

Criminal Justice Committee
Wednesday 28 May 2025
17th Meeting, 2025 (Session 6)

Note by the Clerk on the Police Pensions (Remediable Service) (Scotland) Amendment Regulations 2025 (SSI 2025/114)

Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instrument (SSI), which is subject to the negative procedure. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.
2. More information about the instrument is summarised below:

Title of instrument: [The Police Pensions \(Remediable Service\) \(Scotland\) Amendment Regulations 2025](#) (SSI 2025/114)

Laid under: [The Public Service Pensions Act](#) and the [Public Service Pensions and Judicial Offices Act 2022](#)

Laid on: 24 April 2025

Procedure: Negative

Deadline for committee consideration: 2 June 2025 (Advisory deadline for any committee report to be published)

Deadline for Chamber consideration: 2 June 2025 (Statutory 40-day deadline for any decision whether to annul the instrument)

Commencement: 23 June 2025

Procedure

3. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.
4. Once laid, the instrument is referred to:
 - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
 - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.
5. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a

meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred to above).

6. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

Delegated Powers and Law Reform Committee consideration

7. The DPLR Committee considered the instrument on 13 May 2025 and reported on it in its [33rd Report, 2025](#).
8. The report highlights various issues with the instrument and the **DPLR Committee agreed to draw it to the attention of the Parliament on a number of points under the general reporting ground.**
9. The report also highlights to the lead Committee correspondence with the Scottish Government relating to the Principal Regulations for the Police Pension Scheme, where provision does not appear to be made for situations where an amount paid to the beneficiary exceeds the aggregate of the lump sum or pension benefits to which the beneficiary is entitled.
10. The DPLR Committee asked whether, since the Scottish Government appears to be seeking to correct a similar issue in respect of the Firefighters' Pension Scheme, it intended also to correct the issue in respect of the Police Pension Scheme. The Scottish Government responded that the situation described above, has not yet occurred, and it considers it unlikely to occur.
11. It indicated that it is likely that this will be addressed but that there is not a firm timescale for amendments to the Police Pension Scheme at present. It also stated that this is being considered along with corresponding amendments with equivalent schemes in England and Wales.
12. The DPLR Committee notes that the opportunity to correct the omission has not been taken in this instrument, which is in contrast to the approach taken in respect of the Firefighters' Pension Scheme.
13. However, it also notes that the Scottish Government has undertaken to address the points reported in paragraphs 56 and 63 of its report by correction slip which will be dealt with as soon as practicable, and in any event before summer recess.
14. The full correspondence between the DPLR Committee and the Scottish Government is [set out in this paper](#).
15. The relevant sections of the DPLR Committee's report are attached at **Annexe B**.

Purpose of the instrument

16. The purpose of this instrument is to update and amend [Police Pensions \(Remediable Service\) \(Scotland\) Regulations 2023](#).

17. The aim of this instrument is to provide clarity by correcting minor errors and to clarify the provision of 'Transfers on a non-club basis'.

Committee consideration

18. So far, no motion recommending annulment has been lodged.

19. Members are invited to consider the instrument and decide whether there are any points they wish to raise.

20. If members have no points to raise, the Committee should note the instrument (that is, agree that it has no recommendations to make).

21. However, should a motion recommending annulment be lodged later in the 40-day period, it may be necessary for the Committee to consider the instrument again.

22. In any case, Members may wish to take note of the comments from the DPLR Committee that several of the points they raised about the drafting of the SSI do not appear to have been taken on board by the Scottish Government (see Annexe B). The Committee may wish to write to the Scottish Government asking why this is the case.

