

2023 No.

PUBLIC SERVICE PENSIONS, ENGLAND AND WALES

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The National Health Service Pension Schemes (Remediable Service) Regulations 2023

Made - - - - ***
Laid before Parliament ***
Coming into force - - [***] 2023

The Secretary of State for Health and Social Care makes the following Regulations in exercise of the powers conferred by sections 5(1) and (5), 6(1), 7(3), 8, 10(1), 11(1) and (5), 12(1) and (3), 18, 19(1), (4) and (5), 20(1), (2), (4) and (5)(a) and (b), 21, 22(1), (2)(e) and (j) and (6), 23(1), 24(1), 25(1) and (4), 26(1) and (2)(a), 29(1), (7) and (8), 31(2) and (3), 37(2) and 108(1) of the Public Service Pensions and Judicial Offices Act 2022(a) (“PSPJOA 2022”) and sections 1(1) and (2)(e), 2(1) (together with paragraph 5(a) of Schedule 2) and 3(1) and (2)(c) of the Public Service Pensions Act 2013(b) (“the 2013 Act”).

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 Secretary of State has consulted the representatives of such persons as appear to the Secretary of State likely to be affected by these Regulations.

In accordance with section 27(1) of PSPJOA 2022, the powers conferred by sections 18 to 22, 23(1) and (2) and 24 to 26 of that Act are exercised in accordance with Treasury directions(c).

(a) 2022 c. 7.
(b) 2013 c. 25. Section 3(1) was amended by section 94(2) of the Public Service Pensions and Judicial Offices Act 2022 and section 3(2)(c) was inserted by section 94(3) of that Act.
(c) The Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022 which came into force on 19th December 2022. A copy may be obtained from the hyperlink <https://www.gov.uk/government/publications/public-service-pensions-and-judicial-offices-act-2022-treasury-directions> or from His Majesty’s Treasury by writing to [provide address].

PART 1

General provisions

Citation, commencement and extent

1.—(1) These Regulations may be cited as the National Health Service Pension Schemes (Remediable Service) Regulations 2023.

(2) These Regulations come into force on [***] 2023.

(3) These Regulations extend to England and Wales.

Interpretation

2.—(1) In these Regulations—

“PSPJOA 2022” means the Public Service Pensions and Judicial Offices Act 2022(a);

“1995 Regulations” means The National Health Service Pension Scheme Regulations 1995(b);

“1995 Section” means the section of the legacy scheme set out in the 1995 Regulations;

“2008 Regulations” means The National Health Service Pension Scheme Regulations 2008(c);

“2008 Section” means the section of the legacy scheme set out in the 2008 Regulations;

“2015 Regulations” means The National Health Service Pension Scheme Regulations 2015(d);

“2015 Transitional Regulations” means The National Health Service Pension Scheme (Transitional and Consequential Provisions) Regulations 2015(e);

“2015 scheme” means the National Health Service Pension Scheme for England and Wales set out in the 2015 Regulations;

“2015 scheme contributions” means contributions under regulation 38(f) of the 2015 Regulations (Members’ contributions: supplementary: medical practitioners and non-GP providers);

“2022 Directions” means The Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022(g);

“active or deferred remedy member” means a member who—

(a) on 30th September 2023 was an active member or deferred member in respect of remediable service in the legacy scheme or the 2015 scheme, and

(b) is not a pensioner remedy member;

“designated person” has the meaning given in regulation [8(2)];

“end of the deferred choice election period” means—

(a) the end of the period of three months beginning with the day on which a remediable service statement is provided to the active or deferred remedy member or the designated person in accordance with regulation [6], or

(a) 2022 c.7.

(b) S.I. 1995/300.

(c) S.I. 2008/653.

(d) S.I. 2015/94.

(e) S.I. 2015/95.

(f) Regulation 38 was amended by S.I. 2019/418, 2022/273.

(g) These Directions came into force on 19th December 2022. A copy may be obtained from the hyperlink <https://www.gov.uk/government/publications/public-service-pensions-and-judicial-offices-act-2022-treasury-directions> or from His Majesty’s Treasury by writing to [provide address].

- (b) such earlier or later time as the scheme manager considers reasonable in all the circumstances of the case relating to the member as specified in the remediable service statement,

which also meets the requirements of regulation [13(8)];

“end of the immediate choice election period” means—

- (a) the end of the period of one year beginning with the day on which a remediable service statement is provided to the remedy member or the designated person in accordance with regulation [6], or
- (b) such—
 - (i) later time as the scheme manager considers reasonable in all the circumstances of the case relating to the member as specified in the remediable service statement; or
 - (ii) earlier time as agreed by the scheme manager with the remedy member or designated person;

“legacy scheme” means the National Health Service Pension Scheme for England and Wales set out in the 1995 Section and the 2008 Section;

“legacy scheme contributions” means contributions under paragraph 10(a) of Schedule 2 to the 1995 Regulations (Medical and dental practitioners: contributions to the 1995 Section) or regulation 3.C.2 of the 2008 Regulations (Members’ contribution rate) (whichever is relevant);

“pensioner remedy member” means a member who on 30th September 2023 was entitled to a retirement pension in respect of—

- (a) remediable service in the legacy scheme or the 2015 scheme, or
- (b) pensionable service in the legacy scheme, where—
 - (i) the member became entitled to the retirement pension on or after 1st April 2015, and
 - (ii) on 30th September 2023, the member was an active or deferred member in respect of remediable service in the 2015 scheme;

“relevant scheme year” means one of the seven scheme years beginning with 1st April 2015 to 31st March 2016 and ending with 1st April 2021 to 31st March 2022;

“remedy member” means a member who has pensionable service in the legacy scheme or the 2015 scheme that is remediable service**(b)**;

“scheme administrator” means the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG)**(c)**;

“scheme manager” means the Secretary of State or, where the Secretary of State has made arrangements for any of the functions and responsibilities as scheme manager under the 2015 Regulations to be performed on the Secretary of State’s behalf by another person pursuant to regulation 3(2) of those Regulations, that other person.

(2) In these Regulations, “in writing” includes by electronic communication where such communication is approved by the scheme manager from time to time and “electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000**(d)**.

(3) For the purposes of these Regulations, a reference in PSPJOA 2022 to section 2(1) of that Act coming into force is to be understood as a reference to that section coming into force in relation to members of the legacy scheme and the 2015 scheme.

(4) A term used in these Regulations which—

(a) Paragraph 10 was substituted by S.I. 2005/661 and subsequently amended by S.I. 2006/500, 2008/654 and 2263, 2009/381 and 2446, 2010/492 and 1634, 2012/413, 2014/570, 2015/96, 2017/275, 2019/418.
(b) For the meaning of “remediable service”, see section 1 of PSPJOA 2022.
(c) This Authority was established by S.I. 2005/2414.
(d) 2000 c. 7. That definition was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).

- (a) is defined in, or for the purposes of, a provision in Chapter 1 of Part 1 of PSPJOA 2022, and
 - (b) is not defined differently in these Regulations,
- has the meaning given in, or for the purposes of, that provision.

PART 2

Remediable service

Pension contributions of medical practitioners and non-GP providers: pensioner and deceased members

3.—(1) This regulation applies in relation to a relevant member (“M”) who has remediable service in the legacy scheme that is pensionable service under that scheme whether or not by virtue of section 2(1) of PSPJOA 2022 (Remediable service treated as pensionable under Chapter 1 legacy schemes) (“M’s remediable service”).

(2) Where, at the operative time—

- (a) the paid contributions amount in relation to M exceeds
- (b) the adjusted contributions amount in relation to M,

the scheme manager must pay an amount of compensation equal to the difference to the appropriate person in accordance with paragraph (3).

(3) The amount of compensation paid to the appropriate person must be reduced by tax relief amounts calculated in accordance with direction 4(5) and (8) of the 2022 Directions.

(4) Where, at the operative time—

- (a) the paid contributions amount in relation to M is less than
- (b) the adjusted contributions amount in relation to M,

the appropriate person must pay contributions equal to the difference to the scheme in accordance with paragraph (5).

(5) The contributions owed to the scheme by the appropriate person must be reduced by tax relief amounts calculated in accordance with direction 4(5) and (8) of the 2022 Directions.

(6) In this regulation—

“adjusted contributions amount” means—

- (a) if a person has made an election under regulation [10] in relation to M’s remediable service, the aggregate of the contributions M would have paid in respect of M’s remediable service in the relevant scheme years if M had been required to pay 2015 scheme contributions in respect of that service,
- (b) otherwise, the aggregate of M’s legacy scheme contributions in respect of M’s remediable service in the relevant scheme years;

“appropriate person” means—

- (a) M, or
- (b) if M is deceased, M’s personal representative;

“operative time” means—

- (a) if an election under regulation [10] is made in relation to M’s remediable service, the time the election is made,
- (b) otherwise, the end of the immediate choice election period in relation to M;

“paid contributions amount” means the aggregate of—

- (a) the legacy scheme contributions, or
- (b) the 2015 scheme contributions,

paid by M in relation to M's remediable service in the relevant scheme years;

"relevant member" means a member who—

- (a) is—
 - (i) a pensioner member, or
 - (ii) a member who died on or before 30th September 2023, and
- (b) paid contributions in respect of any scheme year falling within the period of M's remediable service in respect of M's certified or final pensionable earnings uprated according to the formula in—
 - (i) paragraph 10 of Schedule 2 to the 1995 Regulations;
 - (ii) regulation 3.C.2 of the 2008 Regulations; or
 - (iii) regulation 38(3)(a) of the 2015 Regulations.

Pension contributions of medical practitioners and non-GP providers: active and deferred members (immediate correction)

4.—(1) This regulation applies in relation to a relevant member ("M") who has remediable service in the legacy scheme that is pensionable service under that scheme by virtue of section 2(1) of PSPJOA 2022 ("M's remediable service").

(2) Where—

- (a) the paid contributions amount in relation to M exceeds
- (b) the adjusted contributions amount in relation to M,

the scheme manager must pay an amount of compensation equal to the difference to the appropriate person in accordance with paragraph (3).

(3) The amount of compensation paid to the appropriate person must be reduced by tax relief amounts calculated in accordance with direction 4(5) and (8) of the 2022 Directions.

(4) M may waive M's right to the compensation payment otherwise due under this regulation in accordance with the 2022 Directions, but, if M or the designated person does not make an election under regulation [13] (Deferred choice election for 2015 scheme benefits: active, deferred and deceased members) before the end of the deferred choice election period—

- (a) that waiver is void, and
- (b) on the payment of M's 1995 Section or 2008 Section benefits in respect of M's remediable service, compensation again becomes payable under this regulation.

(5) For the purpose of paragraph (4), a waiver must be given to the scheme manager by notice in writing in such form as the scheme manager determines.

(6) The scheme manager must notify the member in writing of the member's right to claim an amount of compensation under this regulation or to waive M's right to compensation in accordance with paragraph [(4)].

(7) The notification must be sent to the member before 1st October 2024 or such later time as the scheme manager considers reasonable in all the circumstances of the case.

(8) In this regulation—

"adjusted contributions amount" means the aggregate of the contributions M would have paid in respect of M's remediable service in the relevant scheme years if M had been required to pay contributions in accordance with (whichever is relevant)—

- (a) paragraph 10 of Schedule 2 to the 1995 Regulations (Medical and dental practitioners: contributions to this Section of the scheme), or
- (b) regulation 3.C.2 of the 2008 Regulations (Members' contribution rate);

"appropriate person" means—

- (a) M, or
- (b) if M is deceased, M's personal representatives;

“paid contributions amount” means the aggregate of the pension contributions paid by M under regulation 38 of the 2015 Regulations in the relevant scheme years in respect of M’s remediable service;

“relevant member” means a member who—

- (a) is an active or deferred remedy member, and
- (b) paid contributions in respect of M’s certified or final pensionable earnings updated according to the formula in paragraph (3)(a) of regulation 38 of the 2015 Regulations in respect of any scheme year falling within the period of M’s remediable service.

Pension contributions of medical practitioners and non-GP providers: active and deferred members (deferred correction)

5.—(1) This regulation applies in relation to a relevant member (“M”) who has remediable service in the legacy scheme that is pensionable service under that scheme whether or not by virtue of section 2(1) of PSPJOA 2022 (“M’s remediable service”).

(2) Where, at the operative time—

- (a) the paid contributions amount in relation to M is less than
- (b) the adjusted contributions amount in relation to M,

the appropriate person must pay an amount equal to the difference to the scheme in accordance with paragraph (4).

(3) Paragraph (2) does not apply where M has waived M’s right to the compensation payment otherwise due under regulation [4] (see regulation [4(4)]) unless that waiver is void.

(4) The contributions owed to the scheme by the appropriate person must be reduced by tax relief amounts calculated in accordance with direction 4(5) and (8) of the 2022 Directions.

(5) In this regulation—

“adjusted contributions amount” means—

- (a) if an election by virtue of regulation [13] has been made in relation to M’s remediable service, the aggregate of the contributions M would have paid in respect of M’s remediable service in the relevant scheme years if M had been required to pay 2015 scheme contributions in respect of that service; or
- (b) otherwise, the aggregate of M’s legacy scheme contributions in respect of M’s remediable service in the relevant scheme years;

“appropriate person” means—

- (a) M, or
- (b) if M is deceased, M’s personal representatives;

“operative time” means—

- (a) if an election under regulation [13] is made in relation to M’s remediable service, the time the election is made, or
- (b) otherwise, the end of the deferred choice election period in relation to M;

“paid contributions amount” means the aggregate of—

- (a) the legacy scheme contributions, or
- (b) the 2015 scheme contributions,

paid by M in relation to M’s remediable service in the relevant scheme years;

“relevant member” means a member who—

- (a) is an active or deferred remedy member, and
- (b) paid contributions in respect of any scheme year falling within the period of M’s remediable service in respect of M’s certified or final pensionable earnings updated according to the formula in—

- (i) paragraph 10 of Schedule 2 to the 1995 Regulations;
- (ii) regulation 3.C.2 of the 2008 Regulations; or
- (iii) regulation 38(3)(a) of the 2015 Regulations.

Remediable service statements

6.—(1) The scheme manager must provide a remediable service statement in accordance with section 29 of PSPJOA 2022(a), direction 20 of the 2022 Directions and this regulation to each remedy member or (as the case may be) designated person (see regulation [8]) who has not made an election in respect of that service pursuant to—

- (a) regulation [10], or
- (b) regulation [13].

(2) The scheme manager must provide the statement to each such remedy member or designated person on or before the relevant date(b).

(3) The scheme manager must provide a further remediable service statement—

- (a) where the remedy member has remediable service in an employment or office in relation to which the member is for the time being an active member, at least once in each year ending with the anniversary of the relevant date;
- (b) where the remedy member has remediable service in an employment or office in relation to which the member is for the time being a deferred member, on request and within three months beginning with the day of that request.

Amendments of the 1995 Regulations, the 2008 Regulations and the 2015 Transitional Regulations

7. Schedule 1 makes amendments to the 1995 Regulations, the 2008 Regulations and the 2015 Transitional Regulations.

PART 3

Elections

Eligibility to make an election: designated persons

8.—(1) This regulation applies where for the purposes of regulation [9], [10] or [13] a designated person is to make an election on behalf of a remedy member.

(2) Where this regulation applies, the designated person is—

- (a) in the circumstances described in regulation [9(2)(b)(ii), 10(2)(b)(i)] or [13(2)(b)(i)]—
 - (i) a person who is capable and—
 - (aa) entitled to a surviving partner pension in relation to that member under Part G of the 1995 Regulations;
 - (bb) entitled to a surviving adult dependant pension in relation to that member under regulation 2.E.1 or 3.E.1 of the 2008 Regulations; or
 - (cc) entitled to a surviving adult dependant pension in relation to that member under regulation 113 of the 2015 Regulations; or
 - (ii) where there is no such person (capable or otherwise), a person who on the date of issue of a remediable service statement in relation to that member (see regulation [6]) is aged 18 or over, capable and—

(a) For the meaning of “remediable service” mentioned in section 29(4) and (8)(a) and (b), see section 1 of that Act.

(b) For the meaning of “the relevant date”, see section 29(10) of PSPJOA 2022.

- (aa) entitled as the sole dependent child of that member to pension benefits in relation to that member under Part H of the 1995 Regulations^(a) (Child allowance);
 - (bb) entitled as the sole dependent child of that member to pension benefits in relation to that member under Chapter 2.E of Part 2 (Benefits for officers: death benefits) or Chapter 3.E of Part 3 (Benefits for practitioners etc: death benefits) of the 2008 Regulations^(b); or
 - (cc) entitled as the sole eligible child of that member to pension benefits in relation to that member under Chapter 2 of Part 6 of the 2015 Regulations^(c) (Survivor benefits: child survivor);
 - (iii) otherwise, the scheme manager or a person appointed by the scheme manager;
 - (b) in the circumstances described in regulation [9(2)(b)(ii), 10(2)(b)(ii)], the personal representative, or one of the personal representatives, of the remedy member;
 - (c) in the circumstances described in regulation [9(2)(b)(ii), 10(2)(b)(iii)] or [13(2)(b)(ii)], the scheme manager or a person appointed by the scheme manager.
- (3) For the purposes of paragraph (2)—
- (a) a person is capable unless, in the opinion of the scheme manager, that person is, by reason of illness, mental disorder or otherwise, unable to look after their own affairs;
 - (b) the person appointed by the scheme manager (see paragraph (2)(a)(iii) and (c)) may include, in particular—
 - (i) the personal representative, or one of the personal representatives, of the remedy member;
 - (ii) the parent or guardian of a dependent or eligible child; or
 - (iii) a dependent or eligible child.

Election for retrospective provision to apply to opted-out service

9.—(1) A person mentioned in paragraph (2) may make an election in relation to relevant opted-out service^(d) of a remedy member (“opted-out service election”) in accordance with this regulation.

