
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 246

**The National Health Service Pension Schemes
(Remediable Service) (Scotland) Regulations 2023**

PART 2

Remediable service

Pension contributions of medical practitioners and non-GP providers: immediate choice pensioner and deceased members

3.—(1) This regulation applies in relation to a relevant member (“M”) who has remediable service in the legacy scheme that is pensionable service under that scheme whether or not by virtue of section 2(1) of PSPJOA 2022 (remediable service treated as pensionable under chapter 1 legacy schemes) (“M’s remediable service”) in the circumstances described in paragraph (2).

(2) The circumstances are that, at the operative time—

- (a) the paid contributions amount in relation to M exceeds the adjusted contributions amount in relation to M, or
- (b) the paid contributions amount in relation to M is less than the adjusted contributions amount in relation to M.

(3) In the circumstances described in paragraph (2)(a), the scheme manager must pay an amount of compensation equal to the difference to the appropriate person in accordance with paragraph (4).

(4) The amount of compensation paid to the appropriate person must be reduced by tax relief amounts calculated in accordance with paragraphs (5) and (8) and, if relevant, (11) and (12) of direction 4 of the 2022 Directions (powers to reduce or waive liabilities) .

(5) In the circumstances described in paragraph (2)(b), the appropriate person must pay contributions equal to the difference to the scheme in accordance with paragraph (6).

(6) The contributions owed to the scheme by the appropriate person must be reduced by tax relief amounts calculated in accordance with paragraphs (5) and (8) and, if relevant (11) and (12) of direction 4 of the 2022 Directions.

(7) In this regulation—

“adjusted contribution amount” means—

- (a) if a person has made an election under regulation 12 in relation to M’s remediable service, the aggregate of the contributions M would have paid in respect of M’s remediable service in the relevant scheme years if M had been required to pay 2015 scheme contributions in respect of that service,
- (b) otherwise, the aggregate of M’s legacy scheme contributions in respect of M’s remediable service in the relevant scheme years;

“appropriate person” means—

- (c) M, or

(d) if M is deceased, M's personal representative;

“operative time” means—

(a) if an election under regulation 12 is made in relation to M's remediable service, the time the election is made,

(b) otherwise—

(i) the end of the immediate choice election period in relation to M, or

(ii) if M is an immediate detriment remedy member, 1 October 2023;

“paid contributions amount” means the aggregate of—

(a) the legacy scheme contributions, or

(b) the 2015 scheme contributions,

paid by M in relation to M's remediable service in the relevant scheme years.

“relevant member” means a member who is—

(a) a pensioner member, or

(b) a member who died on or before 30 September 2023 and

paid or would have paid contributions in respect of any scheme year falling within the period of M's remediable service in respect of M's certified or final pensionable earnings uprated in accordance with—

(i) paragraph 14 of schedule 1 of the 2011 Regulations;

(ii) regulation 3.C.2 of the 2014 Regulations; or

(iii) regulation 37(3)(a) of the 2015 Regulations.

(8) Where this regulation applies, section 15 of PSPJOA 2022 (pension contributions: pensioner and deceased members) does not apply and the references to that section in section 18(2) and (5) of that Act (powers to reduce or waive liabilities) are to be read as references to this regulation.

Pension contributions of medical practitioners and non-GP providers: active and deferred members (immediate correction)

4.—(1) This regulation applies in relation to a relevant member (“M”) who has remediable service in the legacy scheme that is pensionable service under that scheme by virtue of section 2(1) of PSPJOA 2022 (“M's remediable service”) in the circumstances described in paragraph (2).

(2) The circumstances are that the paid contributions amount in relation to M exceeds the adjusted contributions amount in relation to M.

(3) In the circumstances described in paragraph (2) the scheme manager must pay an amount of compensation equal to the difference to the appropriate person in accordance with paragraph (4).

(4) The amount of compensation paid to the appropriate person must be reduced by tax relief amounts calculated in accordance with paragraphs (5) and (8) and if relevant, (11) and (12) of direction 4 of the 2022 Directions (powers to reduce or waive liabilities).

(5) M may waive M's right to the compensation payment otherwise due under this regulation in accordance with the 2022 Directions, but, if M or the designated person does not make an election under regulation 12 (deferred choice election for 2015 scheme benefits: active, deferred and deceased members) before the end of the deferred choice election period—

(a) that waiver is void, and

(b) on the payment of M's 1995 Section or 2008 Section benefits in respect of M's remediable service, compensation again becomes payable under this regulation.

(6) For the purpose of paragraph (5), a waiver must be given to the scheme manager by notice in writing in such form as the scheme manager determines.

(7) The scheme manager must send a notice in writing to the member of the member's right to claim an amount of compensation under this regulation or to waive M's right to compensation in accordance with paragraph (5).

