
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 246

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

PART 4

Voluntary contributions

Interpretation of Part 4

14.—(1) In this Part—

“2011 regulation Q8” means regulation Q8 of the 1995 Section⁽¹⁾ (option to pay additional periodical contributions to purchase additional pension);

“2011 regulation Q10” means regulation Q10 of the 1995 Section (member’s option to pay lump sum contributions to purchase additional pension);

“2011 regulation Q11” means regulation Q11 of the 1995 Section (payment of additional lump sum contributions by employing authority);

“2013 regulation 2.C.8” means regulation 2.C.8 of the 2008 Section⁽²⁾ (member’s option to pay additional periodical contributions to purchase additional pension);

“2013 regulation 2.C.10” means regulation 2.C.10 of the 2008 Section (member’s option to pay lump sum contribution to purchase additional pension);

“2013 regulation 2.C.11” means regulation 2.C.11 of the 2008 Section (payment of additional lump sum contributions by employing authority);

“2013 regulation 3.C.6” means regulation 3.C.6 of the 2008 Section⁽³⁾ (member’s option to pay additional periodical contributions to purchase additional pension);

“2013 regulation 3.C.8” means regulation 3.C.8 of the 2008 Section (member’s option to pay lump sum contribution to purchase additional pension);

“2013 regulation 3.C.9” means regulation 3.C.9 of the 2008 Section (payment of additional lump sum contributions by employing authority);

“2015 regulation 47” means regulation 47 of the 2015 Regulations (payment of buy-out contributions);

“2015 regulation 58” means regulation 58 of the 2015 Regulations (accepting an additional pension election);

“2015 regulation 61” means regulation 61 of the 2015 Regulations (lump sum contributions: payment of contributions and credit of additional pension);

“2015 regulation 63” means regulation 63 of the 2015 Regulations (periodic contributions);

(1) Regulations Q8, Q10 and Q11 of the 1995 Section were inserted by [S.S.I. 2011/117](#).

(2) The National Health Service Pension Scheme (Scotland) Regulations 2008 ([S.S.I. 2008/224](#)) were amended by [S.S.I. 2009/19](#), [S.S.I. 2009/208](#), [S.S.I. 2010/22](#), [S.S.I. 2010/53](#), [S.S.I. 2010/369](#), [S.I. 2010/234](#), [S.S.I. 2011/364](#), [S.S.I. 2012/69](#), [S.S.I. 2013/70](#), [S.S.I. 2013/109](#) and [S.S.I. 2013/168](#).

(3) Regulations 3.C.6, 3.C.8 and 3.C.9 of the 2013 Regulations were modified by [S.S.I. 2015/95](#).

“2015 transitional regulation 25” means regulation 25 of the 2015 Transitional Regulations(4) (decoupling of benefits derived from additional contributions);

“actuarial increase” means a late payment actuarial increase under paragraph 2 of schedule 11 of the 2015 Regulations (calculation of pension: late payment of pension with actuarial increase) where the calculation of that increase must take account of any buy-out election in accordance with sub-paragraph (4) of that paragraph;

“actuarial reduction” has the meaning given in paragraph 9 of schedule 7 of the 2015 Regulations (pension accounts);

“relevant contributions” means contributions that were paid by the remedy member—

- (a) on or after the member’s 60th birthday if the member’s contributions are to be treated as if they had been paid under a corresponding option exercised under the 2011 Regulations, or
- (b) on or after the member’s 65th birthday if the member’s contributions are to be treated as if they had been paid under a corresponding option exercised under the 2013 Regulations;

“remedy period” means the period from 1 April 2015 to 31 March 2022 (including those dates).

Elections to pay contributions for additional pension: where they must be treated as if paid under a corresponding option exercised under the 2011 Regulations or the 2013 Regulations

15.—(1) This regulation applies to a remedy member, other than a pensioner remedy member, who has pensionable service in the legacy scheme by virtue of section 2(1) of PSPJOA 2022 and was an active or deferred member of the 2015 scheme on 30 September 2023 in respect of that service where, during the remedy period, one or both of the following occurred—

- (a) the member’s additional pension account was credited with an amount of additional pension in accordance with 2015 regulation 61;
- (b) the member paid contributions in accordance with 2015 regulation 63.

(2) Where this regulation applies—

- (a) all the remedy member’s rights secured by the credit or payment of contributions mentioned in paragraph (1) are extinguished, and
- (b) those contributions are to be treated as if they had been paid in the relevant scheme year in which they were paid under a corresponding option exercised under the 2011 Regulations or the 2013 Regulations,

but as an alternative to (a) and (b) above, the scheme manager, on the application of the remedy member may make a compensation payment to the remedy member equal to the value of the contributions received under 2015 regulation 63.

