

2023 No. 963

PUBLIC SERVICE PENSIONS

**The Civil Service (Other Crown Servants) Pension Scheme
(Remediable Service) Regulations 2023**

<i>Made</i>	- - - -	<i>4th September 2023</i>
<i>Laid before Parliament</i>		<i>6th September 2023</i>
<i>Coming into force</i>	- -	<i>1st October 2023</i>

The Minister for the Civil Service makes these Regulations in exercise of the powers conferred by sections 1(1) and (2)(a), 2(1) (together with paragraph 1 of Schedule 2) and 3(1) and (2)(a) (as read with paragraph 13 of Schedule 3) and (c) of the Public Service Pensions Act 2013(a) (“the 2013 Act”) and sections 5(1) and (5), 6(1), 7(3), 8(1) and (3), 10(1), 11(1) and (5), 12(1) and (3), 18(1) to (3), (5), (6) and (8), 19(1), (4) and (5), 20(1), (4) and (5), 21, 22(1) and (6), 24(1), 25(1) and (4), 26(1) and (2), 29(1), (7) and (8) and 31(2) and (3) of the Public Service Pensions and Judicial Offices Act 2022(b) (“PSPJOA 2022”).

In accordance with section 3(5) of the 2013 Act, these Regulations are made with the consent of the Treasury.

In accordance with section 21(1) of the 2013 Act, the Minister for the Civil Service has consulted the representatives of such persons as appear to the Minister likely to be affected by these Regulations.

To the extent required by section 27 of PSPJOA 2022, these Regulations are made in accordance with Treasury directions made under that section.

Citation, commencement and extent

1. These Regulations—
- (a) may be cited as the Civil Service (Other Crown Servants) Pension Scheme (Remediable Service) Regulations 2023;
 - (b) come into force on 1st October 2023;
 - (c) extend to England and Wales, Scotland and Northern Ireland.

Interpretation

- 2.—(1) In these Regulations—

(a) 2013 c. 25. Section 3(1) was amended by section 94(2) of PSPJOA 2022, and section 3(2)(c) was inserted by section 94(3) of that Act.
(b) 2022 c. 7.

“PSPJOA 2022” means the Public Service Pensions and Judicial Offices Act 2022;
“the 2016 Regulations” means the Civil Service (Other Crown Servants) Pension Scheme Regulations 2016(a);
“the 2023 Regulations” means the Public Service (Civil Servants and Others) Pensions (Remediable Service) Regulations 2023(b);
“alpha” has the meaning given in regulation 2(1) of the 2023 Regulations;
“OCS legacy schemes” means—
(a) the First Connected Scheme;
(b) the Second Connected Scheme;
(c) the Fourth Connected Scheme, and
in relation to a member, “OCS legacy scheme” means whichever of the OCS legacy schemes is the relevant Chapter 1 legacy scheme(c) for that member;
“OCS reformed scheme” means the scheme established by regulation 3 of the 2016 Regulations;
“OCS scheme” means—
(a) the OCS legacy schemes;
(b) the OCS reformed scheme;
“the PCSPS” has the meaning given in regulation 2(1) of the 2023 Regulations.

(2) In these Regulations, the following terms have the meanings given in regulation 2 of the 2016 Regulations—

the First Connected Scheme;
the Second Connected Scheme;
the Fourth Connected Scheme;
extraordinary members(d);
ordinary members.

(3) For the purposes of these Regulations, a term which is—

- (a) used in the 2023 Regulations, and
- (b) is modified by the 2016 Regulations in relation to the OCS reformed scheme,

has, in relation to the OCS reformed scheme, the meaning given by the 2016 Regulations.

These scheme regulations to be by analogy to the 2023 Regulations

3. Subject to the modifications in regulation 4, the 2023 Regulations (other than regulation 1 of those Regulations) operate—

- (a) in relation to the OCS legacy schemes as they operate in relation to the PCSPS, and
- (b) in relation to the OCS reformed scheme as they operate in relation to alpha.

Modification of the 2023 Regulations insofar as they operate in relation to the OCS schemes

4.—(1) The 2023 Regulations operate in relation to the OCS schemes with the following modifications.

