

POLICE PENSION SCHEME SCOTLAND

REPORT ON THE CONSULTATION ON DRAFT STATUTORY INSTRUMENT THE POLICE PENSIONS (SCOTLAND) AMENDMENT REGULATIONS 2022

1. Introduction

1.1 The Scottish Government issued an open consultation that ran from 18 November 2021 to 24 January 2022 on proposals to amend Police pension regulations in Scotland. The purpose of this document is to summarise the responses from that consultation and to indicate the Scottish Government position following that consultation.

2. Data Protection Statement

2.1 The Scottish Public Pensions Agency (SPPA) is an executive Agency of the Scottish Government and forms part of the legal entity of the Scottish Ministers (Framework Document).

2.2 This framework of statutory powers and responsibilities, as agreed with the Scottish Ministers, enables SPPA to undertake the role of data controller for the processing of personal data including consultation responses. Responses are seen in full by SPPA staff dealing with the issues which this consultation is about or planning future consultations.

2.3 The process allows informed decisions to be made about how SPPA exercises its public function.

2.4 In order to show that the consultation was carried out properly, the SPPA is publishing this summary of the responses. Although we have not published any responses in full we reserve the right to do so at a later date if necessary. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the full response except where respondents have expressly stated that they do not want their personal details published. In these cases we will redact them before publishing.

2.5 You should also be aware of our responsibilities under Freedom of Information legislation.

2.6 If your details are published as part of a consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by SPPA will be kept for no more than three years.

2.7 Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is the independent regulator for data protection

2.8 For further details about the information the SPPA holds and its use, or if you want to exercise your rights under the GDPR, please refer to our Privacy Policy in the first instance or contact:

Agency Data Protection Officer
Scottish Public Pensions Agency
7 Tweedside Park
Tweedbank
GALASHIELS
TD1 3TE

Tel: 01896 892 469

Website: <https://pensions.gov.scot/>

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or

0303 123 1113

Website: <https://ico.org.uk>

3. Background

3.1 The Public Service Pensions Act 2013 (the 2013 Act) introduced reforms to public service pension schemes. The aim of the reforms was to implement the recommendations of the [Independent Public Service Pensions Commission: Final Report](#)¹, to make public service pensions, which due to increased workforce longevity had increasingly been paid for by taxpayers, more affordable and sustainable. New pension schemes were introduced, designed to make public service pensions sustainable through a higher normal pension age (NPA) for all scheme members, calculating benefits on a career average revalued earnings (CARE) basis rather than through final salary, and the introduction of a cost control mechanism.

3.2 The 2013 Act required responsible authorities, including devolved governments, to make regulations establishing the new schemes with effect from 1 April 2015. The Police Pension Scheme (Scotland) 2015 (“the 2015 scheme”) was created by the Police Pension Scheme (Scotland) Regulations 2015² with effect from that date. The two existing final salary police pension schemes – the 1987 scheme and the 2006 scheme (referred to as “legacy schemes”) - were closed on 31 March 2015 and scheme members could no longer accrue any pension in them unless they fell in to the category of what is known as ‘transitional protection’.

3.3 Transitional protection provided for scheme members who were aged within 10 years of their NPA³ on 31 March 2012, to be “fully protected” and allowed to remain in their legacy scheme(s). “Taper protected” members who, on 31 March 2012, were aged between 10 and 14 years of their NPA were allowed to remain in their legacy scheme for a period before transitioning to the reformed CARE 2015 scheme before 31 March 2022.

3.4 Following reform, members of the judicial and firefighters’ pension schemes challenged the transitional protection element of the reforms and in December 2018 the [Court of Appeal found](#) that the transitional protections unlawfully discriminated against younger members, as transitional protection was only offered to older scheme members. The Courts required that this unlawful discrimination be remedied by the government. In a [written ministerial statement](#) the UK government accepted the ruling had implications for all public service schemes that contained similar transitional protection arrangements, including the

¹ This is also known as ‘The Hutton Report’

² [S.S.I. 2015/142](#). The 1987 scheme is set out in [S.I. 1987/257](#) and the 2006 scheme under [S.S.I. 2007/201](#).

³ There is no formal NPA in the Police 1987 pension scheme and so protection status was established using longevity of service and age

Police Pension Scheme (Scotland), and have since [consulted](#) on the mechanism for the remedy.

