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SCOTTISH STATUTORY INSTRUMENTS

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**2023 No. 246**

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

**PART 5**

**Divorce or the dissolution of a civil partnership**

**Interpretation of Part 5**

**25.** In this Part—

“the 1999 Act” means the Welfare Reform and Pensions Act 1999<sup>(1)</sup>;

“the 2000 Regulations” means The Pensions on Divorce etc. (Provision of Information) Regulations 2000<sup>(2)</sup>;

“appropriate amount” means the appropriate amount for the purposes of section 29(1) of the 1999 Act (creation of pension debits and credits) determined in accordance with section 29(2) or (3) (whichever is relevant) of that Act but converted, where it is determined in accordance with section 29(3), into a percentage using the formula—

$$(A \times 100) / B$$

where—

A is the amount specified to be transferred, and

B is the valuation of pension benefits at the valuation date provided by the scheme manager;

“non-remediable service shareable rights” means the shareable rights of the remedy member that are not remediable service shareable rights on the day before the transfer day;

“operative time” means—

(a) if an election under regulation 9 is made in relation to a pension debit member’s remediable service, the time the election is made or otherwise the end of the immediate choice election period;

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

“pension debit” means a debit of the appropriate amount under section 29(1)(a) of the 1999 Act;

“remediable service shareable rights” means the shareable rights of the remedy member obtained by virtue of the remedy member’s remediable service during the period beginning with 1 April 2015 and ending with the earlier of—

(a) the day before the transfer day, or

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(1) 1999 c. 30.

(2) S.I. 2000/1048.

- (b) the last day of the member’s remediable service;
- “shareable rights” has the meaning given in section 27(2) of the 1999 Act (scope of mechanism);
- “transfer day” has the meaning given in section 29(8) of the 1999 Act;
- “valuation day” has the meaning given in section 29(7) of the 1999 Act.

**Pension debits: valuation of pension benefits before 1 October 2023: active and deferred members (immediate alternative debit of appropriate amount)**

- 26.—(1) This regulation applies to a corresponding pension debit member<sup>(3)</sup> (“DM”) where—
- (a) DM has pensionable service in the legacy scheme by virtue of section 2(1) of PSPJOA 2022;
  - (b) on 30 September 2023, DM was an active or deferred member of the 2015 scheme in respect of remediable service<sup>(4)</sup>;
  - (c) before these Regulations came into force, the scheme manager provided a valuation of benefits, in respect of remediable service shareable rights, under regulation 3 of the 2000 Regulations<sup>(5)</sup> (information about pensions and divorce and dissolution of a civil partnership: valuation of pension benefits); and
  - (d) on or after 1 April 2015, DM became subject to a debit of the appropriate amount in the 2015 scheme in respect of remediable service shareable rights.
- (2) Where this regulation applies, all DM’s debit of the appropriate amount in the 2015 scheme in respect of remediable service shareable rights—
- (a) becomes a debit of the appropriate amount in the legacy scheme, and
  - (b) is adjusted to a debit of equivalent value to a debit of the appropriate amount that DM would have had in the legacy scheme on the transfer day.
- (3) The scheme manager must make the adjustment referred to in paragraph (2)—
- (a) where the scheme manager discharged their liability under section 33(1) of the 1999 Act<sup>(6)</sup> (time for discharge of liability in respect of a pension credit) before 1 October 2023—
    - (i) before 1 July 2024, or
    - (ii) on such later date as the scheme manager considers reasonable in all the circumstances of the case, or
  - (b) as soon as reasonably practicable after the day on which the scheme manager discharges their liability under that section where the scheme manager does so after 30 September 2023.
- (4) Where paragraph (3)(a) applies, the scheme manager must send a notice in writing to DM specifying the adjusted debit of the appropriate amount in the legacy scheme.
- (5) The scheme manager must send the notice to DM within one month beginning with the day after making the adjustment under paragraph (2)(b).

**Pension debits: valuation of pension benefits before 1 October 2023: immediate choice election for 2015 scheme benefits: pensioner and deceased members**

- 27.—(1) This regulation applies to a corresponding pension debit member (“DM”) where—

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(3) For the meaning of “corresponding pension debit member”, see section 19(3) of PSPJOA 2022.  
 (4) For the meaning of “remediable service”, see section 1 of PSPJOA 2022.  
 (5) Regulation 3 was amended by S.I. 2005/2877, S.I. 2008/1050, S.I. 2016/289.  
 (6) Section 33 has been amended but the amendment is not relevant to these Regulations.

