
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 246

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

PART 11

Retirement pensions

Determining whether a member meets the ill-health criteria in each scheme

- 74.**—(1) This regulation applies to a remedy member (“M”)—
- (a) who ceased to be employed in NHS employment during the period of M’s remediable service, and
 - (b) whose application for an ill-health pension in relation to that service (“M’s application”) has been determined by the scheme manager.
- (2) Where this regulation applies, the scheme manager must reconsider M’s application together with any supporting medical evidence to determine whether M would have met the ill-health retirement criteria in M’s alternative scheme or section when the application was initially determined.
- (3) Where M or a designated person on M’s behalf (see regulation 7) has the right to make an immediate choice election under regulation 9—
- (a) the scheme manager must send a notice in writing to M or the designated person of the outcome of the scheme manager’s determination under paragraph (2) before the immediate choice election period commences in respect of M, and
 - (b) if M or the designated person on M’s behalf elects to take an ill-health pension as a result of the scheme manager’s determination under paragraph (2), any rights for M to make that election must be deemed to have been fulfilled.
- (4) Where M or a designated person on M’s behalf (see regulation 7) has the right to make a deferred choice election under regulation 12—
- (a) the scheme manager must send a notice in writing to M or the designated person of the outcome of the scheme manager’s determination under paragraph (2) as soon as reasonably practicable after 1 October 2023, and
 - (b) if M or the designated person on M’s behalf elects to take an ill-health pension as a result of the scheme manager’s determination under paragraph (2), any rights for M to make that election must be deemed to have been fulfilled.
- (5) The provisions of chapter 1 of PSPJOA 2022 and Part 3 of these Regulations about the timing and effect of an immediate choice election by virtue of section 6, and of a deferred choice election by virtue of section 10, of that Act apply subject to this regulation.
- (6) In this regulation—
- “ill-health pension” means a pension under—

- (a) regulation E3 (early retirement on ill health grounds (post 1st April 2008)) of the 2011 Regulations ;
- (b) regulation L1 (treatment of pensionable service of early leavers returning to pensionable employment) of the 2011 Regulations;
- (c) regulation 2.D.8 or regulation 3.D.7 of the 2013 Regulations (early retirement on ill-health: active members and non-contributing members);
- (d) regulation 2.D.10 or regulation 3.D.9 of the 2013 Regulations (early retirement on ill-health: deferred members);
- (e) regulation 89 of the 2015 Regulations (entitlement to ill-health pension); or
- (f) regulation 93 of the 2015 Regulations (early retirement on ill-health (deferred members));

“M’s alternative scheme or section” means—

- (a) where M’s eligibility for ill-health pension was assessed under the 1995 Section or the 2008 Section, the 2015 scheme;
- (b) where M’s eligibility for ill-health pension was assessed under the 2015 scheme, the 1995 Section or the 2008 Section (whichever is relevant);

“NHS employment” has the meaning given in schedule 13 to the 2015 Regulations.