
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 246

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

PART 9

Interest and the payment, reduction or waiver of liabilities

Application and interpretation of Part 9

62.—(1) This Part applies in respect of relevant amounts (and any interest on them) payable by a person to the legacy scheme or by that scheme to a person under or by virtue of Chapter 1 of PSPJOA 2022.

(2) In this Part, a reference to a direction is a reference to that direction in the 2022 Directions.

Interest and process

63.—(1) The scheme manager must calculate interest on any amount described in directions 14 (Interest: rates), 15 (Interest: periods) or 16 (Interest: other) in accordance with the provisions of whichever of those directions is relevant to that amount.

(2) Where an amount is described in paragraphs (4), (5), (6), (7) or (8), the scheme manager must calculate interest on it in accordance with whichever paragraph is relevant.

(3) Direction 14(6) applies where the rate of interest has varied during a period for which interest is to be calculated.

(4) Where amounts are owed under regulation 3, interest must be calculated and applied in accordance with the 2022 Directions as if those amounts were owed under section 16 of PSPJOA 2022 (pension contributions: active and deferred members (immediate correction)).

(5) Where amounts are owed under regulation 4, interest must be calculated and applied in accordance with the 2022 Directions as if those amounts were owed under section 15 of PSPJOA 2022 (Pension contributions: pensioner and deceased members).

(6) Where amounts are owed under regulation 5, interest must be calculated and applied in accordance with the 2022 Directions as if those amounts were owed under section 17 of PSPJOA 2022 (Pension contributions: active and deferred members (deferred correction)).

(7) Where amounts are owed under regulation 10, 13 or 35, interest must be calculated and applied in accordance with the 2022 Directions as if those amounts were owed under section 14 of PSPJOA 2022 (Pension benefits and lump sum benefits: pensioner and deceased members).

(8) Where compensation is owed under regulation 18 and that liability is waived by virtue of regulation 18(3) and that waiver subsequently ceases to have effect, interest must be calculated in the form and applied at the rate specified—

(a) in direction 14(5) from the mid-point date described in direction 15(16) to the date 28 days after a remediable service statement is first issued, and

- (b) in direction 14(4) from the date 29 days after a remediable service statement is first issued to the date of payment.

Interest not payable under the 2011 Regulations or the 2013 Regulations

64.—(1) This regulation applies in respect of any relevant amount payable by the legacy scheme to a person under or by virtue of Chapter 1 of PSPJOA 2022 where the scheme manager must calculate interest on that amount in accordance with regulation 63.

(2) Where this regulation applies, the scheme manager must treat the relevant amount as if—

- (a) it is not a qualifying payment for the purposes of regulation T10 of the 2011 Regulations (interest on late payment of benefits), or
- (b) it is not an unpaid amount for the purposes of regulation 2.J.10 or regulation 3.J.10 of the 2013 Regulations (interest on late payment of benefits and refunds of contributions),

where it would be such a qualifying payment or unpaid amount but for this regulation.

Netting off of liabilities

65. The scheme manager must net off relevant amounts (and any interest owed on them) which are owed by the scheme to a person or by a person to the scheme (as the case may be) in accordance with direction 19 (process: netting off).

Payments of amounts owed to the scheme

66.—(1) This regulation applies where a person (“P”) owes a net liability to the scheme after taking into account regulation 65.

(2) The scheme manager must send a notice in writing to P that the net liability must be paid.

(3) P must pay the amount of the net liability to the scheme manager—

- (a) on or before a date determined by the scheme manager as being reasonable after having regard to all the circumstances of the case, or
- (b) in accordance with an agreement under paragraph (4).

(4) P and the scheme manager may agree that the net liability is paid in part or in full—

- (a) by instalments;
- (b) by way of deductions from any benefits (including a lump sum benefit) to which P is entitled under the legacy scheme or the 2015 scheme; or
- (c) by a combination of (a) and (b).

(5) But where the net liability includes amounts owed as a consequence of an election under regulation 8(1) and P is not a pensioner member, the scheme manager may not agree that the net liability is paid in part or in full in accordance with paragraph (4)(b) or (c).

(6) P and the scheme manager may agree to vary an agreement made in accordance with paragraph (4).

(7) Where P does not pay the amount that P is required to pay under paragraph (3), the scheme manager may, after providing notice in writing to P, deduct such sums from benefits payable to P from the legacy scheme or the 2015 scheme as the scheme manager considers reasonable for the purpose of discharging P’s liability.

Payment of amounts owed to a person

67.—(1) This regulation applies where the scheme owes a net liability to a person (“P”) after taking into account regulation 65

(2) The scheme manager must pay the amount of the net liability to P as soon as reasonably practicable—

- (a) after the scheme manager determines the amount of the net liability, or
- (b) where the scheme manager requires P to make an application in accordance with paragraph (3), after receipt of that application.

(3) Before paying the amount of a net liability owed to P, the scheme manager may by notice in writing require P to make an application which is—

- (a) in a form and manner determined by the scheme manager;
- (b) accompanied by such information as the scheme manager may require—
 - (i) which is within P’s possession, or
 - (ii) which P may reasonably be expected to obtain; and
- (c) received by the scheme manager before the end of the period of six months beginning with the day after the day on which P receives notice that the application is required.

Power to reduce or waive amounts owed by a person to the legacy scheme

68.—(1) The scheme manager may reduce or waive an amount owed by a person to the legacy scheme under these Regulations.

(2) When, under paragraph (1), reducing (or waiving) an amount owed, the scheme manager must—

- (a) have regard to the particular circumstances of the person;
- (b) apply a presumption in favour of recovering the amount owed by the person unless it is uneconomic to recover it; and
- (c) have regard to whether, instead of or in addition to reducing or waiving the liability, it is appropriate in the reasonable opinion of the scheme manager, to exercise regulation 66.

(3) In paragraph (2)(a), the particular circumstances include those set out in direction 4(3).