



Cabinet Office



Civil Service Pensions

2015  
Remedy (McCloud)

## A draft Statutory Instrument covering the 2015 Remedy ('McCloud'): retrospective phase

This consultation begins on 6 March 2023  
This consultation ends on 14 May 2023





Civil Service Pensions

2015  
Remedy (McCloud)

**A consultation produced by the Cabinet Office.**

# About this consultation

- To:** This consultation is aimed at Civil Service Pension Scheme members with remediable service in the remedy period 1 April 2015 to 31 March 2022.
- Duration:** From 6 March 2023 to 14 May 2023
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- When responding please indicate whether you are responding as an individual or representing the views of an organisation.
- Response paper:** A response to this consultation exercise is due to be published later in 2023 at: <https://www.gov.uk/search/policy-papers-and-consultations>
- Privacy notice** Full privacy policy is at Annex A

## Purpose of the consultation

1.1 The purpose of this consultation is to seek views on the draft Public Service (Civil Servants and Others) Pensions (Remediable Service) Regulations 2023, which makes provision for the remedy of discrimination which arose from 2015 public service pension scheme reforms. The Court of Appeal determined that it was the transitional protection element of the reformed schemes that was age discriminatory, not the scheme principles.

1.2. The regulations apply to the Civil Service Pension Scheme arrangements and implement the remedy set out in the Public Service Pensions and Judicial Offices Act 2022 ('PSPJOA'). The PSPJOA creates powers to make retrospective changes to service built up in public service pension schemes during the remedy period in order to remedy the unlawful discrimination identified by the Court of Appeal in the McCloud and Sargeant cases. These retrospective changes will apply to members with 'remediable service', that is those in service on or before 31 March 2012 who remained in service in the period from 1 April 2015 to 31 March 2022 (the remedy period).

1.3 The remedy aims to address the discrimination caused by the transitional protection element of the 2015 pension reforms, by allowing members to choose PCSPS or alpha-like benefits for any remediable service.

1.4. In line with the consultation requirements in Section 21 of the Public Service Pension Scheme Act 2013, this document explains what the proposed regulations do and provides scheme members and any other interested parties with the information about how these regulations will operate in practice. It should be noted that the regulations are in draft and may change following the consultation, however the policy position is not expected to change.

1.5 The draft Public Service (Civil Servants and Others) Pensions (Remediable Service) Regulations 2023 ("the regulations") dealing with the public service pension schemes remedy have been published for consultation on 6 March 2023. The consultation will close on 14 May 2023.

# Scheme Manager response

The Cabinet Office will publish the government response to this consultation on the GOV.UK website later in 2023. The report will summarise the responses and set out the Scheme Manager's proposed next steps, taking into account the responses.

## Consultation principles

This consultation is being conducted in line with the [Cabinet Office consultation principles](#).

## Confidentiality and data protection

The information you send us may need to be passed to colleagues within the Cabinet Office and may be published in a summary of responses received and referred to in the published consultation report. All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000.

By providing personal information for the purposes of the public consultation exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal information provided, or remove it completely. If you want the information in your response to the consultation to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this.

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## Executive summary

This consultation seeks views on the draft proposed scheme regulations required to implement the retrospective aspects of the *McCloud* remedy.

In 2018 the Court of Appeal held in its judgement on the *McCloud* case that the transitional protection element of the 2015 reforms to public service pension schemes were unlawfully discriminatory on the grounds of age. Since then, the government has taken steps to resolve the discrimination for affected public service pension scheme members.

In July 2020, HM Treasury consulted on remedy proposals and confirmed in February 2021 that affected members and fully protected members will receive a choice of which pension benefits they would prefer to receive in respect of any remediable service from 1 April 2015 to 31 March 2022. This choice will not have to be made until the point they retire and is between benefits due under the relevant legacy scheme (PCSPS) or reformed scheme (alpha) provisions. This is known as the Deferred Choice Underpin, or 'DCU', and the remediable service remedy. Where members have already taken benefits, including beneficiaries of deceased members, they will be given a choice to continue receiving the benefits in payment or opt for alternative scheme benefits. Remediable Service Statements ('RSS') containing the information that members or their beneficiaries will need to make a choice will be provided within 18 months of 1 October 2023.

The Public Service Pensions and Judicial Offices Act 2022<sup>1</sup> (the 'PSPJOA') provides the framework to address the discrimination that happened when legacy public service pension schemes were closed only to certain members in 2015. From 1 April 2022 all protected civil service pension scheme members were put into the reformed scheme, alpha, as the first stage of the remedy. This means all civil service pension scheme members are in the same pension scheme from 1 April 2022 onwards. Scheme Regulations were made for this stage in March 2022.

The PSPJOA 2022 also provides powers for schemes to make regulations that address certain technical aspects of the remedy.

As drafted, the scheme regulations provide for the following:

- provision for the immediate choice election;
- provision for the deferred choice election;
- provision for issuing remediable service statements to affected members so they have information about the choices available to them;
- provision for opted out service elections and associated partnership pension accounts;

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/2022/7/contents/enacted>

- provision of member options, such as voluntary contributions and ill health retirement;
- repayment mechanisms where members owe sums to the scheme or the scheme owe sums to the member;
- the application of interest to amounts owed to, or by, members, for example under or overpaid pension benefits;
- provision in respect of pension sharing orders in the case of divorce or dissolution;
- provision in respect of transfers in and out of the scheme; and
- provision for who can make elections where the member is deceased.

The draft regulations are annexed to this consultation document. It is these regulations that are the subject of this consultation, since all other aspects of the remedy have already been consulted on and have a legislative basis in the PSPJOA 2022 or other relevant legislation, referenced later in this document.

## Introduction

2.1 The Public Service Pensions and Judicial Offices Act 2022 (the ‘PSPJOA 2022’) removes the discrimination identified by the Court of Appeal and establishes that all eligible members are to be offered a choice, at retirement or death (for beneficiaries), to receive benefits for any remediable service during the remedy period, from 1 April 2015 to 31 March 2022, based on either ‘legacy scheme’ or ‘new scheme’ rules.

2.2 This consultation is about the draft provisions in The Public Service (Civil Servants and Others) Pensions (Remediable Service) Regulations 2023 (see Annex B) which will be made using powers in the PSPJOA 2022. It is aimed at all those with an interest in this policy, including members with remediable service in the remedy period, 1 April 2015 to 31 March 2022, who will be in scope for the retrospective changes to end the discrimination identified in 2018. The specific questions on which we welcome consultees’ views are set out at the end of the document.

2.3 The draft regulations introduce scheme level provisions to implement the Public Service Pensions and Judicial Offices Act 2022 relating to the McCloud remediable service remedy.

2.4 The draft regulations are the legislative completion of the 2015 remedy process, needed to remedy the discrimination which occurred following the 2015 reforms. They enable the scheme administrator to provide members with a choice of the benefits they wish to receive for the remedy period. There are four main policy areas covered by the proposed scheme regulations which need to be in place no later than 1 October 2023, in accordance with the PSPJOA 2022:

- managing the consequences of the ‘rollback’ provisions of the PSPJOA 2022, which have the effect of treating active and deferred unprotected and taper protected alpha pension scheme members as if they had never left the PCSPS legacy schemes for the remedy period 1 April 2015 to 31 March 2022;
- following rollback, around 420,000 members (unprotected and protected including taper) will be offered a choice of benefits for their remediable service;
- put in place an immediate choice remedy solution for those whose benefit entitlement has already arisen, including members who have received benefits or died within the remedy period, estimated to be nearly 120,000 members; and
- put in place deferred choice provisions, to allow members to make an informed choice of the benefits they wish to receive at retirement or when benefits are brought into payment.

### *How the document is structured*

2.59 This document is set out in sections. The first section deals with the provisions made in the proposed regulations around the choices members will have for their

remediable service and when and how these choices will be communicated to them or their personal representatives; this follows the policy provided for by the PSPJOA 2022.

2.6 The second section covers the provisions made in the proposed regulations to deal with scheme specific-issues which will happen when the remedy is applied to the Civil Service Pension Scheme. This includes when scheme members will be affected and how the remedy will work in practice, for example the actions needed for some member benefit options or choices following rollback.

2.7 The final section covers technical matters that are largely dealt with through the PSPJOA 2022, Treasury Directions<sup>2</sup> and Tax Regulations. Where provisions in scheme regulations are also needed, this is highlighted.

2.8 The scope of this consultation is the proposed scheme regulations necessary to deliver the remedy. An Equality Impact Assessment for the proposed changes has been published alongside this consultation. HM Treasury previously published a policy impact assessment and an equality impact assessment, which considered the impact of provisions made in the PSPJOA 2022.

2.9 The consultation will be launched on the Gov.uk website and the Civil Service pension website. In addition the consultation will be issued to:

- The National Trade Unions Congress;
- Non-affiliated unions, federations and member representative groups;
- The Civil Service Pensioners Alliance;
- Civil Service employers; and
- The Network Voice Advisory Group

This list is not meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in or views on the matters covered by this consultation paper.

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<sup>2</sup> )Public Service Pensions and Judicial Offices Act 2022: Treasury Directions:  
<https://www.gov.uk/government/publications/public-service-pensions-and-judicial-offices-act-2022-treasury-directions>

# Section 1:

## Policy Background

### Remediable Service: Remedy to address discrimination

3.1 It is normal practice in discrimination cases to remedy unequal treatment by reverting to the most beneficial option. However, the reforms that were introduced in 2015 were progressive reforms and were in part intended to even out the value of pensions between some of the highest and lowest earners. This resulted in some, particularly lower and middle earners, being better off in the reformed schemes. Simply extending transitional protection to all affected members would address the discrimination identified by the Court but would also mean that some members could be placed in a worse position.

3.2 In February 2021 the Government published its response to the public service pension scheme consultation: changes to the transitional arrangement to the 2015 schemes, confirming that the legacy schemes would close on 31 March 2022 and that affected members would be given a choice to receive legacy or reformed scheme design benefits for the remediable service period.

3.3 The Government explained that it preferred this approach as it would provide members with greater certainty about their decision and avoid the need for them to make assumptions about matters such as their future career and retirement age, which would increase the risk of making imperfect decisions, particularly for younger members. The response confirmed that affected members who are already in receipt of pension benefits would be given a choice as soon as practicable after the necessary legislative changes to the schemes are in place.

## Proposals to be consulted on:

*Remediable Service Remedy: meaning of remediable service is contained in Section 1 PSPJOA 2022.*

3.4 The proposed draft regulations are made in a new Schedule to the Public Service (Civil Servants and Others) Pensions Regulations 2014. These draft regulations cover the implementation of the retrospective remedy.

3.5 The proposed scheme regulations will become effective from 1 October 2023, at which time Section 2 of the PSPJOA 2022 comes into force meaning for members who were too young to receive transitional protection and were compulsorily transferred into the reformed scheme on or after 1 April 2015 these are known as unprotected and taper protected members; they will be moved back into their former legacy scheme (PCSPS) and treated as having built up service in that scheme for the remediable service period. This

applies to all members who were moved to the new scheme on or after 1 April 2015. For members with new scheme benefits in payment, section 6(4)(a) of the PSPJOA 2022 means that these members won't see a change to their benefits when this happens, as they will be part of the immediate choice group.

3.6 The proposed regulations also fully implement the remedy for all members affected by the unlawful discrimination. This will be for those who have already taken benefits that include remediable service and for those who will take remediable service benefits in the future. After 1 October 2023, members with remediable service will be given the option to choose between PCSPS benefits or benefits equivalent to those available under the reformed pension scheme (alpha), for the remedy period, 1 April 2015 to 31 March 2022.

3.7 As a result of the remedy, members may face changes to their individual tax situation. The remedy may impact a member's Annual Allowance (AA), Lifetime Allowance (LTA) and any benefits in payment. For most members no tax adjustment will be required. However, a minority of members may see changes to their individual tax situation. Some elements of taxation policy remain under development, and guidance will be provided by HMRC at a later date.

3.8 A requirement of the PSPJOA 2022 is that scheme regulations made in respect of the *McCloud* remedy must be exercised in accordance with HM Treasury Directions, *The Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022* published in December 2022. The Directions also provide guidance on applying interest and paying compensation. The purpose of the Directions is to provide consistency in administering the remedy across the public sector, while allowing schemes some flexibility due to the differences and administrative processes of each scheme. References in this document to Directions apply to these Directions.

## **Details of the proposed The Public Service (Civil Servants and Others) Pensions (Remediable Service) Regulations 2023**

### **Immediate choice decision for alpha or PCSPS benefits**

4.1 The first element of the remediable service remedy is to return all members who were in the reformed scheme, alpha, to the respective PCSPS section they were in prior to 1 April 2015. This will be for the remedy period and is called rollback. This will take place when the new scheme regulations come into force, which will be no later than 1 October 2023. Rollback returns all active and deferred unprotected and taper protected members to their former PCSPS section. This also applies to members with new scheme benefits in payment; paragraph 3.5 explains that this will not affect benefits in payment.

4.2 Section 6 of the PSPJOA 2022 requires that scheme regulations provide for pensioners and beneficiaries of deceased members, who have remediable service and have taken benefits before 1 October 2023, to have an immediate choice election for new scheme benefits. An immediate choice election is for members who have already retired, died or

retired and then died with remediable service benefits which are in payment before 1 October 2023.

4.3 The member, or the person making an immediate choice election on behalf of a deceased member, must make their immediate choice within a year (12 months) of an immediate choice remediable service statement being sent. The election is treated as taking effect immediately before the member becomes a pensioner member, or if the member has died, immediately before the member's death.