(3) In paragraph (2)(b), “corresponding option” means—

- (a) where pursuant to section 2(1) of PSPJOA 2022, the remedy member’s remediable service is treated as being pensionable service under the 2011 Regulations—
 - (i) an option under 2011 regulation Q8 if the member paid contributions in accordance with 2015 regulation 63;
 - (ii) an option under 2011 regulation Q10 if the member paid the lump sum contribution referred to in 2015 regulation 61; or
 - (iii) an option under 2011 regulation Q11 if the member’s employing authority paid the lump sum contribution referred to in 2015 regulation 61; or

(4) Regulation 25 of the 2015 Transitional Regulations was amended by [S.S.I. 2022/100](#) and [S.S.I. 2022/327](#).

- (b) where pursuant to section 2(1) of PSPJOA 2022, the remedy member's remediable service is treated as being pensionable service under the 2013 Regulations—
 - (i) an option under 2011 regulation 2.C.8 or 2011 regulation 3.C.6 if the member paid contributions in accordance with 2015 regulation 63;
 - (ii) an option under 2013 regulation 2.C.10 or 2013 regulation 3.C.8 if the member paid the lump sum contribution referred to in 2015 regulation 61; or
 - (iii) an option under 2011 regulation 2.C.11 or 2011 regulation 3.C.9 if the member's employing authority paid the lump sum contribution referred to in 2015 regulation 61.
- (4) For the purposes of this regulation, the reference to “£5,000” in paragraph (7) of 2011 regulation Q8, 2013 regulation 2.C.8 and 2013 regulation 3.C.6 is to be read as if it were a reference to “£12,079”.
- (5) Paragraph (6) applies where the member's contributions are treated as if they had been paid under a corresponding option in accordance with paragraph (2)(b).
- (6) Where this paragraph applies, the scheme manager must, after having regard to the advice of the scheme actuary, take those contributions into account when making one or both of the determinations mentioned in paragraph (7).
- (7) For the purposes of paragraph (6), the determinations are—
 - (a) whether the scheme manager is prohibited from accepting an election from a member under regulation 54 of the 2015 Regulations (election to pay contributions for additional pension) in so far as the effect of accepting it would be to provide the member with one or more pensions which exceeds, or in aggregate exceed, the overall limit that applies to such provision under regulation 60 of those Regulations (overall limit on extra pension) for providing additional pensions, and
 - (b) whether the scheme manager is prohibited from accepting an election from a member under regulation 42(1) of the 2015 Regulations (eligibility to make buy-out election) because the value of the actuarial reduction bought out exceeds the greater of the first and second amounts in regulation 45(3) of those Regulations (overall limit on extra pension).

Treatment of contributions paid after 31 March 2022 under a corresponding option exercised in accordance with regulation 15(2)(b)

16.—(1) This regulation applies to a remedy member to whom regulation 15(1) applies during the remedy period, the member paid contributions in respect of an additional pension election in accordance with 2015 regulation 63 (see regulation 15(1)(b)) and those contributions are treated as having been paid under a corresponding option exercised under the 2011 Regulations or the 2013 Regulations in accordance with regulation 15(2)(b).

(2) Where this regulation applies, regulation 23 of the 2015 Transitional Regulations (existing additional pension contracts) and paragraph (3) of this regulation apply to the remedy member in respect of that corresponding option unless the member makes an election in accordance with paragraph (5) of this regulation.

(3) The scheme manager must pay to a remedy member an amount of compensation calculated in accordance with paragraph (4) in respect of any relevant contributions.

(4) The amount of compensation must be equal to the relevant contributions paid by the member reduced by tax relief amounts calculated in accordance with paragraphs (5) to (8) and, if relevant (11) and (12) of direction 5 of the 2022 Directions (voluntary contributions).

(5) A remedy member may make an election to cancel the corresponding option with effect from (and including) 1 April 2022 which must—

- (a) be made by the member by notice in writing;
 - (b) be received by the scheme manager within a period of three months beginning with the day after the scheme manager provides the notice referred to in paragraphs (6) and (7); and
 - (c) contain such information as the scheme manager requires.
- (6) The scheme manager must send a notice in writing to the remedy member of the member's right to make such an election.
- (7) The notice must be sent to the member before 1 July 2024 or such later date as the scheme manager considers reasonable in all the circumstances of the case and must specify—
- (a) the annual amount of additional pension for which the remedy member is paying additional contributions determined by the scheme manager in respect of the corresponding option that applies to the member under regulation 15(2)(b);
 - (b) the annual amount of additional pension for which the remedy member will be paying contributions under the 2015 Regulations if the member makes an election under this regulation; and
 - (c) the date by which an election under this regulation must be received by the scheme manager.
- (8) Where the scheme manager accepts such an election—
- (a) the remedy member must be treated as if the scheme manager had accepted a new election to pay contributions under 2015 regulation 58 in respect of such contributions made by the member after 31 March 2022; and
 - (b) the scheme manager must determine the amount of the annual rate of additional pension being purchased in respect of that election by reference to the actuarial tables that applied for that purpose on the day the member's election to pay contributions in accordance with 2015 regulation 63 (see regulation 16(1)(b)) was accepted under 2015 regulation 58.