- (a) on 30 September 2023, DM was a pensioner remedy member, or a deceased member of the legacy scheme or the 2015 scheme in respect of remediable service, and
  - (b) before these Regulations came into force, the scheme manager provided a valuation of benefits, in respect of remediable service shareable rights, under regulation 3 of the 2000 Regulations<sup>(7)</sup> (information about pensions and divorce and dissolution of a civil partnership: valuation of pension benefits).
- (2) Paragraph (3) applies where—
- (a) DM or, where DM has died after the transfer day, the designated person (see regulation 7) makes an immediate choice election for 2015 scheme benefits under regulation 9 (immediate choice election for 2015 scheme benefits: pensioner and deceased members) or such an election is treated by the scheme manager as having been made in accordance with regulation 9(6);
  - (b) DM has remediable service in the legacy scheme that is not pensionable service by virtue of section 2(1) of the PSPJOA 2022; and
  - (c) DM is subject to a debit of the appropriate amount in the legacy scheme in respect of remediable service shareable rights—
    - (i) at or before the operative time, or
    - (ii) after the operative time.
- (3) Where this paragraph applies, the scheme manager must adjust all DM's debit of the appropriate amount in the legacy scheme in respect of remediable service shareable rights to a debit of equivalent value to a debit of the appropriate amount that DM would have had in the 2015 scheme on the transfer day.
- (4) Paragraph (5) applies where—
- (a) DM or, where DM has died after the transfer day, the designated person (see regulation 7) makes an immediate choice election for 2015 scheme benefits under regulation 9 or such an election is treated by the scheme manager as having been made in accordance with regulation 9(6);
  - (b) DM has remediable service in the legacy scheme that is pensionable service by virtue of section 2(1) of PSPJOA 2022; and
  - (c) DM is subject to a debit of the appropriate amount in the 2015 scheme in respect of remediable service shareable rights—
    - (i) at or before the operative time, or
    - (ii) after the operative time.
- (5) Where this paragraph applies, all DM's debit of the appropriate amount in the 2015 scheme in respect of remediable service shareable rights—
- (a) becomes a debit of the appropriate amount in the legacy scheme, and
  - (b) must be treated by the scheme manager as a debit of equivalent value to a debit of the appropriate amount that DM would have had in the 2015 scheme on the transfer day.
- (6) Paragraphs (3) and (5) have effect—
- (a) where paragraph (2)(c)(i) or (4)(c)(i) applies, at the operative time;
  - (b) where paragraph (2)(c)(ii) or (4)(c)(ii) applies, immediately after DM is subject to a debit of the appropriate amount in respect of remediable service shareable rights; or
  - (c) on such later date as the scheme manager considers reasonable in all the circumstances of the case.

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(7) Regulation 3 was amended by [S.I. 2005/2877](#), [S.I. 2008/1050](#), [S.I. 2016/289](#).

(7) Where paragraph (2)(c)(ii) or 4(c)(ii) applies, the scheme manager must send a notice in writing to DM specifying the equivalent debit of the appropriate amount, in respect of remediable service shareable rights, in the legacy scheme that DM would have had in the 2015 scheme on the transfer day.

(8) The scheme manager must send the notice mentioned in paragraph (7) to DM within one month beginning with the day after paragraph (3) or (5) (whichever is relevant) has effect in accordance with paragraph (6)(b) or (c).

**Pension debits: no immediate choice election for 2015 scheme benefits: pensioner and deceased members**

**28.**—(1) This regulation applies to a corresponding pension debit member (“DM”) where—

- (a) on 30 September 2023, DM was a pensioner remedy member, or a deceased member of the 2015 scheme in respect of remediable service, and
- (b) before these Regulations came into force, the scheme manager provided a valuation of benefits, in respect of remediable service shareable rights, under regulation 3 of the 2000 Regulations.

