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WELSH STATUTORY INSTRUMENTS

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**2023 No. 961**

**The Firefighters' Pensions (Remediable Service) (Wales) Regulations 2023**

**PART 6**

**Transfers**

**CHAPTER 2**

**Transfers on a cash equivalent basis**

*SECTION 1*

*Transfers before 1 October 2023*

**Transfers out before 1 October 2023**

**36.**—(1) This regulation applies in relation to a member (“M”) in respect of whom the scheme manager paid a remediable transfer value before 1 October 2023.

(2) The scheme manager, having consulted the scheme actuary, must calculate the transfer value of M’s remediable rights as if they were secured in—

- (a) M’s legacy scheme;
- (b) the 2015 scheme.

(3) The scheme manager must notify the receiving scheme of the results of the calculation mentioned in paragraph (2).

(4) Where—

- (a) the greater of the amounts calculated under paragraph (2) (“*x*”) is greater than
- (b) the amount of the remediable transfer value (“*y*”),

the scheme manager must take reasonable steps to pay the receiving scheme an amount (“the remediable amount”) equal to  $x - y$ .

(5) A payment under paragraph (4) is subject to the same conditions as the remediable transfer value.

(6) Where—

- (a) paragraph (4) applies, and
- (b) the scheme manager, having taken reasonable steps, is unable to make the payment required by that paragraph,

the scheme manager owes M or, where M is deceased, M’s personal representatives an amount by way of compensation equal to  $x - y$  (“the compensatable amount”) reduced in accordance with paragraph (7).

(7) Where, if the compensatable amount was paid immediately after the requirement to pay it arose, the payment—

- (a) would be a payment described in regulation 6 of the Registered Pension Schemes (Authorised Payments) Regulations 2009(1) (“the 2009 Regulations”) as if regulation 6(1)(a) of those Regulations were omitted, the compensatable amount is to be reduced by the amount equal to the income tax that would be chargeable on it as if regulation 3(b) of the 2009 Regulations applied to it;
- (b) would not be a payment so described, the compensatable amount is to be reduced by an amount equal to the income tax that would be charged on the amount at M’s marginal rate under the Income Tax Acts.

(8) In this regulation—

- (a) “the Income Tax Acts” means all enactments relating to income tax, including any provisions of the Corporation Tax Acts which relate to income tax, and
- (b) “the Corporation Tax Acts” means the enactments relating to the taxation of the income and chargeable gains of companies and of company distributions (including provisions relating to income tax).

### **Transfers in before 1 October 2023**

**37.**—(1) This regulation applies in relation to each payment of a remediable transfer value in respect of a member (“M”) which was accepted by the scheme manager before 1 October 2023.

(2) The scheme manager, having consulted the scheme actuary, must determine M’s—

- (a) overall rights in relation to the remediable transfer value in the legacy scheme;
- (b) benefits if the remediable transfer value, together with any payment accepted under paragraph (3), were applied in respect of rights in the 2015 scheme.

(3) Where the sending scheme was a public service pension scheme, the scheme manager may accept a payment—

- (a) in respect of the remediable rights to which the remediable transfer value relates, and
- (b) which is made by the sending scheme pursuant to, or to provision made under, the PSPJOA 2022.

(4) A payment accepted under paragraph (3) is to be used for the purpose of determining M’s benefits under a firefighters’ pension scheme on the same terms as the remediable transfer value.

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(1) [S.I. 2009/1171](#). Regulation 6 was amended by section 42(6)(a) of the Finance Act 2014 (c. 26).