(2) That person is—

- (a) a remedy member (“M”) who has a period or periods of employment or office that would have been pensionable and remediable service in the legacy scheme or the 2015 scheme had M not opted out of that scheme for that period, or those periods (“relevant opted-out service”); or
- (b) where M is deceased—
 - (i) a designated person (see regulation [8]), or
 - (ii) such a person as would be a designated person were the relevant opted-out service considered remediable service.

(3) An opted-out service election may only be made if an application by or on behalf of M is made in a form and within a period determined, and accompanied by such information as is required, by the scheme manager.

(4) The scheme manager—

- (a) may refuse the application if the condition in paragraph (5) is not met;

(a) Part H was amended by S.I. 2005/3074, 2006/600, 2007/3280, 2008/654 and 2263, 2009/381 and 2446, 2010/492, 2013/413 and 2019/418.

(b) Chapter 2.E of Part 2 was amended by S.I. 2008/2263, 2009/381 and 2446, 2010/492, 2011/2586, 2013/413, 2015/96, 2016/245, 2019/418, 2020/354 and 2021/631. Chapter 3.E of Part 3 was amended by was amended by S.I. 2008/2263, 2009/381 and 2446, 2010/492, 2011/2586, 2013/413, 2016/245, 2019/418, 2020/354 and 2021/631.

(c) Chapter 2 was amended by S.I. 2016/245, 2017/275, 2019/418.

(d) For the meaning of “opted-out service”, see section 36 of PSPJOA 2022.

- (b) must, within six months of receiving the application, send to the person who made the application notice about its outcome;
- (c) must, if the scheme manager accepts the application, include with the notice referred to in sub-paragraph (b) a remediable service statement in accordance with section 29 of PSPJOA 2022 and direction 20 of the 2022 Directions.

(5) The condition referred to in paragraph (4)(a) is that the scheme manager is satisfied that M would not have made the decision to opt out of the legacy scheme or the 2015 scheme at the time that decision was made but for the effect anticipated by M, or the actual effect, of the application of an exception to the restriction in subsection (1) of section 18 of the Public Service Pensions Act 2013(a) (Restriction of existing pension schemes) on the provision of benefits provided for under subsection (5) of that section.

(6) Where the scheme manager has accepted an application made under paragraph (3), the person mentioned in paragraph (2) may make an opted-out service election which must be—

- (a) made after a remediable service statement has been provided in accordance with paragraph (4)(c);
- (b) made within a period of one year beginning with the day after a remediable service statement is issued in accordance with paragraph (4)(c) or by such later time as the scheme manager considers reasonable in all the circumstances of the case;
- (c) in a form determined, and accompanied by such information as is required, by the scheme manager.

(7) The scheme manager may waive or reduce contributions payable by an employing authority where pensionable service has been reinstated following an opted-out service election under this regulation, taking into consideration—

- (a) the particular circumstances of the employing authority, and
- (b) a presumption in favour of recovering the liability unless it is uneconomic to do so.

Immediate choice election for 2015 scheme benefits: pensioner and deceased members

10.—(1) A person mentioned in paragraph (2) may make an election for the benefits paid to or in respect of a remedy member with regard to that member’s remediable service to be determined as if the service to which those benefits relate were pensionable service for the purposes of the 2015 Regulations (“an immediate choice election”).

(2) That person is—

- (a) a pensioner remedy member, or
- (b) a designated person (see regulation [8]) where—
 - (i) the remedy member died on or before 30th September 2023 and was not at the time of their death entitled to a retirement pension in respect of their remediable service;
 - (ii) the remedy member died on or before that date and was at the time of their death entitled to a retirement pension in respect of their remediable service; or
 - (iii) the remedy member is, in the opinion of the scheme manager, by reason of illness, mental disorder or otherwise unable to look after their own affairs.

(3) For the purposes of this regulation, an immediate choice election must—

- (a) contain such information as the scheme manager requires;
- (b) be made by the pensioner remedy member or designated person in writing in such form as the scheme manager determines; and

(a) 2013 c. 25. Subsections (4) and (10) of section 18 were amended by section 96(2)(a) and (b) of PSPJOA 2022. Subsection (4A) was inserted by section 88(2)(b) of PSPJOA 2022 and subsections (5) to (8), including subsection (5A) which was inserted by section 52(2) of the Pensions Act 2014 (c. 19), were repealed by section 88(2)(c) of PSPJOA 2022, subject to transitional and saving provisions in section 89 of PSPJOA 2022.

(c) be received by the scheme manager before the end of the immediate choice election period.

(4) Where the scheme manager accepts an immediate choice election made by a pensioner remedy member or designated person in accordance with this regulation or treats such an election as having been made in accordance with paragraph (5)—

(a) that election is—

(i) treated as having effect—

(aa) immediately before the member became a pensioner remedy member in respect of the member's remediable service pursuant to paragraph (2), or

(bb) immediately before the remedy member's death if the member died before becoming a pensioner remedy member; and

(ii) irrevocable; and

(b) from the date the election is treated as having effect, the benefits due in respect of the remedy member's remediable service, in place of the benefits being paid for that service, are such benefits as the scheme manager determines would be paid to or in respect of that member, after having regard to all the circumstances of the case and treating that service as if for all purposes it were pensionable service in the 2015 scheme.

(5) The scheme manager may treat an immediate choice election as having been made under this regulation immediately before the end of the immediate choice election period if paragraph (6) applies.

(6) This paragraph applies if the scheme manager—

(a) does not receive an immediate choice election before the end of the immediate choice election period, and

(b) determines, after having regard to all the circumstances of the case and the advice of the scheme actuary, that it would be more beneficial if the benefits to be paid to or in respect of the remedy member's remediable service are determined in accordance with the provisions of the 2015 Regulations.

Pension benefits and lump sum benefits: immediate choice election: pensioner and deceased members

11.—(1) This regulation applies in relation to a relevant member ("M") who has remediable service in the legacy scheme that is pensionable service under that scheme whether or not by virtue of section 2(1) of PSPJOA 2022 ("M's remediable service").

(2) Where, at the operative time—

(a) the aggregate of the pension benefits that (after taking into account the effect, if any, of section 3(2) of PSPJOA 2022 (Benefits already paid)) have been paid under the scheme to any person ("the beneficiary") in respect of, or associated with, M's remediable service exceeds

(b) the aggregate of the pension benefits to which the beneficiary is entitled under the scheme in respect of, or associated with, the service after taking into account the effect, if any, of—

(i) section 2(1) of PSPJOA 2022 and regulation 10 of these Regulations in relation to the pension benefits to which the beneficiary is entitled in respect of the service, and

(ii) Parts 4 (Voluntary contributions) and 6 (Transfers) of these Regulations in relation to the pension benefits to which the beneficiary is entitled that are associated with the service,

the relevant person must pay an amount equal to the difference to the scheme.

(3) Where, at the operative time—

(a) the amount mentioned in paragraph (2)(a) is less than

(b) the amount mentioned in paragraph (2)(b),

the scheme manager must pay an amount equal to the difference to the relevant person.

(4) Where, at the operative time—

- (a) the aggregate of the lump sum benefits that (after taking into account the effect, if any, of section 3(2) of PSPJOA 2022) have been paid under the scheme to any person (“the beneficiary”) in respect of, or associated with, M’s remediable service exceeds
- (b) the aggregate of the lump sum benefits to which the beneficiary is entitled under the scheme in respect of, or associated with, the service after taking into account the effect, if any, of—
 - (i) section 2(1) and regulation [10] of these Regulations in relation to the lump sum benefits to which the beneficiary is entitled in respect of the service, and
 - (ii) Parts 4 (Voluntary contributions) and 6 (Transfers) of these Regulations in relation to the lump sum benefits to which the beneficiary is entitled that are associated with the service,

the relevant person must pay an amount equal to the difference to the scheme.

(5) Where, at the operative time—

- (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 relevant person.

(6) For the purposes of paragraphs (2) and (4), pension benefits and lump sum benefits are associated with M’s remediable service if those benefits are, or are derived from, one or more of the following—

- (a) additional pension payable to or in respect of M where one or more of the circumstances described in regulation 22(1)(c) (Treatment of additional contributions: pensioners and deceased members of the legacy scheme) apply in relation to that pension;
- (b) pension payable to or in respect of M where one or both of the circumstances described in regulation 23(1)(c) (Voluntary contributions: members of the 2015 scheme) apply in relation to that pension;
- (c) buy-out contributions paid by or in respect of M where the circumstance described in regulation 24(1)(c) (Treatment of buy-out contributions made under 2015 regulation 48: pensioners and deceased members of the 2015 scheme) applies in relation to those contributions; and
- (d) the acceptance by the scheme manager of a transfer payment or transfer value payment under one or more of—
 - (i) the circumstances described in regulation 32(2)(b) (Treatment of transfer and transfer value payments made to the 1995 Section or the 2008 Section that are not made under Public Sector Transfer Arrangements);
 - (ii) the circumstances described in regulation 35(1)(c)(iii) (Transfer and transfer value payments made to the 2015 scheme treated as if they have been accepted under the legacy scheme: pensioner and deceased members);
 - (iii) regulation 47(1) (Application and interpretation of regulations [48] to [50]: remediable transfer value payments and remediable club transfer value payments).

(7) In this regulation—

“lump sum benefit” means any benefit payable under the legacy scheme or the 2015 scheme by way of a lump sum;

“operative time” means—

- (a) if an immediate choice election by virtue of regulation [10] is made in relation to M’s remediable service, the time when the election is made;
- (b) otherwise the end of the immediate choice election period in relation to M;

“pension benefit” means any benefit payable under the legacy scheme or the 2015 scheme otherwise than by way of a lump sum;

“relevant member” means a member who is—

- (a) a pensioner remedy member, or
- (b) a member who died on or before 30th September 2023;

“relevant person” means—

- (a) in paragraphs (2) and (3), the beneficiary referred to in paragraph (2) or, if the beneficiary is deceased, that beneficiary’s personal representative;
- (b) in paragraphs (4) and (5), the beneficiary referred to in paragraph (4) or, if the beneficiary is deceased, that beneficiary’s personal representative.

Continuation of pensions: immediate choice election: dependent and eligible children of a remedy member

12.—(1) This regulation applies in relation to a relevant child of a remedy member where—

- (a) a designated person is eligible to make an election under regulation [10(1)] on behalf of the member (see regulation [10(2)(b)]), and
- (b) on the relevant date, that child is not living in the same household as that designated person.

(2) Paragraph (4) applies if the scheme manager determines that as a result of the acceptance of such an election made by the designated person, the pension being paid to or in respect of a relevant child will reduce.

(3) Paragraph (5) applies if the scheme manager determines that as a result of a designated person not making such an election before the end of the immediate choice election period, the pension being paid to or in respect of a relevant child will reduce.

(4) Where this paragraph applies (see paragraph (2)), the scheme manager may treat the election as if it applied only to pension benefits in respect of remediable service other than the pension being paid for that service to or in respect of a relevant child.

(5) Where this paragraph applies (see paragraph (3)), the scheme manager may treat the pension being paid for remediable service to or in respect of a relevant child as if the election had been made in respect of that service.

(6) In this regulation—

“relevant child” means a child who on 30th September 2023 was—

- (a) entitled as a dependent child of a remedy member to pension benefits in relation to that member under Part H of the 1995 Regulations (Dependent child);
- (b) entitled as a dependent child of a remedy member to pension benefits in relation to that member under Chapter 2.E or Chapter 3.E of the 2008 Regulations (Death benefits); or
- (c) entitled as an eligible child of a remedy member to pension benefits in relation to that member under Chapter 2 of Part 6 of the 2015 Regulations (Survivor benefits: child survivor);

“relevant date” means—

- (a) the day on which the scheme manager accepts an immediate choice election in accordance with regulation [10] made by the designated person mentioned in regulation [10(2)(b)], or
- (b) if that designated person does not make such an election, the end of the immediate choice election period.

Deferred choice election for 2015 scheme benefits: active, deferred and deceased members

13.—(1) A person mentioned in paragraph (2) may make an election for the benefits paid to or in respect of a remedy member with regard to that member’s remediable service to be determined

as if the service to which those benefits relate were pensionable service for the purposes of the 2015 Regulations (“a deferred choice election”).

(2) That person is—

- (a) an active or deferred remedy member, or
- (b) a designated person (see regulation [8]) where—
 - (i) that member died on or after 1st October 2023, or
 - (ii) that member is, in the opinion of the scheme manager, by reason of illness, mental disorder or otherwise, unable to look after their own affairs.

(3) For the purposes of this regulation, a deferred choice election must—

- (a) contain such information as the scheme manager requires;
- (b) be made by an active or deferred remedy member or a designated person in writing in such form as the scheme manager determines; and
- (c) be received by the scheme manager before the end of the deferred choice election period.

(4) Where the scheme manager accepts a deferred choice election made by an active or deferred remedy member or a designated person in accordance with this regulation or treats such an election as having been made in accordance with paragraph (6), that election is—

- (a) treated as having effect—
 - (i) immediately before the active or deferred remedy member becomes a pensioner member in respect of their remediable service, or
 - (ii) immediately before the active or deferred remedy member’s death; and
- (b) irrevocable.

(5) From the date on which the election is treated as having effect, the benefits due in respect of the active or deferred remedy member’s remediable service are such benefits as the scheme manager determines should be paid to or in respect of that member, after having regard to all the circumstances of the case and treating that service as if for all purposes it were pensionable service in the 2015 scheme.

(6) The scheme manager may treat a deferred choice election as having been made under this regulation immediately before the end of the deferred choice election period if paragraph (7) applies.

(7) This paragraph applies if the scheme manager—

- (a) does not receive a deferred choice election before the end of the deferred choice election period, and
- (b) determines, after having regard to all the circumstances of the case and the advice of the scheme actuary, that it would be more beneficial if the benefits to be paid to or in respect of the remedy member’s remediable services are determined in accordance with the provisions of the 2015 Regulations.

(8) The end of the deferred choice election period must not be more than one year before the day on which it is reasonably expected that, if a deferred choice election were made, benefits under the 2015 scheme would become payable to or in respect of the active or deferred remedy member.

Pension benefits and lump sum benefits: deferred choice election: pensioner and deceased members

14.—(1) This regulation applies in relation to a relevant member (“M”) who has remediable service in the legacy scheme that is pensionable service under that scheme whether or not by virtue of section 2(1) of PSPJOA 2022 (“M’s remediable service”).

(2) Where, at the operative time—

- (a) the aggregate of the pension benefits that (after taking into account the effect, if any, of section 3(2) of PSPJOA 2022 (Benefits already paid)) have been paid under the scheme

to any person (“the beneficiary”) in respect of, or associated with, M’s remediable service exceeds

- (b) the aggregate of the pension benefits to which the beneficiary is entitled under the scheme in respect of, or associated with, the service after taking into account the effect, if any, of—
 - (i) section 2(1) of PSPJOA 2022 and regulation 13 of these Regulations in relation to the pension benefits to which the beneficiary is entitled in respect of the service, and
 - (ii) Parts 4 (Voluntary contributions) and 6 (Transfers) of these Regulations in relation to the pension benefits to which the beneficiary is entitled that are associated with the service,

the relevant person must pay an amount equal to the difference to the scheme.

(3) Where, at the operative time—

- (a) the amount mentioned in paragraph (2)(a) is less than
- (b) the amount mentioned in paragraph (2)(b),

the scheme manager must pay an amount equal to the difference to the relevant person.

(4) Where, at the operative time—

- (a) the aggregate of the lump sum benefits that (after taking into account the effect, if any, of section 3(2) of PSPJOA 2022) have been paid under the scheme to any person (“the beneficiary”) in respect of, or associated with, M’s remediable service exceeds
- (b) the aggregate of the lump sum benefits to which the beneficiary is entitled under the scheme in respect of, or associated with, the service after taking into account the effect, if any, of—
 - (i) section 2(1) of that Act and regulation 13 of these Regulations in relation to the lump sum benefits to which the beneficiary is entitled in respect of the service, and
 - (ii) Parts 4 (Voluntary contributions) and 6 (Transfers) of these Regulations in relation to the lump sum benefits to which the beneficiary is entitled that are associated with the service,

the relevant person must pay an amount equal to the difference to the scheme.

(5) Where, at the operative time—

- (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 relevant person.

(6) For the purposes of paragraphs (2) and (4), pension benefits and lump sum benefits are associated with M’s remediable service if those benefits are, or are derived from, one or more of the following—

- (a) additional pension payable to or in respect of M where one or more of the circumstances described in regulation [21(1)(c)] (Treatment of additional contributions: active and deferred members of the legacy scheme) apply in relation to that pension;
- (b) pension payable to or in respect of M where one or both of the circumstances described in paragraph (2) of regulation [19] (Treatment of a corresponding option exercised in accordance with regulation [17] on the making of a deferred choice election for 2015 scheme benefits under regulation [13]) apply in relation to that pension;
- (c) buy-out contributions paid by or in respect of M where the circumstance described in regulation [20(1)(c)] (Treatment of buy-out contributions made under 2015 regulation 48: active and deferred members of the 2015 scheme) applies in relation to those contributions; and
- (d) the acceptance by the scheme manager of a transfer payment or transfer value payment under one or more of—

- (i) the circumstances described in regulation [32(2)(b)] (Treatment of transfer and transfer value payments made to the 1995 Section or the 2008 Section that are not made under Public Sector Transfer Arrangements);
- (ii) the circumstances described in regulation [33(1)(c)] (Transfer value payments made to the 2015 scheme that are not made under Public Sector Transfer Arrangements: where they must be treated as transfer payments under the 1995 Section or transfer value payments under the 2008 Section); or
- (iii) the circumstances described in regulation [34(1)] (Transfer value payments treated in accordance with regulation [33]: variation of the member’s rights on the making of a deferred choice election);
- (iv) regulation 47(1) (Application and interpretation of regulations [48] to [50]: remediable transfer value payments and remediable club transfer value payments).