Treatment of a corresponding option exercised in accordance with regulation 15 on the making of a deferred choice election for 2015 scheme benefits under regulation 12

- 17.—(1) This regulation applies to a relevant remedy member who—
- (a) has elected to cancel their corresponding option exercised under—
 - (i) 2011 regulation Q8,
 - (ii) 2013 regulation 2.C.8, or
 - (iii) 2013 regulation 3.C.6,
 with effect from (and including) 1 April 2022 in accordance with regulation 16(5) of these Regulations; or
 - (b) is treated as if contributions made by the member or, on the member's behalf, by the member's employing authority by lump sum had, for all purposes, been made pursuant to a corresponding option exercised under—
 - (i) 2011 regulation Q10 or 2011 regulation Q11,
 - (ii) 2013 regulation 2.C.10 or 2013 regulation 2.C.11, or
 - (iii) 2013 regulation 3.C.8 or 2013 regulation 3.C.9.
- (2) Where this regulation applies, if the member makes a deferred choice election for 2015 scheme benefits under regulation 12—
- (a) paragraph (3)(a) applies in respect of the member's rights to additional pension secured by the payment of additional contributions made on or before 31 March 2022 under a corresponding option exercised under—

- (i) 2011 regulation Q10 or 2011 regulation Q11,
- (ii) 2013 regulation 2.C.10 or 2013 regulation 2.C.11, or
- (iii) 2013 regulation 3.C.8 or 2013 regulation 3.C.9.

(3) The scheme manager must, after having regard to the advice of the scheme actuary, vary the member's rights to the additional pension purchased under the corresponding options referred to in paragraph (2) so that those rights are of an equivalent value to the additional pension rights the member would have secured if the contributions had been made in the relevant scheme year in which they were paid—

- (a) in respect of an election under 2015 regulation 63, where paragraph (2)(a) applies to the member, and
- (b) in respect of an election under 2015 regulation 61, where paragraph (1)(b) applies to the member.

(4) In this regulation, “relevant remedy member” means a remedy member other than one to whom payment of part of a pension has been made pursuant to paragraph (2) of 2015 transitional regulation 25 in respect of additional pension resulting from an option under 2011 regulation Q8 or 2011 regulation Q10.

Treatment of buy-out contributions made under 2015 regulation 47: active and deferred members of the 2015 scheme

18.—(1) This regulation applies to a remedy member—

- (a) who has pensionable service in the legacy scheme by virtue of section 2(1) of PSPJOA 2022;
- (b) who, on 30 September 2023, was an active or deferred member of the 2015 scheme in respect of that service but was not a pensioner remedy member; and
- (c) who paid buy-out contributions in accordance with 2015 regulation 47 during the remedy period (including where any such contributions were paid by the member's employing authority in place of the member during that period under paragraph (3) of that regulation (“employer buy-out contributions”).

(2) Where this regulation applies—

- (a) all the member's rights secured by the payment of buy-out contributions mentioned in paragraph (1)(c) are extinguished;
- (b) in respect of any buy-out contributions paid during the remedy period by a member (excluding employer buy-out contributions), the member is entitled to an amount of compensation determined in accordance with paragraph (13) unless the member waives the member's right to compensation in accordance with paragraph (3); and
- (c) paragraph (9) applies in relation to employer buy-out contributions made in respect of a member who makes an election under regulation 12 (deferred choice election for 2015 scheme benefits: active, deferred and deceased members).

(3) A member may give the scheme manager a notice in writing that the member waives the member's right to compensation under this regulation (“compensation waiver”).

(4) A compensation waiver ceases to have effect when the member becomes eligible to make an election under regulation 12 (deferred choice election for 2015 scheme benefits: active, deferred and deceased members), and—

- (a) paragraph (5) applies to a member who does not make an election under regulation 12 before the end of the deferred choice election period;

