
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 246

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

PART 4

Voluntary contributions

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”.