(7) In this regulation—

“lump sum benefit” means any benefit payable under the legacy scheme or the 2015 scheme by way of a lump sum;

“operative time” means if a deferred choice election by virtue of regulation [13] is made in relation to M’s remediable service, the time when the election is made; otherwise the end of the deferred choice election period in relation to M;

“pension benefit” means any benefit payable under the legacy scheme or the 2015 scheme otherwise than by way of a lump sum;

“relevant member” means an active or deferred remedy member or a remedy member who died on or after 1st October 2023;

“relevant person” means—

- (a) in paragraphs (2) and (3), the beneficiary referred to in paragraph (2) or, if the beneficiary is deceased, that beneficiary’s personal representative;
- (b) in paragraphs (4) and (5), the beneficiary referred to in paragraph (4) or, if the beneficiary is deceased, that beneficiary’s personal representative.

Continuation of pensions: deferred choice election: dependent and eligible children of a remedy member

15.—(1) This regulation applies in relation to a relevant child of a remedy member where—

- (a) a designated person is eligible to make an election under regulation [13(1)] on behalf of the member (see regulation [13(2)(b)]), and
- (b) on the relevant date, that child is not living in the same household as that designated person.

(2) Paragraph (4) applies if the scheme manager determines that as a result of the acceptance of such an election made by the designated person, the pension being paid to or in respect of a relevant child will reduce.

(3) Paragraph (5) applies if the scheme manager determines that as a result of a designated person not making such an election before the end of the deferred choice election period, the pension being paid to or in respect of a relevant child will reduce.

(4) Where this paragraph applies (see paragraph (2)), the scheme manager may treat the election as if it applied only to pension benefits in respect of remediable service other than the pension being paid for that service to or in respect of a relevant child.

(5) Where this paragraph applies (see paragraph (3)), the scheme manager may treat the pension being paid for remediable service to or in respect of a relevant child as if the election had been made in respect of that service.

(6) In this regulation—

“relevant child” means a child who on 30th September 2023 was—

- (a) entitled as a dependent child of a remedy member to pension benefits in relation to that member under Part H of the 1995 Regulations (Dependent child);
 - (b) entitled as a dependent child of a remedy member to pension benefits in relation to that member under Chapter 2.E or Chapter 3.E of the 2008 Regulations (Death benefits); or
 - (c) entitled as an eligible child of a remedy member to pension benefits in relation to that member under Chapter 2 of Part 6 of the 2015 Regulations (Survivor benefits: child survivor);
- “relevant date” means—
- (a) the day on which the scheme manager accepts a deferred choice election in accordance with regulation [13] made by the designated person mentioned in regulation [13(2)(b)], or
 - (b) if that designated person does not make such an election, the end of the deferred choice election period.

PART 4

Voluntary contributions

Interpretation of Part 4

16. In this Part—

“1995 regulation Q8” means regulation Q8 of the 1995 Regulations(a) (Option to pay additional periodical contributions to purchase additional pension);

“1995 regulation Q10” means regulation Q10 of the 1995 Regulations (Members option to pay lump sum contributions to purchase additional pension);

“1995 regulation Q11” means regulation Q11 of the 1995 Regulations (Payment of additional lump sum contributions by employing authority);

“2008 regulation 2.C.8” means regulation 2.C.8 of the 2008 Regulations(b) (Member’s option to pay additional periodical contributions to purchase additional pension);

“2008 regulation 2.C.10” means regulation 2.C.10 of the 2008 Regulations (Member’s option to pay lump sum contribution to purchase additional pension);

“2008 regulation 2.C.11” means regulation 2.C.11 of the 2008 Regulations (Payment of additional lump sum contributions by employing authority);

“2008 regulation 3.C.6” means regulation 3.C.6 of the 2008 Regulations(c) (Member’s option to pay additional periodical contributions to purchase additional pension);

“2008 regulation 3.C.8” means regulation 3.C.8 of the 2008 Regulations (Member’s option to pay lump sum contribution to purchase additional pension);

“2008 regulation 3.C.9” means regulation 3.C.9 of the 2008 Regulations (Payment of additional lump sum contributions by employing authority);

“2015 regulation 48” means regulation 48 of the 2015 Regulations (Payment of buy-out contributions);

“2015 regulation 59” means regulation 59 of the 2015 Regulations (Accepting an additional pension election);

“2015 regulation 62” means regulation 62 of the 2015 Regulations (Lump sum contributions: payment of contributions and credit of additional pension);

“2015 regulation 64” means regulation 64 of the 2015 Regulations (Periodic contributions);

(a) Regulations Q8, Q10 and Q11 of the 1995 Regulations were inserted by S.I. 2008/654.

(b) Regulations 2.C.8, 2.C.10 and 2.C.11 and regulations 3.C.6, 3.C.8 and 3.C.9 of the 2008 Regulations were amended by S.I. 2009/2446.

(c) Regulations 3.C.6, 3.C.8 and 3.C.9 of the 2008 Regulations were amended by S.I. 2009/2446.

“2015 transitional regulation 25” means regulation 25 of the 2015 Transitional Regulations(a) (Decoupling of benefits derived from additional contributions);

“actuarial increase” means a late payment actuarial increase under paragraph 2 of Schedule 13 to the 2015 Regulations (Calculation of pension: late payment of pension with actuarial increase) where the calculation of that increase must take account of any buy-out election in accordance with sub-paragraph (4) of that paragraph;

“actuarial reduction” has the meaning given in paragraph 9 of Schedule 9 to the 2015 Regulations (Pension accounts);

“relevant contributions” means contributions that were paid by the remedy member—

- (a) on or after the member’s 60th birthday if the member’s contributions are to be treated as if they had been paid under a corresponding option exercised under the 1995 Regulations, or
- (b) on or after the member’s 65th birthday if the member’s contributions are to be treated as if they had been paid under a corresponding option exercised under the 2008 Regulations;

“remedy period” means the period from 1st April 2015 to 31st March 2022 (including those dates).

Elections to pay contributions for additional pension: where they must be treated as if paid under a corresponding option exercised under the 1995 Regulations or the 2008 Regulations

17.—(1) This regulation applies to a remedy member, other than a pensioner remedy member, who has pensionable service in the 1995 Section or the 2008 Section by virtue of section 2(1) of PSPJOA 2022 and was an active or deferred member of the 2015 scheme on 30th September 2023 in respect of that service where, during the remedy period, one or both of the following occurred—

- (a) the member’s additional pension account was credited with an amount of additional pension in accordance with 2015 regulation 62;
- (b) the member paid contributions in accordance with 2015 regulation 64.

(2) Where this regulation applies—

- (a) all the remedy member’s rights secured by the credit or payment of contributions mentioned in paragraph (1) are extinguished, and
- (b) those contributions must be treated as if they had been paid in the relevant scheme year in which they were paid under a corresponding option exercised under the 1995 Regulations or the 2008 Regulations.

(3) In paragraph (2)(b), “corresponding option” means—

- (a) where pursuant to section 2(1) of PSPJOA 2022, the remedy member’s remediable service is treated as being pensionable service under the 1995 Regulations—
 - (i) an option under 1995 regulation Q8 if the member paid contributions in accordance with 2015 regulation 64;
 - (ii) an option under 1995 regulation Q10 if the member paid the lump sum contribution referred to in 2015 regulation 62; or
 - (iii) an option under 1995 regulation Q11 if the member’s employing authority paid the lump sum contribution referred to in 2015 regulation 62; or
- (b) where pursuant to section 2(1) of PSPJOA 2022, the remedy member’s remediable service is treated as being pensionable service under the 2008 Regulations—
 - (i) an option under 2008 regulation 2.C.8 or 2008 regulation 3.C.6 if the member paid contributions in accordance with 2015 regulation 64;

(a) Regulation 25 of the 2015 Transitional Regulations was amended by S.I. 2022/327.

- (ii) an option under 2008 regulation 2.C.10 or 2008 regulation 3.C.8 if the member paid the lump sum contribution referred to in 2015 regulation 62; or
- (iii) an option under 2008 regulation 2.C.11 or 2008 regulation 3.C.9 if the member's employing authority paid the lump sum contribution referred to in 2015 regulation 62.

(4) For the purposes of this regulation, the reference to “£5,000” in paragraph (7) of 1995 regulation Q8, 2008 regulation 2.C.8 and 2008 regulation 3.C.6 is to be read as if it were a reference to “£11,500”.

(5) Paragraph (6) applies where the member's contributions are treated as if they had been paid under a corresponding option in accordance with paragraph (2)(b).

(6) Where this paragraph applies, the scheme manager must, after having regard to the advice of the scheme actuary, take those contributions into account when making a determination.

(7) For the purposes of paragraph (6), the determination is whether accepting a further election from a member under regulation 55 of the 2015 Regulations (Election to pay contribution for additional pension) would provide the member with one or more pensions which exceeds, or in aggregate exceed, the overall limit that applies to such provision under regulation 61 of those Regulations for providing additional pensions.

Treatment of contributions paid after 31st March 2022 under a corresponding option exercised in accordance with regulation [17(2)(b)]

18.—(1) This regulation applies to a remedy member to whom regulation [17(1)] applies where, during the remedy period, the member paid contributions in accordance with 2015 regulation 64 (see regulation [17(1)(b)]) and those contributions are treated as having been paid under a corresponding option exercised under the 1995 Regulations or the 2008 Regulations in accordance with regulation [17(2)(b)].

(2) Where this regulation applies, regulation 23 of the 2015 Transitional Regulations (Existing additional pension contracts) and paragraph (3) of this regulation apply to the remedy member in respect of that corresponding option unless the member makes an election in accordance with paragraph (5) of this regulation.

(3) The scheme manager must pay to a remedy member an amount of compensation calculated in accordance with paragraph (4) in respect of any relevant contributions.

(4) The amount of compensation must be equal to the relevant contributions paid by the member—

- (a) reduced by tax relief amounts calculated in accordance with paragraphs (5) to (9) and, if relevant, (11) to (12) of direction 5 of the 2022 Directions, and
- (b) increased by an amount of interest calculated in accordance with regulation [58].

(5) A remedy member may make an election to cancel the corresponding option with effect from (and including) 1st April 2022 which must—

- (a) be made by the member by notice in writing;
- (b) be received by the scheme manager within a period of three months beginning with the day after the scheme manager provides the notification referred to in paragraphs (6) and (7); and
- (c) contain such information as the scheme manager requires.

(6) The scheme manager must notify the remedy member in writing of the member's right to make such an election.

(7) The notification must be sent to the member before 1st July 2024 and must specify—

- (a) the annual amount of additional pension for which the remedy member is paying additional contributions determined by the scheme manager in respect of the corresponding option that applies to the member under regulation [17(2)(b)];

- (b) the annual amount of additional pension for which the remedy member will be paying contributions under the 2015 Regulations if the member makes an election under this regulation; and
 - (c) the date by which an election under this regulation must be received by the scheme manager.
- (8) Where the scheme manager accepts such an election—
- (a) the remedy member must be treated as if the scheme manager had accepted a new election to pay contributions under 2015 regulation 59 in respect of such contributions made by the member after 31st March 2022; and
 - (b) the scheme manager must determine the amount of the annual rate of additional pension being purchased in respect of that election by reference to the actuarial tables that applied for that purpose on the day the member's election to pay contributions in accordance with 2015 regulation 64 (see regulation [17(1)(b)]) was accepted under 2015 regulation 59.

Treatment of a corresponding option exercised in accordance with regulation [17] on the making of a deferred choice election for 2015 scheme benefits under regulation [13]

19.—(1) This regulation applies to a relevant remedy member who—

- (a) has elected to cancel their corresponding option exercised under—
 - (i) 1995 regulation Q8,
 - (ii) 2008 regulation 2.C.8, or
 - (iii) 2008 regulation 3.C.6,
 with effect from (and including) 1st April 2022 in accordance with regulation [18(5)] of these Regulations; or
- (b) is treated as if contributions made by the member or, on the member's behalf, by the member's employing authority by lump sum had, for all purposes, been made pursuant to a corresponding option exercised under—
 - (i) 1995 regulation Q10 or 1995 regulation Q11,
 - (ii) 2008 regulation 2.C.10 or 2008 regulation 2.C.11, or
 - (iii) 2008 regulation 3.C.8 or 2008 regulation 3.C.9.

(2) Where this regulation applies, if the member makes a deferred choice election for 2015 scheme benefits under regulation [13]—

- (a) paragraph (3)(a) applies in respect of the member's rights to additional pension secured by the payment of additional contributions made on or before 31st March 2022 under a corresponding option exercised under—
 - (i) 1995 regulation Q8,
 - (ii) 2008 regulation 2.C.8, or
 - (iii) 2008 regulation 3.C.6;
- (b) paragraph (3)(b) applies in respect of the member's rights to additional pension secured by the payment of contributions made under a corresponding option exercised under—
 - (i) 1995 regulation Q10 or 1995 regulation Q11,
 - (ii) 2008 regulation 2.C.10 or 2008 regulation 2.C.11, or
 - (iii) 2008 regulation 3.C.8 or 2008 regulation 3.C.9.

(3) The scheme manager must, after having regard to the advice of the scheme actuary, vary the member's rights to the additional pension purchased under the corresponding options referred to in paragraph (2) so that those rights are of an equivalent value to the additional pension rights the member would have secured if the contributions had been made in the relevant scheme year in which they were paid—

- (a) in respect of an election under 2015 regulation 59, where paragraph (2)(a) applies to the member, and
- (b) in respect of an election under 2015 regulation 62, where paragraph (2)(b) applies to the member.

(4) In this regulation, “relevant remedy member” means a remedy member other than one to whom payment of part of a pension has been made pursuant to paragraph (2) of 2015 transitional regulation 25 in respect of additional pension resulting from an option under 1995 regulation Q8 or 1995 regulation Q10.

Treatment of buy-out contributions made under 2015 regulation 48: active and deferred members of the 2015 scheme

20.—(1) This regulation applies to a remedy member—

- (a) who has pensionable service in the 1995 Section or the 2008 Section by virtue of section 2(1) of PSPJOA 2022;
- (b) who, on 30th September 2023, was an active or deferred member of the 2015 scheme in respect of that service but was not a pensioner remedy member; and
- (c) who paid buy-out contributions in accordance with 2015 regulation 48 during the remedy period (including where any such contributions were paid by the member’s employing authority in place of the member during that period under paragraph (3) of that regulation (“employer buy-out contributions”).

(2) Where this regulation applies—

- (a) all the member’s rights secured by the payment of buy-out contributions mentioned in paragraph (1)(c) are extinguished;
- (b) in respect of any buy-out contributions paid during the remedy period by a member (excluding employer buy-out contributions), the member is entitled to an amount of compensation determined in accordance with paragraph (12) unless the member waives the member’s right to compensation in accordance with paragraph (3); and
- (c) paragraph (7) applies in respect of employer buy-out contributions.

(3) A member may give the scheme manager a notice in writing that the member waives the member’s right to compensation under this regulation (“compensation waiver”).

(4) A compensation waiver ceases to have effect when the member becomes eligible to make an election under regulation 13 (Deferred choice election for 2015 scheme benefits: active, deferred and deceased members), and—

- (a) paragraph (5) applies to a member who—
 - (i) does not make an election under regulation [13] before the end of the deferred choice election period; or
 - (ii) does make such an election, where the scheme manager determines that, as a consequence of treating the member’s remediable service as if for all purposes it were pensionable service in the 2015 scheme in accordance with regulation [13(5)], neither an actuarial reduction nor an actuarial increase will be applied to the annual rate of pension due in respect of that service;
- (b) paragraph (6) applies to a member who does make such an election, where the scheme manager determines that, as a consequence of treating the member’s remediable service as if for all purposes it were pensionable service in the 2015 scheme in accordance with regulation [13(5)], an actuarial reduction or an actuarial increase will be applied to the annual rate of pension due in respect of that service.

(5) On the payment of the member’s 1995 Section or 2008 Section benefits in respect of the member’s remediable service, compensation again becomes payable under this regulation.

(6) At the same time as the member makes the election, the member must claim by notice in writing—

- (a) the compensation due under this regulation, or
- (b) rights under the 1995 Section or the 2008 Section (whichever is relevant) that, after having regard to the advice of the scheme actuary, the scheme manager has determined are of an equivalent value to the member's rights that were extinguished under paragraph (2)(a).

(7) Where—

- (a) a member makes an election under regulation [13], and
- (b) the scheme manager determines that, as a consequence of treating the member's remediable service as if for all purposes it were pensionable service in the 2015 scheme in accordance with regulation [13(5)], an actuarial reduction or an actuarial increase will be applied to the annual rate of pension due in respect of that service,

the member is entitled to the rights set out in paragraph (8) in respect of employer buy-out contributions.

(8) Where this paragraph applies, the member is entitled to rights under the 1995 Section or the 2008 Section (whichever is relevant) that, after having regard to the advice of the scheme actuary, the scheme manager has determined are of an equivalent value to the member's rights that were extinguished under paragraph (2)(a) in so far as those rights relate to employer buy-out contributions.

(9) The scheme manager must—

- (a) notify the member in writing of the member's right to claim an amount of compensation under this regulation or to give the scheme manager a compensation waiver in accordance with paragraph (3), or
- (b) if the member is deceased, pay to the member's personal representatives an amount of compensation determined in accordance with paragraph (12).

(10) The notification must be sent to the member before 31st March 2024 and must specify—

- (a) the amount of compensation the member is entitled to claim under this regulation;
- (b) the dates by which the member's claim for compensation in accordance with paragraph (6)(a) (if made) and compensation waiver in accordance with paragraph (3) (if given) must be received by the scheme manager;
- (c) the member's options under paragraph (5) and (6) of this regulation if the member gives the scheme manager a compensation waiver in accordance with paragraph (3).