- (b) paragraph (6) applies to a member who does make such an election, where the scheme manager determines that, as a consequence of treating the member's remediable service as if for all purposes it were pensionable service in the 2015 scheme in accordance with regulation 12(5) neither an actuarial reduction nor an actuarial increase will be applied to the annual rate of pension due in respect of that service;
 - (c) paragraph (7) applies to a member who does make such an election, where the scheme manager determines that, as a consequence of treating the member's remediable service as if for all purposes it were pensionable service in the 2015 scheme in accordance with regulation 12(5), an actuarial reduction or an actuarial increase will be applied to the annual rate of pension due in respect of that service.
- (5) On the payment of the member's 1995 Section or 2008 Section benefits in respect of the member's remediable service, the member must claim by notice in writing—
- (a) the compensation due under this regulation, or
 - (b) rights that are of an equivalent value to the additional pension rights the member would have secured if the contributions referred to in paragraph (1)(c) had been made in the relevant scheme year in which they were paid under—
 - (i) an option under 2011 regulation Q8 on the payment of the member's 1995 Section benefits in respect of the member's remediable service, or
 - (ii) an option under 2013 regulation 2.C.2 or 2013 regulation 3.C.6 on the payment of the member's benefits under the 2008 Section in respect of the member's remediable service.
- (6) On the payment of the member's 1995 Section or 2008 Section benefits in respect of the member's remediable service, compensation again becomes payable under this regulation
- (7) At the same time as the member makes the election, the member must claim by notice in writing—
- (a) the compensation due under this regulation, or
 - (b) rights under the 1995 Section or the 2008 Section (whichever is relevant) that, after having regard to the advice of the scheme actuary, the scheme manager has determined are of an equivalent value to the member's rights that were extinguished under paragraph (2)(a).
- (8) Where the scheme manager determines that, as a consequence of treating the member's remediable service as if for all purposes it were pensionable service in the 2015 scheme in accordance with regulation 12(5), an actuarial reduction or an actuarial increase will be applied to the annual rate of pension due in respect of that service, the member is entitled to the rights set out in paragraph (9) in respect of employer buy-out contributions.
- (9) Where this paragraph applies, the member is entitled to rights under the 1995 Section or the 2008 Section (whichever is relevant) that, after having regard to the advice of the scheme actuary, the scheme manager has determined are of an equivalent value to the member's rights that were extinguished under paragraph (2)(a) in so far as those rights relate to employer buy-out contributions.
- (10) The scheme manager must—
- (a) send a notice in writing to the member of the member's right to claim an amount of compensation under this regulation or to give the scheme manager a compensation waiver in accordance with paragraph (3), or
 - (b) if the member is deceased, pay to the member's personal representatives an amount of compensation determined in accordance with paragraph (13).
- (11) The notice must be sent to the member before 31 March 2024 or such later date as the scheme manager considers reasonable in all the circumstances of the case and must specify—
- (a) the amount of compensation the member is entitled to claim under this regulation;

- (b) the dates by which the member's claim for compensation in accordance with paragraph (7)(a) (if made) and compensation waiver in accordance with paragraph (3) (if given) must be received by the scheme manager;
 - (c) the member's options under paragraphs (5), (6) and (7) if the member gives the scheme manager a compensation waiver in accordance with paragraph (3).
- (12) The following must be provided in such form and must include such information as the scheme manager requires—
- (a) a compensation waiver in accordance with paragraph (3);
 - (b) a claim for compensation in accordance with paragraph (7)(a);
 - (c) a claim for rights in accordance with paragraph (5)(b) or (7)(b).
- (13) For the purposes of paragraphs (2)(b) and (10)(b), the amount of compensation must be equal to the buy-out contributions paid during the remedy period by the member reduced by tax relief amounts calculated in accordance with paragraph (5) to (9) and, if relevant, (11) to (12) of direction 5 of the 2022 Directions.

Treatment of additional contributions: active and deferred members (in respect of remediable service) of the legacy scheme

19.—(1) This regulation applies to the additional pension payable to or in respect of a remedy member—

- (a) who on 30 September 2023 was an active or deferred member in respect of remediable service in the legacy scheme;
- (b) who is not a member to whom payment of part of a pension has been made pursuant to paragraph (2) of 2015 transitional regulation 25 (decoupling of benefits derived from additional contributions) in respect of additional pension resulting from an option under 2011 regulation Q8 or 2011 regulation Q10;
- (c) where, during the remedy period one or more of the following occurred—
 - (i) the contribution option period began in relation to the member's option to pay additional periodical contributions under 2011 regulation Q8, 2013 regulation 2.C.8 or 2013 regulation 3.C.6;
 - (ii) the member's employing authority paid to the Scottish Ministers the single lump sum contribution in relation to the member's option under 2011 regulation Q10, 2013 regulation 2.C.10 or 2013 regulation 3.C.8;
 - (iii) the member's employing authority paid to the Scottish Ministers the single lump sum contribution in relation to that authority's option under 2011 regulation Q11, 2013 regulation 2.C.11 or 2013 regulation 3.C.9 in respect of the member; and
- (d) in respect of whom a deferred choice election has been accepted by the scheme manager or treated by the scheme manager as having been made in accordance with regulation 12 (deferred choice election for 2015 scheme benefits: active, deferred and deceased members).

