

This Statutory Instrument has been printed to correct errors in S.I. 2023/831 and 2023/843 and is being issued free of charge to all known recipients of those Statutory Instruments.

STATUTORY INSTRUMENTS

2024 No. 59

PUBLIC SERVICE PENSIONS, ENGLAND AND WALES

**The Police and Firefighters' Pensions (Remediable Service)
(Amendment) Regulations 2024**

<i>Made</i>	- - - -	<i>17th January 2024</i>
<i>Laid before Parliament</i>		<i>18th January 2024</i>
<i>Coming into force</i>	- -	<i>9th February 2024</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 1(1) and (2)(f) and (g), 2(1) (together with paragraphs 6(a) and 7(a) of Schedule 2) and 3(1), (2)(a) (together with paragraph 13 of Schedule 3) and (c) and (3) of the Public Service Pensions Act 2013^(a) and sections 5(1) and (5), 6(1), 7(3), 10(1), 11(5), 18(2), (3), (5) and (6), 19(1), (4) and (5), 21, 22(1) and (6), 24(1), 26(1) and (2), of the Public Service Pensions and Judicial Offices Act 2022^(b).

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

In accordance with section 21(1) of that Act, the Secretary of State has consulted the representatives of such persons as appear to the Secretary of State likely to be affected by these Regulations.

To the extent required by section 27 of the Public Service Pensions and Judicial Offices Act 2022, these Regulations are made in accordance with Treasury directions made under that section.

Citation and commencement

1.—(1) These Regulations may be cited as the Police and Firefighters' Pensions (Remediable Service) (Amendment) Regulations 2024.

(2) These Regulations come into force on 9th February 2024.

(a) 2013 c. 25. Section 3(1) was amended by section 94(2) of the Public Service Pensions and Judicial Offices Act 2022 (c. 7), and section 3(2)(c) was inserted by section 94(3) of that Act.
(b) 2022 c. 7.

Amendment of the Police Pensions (Remediable Service) Regulations 2023

2.—(1) The Police Pensions (Remediable Service) Regulations 2023^(a) are amended in accordance with this regulation.

(2) In regulation 12 (deferred choice decision for reformed scheme or legacy scheme benefits: general), in paragraph (7)(b), for “take” substitute “takes”.

(3) In regulation 17 (application and interpretation of Chapter 1), in paragraph (2)—

- (a) omit the definition of “appropriate person”;
- (b) in the definition of “remediable shareable rights”, for “transfer date” substitute “transfer day”.

(4) After regulation 43 (variation of the club transfer application period), insert—

“Chapter 3A

Transfers on a non-club basis

Non-club transfers in

43A.—(1) This regulation applies in relation to a remedy member (“M”) to whom—

- (a) regulation F6 of the 1987 Regulations (previous service reckonable under current interchange arrangements)^(b) would have applied, had M been a member of the 1987 Scheme during the remedy period, or
- (b) regulation 15 of the 2006 Regulations (service reckonable by reason of transfer value)^(c) would have applied, had M been a member of the 2006 Scheme during the remedy period.

(2) A scheme manager may decide to accept, in respect of M’s former service, a transfer value in accordance with, as the case may be—

- (a) regulation F6 of the 1987 Regulations, or
- (b) regulation 15 of the 2006 Regulations.

(3) A decision under paragraph (2) may only be made—

- (a) if the scheme manager is satisfied that it is more likely than not that, but for a relevant breach of the non-discrimination rule, the same or a similar decision would, during the period of M’s remediable police service, have been made by the scheme manager,
- (b) before—
 - (i) the end of the period of one year beginning with the day on which a remediable service statement is first provided in respect of M, or
 - (ii) such later time as the scheme manager considers reasonable in all the circumstances, and
- (c) after an application in accordance with paragraph (4) is approved by the scheme manager.

(4) An application is made in accordance with this paragraph where—

- (a) it is in writing in a form and manner determined by the scheme manager,
- (b) it is accompanied by any information the scheme manager reasonably requires to be provided for the purposes of—
 - (i) making a decision under paragraph (2);

^(a) S.I. 2023/831.

^(b) S.I. 1987/257. Regulation F6 was amended, in relation to England and Wales, by S.I. 1990/805, 2004/1760, 2010/431 and 2011/3063.

^(c) S.I. 2006/3415. Regulation 15 was amended by S.I. 2011/3063.

- (ii) determining the matters mentioned in paragraph (3)(a), and
- (c) it is received by the scheme manager—
 - (i) before the end of the period of six months beginning with the later of—
 - (aa) the day on which a remediable service statement is first provided in respect of M;
 - (bb) the day on which this regulation comes into force, or
 - (ii) such later time as the scheme manager considers reasonable in all the circumstances.”.