(2) Paragraph (3) applies where—

- (a) DM or, where DM has died after the transfer day, the designated person (see regulation 7) does not make an immediate choice election for 2015 scheme benefits under regulation 9 before the end of the immediate choice election period and such an election is not treated by the scheme manager as having been made in accordance with regulation 9(6);
- (b) DM has remediable service in the legacy scheme that is pensionable service by virtue of section 2(1) of PSPJOA 2022; and
- (c) DM is subject to a debit of the appropriate amount in the 2015 scheme in respect of remediable service shareable rights—
  - (i) at or before the operative time, or
  - (ii) after the operative time,

(3) Where this paragraph applies, all DM’s debit of the appropriate amount in the 2015 scheme in respect of remediable service shareable rights—

- (a) becomes a debit of the appropriate amount in the legacy scheme, and
- (b) is adjusted to a debit of equivalent value to a debit of the appropriate amount that DM would have had in the legacy scheme on the transfer day.

(4) Paragraph (3) has effect—

- (a) at the operative time, where paragraph (2)(c)(i) applies, or
- (b) on such later date as the scheme manager considers reasonable in all the circumstances of the case.

(5) Where paragraph (2)(c)(ii) applies, the scheme manager must send a notice in writing to DM specifying the equivalent debit of the appropriate amount, in respect of remediable service shareable rights, in the legacy scheme that DM would have had in the legacy scheme on the transfer day.

(6) The scheme manager must send the notice mentioned in paragraph (5) to DM within one month beginning with the day after paragraph (3) has effect in accordance with paragraph (4).

**Pension debits: deferred choice election for 2015 scheme benefits: active and deferred members**

**29.**—(1) This regulation applies to a corresponding pension debit member (“DM”) where—

- (a) DM 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;
  - (b) on 30 September 2023, DM was an active or deferred member of the legacy scheme or the 2015 scheme in respect of remediable service;
  - (c) under regulation 12, DM or, where DM has died after the transfer day, the designated person (see regulation 7) makes a deferred choice for 2015 scheme benefits or such an election is treated by the scheme manager as having been made in accordance with regulation 12(6); and
  - (d) DM is subject to—
    - (i) an adjustment to a debit of equivalent value to a debit of the appropriate amount that DM would have had in the legacy scheme on the transfer day under regulation 26(2);
    - (ii) a debit of the appropriate amount in the legacy scheme in respect of remediable service shareable rights at or before the operative time;
    - (iii) a debit of the appropriate amount in the legacy scheme in respect of remediable service shareable rights after the operative time.
- (2) Where this regulation applies, the scheme manager must adjust all DM’s debit of the appropriate amount in the legacy scheme in respect of remediable service shareable rights to an equivalent value to the debit of the appropriate amount that DM would have had in the 2015 scheme on the transfer day.
- (3) Paragraph (2) has effect—
- (a) where paragraph (1)(d)(i) or (ii) applies, at the operative time;
  - (b) where paragraph (1)(d)(iii) applies, immediately after DM is subject to a debit of the appropriate amount in respect of remediable service shareable rights; or
  - (c) on such later date as the scheme manager considers reasonable in all the circumstances of the case.
- (4) Where paragraph (1)(d)(ii) applies, the scheme manager must send a notice in writing to DM specifying the equivalent debit of the appropriate amount, in respect of remediable service shareable rights, in the legacy scheme that DM would have had in the 2015 scheme on the transfer day.
- (5) The scheme manager must send the notice mentioned in paragraph (4) to DM within one month beginning with the day after paragraph (2) has effect in accordance with paragraph (3)(b) or (c).

### **Valuation of pension benefits on or after 1 October 2023**

- 30.—**(1) This regulation applies to a remedy member (“RM”) where—
- (a) on 30 September 2023, the RM was an active or deferred member of the legacy scheme or the 2015 scheme or a pensioner remedy member, and
  - (b) after these Regulations come into force, the scheme manager receives a request in writing for a valuation of pension benefits, under regulation 2 of the 2000 Regulations<sup>(8)</sup> (basic information about pensions and divorce or dissolution of a civil partnership), in respect of remediable service shareable rights.
- (2) Paragraph (3) applies where on the valuation day—
- (a) the scheme manager has not received an immediate choice election under regulation 9 or a deferred choice election under regulation 12 in respect of those rights, and
  - (b) the immediate choice election period or the deferred choice election period has not ended.

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<sup>(8)</sup> Regulation 2 was amended by [S.I. 2005/2877](#), [S.I. 2016/289](#).

