
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 246

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

PART 4

Voluntary contributions

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 remedy 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.