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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 6**

**Transfers**

**Interpretation of Part 6**

**37.**—(1) In this part—

“2011 regulation N1” means regulation N1 of the 2011 Regulations<sup>(1)</sup> (member’s right to transfer accrued rights to benefits to this Section of the scheme);

“2011 regulation N4” means regulation N4 of the 2011 Regulations<sup>(2)</sup> (transfers that are not made under the Public Sector Transfer Arrangements);

“2013 regulation 2.F.9” means regulation 2.F.9 of the 2013 Regulations<sup>(3)</sup> (procedure for applications under regulation 2.F.8);

“2013 regulation 2.F.11” means regulation 2.F.11 of the 2013 Regulations (calculation of transferred–in pensionable service);

“2013 regulation 3.F.9” means regulation 3.F.9 of the 2013 Regulations<sup>(4)</sup> (procedure for applications under regulation 3.F.8);

“2013 regulation 3.F.11” means regulation 3.F.11 of the 2013 Regulations (calculation of increase to pensionable earnings as the result of a transfer–in);

“2015 regulation 142” means regulation 142 of the 2015 Regulations (acceptance of transfer value payment);

“2015 scheme joining date” means the date on which the member became eligible to be an active member of the 2015 scheme for the purpose of regulation 141(1)(c)(i) of the 2015 Regulations (application procedure);

“legacy scheme remediable cash equivalent”, in relation to a member, means the use by the scheme manager of the cash equivalent of rights in the legacy scheme to acquire rights in the 2015 scheme under—

- (a) regulation M7A of the 2011 Regulations<sup>(5)</sup> (member’s right to transfer a preserved pension to the 2015 Scheme), or
- (b) regulation 2.F.18 or regulation 3.F.18 of the 2013 Regulations<sup>(6)</sup> (right to transfer a deferred pension to the 2015 Scheme),

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(1) Regulation N1 was amended by [S.S.I. 2013/109](#).

(2) Regulation N4 was amended by [S.S.I. 2012/163](#).

(3) Regulation 2.F.9 was amended by [S.S.I. 2015/95](#), [S.S.I.s 2017/27](#) and [434](#).

(4) Regulation 3.F.9 was amended by [S.S.I. 2015/95](#) and [S.S.I. 2017/27](#).

(5) Regulation M7A was inserted by [S.S.I. 2015/96](#) and amended by [S.S.I. 2017/434](#).

(6) Regulations 2.F.18 and 3.F.18 were inserted by [S.S.I. 2015/96](#) and amended by [S.S.I. 2017/434](#).

so far as the cash equivalent relates to the member's remediable rights;

"Public Sector Transfer Arrangements" means the arrangements applying to certain public sector and other schemes under which a common basis for transfer payments is applied by the scheme and those other participating schemes;

"receiving scheme", in relation to a remediable value, means the scheme to which the remediable value was, or is to be, paid;

"reformed public service pension scheme" means—

- (a) a Chapter 1 scheme;
- (b) a judicial scheme within the meaning of section 70(1) of PSPJOA 2022;
- (c) a local government scheme within the meaning of section 86(1) of PSPJOA 2022;

"remediable benefits" means the benefits payable to or in respect of a member in relation to that member's remediable service;

"remediable club transfer value", in relation to a member, means the payment or acceptance by the scheme manager of—

- (a) a transfer value under Part M (Transfer-out Arrangements and buy-outs) or Part N (Transfers from Other Pension Arrangements) of the 2011 Regulations in accordance with the public sector transfer arrangements (within the meaning given to that term by regulation A2 of those Regulations);
- (b) a transfer value payment under Chapter 2.F of the 2013 Regulations (Transfers) in accordance with the public sector transfer arrangements (within the meaning given to that term by regulation 2.A.1 of those Regulations);
- (c) a transfer value payment under Chapter 3.F of the 2013 Regulations (Transfers) under the public sector transfer arrangements (within the meaning given to that term by regulation 3.A.1 of those Regulations);
- (d) a club transfer value under Part 7 of the 2015 Regulations (Transfers) (within the meaning given to that term by regulation 131 of those Regulations)

so far as the transfer value or transfer value payment relates to the member's remediable rights;

