
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 241

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

PART 6

Transfers

CHAPTER 5

Treatment of rights secured by virtue of a remediable value

Application and interpretation of Chapter 5

56.—(1) This Chapter applies in relation to 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 47(3),
- (b) a remediable club transfer value payment, together with any adjustment accepted under regulation 51(2).

(2) In this Chapter, “transferred in remediable rights” means M’s remediable rights in a teacher pension scheme secured by virtue of a remediable value together with any payment or, as the case may be, adjustment under regulation 47(3) or 51(2).

Transferred in remediable rights treated as being in the legacy scheme

57.—(1) Where M’s transferred in remediable rights would, apart from this regulation, be rights to benefits under the reformed scheme, the rights—

- (a) are not, and are treated as never having been, rights under the reformed scheme, and
- (b) are treated as being, and as always having been, rights under M’s legacy scheme.

(2) Paragraph (1) has effect—

- (a) for the purposes of determining which teacher pension scheme is (or at any time was) required to pay benefits to or in respect of M’s transferred remediable rights, and
- (b) subject to regulation 58, for all other purposes.

Varying the value of benefits secured by virtue of transferred in remediable rights

58.—(1) Where—

- (a) M is a deferred choice member, and
- (b) M’s transferred in remediable rights are treated as rights to benefits under the legacy scheme by virtue of regulation 57,

the scheme manager must vary the value of those rights so that they are of an equivalent value to rights M would have secured under the legacy scheme if the rights had been transferred into that scheme.

(2) A variation under paragraph (1) is to be treated as having taken effect when these Regulations come into force.

(3) Where M is—

(a) an immediate choice member, and—

- (i) an immediate choice decision has been made that no section 6 election is to be made in relation to M’s remediable teacher service, or
- (ii) the section 6 election period in relation to M has passed and no section 6 election has been made (or deemed to have been made) in relation to M’s remediable teacher service, and

(b) M’s transferred in remediable rights are treated as rights to benefits under M’s legacy scheme by virtue of regulation 57,

the scheme manager must vary the value of those rights so that they are of an equivalent value to rights M would have secured under M’s legacy scheme if the rights had been transferred into that scheme.

(4) A variation under paragraph (3) is to be treated as having taken effect on the earlier of—

- (a) the time that an immediate choice decision (including a deemed section 6 election) is treated as having taken effect in relation to M’s remediable teacher service,
- (b) the end of the section 6 election period in relation to M.

(5) Where—

- (a) the benefits payable to or in respect of M’s remediable teacher 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 benefits payable in relation to M’s transferred in remediable rights would otherwise be legacy scheme benefits,

the scheme manager must 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 rights had been transferred into that scheme.

(6) A variation under paragraph (5) is to be treated as having taken effect when the election (or deemed election) is treated as having taken effect in relation to M’s remediable teacher service.

(7) Where the scheme manager is required to vary the value of any rights under this regulation so that they are equivalent to rights that would have been secured in another scheme (“the alternative scheme”), the scheme manager must—

- (a) where the rights are secured by virtue of a remediable transfer value, first consult the scheme actuary, and
- (b) calculate the varied rights as if the remediable transfer value which originally secured rights under a teacher pension scheme were transferred into the alternative scheme in the relevant pension year that the transfer occurred.

(8) In paragraph (7), “relevant pension year” has the meaning given by direction 4(14)(f)(i) of the PSP Directions 2022.

Benefits already paid in relation to transferred in remediable rights

59.—(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 P's, or where P is not M, M's transferred in remediable rights, and
 - (b) they are benefits that, as a result of regulation 57(1)(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 transferred in remediable rights

- 60.**—(1) This regulation applies—
- (a) where M is an immediate choice member, and
 - (b) in relation to any benefits that have been paid to or in respect of the transferred in remediable rights of M.
- (2) Where, at the operative time—
- (a) the aggregate of benefits that (after taking into account the effect, if any, of regulation 57) 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 58(3) or (5) in relation to the rights) the beneficiary is entitled under the scheme in respect of the rights,

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 mention 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 teacher service, the time the decision is made,
 - (b) otherwise, the end of the section 6 election period in relation to M.