4.4 Before a member can make a choice about their remediable service a remediable service statement (RSS) must be provided. The immediate choice RSS will be sent automatically, members or personal representatives will not have to apply for this. Section 6 of this document covers the information that the scheme must provide in the RSS.

4.5 The proposed scheme regulations provide for members to;

- a) make a 'section 6 election' in accordance with Section 6 of PSPJOA 2022 in relation to remediable service; or
- b) decide that no section 6 election is to be made in relation to that service.

The reason for (b) is to allow members to choose to receive PCSPS benefits earlier than the end of the section 6 election period, so that they do not need to wait for their benefits to be corrected if they make an election before the 12 month election period has ended.

4.6 The election is made when it is received by the scheme administrator in the right way and within the election period. An election form will be sent with the RSS for the member or the eligible decision maker to complete and return which will be the record of the immediate choice election. An immediate choice decision can only be made before the end of the section 6 election period. The election period will be shown on the immediate choice remediable service statement. The deadline for making an election and how the election is to be made will be set out as a call for action in the RSS.

4.7 Where a member dies before 1 October 2023, the scheme administrator must determine, as soon as possible after receiving notification of a member's death, who the eligible decision maker is (see paragraph 5.19). Once this has been determined the eligible decision maker will receive an immediate choice RSS. This will enable the deceased member's representative to make an informed immediate choice election for the benefits payable.

#### **What happens if the election deadline is not met: deemed election section 8 of PSPJOA**

4.8 Where no election is received by the end of the election period, the scheme manager will treat this as though the member has not made a choice as to whether or not they wish to make an election, and that the member does not want to receive alternative scheme benefits. However in such cases where a member was taper protected, and had mixed service benefits in payment from both the PCSPS and alpha for their remediable service the scheme manager will need to make a choice on the member's behalf and will pay the highest value benefits from either the PCSPS or alpha equivalent benefits. The highest value benefits will be determined in consultation with the scheme actuary. This is necessary as mixed service benefits cannot continue in payment as doing so would continue age-based discrimination. This gives a consistent approach to all benefits paid for the remedy period

as the choice has to be for either PCSPS or alpha equivalent benefits. (Further details about taper protected members is in paragraphs 4.16 to 4.18).

4.9 The draft regulations give effect to this approach by providing that an immediate choice election is treated as being made for the member's remediable service immediately before the end of the section 6 election period where:

- (a) the end of the section 6 election period in relation to the member has passed;
  - (b) no immediate choice decision has been made in relation to the member's remediable service: and
  - (c) condition A or B is met;
- (2) Condition A is met where all of the member's remediable service was in alpha;
- (3) Condition B is met where:
- (a) the member's remediable service was mixed service, and
  - (b) the scheme manager determines, having consulted the scheme actuary, that the value of benefits payable in relation to the member's remediable service would be greater if payable as alpha benefits than if they were payable as PCSPS benefits.

4.10 Members with PCSPS benefits in payment who after receiving their immediate choice RSS do not want to elect to receive new scheme equivalent benefits will not have to do anything.

4.11 For a member with remediable service in multiple employments or offices, a separate election is needed for each period of remediable service. Where a member is deceased the regulations allow for an immediate choice election to be made on the member's behalf by an eligible decision maker. The draft regulations include a schedule setting out the beneficiaries who may be considered by the scheme manager as an eligible decision maker.

4.12 The PSPJOA 2022 contains provision for members with PCSPS benefits in payment to opt for alpha equivalent benefits for their remediable service. Where no election is made and the scheme has not deemed an election to be made the default position is to continue to pay PCSPS benefits.

**Immediate choice decision: additional requirements for a deceased member's eligible decision maker.**

4.13 The draft regulations provide where the immediate choice decision-maker is a person other than the scheme manager:

- An immediate choice decision may not be made unless a remediable service statement has been provided to the eligible decision maker.



- An immediate choice decision is to be treated as having been made only if the eligible decision maker, provides any information specified in a written request from the scheme administrator for the scheme manager that is:

- (a) information in the eligible decision maker's possession, or
- (b) information which the eligible decision maker can reasonably be expected to obtain.

### **Immediate Choice Remediable Service Statements:**

4.14 An immediate choice RSS must be provided to pensioner members with remediable service who retired on or after 1 April 2015 and before 1 October 2023 and are receiving pension benefits. This includes members who took a form of partial retirement in that period with benefits in payment.

4.15 The proposed scheme regulations provide that:

- (i) the irrevocability of an immediate choice decision, and
- (ii) the benefits which will be payable if no immediate choice decision is made before the end of the section 6 election period.

### **Taper protected members with mixed service**

4.16 Some members were not moved to alpha on 1 April 2015, but were moved to alpha during the remedy period, with the transition date dependent on age. These were known as taper protected members and these members have mixed service, having built up both PCSPS and alpha benefits for their remediable service period.

4.17 In order to remedy the discrimination, these members can choose either to take PCSPS or alpha benefits for the remedy period. This means that for those members with mixed service they will have to choose (make an election) for alpha or PCSPS benefits. This will be made clear on the RSS.

4.18 Adjustment of benefits will be necessary for all taper protected members in the immediate choice group (i.e. those with benefits in payment before 1 October 2023). Benefits in payment will be adjusted when the member makes their choice of alpha or PCSPS.

## **Deferred choice decision for alpha or PCSPS benefits**

5.1 Section 10 of the PSPJOA 2022 requires that scheme regulations provide for all active and deferred members, who have remediable service and have not taken any benefits before 1 October 2023, to have a deferred choice election for new scheme benefits for that remediable service. Eligible active and deferred members will be able to make a deferred

choice at the time when their pension benefits become payable. The deferred choice decision will become part of the process for members retiring or claiming deferred benefits.

5.2 The proposed scheme regulations allow for a deferred choice decision to be made by the member, or where the member is deceased, by the eligible decision-maker or the scheme manager. The criteria for eligible decision makers for deceased members is set out in Schedule 1 of the proposed Remediable Service scheme regulations.

5.3 The proposed scheme regulations provide for members to decide;

a) to make a “section 10 election” in accordance with Section 10 of PSPJOA 2022 in relation to remediable service or

b) that no section 10 election is to be made in relation to that service.

5.4 A deferred choice decision can be made by a person other than the member or scheme manager, in limited circumstances, normally where the member has died before becoming a pensioner member. This must be sent to the scheme manager in the form and manner determined by the scheme manager. The form and manner will be described in the relevant RSS with a decision form for completion.

5.5 Where the decision is to be made by the scheme manager the rules state it will be made at a time determined by the scheme manager. The conditions resulting in the scheme manager being the decision maker will be set out in the RSS and would be where no other eligible decision maker is identified.

**When a deferred choice decision may be made by the member: Section 10 election period explained:**

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

5.7 Where the deferred choice decision-maker is the member, a deferred choice decision will be activated by the member starting the process to draw their benefits. As part of this process the issue of a deferred choice remediable service statement (RSS) will be included for members with remediable service benefits. A deferred choice decision may only be made during the election period:

(a) the election period begins on the date the RSS is issued under the scheme regulations, see section 3 of this document about the RSS.

(b) the election period end date will be given in the RSS and is, either:

(i) 3 months before the benefits for the member’s remediable service will become payable; or

(ii) subject to the rule stating, ‘the end of the period during which a deferred choice election decision may be made must not be more than one year before the day on which it is reasonably expected that, if a section 10 election were made, alpha benefits would become payable to or in respect of the member’, a date the scheme manager considers reasonable taking into account all the circumstances;

(iii) if earlier than the time which applies in (i) or (ii) above, the day before benefits become payable for the member's remediable service.

5.8 Where the deferred choice decision is that no section 10 election is to be made, the benefits payable to or in respect of the member's remediable service, will be PCSPS benefits.

5.9 Where the period for making a deferred choice decision has begun and the scheme manager is notified that the member has died before benefits for their remediable service become payable, the end of the period during which a deferred choice decision may be made is to be treated differently and will be;

(i) 12 months after the death notification is received;

(ii) except where the decision maker is the scheme manager, at a time the scheme manager considers reasonable in all the circumstances;

(iii) if earlier than the time specified in (i) or (ii), immediately after a deferred choice decision is made by the eligible decision maker.

This is to allow for the eligible decision maker to be determined and for an RSS to be issued to the eligible decision maker.

### **When a member has made a deferred choice decision but dies before any benefits become payable**

5.10 Where a member has made their deferred choice decision and this has been received by the scheme administrator but the member dies before the end of the election period. The policy intention is for the pension benefits to be put into payment in line with the member's decision. This is to avoid any lengthy delays in paying survivor benefits. The scheme manager will allow for the member's deferred choice to be later revoked (cancelled) following the death of the member to allow the eligible decision maker to make a deferred choice decision that will take into account the change of circumstances.

### **When a Deferred choice election may be made, other than by the member**

5.11 Where the deferred choice decision-maker is a person other than the member, a deferred choice election may only be made during the period beginning;

(i) on the date the remediable service statement is issued under the scheme regulations.

(ii) where the eligible decision maker is the scheme manager, on the date the scheme manager receives notice that the member has died,

and ending:

(i) 12 months after notification of death is received;

(ii) except where the decision maker is the scheme manager, at a time the scheme manager considers reasonable in all the circumstances;

(iii) if earlier than the time specified in (i) or (ii), immediately after a deferred choice decision is made by the eligible decision maker.

### **Deferred choice decision: revocation**

5.12 The scheme regulations set out provisions for where the deferred choice decision-maker is the member, they may revoke (cancel) a deferred choice decision as follows;

- (a) at any time before the benefits for their remediable service become payable, and
- (b) by informing the scheme manager of the revocation in writing and before the end of the election period which will be set out in the RSS.

5.13 Where the deferred choice decision-maker is a person other than the member or the scheme manager and all of the following apply;

- The member had made a deferred choice decision;
- immediately before the member's death, no pension benefits were payable in relation to the member's remediable service, and
- the end of the section 10 election period has not passed.

The eligible decision-maker may revoke the member's deferred choice decision by informing the scheme manager of the revocation in a form and manner determined by the scheme manager, which will be set out in the RSS they receive.

5.14 Before a member or an eligible decision maker can make a decision about the remediable service a remediable service statement must be provided.

5.15 The election is made when it is received by the scheme administrator in the right way and within the election period. There will be an election form sent with the RSS for the member or the eligible decision maker to complete and return which will be the record of the deferred decision. A deferred choice decision can only be made before the end of the section 10 election period. The election period will be shown on the deferred choice remediable service statement. The deadline for making an election and how the election is to be made will be set out as a call for action in the RSS.

### **Deferred choice decision: additional requirements**

5.16 Where the deferred choice decision-maker is not the member and is a person other than the scheme manager a deferred choice decision will only be treated as having been

made if any information specified in a written request from the scheme manager to support the decision or eligibility to make the decision is provided. This will be information that the eligible decision-maker would have or information they can reasonably be expected to obtain.

### Eligible Decision maker

5.17 Where an eligible member dies and has not made an immediate choice or a deferred choice election, the scheme regulations include a provision about who can make an immediate choice or deferred choice election for the remediable service of the deceased member. The resulting 'eligible decision maker' can then make a choice of either legacy scheme or new scheme equivalent benefits for the deceased member's remediable service. This policy applies to an eligible scheme member who dies and is:

- a) an active, deferred or pensioner member on or after 1 April 2015 but before 1 October 2023; or
- b) an active or a deferred member on or after 1 October 2023 who dies before making a choice and before any pension benefits are put into payment.

5.18 The regulations set out who can be determined as the eligible decision maker and in what circumstances an eligible decision maker may make a choice which are:

- an opted-out service election;
- an immediate choice election; or
- a deferred choice election

5.19 Different personal circumstances will exist for all members; the scheme regulations set out how the eligible decision maker will be determined as follows;

- **1. Adult sole beneficiary:** where a person is the sole beneficiary and an adult they are the eligible decision-maker.
- **2. Child sole beneficiary:** where a person is the sole beneficiary and a child of the member, the child's guardian is the eligible decision-maker.
- **3. Body sole beneficiary:** where the sole beneficiary is a body nominated by the member to receive any death benefit, the member's personal representative or where the member has no personal representative the scheme manager is the eligible decision-maker.
- **4. Member's estate sole beneficiary:** where the sole beneficiary is the member's estate, the eligible decision-maker is the member's personal representative.
- **5. Multiple beneficiaries: including a surviving adult:** Where two or more adults are beneficiaries, and one of those adults is a surviving adult, the eligible decision-maker is the beneficiary who is also the surviving adult.
- **6. Multiple beneficiaries: including adult eligible children :** Where two or more adults are beneficiaries and none of those adults is a surviving adult, and two or more of those adults are eligible children, the eligible decision-maker is the person agreed upon by the adult eligible children. Where no decision is sent to the scheme manager

by the specified time limit shown in the RSS; the eligible decision-maker is the scheme manager.

