
STATUTORY RULES OF NORTHERN IRELAND

2023 No. 122

**The Police Pensions (Remediable Service)
Regulations (Northern Ireland) 2023**

PART 7

Provision about special cases

CHAPTER 1

Ill-health retirement

Application and interpretation of Chapter 1

49.—(1) This Chapter applies in relation to an immediate choice member (“M”) who, during the period beginning on 1st April 2015 and ending on 31st March 2022, became entitled to—

- (a) an ill-health award under regulation B3(1) of the 1988 Regulations;
- (b) an ill-health pension under regulation 26 of the 2009 Regulations;
- (c) an ill-health pension under regulation 100 of the 2015 Regulations.

(2) In this Chapter—

“1988 IHR member” means a member described in paragraph (1)(a);

“2006 IHR member” means a member described in paragraph (1)(b);

“2015 IHR member” means a member described in paragraph (1)(c);

“alternative scheme” means, in relation to—

(a) a 1988 IHR member or a 2006 IHR member, the reformed scheme;

(b) a 2015 IHR member, the member’s legacy scheme;

“ill-health benefits” means benefits payable by virtue of an entitlement mentioned in paragraph (1);

“police pension authority” has the meaning given in regulation 71 of the 2015 Regulations;

“remediable ill-health benefits” means ill-health benefits payable in relation to M’s remediable police service;

“selected medical practitioner” means a duly qualified medical practitioner appointed by the police pension authority.

Commencement Information

II Reg. 49 in operation at 1.10.2023, see **reg. 1(b)**

M's entitlement to ill-health benefits to be treated as equivalent in M's alternative scheme

50.—(1) For the purposes of PSPJOA 2022 and these Regulations, M is to be treated as meeting the requirements for an equivalent ill-health award in M's alternative scheme.

(2) No question relating to M's entitlement to ill-health benefits that has been decided following referral to a selected medical practitioner is to be re-opened by virtue of any provision of PSPJOA 2022 or of these Regulations.

(3) In this regulation—

“equivalent ill-health award in M's alternative scheme” means—

- (a) where M is entitled to an ill-health award under regulation B3 of the 1988 Regulations, a lower tier award under the reformed scheme;
- (b) where M is entitled to—
 - (i) a lower tier award under the 2006 scheme, a lower tier award under the reformed scheme;
 - (ii) an upper tier award under the 2006 scheme, an upper tier award under the reformed scheme;
- (c) where M is entitled to—
 - (i) a lower tier award under the reformed scheme, and—
 - (aa) M's legacy scheme is the 1988 scheme, an award under regulation B3 of the 1988 Regulations;
 - (bb) M's legacy scheme is the 2006 scheme, a lower tier award under that scheme;
 - (ii) an upper tier award under the reformed scheme and M's legacy scheme is the 2006 scheme, an upper tier award under that scheme;

“lower tier award” means, in relation to—

- (a) the 2006 scheme, an award determined in accordance with regulation 26(3) of the 2009 Regulations;
- (b) the reformed scheme, an ill-health pension payable under regulation 100(3)(a) of the 2015 Regulations;

“upper tier award” means, in relation to—

- (a) the 2006 scheme, an award determined in accordance with regulation 26(4) of the 2009 Regulations;
- (b) the reformed scheme, an ill-health pension payable under regulation 100(3)(b) of the 2015 Regulations.

Commencement Information

I2 [Reg. 50](#) in operation at 1.10.2023, see [reg. 1\(b\)](#)

Deciding whether a 1988 IHR member is entitled to an upper tier award

51.—(1) This regulation applies where—

- (a) M is a 1988 IHR member, and
- (b) the question of whether M is permanently medically unfit for engaging in any regular employment within the meaning of Part 6 of the 2015 Regulations has not been referred to a selected medical practitioner.

(2) The police pension authority must refer the following questions to a selected medical practitioner—

- (a) whether M was, at the time of the original decision or at any time during the relevant period, medically unfit for engaging in any regular employment, and
- (b) whether that medical unfitness was likely to be permanent.