(8) The notice must be sent to the member before 1 October 2024 or such later time as the scheme manager considers reasonable in all the circumstances of the case.

(9) In this regulation—

“adjusted contributions amount” means the aggregate of the contributions M would have paid in respect of M's remediable service in the relevant scheme years if M had been required to pay contributions in accordance with (whichever is relevant)—

- (a) paragraph 4 of schedule 1 of the 2011 Regulations (medical and dental practitioners: contributions to this Section of the scheme), or
- (b) regulation 3.C.2 of the 2011 Regulations (Members' contribution rate);

“appropriate person” means—

- (a) M, or
- (b) if M is deceased, M's personal representative;

“paid contributions amount” means the aggregate of the 2015 scheme contributions paid by M in the relevant scheme years in respect of M's remediable service;

“relevant member” means a member who—

- (a) is an active or deferred remedy member, and
- (b) paid contributions in respect of M's certified or final pensionable earnings uprated according to the formula in regulation 37 of the 2015 Regulations in respect of any scheme year falling within the period of M's remediable service.

(10) Where this regulation applies, section 16 of PSPJOA 2022 (pension contributions: active and deferred members (immediate correction)) does not apply and the references to that section in section 18(2) and (5) of that Act (powers to reduce or waive liabilities) are to be read as references to this regulation.

Pension contributions of medical practitioners and non-GP providers: deferred choice active and deferred members

5.—(1) This regulation applies in relation to a relevant member (“M”) who has remediable service in the legacy scheme that is pensionable service under that scheme by virtue of section 2(1) of PSPJOA 2022 (“M's remediable service”) in the circumstances described in paragraph (2).

(2) The circumstances are that the paid contributions amount in relation to M is less than the adjusted contributions amount in relation to M.

(3) In the circumstances described in paragraph (2), the appropriate person must pay an amount equal to the difference to the scheme in accordance with paragraph (5).

(4) Paragraph (3) does not apply where M has waived M's right to the compensation payment otherwise due under regulation 3 (see regulation 3(4)) unless that waiver is void.

(5) The contributions owed to the scheme by the appropriate person must be reduced by tax relief amounts calculated in accordance with paragraphs (5) and (8) and if relevant, (11) and (12) of direction 4 of the 2022 Directions (powers to reduce or waive liabilities).

(6) In this regulation—

“adjusted contributions amount” means—

- (a) if a person has made an election under regulation 12 in relation to M’s remediable service, the aggregate of the contributions M would have paid in respect of M’s remediable service in the relevant scheme years if M had been required to pay 2015 scheme contributions in respect of that service;
- (b) otherwise, the aggregate of M’s legacy scheme contributions in respect of M’s remediable service in the relevant scheme years;

“appropriate person” means—

- (a) M, or
- (b) if M is deceased, M’s personal representatives;

“operative time” means—

- (a) if an election under regulation 12 is made in relation to M’s remediable service, the time the election is made;
- (b) otherwise, the end of the deferred choice election period in relation to M;

“paid contributions amount” means—

- (a) the aggregate of the legacy scheme contributions, or
- (b) the aggregate of the 2015 scheme contributions,

paid by M in relation to M’s remediable service in the relevant scheme years;

“relevant member” means a member who—

- (a) is an active or deferred remedy member, and
- (b) paid or would have paid contribution in respect of any scheme year falling within the period of M’s remediable service in respect of M’s certified or final pensionable earnings in accordance with—
 - (i) paragraph 14 of schedule 1 of the 2011 regulations;
 - (ii) regulation 3.C.2 of the 2013 Regulations; or
 - (iii) regulation 37(3)(a) of the 2015 regulations.

(7) Where this regulation applies, section 17 of PSPJOA 2022 (pension contributions: active and deferred members (deferred correction)) does not apply and the references to that section in section 18(2) and (5) of that Act (powers to reduce or waive liabilities) are to be read as references to this regulation.

Remediable service statements

6.—(1) The scheme manager must provide a remediable service statement in accordance with section 29 of PSPJOA 2022(1), direction 20 of the 2022 Directions and this regulation to each remedy member or (as the case may be) designated person (see regulation 7) who has not made an election in respect of that service pursuant to—

- (a) regulation 9, or
- (b) regulation 12.

(2) The scheme manager must provide the statement to each such remedy member or designated person on or before the relevant date(2).

(3) The scheme manager must provide a further remediable service statement—

(1) For the meaning of “remediable service” mentioned in section 29(4) and (8)(a) and (b), see section 1 of that Act.
 (2) For the meaning of “the relevant date”, see section 29(10) of PSPJOA 2022.

- (a) where the remedy member has remediable service in an employment or office in relation to which the member is for the time being an active member, at least once in each year ending with the anniversary of the relevant date;
- (b) where the remedy member has remediable service in an employment or office in relation to which the member is for the time being a deferred member, on request and within three months beginning with the day of that request.