3.5 The UK Government introduced primary legislation, The Public Service Pensions and Judicial Offices Bill (PSPJO Bill), to Parliament in July 2021. The Bill received Royal Assent on 10 March 2022⁴ and became an Act of Parliament (“the Act”). The provisions in the Act mean that all scheme members, regardless of transitional protections, who continue in service from 1 April 2022 will do so as members of the 2015 Scheme. The Legacy Schemes will be closed to all members for future service from 31 March 2022. The period between 1 April 2015 and 31 March 2022 where eligible scheme members may have built up pension benefits in any one of the above schemes⁵ is known as ‘the remedy period’. Eligible scheme members will have a choice of pension benefits for the remedy period⁶.

3.6 The primary legislation, supported by secondary legislation, will remove the transitional protection that the Courts found to be discriminatory as all eligible members, irrespective of age and proximity to NPA, will now have accrued benefits in their legacy schemes for the remedy period. All eligible members will be given a choice of preferred pension benefits for the remedy period under the provision known as deferred choice underpin (DCU) (pensioner members and representatives of deceased members will be given what is referred to as an immediate choice).

3.7 Secondary legislation in support of the Act will be made in two phases. The first phase addresses the prospective changes and is the subject of this consultation. Phase two will follow in 2022/23 and will establish the DCU/immediate choice and return eligible members to their legacy schemes for the remedy period.

3.8 The first phase of secondary legislation was the subject of this consultation and is designed to allow provisions for the prospective remedy changes to be enabled. That is, the move of all active scheme members to the 2015 scheme from 1 April 2022 and the closure of the legacy schemes to future accrual from 31 March 2022. This ensures that

⁴ [Public Service Pensions and Judicial Offices Act 2022 \(legislation.gov.uk\)](#)

⁵ This is dependent on a scheme member’s personal transitional protection status. Between 1 April 2015 and 31 March 2022 protected members will have built up pension in their legacy scheme while unprotected scheme members will have built up pension in the reformed scheme. Taper protected members may have built up a mixture of both legacy and reformed scheme pension during the remedy period.

⁶ The remedy will allow all eligible members to choose whether they wish to receive legacy or reformed scheme benefits in relation to the remedy period. Members can choose either legacy scheme benefits for the full period or reformed scheme benefits, they cannot opt for a mixture of the two.

from 1 April 2022 all serving officers who are in pensionable service will be accruing future benefits in the same scheme.

3.9 The second phase of draft Regulations will be new provisions that implement the DCU/immediate choice and facilitate the correction of pensions already in payment, including addressing the underpayment and overpayment of pensions and pension contributions for pension scheme members and pensioners. The second tranche of Regulations will be drafted and consulted on separately at a later date.

4. Consultation process

4.1 The Scottish Government consultation document was issued by email to stakeholders on 18 November 2021 and the documentation was also published on the Scottish Public Pensions Agency website. Hard copies of the consultation were available on request.

5. Analysis of responses

5.1 The consultation invited comments on five questions relating to the amendments. The main themes from the comments are summarised in part 6. There were 32 responses to the consultation. 28 responses were from individual pension scheme members and five were from staff and employer groups.

Respondents can be broken down as follows:

Respondents
Staff side representatives (2)
The Scottish Police Federation
Association of Scottish Police Superintendents
Employer side (1)
Scottish Police Authority
Other (29)
Individual responses
One response was withdrawn

6. Summary of Responses to question 1

6.1 Question 1 of the consultation asked:

Do you think the draft Regulations adequately ensure that the legacy pension schemes are closed to future accrual from 31 March 2022 and that all active pension scheme members are moved to the 2015 pension scheme from 1 April 2022? Do you think there are any errors or omissions in the draft in achieving this aim?

6.2 23 respondents answered this question. 11 respondents agreed, nine respondents did not answer the question directly in their response to question 1 and two respondents disagreed.

6.3 One respondent who disagreed asserted that the question had been deliberately written in such a way as to limit the responses to the consultation. The other respondent who disagreed stated that the regulations contain “flagrant errors and omissions” and that the timing of the consultation does not allow much time for consideration of responses and “gives the impression of a foregone conclusion”.

6.4 In addition to the comments directly agreeing or disagreeing with the question, respondents raised issues around the removal of transitional protections, with some seeking assurances over the treatment of taper protected members. In particular some queried whether the removal of the taper protection provision could give rise to the removal of accrued benefits, since these members will no longer receive a split of legacy scheme and 2015 Scheme benefits for the remediable period.

