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SCOTTISH STATUTORY INSTRUMENTS

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**2023 No. 242**

**The Firefighters' Pensions (Remediable Service) (Scotland) Regulations 2023**

**PART 3**

Decisions about the treatment of remediable service as a firefighter

**CHAPTER 2**

Immediate choice decision for reformed scheme or legacy scheme benefits

**Application and interpretation of Chapter 2**

7.—(1) This Chapter applies in respect of the remediable service as a firefighter of an immediate choice member (“M”).

(2) Where M has remediable service as a firefighter in multiple employments or offices, this Chapter applies separately in relation to the remediable service as a firefighter in each employment or office.

**Immediate choice decision for reformed scheme or legacy scheme benefits**

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 service as a firefighter, 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<sup>(1)</sup>.

(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).

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<sup>(1)</sup> See section 7(2) of the PSPJOA 2022 for the meaning of “the end of the section 6 election period”.

(7) Where—

- (a) immediately before 1 October 2023, M has remediable service as a firefighter in the reformed scheme (“reformed scheme service”), and
- (b) an immediate choice decision is made that no section 6 election is to be made in relation to M’s remediable service as a firefighter,

section 6(4) of 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).

(8) 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 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. Where—

- (a) the end of the section 6 election period in relation to M has passed,
- (b) no immediate choice decision has been communicated to the scheme manager, and
- (c) it appears to the scheme manager, having consulted the scheme actuary, that the value of reformed scheme benefits payable if an immediate choice election is made is greater than the value of legacy scheme benefits payable if an immediate choice election is not made,

a section 6 election is treated as having been made immediately before the end of the section 6 election period.