(5) In regulation 52 (determining the value of M’s remediable ill-health benefits), omit “and having consulted the scheme actuary”.

(6) In regulation 55 (elections for non-pensionable payment instead of temporary pay)—

- (a) in paragraph (4)(b)(ii), after “regulation (4)(2)(a)”, insert “or (c)”;
- (b) in paragraph (5)(a) omit “, having consulted the scheme actuary,”.

(7) In regulation 59 (indirect compensation), in paragraph (2), after “section” insert “23”.

(8) In regulation 60 (applications for compensation or indirect compensation), in paragraph (2)(b), for “require” substitute “requires”.

(9) In regulation 61 (netting off), in paragraph (3)(a), for “(provision of information)” substitute “(provision of explanation)”.

(10) In the shoulder reference to the Schedule (eligible decision-makers for deceased members), for “4(1)” substitute “4(3)”.

Amendment of the Firefighters’ Pensions (Remediable Service) Regulations 2023

3.—(1) The Firefighters’ Pensions (Remediable Service) Regulations 2023(a) are amended in accordance with this regulation.

(2) In regulation 2 (interpretation), in paragraph (1), in the definition of “eligible child”, for “2015 Scheme” substitute “reformed scheme”.

(3) In regulation 12 (deferred choice decision for reformed scheme or legacy scheme benefits: general), in paragraph (7)(b), for “take” substitute “takes”.

(4) In regulation 17 (application and interpretation of Chapter 1), in paragraph (2)—

- (a) omit the definition of “appropriate person”;
- (b) in the definition of “remediable shareable rights”, for “transfer date” substitute “transfer day”.

(5) In regulation 49 (application and interpretation of Chapter 1)—

- (a) in the heading, omit “Application and”;
- (b) in the definition of “ill-health benefits”, for the words “payable by virtue of an entitlement mentioned in paragraph (1)” substitute “to which a 1992 IHR member, a 2006 IHR member or a 2014 IHR member is entitled”.

(6) After regulation 51 (entitlement to ill-health benefits where a remedy member’s legacy scheme is the 1992 scheme), insert—

“Entitlement to ill-health benefits where a remedy member’s legacy scheme is the 2006 scheme

51A.—(1) Paragraph (2) applies where a 2006 IHR member (“M”) is—

- (a) a special member, and

(a) S.I. 2023/843.

- (b) either—
 - (i) a full protection member, or
 - (ii) a tapered protection member whose entitlement to an ill-health award was assessed before the transition date^(a).
- (2) The scheme manager must obtain the opinion of an IQMP on the following questions—
 - (a) where it was determined that M was entitled to a lower tier award, whether M would, at the time of the original decision, have met the criteria to be entitled to a lower tier award under the reformed scheme;
 - (b) where it was determined that M was entitled to a lower tier and to a higher tier award—
 - (i) whether M would, at the time of the original decision, have met the criteria to be entitled to a lower tier award under the reformed scheme, and
 - (ii) whether M would, at the time of the original decision, have met the criteria to be entitled to a higher tier award under the reformed scheme.
- (3) Paragraph (4) applies where—
 - (a) a remedy member (“M”) is—
 - (i) a special member of the 2006 scheme, and
 - (ii) a transition member^(b);
 - (b) M’s entitlement to an ill-health award was assessed under regulation 65 of the 2014 Regulations, and
 - (c) it was determined in accordance with that regulation that—
 - (i) M was not entitled to either a lower tier or a higher tier award, or
 - (ii) M was entitled to a lower tier award.
- (4) The scheme manager must obtain the opinion of an IQMP on the following questions—
 - (a) where it was determined that M was not entitled to either a lower tier or a higher tier award—
 - (i) whether M would, at the time of the original decision, have met the criteria to be entitled to a lower tier award under rule 2 of Part 3 of Schedule 1 to the 2006 scheme, and
 - (ii) whether M would, at the time of the original decision, have met the criteria to be entitled to a higher tier award under rule 2 of Part 3 of Schedule 1 to the 2006 scheme;
 - (b) where it was determined that M was entitled to a lower tier award, whether M would, at the time of the original decision, have met the criteria to be entitled to a higher tier award under rule 2 of Part 3 of Schedule 1 to the 2006 scheme.
- (5) An IQMP who is to provide an opinion on a question in accordance with this regulation must—
 - (a) examine or interview M if the IQMP thinks it is necessary to provide an opinion on the question, and
 - (b) give the scheme manager and M a written opinion containing a decision on the question.

(a) “Special member”, “full protection member”, “tapered protection member” and “transition date” are defined in paragraph 2 of Part 1 of Schedule 1 to S.I. 2006/3432.