(11) The following must be provided in such form and must include such information as the scheme manager requires—

- (a) a compensation waiver in accordance with paragraph (3);
- (b) a claim for compensation in accordance with paragraph (6)(a);
- (c) a claim for rights in accordance with paragraph (6)(b).

(12) For the purposes of paragraphs (2)(b) and (9), the amount of compensation must be equal to the buy-out contributions paid during the remedy period by the member—

- (a) reduced by tax relief amounts calculated in accordance with paragraphs (5) to (9) and, if relevant, (11) to (12) of direction 5 of the 2022 Directions, and
- (b) increased by an amount of interest calculated in accordance with regulation [58].

Treatment of additional contributions: active and deferred members of the legacy scheme

21.—(1) This regulation applies to the additional pension payable to or in respect of a remedy member—

- (a) who on 30th September 2023 was an active or deferred member in respect of remediable service in the legacy scheme;

- (b) who is not a member to whom payment of part of a pension has been made pursuant to paragraph (2) of 2015 transitional regulation 25 in respect of additional pension resulting from an option under 1995 regulation Q8 or 1995 regulation Q10;
- (c) where, during the remedy period one or more of the following occurred—
 - (i) the contribution option period began in relation to the member’s option to pay additional periodical contributions under 1995 regulation Q8, 2008 regulation 2.C.8 or 2008 regulation 3.C.6;
 - (ii) the member’s employing authority paid to the Secretary of State the single lump sum contribution in relation to the member’s option under 1995 regulation Q10, 2008 regulation 2.C.10 or 2008 regulation 3.C.8;
 - (iii) the member’s employing authority paid to the Secretary of State the single lump sum contribution in relation to that authority’s option under 1995 regulation Q11, 2008 regulation 2.C.11 or 2008 regulation 3.C.9 in respect of the member; and
- (d) in respect of whom a deferred choice election has been accepted by the scheme manager or treated by the scheme manager as having been made in accordance with regulation [10] (Immediate choice election for 2015 scheme benefits: pensioner and deceased members).

(2) Where this regulation applies and the scheme manager determines that the benefits to be paid to or in respect of the remedy member for the member’s remediable service are to be determined in accordance with the 2015 Regulations, the scheme manager must, after having regard to the advice of the scheme actuary, vary the member’s rights to the additional pension purchased in respect of the options referred to in paragraph (1)(c) so that those rights are of an equivalent value to the additional pension rights the member would have secured if the contributions had been made in the relevant scheme year in which they were paid—

- (a) in respect of an election under 2015 regulation 59, where paragraph (1)(c)(i) applies to or in respect of the member, and
- (b) in respect of an election under 2015 regulation 62, where paragraph (1)(c)(ii) or (iii) applies to or in respect of the member.

Treatment of additional contributions: pensioners and deceased members of the legacy scheme

22.—(1) This regulation applies to the additional pension payable to or in respect of a remedy member—

- (a) who on 30th September 2023—
 - (i) was a pensioner member with regard to benefits paid in respect of remediable service in the legacy scheme; or
 - (ii) was deceased;
- (b) who is not a member to whom payment of part of a pension has been made pursuant to paragraph (2) of 2015 transitional regulation 25 (Decoupling of benefits derived from additional contributions) in respect of additional pension resulting from an option under 1995 regulation Q8 or 1995 regulation Q10;
- (c) where, during the remedy period one or more of the following occurred—
 - (i) the contribution option period began in relation to the member’s option to pay additional periodical contributions under 1995 regulation Q8, 2008 regulation 2.C.8 or 2008 regulation 3.C.6;
 - (ii) the member’s employing authority paid to the Secretary of State the single lump sum contribution in relation to the member’s option under 1995 regulation Q10, 2008 regulation 2.C.10 or 2008 regulation 3.C.8;
 - (iii) the member’s employing authority paid to the Secretary of State the single lump sum contribution in relation to that authority’s option under 1995 regulation Q11, 2008 regulation 2.C.11 or 2008 regulation 3.C.9 in respect of the member; and

- (d) in respect of whom an immediate choice election has been accepted by the scheme manager or treated by the scheme manager as having been made in accordance with regulation [10] (Immediate choice election for 2015 scheme benefits: pensioner and deceased members).

(2) Where this regulation applies and the scheme manager determines that the benefits to be paid to or in respect of the remedy member for the member's remediable service are to be determined in accordance with the 2015 Regulations, the scheme manager must, after having regard to the advice of the scheme actuary, vary the member's rights to the additional pension purchased in respect of the options referred to in paragraph (1)(c) so that those rights are of an equivalent value to the additional pension rights the member would have secured if the contributions had been made in the relevant scheme year in which they were paid—

- (a) in respect of an election under 2015 regulation 59, where paragraph (1)(c)(i) applies to or in respect of the member, and
- (b) in respect of an election under 2015 regulation 62, where paragraph (1)(c)(ii) or (iii) applies to or in respect of the member.

(3) In this regulation, "pensioner member" means a person entitled to a retirement pension, including a partial retirement pension under regulation 2.D.5 or 3.D.5 of the 2008 Regulations(a) (Partial retirement (members aged at least 55)), where—

- (a) the person became entitled to that pension on or after 1st April 2015; and
- (b) at the same time as the person became entitled to that pension, the person also became entitled to the immediate payment of additional pension in accordance with regulation 2.D.5(5)(c) or 3.D.5(4)(c) of the 2008 Regulations.

Voluntary contributions: members of the 2015 scheme

23.—(1) This regulation applies to the additional pension payable to or in respect of a remedy member—

- (a) who has pensionable service in the legacy scheme by virtue of section 2(1) of PSPJOA 2022;
- (b) who on 30th September 2023—
 - (i) was a pensioner member with regard to benefits paid in respect of remediable service in the 2015 scheme;
 - (ii) was an active or deferred member in respect of remediable service in the 2015 scheme and was entitled to a retirement pension in respect of pensionable service in the legacy scheme to which the member became entitled on or after 1st April 2015; or
 - (iii) was deceased;
- (c) where, during the remedy period, one or both of the following occurred—
 - (i) the member's additional pension account was credited with an amount of additional pension in accordance with 2015 regulation 62;
 - (ii) the member paid contributions in respect of an additional pension election in accordance with 2015 regulation 64.

(2) Where this regulation applies—

- (a) all the remedy member's rights secured by the credit or the election mentioned in paragraph (1)(c) are extinguished;
- (b) as soon as reasonably practicable, the scheme manager must—
 - (i) treat the contributions (other than any relevant contributions) paid in respect of that credit or that election as if they had been paid in the relevant scheme year in which

(a) Regulation 2.D.5 was amended by S.I 2009/381 and 2446. Regulation 3.D.5 was amended by S.I 2009/381 and 2446, 2014/413.

they were paid under a corresponding option exercised under the 1995 Regulations or the 2008 Regulations, and

- (ii) pay to the remedy member or, if the member is deceased, to the member's personal representative an amount of compensation calculated in accordance with paragraph (4) in respect of any relevant contributions;
- (c) from (and including) 1st October 2023 until the date on which the scheme manager completes the steps set out in sub-paragraph (b), any additional pension paid to or in respect of the remedy member in relation to that credit or election must be paid from the relevant section of the legacy scheme; and
- (d) paragraph (3) applies to a remedy member in respect of whom an immediate choice election has been accepted by the scheme manager or treated by the scheme manager as having been made in accordance with regulation [10].

(3) The scheme manager must, after having regard to the advice of the scheme actuary, vary the member's rights to the additional pension purchased by contributions paid under the corresponding options referred to in paragraph (2)(b) so that those rights are of an equivalent value to the additional pension rights the member would have secured if the contributions had been made in the relevant scheme year in which they were paid—

- (a) in respect of an election under 2015 regulation 62, where paragraph (1)(c)(i) applies to or in respect of the member, and
- (b) in respect of an election under 2015 regulation 59, where paragraph (1)(c)(ii) applies to or in respect of the member.

(4) For the purposes of paragraph (2)(c), the amount of compensation must be equal to the relevant contributions paid by the member—

- (a) reduced by tax relief amounts calculated in accordance with paragraphs (5) to (9) and, if relevant, (11) to (12) of direction 5 of the 2022 Directions, and
- (b) increased by an amount of interest calculated in accordance with regulation [58].

(5) In paragraph (2)(b), “corresponding option” means—

- (a) where pursuant to section 2(1) of PSPJOA 2022, the remedy member's remediable service is treated as being pensionable service under the 1995 Regulations—
 - (i) an option under 1995 regulation Q8 if the member paid contributions in accordance with 2015 regulation 64;
 - (ii) an option under 1995 regulation Q10 if the member paid the lump sum contribution referred to in 2015 regulation 62; or
 - (iii) an option under 1995 regulation Q11 if the member's employing authority paid the lump sum contribution referred to in 2015 regulation 62; or
- (b) where pursuant to section 2(1) of PSPJOA 2022, the remedy member's remediable service is treated as being pensionable service under the 2008 Regulations —
 - (i) an option under 2008 regulation 2.C.8 or 2008 regulation 3.C.6 if the member paid contributions in accordance with 2015 regulation 64;
 - (ii) an option under 2008 regulation 2.C.10 or 2008 regulation 3.C.8 if the member paid the lump sum contribution referred to in 2015 regulation 62; or
 - (iii) an option under 2008 regulation 2.C.11 or 2008 regulation 3.C.9 if the member's employing authority paid the lump sum contribution referred to in 2015 regulation 62.

(6) In this regulation—

“pensioner member” means a person entitled to a retirement pension including a partial retirement pension under regulation 85 of the 2015 Regulations (Effect of the election) where at the same time as the person became entitled to that pension, the person also became entitled to the immediate payment of additional pension in accordance with regulation 85(2)(c) of the 2015 Regulations;

“relevant section of the legacy scheme” means—

- (a) the 1995 Section if, pursuant to section 2(1) of PSPJOA 2022, the remedy member’s remediable service is treated as being pensionable service under the 1995 Regulations, or
- (b) the 2008 Section if, pursuant to section 2(1) of that Act, the remedy member’s remediable service is treated as being pensionable service under the 2008 Regulations.

(7) For the purposes of this regulation, the reference to “£5,000” in paragraph (7) of 1995 regulation Q8, 2008 regulation 2.C.8 and 2008 regulation 3.C.6 is to be read as if it were a reference to “£11,500”.

Treatment of buy-out contributions made under 2015 regulation 48: pensioner and deceased members of the 2015 scheme

24.—(1) This regulation applies to a remedy member—

- (a) who has pensionable service in the legacy scheme by virtue of section 2(1) of PSPJOA 2022;
- (b) who on 30th September 2023—
 - (i) was a pensioner member with regard to benefits paid in respect of remediable service in the 2015 scheme;
 - (ii) was an active or deferred member in respect of remediable service in the 2015 scheme and was entitled to a retirement pension in respect of pensionable service in the legacy scheme to which the member had become entitled on or after 1st April 2015; or
 - (iii) was deceased; and
- (c) who paid buy-out contributions in accordance with 2015 regulation 48 during the remedy period (including where any such contributions were paid by the member’s employing authority in place of the member during that period under paragraph (3) of that regulation (“employer buy-out contributions”)).

(2) Where this regulation applies—

- (a) all the member’s rights secured by the payment of buy-out contributions mentioned in paragraph (1)(c) are extinguished, and
- (b) unless paragraph (3) applies to or in respect of that member, the scheme manager must pay to the member or, if the member is deceased, the member’s personal representative an amount of compensation determined in accordance with paragraph (7) in respect of any buy-out contributions paid during the remedy period by a member (excluding any employer buy-out contributions).

(3) This paragraph applies to or in respect of a member if—

- (a) an immediate choice election has been accepted by the scheme manager or treated by the scheme manager as having been made in accordance with regulation [10];
- (b) an annual pension to which an actuarial reduction or an actuarial increase was applied under the 2015 Regulations is being paid to the member or, if the member is deceased, was paid to the member before the member’s death; and
- (c) the scheme manager accepts a claim made by a member or designated person in accordance with paragraph (4) for rights under the 1995 Section or the 2008 Section (whichever is relevant) that, after having regard to the advice of the scheme actuary, the scheme manager has determined are of an equivalent value to the member’s rights that were extinguished under paragraph (2)(a).

(4) For the purposes of paragraph (3)(c), the member or designated person must make the claim—

- (a) by notice in writing in such form and including such further information as the scheme manager requires;
- (b) at the same time as an election under regulation [13] is made.

- (5) The scheme manager must notify the member or designated person in writing—
- (a) of the amount of compensation to which the member is entitled under this regulation;
 - (b) if paragraph (3) applies to or in respect of the member, of the member’s or designated person’s right to make a claim in accordance with paragraph (4).
- (6) The scheme manager must send the notification referred to in paragraph (5) to the member or designated person when the scheme manager provides the first remediable service statement in respect of the member under regulation [6] (Remediable service statements).
- (7) For the purposes of paragraph (2)(b), the amount of compensation must be equal to the buy-out contributions paid during the remedy period by the member—
- (a) reduced by tax relief amounts calculated in accordance with paragraphs (5) to (9) and, if relevant, (11) to (12) of direction 5 of the 2022 Directions, and
 - (b) increased by an amount of interest calculated in accordance with regulation [58].

Remedial arrangements to pay voluntary contributions to secure legacy scheme additional pension

- 25.**—(1) This regulation applies to a remedy member (“M”) who is not a deceased member.
- (2) M may elect to enter into an arrangement (a “remedial arrangement”) to pay contributions for additional pension under the legacy scheme in accordance with this regulation and—
- (a) 1995 regulation Q8 or 1995 regulation Q10, or
 - (b) 2008 regulation 2.C.8, 2008 regulation 2.C.10, 2008 regulation 3.C.6 or 2008 regulation 3.C.8.
- (3) M may only enter into a remedial arrangement—
- (a) in respect of a period of M’s remediable service;
 - (b) if the scheme manager is satisfied that it is more likely than not that, but for a relevant breach of a non-discrimination rule^(a), M would, during the period of M’s remediable service, have entered into the same or a similar arrangement;
 - (c) 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;
 - (d) after making an application in accordance with paragraph (4).
- (4) An application is made in accordance with this paragraph where—
- (a) the application 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) determining the matters mentioned in paragraph (3)(b);
 - (ii) complying with any requirement imposed by 1995 regulation Q12, 2008 regulation 2.C.12 or 2008 regulation 3.C.10 in connection with exercising an option to make contributions for additional pension; and
 - (c) it is received by the scheme manager—
 - (i) before the end of the period of six months beginning with the day on which a remediable service statement is first provided in respect of M, or
 - (ii) at such later time as the scheme manager considers reasonable in all the circumstances.

(a) See section 25(8) of PSPJOA 2022 for the meaning of “non-discrimination rule” and section 25(9) for the circumstances in which breach of a non-discrimination rule is “relevant”.

(5) The scheme manager may treat an application made in accordance with paragraph (4) as if it were a notice under paragraph (1) of 1995 regulation Q12, 2008 regulation 2.C.12 or 2008 regulation 3.C.10.

(6) Where M enters into a remedial arrangement, M owes to the scheme manager an amount equal to—

- (a) the aggregate of the voluntary contributions which M would have owed had M entered into the remedial arrangement at the time M would have entered into the same or a similar arrangement but for a relevant breach of a non-discrimination rule, less
- (b) tax relief amounts calculated in accordance with direction 12(2) to (7) of the 2022 Directions.

(7) Where a determination is made in accordance with direction 12(6) of the 2022 Directions, the following apply—

- (a) direction 12(8) (provision of explanation);
- (b) direction 12(9) and (10) (appeals).

(8) In this regulation—

“1995 regulation Q12” means regulation Q12 of the 1995 Regulations(a) (Exercise of options under regulations Q8, Q10 and Q11);

“2008 regulations 2.C.12” means regulation 2.C.12 of the 2008 Regulations (Exercise of options under regulations 2.C.8, 2.C.10 and 2.C.11);

“2008 regulation 3.C.10” means regulation 3.C.19 of the 2008 Regulations (Exercise of options under regulations 3.C.6, 3.C.8 and 3.C.9).

PART 5

Divorce or the dissolution of a civil partnership

Interpretation of Part 5

26. In this Part—

“the 1999 Act” means the Welfare Reform and Pensions Act 1999(b);

“the 2000 Regulations” means The Pensions on Divorce etc. (Provision of Information) Regulations 2000(c);

“appropriate amount” means the appropriate amount for the purposes of subsection (1) of section 29 of the 1999 Act (Creation of pension debits and credits) determined in accordance with subsection (2) of that section;

“operative time” means if an election under regulation [13] is made in relation to a pension debit member’s remediable service, the time the election is made, or otherwise, where regulation [13(6)] applies, the end of the deferred choice election period in relation to the pension debit member;

“pension debit” means a debit of the appropriate amount under section 29(1)(a) of the 1999 Act;

“pension debit member” means a member of the 1995 Section, the 2008 Section or the 2015 scheme whose benefits, or future benefits, under that Section or scheme have been reduced under section 31 of the 1999 Act (Reduction of benefit);

(a) Regulation Q12 was inserted by S.I. 2008/654.

(b) 1999 c. 30.

(c) S.I. 2000/1048.

“remediable service shareable rights” means the shareable rights of the remedy member (“RM”) obtained by virtue of RM’s remediable service during the period beginning with 1st April 2015 and ending with the earlier of—

- (a) the day before the transfer day. or
- (b) the last day of RM’s remediable service;

“shareable rights” has the meaning given in section 27(2) of the 1999 Act (Scope of mechanism);

“transfer day” has the meaning given in section 29(8) of the 1999 Act;

“valuation day” has the meaning given in section 29(7) of the 1999 Act.