"remediable rights", in relation to a member, means the member's rights to benefits under a reformed public service pension scheme secured by virtue of the member's remediable service;

"remediable transfer value", in relation to a member, means the payment or acceptance by the scheme manager of a transfer value or transfer value payment other than—

- (a) a legacy scheme remediable cash equivalent, or
- (b) a remediable club transfer value under—
  - (i) Part M or Part N of the 2011 Regulations;
  - (ii) Chapter 2.F or 3.F of the 2013 Regulations; or
  - (iii) Part 7 of the 2015 Regulations.

so far as the transfer value or transfer value payment relates to the member's remediable rights;

"remediable value" means a remediable club transfer value or a remediable transfer value;

"sending scheme", in relation to a remediable value, means the scheme which paid, or is to pay, the remediable value.

(2) Where a provision of this Part requires the scheme manager to calculate a transfer value (including a remediable club transfer value or a remediable transfer value) in relation to rights secured in the legacy scheme or the 2015 scheme, that value is to be calculated in accordance with—

- (a) the provisions of the legacy scheme or the 2015 scheme which apply to the calculation of values of that type, and
- (b) the guidance and tables provided by the Government Actuary for the purpose of calculating such values that were, or are, in use on the date used for the original calculation.

**Treatment of transfer and transfer value payments made to the 1995 Section or the 2008 Section that are not made under public sector transfer arrangements**

**38.**—(1) This regulation applies to a relevant transfer member who has remediable service in the 1995 Section or the 2008 Section and was on 30 September 2023 an active, deferred or pensioner member of that Section in respect of that service where one of the following has occurred in relation to that member—

- (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 paragraph (6) of regulation 9 (immediate choice election for 2015 scheme benefits: pensioner and deceased members); or
  - (b) a deferred choice election has been accepted by the scheme manager or treated by the scheme manager as having been made in accordance with paragraph (6) of regulation 12 (deferred choice election for 2015 scheme benefits: active, deferred and deceased members).
- (2) For the purposes of paragraph (1), a member is a relevant transfer member if—
- (a) the scheme manager has accepted—
    - (i) a transfer payment and in respect of that payment—
      - (aa) the member is credited with a period of pensionable service calculated in accordance with 2011 regulation N4, or
      - (bb) the member is entitled to an increase in the member’s pensionable earnings calculated in accordance with paragraph 27 of schedule 1 of the 2011 Regulations (medical and dental practitioners: transfers from other pension arrangements), or
    - (ii) a transfer value payment and in respect of that payment—
      - (aa) the member is entitled to an additional period of pensionable service calculated in accordance with paragraphs (1) to (4) of 2013 regulation 2.F.11, or
      - (bb) the member is entitled to count an increase in the member’s pensionable earnings calculated in accordance with paragraphs (1) to (4) of 2013 regulation 3.F.11; and
  - (b) the member’s legacy scheme joining date in relation to the transfer payment or transfer value payment referred to in sub-paragraph (a) falls within the period of that member’s remediable service.

(3) Where this regulation applies and the scheme manager determines that the benefits payable in respect of the member’s remediable service are 2015 scheme benefits, the scheme manager must, after having regard to the advice of the scheme actuary, vary the member’s rights to benefits in respect of the additional period of pensionable service or increase in pensionable earnings referred to in paragraph (2) so that those rights are of an equivalent value to the rights the member would have secured if the transfer payment or transfer value payment (whichever is relevant) had been accepted for the purposes of 2015 regulation 142.

(4) In this regulation, “legacy scheme joining date” means—

- (a) the date on which the member joined the 1995 Section for the purposes of paragraph (1) of 2011 regulation N1, or
- (b) the date on which the member became eligible to be an active member of the 2008 Section for the purposes of paragraph (1)(c)(i) of 2013 regulation 2.F.9 or 2013 regulation 3.F.9.