(b) “Transition member” is defined in paragraph 2 of Part 1 of Schedule 1 to S.I. 2006/3432.

(6) For the purpose of providing an opinion in accordance with this regulation and subject to paragraph (5)(a), the IQMP may only have regard to information that was available or could have been produced at the time of the original decision.

(7) The scheme manager must determine whether M is entitled to an ill-health award, and the provisions of Part 12 of the 2014 Regulations apply to—

- (a) a determination under this paragraph as if it were a determination under regulation 151, and
- (b) an opinion of the IQMP obtained under this regulation as if it were an opinion of the IQMP obtained in accordance with that Part.

(8) Where it is determined that M is entitled to an ill-health award M is to be treated for the purposes of PSPJOA 2022 and of these Regulations as being entitled to that ill-health award from the time of the original decision.

(9) In this regulation, “original decision” means—

- (a) for the purposes of paragraphs (1) and (2), the decision under rule 2 of Part 3 of Schedule 1 to the 2006 Regulations by virtue of which M became entitled to an ill-health award under the 2006 scheme;
- (b) for the purposes of paragraphs (3) and (4), the decision under Chapter 4 of Part 5 of the 2014 Regulations by virtue of which—
 - (i) M became entitled to an ill-health award under the reformed scheme, or
 - (ii) it was determined that M was not entitled to a lower tier or a higher tier award under the reformed scheme.”.

(7) In regulation 59 (indirect compensation), in paragraph (2), after “section” insert “23”.

(8) In regulation 60 (applications for compensation or indirect compensation), in paragraph (2)(b), for “require” substitute “requires”.

(9) In regulation 61 (netting off), in paragraph (3)(a), for “(provision of information)” substitute “(provision of explanation)”.

(10) In regulation 62 (requirement to reduce liabilities by tax relief amounts), in paragraph (1), for “nder” substitute “, under”.

(11) In regulation 66 (payment of amounts owed to the scheme manager), in paragraphs (5)(c) and (6)(b)(ii), for “remediable police service” substitute “remediable service as a firefighter”.

(12) In the Schedule (eligible decision-makers for deceased members), in paragraph 1(2)(c), for “remediable police service” substitute “remediable service as a firefighter”.

We consent

17th January 2024

Scott Mann
Joy Morrissey
Two of the Lords Commissioners of His Majesty’s Treasury

17th January 2024

Chris Philp
Minister of State
Home Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Police Pensions (Remediable Service) Regulations 2023 (S.I. 2023/831) and the Firefighters' Pensions (Remediable Service) Regulations 2023 (S.I. 2023/843) (together "the Remediable Service Regulations").

The Remediable Service Regulations make provision, further to that in the Public Service Pensions and Judicial Offices Act 2022 (c. 7) ("PSPJOA 2022"), to remedy the unlawful discrimination on the basis of age that was found to result from the transitional protections afforded to certain cohorts of members of legacy pension schemes (the schemes established by the Police Pensions Regulations 1987 (S.I. 1987/257), the Police Pensions Regulations 2006 (S.I. 2006/3415), the Firemen's Pension Scheme Order 1992 (S.I. 1992/129) and the Firefighters' Pension Scheme (England) Order 2006 (S.I. 2006/3432)).

These Regulations correct minor errors in the Remediable Service Regulations and make additional provision that was omitted from those Regulations.

Regulation 2 amends the Police Pensions (Remediable Service) Regulations 2023. Regulation 2(4) makes new provision for a member who would have been able to transfer in service to the scheme established by the Police Pensions Regulations 1987 or the Police Pensions Regulations 2006 during the relevant period. Such service may now be transferred in, provided certain conditions are met.

Regulation 3 amends the Firefighters' Pensions (Remediable Service) Regulations 2023. Regulation 3(3) makes new provision for the re-assessment of entitlement to ill-health benefits for certain members with remediable service.

These Regulations are scheme regulations under the Public Service Pensions Act 2013 (c. 25) and in accordance with PSPJOA 2022 in relation to a member's remediable service in a police or firefighters' pension scheme. They are, to the extent required by section 27 of PSPJOA 2022, made in accordance with Treasury directions under that section (in the form of the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022). These Regulations have retrospective effect, which is authorised by section 3(3)(b) of the Public Service Pensions Act 2013.

An impact assessment has not been completed for these Regulations as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

© Crown copyright 2024

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of His Majesty's Stationery Office and King's Printer of Acts of Parliament.

£8.14

<http://www.legislation.gov.uk/id/uksi/2024/59>

ISBN 978-0-34-825649-9



9 780348 256499