Pension debits: active and deferred members (immediate alternative debit of appropriate amount)

27.—(1) This regulation applies to a corresponding pension debit member(a) (“DM”)—

- (a) who has remediable service in the 1995 Section or the 2008 Section by virtue of section 2(1) of PSPJOA 2022;
- (b) who on 30th September 2023 was an active or deferred member of the 2015 scheme in respect of remediable service(b);
- (c) where, before these Regulations came into force, the scheme manager provided a valuation of benefits, in respect of remediable service shareable rights, under regulation 3 of the 2000 Regulations(c) (Information about pensions and divorce and dissolution of a civil partnership: valuation of pension benefits); and
- (d) where, on or after 1st April 2015, the DM became subject to a debit of the appropriate amount in the 2015 scheme, in respect of remediable service shareable rights, determined under section 29(2) of the 1999 Act.

(2) Where this regulation applies, the scheme manager must adjust all the DM’s debit of the appropriate amount in the 2015 scheme in respect of remediable service shareable rights is adjusted and treated as the DM’s debit of the appropriate amount in the 1995 Section or the 2008 Section (whichever is relevant) on the transfer day.

(3) The scheme manager must make the adjustment referred to in paragraph (2)—

- (a) before 1st July 2024 where the scheme manager discharged their liability under section 33(1) of the 1999 Act (Time for discharge of liability in respect of a pension credit) before 1st October 2023, or
- (b) as soon as reasonably practicable after the day on which the scheme manager discharges their liability under that section where the scheme manager does so after 30th September 2023.

(4) Where paragraph (3)(a) applies, the scheme manager must send a notice in writing to the DM specifying the adjusted debit of the appropriate amount in the 1995 Section or the 2008 Section (whichever is relevant).

(5) The notification mentioned in paragraph (4) must be sent to the DM before 1st July 2024 or such later date as the scheme manager determines, after having regard to all the circumstances of the case.

Pension debits: immediate choice election: pensioner and deceased members

28.—(1) This regulation applies to a corresponding pension debit member (“DM”) who on 30th September was a pensioner or deceased member of the 1995 Section, the 2008 Section or the 2015 Section in respect of remediable service.

(a) For the meaning of “corresponding pension debit member”, see section 19(3) of PSPJOA 2022.

(b) For the meaning of “remediable service”, see section 1 of PSPJOA 2022.

(c) Regulation 3 was amended by S.I. 2005/2877, 2008/1050, 2016/289.

(2) Paragraph (3) applies where—

- (a) the DM or designated person (see regulation [8]) makes an immediate choice for 2015 scheme benefits or such a choice is treated by the scheme manager as having been made in accordance with regulation [10(5)] (Immediate choice election for 2015 scheme benefits: pensioner and deceased members);
- (b) the DM has remediable service in the 1995 Section or the 2008 Section (whichever is relevant) that is not pensionable by virtue of section 2(1) of the PSPJOA 2022;
- (c) before these Regulations came into force, the DM was a pensioner or deceased member of the 1995 Section or the 2008 Section; and
- (d) the DM became subject to a debit of the appropriate amount in the 1995 Section or 2008 Section, in respect of remediable service shareable rights determined under section 29(2) of the 1999 Act, before the operative time.

(3) Where this paragraph applies, all the DM's debit of the appropriate amount in the 1995 Section or the 2008 Section (whichever is relevant) in respect of remediable service shareable rights is adjusted and treated as the DM's equivalent debit of the appropriate amount in the 2015 scheme on the transfer day.

(4) Paragraph (5) applies where—

- (a) the DM or designated person (see regulation [8]) makes an immediate choice for 2015 scheme benefits or such a choice is treated by the scheme manager as having been made in accordance with regulation [10(5)] (Immediate choice election for 2015 scheme benefits: pensioner and deceased members);
- (b) the DM has remediable service in the 1995 Section or the 2008 Section (whichever is relevant) that is pensionable by virtue of section 2(1) of PSPJOA 2022;
- (c) before these Regulations came into force, the DM was a pensioner or deceased member of the 1995 Section, the 2008 Section or the 2015 scheme; and
- (d) the DM became subject to a debit of the appropriate amount in the 2015 scheme, in respect of remediable service shareable rights determined under section 29(2) of the 1999 Act, before the operative time.

(5) Where this paragraph applies, all the DM's debit of the appropriate amount in the 2015 scheme in respect of remediable service shareable rights is treated as the DM's equivalent debit of the appropriate amount in the 2015 scheme on the transfer day.

(6) Paragraph (7) applies where—

- (a) the DM or designated person (see regulation [8]) does not make an immediate choice under regulation [10] before the end of the immediate choice election period and such a choice is not treated by the scheme manager as having been made in accordance with regulation [10(5)];
- (b) the DM has remediable service in the 1995 Section or the 2008 Section (whichever is relevant), that is pensionable by virtue of section 2(1) of PSPJOA 2022;
- (c) before these Regulations came into force, the DM was a pensioner or deceased member of the 1995 Section, the 2008 Section or the 2015 scheme; and
- (d) the DM became subject to a debit of the appropriate amount in the 2015 scheme, in respect of remediable service shareable rights determined under section 29(2) of the 1999 Act, before the operative time.

(7) Where this paragraph applies, all the DM's debit of the appropriate amount in the 2015 scheme in respect of remediable service shareable rights is adjusted and treated as the DM's debit of the appropriate amount in the 1995 Section or the 2008 Section (whichever is relevant) on the transfer day.

(8) Paragraphs (3), (5) and (7) have effect—

- (a) at the operative time, or
- (b) on such later date as the scheme manager considers reasonable in all the circumstances of the case.

Pension debits: deferred choice election for 2015 scheme benefits: active and deferred members

- 29.**—(1) This regulation applies to a corresponding pension debit member (“DM”)—
- (a) who has remediable service in the 1995 Section or the 2008 Section that is pensionable under that Section whether or not by virtue of section 2(1) of PSPJOA 2022;
 - (b) who on 30th September 2023 was an active or deferred member of the 1995 Section, the 2008 Section or the 2015 scheme in respect of remediable service;
 - (c) where, under regulation [13], the DM or designated person (see regulation [8]) makes a deferred choice for 2015 scheme benefits; and
 - (d) where, before the operative time, the DM became subject to a debit of the appropriate amount in the 2015 scheme, in respect of remediable service shareable rights, determined under section 29(2) of the 1999 Act.
- (2) Where this regulation applies, all the DM’s debit of the appropriate amount in the 1995 Section or the 2008 Section is adjusted and treated as the DM’s equivalent debit of the appropriate amount in the 2015 scheme on the transfer day.
- (3) Paragraph (2) has effect—
- (a) at the operative time, or
 - (b) on such later date as the scheme manager considers reasonable in all the circumstances of the case.

Valuation of pension benefits on or after 1st October 2023

- 30.**—(1) This regulation applies where—
- (a) the scheme manager receives a request in writing for a valuation of pension benefits, under regulation 2 of the 2000 Regulations^(a) (Basic information about pensions and divorce or dissolution of a civil partnership), in respect of remediable service shareable rights; and
 - (b) the scheme manager has not received an immediate choice election under regulation [10] or a deferred choice election under regulation [13] in respect of those rights.
- (2) The scheme manager must determine—
- (a) the valuation of pension benefits in the 1995 Section or the 2008 Section (whichever is relevant) and in the 2015 scheme on the valuation day that includes all remediable service shareable rights in the 1995 Section or the 2008 Section; and
 - (b) the valuation of pension benefits in the 1995 Section or the 2008 Section (whichever is relevant) and in the 2015 scheme on the valuation day, treating all remediable service shareable rights as if they were in the 2015 scheme.
- (3) The scheme manager must provide the higher combined valuation of pension benefits, as determined under paragraph (2), in accordance with regulation 2 of the 2000 Regulations.

PART 6

Transfers

Interpretation of Part 6

- 31.**—(1) In this Part—

(a) Regulation 2 was amended by S.I. 2005/2877, 2016/289.

“1995 regulation N1” means regulation N1 of the 1995 Regulations**(a)** (Member’s right to transfer accrued rights to benefits to this Section of the scheme);

“1995 regulation N3” means regulation N3 of the 1995 Regulations**(b)** (Transfers that are not made under the Public Sector Transfer Arrangements);

“2008 regulation 2.F.9” means regulation 2.F.9 of the 2008 Regulations**(c)** (Procedure for applications under regulation 2.F.8);

“2008 regulation 2.F.11” means regulation 2.F.11 of the 2008 Regulations**(d)** (Calculation of transferred–in pensionable service);

“2008 regulation 3.F.9” means regulation 3.F.9 of the 2008 Regulations**(e)** (Procedure for applications under regulation 3.F.8);

“2008 regulation 3.F.11” means regulation 3.F.11 of the 2008 Regulations**(f)** (Calculation of increase to pensionable earnings as the result of a transfer–in);

“2015 regulation 143” means regulation 143 of the 2015 Regulations (Acceptance of transfer value payment);

“2015 scheme joining date” means the date on which the member became eligible to be an active member of the 2015 scheme for the purpose of regulation 142(1)(c)(i) of the 2015 Regulations (Application procedure);

“legacy scheme remediable cash equivalent”, in relation to a member, means the use by the scheme manager of the cash equivalent of rights in the legacy scheme to acquire rights in the 2015 scheme under—

(a) regulation M8 of the 1995 Regulations**(g)** (Member’s right to transfer a preserved pension to the 2015 Scheme), or

(b) regulation 2.F.18 or regulation 3.F.18 of the 2008 Regulations**(h)** (Right to transfer a deferred pension to the 2015 Scheme),

so far as the cash equivalent relates to the member’s remediable rights;

“Public Sector Transfer Arrangements” means the arrangements applying to certain public sector and other schemes under which a common basis for transfer payments is applied by the scheme and those other participating schemes.

“receiving scheme”, in relation to a remediable value, means the scheme to which the remediable value was, or is to be, paid;

“reformed public service pension scheme” means—

(c) a Chapter 1 scheme**(i)**;

(d) a judicial scheme within the meaning of section 70(1) of PSPJOA 2022;

(e) a local government scheme within the meaning of section 86(1) of PSPJOA 2022;

“remediable benefits” means the benefits payable to or in respect of a member in relation to that member’s remediable service;

“remediable club transfer value”, in relation to a member, means the payment or acceptance by the scheme manager of—

(a) a transfer value under Part M (Transfers and buy-outs) or Part N (Transfers from other pension arrangements) of the 1995 Regulations in accordance with the public sector transfer arrangements (within the meaning given to that term by regulation A2 of those Regulations);

(a) Regulation N1 and its heading was amended by S.I. 1997/80, 2002/561, 2006/600, 2008/654 and 2009/2446

(b) Regulation N3 was amended by S.I. 2009/2446.

(c) Regulation 2.F.9 was amended by S.I. 2008/2263, 2009/2446, 2015/95, 2016/245 and 2017/275.

(d) Regulation 2.F.11 was amended by S.I. 2008/2263 and 2009/2446.

(e) Regulation 3.F.9 was amended by S.I. 2008/2263, 2009/2446, 2015/95 and 2016/245.

(f) Regulation 3.F.11 was amended by S.I. 2008/2263 and 2009/2446.

(g) Regulation M8 was inserted by S.I. 2015/96 and amended by S.I. 2017/275.

(h) Regulations 2.F.18 and 3.F.18 were inserted by S.I. 2015/96 and amended by S.I. 2017/275

(i) See section 33 of PSPJOA 2022 for the meaning of “Chapter 1 scheme”.

- (b) a transfer value payment under Chapter 2.F of the 2008 Regulations (Transfers) in accordance with the public sector transfer arrangements (within the meaning given to that term by regulation 2.A.1 of those Regulations);
- (c) a transfer value payment under Chapter 3.F of the 2008 Regulations (Transfers) under the public sector transfer arrangements (within the meaning given to that term by regulation 3.A.1 of those Regulations);
- (d) a club transfer value under Part 7 of the 2015 Regulations (Transfers) (within the meaning given to that term by regulation 132 of those Regulations)

so far as the transfer value or transfer value payment relates to the member's remediable rights;

"remediable rights", in relation to a member, means the member's rights to benefits under a reformed public service pension scheme secured by virtue of the member's remediable service;

"remediable transfer value", in relation to a member, means the payment or acceptance by the scheme manager of a transfer value or transfer value payment other than a remediable club transfer value under—

- (a) Part M or Part N of the 1995 Regulations;
- (b) Chapter 2.F or 3.F of the 2008 Regulations;
- (c) Part 7 of the 2008 Regulations,

so far as the transfer value or transfer value payment relates to the member's remediable rights,

"remediable value" means a remediable club transfer value or a remediable transfer value;

"sending scheme", in relation to a remediable value, means the scheme which paid, or is to pay, the remediable value.

(2) Where a provision of this Part requires the scheme manager to calculate a transfer value (including a remediable club transfer value or a remediable transfer value) in relation to rights secured in the legacy scheme or the 2015 scheme, that value is to be calculated in accordance with—

- (a) the provisions of the legacy scheme or the 2015 scheme which apply to the calculation of values of that type, and
- (b) the guidance and tables provided by the Government Actuary for the purpose of calculating such values that were, or are, in use on the date used for the original calculation.

Treatment of transfer and transfer value payments made to the 1995 Section or the 2008 Section that are not made under Public Sector Transfer Arrangements

32.—(1) This regulation applies to a relevant transfer member who has remediable service in the 1995 Section or the 2008 Section and was on 30th September 2023 an active, deferred or pensioner member of that Section in respect of that service where one of the following has occurred in relation to that member—

- (a) an immediate choice election has been accepted by the scheme manager or treated by the scheme manager as having been made in accordance with paragraph (4) of regulation [10] (Immediate choice election for 2015 scheme benefits: pensioner and deceased members); or
- (b) a deferred choice election has been accepted by the scheme manager or treated by the scheme manager as having been made in accordance with paragraph (6) of regulation [13] (Deferred choice election for 2015 scheme benefits: active, deferred and deceased members).

(2) For the purposes of paragraph (1), a member is a relevant transfer member if—

- (a) the scheme manager has accepted—

- (i) a transfer payment and in respect of that payment—
 - (aa) the member is credited with a period of pensionable service calculated in accordance with paragraphs (1) to (4) of 1995 regulation N3, or
 - (bb) the member is entitled to an increase in the member’s pensionable earnings in accordance with paragraph 18 of Schedule 2 to the 1995 Regulations (Medical and dental practitioners: transfers from other pension arrangements), or
- (ii) a transfer value payment and in respect of that payment—
 - (aa) the member is entitled to an additional period of pensionable service calculated in accordance with paragraphs (1) to (4) of 2008 regulation 2.F.11, or
 - (bb) an increase in the member’s pensionable earnings calculated in accordance with paragraphs (1) to (4) of 2008 regulation 3.F.11; and
- (b) the member’s legacy scheme joining date in relation to the transfer payment or transfer value payment referred to in sub-paragraph (a) falls within the period of that member’s remediable service.

(3) Where this regulation applies and the scheme manager determines that the benefits payable in respect of the member’s remediable service are 2015 scheme benefits, the scheme manager must, after having regard to the advice of the scheme actuary, vary the member’s rights to benefits in respect of the pensionable service or increase in pensionable earnings referred to in paragraph (2) so that those rights are of an equivalent value to the rights the member would have secured if the transfer payment or transfer value payment (whichever is relevant) had been accepted for the purposes of 2015 regulation 143.

(4) In this regulation, “legacy scheme joining date” means—

- (a) the date on which the member joined the 1995 Section for the purposes of paragraph (1) of 1995 regulation N1, or
- (b) the date on which the member became eligible to be an active member of the 2008 Section for the purposes of paragraph (1)(c)(i) of 2008 regulation 2.F.9 or 2008 regulation 3.F.9.

Transfer value payments made to the 2015 scheme that are not made under Public Sector Transfer Arrangements: where they must be treated as transfer payments under the 1995 Section or transfer value payments under the 2008 Section

33.—(1) This regulation applies to a remedy member who has pensionable service in the 1995 Section or the 2008 Section by virtue of section 2(1) of PSPJOA 2022 and was an active or deferred member of the 2015 scheme on 30th September 2023 in respect of that service where—

- (a) the scheme manager has accepted a transfer value payment in relation to the member that is a non-club transfer^(a) for the purposes of 2015 regulation 143;
- (b) in respect of that payment, the member is entitled to an increase in the member’s pensionable earnings and has been credited with a period of pensionable service under paragraph (2) of that regulation; and
- (c) the member’s 2015 scheme joining date in relation to the transfer value payment falls within the period of that member’s remediable service.

(2) Where this regulation applies—

- (a) all the remedy member’s rights secured by the transfer value payment mentioned in paragraph (1) are extinguished;
- (b) the scheme manager must treat the payment as if it had been—

(a) For the meaning of “non-club transfer”, see the definition of “club transfer” in regulation 132 of the 2015 Regulations.

- (i) a transfer payment accepted for the purposes of 1995 regulation N3 where, pursuant to section 2(1) of PSPJOA 2022, the remedy member's remediable service is treated as being pensionable service under the 1995 Regulations, or
 - (ii) a transfer value payment accepted for the purpose of 2008 regulation 2.F.11 or 2008 regulation 3.F.11 (whichever is relevant) where, pursuant to section 2(1) of PSPJOA 2022, the remedy member's remediable service is treated as being pensionable service under the 2008 Regulations; and
 - (c) in respect of the payment, the member is entitled to count the pensionable service or increase in pensionable earnings set out in paragraph (3) or (4) (whichever is relevant).
- (3) If the scheme manager treats the transfer payment as if it had been accepted for the purposes of the 1995 regulation N3, the member is entitled to—
- (a) an additional period of pensionable service calculated in accordance with 1995 regulation N3, or
 - (b) an increase in the member's pensionable earnings in respect of the payment calculated in accordance with paragraph 18(a) of Schedule 2 to the 1995 Regulations (Medical and dental practitioners: transfers from other pension arrangements).
- (4) If the scheme manager treats the transfer value payment as if it had been accepted for the purposes of the 2008 Regulations, the member is entitled to—
- (a) an additional period of pensionable service calculated in accordance with paragraphs (1) to (4) of 2008 regulation 2.F.11, or
 - (b) an increase in the member's pensionable earnings in respect of the payment calculated in accordance with paragraphs (1) to (4) of 2008 regulation 3.F.11.
- (5) The scheme manager must send a notification in writing to the remedy member specifying the additional period of pensionable service or increase in pensionable earnings that the member is entitled to count under paragraph (3) or (4) of this regulation.
- (6) The notification must be sent to the remedy member before 1st October 2024 or such earlier date as the scheme manager determines, after having regard to all the circumstances of the case.

