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SCOTTISH STATUTORY INSTRUMENTS

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**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: treated as if accepted under the legacy scheme: pensioner and deceased members**

**41.—(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, or
  - (ii) was deceased;
- (c) in respect of whom—
  - (i) an immediate choice election may be made or treated by the scheme manager as having been made in accordance with regulation 9;
  - (ii) the scheme manager has accepted a transfer value payment that is in relation to the member that is a non-club transfer for the purposes of 2015 regulation 142 and, 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
  - (iii) the 2015 scheme joining date in relation to the transfer value payment referred to in paragraph (ii) falls within the period of that member's remediable service.

(2) Where this regulation applies, on the acceptance of an election referred to in paragraph (1)(c) (i) in respect of a member or at the end of the immediate choice election period if no such election is accepted—

- (a) all the remedy member's rights secured by the transfer payment or transfer value payment mentioned in paragraph (1)(c)(ii) 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;

- (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); and
  - (d) paragraph (5) applies if the scheme manager determines that the benefits payable in respect of the member's remediable service are 2015 scheme benefits.
- (3) If the scheme manager treats the transfer payment as if it had been accepted for the purposes of the 2011 regulation N4, in respect of the payment the member is entitled to—
- (a) an additional period of pensionable service calculated in accordance with 2011 regulation N4, or
  - (b) an increase in the member's pensionable earnings in respect of the payment calculated in accordance with paragraph 27 of schedule 1 of the 2011 Regulations.
- (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) Where this paragraph applies (see paragraph (2)(d)), 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 (3) or (4) (whichever is relevant) 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.