(2) Where this regulation applies and the scheme manager determines that the benefits to be paid to or in respect of the remedy member for the member's remediable service are to be determined in accordance with the 2015 Regulations, the scheme manager must, after having regard to the advice of the scheme actuary, vary the member's rights to the additional pension purchased in respect of the options referred to in paragraph (1)(c) so that those rights are of an equivalent value to the additional pension rights the member would have secured if the contributions had been made in the relevant scheme year in which they were paid—

- (a) in respect of an election under 2015 regulation 57, where paragraph (1)(c)(i) applies to or in respect of the member, and
- (b) in respect of an election under 2015 regulation 60, where paragraph (1)(c)(ii) or (iii) applies to or in respect of the member.

Treatment of additional contributions: pensioners and deceased members of the legacy scheme

20.—(1) This regulation applies to the additional pension payable to or in respect of a remedy member—

- (a) who on 30 September 2023—
 - (i) was a pensioner member with regard to benefits paid in respect of remediable service in the legacy scheme; or
 - (ii) was deceased;
- (b) who is not a member to whom payment of part of a pension has been made pursuant to paragraph (2) of 2015 transitional regulation 25 in respect of additional pension resulting from an option under 2011 regulation Q8 or 2011 regulation Q10;
- (c) where, during the remedy period one or more of the following occurred—
 - (i) the contribution option period began in relation to the member’s option to pay additional periodical contributions under 2011 regulation Q8, 2013 regulation 2.C.8 or 2013 regulation 3.C.6;
 - (ii) the member’s employing authority paid to the Scottish Ministers the single lump sum contribution in relation to the member’s option under 2011 regulation Q10, 2013 regulation 2.C.10 or 2013 regulation 3.C.8;
 - (iii) the member’s employing authority paid to the Scottish Ministers the single lump sum contribution in relation to that authority’s option under 2011 regulation Q11, 2013 regulation 2.C.11 or 2013 regulation 3.C.9 in respect of the member; and
- (d) in respect of whom an immediate choice election has been accepted by the scheme manager or treated by the scheme manager as having been made in accordance with regulation 9 (immediate choice election for 2015 scheme benefits: pensioner and deceased members).

(2) Where this regulation applies and the scheme manager determines that the benefits to be paid to or in respect of the remedy member for the member’s remediable service are to be determined in accordance with the 2015 Regulations, the scheme manager must, after having regard to the advice of the scheme actuary, vary the member’s rights to the additional pension purchased in respect of the options referred to in paragraph (1)(c) so that those rights are of an equivalent value to the additional pension rights the member would have secured if the contributions had been made in the relevant scheme year in which they were paid—

- (a) in respect of an election under 2015 regulation 63, where paragraph (1)(c)(i) applies to or in respect of the member, and
- (b) in respect of an election under 2015 regulation 60, where paragraph (1)(c)(ii) or (iii) applies to or in respect of the member.

(3) In this regulation, “pensioner member” means a person entitled to a retirement pension, including a partial retirement pension under regulation 2.D.5(5) or 3.D.5 of the 2013 Regulations (Partial retirement (members aged at least 55)), where—

(5) Regulation 2.D.5 was amended by S.I 2009/381 and 2446. Regulation 3.D.5 was amended by [S.I 2009/381](#) and [2446, 2014/413](#).

- (a) the person became entitled to that pension on or after 1 April 2015; and
- (b) at the same time as the person became entitled to that pension, the person also became entitled to the immediate payment of additional pension in accordance with regulation 2.D.5(5)(c) or 3.D.5(4)(c) of the 2013 Regulations.

Voluntary contributions: members of the 2015 scheme

21.—(1) This regulation applies to the additional pension payable to or in respect of a remedy member—