**Transfer value payments made to the 2015 scheme that are not made under public sector transfer arrangements: treatment as transfer payments under the 1995 Section or transfer value payments under the 2008 Section active and deferred members**

**39.**—(1) This regulation applies to a 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—

- (a) the scheme manager has accepted a transfer value payment in relation to the member that is a non-club transfer<sup>(7)</sup> for the purposes of 2015 regulation 142;
  - (b) in respect of that payment, the member is entitled to an increase in the member’s pensionable earnings and has been credited with a period of pensionable service under paragraph (2) of that regulation; and
  - (c) the member’s 2015 scheme joining date in relation to the transfer value payment falls within the period of that member’s remediable service.
- (2) Where this regulation applies—
- (a) all the remedy member’s rights secured by the transfer value payment mentioned in paragraph (1) are extinguished;
  - (b) the scheme manager must treat the payment as if it had been accepted for the purposes of—
    - (i) 2011 regulation N4 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, or
    - (ii) 2013 regulation 2.F.11 or 2013 regulation 3.F.11 (whichever is relevant) 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; and
  - (c) in respect of the payment, the member is entitled to count the pensionable service or increase in pensionable earnings set out in paragraph (3) or (4) (whichever is relevant).
- (3) If the scheme manager treats the transfer value payment as if it had been accepted for the purposes of 2011 regulation N4, the member is entitled to—
- (a) an additional period of pensionable service calculated in accordance with 2011 regulation N4, or
  - (b) count an increase in the member’s pensionable earnings calculated in accordance with paragraph 27 of schedule 1 of the 2011 Regulations (medical and dental practitioners: transfers from other pension arrangements).
- (4) If the scheme manager treats the transfer value payment as if it had been accepted for the purposes of the 2013 Regulations, the member is entitled to—
- (a) an additional period of pensionable service calculated in accordance with paragraphs (1) to (4) of 2013 regulation 2.F.11, or
  - (b) count an increase in the member’s pensionable earnings calculated in accordance with paragraphs (1) to (4) of 2013 regulation 3.F.11.

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(7) For the meaning of “non-club transfer”, see the definition of “club transfer” in regulation 131 of the 2015 Regulations.

(5) The scheme manager must send a notification in writing to the remedy member specifying the additional period of pensionable service or increase in pensionable earnings that the member is entitled to count under paragraph (3) or (4) of this regulation.

(6) The notification must be sent to the remedy member before 1 October 2024 or such earlier date as the scheme manager determines, after having regard to all the circumstances of the case.

**Transfer value payments treated in accordance with regulation 39: variation of the member’s rights on the making of a deferred choice election**

**40.**—(1) This regulation applies to a remedy member who—

- (a) is entitled to an additional period of pensionable service or an increase in pensionable earnings in the 1995 Section under paragraph (3), or in the 2008 Section under paragraph (4), of regulation 39, and
- (b) makes a deferred choice election for 2015 scheme benefits under regulation 12.

(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 benefits in respect of the additional period of pensionable service or increase in pensionable earnings referred to in paragraph (1) so that those rights are of an equivalent value to the rights the member would have secured if the transfer payment or transfer value payment (whichever is relevant) had been accepted for the purposes of 2015 regulation 142.

**Transfer value payments made to the 2015 scheme that are not made under public sector transfer arrangements: treated as if accepted under the legacy scheme: pensioner and deceased members**

**41.**—(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, or
  - (ii) was deceased;
- (c) in respect of whom—
  - (i) an immediate choice election may be made or treated by the scheme manager as having been made in accordance with regulation 9;
  - (ii) the scheme manager has accepted a transfer value payment that is in relation to the member that is a non-club transfer for the purposes of 2015 regulation 142 and, in respect of that payment, the member is entitled to an increase in the member’s pensionable earnings and has been credited with a period of pensionable service under paragraph (2) of that regulation; and
  - (iii) the 2015 scheme joining date in relation to the transfer value payment referred to in paragraph (ii) falls within the period of that member’s remediable service.