6.5 Most respondents also commented on the perception that the Remedy is discriminatory due to the relationship between the principally service-based retirement offered in the 1987 legacy scheme, and the age-based retirement offered in the 2015 reformed Scheme. This has been described elsewhere and informally as the “pensions trap”⁷. Questions were also raised around the perceived fairness of the amendments being implemented as far ahead of the full remedy implementation date of 1 October 2023⁸.

⁷ The term pensions trap was first used in this context while debating amendments to the Bill and can be found in [Hansard](#)

⁸ This is the statutory date set out in [the Public Service Pensions and Judicial Offices Act 2022](#)

Scottish Government Response to question 1

6.6 The Scottish Government is grateful for the responses received to this question. This consultation asked respondents to consider the proposed changes to the pension schemes that are required to be made as a result of primary legislation⁹ enacted by the UK government. The intention to close the legacy schemes to existing members who held transitional protection was addressed in the consultation, *Changes to the Transitional Arrangements to the 2015 Schemes*¹⁰ that was held by the UK government in 2020. Overall responsibility for public service pensions is reserved to the UK government. The Scottish Parliament has limited powers in this regard and can only make secondary legislation as required by, and using powers under, the UK government Act. The question was therefore framed in such a way as to seek responses to the draft amendments in the scheme that must deliver the overall policy intention mandated in the Act.

6.7 The treatment of taper protected members was raised in the responses to question 1. This was addressed in the UK government response to their consultation on the changes to the transitional arrangements to the 2015 schemes¹¹. The position taken in the primary legislation is consistent with the requirements of the Court of Appeal judgment, in that discrimination applied to all of those who did not receive full transitional protection. Maintaining an age-based system of tapered protection would perpetuate or even extend the discrimination identified by the courts.

6.8 In its consultation response, the UK Government acknowledged that some members may be disproportionately affected by changes to tapered protection. The UK Government has confirmed that they will ensure that mitigations are put in place to ensure that no member will be subject to an unreasonable individual burden or would suffer significant prejudice. The Scottish Government supports this policy intention and provision for this will be considered in the retrospective phase of the Remedy.

6.9 The Scottish Government is content that the draft regulations deliver the policy intention of closing the legacy schemes on 31 March 2022 and opening access to the 2015 Scheme from 1 April 2022 to those members

⁹ [The Public Service Pensions and Judicial Offices Act 2022](#)

¹⁰ The response to this consultation can be found at: [Public service pension schemes consultation: changes to the transitional arrangements to the 2015 schemes - GOV.UK \(www.gov.uk\)](#)

¹¹ This is addressed in paragraphs 2.25 to 2.41 of, [Public service pension schemes consultation: changes to the transitional arrangements to the 2015 schemes - GOV.UK \(www.gov.uk\)](#)

who still remain in the legacy schemes on the closing date. Scottish Ministers are unable to delay or stop the closure of the legacy pension schemes on the date set out in the Act.

7. Summary of Responses to Question 2

7.1 Question 2 of the consultation asked

Do you have any views on the proposed treatment of pension scheme members who have applied for ill health retirement before 31 March 2022 but who don't retire until on or after 1 April 2022? In particular, does this proposal in your view, ensure that these members are treated no less favourably than if the application was determined on 31 March 2022?

7.2 24 of the respondents did not directly answer this question. Six respondents agreed and one respondent disagreed. The respondent who disagreed did so due to a disagreement with the overall Remedy as set out in the primary legislation, rather than specifically disagreeing with the intention set out in the consultation and summarised in the question. In addition to this one disagreement, multiple responders re-stated that they felt legacy scheme members should remain in legacy schemes until they retire, again rejecting the overall Remedy as set out in the primary legislation.

7.3 There was some consensus among responders who agreed with the policy intention that there is no requirement to amend scheme regulations as the mechanism for this already exists. However, Scottish Ministers were asked to consider the policy intention more fully and in particular clarify at what point an application is considered to have been made, to ensure consistency and fairness. Responders also asked for the treatment of (fully protected) officers who are not immediately seen as incapacitated and are instead retained in other, more suitable roles, but who ultimately then may be retired on ill-health grounds to be considered.

Scottish Government Response to question 2

7.4 The Scottish Government are content that the policy intention to protect transitional ill health retirees who apply for retirement before the transition date but have not had that application settled by the transition date is achieved. The existing mechanism for transitional ill health retirees is adequate to ensure that new transitional members on 1 April 2022 will be treated in the same way, so no amendment to these regulations is required.