- **7. Multiple beneficiaries: nominated individuals only:** Where two or more adults (the “nominated adults”) are beneficiaries of a lump sum death benefit, and these beneficiaries are not a surviving adult or an eligible child, including an adult child. The eligible decision-maker is the member’s personal representative, where there is no personal representative, the person agreed upon by the nominated adults. Where no decision is sent to the scheme manager by the specified time limit shown in the RSS; the eligible decision-maker is the scheme manager.
- **8. Multiple beneficiaries: non-adult eligible children:** Where the only beneficiaries are children, two or more of which are eligible children, where all the eligible children live in the same household the eligible decision-maker is the guardian of the eligible children. Where the eligible children live in different households the eligible decision maker is the member’s personal representative. Where there is no personal representative the scheme manager will be the eligible decision maker.
- **9. Multiple beneficiaries: nominated children only:** Where the only beneficiaries of lump sum death benefits are two or more children who are not eligible children, the eligible decision-maker is, where all the children live in the same household and have the same guardian, the children’s guardian, or where the children have no guardian, the scheme manager.
- Where the children live in different households, the eligible decision maker is the member’s personal representative or where there is no personal representative the scheme manager.
- **10. Multiple beneficiaries: one or more adults and one or more children** Where the beneficiaries include one or more adults and one or more children, the member’s personal representative is the eligible decision-maker; where there is no personal representative, and one of the beneficiaries is a surviving adult, that surviving adult is the eligible decision-maker. Where none of the beneficiaries is a surviving adult and one or more of the beneficiaries is an eligible child, or none of the beneficiaries is a surviving adult or an eligible child, the eligible decision-maker is the person agreed upon by the adult eligible children. Where no decision is sent to the scheme manager by the specified time limit shown in the RSS; the eligible decision-maker is the scheme manager.

Where none of the beneficiaries is a surviving adult and one or more of the beneficiaries is an eligible child aged under 18 and all the children are under 18 and have the same guardian, the guardian is the eligible decision maker. Where the children do not have the same guardian the scheme manager is the eligible decision maker. Where all the children are over 18 the eligible decision-maker is the person agreed upon by those relevant children but where no decision is sent to the scheme manager by the specified time limit shown in the RSS; the eligible decision-maker is the scheme manager.

If one of the children is under 18 but another is over 18 the eligible decision-maker is the person agreed upon by the child aged over 18 and the guardian of the child aged under 18, but where no decision is sent to the scheme manager by the specified time limit shown in the RSS; the eligible decision-maker is the scheme manager.

**Other cases:** In any case not covered by the above the eligible decision-maker is the scheme manager.

## Opted Out Service Elections

6.1 This section covers the treatment of a person's opted-out service in the remedy period and provisions to reinstate the opted out service so it can be treated as remediable service.

6.2 Some members may have opted out of the PCSPS or alpha due to the introduction of the pension scheme reforms. This may have been either during or before the remedy period. After opting out members may have joined the defined contribution scheme offered as an alternative to the defined benefit pension arrangements. This is known as partnership and members build up a pension pot based on contributions paid into a fund.

6.3 Section 5 of the PSPJOA 2022 allows members who took this step to apply to have their remediable service reinstated. This is subject to the scheme manager accepting that the original decision to opt out was taken due to the discrimination and the member agreeing to make payment of contributions that would have been payable for the opted out service.

### The opting-in election process

6.4 The scheme manager will put in place a process for members who opted out to apply to have their opted out service to be reinstated. The process will require members to submit evidence to show that they opted out due to the pension scheme reforms.

6.5 The proposed regulations set out that an opted out service election may be made by the member or by the eligible decision maker where the member is deceased. There are conditions that members will need to meet to complete the reinstatement of opted out service. The proposed regulations provide the election may:

- (a) be made by or on behalf of the member;
- (b) in a form and manner determined by the scheme manager;
- (c) received by the scheme manager after 1st October 2023 but before 30 September 2024, or later if the scheme manager considers there are reasonable circumstances to extend the deadline; and
- (d) accompanied by information required by the scheme manager in relation to the decision which caused the service in question to become opted-out service.

6.6 If the member's reinstatement application is successful, the scheme manager will issue a reinstatement Remedial Service Statement (R-RSS). This will show the member's benefit entitlement in both the PCSPS and alpha. In order to be reinstated, members will need to agree to pay any contributions due for the remediable service period. The contributions due will be shown in the R-RSS and how the contributions due will be determined is explained below.

## **Unpaid contributions**

6.7 If a member had remained in the civil service pension scheme, they would have paid employee contributions. Employee contributions are set in salary related bands which apply at different rates under the salary bands, over the remedy period these salary bands may have changed. When a member opts out they do not pay any pension scheme contributions and contributions will be due for reinstatement of service for the opted remediable service period. Members who joined partnership may have paid contributions, but these will have been significantly lower in most cases (usually 0 to 3%).

6.8 So that members who are reinstated are treated in the same way as members who remained in the civil service pension scheme, reinstated opted out members will need to pay the contributions they would have paid had they been in the scheme. As the contributions should have been paid between 2015 and 2022, interest will be added in line with HM Treasury Directions and will build up on any outstanding balance until it is paid off. Acceptance that these contributions will need to be paid is a condition of reinstatement.

6.9 Where a member is not able to pay back all the employee contributions due in one lump sum, a repayment plan can be agreed with the scheme manager.

6.10 Where a member has not fully paid any contributions due when pension benefits are taken for the reinstated service (on retirement, death or transfer) the amount outstanding will automatically be deducted from the member's pension benefits.

## **Where a member joined Partnership**

6.11 Section 5 of the PSPJOA 2022 sets out what needs to be done with partnership accounts where a member has successfully applied to have their service reinstated in the PCSPS. The main condition is that a pension pot built up in the remedy period must be transferred back to PCSPS and any rights relating to this must be extinguished in the partnership account.

6.12 Section 22 (2)(h) of the PSPJOA 2022 allows the scheme manager to make provision about cases where a person has a partnership pension account.

6.13 Where an opted out member joined the partnership pension arrangements they may have been paying limited or no contributions anything from 0 to 3%. This is lower than the employee pension contributions and means there will be a contribution shortfall for the member to meet.

## **Members who have not yet taken benefits from partnership**

6.14 Members will be required to transfer the partnership pot (that is the money they built up in their partnership account) back into the scheme to meet the contributions shortfall. Any employee contributions and investment growth on these employee contributions built up in the remedy period can be used to cover any employee contribution shortfalls. Any



employer contributions and investment growth on those will be used to cover the employer shortfall.

6.15 In order to work out the value of the partnership pension pot built up, the scheme manager in consultation with the scheme actuary will calculate a transfer value to meet the requirement as set out above. The transfer value will be guaranteed for three months, if the transfer takes place after the guarantee period, then the actual value to be applied will be recalculated and revised shortfall calculations made.

### **Members who have taken benefits from partnership**

6.16 The same principles apply, but the difference will be the inability to transfer the partnership pension pot into the civil service pension scheme as it has been brought into payment.

6.17 Instead a debit will be applied to the civil service pension scheme benefits to reflect the fact that partnership benefits have already been taken. The scheme actuary will provide the relevant calculation. This is so members don't receive additional benefits for the remedy period by receiving unreduced partnership and scheme benefits for remediable service.

### **Members who fully opted out and didn't join partnership**

6.18 Members who opted out and did not join partnership will not have built up a pension pot within partnership, so will be required to cover the employee contributions in full, less the tax relief that would have been due, and plus interest.

## **Other opt out considerations**

### **Opt outs for part of the remedy period**

6.19 Members may have opted out for part of the remediable service period (particularly those who were not moved to alpha on 1 April 2015) so may have both remediable service and opted out time in the remedy period. Members in this position will need to follow the same opting-in process should they wish to have any opted out service reinstated.

6.20 Before the introduction of alpha, some members in classic opted out on a regular basis in order to preserve service, then rejoined the scheme at a later date. Those members who were moved to alpha in 2015 and are subsequently rolled back who would have done this had they remained in classic will need to apply using the opting-in process.

### **Pre and post Remedy service**

6.21 The discrimination was judged to have occurred between the introduction of alpha on 1 April 2015 and the closure of the legacy schemes on 31 March 2022 when all remaining

active members were moved to alpha. If a member opted out before 1 April 2015 or continued to be opted out after 31 March 2022, this element of the service is not eligible for reinstatement under the PSPJOA 2022 as there was no discrimination at that point.

### **Inability to join partnership**

6.22 Members who remained in classic were not able to join partnership on opting out until 2018. Protected or taper-protected members who would have done this had they been in alpha at the time can apply retrospectively using the opting-in process for this to be considered.

### **Reinstatement process**

6.23 In all cases where members wish to have any opted out service considered for reinstatement they will need to make an application to the scheme manager. There will be a process put in place for this purpose. Full details will be communicated to members in due course.

## **Remediable Service Statements (RSS): General**

7.1 Section 29 of the PSPJOA 2022 requires that legacy scheme regulations make provision for a remediable service statement (“RSS”) to be sent to eligible members notifying them of the benefits available to them in respect of their remediable service. The proposed scheme regulations will make sure the scheme complies with this and the conditions listed in Section 29 of the PSPJOA 2022 and the Treasury Directions.

7.2 The RSS must be provided in a standard format to eligible members or beneficiaries of deceased members, giving them full information about the benefits available for the remediable service in both the PCSPS and alpha. The PSPJOA 2022, and subsequent Treasury Directions list what must be included in the RSS; the design of the RSS is up to the scheme and each scheme can provide other additional information.

7.3 Where benefits have already been taken before 1 October 2023 the RSS will explain to members the effects of taking benefits from the alternative scheme and the facts and figures for benefits in both schemes. This will include information on any over or underpayments of benefits that may happen if the alternative benefits option is taken.

7.4 For active and deferred members not claiming benefits before 1 October 2023 an RSS for information only will be issued. The RSS will provide members with enough information to help plan for future retirement.

7.5 When an RSS is sent will vary depending on the member’s status. For members with benefits in payment, or beneficiaries of deceased members eligible for an immediate choice election, under Section 6 of the PSPJOA 2022, the scheme must provide an RSS

within 18 months of the date the new scheme regulations come into force. The scheme manager may also consider prioritising the issuing of the RSS for example where members have retired due to ill health.

7.6 The frequency for providing an RSS will be:

- Annually for active members, i.e. those who are still employed and active in the scheme and have not yet taken benefits relating to remediable service (2015-22): the proposal is to issue the RSS combined with the current Annual Benefit Statement (ABS), starting from 2024.
- Deferred members, i.e. those members who have left employment or the scheme but not claimed any benefits: an RSS will be issued when benefits are claimed or the scheme is notified of the death of the member. Members can also make a written request and will receive an RSS within three months of the receipt of the request; only one RSS request in any 12 month period is permitted.
- Pensioner and deceased members: one off RSS to allow for their immediate choice.

7.7 The proposed scheme regulations set out that the scheme will:

- Provide remediable service statements to members with remediable service as in accordance with section 29 of the PSPJOA 2022 and any Treasury directions made under section 29(6) of that Act;
- Provide the remediable service statement by the relevant date, which is eighteen months after the regulations come into force, on 1 October 2023;
- Make provision for active members to receive a remediable service statement at least once in each year ending with the anniversary of the relevant date;
- Make provision for deferred members to receive a remediable service statement within 3 months of a written request by the appropriate person; but only one request in a 12 month period is allowed;
- Make provision for a deferred choice member, as soon as is practicable following receipt of, a) notification that the member intends to claim payment of any pension benefits in relation to their remediable service or b) on notification that the member has died;
- The remediable service statement must be provided to the member or, where the member has died, to the person who is the eligible decision-maker for the member's remediable service, except where the eligible decision-maker is the scheme manager.

7.8 There will be two main RSS types. One for active and deferred members where no immediate choice is to be made and one for pensioner members, to include provisions for deceased members where a choice is to be made and benefits are already in payment.

7.9 Members who have taken partial retirement may fall into the active or pensioner category depending on when they partially retired;

- a) members who partially retired before the start of the remedy period, so before 1 April 2015 and have not fully retired by 1 October 2023 will be treated as active members. This is because they have not taken any benefits that fall in the remediable service period (this also includes members who partially retired after 1 April 2015 but have not yet taken any benefits relating to the Remedy period). They will be given their remediable service election choice as a deferred choice election when they finally retire; and
- b) members who partially retired after 1 April 2015 and have not yet fully retired will be treated as pensioner members and given an immediate choice election. This is because they have taken benefits for part or all of their remediable service. The choice they make for their partial retirement remediable service will also mean that when they finally retire their benefits for any remaining remediable service will follow that choice. Remediable service benefits can be paid as either legacy or new scheme equivalent benefits. Immediate choice elections once made cannot be changed.

## **RSS Content**

7.10 A member with remediable service will be given the choice between: PCSPS benefits and alpha equivalent benefits; these schemes have different normal pension ages (NPAs). The NPA will be later in alpha. This may result in complex situations arising depending on members' circumstances and if they have already taken benefits. This information will be shown in the individual RSS to clearly set out the differences between the two schemes and what the member would be entitled to in the alternative scheme based on their circumstances.

7.11 All types of RSS must include details about the alternative remedy benefits at the payable date, to include any actuarial adjustments that may apply due to the scheme retirement ages being different between the new and legacy schemes. Examples of what will be included are:

- legacy scheme retirement lump sum;
- legacy scheme annual pension;
- new scheme retirement lump sum (if applicable); and
- new scheme annual pension.

7.12 The Treasury Directions set out what information schemes must include in the RSS.

## Elections

7.13 The RSS must include the following important information:

- A description of the benefits currently available in respect of the remediable service
- A description of the benefits that would be available under the scheme in respect of the remediable service if any election under section 5, 6 or 10 of the PSPJOA that could be made in relation to the service were made;
- A description of any remedial arrangements to pay voluntary contributions to the legacy scheme including the circumstances in which this can happen and the process for such arrangements;
- how the election is to be completed and returned to the scheme;
- details of the default action if an immediate choice election is not made by the deadline;
- details of the scheme's Internal Dispute Resolution Procedures;
- details of where the pensioner member can find more information about the retrospective remedy from the scheme or elsewhere.