(2) Where this regulation applies, on the acceptance of an election referred to in paragraph (1)(c) (i) in respect of a member or at the end of the immediate choice election period if no such election is accepted—

- (a) all the remedy member's rights secured by the transfer payment or transfer value payment mentioned in paragraph (1)(c)(ii) are extinguished;
  - (b) the scheme manager must treat the payment as if it had been accepted for the purposes of—
    - (i) 2011 regulation N4 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, or
    - (ii) 2013 regulation 2.F.11 or 2013 regulation 3.F.11 (whichever is relevant) 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;
  - (c) in respect of the payment, the member is entitled to count the pensionable service or increase in pensionable earnings set out in paragraph (3) or (4) (whichever is relevant); and
  - (d) paragraph (5) applies if the scheme manager determines that the benefits payable in respect of the member's remediable service are 2015 scheme benefits.
- (3) If the scheme manager treats the transfer payment as if it had been accepted for the purposes of the 2011 regulation N4, in respect of the payment the member is entitled to—
- (a) an additional period of pensionable service calculated in accordance with 2011 regulation N4, or
  - (b) an increase in the member's pensionable earnings in respect of the payment calculated in accordance with paragraph 27 of schedule 1 of the 2011 Regulations.
- (4) If the scheme manager treats the transfer value payment as if it had been accepted for the purposes of the 2013 Regulations, the member is entitled to—
- (a) an additional period of pensionable service calculated in accordance with paragraphs (1) to (4) of 2013 regulation 2.F.11, or
  - (b) count an increase in the member's pensionable earnings calculated in accordance with paragraphs (1) to (4) of 2013 regulation 3.F.11.
- (5) Where this paragraph applies (see paragraph (2)(d)), the scheme manager must, after having regard to the advice of the scheme actuary, vary the member's rights to benefits in respect of the additional period of pensionable service or increase in pensionable earnings referred to in paragraph (3) or (4) (whichever is relevant) so that those rights are of an equivalent value to the rights the member would have secured if the transfer payment or transfer value payment (whichever is relevant) had been accepted for the purposes of 2015 regulation 142.

**Treatment of transfer and transfer value payments and statements accepted from other and corresponding health service schemes**

- 42.—**(1) This regulation applies to a member who—
- (a) is credited with a period of pensionable service (together with the rights attaching to that service) in accordance with regulation R7(2) or (6) of the 2011 Regulations (Former members of health service schemes) in respect of a transfer payment made by a health service scheme;
  - (b) is entitled to count a period of pensionable service in accordance with paragraph (6) of 2013 regulation 2.F.11 or entitled to count an increase in pensionable earnings in accordance with paragraph (6) of 2013 regulation 3.F.11 in respect of a transfer value payment made by a corresponding 2008 Section; or
  - (c) is entitled to count an increase in pensionable earnings in accordance with regulation 145(5) of the 2015 Regulations (calculation of increase to pensionable earnings) in respect of a transfer value statement accepted from a corresponding scheme.

(2) Where this regulation applies and the scheme manager determines that the payment or transfer value statement referred to in paragraph (1) represents any rights in respect of a period of pensionable service that is remediable service in another health service scheme, a corresponding 2008 scheme or a corresponding scheme, the scheme manager must treat that period of pensionable service as a period of pensionable service that is remediable service in the 1995 Section, the 2008 Section or the 2015 scheme (whichever is relevant).

(3) In this regulation—

“corresponding 2008 scheme” means a scheme as so defined in regulation 2.A.1(1) of the 2013 Regulations;

“corresponding scheme” means a scheme as so defined in schedule 13 of the 2015 Regulations;

“health service scheme” means a scheme as so defined in regulation R7(1) of the 2011 Regulations.

### **Transferred out remediable service statements**

**43.** Where a remedy member has transferred any rights in respect of remediable service out of the legacy scheme or the 2015 scheme, the scheme manager must provide a transferred out remediable service statement in accordance with direction 6(2) to (4) of the 2022 Directions (Transfers) (and direction 6(4) applies as if the reference to “any provision made by virtue of section 29(1) of PSPJOA 2022” were a reference to regulation 6 of these Regulations).

### **Remediable transfer value payments made before 1 October 2023**

**44.—**(1) This regulation applies in relation to each member (“M”) in respect of whom the scheme manager paid a remediable transfer value before 1 October 2023.

(2) Where this regulation applies, the scheme manager must, after having regard to the advice of the scheme actuary, must calculate the transfer value of M’s remediable rights as if they had been secured in—

(a) the 1995 Section or the 2008 Section (whichever is relevant);

(b) the 2015 scheme.