- (3) The scheme manager must determine—
- (a) an aggregated legacy scheme valuation of pension benefits in respect of—
    - (i) non-remediable service shareable rights, and
    - (ii) remediable service shareable rights, and
  - (b) where relevant, a 2015 scheme valuation of pension benefits in respect of non-remediable service shareable rights.
- (4) For the purposes of paragraph (3)(a)(ii), the scheme manager must determine the legacy scheme valuation of pensions benefits as if the RM's remediable service on the valuation day was in—
- (a) the legacy scheme, and
  - (b) the 2015 scheme.
- (5) The scheme manager must provide—
- (a) an aggregated legacy scheme valuation of pension benefits determined under paragraph (3)
    - (a) using the higher of the two valuations determined under paragraph (4), and
  - (b) where relevant, a 2015 scheme valuation of pension benefits determined under paragraph (3)(b),
- in accordance with regulation 2 of the 2000 Regulations.
- (6) Paragraph (7) applies where on the valuation day—
- (a) the scheme manager has received an immediate choice election under regulation 9 or a deferred choice election under regulation 12 in respect of those rights, or
  - (b) no such election has been received and the immediate choice election period or the deferred choice election period has ended.
- (7) The scheme manager must determine the legacy scheme valuation of pension benefits in respect of remediable service shareable rights as if RM's remediable service on the valuation day were in—
- (a) the legacy scheme, where—
    - (i) the scheme manager has not received an immediate choice election for 2015 scheme benefits under regulation 9 or a deferred choice election for 2015 scheme benefits under regulation 12 by the end of the immediate choice election period or the deferred choice election period (whichever is relevant), and
    - (ii) such a choice is not treated as having been made in accordance with regulation 9(6) or regulation 12(6) (whichever is relevant); or
  - (b) the 2015 scheme, where—
    - (i) the scheme manager has received an immediate choice election for 2015 scheme benefits under regulation 9 or a deferred choice election under regulation 12 (whichever is relevant), or
    - (ii) such an election is treated by the scheme manager as having been made in accordance with regulation 9(6) or 12(6) (whichever is relevant).

**Pension debits: valuation of pension benefits on or after 1 October 2023: immediate choice election for 2015 scheme benefits: pensioner members**

- 31.—**(1) This regulation applies to a corresponding pension debit member (“DM”) where—
- (a) on 30 September 2023, DM was a pensioner remedy member, and

- (b) after these Regulations have come into force, the scheme manager provides an aggregated legacy scheme valuation of pension benefits determined under regulation 30(3)(a) taking into account the higher of the two valuations determined under regulation 30(4).
- (2) Paragraph (3) applies where—
  - (a) DM or, where DM has died after the transfer day, the designated person (see regulation 7) makes an immediate choice election for 2015 scheme benefits under regulation 9 (immediate choice election for 2015 scheme benefits: pensioner and deceased members) or such an election is treated by the scheme manager as having been made in accordance with regulation 9(6), and
  - (b) DM is subject to a debit of the appropriate amount in the legacy scheme in respect of remediable service shareable rights—
    - (i) at or before the operative time, or
    - (ii) after the operative time.
- (3) Where this paragraph applies, all DM's debit of the appropriate amount in the legacy scheme in respect of remediable service shareable rights is adjusted to a debit of equivalent value to a debit of the appropriate amount that DM would have had in the 2015 scheme on the transfer day.
- (4) Paragraph (3) has effect—
  - (a) where paragraph (2)(b)(i) applies, at the operative time;
  - (b) where paragraph (2)(b)(ii) applies, immediately after DM is subject to a debit of the appropriate amount in respect of remediable service shareable rights; or
  - (c) on such later date as the scheme manager considers reasonable in all the circumstances of the case.
- (5) Where paragraph (2)(b)(ii) applies, the scheme manager must send a notice in writing to DM specifying the equivalent debit of the appropriate amount, in respect of remediable service shareable rights, in the legacy scheme, that DM would have had in the 2015 scheme on the transfer day.
- (6) The scheme manager must send the notice mentioned in paragraph (5) to DM within one month beginning with the day after (3) has effect in accordance with paragraph (4)(b) or (c).

