
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 246

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

PART 6

Transfers

Transfer value payments made to the 2015 scheme that are not made under public sector transfer arrangements: treatment as transfer payments under the 1995 Section or transfer value payments under the 2008 Section active and deferred members

39.—(1) This regulation applies to a remedy member who has pensionable service in the legacy scheme by virtue of section 2(1) of PSPJOA 2022 and was an active or deferred member of the 2015 scheme on 30 September 2023 in respect of that service where—

- (a) the scheme manager has accepted a transfer value payment in relation to the member that is a non-club transfer⁽¹⁾ for the purposes of 2015 regulation 142;
- (b) in respect of that payment, the member is entitled to an increase in the member's pensionable earnings and has been credited with a period of pensionable service under paragraph (2) of that regulation; and
- (c) the member's 2015 scheme joining date in relation to the transfer value payment falls within the period of that member's remediable service.

(2) Where this regulation applies—

- (a) all the remedy member's rights secured by the transfer value payment mentioned in paragraph (1) are extinguished;
- (b) the scheme manager must treat the payment as if it had been accepted for the purposes of—
 - (i) 2011 regulation N4 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, or
 - (ii) 2013 regulation 2.F.11 or 2013 regulation 3.F.11 (whichever is relevant) 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; and
- (c) in respect of the payment, the member is entitled to count the pensionable service or increase in pensionable earnings set out in paragraph (3) or (4) (whichever is relevant).

(3) If the scheme manager treats the transfer value payment as if it had been accepted for the purposes of 2011 regulation N4, the member is entitled to—

- (a) an additional period of pensionable service calculated in accordance with 2011 regulation N4, or

(1) For the meaning of “non-club transfer”, see the definition of “club transfer” in regulation 131 of the 2015 Regulations.

- (b) count 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).
- (4) If the scheme manager treats the transfer value payment as if it had been accepted for the purposes of the 2013 Regulations, the member is entitled to—
 - (a) an additional period of pensionable service calculated in accordance with paragraphs (1) to (4) of 2013 regulation 2.F.11, or
 - (b) count an increase in the member's pensionable earnings calculated in accordance with paragraphs (1) to (4) of 2013 regulation 3.F.11.
- (5) The scheme manager must send a notification in writing to the remedy member specifying the additional period of pensionable service or increase in pensionable earnings that the member is entitled to count under paragraph (3) or (4) of this regulation.
- (6) The notification must be sent to the remedy member before 1 October 2024 or such earlier date as the scheme manager determines, after having regard to all the circumstances of the case.