- (a) who has pensionable service in the legacy scheme by virtue of section 2(1) of PSPJOA 2022;
 - (b) who on 30 September 2023—
 - (i) was a pensioner member with regard to benefits paid in respect of remediable service in the 2015 scheme;
 - (ii) was an active or deferred member in respect of remediable service in the 2015 scheme and was entitled to a retirement pension in respect of pensionable service in the legacy scheme to which the member became entitled on or after 1 April 2015; or
 - (iii) was deceased;
 - (c) where, during the remedy period, one or both of the following occurred—
 - (i) the member’s additional pension account was credited with an amount of additional pension in accordance with 2015 regulation 61;
 - (ii) the member paid contributions in respect of an additional pension election in accordance with 2015 regulation 63.
- (2) Where this regulation applies—
- (a) all the remedy member’s rights secured by the credit or payment of contributions mentioned in paragraph (1)(c) are extinguished;
 - (b) as soon as reasonably practicable, the scheme manager must—
 - (i) treat the contributions (other than any relevant contributions) as if they had been paid in the relevant scheme year in which they were paid under a corresponding option exercised under the 2011 Regulations or the 2013 Regulations, and
 - (ii) pay to the remedy member or, if the member is deceased, to the member’s personal representatives an amount of compensation calculated in accordance with paragraph (4) in respect of any relevant contributions; and
 - (c) from (and including) 1 October 2023 until the date on which the scheme manager completes the steps set out in sub-paragraph (b), any additional pension paid to or in respect of the remedy member in relation to that credit or election must be paid from the relevant section of the legacy scheme; and
 - (d) paragraph (3) applies to a remedy member in respect of whom an immediate choice election has been accepted by the scheme manager or treated by the scheme manager as having been made in accordance with regulation 9.
- (3) The scheme manager must, after having regard to the advice of the scheme actuary, vary the member’s rights to the additional pension purchased by contributions paid under the corresponding options referred to in paragraph (2)(b) so that those rights are of an equivalent value to the additional pension rights the member would have secured if the contributions had been made in the relevant scheme year in which they were paid—
- (a) in respect of an election under 2015 regulation 61, where paragraph (1)(c)(i) applies to or in respect of the member, and

- (b) in respect of an election under 2015 regulation 63, where paragraph (1)(c)(ii) applies to or in respect of the member.
- (4) For the purposes of paragraph (2)(b)(ii), the amount of compensation must be equal to the relevant contributions paid by the member reduced by tax relief amounts calculated in accordance with paragraphs (5) to (9) and, if relevant, (11) to (12) of direction 5 of the 2022 Directions.
- (5) In paragraph (2)(b), “corresponding option” means—
- (a) where pursuant to section 2(1) of PSPJOA 2022, the remedy member’s remediable service is treated as being pensionable service under the 2011 Regulations—
- (i) an option under 2011 regulation Q8 if the member paid contributions in accordance with 2015 regulation 63;
 - (ii) an option under 2011 regulation Q10 if the member paid the lump sum contribution referred to in 2015 regulation 61; or
 - (iii) an option under 2011 regulation Q11 if the member’s employing authority paid the lump sum contribution referred to in 2015 regulation 61; or
- (b) where pursuant to section 2(1) of PSPJOA 2022, the remedy member’s remediable service is treated as being pensionable service under the 2013 Regulations—
- (i) an option under 2013 regulation 2.C.8 or 2013 regulation 3.C.6 if the member paid contributions in accordance with 2015 regulation 63;
 - (ii) an option under 2013 regulation 2.C.10 or 2013 regulation 3.C.8 if the member paid the lump sum contribution referred to in 2015 regulation 61; or
 - (iii) an option under 2013 regulation 2.C.11 or 2013 regulation 3.C.9 if the member’s employing authority paid the lump sum contribution referred to in 2015 regulation 61.
- (6) In this regulation—
- “pensioner member” means a person entitled to a retirement pension including a partial retirement pension under regulation 84 of the 2015 Regulations (effect of the election) where at the same time as the person became entitled to that pension, the person also became entitled to the immediate payment of additional pension in accordance with regulation 84(2)(c) of the 2015 Regulations;
- “relevant section of the legacy scheme” means—
- (a) the 1995 Section if, pursuant to section 2(1) of PSPJOA 2022, the remedy member’s remediable service is treated as being pensionable service under the 2011 Regulations, or
 - (b) the 2008 Section if, pursuant to section 2(1) of that Act, the remedy member’s remediable service is treated as being pensionable service under the 2013 Regulations.
- (7) For the purposes of this regulation, the reference to “£5,000” in paragraph (7) of 2011 regulation Q8, 2013 regulation 2.C.8 and 2013 regulation 3.C.6 is to be read as if it were a reference to “£12,079”.

Treatment of buy-out contributions made under 2015 regulation 47: pensioner and deceased members of the 2015 scheme

- 22.**—(1) This regulation applies to a remedy member—
- (a) who has pensionable service in the legacy scheme by virtue of section 2(1) of PSPJOA 2022;
 - (b) who on 30 September 2023—
 - (i) was a pensioner member with regard to benefits paid in respect of remediable service in the 2015 scheme;