(3) The scheme manager must notify the receiving scheme of the results of the calculation mentioned in paragraph (2).

(4) Where—

(a) the greater of the amounts calculated under paragraph (2) (“x”) is greater than

(b) the amount of the remediable transfer value (“y”),

the scheme manager must take reasonable steps to pay the receiving scheme an amount equal to  $x - y$  (“top-up transfer value payment”).

(5) Where the greater of the amounts calculated under paragraph (2) (“x”) is less than the amount of the remediable transfer value (“y”), the scheme manager must waive any overpayment.

(6) A top-up transfer value payment made under paragraph (4) is subject to the same conditions as the remediable transfer value.

(7) Where a receiving scheme, other than a reformed public service scheme, cannot accept the top-up transfer value payment, the scheme manager may—

(a) pay the top-up transfer value payment to another nominated registered pension scheme, or

(b) pay an amount of compensation to the member in accordance with direction 6(5) of the 2022 Directions.

(8) Where, if the amount of compensation under paragraph (7)(b) had been paid immediately after the requirement to pay it arose, the payment—

- (a) would have been a payment described in regulation 6 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 (“the 2009 Regulations”) (payment after relevant accretion) as if regulation 6(1)(a) of those Regulations had been omitted, the amount of compensation is to be reduced by the amount equal to the income tax that would be chargeable on it as if regulation 3(b) of the 2009 Regulations applied to;
- (b) would not have been a payment so described, the amount of compensation is to be reduced by an amount equal to the income tax that would be charged on the amount at M’s marginal tax rate under the Income Tax Acts.

(9) In this regulation, a “nominated registered pension scheme” means a pension scheme registered under Chapter 2 of Part 4 of the Finance Act 2004, that—

- (a) is chosen by M;
- (b) agrees to accept the top-up transfer value payment; and
- (c) meets such other conditions as the scheme manager may require.

#### **Remediable transfer value payments on or after 1 October 2023 that are not made under the public sector transfer arrangements**

**45.**—(1) This regulation applies in relation to a member (“M”) in respect of whom the scheme manager has made a remediable transfer value payment on or after 1 October 2023.

(2) Where this regulation applies, the scheme manager must, after having regard to the advice of the scheme actuary, calculate the transfer value of M’s remediable rights as if those rights had been secured in—

- (a) the 1995 Section or the 2008 Section (whichever is relevant);
- (b) the 2015 scheme.

(3) The amount of the remediable transfer value is the greater of the amounts calculated under paragraph (2).

#### **Transfers of remediable rights in the legacy scheme to the 2015 scheme before 1 October 2023**

**46.**—(1) This regulation applies in relation to each member (“M”) in respect of whom the scheme manager has used a legacy scheme remediable cash equivalent to acquire rights in the 2015 scheme before 1 October 2023.

(2) Where this regulation applies, the scheme manager, after having regard to the advice of the scheme actuary, must calculate the cash equivalent of M’s remediable rights as if they were secured in—

- (a) the 1995 Section or the 2008 Section (whichever is relevant);
- (b) the 2015 scheme.

(3) Where—

- (a) the greater of the amounts calculated under paragraph (2) (“x”) is greater than
- (b) the legacy scheme remediable cash equivalent (“y”),

the scheme manager must, after having regard to the advice of the scheme actuary, must use an amount equal to  $x - y$  to acquire further rights in the 2015 scheme in respect of the member on the same terms as the legacy scheme remediable cash equivalent.



### **Transfers of remediable rights in the legacy scheme to the 2015 scheme on or after 1 October 2023**

**47.**—(1) This regulation applies in relation to each member (“M”) in respect of whom the scheme manager uses a legacy scheme remediable cash equivalent to acquire rights in the 2015 scheme on or after 1 October 2023.

(2) Where this regulation applies, the scheme manager, after having regard to the advice of the scheme actuary, must calculate the cash equivalent of M’s remediable rights as if they were secured in—

- (a) the 1995 Section or the 2008 Section (whichever is relevant);
- (b) the 2015 scheme.