## Timing

7.14 There is a statutory deadline for when schemes must provide remediable service statements. This is the day after the end of the 18 month period, which begins on the day that the rollback provisions come into force (section 2 (1) of the PSPJOA 2022). Schemes must introduce the regulations by 1 October 2023. The 18 month time limit may not be achievable in all cases particularly where the scheme administrator does not have all the data needed to issue an RSS. Scheme regulations will permit the scheme manager discretion to vary the end of the election period in such cases as they consider reasonable in the circumstances. The member must be kept informed, where possible, as to why the RSS has not been issued.

## The different RSS types and who they are for

### Immediate Choice Remediable Service Statements:

7.15 An immediate choice RSS must be provided to pensioner members with remediable service who retired on or after 1 April 2015 and before 1 October 2023 and are receiving

pension benefits. This includes members who took a form of partial retirement in that period with benefits in payment.

### **Active members on 1 October 2023: Annual Remediable Service Statement**

7.16 Annual Benefit Statement Remediable Service Statement (ABS-RSS) must be introduced from the rollback date (1 October 2023). Active members with remediable service must be provided with an ABS-RSS at the same time as the existing annual Benefit Statement (ABS).

7.17 The annual ABS-RSS must outline the potential benefits from both the PCSPS and alpha for remediable service. The existing ABS for active members will be updated to include the RSS content and the first issue of the combined statement, for active members with remediable service, will be with the 2024 ABS cycle, due by 31 August 2024. This will become the normal ABS for active members with remediable service and will be issued annually.

### **Deferred Choice Remediable Service Statement: Active and deferred members who retire on or after 1 October 2023 with a Section 10 election**

7.18 Where an active or deferred member, with remediable service, makes an application to claim their benefits, and these benefits are payable on or after 1 October 2023 then a deferred choice RSS (a “DC-RSS”) must be provided. This is so that the member may make a deferred choice election before the retirement benefits become payable. This includes members who had taken partial retirement in respect of service before 1 April 2015, worked on or after 1 April 2015 and had not fully retired before 1 October 2023.

7.19 Where an active or deferred member with remediable service dies on or after 1 October 2023 a DC-RSS must be provided to the eligible decision maker who may make a deferred choice election, under Section 10, for the deceased member’s remediable service.

7.20 Where a member with remediable service becomes a deferred member after 1 October 2023, they must be provided with a deferred benefits RSS (DB-RSS). The DB-RSS must outline the potential benefits from both the PCSPS and alpha for their remediable service.

7.21 The proposed scheme regulations make provision for deferred members to request an ‘on demand’ DB-RSS, but only one request may be made by the deferred member during any 12 month period.

### **Reinstatement Remediable Service Statement – Members who opted out during the remedy period**

7.22 All eligible members who have, through the contingent decision process, applied and been allowed to opt back into the relevant scheme will be provided with a reinstatement RSS (R-RSS). This will be provided after their application is approved.

### **Method of communication**

7.23 The RSS will be issued on paper and mailed out. It is expected that the scheme will offer members a choice of the method they can use to respond; there will be an election option form to be completed.

## Section 2

### **POLICY SECTIONS: Operation of remedy**

The following policy sections set out how the remedy will operate in relation to specific policy areas. These sections explain how the policy is translated into scheme-specific regulations from powers in sections 19 to 21 of the PSPJOA 2022, provisions for special cases.

#### **Provision about divorce and dissolution arrangements**

##### **Pension credit and pension debit members**

8.1 When Section 2(1) of the PSPJOA 2022 comes into force, by no later than 1 October 2023 all members with remediable service will have that service rolled back to the appropriate section of the PCSPS. This means all members with remediable service are put into the same position for when they make their remedy choice. This will have an impact on members who have had a pension sharing order (PSO) as a result of a divorce put in place during the remedy period and where the debit member has remediable service that was used in the valuation of the benefits determined for divorce purposes. As pension credit members do not have remediable service, schemes are not required to move any new scheme credits to the legacy scheme on rollback.

8.2 Pension sharing orders for divorce or dissolution of civil partnerships generally award the pension scheme member's ex-spouse a percentage of the value of the pension at the time of the divorce. The pension value is expressed as Cash Equivalent Transfer Value (CETV). The ex-spouse or civil partner then becomes a member of the pension scheme in their own right and is known as the pension credit member. The pension credit member's pension is obtained by reducing the pension benefits of the ex-spouse or civil partner.

8.3 For the purposes of the remediable service remedy only PSOs for divorces that were made absolute on or after the start of the remedy period (1 April 2015) will be affected. It is possible that the value of the pension at the time of the divorce or dissolution and subsequently shared would have been different had the member always been a member of the alternative scheme for the remediable service period.

8.4 Section 19 of the PSPJOA 2022 provides powers to make regulations in respect of pension credit members (PCMs) (ex-spouses or ex-civil partners) and members of the civil service pension arrangements, the corresponding pension debit members (PDMs) who are, or may become, subject to a PSO in respect of their remediable service.

8.5 The draft regulations protect the PCM's benefits and, with one exception (see paragraphs 8.6 and 8.12 about mixed service), prevent them from being unfavourably affected by a PDMs scheme election that would otherwise lead to a reduction in their pension benefits. The PCM's rights will remain in their existing scheme irrespective of the scheme election made by the PDM.



8.6 The exception arises when a PDM has mixed service, that is, rights in both the PCSPS and alpha for the remedy period. Due to the need to end the discrimination by offering a choice of PCSPS or alpha, this cannot be retained.

8.7 Members with remediable service that have pension debits applied in the remedy period for either PCSPS or alpha benefits, or a mixture of both may need to have any pension debits and credits adjusted. This means that the CETV used to calculate the value of the debit member's pension will need to be recalculated. For the purpose of the scheme regulations, remediable service subject to a PSO will be known as remediable shareable rights.

### **Where a pension sharing order is in place on 1 October 2023**

8.8 The pension debit member's remediable service will be rolled back to the relevant PCSPS section. The pension debit member will be eligible to make either an immediate choice election or a deferred choice decision to receive new scheme benefits as appropriate.

8.9 Recalculation of CETVs will be needed for the remediable shareable rights service using the original calculation date:

- a) on the alternative benefits; and
- b) on the original benefits.

8.10 Where the original CETV for pension sharing purposes was calculated on PCSPS benefits for the remedy period the alternative CETV calculation will be based on the equivalent alpha like benefits for the remedy period. For members where the original CETV for pension sharing purposes was calculated on alpha benefits for the remedy period the alternative CETV calculation will be based on PCSPS benefits for the remedy period. When the member makes their remediable service benefit choice the pension debit can be applied in the correct way according to the scheme benefits chosen.

8.11 A different method is to be used where the initial CETV calculation included mixed service, that is a mixture of benefits in both the PCSPS and alpha. Two CETV calculations are still needed, one based on a) PCSPS benefits for the remedy period and one based on b) alpha benefits for the remedy period; the greater of the two CETVs will be used for the remediable pension sharing adjustments.

8.12 For PCM with a credit in only one scheme, an adjustment to the PCM pension only applies where the alternative CETV calculation gives a higher amount. But in the case of members with mixed service an adjustment will always be necessary and this could result in a decrease to the pension credit. This is because the CETV used to determine the remediable shareable rights must be based on the higher of a) or b) as described in 8.11. Mixed service benefits cannot remain for taper protected members; the PSPJOA 2022 provides that members may not retain mixed service during the remedy period as this does not remove the age discrimination, this applies to both PDMs and PCMs.

8.13 Where the alternative calculation gives a higher CETV, a top up to the credit member's benefits is to be applied and an adjustment made to the debit member's benefits.

8.14 For Pension Sharing Orders determined in Scotland that set a monetary amount to be shared, using the effective date of the PSO, the scheme should calculate what the percentage of the debit member's CETV is and then calculate the CETV based on the debit member being a member of the alternative scheme in respect of their remediable service. If applying the same percentage to the alternative would result in a greater pension credit for the pension credit member, this should be awarded.

### **Pension Credit Members**

8.15 The proposed scheme regulations set out when and how pension credit adjustments are to be made. The scheme manager must determine the alternative amount in relation to a pension credit member's pension credit as soon as is reasonably practicable after 1st October 2023, having consulted with the scheme actuary. Where;

(a) the alternative amount is greater than the initial amount; or

(b) the debit member has mixed service and the alternative amount is lower than the initial amount.

The pension credit member's pension account is subject to an adjustment (a "remediable credit adjustment"). This is calculated in line with the PSO information on the difference between the original amount determined and the recalculated amount.

8.16 The scheme manager must provide the pension credit member with a statement showing the alternative amount, and any remediable credit adjustment.

8.17 The scheme regulations further set out that the scheme manager;

- must adjust the pension credit pension account by an amount equal to the remediable credit adjustment.
- any such adjustment is made as though it had been made when the pension credit was first created.

8.18 As a result of the PSO where the pension credit member has one pension credit account in one civil service scheme the remediable credit adjustment will be applied to that account.

8.19 Where the pension debit member had mixed service for the remedy period or service in the PCSPS prior to 1 April 2015, the PSO implemented will have split the pension credit benefits between the PCSPS and alpha schemes. This means the pension credit member will have two pension credit accounts, one in the PCSPS and one in alpha. The remediable credit adjustment must be applied to one scheme only and the credit member can only retain rights in one scheme. In these cases, the scheme regulations allow pension credit members to request which pension credit account they would like any remediable credit to be applied to. If no request is made the scheme manager will adjust the credit member's PCSPS

pension credit account. The alpha credit account will be removed and the full pension credit amount will be held in one scheme.

The regulations set out that a request can be made in accordance with this policy if:

- (a) it is made in writing to the scheme manager for this specific purpose;
- (b) it is in the form determined by the scheme manager;
- (c) it clearly identifies only one of the pension credit member accounts for the purpose; and
- (d) it is received by the deadline notified by the scheme manager; being either:
  - (i) 6 months after the date the statement was provided to the credit member; or
  - (ii) a time that the scheme manager considers reasonable in all the circumstances.

8.20 A request made under these scheme regulations cannot be changed and is defined by the regulations as irrevocable. All the information the pension credit member needs will be provided in the statement they will receive.

8.21 The pension credit member will **not** have the opportunity to make a section 6 or section 10 election as they do not have remediable service.

### **Recalculating a pension debit member's reduction of benefits**

8.22 Where a pension debit member has remediable service the scheme manager must determine the alternative reduction amount or, where the debit member has mixed service, the alternative reduction amounts in relation to the debit member's remediable relevant benefits. The regulations direct that this should be done as soon as is reasonably practicable after 1st October 2023, having consulted with the scheme actuary.

8.23 Where the pension debit member does not have mixed service the alternative reduction amount is determined by the scheme manager; taking into account the following:

- (a) the cash equivalent of the remediable relevant benefits under the alternative scheme, using the original calculation date;
- (b) the percentage value or the amount to be transferred specified in the relevant pension sharing order; and
- (c) the provisions of sections 29 and 31 of Welfare Reforms and Pensions Act (WRPA)1999 .

8.24 Where the pension debit member has mixed service, the alternative reduction amounts are the amounts calculated as:

- (a) the cash equivalent of the remediable relevant benefits on the original calculation date as if they had all been in:

- (i) the PCSPS; and separately
- (ii) alpha, and

Using the PSO details and the regulation requirements shown in paragraph 8.23 b and c above.

### **Pension sharing order in effect on or before 1 October 2023: applying a recalculated reduction of benefit**

8.25 The scheme regulations set out when the alternative reduction adjustment should be applied, which will be, where the remediable relevant benefits of a debit member become:

- (a) PCSPS benefits on roll-back (1 October 2023); or
- (b) alpha benefits as a result of an immediate choice decision under section 6, or a deferred choice decision under section 10.

8.26 A subsequent adjustment may become necessary where the remediable relevant benefits become PCSPS benefits on roll-back and alpha-equivalent benefits are later paid as a result of an immediate choice decision under section 6, or a deferred choice decision under section 10. Where this is the case the scheme manager must reapply the initial reduction amount to the remediable relevant benefits at the appropriate time.

8.27 Where any adjustments under these arrangements result in an over or underpayment of benefits these will be treated under the business as usual arrangements for recovering overpayments or making good underpayments. The proposed draft scheme regulations make provision that the scheme manager may reduce or waive any liability owed to or by the scheme. Section 12 of this document provides more information about this.

### **Pension sharing order not in effect before 1 October 2023; calculation of pension credits and debits**

8.28 The scheme manager must re-calculate the cash equivalent of the remediable relevant benefits as at the PSO valuation day as PCSPS benefits (“the PCSPS cash equivalent”), and the cash equivalent of those benefits on valuation day as if they were in alpha (“the alpha cash equivalent”):

- a) Where the debit member is a deferred choice member and the end of the section 10 election period has not passed, no deferred choice election has been made and no pension benefits have become payable in relation to the debit member’s remediable service. Or
- b) An immediate choice pensioner member where the end section of the section 6 election period in relation to the debit member has not passed, and no immediate choice decision has been made in relation to the debit member’s remediable service.

8.29 For determining the pension credit and the pension debit, the scheme manager must use the higher of the PCSPS cash equivalent or the alpha cash equivalent.

