
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 246

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

PART 6

Transfers

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.