
WELSH STATUTORY INSTRUMENTS

2023 No. 961

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

PART 9

Liabilities and payment

CHAPTER 1

Application of Part 9

Application of Part 9

58. This Part applies in relation to a relevant amount⁽¹⁾ owed in respect of the remediable service of a remedy member.

CHAPTER 2

Interest, compensation and netting off

Interest

59.—(1) The scheme manager must calculate interest on a relevant amount described in direction 15 of the PSP Directions 2022 in accordance with the provisions of directions 14 and 15 which apply to that description of relevant amount.

(2) In relation to a relevant amount not described in direction 15 of the PSP Directions 2022, the scheme manager must determine whether interest is paid and, if so, what rate of interest applies and how it is calculated.

(3) The following provisions of the PSP Directions 2022 apply to a determination under paragraph (2) as if it were a determination under direction 16(1) of those Directions—

- (a) direction 16(2) (provision of explanation);
- (b) direction 16(3) and (4) (appeals).

Indirect compensation

60.—(1) This regulation applies where, pursuant to an application under regulation 61, the scheme manager determines that an immediate choice member (“M”) has incurred a compensatable loss⁽²⁾ that is a Part 4 tax loss⁽³⁾ (a “relevant loss”).

(2) M is not to be paid an amount under section 23 of the PSPJOA 2022 by way of compensation in respect of the relevant loss.

⁽¹⁾ See section 26(3) of the PSPJOA 2022 for the meaning of “relevant amounts”.

⁽²⁾ See section 23 of the PSPJOA 2022 and direction 11 of the PSP Directions 2022 for the meaning of “compensatable loss”.

⁽³⁾ See section 23(9) of the PSPJOA 2022 for the meaning of “Part 4 tax loss”.

(3) Instead, the amount of benefit payable under a firefighters' pension scheme is to be increased to reflect the amount of the relevant loss in such a manner as determined by the scheme manager in accordance with direction 10(2) to (4) of the PSP Directions 2022.

Applications for compensation or indirect compensation

61.—(1) This regulation applies in relation to—

- (a) the payment of a relevant amount by way of compensation under section 23(1) of the PSPJOA 2022;
- (b) the increase of benefits by way of indirect compensation under regulation 60.

(2) The relevant amount is not payable, or (as the case may be) the benefits are not to be increased, except where—

- (a) an application is made in accordance with direction 18(1) and (2) of the PSP Directions 2022;
- (b) the application is accompanied by such information that the scheme manager by written notice requires the person making the application (“P”) to provide in relation to the proposed compensation which is—
 - (i) information within P’s possession, or
 - (ii) information which P may reasonably be expected to obtain, and
- (c) the scheme manager makes a determination in accordance with direction 18(3) of those Directions.

(3) The following apply in relation to a determination under direction 18(3) of the PSP Directions 2022—

- (a) direction 18(4) (provision of explanation);
- (b) direction 18(5) and (6) (appeals).

Netting off

62.—(1) This regulation applies where—

- (a) relevant amounts owed by or to a person (“P”) fall to be paid at the same time or similar times, and
- (b) the scheme manager has—
 - (i) determined the interest (if any) that is to be paid on the relevant amounts in accordance with regulation 59, and
 - (ii) reduced the relevant amounts by tax relief amounts in accordance with regulation 63.

(2) The scheme manager may determine, in accordance with direction 19(2) to (5) of the PSP Directions 2022, that the relevant amounts (and any interest on them) must be aggregated and that the difference must be paid by P to the scheme or (as the case may be) by the scheme to P.

(3) The following provisions of the PSP Directions 2022 apply in relation to a determination under paragraph (2) as if it were a determination under direction 19(1) of those Directions—

- (a) direction 19(6) (provision of explanation);
- (b) direction 19(7) and (8) (appeals).