(2) The 2023 Regulations are to be read as if a reference to—

- (a) alpha were a reference to the OCS reformed scheme;

(a) S.I. 2016/326.

(b) S.I. 2023/942.

(c) See section 4 of PSPJOA 2022 for the meaning of “relevant Chapter 1 legacy scheme”.

(d) The definition of “extraordinary member” was amended by S.I. 2022/334.

- (b) alpha benefits were a reference to new scheme(a) benefits under the OCS reformed scheme;
- (c) a civil service scheme were a reference to an OCS scheme;
- (d) the PCSPS (or to a Section of, or to a provision of a Section of, the PCSPS) were—
 - (i) a reference to the OCS legacy schemes (or to the same Section, or to the same provision of a Section, of the OCS legacy schemes), and
 - (ii) in relation to a member, a reference to the OCS legacy scheme (or to the same Section, or to the same provision of a Section, of the OCS legacy scheme) which is the relevant Chapter 1 legacy scheme for that member;
- (e) PCSPS benefits were a reference to benefits under a member’s OCS legacy scheme;
- (f) remediable service were a reference to remediable service (within the meaning of section 1 of the PSPJOA 2022) in an employment or office which is pensionable service under an OCS scheme.

(3) Regulation 8 (immediate choice decision for alpha or PCSPS benefits: general) is to be read as if after paragraph (8) there were inserted—

“(8A) Paragraph (8B) applies where—

- (a) M was, immediately before benefits became payable in relation to M’s remediable service, a member of the Fourth Connected Scheme, and
- (b) a section 6 election is made in relation to M’s remediable service.

(8B) Where, immediately before benefits became payable in relation to M’s remediable service—

- (a) M was under 55, M is to be treated as an ordinary member in relation to their remediable service;
- (b) M was 55 or over, M is to be treated as an extraordinary member in relation to their remediable service.”.

(4) Regulation 16(2) (interpretation of Chapter 1 of Part 4) is to be read as if “2016” were substituted for “2015” in each of the following places—

- (a) sub-paragraph (b) of the definition of “pension credit member”;
- (b) the opening words of the definition of “remediable shareable rights”.

(5) Part 5 (voluntary contributions) applies in relation to an extraordinary member’s remediable service in the Fourth Connected Scheme as if—

- (a) regulation 27(5) and (6) were omitted;
- (b) for regulation 29 (PCSPS added pension: treatment on a section 6 or 10 election) there were substituted—

“Fourth Connected Scheme added pension: treatment on a section 6 or 10 election

29.—(1) This regulation applies where—

- (a) an extraordinary member (“M”) has added pension rights under the Fourth Connected Scheme secured by virtue of voluntary contributions (the “remediable voluntary contributions”) made—
 - (i) pursuant to a periodic arrangement which commenced during the period of M’s remediable service, or
 - (ii) as a lump sum during the period of M’s remediable service, and
- (b) the benefits payable in relation to M’s remediable service are, by virtue of a section 6 election (including a deemed section 6 election) or a section 10 election, new scheme benefits under the OCS reformed scheme.

(a) See section 34 of PSPJOA 2022 for the meaning of “new scheme benefits”.

(2) The rights that would otherwise be secured by virtue of the remediable voluntary contributions are extinguished and the scheme manager owes M or, where M is deceased, M's personal representatives an amount by way of compensation equal to—

- (a) the aggregate of all the remediable voluntary contributions, less
- (b) an amount in respect of the value of tax relief in accordance with direction 5(5) to (9) of the PSP Directions 2022.

(3) Where a determination is made in accordance with direction 5(8) of the PSP Directions 2022, the following apply—

- (a) direction 5(10) (provision of explanation);
- (b) direction 5(11) and (12) (appeals)."

(6) Regulations 27(7) (lump sum purchase of added pension) and 30(9) (treatment of EPA and EEPA rights) are to be read as if, in the definition of "relevant pension year" in each of those provisions, for "5(16)(c)(i)" there were substituted "5(16)(c)(ii)".

(7) Regulation 50(7) is to be read as if for "4(14)(f)(i)" there were substituted "4(14)(f)(ii)".