**Pension sharing order made (concluded on) but not in effect on or before 1st October 2023; recalculating the debit member reduction:**

8.30 The proposed scheme regulations set out how any pension debit reduction is to be applied to remediable relevant benefits which have been determined by the calculations described in paragraphs 8.24 to 8.27. The scheme manager must determine the alternative reduction amount in relation to the debit member's remediable relevant benefits:

- (a) as soon as is reasonably practicable after the day on which the PSO takes effect; and
- (b) having consulted the scheme actuary.

The "alternative reduction amount" is the amount the scheme manager determines as appropriate taking into account the following:

- (a) the cash equivalent of the remediable relevant benefits on valuation day as if they had been remediable relevant benefits under:
  - (i) where the original pension debit was calculated on the basis of the PCSPS cash equivalent the alternative is alpha;
  - (ii) where the pension debit was calculated on the basis of the alpha cash equivalent, the alternative is PCSPS;
- (b) using the percentage value or the amount to be transferred specified in the relevant pension sharing order; and
- (c) the provisions of sections 29 and 31 of WRPA 1999.

Where the reduction is applied to the pension debit members account there may need to be an adjustment made to the credit members account if the recalculation results in a higher amount being available to the credit member under the provisions set out in paragraph 7.31.

**Pension sharing order not in effect before 1st October 2023: applying a recalculated reduction of benefit**

8.31 The proposed scheme regulations set out where the debit member's remediable relevant benefits have been reduced for a pension debit calculated on the basis of:

- (a) the PCSPS cash equivalent, and then an election is made or deemed to have been made for the debit member's remediable relevant benefits;
- (b) the alpha cash equivalent, and no election is made before the end of the relevant election period, or is later deemed to have been made, in relation to the debit member's remediable relevant benefits.

8.32 The scheme manager must adjust the debit member's remediable relevant benefits in line with the alternative reduction amount determined and any such adjustment will be treated as having taken effect from the PSO effective date.

8.33 Where any adjustments under these arrangements result in an over or underpayment of benefits these will be treated under the business as usual arrangements for recovering overpayments or making good underpayments. The proposed draft scheme regulations make provision that the scheme manager may reduce or waive any liability owed to or by the scheme. Section 12 of this document provides more information about this.

8.34 Where a request to provide pension benefits information in respect of divorce proceedings is received after 1 October 2023.

8.35 The scheme administrator will need to calculate two CETVs for the remediable service period. One based on legacy scheme benefits and one based on new scheme equivalent benefits. The higher of the two CETVs should be provided to the court and this is what the pension credit will be based on. This means there will be no need to top-up the pension credit at a later date. When the pension debit member makes a deferred or immediate choice decision the pension debit may need to be adjusted.

### **Pensioner members**

8.36 Where the court requests information for divorce proceedings for pensioner members the scheme provides a Cash Equivalent Value (CEV)/Pensioner Equivalent Transfer Value (PETV) based on the pension in payment. When the Order is implemented the member's choice of benefits in respect of their remediable service will be known and both the pension credit and the pension debit should reflect the member's actual choice.

## **Member contributions and Voluntary contributions**

9.1 In 2015 contributions were equalised across the Civil Service schemes, meaning most scheme members paid the same contributions for the remedy period regardless of the scheme they were in. Contribution differences occurred in limited circumstances, for example, where an allowance is pensionable in one scheme but not the other, meaning contributions due could work out differently in the two schemes, or members reached a service cap or salary cap in PCSPS. Member contribution rates are set in line with four pensionable earnings bands. For members who are rolled back and/or choose alternative scheme benefits and a member contribution difference is determined members could be due a refund of contributions or owe additional contributions.

9.2 All members with remediable service are to be put into the same position for when they make their remedy choice. This will have an impact on members who have paid voluntary contributions during the remedy period to purchase: added pension; enhanced pension Age (EPA) and enhanced effective pension age (EEPA); and other voluntary

contributions (additional voluntary contributions). These are collectively referred to as Member Voluntary Contributions (MVCs).

9.3 The scheme manager is proposing to make scheme regulations to allow for the adjustment of benefits purchased by MVCs as if the discrimination had not happened. Rollback to the PCSPS does not affect any additional benefits purchased by MVCs. The PSPJOA 2022 Section 2(5) applies and means that rights and benefits attached to MVCs remain in alpha for unprotected and taper protected members and there is no change for protected members. The policy position is that benefits from members' voluntary contributions will remain in the scheme they were purchased in.

9.4 When the remedy is switched on (1 October 2023) the PSPJOA 2022 provides schemes with the power to make regulations in respect of MVCs and further provides members who have been moved from alpha to the PCSPS the following options:

(a) to have additional rights removed from alpha, for example added pension and for equivalent added pension rights or benefits to be added to the PCSPS; or

(b) to have rights removed from alpha and equivalent benefits added to the PCSPS if the same form of rights do not exist in the PCSPS. For example EPA could be converted to added pension; or

(c) to have rights removed from alpha and receive a refund of the additional contributions paid in the form of compensation instead. Under this option the member can have the option to delay payment of the compensation should they wish to elect to receive alpha benefits later on and wish to keep their EPA/EEPA rights until that time.

9.5 Section 20 of the PSPJOA 2022 further provides that scheme regulations may make provision about any additional pension benefits or entitlement to earlier payment of benefits from MVCs made during the remediable service period, for:

- How purchases of added pension, EPA and early retirement buyout in the remedy period will be dealt with when the remedy is switched on;
- How existing arrangements in place as at 1 April 2022 will be dealt with for future purchases;
- Arrangements to pay voluntary contributions to legacy schemes; and
- Compensation policies for different types of purchase.

9.6 The HM Treasury Directions, *The Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022*, set out in Sections 5 and 12 how tax and interest will work for these options.

## **How this works in the proposed scheme regulations for MVCs**

### ***Added Pension (and added years)***

- Added pension purchase in alpha won't be rolled back in the same way as core alpha benefits, it will remain as alpha added pension rather than being converted (rolled back) into PCSPS added pension.
- When a member comes to make their remedy choice, the alpha added pension will, in consultation with the scheme actuary, be reconstructed to added pension as if it had been made in the PCSPS, unless the member opts for alpha benefits as their remedy choice.
- Added pension and added years purchased in the PCSPS during the remedy period remain unchanged and will not be affected unless the member opts for alpha benefits when they make their remedy choice election.
- When a member makes their remedy benefit choice the added pension purchased in the remedy period will follow their choice of scheme benefits. So a member retiring in 2030 for example and choosing alpha for their remediable service period will have their added pension benefits as alpha like benefits.
- Members who purchased or continued added pension contracts during or after the remedy period may bring a contingent decision claim if they believe they would not have done so. The option to do this will be open for up to 12 months after the member receives their RSS. A contingent decision is a decision made by a member that may have been different or not made at all but for the introduction of the 2015 scheme.

### ***Effective Pension Age (EPA) and Enhanced Effective Pension Age (EEPA)***

- When members are rolled back into the PCSPS, their entitlement for EPA and EEPA (the published list of employments covered by EEPA currently only contains certain grades in the National Offender Management Service and Scottish Prison Service) will no longer be relevant, as both apply only in alpha. Members can choose to have their EPA/EEPA contributions refunded, with interest and tax adjustment or, converted into PCSPS added pension, or if they know they will select alpha as their remedy choice, they can choose to sign an agreement that will in effect allow for these benefits to be retained in alpha until they retire. There will be an EPA/EEPA exercise setting out these choices for members which is expected to run at some point in 2023 or 2024.
- Any member opting for a refund or conversion will have no EPA/EEPA rights for the remedy period at the time they make their choice. EPA can be purchased at a later date if the member wishes to do so, but this will not be backdated to the remedy period.



- Refund of contributions will be made according to the compensation payment regulations.
- Fully or taper protected members who would have purchased EPA/EEPA during the remedy period can choose to purchase it as normal now. If they are already retired and choose alpha benefits, they can make a retrospective EPA/EEPA application within 12 months of the receipt of their immediate choice RSS.

### ***Other additional voluntary contributions***

- Members may have made Additional Voluntary Contributions (AVCs) during the remedy period to a defined contribution arrangement. These arrangements are not affected by the remedy and there is no remediable action needed.

### **How the regulations will work for MVCs**

9.7 The scheme manager proposes scheme regulations to adjust any rights gained from MVCs in the PCSPS where a member opts to receive alpha equivalent benefits under section 6 (immediate choice) or section 10 (deferred choice). This adjustment will be made in consultation with the scheme actuary, so that an equivalent value of rights are available to the member as if the MVCs had been paid to alpha.

9.8 In addition, the proposed scheme regulations set out how rights gained from MVCs in alpha are to be dealt with on rollback. The MVCs are to be treated on and after 1st October 2023 as if it is (and always was) an MVC arrangement for PCSPS added pension:

- The member receives rights of an equivalent value to what they had in alpha under the PCSPS; having consulted the scheme actuary, vary the alpha added pension rights secured by the voluntary contributions paid to alpha, so that they are of equivalent value to added pension rights that would have been secured under the PCSPS if the voluntary contributions had been paid to that scheme.
- Where added pension rights are varied, the added pension rights that would otherwise have been secured by the voluntary contributions in alpha are extinguished (and are treated as never having arisen).
- Scheme regulations to permit in-scope members to continue with PCSPS Added Pension instead of alpha Added Pension after 1 April 2022 where the MVCs began before 1 April 2022.

## **Transfers**

### **Non-club transfers out before 1st October 2023**

10.1 Where a member has transferred remediable service out of the civil service pension scheme, recalculation of the transfer value paid will be carried out. This is to make sure that members who have transferred remediable service benefits out of the scheme are not excluded from the remedy. They will not be able to make a choice about remediable service benefits that have been transferred out, but they could benefit from an additional amount to be paid to their new scheme.

10.2 Where a transfer value was paid to a scheme on a non-club basis, before 1 October 2023 the scheme regulations provide that two transfer values for the remediable service must be calculated. This is to determine the higher value cash equivalent transfer value that is available from the PCSPS or alpha. Where these calculations produce an amount that is higher than the amount of the remediable transfer value paid, the scheme manager must pay the receiving scheme a top up amount.

10.3 Any additional amount would be offered to the scheme that received the member's transfer. Where the scheme is unable to accept the additional amount the member may be offered a compensatory payment instead. Where a lower value is determined, which may happen for members with mixed service the scheme will make provision in the regulations to waive any recovery of the transfer paid.

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

10.4 Where members have transferred benefits into the Civil Service pension scheme, before 1 October 2023, from another public service pension scheme that includes remediable service further action is required. The proposed scheme regulations will require the remediable transfer value, which covers the member's remediable service, to be converted into rights for both the PCSPS and alpha. In this way remediable service can be transferred between public service schemes and the member can make their deferred choice at retirement.

10.5 This only applies where the member is—

- (a) a deferred choice member, and no pension benefits have become payable in relation to their remediable service, or
- (b) an immediate choice member, and
  - (i) the end of the section 6 election period in relation to them has not passed, and
  - (ii) no immediate choice decision has been made in relation to their remediable service.

### **Transfers out on or after 1st October 2023**

10.6 Where a member has remediable service and wishes to transfer out of the scheme and this is completed after 1 October 2023; the proposed scheme regulations set out how the transfer value for the remediable service is to be determined.

The scheme manager, having consulted the scheme actuary, must calculate the transfer value of the member's remediable rights as if those rights had been in both:

- (a) the PCSPS; and
- (b) alpha.

The amount of the remediable transfer value is the greater of the amounts calculated.

### **Transfers in from other public service schemes on or after 1st October 2023**

10.7 Where a member transfers in on or after 1 October 2023 the proposed scheme regulations set out how the scheme manager should deal with the remediable transfer payment.

The scheme manager, having consulted the scheme actuary, must determine the member's benefits as if the remediable transfer value were applied in respect of rights in both

- (a) the PCSPS; and
- (b) alpha.

10.8 When the member comes to make their remediable service choice, the benefits available under both schemes for the remediable transfer value will be shown on the RSS. In this way remediable service can be transferred between public service schemes and the member can make their deferred choice at retirement.

### **Club Transfers**

10.9 The Public Sector Transfer Club, also known as the Club, allows easier movement of employees and their pensions from one employer to another. These are mainly within the public sector but some private sector schemes can participate.

10.10 Members undertaking Club transfers will not be required to make their remedy choice at the point of transfer, but at the point they take their remediable service benefits. Any decision will be for all service in respect of the period from 1 April 2015 to 31 March 2022, whether that arises from service in employment in the receiving scheme or service arising from a Club transfer.

### **Club Transfers out before 1st October 2023**

10.11 Proposed scheme regulations set out the remedy action that applies where a remediable club transfer value has been actioned before 1st October 2023.

The scheme manager, having consulted the scheme actuary, must calculate the transfer value of the member's rights under a Civil Service scheme as if all of the remediable rights had been secured in;

- (a) the PCSPS, and separately
- (b) alpha.

The scheme manager must provide the receiving scheme with the result of both of the calculations.

Where the greater of the amounts calculated is greater than the amount of the remediable club transfer value already paid, the scheme manager must inform the receiving scheme of the amount that is calculated as the difference between the original amount paid and the recalculated higher amount.

The recalculations are subject to the same conditions as the original club transfer value, no payment adjustment between schemes is required except where the transfer involved the Local Government Pension Scheme (LGPS).

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

10.12 The proposed scheme regulations provide for a payment accepted to be used for the purpose of determining the member's benefits under a Civil Service scheme on the same terms as the remediable transfer value.