Transfer value payments treated in accordance with regulation [33]: variation of the member's rights on the making of a deferred choice election

- 34.**—(1) This regulation applies to a remedy member who—
- (a) is entitled to an additional period of pensionable service or an increase in pensionable earnings in the 1995 Section under paragraph (3), or in the 2008 Section under paragraph (4), of regulation [33], and
 - (b) makes a deferred choice election for 2015 scheme benefits under regulation [13].
- (2) Where this regulation applies and the scheme manager determines that the benefits to be paid to or in respect of the remedy member's remediable service are to be determined in accordance with the 2015 Regulations, the scheme manager must, after having regard to the advice of the scheme actuary, vary the member's rights to benefits in respect of the pensionable service or increase in pensionable earnings referred to in paragraph (1) so that those rights are of an equivalent value to the rights the member would have secured if the transfer payment or transfer value payment (whichever is relevant) had been accepted for the purposes of 2015 regulation 143.

Transfer and Transfer value payments made to the 2015 scheme treated as if they have been accepted under the legacy scheme: pensioner and deceased members

- 35.**—(1) This regulation applies to a remedy member—
- (a) who has pensionable service in the 1995 Section or the 2008 Section by virtue of section 2(1) of PSPJOA 2022;

(a) Paragraph 18 was amended by S.I. 2009/2446.

- (b) who on 30th September 2023—
 - (i) was a pensioner member with regard to benefits paid in respect of remediable service in the 2015 scheme, or
 - (ii) was deceased;
- (c) in respect of whom—
 - (i) an immediate choice election may be accepted by the scheme manager or is treated by the scheme manager as having been made in accordance with regulation [10(4)];
 - (ii) the scheme manager has accepted a transfer payment or transfer value payment that is a non-club transfer for the purposes of 2015 regulation 143 and, in respect of that payment, the member is entitled to an increase in the member’s pensionable earnings and has been credited with a period of pensionable service under paragraph (2) of that regulation; and
 - (iii) the 2015 scheme joining date in relation to the transfer payment or transfer value payment falls within the period of that member’s remediable service.

(2) Where this regulation applies, on the acceptance of an election referred to in paragraph (1)(c)(i) in respect of a member or at the end of the immediate choice election period if no such election is accepted—

- (a) all the remedy member’s rights secured by the transfer payment or transfer value payment mentioned in paragraph (1)(c)(ii) are extinguished;
- (b) the scheme manager must treat the payment as if it had been accepted for the purposes of—
 - (i) 1995 regulation N3 where, pursuant to section 2(1) of PSPJOA 2022, the remedy member’s remediable service is treated as being pensionable service under the 1995 Regulations, or
 - (ii) 2008 regulation 2.F.11 or 2008 regulation 3.F.11 (whichever is relevant) where, pursuant to section 2(1) of PSPJOA 2022, the remedy member’s remediable service is treated as being pensionable service under the 2008 Regulations;
- (c) in respect of the payment, the member is entitled to count the pensionable service or increase in pensionable earnings set out in paragraph (3) or (4) (whichever is relevant); and
- (d) paragraph (5) applies if the scheme manager determines that the benefits payable in respect of the member’s remediable service are 2015 scheme benefits.

(3) If the scheme manager treats the transfer payment as if it had been accepted for the purposes of the 1995 regulation N3, the member is entitled to—

- (a) an additional period of pensionable service calculated in accordance with 1995 regulation N3, or
- (b) an increase in the member’s pensionable earnings in respect of the payment calculated in accordance with paragraph 18 of Schedule 2 to the 1995 Regulations.

(4) If the scheme manager treats the transfer value payment as if it had been accepted for the purposes of the 2008 Regulations, the member is entitled to—

- (a) an additional period of pensionable service calculated in accordance with paragraphs (1) to (4) of 2008 regulation 2.F.11, or
- (b) an increase in the member’s pensionable earnings in respect of the payment calculated in accordance with paragraphs (1) to (4) of 2008 regulation 3.F.11.

(5) Where this paragraph applies (see paragraph (2)(d)), the scheme manager must vary the member’s rights to benefits in respect of the pensionable service or increase in pensionable earnings referred to in paragraph (3) or (4) (whichever is relevant) so that those rights are of an equivalent value to the rights the member would have secured if the transfer payment or transfer value payment (whichever is relevant) had been accepted for the purposes of 2015 regulation 143.

Treatment of transfer or transfer value payments or statements from other and corresponding health service schemes

36.—(1) This regulation applies to a member who—

- (a) is credited with a period of pensionable service (together with the rights attaching to that service) in accordance with regulation R8(2) or (6) of the 1995 Regulations (Former members of health service schemes) in respect of a transfer payment made by a health service scheme;
- (b) is entitled to count a period of pensionable service in accordance with paragraph (6) of 2008 regulation 2.F.11 or entitled to count an increase in pensionable earnings in accordance with paragraph (6) of 2008 regulation 3.F.11 in respect of a transfer value payment made by a corresponding 2008 scheme); or
- (c) is entitled to count an increase in pensionable earnings in accordance with regulation 144(5) of the 2015 Regulations (Calculation of increase to pensionable earnings) in respect of a transfer value statement accepted from a corresponding scheme.

(2) Where this regulation applies and the scheme manager determines that the payment or transfer value statement referred to in paragraph (1) represents any rights in respect of a period of pensionable service that is remediable service in another health service scheme, a corresponding 2008 scheme or a corresponding scheme, the scheme manager must treat that period of pensionable service as a period of pensionable service that is remediable service in the 1995 Section, the 2008 Section or the 2015 scheme (whichever is relevant).

(3) In this regulation—

“corresponding 2008 scheme” means a scheme as so defined in regulation 2.A.1(1) of the 2008 Regulations;

“corresponding scheme” means a scheme as so defined in Schedule 15 to the 2015 Regulations 2015;

“health service scheme” means a scheme as so defined in regulation R8(1) of the 1995 Regulations.

Transferred out remediable service statements

37. Where a remedy member has transferred any rights in respect of remediable service out of the legacy scheme or the 2015 scheme, the scheme manager must provide a transferred out remediable service statement in accordance with direction 6(2) to (4) of the 2022 Directions (Transfers) (and direction 6(4) applies as if the reference to “any provision made by virtue of section 29(1) of PSPJOA 2022” were a reference to regulation [6] of these Regulations).

Remediable transfer value payments before 1st October 2023

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

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

- (a) the 1995 Section or the 2008 Section (whichever is relevant);
- (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 equal to $x - y$ (“top-up transfer value payment”).

(5) Where the greater of the amounts calculated under paragraph (2) (“x”) is less than the amount of the remediable transfer value (“y”), the scheme manager must waive any overpayment.

(6) A top-up transfer value payment made under paragraph (4) is subject to the same conditions as the remediable transfer value.

(7) Where a receiving scheme, other than a reformed public service scheme, cannot accept the top-up transfer value payment, the scheme manager may—

- (a) pay the top-up transfer value payment to another nominated registered pension scheme, or
- (b) pay an amount of compensation to the member in accordance with direction 6(5) of the 2022 Directions.

(8) In this regulation, a “nominated registered pension scheme” means a pension scheme registered under Chapter 2 of Part 4 of the 2004 Act, that—

- (a) is chosen by M;
- (b) agrees to accept the top-up transfer value payment; and
- (c) meets such other conditions as the scheme manager may require.

Remediable transfer value payments on or after 1st October 2023

39.—(1) This regulation applies to a remediable transfer value payment to be made in relation to M by the scheme manager on or after 1st October 2023.

(2) The scheme manager must, after having regard to the advice of the scheme actuary, calculate the transfer value of M’s remediable rights as if those rights had been in—

- (a) the 1995 Section or the 2008 Section (whichever is relevant);
- (b) the 2015 scheme.

(3) The amount of the remediable transfer value is the greater of the amounts calculated under paragraph (2).

Transfers of remediable rights in the legacy scheme to the 2015 scheme before 1st October 2023

40.—(1) This regulation applies in relation to each member (“M”) in respect of whom the scheme manager has used a legacy scheme remediable cash equivalent to acquire rights in the 2015 scheme before 1st October 2023.

(2) Where this regulation applies, the scheme manager, after having regard to the advice of the scheme actuary, must calculate the cash equivalent of M’s remediable rights as if they were secured in—

- (a) the 1995 Section or the 2008 Section (whichever is relevant);
- (b) the 2015 scheme.

(3) Where—

- (a) the greater of the amounts calculated under paragraph (2) (“x”) is greater than
- (b) the legacy scheme remediable cash equivalent (“y”),

the scheme manager, after having regard to the advice of the scheme actuary, must use an amount equal to $x - y$ to acquire further rights in the 2015 scheme in respect of the member on the same terms as the legacy scheme remediable cash equivalent.

Transfers of remediable rights in the legacy scheme to the 2015 scheme on or after 1st October 2023

41.—(1) This regulation applies in relation to each member (“M”) in respect of whom the scheme manager uses a legacy scheme remediable cash equivalent to acquire rights in the 2015 scheme on or after 1st October 2023.

(2) Where this regulation applies, the scheme manager, after having regard to the advice of the scheme actuary, must calculate the cash equivalent of M's remediable rights as if they were secured in—

- (a) the 1995 Section or the 2008 Section (whichever is relevant);
- (b) the 2015 scheme.

(3) The amount of the legacy scheme remediable cash equivalent is the greater of the amounts calculated under paragraph (2).

Remediable transfer values

42.—(1) This regulation applies in relation to each payment of a remediable transfer value in respect of a member ("M").

(2) The scheme manager, after having regard to the advice of the scheme actuary, must determine M's remediable benefits if the transfer value, together with any payment accepted under paragraph (3), were applied in respect of rights in—

- (a) the 1995 Section or the 2008 Section (whichever is relevant);
- (b) the 2015 scheme.

(3) Where the remediable transfer value was accepted by the scheme manager before 1st October 2023 and the sending scheme is a reformed 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, PSPJOA 2022.

(4) A payment accepted under paragraph (3) is to be used for the purpose of determining M's benefits under the legacy scheme or the 2015 scheme on the same terms as the remediable transfer value.

Remediable club transfer value payments before 1st October 2023

43.—(1) This regulation applies in relation to each member ("M") in respect of whom the scheme manager paid a remediable club transfer value before 1st October 2023.

(2) The scheme manager, after having regard to the advice of the scheme actuary, must calculate the transfer value of M's remediable rights as if they had all been secured in—

- (a) the 1995 Section or the 2008 Section (whichever is relevant), and, separately—
- (b) the 2015 Scheme.

(3) The scheme manager must provide to the receiving scheme—

- (a) the result of the calculations mentioned in paragraph (2); and
- (b) such further information as the receiving scheme may require in relation to M's remediable rights.

(4) Where the receiving scheme is a local government pension scheme (within the meaning of section 86(1) of PSPJOA 2022), and—

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

the scheme manager must pay the receiving scheme an amount equal to $x - y$.

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

Remediable club transfer value payments on or after 1st October 2023

44.—(1) This regulation applies in relation to each member (“M”) in respect of whom the scheme manager is to make a remediable club transfer value payment on or after 1st October 2023.

(2) The scheme manager, after having regard to the advice of the scheme actuary, must calculate the transfer value of M’s remediable rights as if they had all been secured in—

- (a) the 1995 Section or the 2008 Section (whichever is relevant), and, separately
- (b) the 2015 scheme.

(3) The amount of the remediable club transfer value is the greater of the amounts calculated under paragraph (2).

(4) The scheme manager must provide to the receiving scheme—

- (a) the result of the calculations mentioned in paragraph (2); and
- (b) such further information as the receiving scheme may require in relation to M’s remediable rights.

Remediable club transfer value payments accepted before 1st October 2023

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

(2) Where the sending scheme is a local government pension scheme (within the meaning of section 86(1) of PSPJOA 2022), the scheme manager may accept an adjustment in the value of a remediable club transfer value—

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

(3) An adjustment payment accepted under paragraph (2) is to be used for the purpose of determining M’s benefits under the legacy scheme or the 2015 scheme on the same terms as the remediable transfer value.

(4) The scheme manager, after having regard to the advice of the scheme actuary, must determine M’s remediable benefits if the transfer value, together with any payment adjustment accepted under paragraph (2), were applied in respect of rights in—

- (a) the 1995 Section or the 2008 Section (whichever is relevant);
- (b) the 2015 scheme.

Remediable club transfer value payments accepted on or after 1st October 2023

46.—(1) This regulation applies in relation to each remediable club transfer value payment in respect of a member (“M”) which is accepted by the scheme manager on or after 1st October 2023.

(2) The scheme manager, after having regard to the advice of the scheme actuary, must determine M’s remediable benefits if the remediable transfer value were applied in respect of rights in—

- (a) the 1995 Section or the 2008 Section (whichever is relevant);
- (b) the 2015 scheme.

Application and interpretation of regulations [48] to [50]

47.—(1) Regulations [48] to [50] apply in relation to the following accepted by the scheme manager in respect of a member (“M”)—

- (a) a remediable transfer value payment, together with any payment accepted under regulation [42(3)];
- (b) a remediable club transfer value payment, together with any adjustment accepted under regulation [45(2)].

(2) In regulations [48] to [50]—

“relevant Section of the legacy scheme” means—

- (a) the 1995 Section if M has pensionable service in that Section;
- (b) the 2008 Section if M has pensionable service in that Section;
- (c) otherwise, the 2008 Section;

“transferred in remediable rights” means M’s remediable rights in the legacy scheme or the 2015 scheme secured by virtue of a remediable value together with any payment or, as the case may be, adjustment under regulation [42(3)] or regulation [45(2)].

Transferred in remediable rights treated as being the legacy scheme

48.—(1) Where this regulation applies (see regulation [47]) and the transferred in remediable rights of a member (“M”) would, apart from this regulation, be rights to benefits under the 2015 scheme, the rights—

- (a) are not, and are treated as never having been, rights under the 2015 scheme, and
- (b) are treated as being, and as always having been, rights under the relevant Section of the legacy scheme.

(2) Paragraph (1) has effect—

- (a) for the purposes of determining which Section of the legacy scheme is (or at any time was) required to pay benefits to or in respect of M’s transferred in remediable rights, and
- (b) subject to regulation [49], for all other purposes.

Varying the value of benefits secured by virtue of transferred in remediable rights

49.—(1) Where this regulation applies (see regulation [47]) and—

- (a) a member is an active or deferred remedy member (“M”), and
- (b) M’s transferred in remediable rights are treated as rights to benefits under the relevant Section of the legacy scheme by virtue of regulation [48],

the scheme manager must vary the value of those rights so that they are of an equivalent value to rights M would have secured under the relevant Section of the legacy scheme if the rights had been transferred into that Section.

(2) A variation under paragraph (1) is to be treated as having taken effect when these Regulations come into force.

(3) Where—

- (a) M is a pensioner remedy member or a remedy member who died before 1st October 2023, and the end of the immediate choice election period has passed in relation to M and no election has been made (or treated by the scheme manager as having been made) under regulation [10] in relation to M’s remediable service, and
- (b) M’s transferred in remediable rights are treated as rights to benefits under the relevant Section of the legacy scheme by virtue of regulation [48],

the scheme manager must vary the value of those rights so that they are of an equivalent value to the rights M would have secured under the relevant Section of the legacy scheme if the rights had been transferred into that Section.

(4) A variation under paragraph (3) is to be treated as having taken effect at the end of the immediate choice election period.

(5) Where—

- (a) the benefits payable to or in respect of M’s remediable service are 2015 scheme benefits by virtue of an immediate choice election under regulation [10] or a deferred choice election under regulation [13] (including such an election which the scheme manager treats as having been made under either of those regulations), and
- (b) the benefits payable in relation to M’s transferred in remediable rights would otherwise be benefits in the relevant Section of the legacy scheme,

the scheme manager must vary the value of those rights so that they are of an equivalent value to rights M would have secured under the 2015 scheme if the rights had been transferred into that scheme.

(6) Where the scheme manager is required to vary the value of any rights under this regulation so that they are equivalent to rights that would have been secured in another scheme (“the alternative scheme”), the scheme manager must, after having regard to the advice of the scheme actuary, calculate the varied rights as if the remediable transfer value which originally secured the rights had been paid to the alternative scheme or Section of the scheme in the scheme year the payment was received by the scheme manager.

(7) In paragraph (6), “scheme year” means a period of one year beginning on 1st April and ending with 31st March.

Benefits already paid in relation to transferred in remediable rights

50.—(1) Where this regulation applies (see regulation [47]), paragraph (2) applies in relation to any benefits (“the paid benefits”) that have at any time been paid to a person (“P”) from the 2015 scheme so far as—

- (a) they are calculated by reference to P’s, or any other person’s, transferred in remediable rights, and
- (b) they are benefits that, as a result of regulation [48(1)(a)], P was not entitled to receive from the 2015 scheme.

(2) The paid benefits are to be treated for all purposes—

- (a) as not having been paid to P by the 2015 scheme, but
- (b) as having been paid to P instead by the relevant Section of the legacy scheme.

PART 7

Taxation

Interpretation of Part 7

51. In this Part—

“in-scope tax year” means a tax year in respect of which an assessment to tax may be made at any time not more than four years after the end of the year of assessment to which it relates under section 34 of the Taxes Management Act 1970(a);

“relevant rectification provision” has the same meaning as in The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023(b).