- (ii) was an active or deferred member in respect of remediable service in the 2015 scheme and was entitled to a retirement pension in respect of pensionable service in the legacy scheme to which the member had become entitled on or after 1 April 2015; or
 - (iii) was deceased; and
 - (c) who paid buy-out contributions in accordance with 2015 regulation 47 during the remedy period (including where any such contributions were paid by the member's employing authority in place of the member during that period under paragraph (3) of that regulation ("employer buy-out contributions")).
- (2) Where this regulation applies—
- (a) all the member's rights secured by the payment of buy-out contributions mentioned in paragraph (1)(c) are extinguished, and
 - (b) unless paragraph (3) or (4) applies to or in respect of that member, the scheme manager must pay to the member or, if the member is deceased, the member's personal representative an amount of compensation determined in accordance with paragraph (9) in respect of any buy-out contributions paid during the remedy period by a member (excluding any employer buy-out contributions).
- (3) This paragraph applies to or in respect of a member if—
- (a) an immediate choice election has been accepted by the scheme manager or treated by the scheme manager as having been made in accordance with regulation 9;
 - (b) an annual pension to which an actuarial reduction or an actuarial increase was applied under the 2015 Regulations is being paid to the member or, if the member is deceased, was paid to the member before the member's death; and
 - (c) the scheme manager accepts a claim made by a member or designated person in accordance with paragraph (4) for rights under the 1995 Section or the 2008 Section (whichever is relevant) that, after having regard to the advice of the scheme actuary, the scheme manager has determined are of an equivalent value to the member's rights that were extinguished under paragraph (2)(a).
- (4) This paragraph applies to or in respect of a member where—
- (a) an immediate choice election has not been accepted by the scheme manager or treated by the scheme manager as having been made in accordance with regulation 9, and
 - (b) the scheme manager accepts a claim made by a member or designated person in accordance with paragraph (5) for rights that are of an equivalent value to the additional pension rights the member would have secured if the contributions referred to in paragraph (1)(c) had been made in the relevant scheme year in which they were paid under—
 - (i) an option under 2011 regulation Q6 on the payment of the member's 1995 Section benefits in respect of the member's remediable service, or
 - (ii) an option under 2013 regulation 2.C.8 or 2013 regulation 3.C.6 on the payment of the member's benefits under the 2008 Section in respect of the member's remediable service.
- (5) For the purposes of paragraph (3)(c), the member or designated person must make the claim—
- (a) by notice in writing in such form and including such further information as the scheme manager requires;
 - (b) at the same time as an election under regulation 9 is made.
- (6) For the purposes of paragraph (4)(b), the member or designated person must make the claim—

- (a) by notice in writing, in such form and including such further information as the scheme manager requires;
 - (b) before the end of the immediate choice election period in relation to the member.
- (7) The scheme manager must send a notice in writing to the member or designated person—
- (a) of the amount of compensation to which the member is entitled under this regulation;
 - (b) if paragraph (3) applies to or in respect of the member, of the member’s or designated person’s right to make a claim in accordance with paragraph (5); and
 - (c) if paragraph (4) applies to or in respect of the member, of the member’s or designated person’s right to make a claim in accordance with paragraph (6).
- (8) The scheme manager must send any notice referred to in paragraph (7) to the member or designated person when the scheme manager provides the first remediable service statement in respect of the member under regulation 6 (remediable service statements).
- (9) For the purposes of paragraph (2)(b), the amount of compensation must be equal to the buy- out contributions paid during the remedy period by the member reduced by tax relief amounts calculated in accordance with paragraphs (5) to (9) and, if relevant, (11) to (12) of direction 5 of the 2022 Directions.

Remedial arrangements to pay voluntary contributions to secure legacy scheme additional pension

- 23.**—(1) This regulation applies to a remedy member (“M”) who is not a deceased member.
- (2) M may elect to enter into an arrangement (a “remedial arrangement”) to pay contributions for additional pension under the legacy scheme in accordance with this regulation and—
- (a) 2011 regulation Q8 or 2011 regulation Q10, or
 - (b) 2013 regulation 2.C.8, 2013 regulation 2.C.10, 2013 regulation 3.C.6 or 2013 regulation 3.C.8.
- (3) M may only enter into a remedial arrangement—
- (a) in respect of a period of M’s remediable service;
 - (b) if the scheme manager is satisfied that it is more likely than not that, but for an actual or anticipated relevant breach of a non-discrimination rule⁽⁶⁾, M would, during that period have entered into the same or a similar arrangement;
 - (c) before—
 - (i) the end of the period of one year beginning with the day on which a remediable service statement is first provided in respect of M, or
 - (ii) such later time as the scheme manager considers reasonable in all the circumstances; and
 - (d) after making an application in accordance with paragraph (4).
- (4) An application is made in accordance with this paragraph where—
- (a) it is in writing in such form as the scheme manager determines;
 - (b) it is accompanied by any information the scheme manager reasonably requires to be provided for the purposes of—
 - (i) determining the matters mentioned in paragraph (3)(b);

⁽⁶⁾ See section 25(8) of PSPJOA 2022 for the meaning of “non-discrimination rule” and section 25(9) for the circumstances in which breach of a non-discrimination rule is “relevant”.

