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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 11**

**Retirement pensions**

**Premature retirement on grounds of redundancy**

**71.**—(1) This regulation applies in relation to a relevant member (“M”) where M’s employing authority has made or makes a contribution to the scheme manager in accordance with—

- (a) regulation D2 of the 2011 Regulations (contributions and other payments by employing authorities);
- (b) regulation 2.C.6 of the 2013 Regulations (contributions by employing authorities: early retirement on termination of employment); or
- (c) regulation 34 of the 2015 Regulations (employing authority contributions: redundancy).

(2) Paragraphs (3) and (4) apply if the cost of any benefits on termination in respect of M increase as a result of—

- (a) the scheme manager accepting—
  - (i) an immediate choice election made by or in respect of M in accordance with regulation 9, or
  - (ii) a deferred choice election made by or in respect of M in accordance with regulation 12; or
- (b) an election referred to in sub-paragraph (a) not being made by or in respect of M before the end of the immediate choice election period or the end of the deferred choice election period (whichever election period applies in respect of M).

(3) M may pay all or part of the additional contribution as the scheme manager, after having regard to the advice of the scheme actuary, determines will be sufficient to meet the increased cost of the benefits insofar as that cost—

- (a) is not met by the contribution referred to in paragraph (1), and
- (b) exceeds the cost in respect of which M was entitled to make an additional contribution on becoming entitled to any benefits on termination.

(4) If M elects not to pay any additional contribution in accordance with paragraph (3), the scheme manager must reduce the amount of pension pursuant to—

- (a) regulation E7 of the 2011 Regulations;
- (b) regulation 2.D.11 of the 2013 Regulations (early retirement on termination of employment by employing authority); or
- (c) schedule 11 of the 2015 Regulations.

(5) Subject to paragraph (6), if the member is not entitled to make an additional contribution to meet the increase in costs referred to in paragraph (2) and that increase is to be met by M's employing authority in accordance with the terms and conditions relevant to M's employment, the scheme manager must waive the element of the further contribution due from the employing authority that relates to the increase.

(6) Where M has received a relevant employing authority payment and that payment must be reduced as a consequence of the increase in costs referred to in paragraph (2), the amount that must be waived under that paragraph must also be reduced by the same amount.

(7) Paragraph (8) applies if the cost of any benefits on termination in respect of M decrease as a result of—

- (a) the scheme manager accepting—
  - (i) an immediate choice election made by or in respect of M in accordance with regulation 9, or
  - (ii) a deferred choice election made by or in respect of M in accordance with regulation 12; or
- (b) an election referred to in sub-paragraph (a) not being made by or in respect of M before the end of the immediate choice election period or the end of the deferred choice election period (whichever election period applies in respect of M).

(8) The scheme manager must send a notice in writing to M or the designated person of the amount by which the cost of any benefits on termination in respect of M have decreased.

(9) In paragraph (5), the element to be waived does not include any payment received by M under—

- (a) regulation E3A(5)(a) of the 2011 Regulations;
- (b) regulation 2.D.11(6)(a) of the 2013 Regulations; or
- (c) paragraph 7(2)(a) of schedule 11 of the 2015 Regulations.

(10) In this regulation—

“benefits on termination” means benefits under—

- (a) regulations E3A, E6 (lump sum on retirement) and E7 (general option to exchange part of pension for lump sum) of the 2011 Regulations ;
- (b) regulations 2.D.11 (early retirement on termination of employment by employing authority) and 2.D.14 (general option to exchange part of pension for lump sum) of the 2013 Regulations;
- (c) regulations 76 (conversion of part of pension into lump sum) and 80 (premature retirement in the interests of efficiency) of the 2015 Regulations,

“relevant member” means a member

- (a) who—
  - (i) on 30 September 2023—
    - (aa) was a pensioner remedy member, or
    - (bb) was deceased; or
  - (ii) on or after 1 October 2023 was an active, deferred or deceased remedy member; and
- (b) who in respect of the termination of M's employment by M's employing authority is entitled to the payment of any benefits on termination,

“relevant employment authority payment” means a payment made to M by M's employing authority in respect of the cessation of M's employment referred to in (whichever is relevant)—

- (a) regulation E6 of the 2011 Regulations;
- (b) regulation 2.D.11(6)(a) of the 2013 Regulations; or
- (c) paragraph 7(2)(a) of schedule 11 of the 2015 Regulations.