(3) The amount of the legacy scheme remediable cash equivalent is the greater of the amounts calculated under paragraph (2).

### **Remediable transfer values payments accepted from other public service schemes but not accepted under the public sector transfer arrangements**

**48.**—(1) This regulation applies in relation to each payment of a remediable transfer value in respect of a member (“M”).

(2) Where this regulation applies the scheme manager must, after having regard to the advice of the scheme actuary, determine M’s remediable benefits if the transfer value, together with any adjustment payment accepted under paragraph (3), were applied in respect of rights in—

- (a) the 1995 Section or the 2008 Section (whichever is relevant);
- (b) the 2015 scheme.

(3) Where the remediable transfer value was accepted by the scheme manager before 1 October 2023 and the sending scheme is a reformed public service pension scheme, the scheme manager may accept an adjustment in the value of a remediable transfer value—

- (a) in respect of the remediable rights to which the payment relates, and
- (b) which is made by the sending scheme pursuant to, or to provision made under, PSPJOA 2022.

(4) An adjustment payment accepted under paragraph (3) is to be used for the purpose of determining M’s benefits under the legacy scheme or the 2015 scheme on the same terms as the remediable transfer value.

### **Remediable club transfer value payments made before 1 October 2023**

**49.**—(1) This regulation applies in relation to each member (“M”) in respect of whom the scheme manager paid a remediable club transfer value before 1 October 2023.

(2) Where this regulation applies, the scheme manager must calculate the transfer value of M’s remediable rights as if they had been secured in —

- (a) the 1995 Section or the 2008 Section (whichever is relevant), and, separately
- (b) the 2015 Scheme.

(3) The scheme manager must provide to the receiving scheme—

- (a) the result of the calculations mentioned in paragraph (2); and
- (b) such further information as the receiving scheme may require in relation to M’s remediable rights.

(4) Where the receiving scheme is a local government pension scheme (within the meaning of section 86(1) of PSPJOA 2022), and—

- (a) the greater of the amounts calculated under paragraph (2) (“x”) is greater than
- (b) the amount of the remediable club transfer value (“y”),

the scheme manager must pay the receiving scheme an amount equal to  $x - y$ .

(5) A payment made under paragraph (4) is subject to the same conditions as the remediable club transfer value.

### **Remediable club transfer value payments made on or after 1 October 2023**

**50.**—(1) This regulation applies in relation to each member (“M”) in respect of whom the scheme manager is to make a remediable club transfer value payment on or after 1 October 2023.

(2) The scheme manager must calculate the transfer value of M’s remediable rights as if they had all been secured in—

- (a) the 1995 Section or the 2008 Section (whichever is relevant);
- (b) the 2015 scheme.

(3) The amount of the remediable club transfer value is the greater of the amounts calculated under paragraph (2).

(4) The scheme manager must provide to the receiving scheme—

- (a) the result of the calculations mentioned in paragraph (2); and
- (b) such further information as the receiving scheme may require in relation to M’s remediable rights.

### **Remediable club transfer value payments accepted before 1 October 2023**

**51.**—(1) This regulation applies in relation to a member (“M”) in respect of whom the scheme manager has accepted a remediable club transfer value before 1 October 2023.

(2) Where this regulation applies and the sending scheme is a local government pension scheme (within the meaning of section 86(1) of PSPJOA 2022), and the scheme manager may accept an adjustment in the value of a remediable club transfer value—

- (a) in respect of the remediable rights to which the remediable club transfer value payment relates, and
- (b) which is made by the sending scheme pursuant to, or to provision made under, PSPJOA 2022.

(3) The scheme manager must determine M’s remediable benefits if the transfer value, together with any payment adjustment accepted under paragraph (2), were applied in respect of rights secured in—

- (a) the 1995 Section or the 2008 Section (whichever is relevant);
- (b) the 2015 scheme.

### **Remediable club transfer value payments accepted on or after 1 October 2023**

**52.**—(1) This regulation applies in relation to a member (“M”) in respect of whom the scheme manager has accepted a remediable club transfer value payment on or after 1 October 2023.