7.5 Further consideration will be given to the treatment of applications, particularly at what point an application is seen to have been made.

Liaison between SPPA and the employer is required to ensure that all officers who may be in this position are treated fairly and in the spirit of the policy. Treatment of “retained ill health candidates” is something that sits outside the scope of this consultation, however officials are open to further discussions on this matter.

8. Summary of Responses to Question 3

8.1 Question 3 of the consultation asked:

Do you have any views on the proposed treatment of additional contributions arrangements? In particular, do you agree that existing provisions in the regulations allow for arrangements on additional pension and added service entered into under the existing schemes to continue after 31st March 2022?

8.2 24 of the respondents did not answer this question. Four respondents agreed and three respondents disagreed. Respondents who disagreed were concerned that only allowing existing agreements to continue (as opposed to new agreements) meant there would not be an opportunity to enter into a new agreement after 31 March 2022. While this is correct for the legacy schemes, there is provision in the 2015 Scheme to purchase increased “added” pension that members are entitled to take advantage of.

8.3 Some respondents appear to have misunderstood the nature of the question, attributing it to mandatory member contributions and talked about the need to ensure that these contributions were not increased in future to pay for the remedy.

8.4 Some respondents highlighted that this may affect female members who work part-time or take career breaks for family reasons. It was asserted that these members may have counted on being able to work additional months and years in the legacy schemes (after 31 March 2022) to make up for any lost service. The concern was that the decision to close the legacy schemes on 31 March 2022 would unfairly impact this group. Some responders suggested where a member of this group has taken a career break, that a mechanism be introduced to allow these members to retrospectively purchase “lost” service in the legacy scheme following their return to pensionable service on or after 1 April 2022. This falls out of the scope of this consultation however it may be considered as part of the retrospective remedy.

Scottish Government Response to Question 3

8.5 Scottish Ministers are content with the policy intention that all existing voluntary additional contributions arrangements will continue after 31 March. This means that members who made elections to purchase additional service in the legacy schemes on or before 31 March 2022 and opted to pay in monthly instalments will be able to continue to make those payments and fulfil the cost of the election. The question of whether specific member groups can have retrospective access to purchase legacy scheme additional service is out of scope for this consultation, and in any case may introduce new discrimination if this access is restricted to certain members.

8.6 In response to the comments raised in 8.3 where concerns were noted that the costs of remedy may be passed on to scheme members. When completing the cost control element of the 2016 valuations, the UK Government confirmed¹² that member benefits would not be reduced, nor would member contributions be increased, as a result of the inclusion of the McCloud remedy costs in that valuation.

8.7 Valuations are undertaken in line with Directions issued by HM Treasury, and the Directions for the 2020 valuation are yet to be published. However, we do not expect any increase in the member contribution rate, nor any reduction in member benefits, as a result of McCloud remedy costs, to arise from the 2020 valuation.

9. Summary of Responses to Question 4

9.1 For question 4 responders were asked to comment on the following question:

Do the prospective Regulations in this consultation have an impact on people with protected characteristics, beyond those equality considerations undertaken and set out in the equalities impact analysis undertaken alongside this consultation and in support of the PSPJO Bill. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. Specifically, do you think that the draft regulation amendments and policy intent described above will have any positive or negative impacts on people with protected characteristics, beyond those already considered? If so, which and why/why not?

¹² [Update on the 2016 and 2020 Valuations - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/update-on-the-2016-and-2020-valuations)

9.2 25 respondents commented on this question and brought up issues relating to the protected characteristics, age, sex, disability and pregnancy and maternity. Six respondents made no comment to question 4.

9.3 The majority of respondents brought up perceived discrimination in relation to the interaction between retirement age in the 1987 legacy scheme and the reformed 2015 Scheme. When protected legacy scheme members are moved to the 2015 scheme on 1 April 2022 some may not have achieved the full expected pension entitlement of 30 years. In addition, some members may be aged under 55 when they are entitled to retire on legacy scheme terms so will not meet the minimum pension age in the 2015 scheme.

9.4 It was also pointed out that this may disproportionately affect female scheme members as they are more likely to have reduced accrual in the legacy scheme from taking career breaks following maternity in order to raise a family and/or work part time for a proportion of their career.