**Pension debits: valuation of pension benefits on or after 1st October 2023: no immediate choice election for 2015 scheme benefits: pensioner members**

- 32.—**(1) This regulation applies to a corresponding pension debit member (“DM”) where—
- (a) on 30 September 2023, DM was a pensioner remedy member, and
  - (b) after these Regulations have come into force, the scheme manager provides an aggregated legacy scheme valuation of pension benefits determined under regulation 30(3)(a) taking into account the higher of the two valuations determined under regulation 30(4).
- (2) Paragraph (3) applies where—
- (a) DM or, where DM has died after the transfer day, the designated person (see regulation 7) does not make an immediate choice election for 2015 scheme benefits under regulation 9 (immediate choice election for 2015 scheme benefits: pensioner and deceased members) before the end of the immediate choice election period and such an election is not treated by the scheme manager as having been made in accordance with regulation 9(6), and
  - (b) DM is subject to a debit of the appropriate amount in the legacy scheme in respect of remediable service shareable rights—
    - (i) at or before the operative time, or
    - (ii) after the operative time.

(3) Where this paragraph applies, all DM’s debit of the appropriate amount in the legacy scheme in respect of remediable service shareable rights is adjusted to a debit of equivalent value to a debit of the appropriate amount that DM would have had in the legacy scheme on the transfer day.

(4) Paragraph (3) has effect—

- (a) where paragraph (2)(b)(i) applies, at the operative time;
- (b) where paragraph (2)(b)(ii) applies, immediately after DM is subject to a debit of the appropriate amount in respect of remediable service shareable rights; or
- (c) on such later date as the scheme manager considers reasonable in all the circumstances of the case.

(5) Where paragraph (2)(b)(ii) applies, the scheme manager must send a notice in writing to DM specifying the equivalent debit of the appropriate amount, in respect of remediable service shareable rights, in the legacy scheme, that DM would have had in the legacy scheme on the transfer day.

(6) The scheme manager must send the notice mentioned in paragraph (5) to DM within one month beginning with the day after paragraph (3) has effect in accordance with paragraph (4)(b) or (c).

**Pension credits: valuation of pension benefits before 1st October 2023: pension credit adjustment: remediable service shareable rights in the legacy scheme only or the 2015 scheme only**

**33.—**(1) This regulation applies to a relevant pension credit member<sup>(9)</sup> (“CM”) where—

- (a) before these Regulations came into force, the scheme manager provided a valuation of benefits, in respect of remediable service<sup>(10)</sup> shareable rights, under regulation 3 of the 2000 Regulations<sup>(11)</sup> (information about pensions and divorce and dissolution of a civil partnership: valuation of pension benefits), and
- (b) in respect of the corresponding pension debit member’s (“DM”) remediable service shareable rights, CM has a pension credit<sup>(12)</sup> solely in—
  - (i) the legacy scheme, or
  - (ii) the 2015 scheme.

(2) Paragraphs (3) and (4) apply where CM has a pension credit, in respect of DM’s remediable service shareable rights, in the legacy scheme but does not have a pension credit, in respect of DM’s remediable service shareable rights, in the 2015 scheme.

(3) Where this paragraph applies, the scheme manager, after having regard to the advice of the scheme actuary, must determine a valuation of pension benefits, in respect of DM’s remediable service shareable rights, as though DM’s remediable service on or before the day before the transfer day had been in the 2015 scheme.

(4) Where—

- (a) the valuation of pension benefits determined under paragraph (3) is greater than
- (b) the valuation of pension benefits, in respect of DM’s remediable service shareable rights in the legacy scheme on or before the day before the transfer day,

the scheme manager, after having regard to the advice of the scheme actuary, must adjust CM’s legacy scheme pension credit to take account of the difference between the valuations referred to in sub-paragraphs (a) and (b).

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<sup>(9)</sup> For the meaning of “relevant pension credit member”, see section 19(2) of PSPJOA 2022.

<sup>(10)</sup> For the meaning of “remediable service”, see section 1 of PSPJOA.

<sup>(11)</sup> Regulation 3 was amended by S.I. 2005/2877, S.I. 2008/1050, S.I. 2016/289.

<sup>(12)</sup> For the meaning of “pension credit”, see section 29(1)(b) of the 1999 Act.



(5) Paragraphs (6) and (7) apply where CM has a pension credit, in respect of DM's remediable service shareable rights in the 2015 scheme but does not have a pension credit, in respect of DM's remediable service shareable rights, in the legacy scheme.