Clerks to the Committee
May 2025

Annexe A: Scottish Government Policy Note

The Police Pensions (Remediable Service) (Scotland) Amendment Regulations 2025

(SSI 2025/114)

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 1(1), 1(2)(g), (together with paragraph 7(b) of schedule 2) and 3(1), (2)(a) (together with paragraph 13 of schedule 3) and (c) and (3)(b) of the Public Service Pensions Act 2013 (“the 2013 Act”) and sections 5(1) and (5), 6(1), 7(3), 8(1) and (3), 10(1), 11(1) and (5), 12(1) and (3), 21, 22(1), (2) and (6), 24(1), 26(1) and (2), and 31(2) and (3) of the Public Service Pensions and Judicial Offices Act 2022 “PSPJOA 2022” and all other powers enabling them to do so.

To the extent required by section 27 of PSPJOA 2022, these Regulations are made in accordance with Treasury Directions made under that section.

Summary Box

The purpose of this instrument is to correct minor errors in The Police Pensions (Remediable Service) (Scotland) Regulations 2023 (SSI 2023/239).

Policy Objectives

The purpose of this instrument is to update and amend The Police Pensions (Remediable Service) (Scotland) Regulations 2023.

The aim of this instrument is to provide clarity by correcting minor errors and to clarify the provision of ‘Transfers on a non-club basis’.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, The Police Pensions (Remediable Service) (Scotland) Amendment Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government’s policy to maintain alignment with the EU.

Consultation

No additional consultation has been undertaken as a full consultation was undertaken in 2023 and there is no material change to the regulations. Rather, this

Instrument corrects minor errors in the original Scottish Statutory Instrument. The original consultation documents are available to view on the SPPA website¹.

Impact Assessments

An Equality Impact Assessment (EQIA) has not been completed as this is an amendment instrument centred on correction of references, definitions and typographic errors. The EQIA to the original regulations, the 2023 Regulations is available to view on the SPPA website².

Financial Effects

The Minister for Public Finance confirms that no Business and Regulatory Impact Assessment (BRIA) is necessary as changes to employee contributions has no significant financial effects on the Scottish Government, local government or on business.

Scottish Public Pensions Agency
An Agency of the Scottish Government
22 April 2025

¹ <https://pensions.gov.scot/police/scheme-governance-and-legislation/consultations>

² <https://pensions.gov.scot/sites/default/files/2023-05/2015%20Remedy%20Equality%20Impact%20Assessment%20-%20%20Police%20Pension%20Scheme.pdf>

Annexe B: Excerpt from Delegated Powers and Reform Committee, 33rd Report, 2025 (Session 6)

Firefighters' Pensions (Remediable Service) (Scotland) Amendment Regulations 2025 (SSI 2025/113)

The Police Pensions (Remediable Service) (Scotland) Amendment Regulations 2025 (SSI 2025/114)

The Teachers' Pensions (Remediable Service) (Scotland) Amendment Regulations 2025 (SSI 2025/121)

4. The background to these three instruments is as follows. Each of these instruments (SSIs 2025 113, 114 and 121) amends a set of regulations from 2023. Those regulations made changes to the pension schemes of Scottish firefighters, police and teachers which were necessary following a successful court challenge in 2018 related to the reform of public sector pension schemes. The court found that providing transitional protections for scheme members who were closest to retirement age unlawfully discriminated against younger members.
5. The Committee considered the earlier instruments at its meeting on 19 September 2023, along with two other similar instruments (for national health and for local government pension schemes). In its report, the Committee drew all of them to the attention of the Parliament, having identified drafting points in each. The Committee's report on the original instruments can be found [here](#).
6. In each case the Scottish Government committed to address some or all of the points identified by the Committee.
7. The instruments considered by the Committee at its meeting on 13 May 2025 are intended to make these corrections. Unfortunately, they are not wholly successful in correcting the earlier instruments, as set out below.
8. The Committee asked the Scottish Government questions on each of today's instruments, and the full correspondence is [set out in this paper, published alongside papers for this week's Committee meeting](#).

