
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 241

The Teachers' Pensions (Remediable Service) (Scotland) Regulations 2023

PART 3

Decisions about the treatment of remediable service

CHAPTER 2

Immediate choice decision for reformed scheme or legacy scheme benefits

Application and interpretation of Chapter 2

7. This Chapter applies in respect of the remediable teacher service of an immediate choice member ("M").

Immediate choice decision for reformed scheme or legacy scheme benefits: general

8.—(1) A decision (an "immediate choice decision") may be made in accordance with this Chapter—

- (a) to make an election (a "section 6 election") by virtue of section 6 of PSPJOA 2022 in relation to M's remediable teacher service, or
 - (b) that no section 6 election is to be made in relation to that service.
- (2) An immediate choice decision may be made—
- (a) by M, or
 - (b) where M is deceased, by the eligible decision-maker determined in accordance with the schedule.
- (3) An immediate choice decision made by—
- (a) a person other than the scheme manager is made when it is received by the scheme manager in a form and manner determined by the scheme manager,
 - (b) the scheme manager is made at the time determined by the scheme manager.
- (4) An immediate choice decision may only be made before the end of the section 6 election period⁽¹⁾.
- (5) An immediate choice decision is irrevocable.
- (6) An immediate choice decision to make a section 6 election takes effect as a section 6 election (see sections 6(5) and (7), 7(1)(b) and 9 of PSPJOA 2022 about the effect of a section 6 election).
- (7) Paragraph (8) applies where—
- (a) immediately before 1 October 2023, M has remediable teacher service in the reformed scheme ("reformed scheme service"), and

(1) See section 7(2) of PSPJOA 2022 for the meaning of "the end of the section 6 election period".

(b) an immediate choice decision is made that no section 6 election is to be made in relation to M's remediable teacher service.

(8) Where this paragraph applies, section 6(4) of the PSPJOA 2022 does not apply in relation to M's reformed scheme service (and, accordingly, section 2(1) of PSPJOA 2022 has effect in relation to M's reformed scheme service for the purposes mentioned in section 2(3)(b) of that Act from the time the immediate choice decision is made).

(9) The following provisions of PSPJOA 2022 have effect in relation to an immediate choice decision that no section 6 election is to be made as they have effect in relation to a section 6 election—

- (a) section 6(7) (section 6 election has effect in respect of all remediable service in the employment or office),
- (b) section 7(1)(b) (provision about when a section 6 election is to be treated as having taken effect),
- (c) section 9 (provision about persons with remediable service in more than one Chapter 1 legacy scheme).

Immediate choice decision: additional requirements

9.—(1) This regulation applies where the immediate choice decision-maker (“D”) is a person other than the scheme manager.

(2) An immediate choice decision may not be made unless a remediable service statement has been provided to D in accordance with regulation 4(2)(a).

(3) An immediate choice decision is to be treated as having been made only if D provides any information specified in a written request from the scheme manager that is—

- (a) information in D's possession, or
- (b) information which D can reasonably be expected to obtain.

Immediate choice decision: deemed section 6 election

10.—(1) Where—

- (a) the end of the section 6 election period in relation to M has passed,
- (b) no immediate choice decision has been made, and
- (c) it appears to the scheme manager that the monetary value of the remediable benefits would be higher if they were treated as benefits in the reformed scheme compared with if they were treated as benefits in the legacy scheme,

the scheme manager may treat a section 6 election as having been made in relation to M's remediable teacher service immediately before the end of the section 6 election period.

(2) In this regulation—

“monetary value of the remediable benefits” means amount that would be crystallised in relation to the remediable benefits immediately before they became payable in accordance with section 216 of the Finance Act 2004(2) as it had effect immediately before 1 October 2023,

“remediable benefits” means rights to benefits secured by virtue of M's remediable teacher service.

(2) 2004 c. 12. Section 216 was amended by paragraphs 31 and 42 of schedule 10 to the Finance Act 2005 (c. 7); paragraph 30 of schedule 23 to the Finance Act 2006 (c. 25); paragraphs 1(3) and 5 of schedule 29 to the Finance Act 2008 (c. 9); paragraphs 43 and 73(2) and (3)(a) and (b) of schedule 16 to the Finance Act 2011 (c. 11); paragraph 16 of schedule 1, and paragraph 21 of schedule 2 to the Taxation of Pensions Act 2014 (c. 30); paragraph 4(2) and (3) of schedule 4 to the Finance Act 2015 (c. 11); and paragraph 10(2)(a) and (b) of schedule 5 to the Finance Act 2021 (c. 26).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