(3) The selected medical practitioner must—

- (a) examine or interview M if the selected medical practitioner thinks it is necessary to do so to decide either of the questions referred under paragraph (2),
- (b) decide the questions referred under paragraph (2), and
- (c) give the police pension authority and M a report and certificate containing a decision on those questions.

(4) Regulation 80(2) of, and Schedule 1 to, the 2015 Regulations applies to the report and certificate mentioned in paragraph (3)(c) as they apply in relation to the report and certificate mentioned in regulation 79(2)(c) of those Regulations.

(5) For the purpose of deciding the questions in paragraph (2)—

- (a) the selected medical practitioner may only have regard to information that was available or could have been produced during the relevant period;
- (b) the following provisions of the 2015 Regulations apply as they apply for the purpose of deciding a question under Part 6 of those Regulations—
 - (i) regulation 73(2) to (4) (receipt of appropriate medical treatment);
 - (ii) regulation 74(3)(c) and (d) (criteria for deciding whether a member is permanently medically unfit for engaging in any regular employment).

(6) Where the selected medical practitioner decides both of the questions referred under paragraph (2) in the affirmative, M is to be treated for the purposes of PSPJOA 2022 and of these Regulations as meeting the requirements for an upper tier award in the reformed scheme (as defined in regulation 50(3) of these Regulations).

(7) Schedule 1 to the 2015 Regulations applies in relation to a report and certificate containing a decision of the selected medical practitioner in accordance with this regulation as it applies in relation to a report and certificate by the selected practitioner containing a medical decision in accordance with those Regulations.

(8) In this regulation—

“medical unfitness” has the meaning given in regulation 72(1) of the 2015 Regulations;

“original decision” means the decision under Part H of the 1988 Regulations by virtue of which M was deemed permanently disabled;

“progressive medical condition” means a medical condition which —

- (a) of its nature, could have been expected, as at the time of M’s retirement, to affect M with increasing severity, and
- (b) is a progressive medical condition within the meaning given by regulation 110(6) of the 2015 Regulations.

“relevant period” means the period—

- (a) beginning with the time of the original decision, and
- (b) ending on the earlier of—
 - (i) except where the original decision attributed M’s permanent disablement a progressive medical condition, five years after the time of the original decision;

- (ii) the beginning of the day on which M reaches 60 years of age;
- (iii) the time when an immediate choice decision or a deferred choice decision is made, or deemed to be made, in relation to M's remediable police service.

Commencement Information

I3 [Reg. 51](#) in operation at 1.10.2023, see [reg. 1\(b\)](#)

CHAPTER 2

Miscellaneous special cases

Protection of the amount of pension payable to an eligible child

52.—(1) This regulation applies where—

- (a) immediately before 1st October 2023, benefits are in payment to an eligible child (“E”) in respect of the remediable police service of a deceased member,
- (b) there is a surviving adult (“S”) in relation to the deceased member,
- (c) S does not have parental responsibility for E, and
- (d) S makes an immediate choice decision which would (disregarding this regulation) result in a decrease in the amount of benefits payable to E in relation to M's remediable police service.

(2) Where this regulation applies—

- (a) E does not owe the scheme manager a liability under section 14(3) of PSPJOA 2022 in respect of benefits received in relation to M's remediable police service, and
- (b) the amount of benefits payable continues to be the amount that was payable before the election was made.

Commencement Information

I4 [Reg. 52](#) in operation at 1.10.2023, see [reg. 1\(b\)](#)

Payment of annual allowance tax charges and provision of information

53. Where a remedy member is unable to give an effective notice to the scheme administrator under section 237B(3) of the FA 2004(2) in relation to an in-scope tax year (within the meaning of direction 7(7) of the PSP(NI) Directions 2023) because of the time limit in section 237BA(3) has passed, direction 7(2) to (6) of the PSP(NI) Directions 2023 applies in relation to the remedy member.

