
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 239

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

PART 6

Transfers

CHAPTER 4

Treatment of rights secured by virtue of a remediable value

Application and interpretation of Chapter 4

44.—(1) This regulation applies in relation to a remediable value.

(2) In this Chapter, “remediable value” means the following accepted by the scheme manager in respect of a member (“M”)—

- (a) a remediable transfer value payment, together with any payment accepted under regulation 34(3);
- (b) a remediable club transfer value payment, together with any adjustment accepted under regulation 39(2).

Remediable value treated as being in the legacy scheme

45.—(1) This regulation applies where—

- (a) a remediable value was accepted into the reformed scheme by the scheme manager in respect of M—
 - (i) during the period of M’s remediable police service, and
 - (ii) where M was a member of the 1987 scheme, after 1st October 2023 and within an election period set by the scheme manager, and
- (b) the benefits payable in relation to M’s remediable police service are, by virtue of the operation of these Regulations or PSPJOA 2022, legacy scheme benefits.

(2) The remediable value—

- (a) is not, and is treated as never having been, accepted into reformed scheme, and
- (b) is treated as being, and as always having been, accepted in M’s legacy scheme.

(3) Paragraph (1) has effect—

- (a) for the purposes of determining which police pension scheme is (or at any time was) required to pay benefits to or in respect of the remediable value, and
- (b) for all other purposes, subject to regulation 46.

(4) In this regulation, the “election period” means a period of 12 months beginning when the scheme manager provides notice of the option for M to elect to transfer in benefits under the provisions of the 1987 Regulations that applied during the remediable service period.

Treatment of rights to benefits secured by virtue of a remediable value

46.—(1) Paragraphs (2) and (4) apply where a remediable value is treated as being accepted into M’s legacy scheme by virtue of regulation 45.

(2) The scheme manager must confer rights to benefits under the legacy scheme in relation to the remediable value that are equivalent to—

(a) where M’s legacy scheme would have permitted the transfer in of the entire remediable value had the transfer taken place immediately before 1st April 2022, the rights to legacy scheme benefits that would have been secured if the remediable value had been transferred into that scheme in the same relevant pension year in which the remediable value was accepted;

(b) otherwise—

(i) where M has relevant reformed scheme service (within the meaning of regulation 31(2)(b)(i)), the rights to legacy scheme benefits that would have been secured if that portion of the remediable value that the legacy scheme would have permitted to be transferred in were transferred into that scheme in the same relevant pension year in which the remediable value was accepted, together with the rights to reformed scheme benefits if the remaining portion of the remediable value had been transferred into the reformed scheme in the same relevant pension year in which the remediable value was accepted;

(ii) where M does not have relevant reformed scheme service, the rights to legacy scheme benefits that would have been secured if that portion of the remediable value that the legacy scheme would have permitted to be transferred in were transferred into that scheme in the same relevant pension year in which the remediable value was accepted.

(3) Where paragraph (2)(b)(ii) applies, the scheme manager owes to M or, where M is deceased, to M’s personal representatives an amount by way of compensation equal to the value of rights to reformed scheme benefits that would have been secured if the portion of the remediable value that M’s legacy scheme would not have permitted to be transferred in had been transferred into the reformed scheme.

(4) The rights to benefits that would otherwise have been secured by the remediable value are extinguished.

(5) Paragraph 6 applies where—

(a) the benefits payable to or in respect of M’s remediable police service are reformed scheme benefits by virtue of a section 6 election or a section 10 election (including, in either case, a deemed election), and

(b) the rights to benefits payable in relation to M’s remediable value would otherwise be legacy scheme benefits.

(6) Where this paragraph applies, the scheme manager must, having consulted the scheme actuary, where the remediable value is a remediable transfer value, vary the value of those rights so that they are of an equivalent value to rights M would have secured under the reformed scheme if the remediable value had been transferred into that scheme in the same relevant pension year that the remediable value was accepted.

(7) In this regulation, “relevant pension year” has the meaning given by direction 5(16)(c)(i) of the PSP Directions 2022.

Benefits already paid in relation to transferred in remediable rights

47.—(1) Paragraph (2) applies in relation to any benefits (“the paid benefits”) that the reformed scheme has at any time paid to a person (“P”) so far as—

- (a) they are calculated by reference to a remediable value, and
 - (b) they are benefits that, as a result of regulation 45(2)(a), P was not entitled to receive from the scheme.
- (2) The paid benefits are to be treated for all purposes—
- (a) as not having been paid to P by the reformed scheme, but
 - (b) as having been paid to P instead by the legacy scheme.

Pension benefits and lump sum benefits in relation to a remediable value

48.—(1) This regulation applies in relation to any benefits that have been paid in relation to a remediable value accepted in relation to an immediate choice member.

- (2) Where, at the operative time—
- (a) the aggregate of benefits that (after taking into account the effect, if any, of regulation 47) have been paid under the legacy scheme to any person (“the beneficiary”) in respect of M’s transferred in remediable rights, exceeds
 - (b) the aggregate of the benefits to which (after taking into account the effect, if any, of regulation 45 in relation to the rights) the beneficiary is entitled under the scheme in respect of the rights,
 - (c) the beneficiary must pay an amount equal to the difference to the scheme.

(3) Where, at the operative time—

- (a) the amount mentioned in paragraph (2)(a), is less than
- (b) the amount mentioned in paragraph (2)(b),

the scheme manager must pay an amount equal to the difference to the beneficiary.

(4) In this regulation, “the operative time” means—

- (a) if an immediate choice decision is made in relation to M’s remediable police service, the time the decision is made;
- (b) otherwise, the end of the section 6 election period in relation to M.