
WELSH STATUTORY INSTRUMENTS

2023 No. 961

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

PART 3

Decisions in relation to remediable service

CHAPTER 3

Deferred choice decision for 2015 scheme or legacy scheme benefits

Deferred choice decision for 2015 scheme or legacy scheme benefits: general

14.—(1) A decision (a “deferred choice decision”) may be made in accordance with this Chapter—

- (a) to make an election (a “section 10 election”) by virtue of section 10 of the PSPJOA 2022 in relation to M’s remediable service, or
- (b) that no section 10 election is to be made in relation to that service.

(2) A deferred choice decision may be made—

- (a) by M, or
- (b) where M is deceased, by the eligible decision-maker determined in accordance with the Schedule.

(3) Where the scheme manager is the eligible decision-maker, they must make an election for 2015 scheme benefits in relation to M’s remediable service, as soon as reasonably practicable.

(4) A deferred choice decision is made when it is communicated in writing to, and received by, the scheme manager.

(5) A deferred choice decision may only be made before the end of the section 10 election period.

(6) A deferred choice decision to make a section 10 election takes effect as a section 10 election (see sections 10(4) and (5), 11(3)(b) and (4) and (7) and 13 of the PSPJOA 2022 about the effect of a section 10 election).

(7) Where the deferred choice decision is that no section 10 election is to be made, the benefits payable to or in respect of M, so far as they are determined by reference to M’s remediable service, are legacy scheme benefits.

(8) The following provisions of the PSPJOA 2022 have effect in relation to a decision that no section 10 election is to be made as they have effect in relation to a section 10 election—

- (a) section 10(5) (section 10 election has effect in respect of all remediable service in the employment or office);
- (b) section 11(3)(b), (4) and (7) (provision about when a section 10 election takes effect, and the effect of lapse or revocation of a section 10 election);

(c) section 13 (provision about persons with remediable service in more than one Chapter 1 legacy scheme).

(9) No benefits are payable under the legacy scheme in respect of M’s pensionable service under that scheme unless—

- (a) a deferred choice decision is made in relation to M’s remediable service,
- (b) a section 10 election is deemed to have been made under regulation 18 in relation to that service, or
- (c) paragraph (10) applies.

(10) Where M is deceased, the scheme manager may, before a deferred choice decision is made or a section 10 election is deemed to have been made in relation to M’s remediable service, pay to any person (“the beneficiary”) who is, or is to be, entitled to receive death benefits in relation to M’s pensionable service the lesser of—

- (a) such lump sum or other pension benefits to which the beneficiary would be entitled if a section 10 election is made, or deemed to be made, in relation to M’s remediable service, or
- (b) such lump sum or other pension benefits to which the beneficiary would be entitled if no section 10 election is made, or deemed to be made, in relation to M’s remediable service.

(11) Where, at the operative time—

- (a) the aggregate of the lump sum or pension benefits that have been paid pursuant to paragraph (10) to a beneficiary, is less than
- (b) the aggregate of the lump sum or pension benefits to which (after taking into account the effect, if any, of paragraph (7) of this regulation or section 10(4) of the PSPJOA 2022) the beneficiary is entitled under a firefighters’ pension scheme in respect of M’s pensionable service,

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

(12) In paragraph (11), “the operative time” means—

- (a) if—
 - (i) a deferred choice decision is made, or
 - (ii) a section 10 election is deemed to have been made,in relation to M’s remediable service, the time the decision or election is made;
- (b) otherwise, the end of the section 10 election period in relation to M.