(a) Section 34 was amended by paragraph 17 of Schedule 19 to the Finance Act 1998 (c. 36), paragraph 7(2) and (3) of Schedule 39 to the Finance Act 2008 (c. 9), section 168(2) of the Finance Act 2016 (c. 24) and paragraph 25(8) of Schedule 2 to the Finance Act 2019 (c. 1).

(b) S.I. 2023/113. For the definition of “relevant rectification provision”, see regulation 2(1) of those Regulations.

Scheme administrator to be liable where private sector scheme administrator’s liability is discharged

52.—(1) This regulation applies in the circumstances described in paragraph (2) in relation to a remedy member (“M”) who—

- (a) has remediable service in the 1995 Section or the 2008 Section that is pensionable service under that Section whether or not by virtue of section 2(1) of PSPJOA 2022, and
- (b) on 30th September 2023 was a pensioner or deceased member of the 1995 Section, the 2008 Section or the 2015 scheme in respect of remediable service.

(2) The circumstances are that—

- (a) before these Regulations came into force, a benefit crystallisation event in accordance with section 216 of the 2004 Act^(a) (Benefit crystallisation events and amounts crystallised) occurred in connection with M’s entitlement in the 1995 Section, the 2008 Section or the 2015 scheme;
- (b) a later benefit crystallisation event (“later BCE”) occurs in relation to M’s entitlement to any benefits under a pension scheme that is not a public service pension scheme (“private sector scheme”);
- (c) a lifetime allowance charge, or any part of such a charge, is charged in connection with the later BCE that is attributable to a relevant rectification provision; and
- (d) the scheme administrator of the private sector scheme makes a successful application under section 267 of the 2004 Act (Application for discharge of scheme administrator’s liability for lifetime allowance charge) in respect of their liability for the lifetime allowance charge, or part of such a charge, mentioned in sub-paragraph (c).

(3) The scheme administrator is jointly and severally liable under section 217(1) of the 2004 Act (Persons liable to charge)^(b) for the lifetime allowance charge or part of such a charge mentioned in paragraph (2)(d).

(4) M’s present benefits must be reduced by an amount that fully reflects the amount of the lifetime allowance charge, or part of such a charge, mentioned in paragraph (2)(d) paid by the scheme administrator and is to be calculated by reference to advice provided by the scheme actuary for that purpose.

The 2019/20 Pensions Annual Allowance Charge Compensation Policy

53.—(1) This regulation applies in the circumstances described in paragraph (2) to a remedy member (“M”) who—

- (a) has remediable service in the 1995 Section or the 2008 Section that is pensionable under that Section whether or not by virtue of section 2(1) of PSPJOA 2022, and
- (b) on 30th September 2023 was a pensioner or deceased member of the 1995 Section, the 2008 Section or the 2015 scheme in respect of remediable service.

(2) The circumstances are that—

- (a) M gives notice either on a voluntary basis or pursuant to a liability under section 237B(3) of the Finance Act 2004 Act (Liability of scheme administrator)^(c) in respect of an annual allowance charge arising in tax year 2019/20; and
- (b) M has been paid any amount from the 2019/20 Pensions Annual Allowance Charge Compensation Policy.

(a) Section 216 was amended by paragraph 42 of Schedule 10 to the Finance Act 2005 (c. 7). There are other amendments but none are relevant.

(b) Section 217 was amended by paragraph 127 of Schedule 46 to the Finance Act 2013 (c. 29), paragraph 22 of Schedule 2 to the Taxation of Pensions Act 2014 (c. 30) and paragraph 5 of Schedule 4 to the Finance Act 2015 (c. 11).

(c) Section 237B was inserted by paragraph 15 of Schedule 17 to the Finance Act 2011 (c. 11). It has been amended by paragraph 129 of Schedule 46 to the Finance Act 2013 (c. 29), paragraph 68 of Schedule 1 to the Taxation of Pensions Act 2014 (c. 30) and section 9 of the Finance Act 2022 (c. 3) and by S.I. 2015/80 and 1810, 2017/468 and 2019/201.

(3) Where regulation 8 of The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 (Chapter 1 schemes and judicial 2015 schemes: operation of scheme pays for remedy years) applies and the annual allowance charge arising in respect of tax year 2019/20 has reduced, the legacy scheme will pay to NHS England an amount equal to the compensation amount, in respect of the overpaid annual allowance charge, paid to M by the 2019/20 Pensions Annual Allowance Charge Compensation Policy.

(4) The amount of pension benefit corrections, made under regulations [11] and [14] (Pension benefits and lump sum benefits) of these Regulations to be paid by the legacy scheme to M in respect of the reduced annual allowance charge arising in respect of tax year 2019/20 is not a relevant amount for interest under Part [9] of these Regulations (Interest and the payment of net liabilities).

Voluntary scheme pays

54.—(1) This regulation applies in relation to a remedy member (“M”) who—

- (a) is not a deceased member;
- (b) has remediable service in the 1995 Section or the 2008 Section that is pensionable under that Section whether or not by virtue of section 2(1) of PSPJOA 2022;
- (c) has an increased annual allowance charge in an in-scope tax year attributable to a relevant rectification provision; and
- (d) gives a notice to the scheme administrator on a voluntary basis in respect of the increased annual allowance charge after the time limit referred to in section 237BA of that Act(a) has ended.

(2) M may give notice in writing to the scheme administrator requiring that the scheme administrator pay the annual allowance charge on behalf of the member.

(3) Upon receipt of the notice in writing mentioned in paragraph (2), the scheme administrator must pay the annual allowance charge arising in that tax year.

(4) M’s present or future benefits in respect of which that charge arises must be adjusted in accordance with section 237E of the 2004 Act(b) and must be calculated by reference to advice provided by the scheme actuary for that purpose.

(5) The scheme administrator must provide information to M in relation to the process for making a request under paragraph (2) and the consequences of such a request.

PART 8

Compensation

Applications for compensation or indirect compensation

55.—(1) The scheme manager must not pay an amount by way of compensation under section 23(1) of PSPJOA 2022 and in accordance direction 8 of the 2022 Directions or an increase to benefits by way of indirect compensation under regulation [56] unless paragraph (2) applies.

(2) This paragraph applies where—

- (a) an application is made in accordance with direction 18(1) and (2) of the 2022 Directions;
- (b) the application is accompanied by such information as the scheme manager may by written notice require a person to provide in relation to the compensation which is—
 - (i) information within the person’s possession, or
 - (ii) information which the person may reasonably be expected to obtain; and

(a) Section 237BA was inserted by section 9(3) of the Finance Act 2022 (c. 3).

(b) Section 237E was inserted by paragraph 15 of Schedule 17 to the Finance Act 2011 (c. 11).

- (c) the scheme manager makes a determination in accordance with direction 18(3) of the 2022 Directions.

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

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

Indirect compensation

56.—(1) This regulation applies where pursuant to an application under regulation [55] the scheme manager determines that a person has incurred a compensatable loss under section 23 of PSPJOA 2022 that is a Part 4 tax loss as defined in subsection (9) of that section (“relevant loss”) and the relevant loss is a reduction of benefit.

(2) The amount of benefit payable under the legacy scheme or the 2015 scheme—

- (a) must not be paid under section 23 of PSPJOA 2022 by way of compensation in respect of the relevant loss, and
- (b) must be increased to reflect the amount of the relevant loss in such manner as is determined by the scheme manager in accordance with direction 10(2) to (4) of the 2022 Directions.

PART 9

Interest and the payment, reduction or waiver of liabilities

Application and interpretation of Part 9

57.—(1) This Part applies in respect of relevant amounts (and any interest on them) payable by a person to the legacy scheme or by that scheme to a person under or by virtue of Chapter 1 of PSPJOA 2022.

(2) In this Part, a reference to a direction is a reference to that direction in the 2022 Directions.

Interest and process

58.—(1) The scheme manager must calculate interest on any amount described in direction 14 (Interest: rates), 15 (Interest: periods) or 16 (Interest: other) in accordance with the provisions of whichever of those directions is relevant to that amount.

(2) Direction 14(6) applies where the rate of interest has varied during a period for which interest is to be calculated.

(3) Where amounts are owed under regulation 3, interest must be calculated and applied in accordance with the 2022 Directions as if those amounts were owed under section 15 of PSPJOA 2022 (Pension contributions: pensioner and deceased members).

(4) Where amounts are owed under regulation 4, interest must be calculated and applied in accordance with the 2022 Directions as if those amounts were owed under section 16 of PSPJOA 2022 (Pension contributions: active and deferred members (immediate correction)).

(5) Where amounts are owed under regulation 5, interest must be calculated and applied in accordance with the 2022 Directions as if those amounts were owed under section 17 of PSPJOA 2022 (Pension contributions: active and deferred members (deferred correction)).

(6) Where amounts are owed under regulation [11] or [14], interest must be calculated and applied in accordance with the 2022 Directions as if those amounts were owed under section 14 of PSPJOA 2022 (Pension benefits and lump sum benefits: pensioner and deceased members).

(7) Where compensation is owed under regulation [20], that liability is waived by virtue of regulation [20(3)] and that waiver subsequently ceases to have effect, interest must be calculated in the form and applied at the rate specified—

- (a) in direction 14(5) from the mid-point date described in direction 15(16) to the date 28 days after a remediable service statement is first issued, and
- (b) in direction 14(4) from the date 29 days after a remediable service statement is first issued to the date of payment.

(8) Direction 16 applies in relation to any other relevant amounts.

Netting off of liabilities

59. The scheme manager must net off relevant amounts (and any interest owed on them) which are owed by the scheme to a person or by a person to the scheme (as the case may be) in accordance with direction 19 (Process: netting off).

Payments of amounts owed to the scheme

60.—(1) This regulation applies where a person (“P”) owes a net liability to the scheme after taking into account regulation [59].

- (2) The scheme manager must send a notice in writing to P that the net liability must be paid.
- (3) P must pay the amount of the net liability to the scheme manager—
 - (a) on or before a date determined by the scheme manager as being reasonable after having regard to all the circumstances of the case, or
 - (b) in accordance with an agreement under paragraph (4).
- (4) P and the scheme manager may agree that the net liability is paid in part or in full—
 - (a) by instalments;
 - (b) by way of deductions from any benefits (including a lump sum benefit) to which P is entitled under the legacy scheme or the 2015 scheme; or
 - (c) by a combination of (a) and (b).

(5) P and the scheme manager may agree to vary an agreement made in accordance with paragraph (4).

(6) Where P does not pay the amount that P is required to pay under paragraph (3), the scheme manager may, after providing notice in writing to P, deduct such sums from benefits payable to P from the legacy scheme or the 2015 scheme as the scheme manager considers reasonable for the purpose of discharging P’s liability.

Payment of amounts owed to a person

61.—(1) This regulation applies where the scheme owes a net liability to a person (“P”) after taking into account regulation [59].

- (2) The scheme manager must pay the amount of the net liability to P as soon as reasonably practicable—
 - (a) after the scheme manager determines the amount of the net liability, or
 - (b) where the scheme manager requires P to make an application in accordance with paragraph (3), after receipt of that application.
- (3) Before paying the amount of a net liability owed to P, the scheme manager may by notice in writing require P to make an application which is—
 - (a) in a form and manner determined by the scheme manager;
 - (b) accompanied by such information as the scheme manager may require—
 - (i) which is within P’s possession, or

- (ii) which P may reasonably be expected to obtain; and
- (c) received by the scheme manager before the end of the period of six months beginning with the day after the day on which P receives notice that the application is required.

Power to reduce or waive amounts owed by a person to the legacy scheme

62.—(1) The scheme manager may reduce or waive an amount owed by a person to the legacy scheme under these Regulations.

(2) When, under paragraph (1), reducing or waiving an amount owed, the scheme manager must—

- (a) have regard to the particular circumstances of the person;
- (b) apply a presumption in favour of recovering the amount owed by the person unless it is uneconomic to recover it; and
- (c) have regard to regulation [60].

(3) In paragraph (2)(a), the particular circumstances include those set out in direction 4(3).

PART 10

Immediate detriment remedy

Immediate detriment

63. Schedule 2 makes provision for a remedy member who has obtained an immediate detriment remedy in relation to the member's remediable service.

PART 11

Revocation of election to convert pensionable service in the legacy scheme

Option to revoke election to convert pensionable service in the legacy scheme

64.—(1) This regulation applies to a remedy member ("M") who has made an election under regulation 41 of the 2015 Transitional Regulations (Option for 1995 Section members to convert to 2008 Section membership).

(2) M may revoke the election referred to in paragraph (1) with the effect that M's pensionable service for the purposes of the 1995 Section is treated as if it were never such service for the purposes of the 2008 Section.

(3) Where M may make an election under regulation [10] (Immediate choice election for 2015 scheme benefits: pensioner and deceased members)—

- (a) the scheme manager must send a notice in writing to M of M's right under paragraph (2) on or before the relevant date referred to in regulation [6(2)];
- (b) M must, if M decides to exercise that right, give the scheme manager notice in writing of that decision—
 - (i) within three months beginning with the day on which the scheme manager issued the notice referred to in sub-paragraph (a); or
 - (ii) by such later time as the scheme manager considers reasonable after having regard to all the circumstances of the case.

(4) Where M may make an election under regulation [13] (Deferred choice election for 2015 scheme benefits: active, deferred and deceased members)—

- (a) the scheme manager must send a notice in writing to M of M's right under paragraph (2) before 1st April 2024;

(b) M must, if M decides to exercise that right, give the scheme manager notice in writing of that decision—

- (i) within three months beginning with the day on which the scheme manager issued the notice referred to in sub-paragraph (a); or
- (ii) by such later time as the scheme manager considers reasonable after having regard to all the circumstances of the case.

(5) Where M revokes the election in accordance with paragraph (2), for the purposes of section 4(9)(a) of PSPJOA 2022, the Section under which the person most recently accrued pensionable service is the 1995 Section.

PART 12

Retirement pensions

Premature retirement in the interests of efficiency

65.—(1) This regulation applies in relation to a relevant member (“M”) who has remediable service in the legacy scheme that is pensionable service under that scheme whether or not by virtue of section 2(1) of PSPJOA 2022 (“M’s remediable service”).

(2) Where this regulation applies and the scheme manager accepts an immediate choice election in accordance with regulation [10(4)] or a deferred choice election in accordance with regulation [13(4)] and, as a result of that election, the additional contribution due from the employing authority increases, the scheme manager must waive that increase.

(3) In paragraph (2), the additional contribution due from the employing authority is the amount the scheme manager determines is required to meet the cost of providing the pension in the 1995 Section or 2008 Section (whichever is relevant).

(4) In this regulation, “relevant member” means a member—

- (a) who—
 - (i) on 30th September 2023—
 - (aa) was a pensioner member with regard to benefits paid in respect of remediable service in the 1995 Section or the 2008 Section, or
 - (bb) was deceased, or
 - (ii) on or after 1st October 2023 was an active, deferred or deceased remedy member but not a pensioner member; and
- (b) whose employment has been or is terminated by M’s employing authority under—
 - (i) regulation E3A of the 1995 Regulations^(a) (Early retirement pension (termination of employment by employing authority)), or
 - (ii) regulation 2.D.11 of the 2008 Regulations^(b) (Early retirement on termination of employment by employing authority).

Premature retirement on grounds of redundancy

66.—(1) This regulation applies in relation to a relevant member (“M”) who has remediable service in the legacy scheme that is pensionable service under that scheme whether or not by virtue of section 2(1) of PSPJOA 2022 (“M’s remediable service”) where M’s employing authority has made or makes a contribution to the scheme manager in accordance with—

- (a) regulation D2 of the 1995 Regulations^(a) (Contributions by employing authorities);

(a) Regulation E3A was substituted by S.I. 2006/2919 and amended by S.I. 2013/413, 2014/570, 2015/96.

(b) Regulation 2.D.11 was amended by S.I. 2009/381 and 2446, 2014/413, 2014/570, 2015/96.

- (b) regulation 2.C.6 of the 2008 Regulations**(b)** (Contributions by employing authorities: members becoming entitled to pensions under regulation 2.D.11); or
- (c) regulation 35 of the 2015 Regulations (Employing authority contributions: redundancy).

(2) Subject to paragraphs (3) and (4), where the scheme manager has accepted an immediate choice election in accordance with regulation [10(4)] or a deferred choice election in accordance with regulation [13(4)], the benefits to be paid to or in respect of M are to be determined in accordance with regulation [10(4)(b)] or [13(5)] (whichever is relevant).

(3) If, as a result of the election referred to in paragraph (2), the cost of the benefits referred to in paragraph (7)(b) (whichever is relevant) increases, M may pay all or part of the additional contribution as the scheme manager, after having regard to the advice of the scheme actuary, determines will be sufficient to meet the increased cost of the benefits insofar as that is not met by the contribution referred to in paragraph (1) already paid by M's employing authority.

(4) If M elects not to pay any additional contribution in accordance with paragraph (3), the scheme manager must reduce the amount of pension pursuant to—

- (a) regulation E3AB(7) to (9) of the 1995 Regulations**(c)** (Early retirement pension: additional contribution option);
- (b) regulation 2.D.11A(7) to (9) of the 2008 Regulations**(d)** (Early retirement on termination of employment by employing authority: additional contribution option); or
- (c) paragraph 7(4) to (6) of Schedule 13 to the 2015 Regulations (Calculation of amount of premature retirement pension).

(5) Where an additional contribution is required to meet the increase referred to in paragraph (3) and that increase in contribution is to be met by M's employing authority in accordance with the terms and conditions relevant to M's employment, the scheme manager must waive the element of the additional contribution due from the employer that relates to the increase.

(6) In paragraph (5), the element to be waived does not include any payment received by M under—

- (a) regulation E3A(5)(a) of the 1995 Regulations;
- (b) regulation 2.D.11(6)(a) of the 2008 Regulations; or
- (c) paragraph 7(2)(a) of Schedule 13 to the 2015 Regulations.