CHAPTER 3

Reduction and waiver of liabilities

Requirement to reduce liabilities by tax relief amounts

63.—(1) This regulation applies where—

- (a) a person owes a liability to pay pension contributions in relation to the remediable service of a remedy member, or
- (b) the scheme manager owes a liability to pay compensation in relation to such service,

under section 15, 16 or 17 of the PSPJOA 2022.

(2) The scheme manager must reduce the liability by tax relief amounts~~(4)~~—

- (a) determined in accordance with direction 4(5) to (9) of the PSP Directions 2022, and
- (b) before the liability is netted off in accordance with regulation 62.

(3) Where the scheme manager makes a determination under direction 4(8) of the PSP Directions 2022 pursuant to paragraph (2)(a) of this regulation, the following apply in relation to that determination—

- (a) direction 4(10) (provision of explanation);
- (b) direction 4(11) and (12) (appeals).

Waiver of amounts owed by a relevant survivor to the scheme manager

64.—(1) The scheme manager must waive an amount owed by a relevant survivor to the scheme under—

- (a) section 14 of the PSPJOA 2022, or
- (b) these Regulations.

(2) A “relevant survivor” for the purposes of paragraph (1) is any person, other than a person (“D”) specified in regulation 10(2)(b) and 14(2)(b) (eligible decision-makers in respect of a deceased member’s remediable service), who becomes liable to pay an amount to the scheme as a result of—

- (a) a decision made by D in accordance with—
 - (i) regulation 10(2)(b) (immediate choice decision for 2015 scheme or legacy scheme benefits),
 - (ii) regulation 14(2)(b) (deferred choice decision for 2015 scheme or legacy scheme benefits: general),
- (b) a deemed election in accordance with—
 - (i) regulation 12(3) (immediate choice decision: deemed election), or
 - (ii) regulation 18(3) (deferred choice decision: deemed election).

Waiver of amounts owed by a relevant separated person to the scheme manager

65.—(1) The scheme manager must waive an amount owed by a relevant separated person to the scheme under—

- (a) section 14 of the PSPJOA 2022, or
- (b) these Regulations,

(4) See section 18(4) of the PSPJOA 2022 for the meaning of “tax relief amounts” for the purposes of a liability mentioned in regulation 53(1)(a), and section 18(7) of that Act for the meaning of that term for the purposes of a liability mentioned in regulation 53(1)(b).

where the amount is related to an arrangement on divorce, annulment or dissolution other than a pension sharing order.

- (2) A “relevant separated person” is a person—
 - (a) who is subject to an arrangement on divorce, annulment or dissolution other than a pension sharing order, and
 - (b) whose liability for an amount mentioned under paragraph (1) relates to another person’s remediable service.
- (3) A “pension sharing order” has the same meaning as in Part 4 of these Regulations.
- (4) “Remediable service”, for the purposes of paragraph (2)(b) does not include remediable service which is mixed service within the meaning of section 19 of the PSPJOA 2022.

Power to reduce or waive amounts owed by a personal representative to the scheme manager

- 66.**—(1) The scheme manager may reduce or waive an amount owed by a personal representative of a deceased remedy member to the scheme under—
- (a) section 15 of the PSPJOA 2022, or
 - (b) these Regulations.

(2) When reducing or waiving an amount under paragraph (1), the scheme manager must comply with the requirements set out in direction 4(1)(a) to (c) of the PSP Directions 2022 (and the reference in direction 4(1)(c) to “any scheme regulations made by virtue of section 26(1)(b) of the PSPJOA 2022” is to be read as a reference to regulation 71).

