
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 241

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

PART 5

Voluntary contributions

CHAPTER 3

Deferred choice members

SECTION 3

Provision about remediable voluntary contributions on a deferred choice decision

Variation of legacy scheme additional pension where reformed scheme benefits chosen

40.—(1) This regulation applies where M has paid remediable voluntary contributions to secure additional pension under the legacy scheme.

(2) When making a deferred choice decision, the deferred choice decision-maker may elect that—

- (a) the value of additional pension under the legacy scheme secured by virtue of M's remediable voluntary contributions is to be varied so that it is equivalent to the alternative reformed scheme additional pension value, or
- (b) the scheme manager must pay to M or, if M is deceased, M's personal representatives an amount by way of compensation equal to the compensatable amount.

(3) Paragraphs (4) and (5) apply where a section 10 election is made (or deemed to have been made) in relation to M's remediable teacher service.

(4) Where either—

- (a) an election is made in accordance with paragraph (2)(a), or
- (b) no election is made in accordance with paragraph (2),

the scheme manager must vary the value of additional pension under the legacy scheme secured by virtue of M's remediable voluntary contributions so that it is equivalent to the alternative reformed scheme additional pension value.

(5) Where an election is made in accordance with paragraph (2)(b)—

- (a) the scheme manager must pay to M or, if M is deceased, M's personal representatives an amount by way of compensation equal to the compensatable amount, and
- (b) the rights that would have been secured by payment of the remediable voluntary contributions are extinguished.

Reinstatement of reformed scheme flexibilities where reformed scheme benefits chosen

41.—(1) Paragraph (2) applies—

(a) in relation to—

(i) rights to alternative legacy scheme additional pension conferred under regulation 38(2)(a), together with

(ii) any rights treated as being rights to legacy scheme additional pension by virtue of regulation 38(2)(c), and

(b) where a section 10 election is made (or deemed to have been made) in relation to M's remediable teacher service.

(2) The scheme manager must, having consulted the scheme actuary, vary the rights mentioned in paragraph (1)(a) so that they are equivalent to the rights to reformed scheme flexibilities that would have been secured had regulation 38(2) never taken effect in relation those rights.

(3) Paragraph (4) applies—

(a) in relation to rights which were extinguished under regulation 38(4)(b),

(b) where payment of a compensatable amount in respect of those rights was waived in accordance with the terms of an agreement under regulation 39(2), and

(c) where a section 10 election is made (or deemed to have been made) in relation to M's remediable teacher service.

(4) Where this paragraph applies—

(a) the scheme manager must, having consulted the scheme actuary, confer rights under the legacy scheme that are equivalent to the extinguished rights mentioned in paragraph (3) (a), and

(b) the right to payment of the compensatable amount is extinguished.

Treatment of waived compensatable amount where legacy scheme benefits take effect

42.—(1) This regulation applies where—

(a) payment of a compensatable amount was waived in accordance with the terms of an agreement under regulation 39(2),

(b) the waiver under that agreement has ceased to apply, and

(c) the benefits payable in relation to M's remediable teacher service are legacy scheme benefits.

(2) The scheme manager owes M or, where M is deceased, M's personal representatives the compensatable amount.