(6) Where this paragraph applies, the scheme manager, after having regard to the advice of the scheme actuary, must determine a valuation of pension benefits, in respect of DM's remediable service shareable rights, as though DM's remediable service on or before the day before the transfer day had been in the legacy scheme.

(7) Where—

- (a) the valuation of pension benefits determined under paragraph (6) is greater than
- (b) the valuation of pension benefits, in respect of DM's remediable service shareable rights in the 2015 scheme on or before the day before the transfer day,

the scheme manager, after having regard to the advice of the scheme actuary, must adjust CM's legacy scheme pension credit to take account of the difference between the valuations referred to in sub-paragraphs (a) and (b).

(8) An adjustment made under paragraph (4) or (7) has effect as though it had been made on the transfer day.

(9) The scheme manager must make the adjustment referred to in paragraph (4) or (7) (whichever is relevant)—

- (a) where the scheme manager discharged their liability under section 33(1) of the 1999 Act (time for discharge of liability in respect of a pension credit) before 1 October 2023—
  - (i) before 1 October 2024, or
  - (ii) on such later date as the scheme manager considers reasonable in all the circumstances of the case, or
- (b) as soon as reasonably practicable after the day on which the scheme manager discharges their liability under that section where the scheme manager does so after 30 September 2023.

(10) Where paragraph (9) applies, the scheme manager must send a notice in writing to CM specifying—

- (a) the adjusted pension credit, and
- (b) in which scheme the adjusted pension credit is retained.

(11) The scheme manager must send the notice referred to in paragraph (10) to CM within one month beginning with the day after the day on which the scheme manager made the adjustment under paragraph (4) or (7).

**Pension credits: valuation of pension benefits before 1 October 2023: pension credit adjustment: remediable service shareable rights in the legacy scheme and the 2015 scheme**

**34.—**(1) This regulation applies to a relevant pension credit member<sup>(13)</sup> (“CM”) where—

- (a) before these Regulations came into force, the scheme manager provided a valuation of benefits, in respect of remediable service shareable rights, under regulation 3 of the 2000 Regulations (information about pensions and divorce and dissolution of a civil partnership: valuation of pension benefits), and
- (b) CM has a pension credit, in respect of the corresponding pension debit member's (“DM”) remediable service shareable rights, in the legacy scheme and the 2015 scheme.

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<sup>(13)</sup> For the meaning of “relevant pension credit member”, see section 19(2) of PSPJOA 2022.

(2) Where this regulation applies, CM's pension credit in respect of DM's remediable service shareable rights must, by virtue of section 19(5) of PSPJOA 2022, be retained solely in the legacy scheme or solely in the 2015 scheme.

(3) The scheme manager must, after having regard to the advice of the scheme actuary, determine—

- (a) a valuation of pension benefits, in respect of DM's remediable service shareable rights and the legacy scheme corresponding pension credit, under section 29(1) of the 1999 Act (creation of pension debits and credits), as though all DM's remediable service on or before the day before the transfer day were pensionable service in the legacy scheme, and
- (b) a valuation of pension benefits, in respect of DM's remediable service shareable rights, and the 2015 scheme corresponding pension credit, under section 29(1) of the 1999 Act, as though all DM's remediable service on or before the day before the transfer day were pensionable service in the 2015 scheme.

(4) CM must make an election to choose one of the pension credits, in respect of DM's remediable service shareable rights, determined under paragraph (3).

(5) The election referred to in paragraph (4) must—

- (a) be made by CM in writing;
- (b) be received by the scheme manager within a period—
  - (i) of three months, beginning with the day after the scheme manager provides the notice referred to in paragraph (6), or
  - (ii) that the scheme manager considers reasonable in all the circumstances of the case; and
- (c) contain such information as the scheme manager requires.

(6) The scheme manager must inform CM of the right to make an election under paragraph (5) in a notice in writing to CM—

- (a) where the scheme manager discharged their liability under section 33(1) of the 1999 Act (time for discharge of liability in respect of a pension credit) before 1 October 2023—
  - (i) before 1 October 2024, or
  - (ii) on such later date as the scheme manager considers reasonable in all the circumstances of the case, or
- (b) as soon as reasonably practicable after the day on which the scheme manager discharges their liability under that section where the scheme manager does so after 30 September 2023.