(7) In this regulation—

“additional contribution” has the meaning given in (whichever is relevant)—

- (a) regulation E3AB of the 1995 Regulations;
- (b) regulation 2.D.11A of the 2008 Regulations; or
- (c) regulation 32 of the 2015 Regulations (Members' contributions: redundancy);

“relevant member” means a member—

- (a) who—
 - (i) on 30th September 2023—
 - (aa) was a pensioner member with regard to benefits paid in respect of remediable service in the 1995 Section, the 2008 Section or the 2015 scheme, or
 - (bb) was deceased; or
 - (ii) on or after 1st October 2023 was an active, deferred or deceased remedy member but not a pensioner member; and

(a) Regulation D2 was amended by S.I. 2003/631, 2004/665, 2005/661 and 3074, 2006/2919, 2007/3280, 2008/654 and 2263, 2010/1634, 2011/2586, 2013/413, 2014/570, 2015/96, 2016/245, 2019/418.
 (b) Regulation 2.C.6 was amended by S.I. 2010/492, 2013/413, 2014/570, 2015/96, 2017/275.
 (c) Regulation E3AB was inserted by S.I. 2015/96.
 (d) Regulation 2.D.11A was inserted by S.I. 2015/96.

- (b) who in respect of the termination of M’s employment by M’s employing authority is entitled to the payment of benefits under—
 - (i) regulations E3A, E6 (Lump sum on retirement) and E7 (General option to exchange part of pension for lump sum) of the 1995 Regulations(a);
 - (ii) regulations 2.D.11 and 2.D.14 (General option to exchange part of pension for lump sum) of the 2008 Regulations(b); or
 - (iii) regulations 77 (Conversion of part of pension into lump sum) and 82 (Premature retirement on grounds of redundancy) of the 2015 Regulations.

Partial retirement

67.—(1) This regulation applies to a pensioner remedy member (“M”) who—

- (a) is entitled to a pension under—
 - (i) regulation 2.D.5 or 3.D.5 of the 2008 Regulations(c) (Partial retirement (members aged at least 55)), or
 - (ii) regulation 84 of the 2015 Regulations (Election for partial retirement (members over normal minimum pension age)); and
- (b) either—
 - (i) has remediable service in the 2008 Section that is pensionable service under that Section by virtue of section 2(1) of PSPJOA 2022 and does not make an immediate choice election under regulation [10] of these Regulations in respect of that service, or
 - (ii) has remediable service in the 2008 Section that is pensionable service under that Section other than by virtue of section 2(1) of PSPJOA 2022 and makes an immediate choice election under regulation [10] of these Regulations in respect of that service.

(2) M may elect to adjust the specified percentage of M’s pension (excluding any additional pension) in respect of which M has claimed immediate payment by an amount determined by the scheme manager as being necessary to maintain the amount of M’s annual partial retirement pension in payment at—

- (a) the end of the immediate choice election period where paragraph (1)(b)(i) applies to M; and
- (b) the date the member makes an immediate choice election under regulation [10] where paragraph (1)(b)(ii) applies to M.

(3) Where M makes an immediate choice election under regulation [10] of these Regulations—

- (a) the scheme manager must send a notice in writing to M of M’s right under paragraph (2) on or before the relevant date referred to in regulation [6(2)];
- (b) M must, if M decides to exercise that right, give the scheme manager notice in writing of that decision—
 - (i) within three months beginning with the day on which the scheme manager issued the notice referred to in sub-paragraph (a); or
 - (ii) by such later time as the scheme manager considers reasonable in all the circumstances.

(a) Regulation E6 was amended by S.I. 2006/600, 2007/3280, 2009/381, 2010/492, 2011/2586. Regulation E7 was inserted by S.I. 2008/654 and amended by S.I. 2009/381.

(b) Regulation 2.D.14 was amended by S.I. 2009/381 and 2446.

(c) Regulation 2.D.5 was amended by S.I. 2009/381 and 2446. Regulation 3.D.5 was amended by S.I. 2009/381 and 2446, 2014/413.

(4) In this regulation, “specified percentage” in relation to M’s pension has the meaning given in regulation 2.D.5(4)(a) of the 2008 Regulations, 3.D.5(3)(a) of the 2008 Regulations or regulation 84(3)(a) of the 2015 Regulations (whichever is relevant).

Determining whether a member meets the ill-health criteria in each scheme

68.—(1) This regulation applies to a remedy member (“M”)—

- (a) who ceased to be employed in NHS employment during the period of M’s remediable service, and
- (b) whose application for an ill-health pension in relation to that service (“M’s application”) has been determined by the scheme manager.

(2) Where this regulation applies, the scheme manager must, with M’s consent, reconsider M’s application together with any supporting medical evidence to determine whether M would have met the ill-health retirement criteria in M’s alternative scheme or section when the application was initially determined.

(3) Where M has the right to make an immediate choice election under regulation [10], the scheme manager must notify M of the outcome of the scheme manager’s determination under paragraph (2) before the immediate choice election period commences in respect of M.

(4) Where M has the right to make a deferred choice election under regulation [13]—

- (a) the scheme manager must notify M of the outcome of the scheme manager’s determination under paragraph (2) as soon as reasonably practicable after 1st October 2023, and
- (b) if M elects to take an ill-health pension as a result of the scheme manager’s determination under paragraph (2), any rights for M to make that election must be deemed to have been fulfilled.

(5) In this regulation—

“ill-health pension” means a pension under—

- (a) regulation E2A of the 1995 Regulations(a) (Ill health pension on early retirement);
- (b) regulation L1(3) of the 1995 Regulations(b) (Preserved pension: entitlement to pension and retirement lump sum before age 60);
- (c) regulation 2.D.8 or regulation 3.D.7 of the 2008 Regulations(c) (Early retirement on ill-health: active members and non-contributing members);
- (d) regulation 2.D.10 or regulation 3.D.9 of the 2008 Regulations(d) (Early retirement on ill-health (deferred members));
- (e) regulation 90 of the 2015 Regulations(e) (Entitlement to ill-health pension); or
- (f) regulation 94 of the 2015 Regulations(f) (Early retirement on ill-health (deferred members));

“M’s alternative scheme or section” means—

- (a) where M’s eligibility for ill-health pension was assessed under the 1995 Section or the 2008 Section, the 2015 scheme;
- (b) where M’s eligibility for ill-health pension was assessed under the 2015 scheme, the 1995 Section or the 2008 Section (whichever is relevant);

“NHS employment” has the meaning give in Schedule 15 to the 2015 Regulations.

(a) Regulation E2A was inserted by S.I. 2008/654 and subsequently amended by S.I. 2009/418 and 2446.

(b) Regulation L1 was amended by S.I. 2000/605, 2003/631, 2004/665, 2006/600, 2008/654, 2009/381 and 2446, 2015/95, 2019/418.

(c) Regulations 2.D.8 and 3.D.6 and their headings were amended by S.I. 2009/381 and 2446, 2010/492, 2021/631.

(d) Regulations 2.D.10 and 3.D.9 were amended by S.I. 2008/2263, 2009/2446.

(e) Regulation 90 was amended by S.I. 2017/275.

(f) Regulation 94 was amended by S.I. 2016/245.

Ill-health pension: acceptance of retrospective applications

69.—(1) This regulation applies where—

- (a) a remedy member (“M”) submits an application for ill-health pension on or after 1st October 2023, and
- (b) the scheme manager is satisfied that M would have made the decision to apply for ill-health pension during the remediable service period but for the effect of the application of an exception to the restriction in subsection (1) of section 18 of the Public Service Pensions Act 2013(a) (Restriction of existing pension schemes) on the provision of benefits provided for under subsection (5) of that section.

(2) The scheme manager may treat the application—

- (a) in accordance with regulation 27 of the 2015 Transitional Regulations(b) (Ill-health benefits: continuity of existing applications), and
- (b) as if the application had been submitted before 1st April 2022.

(3) In this regulation—

“ill-health pension” means a pension under—

- (a) regulation E2A of the 1995 Regulations (Ill health pension on early retirement);
- (b) regulation 2.D.8 or regulation 3.D.7 of the 2008 Regulations (Early retirement on ill-health: active members and non-contributing members); or
- (c) regulation 90 of the 2015 Regulations (Entitlement to ill-health pension).

Signed by authority of the Secretary of State for Health and Social Care

Name

Minister of State

Date

Department of Health and Social Care

SCHEDULE 1

Regulation [7]

Amendments of the 1995 Regulations, the 2008 Regulations and the 2015 Transitional Regulations

Amendment of the 1995 Regulations

1. In the 1995 Regulations, in regulation B3 (Restriction on further participation in this Section of the scheme)(c), after paragraph (A2), insert—

“(A3) Nothing in paragraphs (8G) to (8U) of this regulation prevents a member’s remediable service within the meaning of section 1 of the Public Service Pensions and Judicial Offices Act 2022 being treated as pensionable service under this Section of the scheme in accordance with section 2 of that Act (Remediable service treated as pensionable under Chapter 1 legacy schemes).”.

(a) 2013 c. 25. Subsections (4) and (10) of section 18 were amended by section 96(2)(a) and (b) of PSPJOA 2022. Subsection (4A) was inserted by section 88(2)(b) of PSPJOA 2022 and subsections (5) to (8), including subsection (5A) which was inserted by section 52(2) of the Pensions Act 2014 (c. 19), were repealed by section 88(2)(c) of PSPJOA 2022, subject to transitional and saving provisions in section 89 of PSPJOA 2022.

(b) Regulation 27 was amended by S.I. 2022/327.

(c) Regulation B3 was amended by S.I. 2008/654, 2009/381, 2009/1298, 2009/2446, 2014/570, 2015/95, 2016/245 and 2022.327.

Amendment of the 2008 Regulations

2.—(1) The 2008 Regulations are amended as follows.

(2) In regulation 2.B.2, (Restrictions on eligibility: general)(a), after paragraph (A2), insert—

“(A3) Nothing in paragraphs (1A) and (1C) to (1LF) of this regulation prevents a member’s remediable service within the meaning of section 1 of the Public Service Pensions and Judicial Offices Act 2022 being treated as pensionable service under this Section of the Scheme in accordance with section 2 of that Act (Remediable service treated as pensionable under Chapter 1 legacy schemes).”.

(3) In regulation 3.B.2 (Restrictions on eligibility: general)(b), after paragraph (A2), insert—

“(A3) Nothing in paragraphs (1A) and (1C) to (1L) of this regulation prevents a member’s remediable service within the meaning of section 1 of the Public Service Pensions and Judicial Offices Act 2022 being treated as pensionable service under this Section of the Scheme in accordance with section 2 of that Act (Remediable service treated as pensionable under Chapter 1 legacy schemes).”.

Amendment of the 2015 Transitional Regulations

3.—(1) Regulation 27 of the 2015 Transitional Regulations (Ill-health benefits: continuity of existing applications) is amended as follows.

(2) In paragraph (1)—

- (a) in the words before sub-paragraph (a), after “This regulation” insert “, except paragraph (1A) and paragraph (2) to the extent that it relates to paragraph (1A),”;
- (b) in sub-paragraph (a), in the words before paragraph (i), for “on 1st April 2022 (“the transition date”)—” substitute “the transition date—”.

(3) After paragraph (1), insert—

“(1A) This regulation, except paragraph (1) and paragraph (2) to the extent that it relates to paragraph (1), applies during the application period to a member—

- (a) who has remediable service in the legacy scheme up to and including 31st March 2022—
 - (i) that is pensionable service under that scheme by virtue of section 2(1) of PSPJOA 2022;
 - (ii) in respect of which an immediate choice election by virtue of regulation 10 of the National Health Service Pension Schemes (Remediable Service) Regulations 2023 (Immediate choice election for 2015 scheme benefits: pensioner and deceased members) has not been made;
- (b) who on the transition date—
 - (i) was prevented from contributing to or accruing further pensionable service in the 1995 Section or being an active member of the 2008 Section; and
 - (ii) was eligible to be an active member of the new scheme;
- (c) who submitted Form AW33E (or such other form as the Secretary of State accepted) together with supporting medical evidence (if not included in the form) for the purposes of 2015 regulation 90 before the transition date;
- (d) whose Form AW33E (or such other form as the Secretary of State accepted) and supporting medical evidence (“the member’s application for ill-health pension”) was received by the Secretary of State before the transition date; and

(a) Regulation 2.B.2 was amended by S.I. 2008/2263, 2009/381, 2009/1298, 2009/2446, 2010/492, 2014/570, 2015/95, 2015/96, 2016/245, 2017/275 and 2022/327.

(b) Regulation 3.B.2 was amended by S.I. 2008/2263, 2009/381, 2009/2446, 2010/492, 2015/95, 2015/96, 2016/245, 2017/275 and 2022/327.

- (e) whose ill-health pension had not become payable under the new scheme before the transition date.”.

(4) In paragraph (2), in the words before sub-paragraph (a), for “paragraph (1)” substitute “paragraphs (1) and (1A)”.

(5) In paragraph (21)—

- (a) in the definition of “the member’s application for ill-health pension”—
 - (i) for “give” substitute “given”;
 - (ii) at the end, insert “or (1A)(d) (whichever is relevant)”;
- (b) at the end of the definition of “the member’s application for ill-health pension”, for the full stop substitute a semicolon;
- (c) after that definition, insert ““the transition date” means 1st April 2022.”.

SCHEDULE 2

Regulation [63]

Immediate detriment remedy

Application of this Schedule

1. This Schedule applies to a remedy member who has obtained an immediate detriment remedy in relation to the member’s remediable service (an “immediate detriment remedy member”).

Application of provisions within sections 2 to 30 of PSPJOA 2022 in relation to an immediate detriment remedy member

2. The following sections of PSPJOA 2022 apply in respect of an immediate detriment remedy member—

- (a) section 2 (Remediable service treated as pensionable under Chapter 1 legacy schemes);
- (b) section 3 (Benefits already paid);
- (c) section 4(1) and (9) (Meaning of “the relevant Chapter 1 legacy scheme” etc.);
- (d) section 14 (Pension benefits and lump sum benefits: pensioner and deceased members);
- (e) section 18 (Powers to reduce or waive liabilities);
- (f) section 23 (Power to pay compensation);
- (g) section 24 (Indirect compensation);
- (h) section 25 (Remedial arrangements to pay voluntary contributions to legacy schemes);
- (i) section 26 (Interest and process);
- (j) section 27(1), (2)(a) and (f) to (j), (3) and (4) (Treasury directions);
- (k) section 28 (Scheme rules that prohibit unauthorised payments);
- (l) section 30 (Section 61 of the Equality Act 2010 etc.).

Pension benefits and lump sum benefits: immediate detriment remedy member

3.—(1) This paragraph applies in relation to an immediate detriment remedy member (“M”) (whether or not deceased on 1st October 2023) who has remediable service in the legacy scheme that is pensionable service under that scheme (whether or not by virtue of section 2(1) of PSPJOA 2022 (“M’s remediable service”)).

(2) Where on 1st October 2023—

- (a) the aggregate of the pension benefits that (after taking into account the effect, if any, of section 3(2) of PSPJOA 2022) have been paid under the scheme to M in respect of M’s remediable service is less than

- (b) the aggregate of the pension benefits to which (after taking into account the effect, if any, of sections 2(1) and 6(4) and (5) of PSPJOA 2022 in relation to the service) M is entitled under the scheme in respect of the service,

the scheme manager must, subject to sub-paragraph (4), pay an amount equal to the difference to M.

(3) Where on 1st October 2023—

- (a) the aggregate of the lump sum benefits that (after taking into account the effect, if any, of section 3(2) of PSPJOA 2022) have been paid under the scheme to M in respect of M's remediable service in the employment or office is less than
- (b) the aggregate of the lump sum benefits to which (after taking into account the effect, if any, of sections 2(1) and 6(4) and (5) of PSPJOA 2022 in relation to the service) M is entitled under the scheme in respect of the service,

the scheme manager must, subject to sub-paragraph (4), pay an amount equal to the difference to M.

(4) The aggregate of the amounts payable to M under sub-paragraphs (2) and (3) must be reduced by the amount paid to M under section 32(1) of PSPJOA 2022.

(5) In this paragraph—

“lump sum benefit” means any benefit payable under the legacy scheme or the 2015 scheme by way of a lump sum;

“pension benefit” means any benefit payable under the legacy scheme or the 2015 scheme otherwise than by way of a lump sum.

Remediable service statement in respect of an immediate detriment remedy member

4.—(1) The scheme manager must provide a remediable service statement to each immediate detriment remedy member.

(2) The remediable service statement must include—

- (a) a description of the benefits currently available under the legacy scheme in respect of the member's remediable service;
- (b) a description of—
 - (i) the remedial arrangement that may be entered into under regulation [25] (remedial arrangements to pay voluntary contributions to secure legacy scheme additional pension), and
 - (ii) the circumstances in which, and the process by which, such an arrangement may be entered into; and
- (c) the information mentioned in the following sub-paragraphs of direction [20(1)] of the 2022 Directions (Remediable service statements)—
 - (i) sub-paragraph (a);
 - (ii) sub-paragraph (c)(i), (ii), (v) and (vi);
 - (iii) sub-paragraph (d);
 - (iv) sub-paragraph (e)(i), (ii), (v) and (vi);
 - (v) sub-paragraph (f);
 - (vi) sub-paragraph (g);
 - (vii) sub-paragraph (h);
 - (viii) sub-paragraph (i); and
 - (ix) sub-paragraph (k).

Reimbursement of the NHS Business Services Authority

5. Where the scheme administrator has paid an immediate detriment remedy to a member by virtue of section 32(1) of PSPJOA 2022, the scheme manager must reimburse the scheme administrator the amount of the reduction of the member's pension benefits under paragraph 3(4) of this Schedule.

EXPLANATORY NOTE

(This note is not part of the Regulations)