10.13 The scheme manager, having consulted the scheme actuary, must determine the member's benefits as if the remediable transfer value were applied in respect of rights in both

- (a) the PCSPS;
- (b) alpha.

10.14 When the member comes to make their remediable service choice, the benefits available under both schemes for the remediable transfer value will be shown on the RSS. In this way remediable service can be transferred between public service schemes and the member can make their deferred choice at retirement.

### **Club Transfers in and out of the scheme on or after 1st October 2023**

10.15 The same calculation principles apply for club transfers in and out of the civil service on and after 1 October 2023 as for club transfers in and out of the scheme made before that date. As long as:

- (a) the member is a deferred choice member, and no pension benefits have become payable in relation to their remediable service, or

(b) an immediate choice member, and

(i) the end of the section 6 election period in relation to them has not passed;  
and

(ii) no immediate choice decision has been made in relation to the member's remediable service.

### **Transferred in remediable rights treated as being in the PCSPS**

10.16 The scheme regulations also include provisions to allow for transferred in remediable service to be treated in the same way as other benefits built up in the scheme for remedy purposes. Transferred in remediable service is not automatically rolled back under section 2 (1) of the PSPJOA 2022 when the regulations come into force. The proposed scheme regulations provide that transferred in remediable service will be treated as transferred into the PCSPS and not alpha.

Where the member's transferred in remediable rights would, be rights to benefits under alpha, the rights

(a) are not, and are treated as never having been, rights under alpha, and

(b) are treated as being, and as always having been, rights under the PCSPS.

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

10.17 Scheme regulations make provision for the variation of remediable service benefits where members make section 6 or section 10 elections that are for alpha equivalent benefits. With the provision for the benefits to be removed from the PCSPS. This is necessary due to the way transfers in are credited to member records. For PCSPS where the scheme sections are final salary, a service credit of years and days of reckonable service will have been created. For alpha and nuvos where the schemes are career average a transfer credit is added to the pension account as a pension credit to the relevant scheme year.

### **Proposed Scheme regulations- Transferred in remediable rights treated as being in the PCSPS**

10.18 The proposed scheme regulations allow for the different transfer in credits to be varied when a member makes an election under section 6 or section 10 of the PSPJOA 2022.

10.19 Where a member has transferred in service during the remedy period that is determined as remediable rights under alpha, these rights are not, and are treated as never having been, rights under alpha. Instead the proposed regulations allow for them to be

treated as being, and as always having been, rights under the PCSPS. This is because the PSPJOA 2022 powers do not automatically rollback benefits that have been transferred into the scheme.

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

10.20 Where the member is a deferred choice member, and any transferred in remediable rights are treated as rights to benefits under the PCSPS by the new regulations, the scheme manager must vary the value of those rights so that they are of an equivalent value to rights the member would have secured under the PCSPS as if the rights had been transferred into that scheme.

10.21 Any such variation is to be treated as having taken effect when the regulations come into force.

10.22 Where the member is an immediate choice member, and they opt to receive PCSPS benefits, the scheme manager must vary the value of those rights so that they are of an equivalent value to rights the member would have secured under the PCSPS if the rights had been transferred into that scheme.

10.23 This variation is treated as having taken effect on the earlier of the time that an immediate choice decision (including a deemed section 6 election) is treated as having taken effect for the member's remediable service; or the end of the section 6 election period that applies to the member.

10.24 This variation is treated as having taken effect when the election (or deemed election) is treated as having taken effect for the member's remediable service.

10.25 Where the member is an immediate choice member, and they opt to receive alpha benefits, the scheme manager must vary the value of those rights so that they are of an equivalent value to rights the member would have secured under alpha if the rights had been transferred into that scheme. .

10.26 This variation is treated as having taken effect when the election (or deemed election) is treated as having taken effect for the member's remediable service.

10.27 In all cases where the member's transferred in remediable rights are varied under the new regulation, any rights to benefits that would otherwise have been secured by the member's transfer are removed.

### **Benefits already paid in relation to transferred in remediable rights**

10.28 This proposed regulation applies where any benefits that alpha has at any time paid to a pensioner member where;

- (a) they are calculated by reference to the pensioner member's, transferred in remediable rights, and
- (b) they are benefits that, as a result of this regulation the pensioner member was not entitled to receive from alpha.

The benefits paid are to be treated for all purposes as not having been paid to the pensioner member by alpha, but as having been paid by the PCSPS instead.

### **Pension benefits and lump sum benefits in relation to transferred in remediable rights**

10.29 The proposed regulations will provide for any benefits that have been paid from alpha to or in respect of transferred in remediable rights to have been paid from the PCSPS.

10.30 Following the immediate choice, where the benefits paid from the PCSPS including the transferred in remediable service rights exceed the benefits due from alpha, including the varied remediable transferred in rights any excess benefits paid are owed to the scheme.

10.31 In a case where the amount that becomes due is more than amounts already paid to the member, the scheme manager would pay the member the difference.

### **Bulk Transfers**

10.32 Bulk transfers take place where members have their employment compulsorily transferred to a new employer who offers membership of a different defined benefit public service or broadly comparable scheme, bulk transfers are offered to employees as a method of transferring employees to the new scheme. Members can choose to preserve their pension benefits in the previous scheme, or opt to be part of a bulk transfer which allows for benefits built up in a previous scheme to be transferred to their new scheme.

10.33 There are different types of bulk transfers, with most falling under either: New Fair Deal (NFD) transfers, or Machinery of Government (MoG) transfers. Different transfer types will be impacted differently by the remedy and the exact arrangements are to be determined.

10.34 Where the bulk transfer takes place between two reformed public service pension schemes members will be in scope of the remedy. However where the bulk transfer is from a non-reformed scheme there is no discrimination to remedy. For bulk transfers from a scheme broadly comparable to the reformed scheme (alpha), work is on-going to determine the application of the remedy to these transferred-in rights. Further detail on this will be published in the consultation response.

## **III Health Retirement**

11.1 Where members have retired on the grounds of ill health with remediable service (2015-22) they will be given an immediate choice election under section 6 of the PSPJOA 2022.

11.2 The scheme manager is proposing to review all ill health retirement cases for members who retired on the grounds of ill health during the remedy period, 1 April 2015 to 31 March 2022. This will also include reviewing cases for those who applied for ill health retirement on or before 31 March 2022 but were not successful. These reviews will be carried out before 1 October 2023, where possible. This is to remove any discrimination that may have resulted from members retiring on the grounds of ill health in the remedy period and mitigate any further discrimination through the remedy.

11.3 Members eligible for an immediate choice will be contacted with their remedy choice. They will be sent an RSS with all the choice information as soon as is practicable once the scheme regulations come into force. The scheme manager will be dealing with members eligible for an immediate choice having retired due to ill health, as a high priority.

### **Who may be affected**

- pensioner (or deceased) members who have taken ill health retirement during the remedy period, from the PCSPS or alpha.
- members (pensioner, active or deferred) who applied for ill health retirement and were in either the PCSPS or alpha but did not meet the ill health criteria of that scheme, as determined by the Scheme Medical Adviser and were refused ill health retirement by their employer on or before 31 March 2022.
- members (pensioner, active or deferred) who were originally assessed to meet the criteria for ill health retirement, as determined by the Scheme Medical Adviser and were in either the PCSPS or alpha, on or before 31 March 2022 but did not take ill health retirement.
- members who applied for ill health retirement and were in either the PCSPS or alpha on or after 1 April 2022 and did not meet the criteria for ill health retirement in that scheme but whose employment was terminated before 31 March 2022.
- Members who did not apply for ill health retirement during the remedy period due to the assumption that they would not meet the qualifying criteria of the scheme.

### **Immediate choice options**

a) Eligible protected pensioner members in receipt of PCSPS ill health benefits fall within the definition of “pensioner member” and will be offered an immediate choice election to receive new scheme equivalent benefits, under section 6 of the PSPJO Act 2022.

b) Eligible unprotected pensioner members in receipt of alpha ill health benefits fall within the definition of “pensioner member” and will be offered an immediate choice election to receive PCSPS benefits under section 6 the PSPJO Act 2022.

11.4 Before the choices set out in (a) and (b) above can be offered to members the scheme manager has to determine if the member would have met the relevant ill health retirement criteria in the alternative scheme. This means for the members in (a) in the paragraph above the scheme medical adviser, who determines if a member meets the



relevant ill health retirement criteria will need to review the medical information originally provided under the criteria for alpha ill health retirement.

11.5 Following advice from the scheme medical adviser, the scheme manager's working assumption is that for the members in (b) it will not be necessary to carry out a further review of the medical information as the criteria for ill health retirement in alpha is such that the ill health criteria in the PCSPS would be met.

### **Ill Health Assessments**

11.6 The scheme appoints a scheme medical adviser (SMA) to carry out assessments of a member's health against the relevant ill health retirement criteria set out in the scheme rules. The SMA produces an outcome report which provides an opinion based on the evidence provided as to whether or not the member meets the criteria for ill health retirement (IHR). Different schemes have differing criteria so it is not automatic that if ill health retirement was agreed in one scheme that it will also be available from the alternative scheme. The scheme manager will make informed working assumptions for these cases as follows:

- Where the member successfully awarded upper-tier IHR benefits in alpha, it can be assumed that they would have also met the IHR criteria (including both tiers) in any one of the PCSPS schemes, unless they were close to or over Normal Pension Age (NPA) in PCSPS.
- Where the member successfully awarded lower-tier IHR benefits in alpha, it can be assumed that they would have also met the IHR in classic and lower-tier in the other PCSPS schemes.
- Where the member successfully applied for IHR in nuvos (upper or lower tier), it can be assumed that they would have also met the IHR criteria in alpha, providing their alpha NPA is 65.
- Where the member was unsuccessful in applying for IHR in the PCSPS during the remedy period, they wouldn't have been successful in alpha.
- The SMA will have also passed an opinion, when originally assessing, as to whether the member met HMRC severe ill health criteria (which is at least equivalent to alpha upper tier). So, if the member had IHR in PCSPS and the HMRC severe ill health criteria was also met (in the opinion of the SMA) then no assessment against alpha criteria is needed.

### **Reassessments**

11.7 Where the outcome of the initial IHR assessment is not sufficient to make an assumption about entitlement in the alternative scheme, the scheme will, working with the scheme medical advisor, reassess the member's medical evidence from the initial IHR application to determine entitlement in the alternative scheme. This exercise will apply to the following cases:

- Where the member was successfully awarded alpha lower-tier, there will need to be a reassessment to establish whether PCSPS upper-tier is met (other than classic no tiers in classic).
- Where the member successfully awarded IHR in a PCSPS scheme (all tiers), they may have also met the IHR criteria in alpha (and which tier). A reassessment won't be necessary where the SMA has determined that the member passed the HMRC severe health criteria.
- Where the member was unsuccessful in applying for alpha IHR, they may have been successful in any of the PCSPS schemes (and which tier if a non-classic scheme).

11.8 The scheme administrator will write to members who are in scope for reassessment to explain:

- the circumstances under which a Scheme Medical Adviser review will take place;
- confirmation that a review will be undertaken by the Scheme Medical Adviser; and
- that they will be contacted with the outcome.

11.9 The scheme may be able to use the original consent given by the member at the time of their original ill health retirement application (where held), or where it is not held or not previously provided, consent will be requested from the member at the point an alternative scheme review is required.

11.10 Members will have the option to withdraw their original consent, and the implications of this will be clearly explained to members, that:

- Where the member is in receipt of ill health retirement benefits, their immediate choice will be between their current ill health retirement benefits and any entitlement to benefits in the alternative scheme but not in respect of ill health retirement benefits (because consent to reassess has been withdrawn). As a result, the alternative scheme benefits may be deferred or actuarially reduced, depending on the member's age at retirement.
- Where the member is not currently in receipt of ill health retirement benefits, and has not provided consent to reassess their ill health retirement application under the alternative scheme then their choice will be between PCSPS benefits and alpha scheme benefits, but not in respect of ill health retirement pension benefits. Where the member has not yet retired or died, this will be a deferred choice.
- Where a member has died at the time their ill health retirement application is reassessed, consent is not required to determine whether the member would have met the criteria for ill health retirement had they been in the alternative scheme at that time.

- Where a member did not submit an ill health retirement application on or before 31 March 2022, but would have done so had they been in the alternative scheme at the time, the member's application will need to be considered for the first time, and the necessary consent obtained.

### **What happens when a previous refused member passes under the alternative scheme**

11.11 If a member had originally failed the IHR assessment in one scheme but passes in another, they become entitled to IHR from this scheme. As IHR cannot be backdated and subsequent employment removed, members will be given an immediate choice:

- If the member had left employment after the initial refusal (most likely for alpha IHR), their last day in service will be the point at which entitlement to PCSPS IHR is calculated.
- If the member continued in employment after the refusal for alpha IHR, a future termination date would need to be agreed between the member and their employer, and benefits would be paid from this date. The benefits calculation should be the legacy scheme entitlement to 31 March 2022 which would be as an ill-health enhancement from the reformed scheme. Members will not be entitled to any additional benefits in respect of service built up from 1 April 2022. A member can make a claim for compensation if they feel they would have been better off had they retired on IHR from the correct scheme during the remedy period.
- A member who opts to take IHR benefits has made their remedy choice. If a member opts not to take their IHR benefits, they will receive their choice on retirement.