(7) The notice referred to in paragraph (6) must specify—

- (a) the valuation of pension benefits and corresponding pension credits calculated by the scheme manager, determined under paragraph (3);
- (b) the date by which an election under this regulation must be received by the scheme manager;
- (c) that the election is irrevocable.

(8) Where the scheme manager accepts such an election—

- (a) the pension credit, in respect of DM's remediable service shareable rights, in whichever of the legacy scheme and the 2015 scheme CM identified in the election is retained, and
- (b) any pension credit, in respect of DM's remediable service shareable rights, in whichever of the legacy scheme and the 2015 scheme CM did not identify in the election is extinguished.

(9) The pension credit—

- (a) retained under paragraph (8)(a) has effect as though it had been retained in that scheme on the transfer day,
  - (b) extinguished under paragraph (8)(b) has effect as though it had been extinguished in that scheme on the transfer day.
- (10) The personal representatives of CM may make an election under paragraph (4) where CM dies before making such an election.
- (11) Where the scheme manager does not receive an election within the period specified in paragraph (5)(b), the pension credit, in respect of DM’s remediable service shareable rights, is to be retained in whichever of the legacy scheme or the 2015 scheme the scheme manager, after having regard to the advice of the scheme actuary, deems would be most beneficial to CM.
- (12) Where paragraph (8) applies, the scheme manager must send a notice in writing to CM specifying—
- (a) the adjusted pension credit, in respect of DM’s remediable service shareable rights;
  - (b) in which scheme that adjusted pension credit is retained;
  - (c) details of the pension credit that is extinguished under paragraph (9)(b).
- (13) The scheme manager must send the notice mentioned in paragraph (12) to CM within one month beginning with the day after the day on which the scheme manager accepts an election under paragraph (8).

**Pension credits: pensioner and deceased relevant pension credit members**

- 35.**—(1) This regulation applies where the relevant pension credit member (“CM”) is—
- (a) a pensioner pension credit member before—
    - (i) the adjustment is made under regulation 33(4) or 33(7), or
    - (ii) receiving the notice sent by the scheme manager under regulation 34(6), or
  - (b) a deceased member, where the personal representatives of CM make an election under regulation 34(10).
- (2) Where this regulation applies, subsections (3) to (8) of section 14 of PSPJOA 2022 apply in relation to CM as they apply in relation to a relevant member (“M”) described in subsection (1) of that section with the following modifications—
- (a) the references to “M’s remediable service in the employment or office” in subsections (3) (a) and (5)(a) are to be read as references to CM’s pension credit;
  - (b) the references to “the effect, if any, of sections 2(1) and 6(4) and (5)” in subsections (3) (b) and (5)(b) are to be read as references to the effect, if any, of this regulation; and
  - (c) the term “operative time” is to be read as meaning the time at which—
    - (i) the adjustment mentioned in regulation 33(4) or regulation 33(7) has effect, or
    - (ii) the pension credit mentioned in regulation 34(8)(a) has effect.

**Pension credits: valuation of pension benefits on or after 1 October 2023: creation of a pension credit**

- 36.**—(1) This regulation applies to a relevant pension credit member<sup>(14)</sup> (“CM”) where—
- (a) on or after these Regulations came into force, the scheme manager provided an aggregated legacy scheme valuation of pension benefits, determined under regulation 30(3)(a) and the higher of the two valuations determined under regulation 30(4); and

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<sup>(14)</sup> For the meaning of “relevant pension credit member”, see section 19(2) of PSPJOA 2022.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(b) the corresponding pension debit member (“DM”) is subject to a legacy scheme debit of the appropriate amount in respect of remediable service shareable rights.

(2) Where this regulation applies the scheme manager, having regard to the advice of the scheme actuary, must determine the legacy pension credit, determined under section 29(1) of the 1999 Act, by means of the aggregated legacy scheme valuation calculated under paragraph (1)(a), which is recalculated to the day before the transfer day.

(3) Where paragraph (2) applies, the scheme manager must send a notice in writing to CM specifying the legacy scheme pension credit.

(4) The scheme manager must send the notice mentioned in paragraph (3) to CM as soon as reasonably practicable after the day on which the scheme manager discharges their liability under section 33(1) of the 1999 Act (time for discharge of liability in respect of a pension credit).