(8) Part 7 is to be read as if after regulation 58 there were inserted—

"CHAPTER 1A

Transfers into Section III between 1st April 2015 and 31st March 2016

Application and interpretation of Chapter

58A.—(1) This Chapter applies where—

- (a) during the relevant period, a remedy member ("M")—
 - (i) transferred out of alpha, and
 - (ii) transferred into Section III of the First Connected Scheme or the Second Connected Scheme,
- (b) the transfer was effected by means of the acceptance of a transfer value under Part G of Section III of the relevant Connected Scheme in connection with a Club transfer (within the meaning given to that term by rule A.1(4) of Section III of the relevant Connected Scheme), and
- (c) the Section of the PCSPS in which M last accrued pensionable service was Section I or Section II.

(2) In this Chapter—

"alternative Section of the relevant Connected Scheme" means, where the Section of the PCSPS in which M last accrued pensionable service was—

- (a) Section I, Section I of the relevant Connected Scheme;
- (b) Section II, Section II of the relevant Connected Scheme;

"relevant Connected Scheme" means whichever of the First Connected Scheme or the Second Connected Scheme M transferred into from alpha;

"relevant period" means the period beginning on 1st April 2015 and ending at the end of 31st March 2016.

Treatment of M's Section III pensionable service during the relevant period

58B.—(1) Where M's pensionable service during the relevant period would, apart from this regulation, be pensionable service under Section III of the relevant Connected Scheme, the pensionable service—

- (a) is not, and is treated as never having been, pensionable service under Section III of the relevant Connected Scheme, and

- (b) is treated as being, and as always having been, pensionable service under the alternative Section of the relevant Connected Scheme.
- (2) Paragraph (1) has effect for the purposes of determining—
- (a) under which Section of an OCS legacy scheme benefits are (or at any time were) payable to or in respect of M;
 - (b) the amount of any benefits that are (or at any time were) payable under a Section of an OCS legacy scheme to or in respect of M.

Periodic arrangements for added pension

58C.—(1) This regulation applies in relation to a periodic arrangement (a “remediable periodic arrangement”) which—

- (a) was entered into by M under rule D.4 of Section III of the relevant Connected Scheme, and
- (b) commenced during the relevant period.

(2) The remediable periodic arrangement is to be treated on and after 1st October 2023 as if it is (and always was) a periodic arrangement under the equivalent provision of the alternative Section of the relevant Connected Scheme.

(3) The scheme manager must, having consulted the scheme actuary, vary the added pension rights secured by virtue of the remediable periodic arrangement so that they are equivalent to added pension rights that would have been secured by virtue of a periodic arrangement which—

- (a) was entered into under the equivalent provision of the alternative Section of the relevant Connected Scheme, and
- (b) commenced during the relevant period.

(4) In this regulation—

“equivalent provision” means, where the alternative Section of the relevant Connected Scheme is—

- (a) Section I, rule C1.1 of that Section;
- (b) Section II, rule 14.2 of that Section;

“periodic arrangement” means an arrangement under which M secures added pension rights by virtue of periodic voluntary contributions.

Lump sum purchase of added pension

58D.—(1) This regulation applies in relation to added pension rights (the “remediable added pension rights”) secured by a lump sum voluntary contribution made by M—

- (a) under rule D.5 of Section III of the relevant Connected Scheme, and
- (b) during the relevant period.

(2) The scheme manager must, having consulted the scheme actuary, vary the remediable added pension rights so that they are equivalent to added pension rights that would have been secured under the equivalent provision of the alternative Section of the relevant Connected Scheme if the lump sum voluntary contribution had been paid in accordance with that provision during the relevant period.

(3) In paragraph (2), “equivalent provision” means, where the alternative Section of the relevant Connected Scheme is—

- (a) Section I, rule C1.2 of that Section;
- (b) Section II, rule 14.3 of that Section.

Benefits already paid in relation to pensionable service or added pension rights

58E.—(1) Paragraph (3) applies in relation to any benefits that Section III of the relevant Connected Scheme has paid at any time to a person (“P”) so far as—

- (a) they are calculated by reference to pensionable service during the relevant period, and
- (b) they are benefits that, as a result of regulation 58B(1)(a), P was not entitled to receive.