### **Scheme regulations on ill health**

11.12 The proposed scheme rules will contain the following provisions:

- The scheme medical advisor will assess whether the member would have been entitled to ill health retirement in the alternative scheme at the time they made their initial ill health retirement application.
- Where the scheme rules require the IHR application to be made to the alternative scheme or employer consent in order to establish IHR entitlement, these requirements are waived.
- To extend the ill health underpin that was put in place for protected members when they were transitioned to alpha on 1 April 2022. This arrangement will be extended for unprotected and taper protected members who become eligible for IHR in the PCSPS. The IHR date will be backdated to 31 March 2022 and payments backdated, but it will eliminate any accrual in alpha after this date.

## **Ill Health retirement Underpin**

11.13 The underpin provided for in the Public Service (Civil Servants and others) Pensions (Amendment) Regulations 2022 for protected members is to be extended to cover unprotected and taper protected members in the proposed new regulations. This will allow for such members to receive a 2015 Scheme ill-health pension calculated at the date they actually retire; but that if a legacy scheme ill-health pension calculated as at 31 March 2022 would have been more favourable, the 2015 Scheme pension must be increased by the difference between the two.

## Other special cases

12.1 Following rollback the scheme manager has identified some scheme specific issues that could occur and these are included in the proposed draft regulations.

### **Death benefit nominations**

12.2 When unprotected and taper protected members are rolled back into the classic section (II) of the PCSPS and had made a nomination for death benefit whilst in alpha, that nominates more than one individual, the proposed remediable service regulations will provide for the nomination to continue to be valid.

### **Protection of the amount of pension payable to an eligible child.**

12.3 Where a child pension is calculated using a member's remediable service and is in payment to an eligible child before 1 October 2023, the proposed scheme regulations prevent the child pension in payment from being reduced by a subsequent immediate choice election. This is where the eligible decision maker is a surviving adult but the child is not the care of the eligible decision maker. The regulation states, 'the rate of the child pension continues to be the rate that was payable before the immediate choice decision was made'.

### **Aggregation of previous service**

12.4 Members who would have re-joined classic or premium during the remedy period but instead joined alpha would have had the option of aggregating a previous PCSPS preserved award on rejoining. Following rollback, for remedy purposes we propose to put members in the position they would have been in, but for the discrimination, by offering members the option to aggregate, join up the current PCSPS service with a previous PCSPS preserved award. Members who would have met the criteria to aggregate had they rejoined the PCSPS during the remediable service period will have the option of doing so within 12 months from when the new scheme regulations come into force.

This provision would not be available for immediate choice members as the benefits from the earlier preserved award would have been put into payment. If new scheme benefits were taken for the remedy period after aggregating a previous preserved award, the aggregated service would in effect be lost. Further detail on this will be provided in the consultation response.

## Immediate detriment cases

13.1 Where a member has obtained an immediate detriment remedy for their remediable service by virtue of section 32(3) of the PSPJOA 2022 the proposed regulations and sections 2 to 30 of PSPJOA 2022 apply to the member's remediable service in the same way as they apply to the remediable service of an immediate choice member where the remediable service immediate choice decision has been made that no section 6 election is to be made.

## Liabilities and payment: Liability owed by a person to the scheme manager

14.1 This Part applies in relation to a relevant amount owed in respect of the remediable service of a remedy member. The use of powers to waive or reduce liabilities is expected to be limited to those situations where the liability has arisen from an unavoidable operation of the remedy.

Liabilities owed to the scheme likely arise in limited specific areas;

- a) when a member's remedy choice under PSPJOA 2022 sections 6 or 9 results in them owing money to the scheme in respect of pension and or lump sum adjustment; or
- b) pension contributions where opted out service is reinstated under PSPJOA 2022 section 5;
- c) where the implementation of the remedy leads to members owing an amount to the scheme; for example adjusting a tapered protected member's benefits in payment where no choice has been made.

14.2 Scheme regulations will not make detailed provisions on reducing or waiving liabilities but will allow the scheme manager to waive any member liabilities resulting from an unavoidable operation of the remedy. For other liabilities arising, for example as a result of member choice, the scheme manager will use existing overpayment policy which incorporates the Managing Public Money (MPM) guidance<sup>3</sup>; this provides consistency with existing practice and policy governing overpayments made by the scheme. Within this policy the scheme manager may agree to repayment plans for members where it is judged that immediate repayment would cause undue hardship.

14.3 Any powers to reduce or waive liabilities also need to be exercised in line with the HM Treasury directions, which are similar in content to the scheme's existing recovery of overpayment policy, but are in place to specifically cover the remediable service of a remedy member, to include;

- whether the liability has arisen as a result of an election that is treated as having been made by the scheme manager;

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<sup>3</sup> <https://www.gov.uk/government/publications/managing-public-money>

- whether the member has remediable service that is mixed service;
- whether the member is deceased;
- whether, the scheme manager considers payment of the liability in full or in part would result in unreasonable hardship;

14.4 The PSPJOA 2022 sections 15, 16 and 17 state that the scheme regulations must provide that any liability owed to the scheme for unpaid pension scheme contributions must be reduced to take into account any tax relief.

14.5 The member will be notified in the remediable service statement of any liabilities that would arise as a result of any choices they make, this will include a time limit for making the choice and where to find out more information. (See RSS section paragraph 3.10)

#### **Liability owed by the scheme manager to a person**

14.6 The conditions to be met where the scheme manager and the member agree to waive the liability. The agreement must be in writing and may be cancelled with the agreement of the scheme manager and the member. The agreement would cease to apply where the end of the deferred choice election period in relation to the remediable service has passed, and no deferred choice election is made, or deemed to have been made.

# Section 3

## Technical matters

Having described the main policy areas in the previous section, this covers technical matters such as how to calculate interest. The powers for these technical matters are largely contained within the PSPJOA 2022, HMT Directions and HMRC tax regulations, meaning there is limited need for schemes to make specific regulations on these. Where scheme-specific regulations are necessary, this has been highlighted.

### Interest

15.1 There will be a number of scenarios where a member will owe money to the scheme or the scheme will owe money to the member. Including things such as:

- overpaid or underpaid contributions;
- overpaid or underpaid pension or lump sum amounts;
- where tax has been underpaid or overpaid.

Where there have been underpayments or overpayments, the scheme will calculate interest on the amount owed. It will do this by applying the relevant amount of interest to each individual debit and credit applicable. These individualised debits and credits will be added together and then subtracted from one another to calculate a final relevant amount.

15.2 The calculation of interest and interest rates to use is set in Chapter 4 of HM Treasury Directions published and in accordance with Section 26 of the PSPJOA 2022.

### Interest rates covered by Chapter 4 (section 14) of the HM Treasury Directions

15.3 Treasury Directions state that where a member owes money to the scheme, compound interest should be calculated daily, using the National Savings & Investments (NS&I) Equivalent Savings Rate, the amount of which will be published by HM Treasury from time to time.

15.4 Where the scheme owes money to the member (s.14(5) of the Treasury Directions), simple interest should be calculated daily, at the rate fixed by section 17 of the Judgments Act 1838 (JA 1838) (for England and Wales), which is used by Employment Tribunals and is currently 8%. In Scotland, the rate is fixed, for the time being, by section 9 of the Sheriff Courts (Scotland) Extracts Act 1892. The scheme manager is permitted under (section 14(6)) to apply an average where the interest rate has varied over the period, if it is appropriate, for administrative simplicity.

15.5 There are some cases where the above does not apply (s.14(4)): in these cases, where the scheme owes money to the member, compound interest should be calculated daily, using the NS&I Equivalent Savings Rate, the amount of which will be periodically published by HMT as per section 14(7(b)).

15.6 Where interest is owed on a tax charge or tax relief (s.14(1)) by either the scheme or the member, interest must be calculated on that amount in accordance with the provisions

of the Taxes (Interest Rate) Regulations 1989 as if that amount were the applicable tax charge or tax relief.

### **Interest periods**

15.7 Section 15 of the Treasury Directions sets out in detail the dates and basis of calculation of interest, so we have not repeated it here. The main principle is that the key dates are when the money was due and when it is actually paid.

### **Other areas of interest (section.16 of the Treasury Directions)**

15.8 If there are any overpayments or underpayments not covered by Section 14, the scheme manager may determine the rate and method of calculation. This must be communicated to the relevant member and the member has a right of appeal about how the interest has been calculated. This only applies where interest rates are determined by the scheme manager and not anything covered by Section 14 of the Directions.

15.9 The scheme regulations will make provision to ensure the scheme manager calculates interest in line with the HMT Directions as set out above.

## **Tax**

16.1 As a result of the remedy, members may face changes to their individual tax situation. The remedy may impact a member's Annual Allowance (AA), Lifetime Allowance (LTA) and any benefits in payment. For most members no tax adjustment will be required. However, a minority of members may see changes to their individual tax situation. Some elements of taxation policy remain under development, and guidance will be provided by HMRC.

## **Compensation**

17.1 As well as the initial discrimination identified in the McCloud and Sargeant judgments, the implementation of the remedy gives rise to a number of circumstances where the remedy alone cannot fully put a member back to the position they would have been in had the discrimination not occurred. Where these occur, Sections 23, 59 and 82 of the PSPJOA 2022 provide schemes with the powers to compensate members for losses incurred.

17.2. The compensation process will need to cater for different groups of those affected by the McCloud remedy. The types of compensation that should be considered are broadly divided into:

- a) financial losses, which are quantifiable monetary losses incurred by members; and
- b) tax losses, which cover a variety of implications, including undue annual allowance and lifetime allowance tax charges as well as tax relief on contributions.



17.3 Responsibility for managing compensation is divided between pension schemes and HMRC. We will consider where it is appropriate to compensate people on application and only:

- a. where necessary to put them back to the position, or as close as possible as if the discrimination had never occurred, subject to legal, administrative and operational constraints;
- b. to avoid creating further discriminatory outcomes.

## Questions for consultation:

We would welcome responses to the following questions on each of the policies set out in this consultation paper.

Question 1: Do you agree that these arrangements are fair and will meet the policy intent to end the discrimination identified?

Question 2: Are the draft regulations sufficient for the purposes of implementing the remediable service remedy?

Question 3: Do you have any concerns that the proposals could result in individual groups being disproportionately affected by the proposals? Any comments should be made after reading the accompanying Equality Impact Assessment published separately.

**Thank you for participating in this consultation exercise.**

**Please respond to this consultation by copying this template into an email or word document and sending an email to [cspconsultation@cabinetoffice.gov.uk](mailto:cspconsultation@cabinetoffice.gov.uk)**

When you submit your response, please let us know what type of respondent you are:

<b>Respondent Types</b>
<b>Organisation</b>
<b>Scheme Members</b>
<b>Unions</b>
<b>Diversity and Inclusion Networks</b>
<b>Employers</b>
<b>Other (please state)</b>

*Responses to consultation questions are optional. We ask that you provide your reasoning for your answers to the consultation questions that you respond to.*

## Contact details and how to respond

For information about how we treat your personal data when you respond to our consultation, please see the **Privacy Notice at Annex A**.

Please send your response by 23:59 on 14 May 2023 to:

Email (preferred): [cspconsultation@cabinetoffice.gov.uk](mailto:cspconsultation@cabinetoffice.gov.uk)

OR write to:

CSPS Consultation

Cabinet Office  
Priestley House  
Priestley Road  
Basingstoke  
RG24 9NW

## Complaints or comments

If you have any complaints or comments about the consultation process you should contact Cabinet Office at the above address.

## Extra copies

Further paper copies of this consultation can be obtained from this email address:

[cspconsultation@cabinetoffice.gov.uk](mailto:cspconsultation@cabinetoffice.gov.uk)

Alternative format versions of this publication can be requested from [cspconsultation@cabinetoffice.gov.uk](mailto:cspconsultation@cabinetoffice.gov.uk)

## Confidentiality

If you want the information that you provide to be treated as confidential, please explain to us why you regard the information you have provided as confidential. We will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Cabinet Office.

# Annex A: Privacy Notice for Cabinet Office consultations

This notice sets out how we will use your personal data, and your rights. It is made under Articles 13 and/or 14 of the General Data Protection Regulation (GDPR).

## YOUR DATA

### **Purpose**

The purpose for which we are processing your personal data is to obtain the opinions of members of the public, parliamentarians and representatives of organisations and companies about departmental policies, proposals, or generally to obtain public opinion data on an issue of public interest.

### **The data**

We will process the following personal data: name, address, email address, job title (where given), and employer (where given), as well as opinions.

We will also process additional biographical information about respondents or third parties where it is volunteered.

### **Legal basis of processing**

The legal basis for processing your personal data is that it is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the data controller. In this case that is consulting on departmental policies or proposals, or obtaining opinion data, in order to develop good effective policies.

Sensitive personal data is personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.

The legal basis for processing your sensitive personal data, or data about criminal convictions (where you volunteer it), is that it is necessary for reasons of substantial public interest for the exercise of a function of the Crown, a Minister of the Crown, or a government department. The function is consulting on departmental policies or proposals, or obtaining opinion data, in order to develop good effective policies.

## **Recipients**

Where individuals submit responses, we may publish their responses, but we will not publicly identify them. We will endeavour to remove any information that may lead to individuals being identified.

Responses submitted by organisations or representatives of organisations may be published in full.

Where information about responses is not published, it may be shared with officials within other public bodies in order to help develop policy.

As your personal data will be stored on our IT infrastructure it will also be shared with our data processors who provide email, and document management and storage services.

We may share your personal data where required to be law, for example in relation to a request made under the Freedom of Information Act 2000.

## **Retention**

Published information will generally be retained indefinitely on the basis that the information is of historic value. This would include, for example, personal data about representatives of organisations.