Agreement to waive a liability owed by the scheme manager in respect of an immediate correction

- 67.**—(1) This regulation applies where the scheme manager owes a liability to pay compensation to a person (“P”) under section 16(3) of the PSPJOA 2022.
- (2) The scheme manager must inform P, by notice in writing—
 - (a) of P’s entitlement under section 16(3) of the PSPJOA 2022,
 - (b) that if, in due course, P makes a section 10 election for 2015 scheme benefits, P will be liable to repay a sum equivalent to that which was received as compensation pursuant to section 16(3) of the PSPJOA 2022, with interest calculated in accordance with this Part, and
 - (c) that P can agree with the scheme manager to waive the scheme manager’s liability.
 - (3) The scheme manager must agree to waive the liability if—
 - (a) P makes a written request to the scheme manager to waive the liability, and
 - (b) such request is made within 12 months of issuing a notice under paragraph (2).
 - (4) Such an agreement—
 - (a) must be made in writing, and
 - (b) may be rescinded with the agreement of the scheme manager and P.
 - (5) If no agreement is made under paragraph (4), P’s entitlement to waive the liability lapses.
 - (6) An agreement under paragraph (4) is rescinded or otherwise ceases to apply where—
 - (a) the end of the section 10 election period in relation to P has passed, and
 - (b) no deferred choice election is made, or deemed to have been made, in relation to P’s remediable service.

(7) Where no agreement is made in accordance with paragraph (4) or an agreement is rescinded or otherwise ceases to apply, the scheme manager owes P the liability mentioned in paragraph (1).

CHAPTER 4

Payment of net liabilities

Application and interpretation of Chapter 4

68. This Chapter applies in respect of a relevant amount (together with any interest on that relevant amount) owed after taking into account the effect, if any, of regulations 59 to 67 (“a net liability”).

Payment of amounts owed to the scheme manager

69.—(1) This regulation applies where a person (“P”) owes a net liability to the scheme manager.

(2) The scheme manager must send notice in writing to P setting out—

- (a) how the net liability has been calculated,
- (b) an explanation of the circumstances in which the net liability may be reduced or waived under regulations 64 to 66,
- (c) where the net liability is calculated by reference to an amount by way of compensation under section 16(3) of the PSPJOA 2022, an explanation of the agreement that may be made under regulation 67,
- (d) when and how the net liability must be paid, and
- (e) the consequences of not paying the net liability.

(3) Where—

- (a) the scheme manager has sent a notice under paragraph (2), and
- (b) the amount of the net liability is subsequently adjusted,

the scheme manager must send another notice in writing to P under paragraph (2).

(4) P must pay the amount of the net liability to the scheme manager—

- (a) where the net liability relates to the remediable service of—
 - (i) an immediate choice member, before the end of the period of 6 months beginning with the day after the day on which P receives the most recent notice under paragraph (2);
 - (ii) a deferred choice member, before the day on which benefits become payable in relation to the member’s remediable service, or
- (b) in accordance with an agreement under paragraph (5), and within a period of 10 years beginning on the date of such an agreement.

(5) P and the scheme manager may agree that the net liability is to be paid in part or in full by way of—

- (a) a lump sum, or
- (b) where the net liability is £100 or more, instalments.

(6) If, during the period of an agreement under paragraph (4), P—

- (a) retires on any grounds, or
- (b) dies,

the balance owing under the agreement may be paid by way of deductions from any benefits (including a lump sum benefit) to which P is entitled under a firefighters’ pension scheme.

(7) Where P does not pay any amount that falls due by virtue of paragraph (4) or an agreement under paragraph (5), the scheme manager may deduct such sums from benefits payable to P under a firefighters' pension scheme as seem reasonable to the scheme manager for the purpose of discharging P's liability.

Payments of amounts owed to a person

70.—(1) This regulation applies where the scheme manager owes a net liability to a person ("P").

(2) The scheme manager must pay the amount of the net liability to P—

- (a) as soon as reasonably practicable after the scheme manager determines the amount of the net liability, or
- (b) where the scheme manager requires P to provide information in accordance with paragraph (3), as soon as reasonably practicable after receipt of that information.

(3) Before paying the amount of a net liability owed to P, the scheme manager may, by written notice given as soon as reasonably practicable after the scheme manager determines the amount of the net liability, require P to provide information in relation to the payment of the net liability which is—

- (a) information within P's possession, or
- (b) information which P may be reasonably expected to obtain.