

---

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: pensioner and deceased members of the 2015 scheme**

- 22.**—(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;
    - (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 had become entitled on or after 1 April 2015; or
    - (iii) was deceased; 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, and
  - (b) unless paragraph (3) or (4) applies to or in respect of that member, the scheme manager must pay to the member or, if the member is deceased, the member’s personal representative an amount of compensation determined in accordance with paragraph (9) in respect of any buy-out contributions paid during the remedy period by a member (excluding any employer buy-out contributions).
- (3) This paragraph applies to or in respect of a member if—
- (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 regulation 9;
  - (b) an annual pension to which an actuarial reduction or an actuarial increase was applied under the 2015 Regulations is being paid to the member or, if the member is deceased, was paid to the member before the member’s death; and

- (c) the scheme manager accepts a claim made by a member or designated person in accordance with paragraph (4) for 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).
- (4) This paragraph applies to or in respect of a member where—
  - (a) an immediate choice election has not been accepted by the scheme manager or treated by the scheme manager as having been made in accordance with regulation 9, and
  - (b) the scheme manager accepts a claim made by a member or designated person in accordance with paragraph (5) for 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 Q6 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.8 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.
- (5) For the purposes of paragraph (3)(c), the member or designated person must make the claim—
  - (a) by notice in writing in such form and including such further information as the scheme manager requires;
  - (b) at the same time as an election under regulation 9 is made.
- (6) For the purposes of paragraph (4)(b), the member or designated person must make the claim—
  - (a) by notice in writing, in such form and including such further information as the scheme manager requires;
  - (b) before the end of the immediate choice election period in relation to the member.
- (7) The scheme manager must send a notice in writing to the member or designated person—
  - (a) of the amount of compensation to which the member is entitled under this regulation;
  - (b) if paragraph (3) applies to or in respect of the member, of the member's or designated person's right to make a claim in accordance with paragraph (5); and
  - (c) if paragraph (4) applies to or in respect of the member, of the member's or designated person's right to make a claim in accordance with paragraph (6).
- (8) The scheme manager must send any notice referred to in paragraph (7) to the member or designated person when the scheme manager provides the first remediable service statement in respect of the member under regulation 6 (remediable service statements).
- (9) For the purposes of paragraph (2)(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 paragraphs (5) to (9) and, if relevant, (11) to (12) of direction 5 of the 2022 Directions.