Police Pensions (Remediable Service) (Scotland) Amendment Regulations 2025 (SSI 2025/114)

51. This instrument also forms part of the package, and general background is set out at paragraphs 4 – 9 above. Again, the full correspondence on this instrument can be found in [this paper, published alongside papers for this week's Committee meeting](#).
52. The instrument was made to correct errors identified by this committee in the [Police Pensions \(Remediable Service\) \(Scotland\) Regulations 2023](#) (SSI 2023/239) ("the Principal Regulations").

53. In relation to this instrument, the Committee asked several questions that related to the correction of the errors identified in the Principal Regulations by this Committee.

54. **Question 1** asked about the Scottish Government's failure to meet its commitment to correct an error in the preamble of the Principal Regulations by correction slip.

55. The Scottish Government apologised for this oversight and committed again to bringing forward a correction slip.

56. The Committee reports, on the general reporting ground, that the Scottish Government's commitment of 12 September 2023 to correct an error in the preamble of the Principal Regulations by correction slip has not been fulfilled.

57. **Questions 2 and 3** asked the Scottish Government for clarification as to whether substitutions of definitions were intended to apply in both instances where they occurred in the Principal Regulations in each case.

58. The Scottish Government confirmed that this was the case and advised that they considered this to be sufficiently clear. The Committee considers that, in line with standard drafting practice, the words "wherever it occurs" (or similar) should be used where multiple substitutions are intended.

59. The Committee considers that, in line with standard drafting practice, regulation 3 of the instrument should specify that the substitution is to be made in both instances where "an immediate choice election" appears in regulation 10(c) and paragraph 1(1) of the schedule of the Principal Regulations. Similarly, regulation 5 of the instrument should specify that the substitution is to be made in both instances where "deferred choice election decision" appears in paragraph 1(1) of the schedule of the Principal Regulations.

60. The Committee reports this point on the general reporting ground.

61. **Question 4** highlighted that there is an error in regulation 7 of the instrument in that it referred to regulation 22(3) and (4) for the purposes of omitting an erroneous reference in the Principal Regulations, where it should have referred to regulation 23(3) and (4).

62. The Scottish Government accepted that this is an error and has committed to correcting the reference by correction slip.

63. The Committee reports this point on the general reporting ground.

64. Question 4 also sought to clarify whether the correction the Scottish Government was making in this provision was correct, given that it was a different solution to

that which was offered in response to the Committee's previous questions on the Principal Regulations. The Scottish Government has confirmed that it considers that the solution presented in this instrument is the better way of correcting the original error identified, and the Committee accepts this explanation.

65. **Question 5** referred to question 3 asked by the Committee in respect of the Firefighters instrument above (SSI 2025/113). This question highlighted that a similar issue also arose in respect of the Police Pension Scheme.

66. The issue in the Principal Regulations for the Police Pension Scheme is that provision does not appear to be made for situations where an amount paid to the beneficiary exceeds the aggregate of the lump sum or pension benefits to which the beneficiary is entitled. The Committee asked whether, since the Scottish Government appears to be seeking to correct a similar issue in respect of the Firefighters' Pension Scheme, it intended also to correct the issue in respect of the Police Pension Scheme. The Scottish Government responded that the situation described above, where an amount paid to a beneficiary exceeds the aggregate of the lump sum or pension benefits to which the beneficiary is entitled to, has not yet occurred, and it considers it unlikely to occur. The Scottish Government indicated that it is likely that this will be addressed but that there is not a firm timescale for amendments the Police Pension Scheme at present. It also stated that this is being considered along with corresponding amendments with equivalent schemes in England and Wales.

67. The Committee highlights this correspondence to the lead committee, and notes that the opportunity to correct the omission has not been taken in this instrument, which is in contrast to the approach taken in respect of the Firefighters' Pension Scheme.

68. The Committee notes that the Scottish Government has undertaken to address the points reported in paragraphs 56 and 63 above by correction slip which will be dealt with as soon as practicable, and in any event before summer recess.

69. The lead committee for this instrument is the Criminal Justice Committee.