(2) Where this regulation applies, the scheme manager, must determine M’s remediable benefits as if the remediable club transfer value payments were applied in respect of rights secured in—

- (a) the 1995 Section or the 2008 Section (whichever is relevant);
- (b) the 2015 scheme.

### **Application and interpretation of regulations 54 to 56**

**53.**—(1) Regulations 54 to 56 apply in relation to a member (“M”) in respect of whom the scheme manager has accepted either or both of the following —

- (a) a remediable transfer value payment, together with any payment accepted under regulation 48(3);
- (b) a remediable club transfer value payment, together with any adjustment accepted under regulation 51(2).

(2) In regulations 54 to 56—

“relevant Section of the legacy scheme” means—

- (a) the 1995 Section if M has pensionable service in that Section;
- (b) the 2008 Section if M has pensionable service in that Section;
- (c) otherwise, the 2008 Section;

“transferred in remediable rights” means M’s remediable rights in the legacy scheme or the 2015 scheme secured by virtue of a remediable value together with any payment or, as the case may be, adjustment under regulation 48(3) or regulation 51(2).

### **Transferred in remediable rights treated as being the legacy scheme**

**54.**—(1) Where this regulation applies (see regulation 53) and the transferred in remediable rights of a member (“M”) would, apart from this regulation, be rights to benefits under the 2015 scheme, the rights—

- (a) are not, and are treated as never having been, rights under the 2015 scheme, and
- (b) are treated as being, and as always having been, rights under the relevant Section of the legacy scheme.

(2) Paragraph (1) has effect—

- (a) for the purposes of determining which Section of the legacy scheme is (or at any time was) required to pay benefits to or in respect of M’s transferred in remediable rights, and
- (b) subject to regulation 56, for all other purposes.

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

**55.**—(1) Where this regulation applies (see regulation 53) and—

- (a) a member is an active or deferred remedy member (“M”), and
- (b) M’s transferred in remediable rights are treated as rights to benefits under the relevant Section of the legacy scheme by virtue of regulation 54,

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

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

(3) Where—

- (a) M is a pensioner remedy member or a remedy member who died before 1 October 2023, and the end of the immediate choice election period has passed in relation to M and no election has been made (or treated by the scheme manager as having been made) under regulation 9 in relation to M’s remediable service, and

- (b) M's transferred in remediable rights are treated as rights to benefits under the relevant Section of the legacy scheme by virtue of regulation 54,

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

(4) A variation under paragraph (3) is to be treated as having taken effect at the end of the immediate choice election period.

(5) Where—

- (a) the benefits payable to or in respect of M's remediable service are 2015 scheme benefits by virtue of an immediate choice election under regulation 9 or a deferred choice election under regulation 12 (including such an election which the scheme manager treats as having been made under either of those regulations), and
- (b) the benefits payable in relation to M's transferred in remediable rights would otherwise be benefits in the relevant Section of the legacy scheme,

the scheme manager must vary the value of those rights so that they are of an equivalent value to rights M would have secured under the 2015 scheme if the rights had been transferred into that scheme.

(6) Where the scheme manager is required to vary the value of any rights under this regulation so that they are equivalent to rights that would have been secured in another scheme ("the alternative scheme"), the scheme manager must, after having regard to the advice of the scheme actuary, calculate the varied rights as if the remediable transfer value which originally secured the rights had been paid to the alternative scheme or Section of the scheme in the scheme year the payment was received by the scheme manager.

(7) In paragraph (6), "scheme year" means a period of one year beginning on 1 April and ending with 31 March.

### **Benefits already paid in relation to transferred in remediable rights**

**56.**—(1) Where this regulation applies (see regulation 53), paragraph (2) applies in relation to any benefits ("the paid benefits") that have at any time been paid to a person ("P") from the 2015 scheme so far as—

- (a) they are calculated by reference to P's, or any other person's, transferred in remediable rights, and
- (b) they are benefits that, as a result of regulation 54(1)(a), P was not entitled to receive from the 2015 scheme.

(2) The paid benefits are to be treated for all purposes—

- (a) as not having been paid to P by the 2015 scheme, but
- (b) as having been paid to P instead by the relevant Section of the legacy scheme.