9.5 Respondents explained that they had personally opted out of the pension scheme due to the introduction of the 2015 scheme as they did not feel that it was value for money. They are concerned that the 2015 Remedy has introduced new (age) discrimination as they have now missed out on years of pension accrual in the legacy scheme that they were not expecting to have.

9.6 Two respondents noted they felt there was a lack of available data in the analysis that was presented and felt this had inhibited their ability to comment further on the equality impacts of the prospective changes. One respondent questioned the use of data from the 2016 scheme valuation citing that it was so old as to be inconsequential¹³.

9.7 Disability impacts were cited in relation to those who are seeking to retire through ill-health in the immediate period after 1 April 2022 and who will not be given a choice of pension until the statutory implementation date of 1 October 2023. This cohort has been described as immediate detriment¹⁴ members. It was suggested that because the pension scheme is not offering an alternative solution to settle pensions early for these members it could be exacerbating an already stressful situation for this cohort and could lead to them developing mental and physical health conditions or that existing conditions may worsen.

¹³ it should be noted that comments on equality considerations such as this were made in response to Q1 and Q5 as well as Q4 however they are relevant to this question for the purposes of the consultation response

¹⁴ Section 31 of [The Public Service Pensions and Judicial Offices Act 2022](#)

Scottish Government Response to Question 4

9.8 The Scottish Government thanks respondents for the comments received to this question and note the equality concerns raised by respondents on the relationship between the 1987 legacy scheme and the 2015 reformed pension scheme. This is a feature of the move from a service based pension scheme to a scheme that is based solely on age. This was the intention of the reforms in the 2013 Act that were carried through by the introduction of the 2015 pension scheme. It is important to note that this issue is not a direct result of the amendments consulted on in the recent open consultation that these responses were gathered from so may be considered out of scope of this consultation.

9.9 However, we recognise there is considerable concern amongst respondents and commit to continue looking for any mitigating actions that can be taken in relation to these issues. Engagement with both member and employer representatives on this area is underway through the Scottish Police Pension Scheme Advisory Board, which provides advice to the Scottish Ministers on scheme matters.

9.10 Officers who decided to opt out of the 2015 pension scheme because they disagreed with the reforms come under an area of the remedy that has been termed “contingent decisions”. Officers in this position will be given an opportunity to apply for retrospective admission to the scheme, as set out in Section 5 of the Act¹⁵. The mechanism for this will be established during the second phase of developments.

9.11 Scottish Ministers are sympathetic to members who may be categorised as suffering immediate detriment, and who may not be receiving the full entitlement that Remedy will deliver. However, following advice from HM Treasury and HM Revenue and Customs and upon the withdrawal of the Home Office guidance on Immediate Detriment for scheme managers in England and Wales, Ministers reluctantly took the decision not to proceed with processing these cases. This was due to significant tax issues that only came to light after the guidance had been issued. These tax consequences will perpetuate until relevant legislation is passed by the UK Government that deals with the charges that would be levied should settlements be made now. The Scottish Government is considering potential avenues to resolve this in the meantime and will continue to work with UK Government counterparts to reach a satisfactory solution as early as possible.

9.12 SPPA notes concerns over the data used in the equality impact analysis (EqIA) that accompanied the consultation, and is committed to

¹⁵ [Public Service Pensions and Judicial Offices Act 2022 \(legislation.gov.uk\)](https://legislation.gov.uk)

reviewing and updating this document throughout the development of the Remedy. The use of the 2016 scheme valuation data was acknowledged in the analysis document as the most recent data available. The 2020 scheme valuation process is underway now and a new dataset will become available that will be utilised to update and refresh the analysis and assumptions in the EqIA.

9.13 Updated SPPA analysis of Active full protection members who are due to move to the 2015 Scheme on 1 April 2022 shows that there are 503 members in that position. 103 of those are female and 400 male, with 20 in that group aged under 50 and a further 77 aged between 50 and 54. There are no members in this group aged under 48¹⁶.

10. Summary of Responses to Question 5

10.1 The final question in the consultation was:

Are there any other areas that you think should be addressed in these regulations to ensure all members are moved to the 2015 scheme and the differential treatment as identified by the Court of Appeal is ended?

10.2 29 respondents commented on this question and two made no comment. Most of the commentary was again around the interaction between retirement age in the 1987 legacy scheme and the reformed 2015 Scheme. Most of the responses asked that the intention to close the scheme to all remaining members is reconsidered and that existing members should be given the choice to remain in their original pension schemes until retirement so only new (post 31 March 2012) entrants to the pension scheme should join or remain in the 2015 scheme.