- (ii) complying with any requirement imposed by 2011 regulation Q12, 2013 regulation 2.C.12 or 2013 regulation 3.C.10 in connection with exercising an option to make contributions for additional pension; and
- (c) it is received by the scheme manager before—
 - (i) the end of the period of six months beginning with the day on which a remediable service statement is first provided in respect of M, or
 - (ii) at such later time as the scheme manager considers reasonable in all the circumstances of the case.
- (5) The scheme manager may treat an application made in accordance with paragraph (4) as if it were a notice under paragraph (1) of 2011 regulation Q12, 2013 regulation 2.C.12 or 2013 regulation 3.C.10.
- (6) Where M enters into a remedial arrangement, M owes to the scheme manager an amount equal to—
 - (a) the aggregate of the voluntary contributions which M would have owed had M entered into the remedial arrangement at the time M would have entered into the same or a similar arrangement but for a relevant breach of a non-discrimination rule, less
 - (b) tax relief amounts calculated in accordance with direction 12(2) to (7) of the 2022 Directions.
- (7) Where a determination is made in accordance with direction 12(6) of the 2022 Directions, the following apply—
 - (a) direction 12(8) (provision of explanation);
 - (b) direction 12(9) and (10) (appeals).
- (8) In this regulation—
 - “2011 regulation Q12” means regulation Q12 of the 2011 Regulations (exercise of options under regulations Q8, Q10 and Q11);
 - “2013 regulation 2.C.12” means regulation 2.C.12 of the 2013 Regulations (exercise of options under regulations 2.C.8, 2.C.10 and 2.C.11);
 - “2013 regulation 3.C.10” means regulation 3.C.19 of the 2013 Regulations (exercise of options under regulations 3.C.6, 3.C.8 and 3.C.9).

Revocation of cancellation of arrangement or option to secure legacy scheme additional service or additional pension

- 24.**—(1) This regulation applies to a remedy member (“M”) who has cancelled—
- (a) an arrangement to pay for additional years of service by regular additional contributions under 2011 regulation Q5;
 - (b) an option to purchase additional pension by the making of additional periodical contributions under 2011 regulation Q8; or
 - (c) an option to purchase additional pension by the making of additional periodical contributions under 2013 regulation 2.C.8 or 2013 regulation 3.C.6.
- (2) M may revoke the cancellation of an arrangement or option referred to in paragraph (1) with the effect that it is treated as if it had never been cancelled.
- (3) The revocation referred to in paragraph (2) may only be made—
- (a) if the scheme manager is satisfied that it is more likely than not that, but for an actual or anticipated relevant breach of a non-discrimination rule, M would not have made the

decision to cancel the arrangement or option (whether or not by virtue of opting out of the legacy scheme or the 2015 scheme);

- (b) before—
 - (i) the end of the period of one year beginning with the day on which a remediable service statement is first provided in respect of M, or
 - (ii) such later deadline as the scheme manager considers reasonable in all the circumstances of the case; and
- (c) after making an application in accordance with paragraph (5).

(4) The scheme manager must determine that the condition in respect of which the scheme manager is required to be satisfied under paragraph (3)(a) has been met where M cancelled an arrangement or option referred to in paragraph (1) at any time between 1 October 2014 and 31 March 2022 (those dates included).

- (5) An application is made in accordance with this paragraph where—
 - (a) it is in writing and in such form as the scheme manager determines;
 - (b) it is accompanied by any information the scheme manager reasonably requires to be provided for the purpose of determining the matters mentioned in paragraph (3)(a);
 - (c) it is received by the scheme manager before—
 - (i) the end of the period of six months beginning with the day on which a remediable service statement is first provided in respect of M, or
 - (ii) such later deadline as the scheme manager considers reasonable in all the circumstances of the case.

(6) Where M revokes the cancellation of an arrangement or option referred to in paragraph (1), M must pay to the scheme an amount equal to—

- (a) the outstanding balance of voluntary contributions owed plus interest in accordance with regulation 63, less
- (b) amounts representing tax relief calculated in accordance with direction 12(2) to (7) of the 2022 Directions, as if the arrangement or option were a new remedial voluntary contributions arrangement made by virtue of section 25(1) of PSPJOA 2022.

(7) Where the scheme manager makes a determination in accordance with paragraph (6) of direction 12 of the 2022 Directions (remedial arrangements to pay voluntary contributions to legacy schemes), paragraphs (8) (provision of explanation) and (9) and (10) (appeals) of that direction apply.

(8) In this regulation, “2011 regulation Q5” means regulation Q5 of the 2011 Regulations(7) (paying for additional service or unreduced retirement lump sum by regular additional contributions).