the person who has the survivor member’s pension account;
 - (d) where paragraph (2)(h) applies, to the pension credit member.
- (4) Interest under this regulation is payable from the relevant date until the day on which the amount to which the interest relates and the accrued interest are repaid in full.
- (5) The “relevant date” is—
- (a) where regulation 5(3), (4), (5) or (6) applies, the day that falls half-way though the period beginning with the day after the member’s final underpin date and ending with the date on which payment is made;
 - (b) where regulation 6(5), 8(5) or 9(4) applies, the day that falls half-way though the period beginning with the day on which the original payment was made and ending with the date on which payment is made;
 - (c) where regulation 7(4)(a) or (b) applies, the day that that falls half-way though the period beginning with the day after the person’s date of death and ending with the date on which payment is made;
 - (d) where regulation 10(6)(b) applies, the day that falls half-way though the period beginning with the day on which the pension credit member’s pension was put into payment and ending with the date on which payment is made.
- (6) In paragraph (5)(b), “original payment” means—
- (a) the death grant;
 - (b) the transfer out; or
 - (c) the lump sum
- that was paid, or, as the case may be, made before 1st October 2023.
- (7) The rate of interest payable under this regulation is to be calculated in accordance with direction 38 of the PSP Directions 2022.
- (8) For the purposes of paragraph (5), where there is no day that falls half-way through the period in question, any reference to that day is to be read as a reference to the first day of the second half of the period.
- (9) In this Regulation—
- “final underpin date” has the meaning given in regulation 4H(1) of the 2014 Regulations.
 - “pension credit member” has the meaning given in regulation 8(1) of the 2013 Regulations;
 - “the PSP Directions 2022” means the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022.

Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

Name
[Minister of State]

Date Department for Levelling Up, Housing and Communities

We consent to the making of these Regulations

Name
Name
Two of the Lord Commissioners of His Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

DRAFT