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SCOTTISH STATUTORY INSTRUMENTS

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**2023 No. 239**

**The Police Pensions (Remediable Service) (Scotland) Regulations 2023**

**PART 6**

**Transfers**

**CHAPTER 2**

**Transfers on a cash equivalent basis**

*SECTION 1*

*Transfers before 1st October 2023*

**Transfers out before 1st October 2023**

**33.**—(1) This regulation applies in relation to each member (“M”) in respect of whom the scheme manager paid a remediable transfer value before 1st October 2023.

(2) The scheme manager, having consulted the scheme actuary, must calculate the transfer value of M’s remediable rights as if they were secured in—

- (a) M’s legacy scheme;
- (b) the reformed scheme.

(3) The scheme manager must notify the receiving scheme of the results of the calculations mentioned in paragraph (2).

(4) Where—

- (a) the greater of the amounts calculated under paragraph (2) (“x”) is greater than
- (b) the amount of the remediable transfer value (“y”),

the scheme manager must take reasonable steps to pay the receiving scheme an amount (“the remediable amount”) equal to  $x - y$ .

(5) A payment made under paragraph (4) is subject to the same conditions as the remediable transfer value.

(6) Where—

- (a) paragraph (4) applies, and
- (b) the scheme manager, having taken reasonable steps, is unable to make the payment required by that paragraph,

the scheme manager owes M or, where M is deceased, M’s personal representatives an amount by way of compensation equal to  $x - y$  (“the compensatable amount”) reduced in accordance with paragraph (7).

(7) Where, if the compensatable amount was paid immediately after the requirement to pay it arose, the payment—

- (a) would be a payment described in regulation 6 of the Registered Pension Schemes (Authorised Payments) Regulations 2009(1) (“the 2009 Regulations”) as if regulation 6(1) (a) of those Regulations were omitted, the compensatable amount is to be reduced by the amount equal to the income tax that would be chargeable on it as if regulation 3(b) of the 2009 Regulations applied to it;
- (b) would not be a payment described, the compensatable amount is to be reduced by an amount equal to the income tax that would be charged on the amount at M’s marginal rate under the Income Tax Acts.

### **Transfers in before 1st October 2023**

**34.**—(1) This regulation applies in relation to each payment of a remediable transfer value in respect of a member (“M”) which was accepted by the scheme manager before 1st October 2023.

- (2) The scheme manager, having consulted the scheme actuary, must determine M’s—
  - (a) overall rights in relation to the remediable transfer value in the legacy scheme; and
  - (b) benefits if the remediable transfer value, together with any payment accepted under paragraph (3), were applied in respect of rights in the reformed scheme.
- (3) Where the sending scheme was a public service pension scheme, the scheme manager may accept a payment—
  - (a) in respect of the remediable rights to which the remediable transfer value relates, and
  - (b) which is made by the sending scheme pursuant to, or to provision made under, PSPJOA 2022.
- (4) A payment accepted under paragraph (3) is to be used for the purpose of determining M’s benefits under a police pension scheme on the same terms as the remediable transfer value.

## *SECTION 2*

### *Transfers on or after 1st October 2023*

#### **Application of Section 2**

- 35.** This Section applies in respect of a member (“M”) who is—
- (a) a deferred choice member, and no pension benefits have become payable in relation to M’s remediable police service, or
  - (b) an immediate choice member, and—
    - (i) the end of the section 6 election period has not passed in relation to M, and
    - (ii) no immediate choice decision has been made in relation to M’s remediable police service.

#### **Transfers out on or after 1st October 2023**

**36.**—(1) This regulation applies to a remediable transfer value payment to be made in relation to M by the scheme manager on or after 1st October 2023.

(2) The scheme manager, having consulted the scheme actuary, must calculate the transfer value of M’s remediable rights as if those rights had been in—

- (a) M's legacy scheme;
  - (b) the reformed scheme.
- (3) The amount of the remediable transfer value is the greater of the amounts calculated under paragraph (2).

**Transfers in from a public service pension scheme on or after 1st October 2023**

- 37.**—(1) This regulation applies in relation to a remediable transfer value payment—
- (a) which is accepted by the scheme manager on or after 1st October 2023, and
  - (b) where the sending scheme is a public service pension scheme.
- (2) The scheme manager, having consulted the scheme actuary, must determine—
- (a) M's overall rights in relation to the remediable transfer value in the legacy scheme;
  - (b) M's benefits if the remediable transfer value were applied in respect of rights in the reformed scheme.