Commencement Information

I5 [Reg. 53](#) in operation at 1.10.2023, see [reg. 1\(b\)](#)

(2) In accordance with section 110(1) of PSPJOA 2022, “FA 2004” means the Finance Act 2004 (c. 12). Section 237B was inserted by paragraph 15 of Schedule 17 to the Finance Act 2011 (c. 11).

(3) Section 237BA was inserted by section 9(3) of the Finance Act 2022 (c. 3).

Elections for non-pensionable payment instead of temporary pay

- 54.**—(1) This regulation applies in relation to a remedy member (“M”) who—
- (a) in accordance with a determination made under regulation 26 of the Police Service of Northern Ireland Regulations 2005(4), made an election (an “NPP election”) to receive a non-pensionable payment instead of any temporary increase in pay in respect of their remediable police service to which M would otherwise have been entitled in accordance with a determination under that regulation, or
 - (b) was entitled to make an NPP election, but did not.
- (2) Where—
- (a) an NPP election was made, the relevant decision-maker may elect for M’s remediable police service to be treated as if no NPP election was made (and never had been made) in relation to that service;
 - (b) no NPP election was made, the relevant decision maker may elect for M’s remediable police service to be treated as if an NPP election was made (and always had been made) in relation to that service.
- (3) An election under paragraph (2) has effect for the purposes of determining—
- (a) the value of rights to benefits that M secured by virtue of M’s pension contributions,
 - (b) the amount of any pension benefits or lump sum benefits that are (or at any time were) payable under a police pension scheme to or in respect of M, and
 - (c) the amount of pension contributions that were payable under a police pension scheme in relation to M’s remediable police service.
- (4) Where M is—
- (a) an immediate choice member, an election under paragraph (2) may only be made—
 - (i) in the same form and manner, and at the same time, as any immediate choice decision in relation to M’s remediable service, and
 - (ii) where the immediate choice decision is that the benefits payable in relation to M’s remediable police service are the benefits under M’s alternative scheme,
 - (b) deferred choice member, an election under paragraph (2) may only be made—
 - (i) in a form and manner determined by the scheme manager, and
 - (ii) before the end of the period of three months beginning with the day on which a remediable service statement is provided under regulation 4(2)(a) in relation to M’s remediable police service.
- (5) Where an election is made under paragraph (2)—
- (a) the scheme manager must, having consulted the scheme actuary, vary the value of M’s remediable rights under the legacy scheme so that they are equivalent to the value of rights that would have been secured by M’s pension contributions taking into account paragraph (3)(a);
 - (b) where M is an immediate choice member—
 - (i) section 14(3) to (6) of PSPJOA 2022 applies in relation to M taking into account paragraph (3)(b), and
 - (ii) section 15(3) and (4) of PSPJOA 2022 applies in relation to M taking into account paragraph (3)(c);

- (c) where M is a deferred choice member, section 16(3) and (4) of PSPJOA 2022 applies in relation to M—
 - (i) taking into account paragraph (3)(c), and
 - (ii) as if the references to the coming into force of section 2(1) included references to the time when the election under paragraph (2) was made.
- (6) An election under paragraph (2) is irrevocable.
- (7) In this regulation—
 - “M’s alternative scheme” means, where M was at the time of making the NPP election in pensionable service under—
 - (a) the legacy scheme, the reformed scheme;
 - (b) the reformed scheme, the legacy scheme;
 - “relevant decision-maker” means—
 - (a) where M is an immediate choice member, the immediate choice decision-maker in relation to M;
 - (b) where M is a deferred choice member, the deferred choice decision-maker in relation to M;
 - “remediable rights” means rights secured by virtue of pension contributions paid in relation to M’s remediable police service.

Commencement Information

I6 Reg. 54 in operation at 1.10.2023, see **reg. 1(b)**

Changes to legislation:

There are currently no known outstanding effects for the The Police Pensions (Remediable Service) Regulations (Northern Ireland) 2023, PART 7.