10.3 A number of comments again focussed on member retirement scenarios including that of a member aged under 55 years who transitions to the 2015 reformed scheme and who becomes entitled to their legacy scheme pension. Such a member would then have to choose between either remaining in the scheme until age 55 to be entitled to take both pension elements (with an age-based commutation factor applied for the 1987 scheme lump sum and an actuarial reduction to age 60 for the 2015 Scheme pension), or retire immediately to take advantage of the commutation factor available at a younger age in the 1987 scheme but defer the 2015 scheme pension until age 55 or later (with a deferred pension actuarial deduction by reference to state pension age). Respondents suggested this presented members with an unfair choice as in both cases the member would be losing out on some element of their pension entitlement in one or the other scheme.

¹⁶ SPPA member data as at March 2022

10.4 In addition, respondents suggested extending the remedy period to allow for a framework remedy implementation to be fully realised. Funding of the changes to the pension reforms was also highlighted as requiring further consideration.

Scottish Government Response to Question 5

10.5 The Scottish Government is grateful for the considered responses to this and earlier questions in the consultation. As has been noted already in response to earlier questions, a number of the considerations in the responses relate to the overall pension reforms and subsequent remedy of the discriminatory elements of the reforms as set out in the primary legislation (the 2013 Act and the PSPJO Act). Scottish Ministers have limited devolved powers in this area so cannot act on some of the suggested mitigations that are set out in responses to question 5 and earlier questions.

10.6 The Scottish Government acknowledges that members who were entitled to full protection in 2015 will have retained an expectation that they could remain in their legacy scheme until retirement, even when that date is later than 31 March 2022. However, the transitional protections that led to such expectations have since been rendered discriminatory and have been removed by the Act. This equalises treatment across the eligible membership. The reasoning for this was set out in the UK Government's response to the changes to the transitional arrangements to the 2015 schemes, as quoted below:

It was never the government's intention that the legacy schemes would continue indefinitely. Members in scope will have had 20 months' notice (since consultation) of these plans, which are necessary to implement the reforms, for which the rationale still stands, and to do so in a way that treats all members equally in terms of their scheme eligibility and scheme design available to them, after the discrimination has been addressed...

...Under these plans, those who were denied transitional protection because of their age will be offered the same benefits as those who were fully protected, for the remedy period; thereby addressing the discrimination identified by the courts. Thereafter, all those who remain in service will be

*treated equally in respect of scheme design provided to them.*¹⁷

10.7 The Scottish Government is committed to considering what can be done within its devolved powers to mitigate some of the issues highlighted by the respondents to this question and the consultation as a whole. In particular, issues around equal treatment, immediate detriment and the interaction between the pension ages in the 1987 and 2015 schemes. Engagement on this has started through the Scheme Advisory Board. These areas are out of scope for the prospective amendments that have been consulted on and will be addressed with the retrospective aspects of the remedy.

11 Conclusion

11.1 The Scottish Government have considered the responses to the consultation on the prospective amendments contained in the draft presented and are content to proceed. The prospective changes will be implemented on 1 April 2022 and will impact those who were in the category of full protection member, as taper protected and unprotected members have already transitioned to the 2015 scheme.

11.2 The elements of the remedy that have been highlighted in the responses to this consultation but were out of scope for the prospective remedy will be considered where appropriate in the retrospective elements of the remedy or through engagement at the scheme advisory board. Areas of concern relating to reserved legislation that have been highlighted in the responses will be passed to the UK Government.

11.3 The Scottish government wish to thank all those who responded to this consultation. The amendments to the Regulations will be laid in the Scottish parliament on 17 March and will come into force on 1 April 2022 completing the first phase of legislation required to implement the remedy to the discrimination in the 2015 reforms.

11.4 A second phase of remedy is now required to be developed and must be in place no later than 1 October 2023. Consultation with stakeholders will be undertaken throughout this development period and will culminate in a second formal open consultation.

Scottish Public Pensions Agency
An Agency of the Scottish Government
17 March 2022

¹⁷ 3.36 & 3.40 of the [Public Sector Pensions Consultation Response.pdf](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/104444/Public_Sector_Pensions_Consultation_Response.pdf) ([publishing.service.gov.uk](https://www.publishing.service.gov.uk))