(2) Paragraph (3) also applies in relation to any benefits that Section III of the relevant Connected Scheme has paid at any time to a person (“P”) so far as—

- (a) they are calculated by reference to remediable added pension rights, and
- (b) they are benefits which have been varied in accordance with regulation 58C(3) or 58D(2).

(3) The benefits mentioned in paragraphs (1) and (2) are to be treated for all purposes—

- (a) as not having been paid to P by Section III of the relevant Connected Scheme, but
- (b) as having been paid to P instead by the alternative Section of the relevant Connected Scheme.

(4) Where—

- (a) the aggregate of benefits that (after taking into account the effect of regulation 58B(1)(b), 58C(3) and 58D(2)) have been paid under the relevant Connected Scheme to any person (“the beneficiary”) in respect of M’s—
 - (i) pensionable service during the relevant period, and
 - (ii) remediable added pension rights, exceeds,
- (b) the aggregate of benefits to which (after taking into account the effect of regulations 58B(1)(b), 58C(3) and 58D(2)) the beneficiary is entitled under the relevant Connected Scheme in respect of the rights,

the beneficiary must pay an amount equal to the difference to the scheme.

(5) Where—

- (a) the amount mentioned in paragraph (4)(a), is less than
- (b) the amount mentioned in paragraph (4)(b),

the scheme manager must pay an amount equal to the difference to the beneficiary.

(6) In this regulation, “remediable added pension rights” means—

- (a) rights secured by virtue of a periodic arrangement to which regulation 58C applies, or
- (b) added pension rights to which regulation 58D applies.”.

(9) Regulation 61(1)(b) (aggregation of PCSPS membership) is to be read as if for “2015” there were substituted “2016”.

1st September 2023

We consent

4th September 2023

Alex Burghart
Minister for the Cabinet Office
Cabinet Office

Steve Double
Andrew Stephenson
Two of the Lords Commissioners of His Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Public Service Pensions Act 2013 (c. 25) (“PSPA 2013”) makes provision, and confers powers to make further provision (in the form of “scheme regulations” as defined in section 1 of PSPA 2013), about the establishment of public service pension schemes. The Civil Service (Other Crown Servants) Pension Scheme Regulations 2016 (S.I. 2016/326) (“the 2016 Regulations”) establishes a scheme by analogy to the Public Service (Civil Servants and Others) Pensions Regulations 2014 (S.I. 2014/1964) (“the 2014 Regulations”) with some modifications. The 2014 Regulations provided for transitional protection for certain cohorts of members of predecessor schemes, and this transitional protection was mirrored in the by-analogy scheme established by the 2016 Regulations. The transitional protection was subsequently found to unlawfully discriminate between pension scheme members on the basis of age.

The Public Service Pensions and Judicial Offices Act 2022 (c. 7) (“PSPJOA 2022”), at Chapter 1, makes provision, and confers powers for scheme regulations under PSPA 2013 to make further provision, in relation to “remediable service” (as defined in section 1 of PSPJOA 2022) of members who benefitted from transitional protection, and of members who did not benefit from transitional protection only by reason of their age.

These Regulations are scheme regulations under PSPA 2013 and in accordance with PSPJOA 2022. These Regulations have retrospective effect, which is authorised by section 3(3)(b) of PSPA 2013.

Regulation 3 provides for these Regulations to operate by analogy to the Public Service (Civil Servants and Others) Pensions (Remediable Service) Regulations 2023 (S.I. 2023/942) (“the 2023 Regulations”).

Regulation 4 modifies the 2023 Regulations to secure that they operate properly in relation to the scheme established by the 2016 Regulations and its predecessor schemes.

An impact assessment has not been completed for these Regulations. An Explanatory Memorandum has been published alongside these Regulations on <http://www.legislation.gov.uk>.

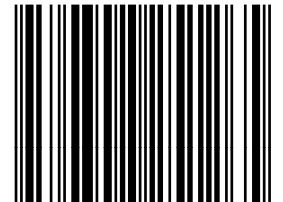
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