Responses from individuals will be retained in identifiable form for three calendar years after the consultation has concluded.

## **Where personal data have not been obtained from you**

Your personal data were obtained by us from a respondent to a consultation.

## **YOUR RIGHTS**

You have the right to request information about how your personal data are processed, and to request a copy of that personal data.

You have the right to request that any inaccuracies in your personal data are rectified without delay.

You have the right to request that any incomplete personal data are completed, including by means of a supplementary statement.

You have the right to request that your personal data are erased if there is no longer a justification for them to be processed.

You have the right in certain circumstances (for example, where accuracy is contested) to request that the processing of your personal data is restricted.

You have the right to object to the processing of your personal data where it is processed for direct marketing purposes.

You have the right to object to the processing of your personal data.

## INTERNATIONAL TRANSFERS

As your personal data is stored on our IT infrastructure, and shared with our data processors, it may be transferred and stored securely outside the European Union. Where that is the case it will be subject to equivalent legal protection through the use of Model Contract Clauses.

## CONTACT DETAILS

The data controller for your personal data is the Cabinet Office. The contact details for the data controller are: Cabinet Office, 70 Whitehall, London, SW1A 2AS, or 0207 276 1234, or [publiccorrespondence@cabinetoffice.gov.uk](mailto:publiccorrespondence@cabinetoffice.gov.uk).

The contact details for the data controller's Data Protection Officer are: Data Protection Officer, Cabinet Office, 70 Whitehall, London, SW1A 2AS, or [dpo@cabinetoffice.gov.uk](mailto:dpo@cabinetoffice.gov.uk).

The Data Protection Officer provides independent advice and monitoring of Cabinet Office's use of personal information.

## COMPLAINTS

If you consider that your personal data has been misused or mishandled, you may make a complaint to the Information Commissioner, who is an independent regulator. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, or 0303 123 1113, or [casework@ico.org.uk](mailto:casework@ico.org.uk). Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the courts.

# Annex B: *The Public Service (Civil Servants and Others) Pensions (Remediable Service) Regulations 2023*

*Note that these are in draft*

The Minister for the Civil Service makes these Regulations in exercise of the powers conferred by sections 1(1) and (2)(a), 2(1) (together with paragraph 1 of Schedule 2) and 3(1) and (2)(c) of the Public Service Pensions Act 2013<sup>(4)</sup> (“the 2013 Act”) and sections 5(1) and (5), 6(1), 7(3), 8(1) and (3), 10(1), 11(1) and (5), 12(1) and (3), 18(1) to (3), (5), (6) and (8), 19(1), (4) and (5), 20(1), (4) and (5), 21, 22(1), (2) and (6), 24(1), 25(1) and (4), 26(1) and (2), 29(1), (7) and (8) and 31(2) and (3) of the Public Service Pensions and Judicial Offices Act 2022<sup>(5)</sup> (“PSPJOA 2022”).

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

These Regulations are made in accordance with Treasury directions made under section 27 of PSPJOA 2022.

## PART 1

### Introductory provisions

#### **Citation, commencement and extent**

##### **1. These Regulations—**

- (a) may be cited as the Public Service (Civil Servants and Others) Pensions (Remediable Service) Regulations 2023;
- (b) come into force on 1st October 2023;
- (c) extend to England and Wales, Scotland and Northern Ireland.

#### **Interpretation**

##### **2.—(1) In these Regulations—**

“the 2014 Regulations” means the Public Service (Civil Servants and Others) Pensions Regulations 2014<sup>(6)</sup>;

“the PSP Directions 2022” means the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022<sup>(7)</sup>;

<sup>(4)</sup> 2013 c. 25. Section 3(1) was amended by section 94(2) of PSPJOA 2022, and section 3(2)(c) was inserted by section 94(3) of that Act.

<sup>(5)</sup> 2022 c. 7.

<sup>(6)</sup> S.I. 2014/1964.

<sup>(7)</sup> Published on 15 December 2022 and accessible online at <https://www.gov.uk/government/publications/public-service-pensions-and-judicial-offices-act-2022-treasury-directions>. A hard copy is available on written request to His Majesty’s Treasury, 1 Horse Guards Road, London, SW1A 2HQ.

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

“alpha” means the pension scheme established by the 2014 Regulations, and “alpha benefits” means new scheme benefits<sup>(8)</sup> under alpha;

“civil service scheme” means alpha or the PCSPS;

“deferred choice decision” has the meaning given in regulation 11(1);

“deferred choice decision-maker” means the person who may make a deferred choice decision under regulation 11(2);

“deferred choice member” means a member with remediable service who, immediately before 1st October 2023, was—

(a) an active or deferred member in relation to that service, and

(b) is not a pensioner<sup>(9)</sup> member in relation to that service;

“end of the section 10 election period”, in relation to a deferred choice member, means the end of the day determined in accordance with—

(a) where the member is the deferred choice decision-maker, regulation 12(1)(b);

(b) where a person other than the member is the deferred choice decision-maker, regulation 12(4)(b);

“immediate choice decision” has the meaning given in regulation 7(1);

“immediate choice decision-maker” means the person who may make an immediate choice decision under regulation 7(2);

“immediate choice member” means a member with remediable service who, immediately before 1st October 2023, was—

(a) a pensioner member in relation to that service, or

(b) a deceased member;

“member” means an active, deferred, pensioner or deceased member of a civil service scheme;

“opted-out service election” has the meaning given in regulation 5(1);

“the PCSPS” means the pension scheme made under section 1 of the Superannuation Act 1972<sup>(10)</sup> which is the principal civil service pension scheme within the meaning of section 2(10)<sup>(11)</sup> of that Act, and—

(a) in relation to a member, “the PCSPS” means the Section of the PCSPS that is the relevant Chapter 1 legacy scheme<sup>(12)</sup> for the member;

(b) “PCSPS benefits” means benefits under the PCSPS;

(c) “PCSPS service”, in relation to a member, means the member’s remediable service in an employment or office that is pensionable service under the PCSPS (whether or not by virtue of section 2(1) of PSPJOA 2022);

“remediable service”, in relation to a member, means (except in this definition) the member’s remediable service<sup>(13)</sup> in an employment or office that is pensionable service under a civil service scheme;

“remedy member” means a deferred choice member or an immediate choice member;

“scheme manager” means the Minister for the Civil Service

“Section I” means Section I of the PCSPS;

“Section II” means Section II of the PCSPS;

“Section III” means Section III of the PCSPS;

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<sup>(8)</sup> See section 34 of PSPJOA 2022 for the meaning of “new scheme benefits”.

<sup>(9)</sup> See section 109(3) of PSPJOA 2022 for the meaning of “pensioner member”.

<sup>(10)</sup> 1972 c. 11.

<sup>(11)</sup> Section 2(10) was amended by paragraph 2 of Schedule 2 to the Constitutional Reform and Governance Act 2010 (c. 25).

<sup>(12)</sup> See section 4 of PSPJOA 2022 for the meaning of “relevant Chapter 1 legacy scheme”.

<sup>(13)</sup> See section 1 of PSPJOA 2022 for the meaning of “remediable service”.



“section 6 election” has the meaning given in regulation 7(1)(a);

“section 10 election” has the meaning given in regulation 11(1)(a).

(2) 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 alpha and the PCSPS.

(3) A term used in these Regulations which—

- (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.

(4) A term used in these Regulations which—

- (a) is defined in alpha, Section I, Section II or Section III (the “relevant scheme”), and
- (b) is not defined differently in—
  - (i) these Regulations, or
  - (ii) in, or for the purposes of, a provision in Chapter 1 of Part 1 of PSPJOA 2022,

has, in relation to the relevant scheme, the meaning given in that scheme.

(5) In these Regulations, a reference to a provision of the PSP Directions 2022 is a reference to that provision as amended from time to time.

## PART 2

### Remediable service statements

#### Requirements relating to remediable service statements

3.—(1) The scheme manager must provide a remediable service statement in respect of a remedy member (“M”) in accordance with—

- (a) section 29 of PSPJOA 2022,
- (b) any Treasury directions made under section 29(6) of that Act, and
- (c) this regulation.

(2) A remediable service statement must be provided in respect of M—

- (a) before the relevant date<sup>(14)</sup>,
- (b) where M is, in relation to their remediable service, for the time being—
  - (i) an active member, at least once in each year ending with the anniversary of the relevant date;
  - (ii) a deferred member, within three months of receipt of a written request by the member<sup>(15)</sup>, and
- (c) where M is a deferred choice member, as soon as is reasonably practicable following receipt of notification—
  - (i) that M intends to claim payment of any pension benefits in relation to M’s remediable service, or
  - (ii) that M has died.

(3) The remediable service statement must be provided—

- (a) to M, or
- (b) where M is deceased, to the person who is for the time being the eligible decision-maker in relation to M’s remediable service under the Schedule (unless the eligible decision-maker is the scheme manager).

<sup>(14)</sup> See section 29(10) of PSPJOA 2022 for the meaning of “the relevant date”.

<sup>(15)</sup> In accordance with section 29(9) of PSPJOA 2022, only one request under regulation 38(3)(b)(ii) may be made during any period of 12 months.

- (4) The remediable service statement must include—
- (a) where the scheme manager has determined that any information to be provided in connection with the M’s remediable service must be communicated in a particular form and manner, information about that form and manner;
  - (b) where M is an immediate choice member, information about the irrevocability of an immediate choice decision—
  - (c) where M is a deferred choice member, information about the revocability (or otherwise) of a deferred choice decision.
- (5) For further provision about—
- (a) what a remediable service statement must include, see—
    - (i) section 29(5) of PSPJOA 2022;
    - (ii) direction 20(1) of the PSP Directions 2022;
  - (b) when a remediable service statement must be combined with a benefit information statement provided under section 14 of the Public Service Pensions Act 2013, see direction 20(2) of the PSP Directions 2022.

## PART 3

### Decisions about the treatment of remediable service

#### CHAPTER 1

##### Opted-out service elections

#### **Application and interpretation of Chapter 1**

4.—(1) This Chapter applies to and in respect of a member (“M”) with relevant opted-out service in an employment or office in relation to the PCSPS<sup>(16)</sup>.

(2) In this Chapter—

“opted-out service decision-maker” means the person who may make an opted-out service election under regulation 5(2);

“relevant opted-out service” means the service referred to in paragraph (1).

#### **Election in relation to relevant opted-out service**

5.—(1) An election (an “opted-out service election”) may be made in relation to M’s relevant opted-out service in accordance with this Chapter and section 5 of PSPJOA 2022.

(2) An opted-out service election may be made—

(a) by M or,

(b) where M is a deceased member, by the eligible decision-maker specified in the Schedule.

(3) Where a person other than the scheme manager is the opted-out service decision-maker, an opted-out service election may only be made after the scheme manager determines an application which is—

(a) made by or behalf of M,

(b) in a form and manner determined by the scheme manager,

(c) received by the scheme manager during the period beginning on 1st October 2023 and ending—

(i) at the end of 30th September 2024, or

(ii) such later time that the scheme manager considers reasonable in all the circumstances, and

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<sup>(16)</sup> See sections 5(7) (read with section 4) and 36 of PSPJOA 2022 for the meaning of relevant opted-out service in relation to a Chapter 1 legacy scheme (such as the PCSPS).

- (d) accompanied by such information—
  - (i) which is within the person’s possession, or
  - (ii) which the person may reasonably be expected to obtain,
 that the scheme manager may by written notice require the person to provide in relation to the decision which caused the service in question to become opted-out service.
- (4) As soon as is reasonably practicable after receipt of an application, the scheme manager must—
  - (a) determine whether an opted-out service election may be made in relation to M, and
  - (b) notify the person who made the application whether such an opted-out service election may be made.
- (5) Where the scheme manager is the opted-out service decision-maker, the scheme manager must, as soon as is reasonably practicable after determining that they are the opted-out service decision-maker, determine whether to make an opted-out service election in relation to M.
- (6) The scheme manager may refuse an application where any of the following conditions are not met—
  - (a) the decision by virtue of which M’s service became opted-out service was communicated to the scheme manager on or after 12th March 2012;
  - (b) the decision by virtue of which M’s service became opted-out service was made pursuant to a relevant breach of a non-discrimination rule<sup>(17)</sup>;
  - (c) any—
    - (i) assets held for the purposes of a partnership pension account<sup>(18)</sup> that are referable to pension contributions made by or on behalf of M in respect of M’s relevant opted-out service are transferred to the PCSPS, and
    - (ii) entitlement to a future or current pension under the partnership pension account that would otherwise arise under the rules of the partnership pension account in respect of the value of the assets transferred is surrendered.
  - (d) where any assets that are referable to pension contributions made by or on behalf of M in respect of M’s relevant opted-out service have been paid or transferred out of a partnership pension account, an amount determined by the scheme manager following consultation with the scheme actuary is paid to the PCSPS in respect of the payment or transfer.
- (7) An opted-out service election to be made by—
  - (a) a person other than the scheme manager is made when the person confirms that an opted-out service election is to be made following receipt of the notification mentioned in paragraph (4)(b);
  - (b) the scheme manager is made at the time determined by the scheme manager.
- (8) See section 5(2) to (4) of PSPJOA 2022 about the effect, timing and irrevocability of an opted-out service election.

## CHAPTER 2

### Immediate choice decision for alpha or PCSPS benefits

#### **Application of Chapter 2**

- 6.—(1) This Chapter applies in respect of the remediable service of an immediate choice member (“M”).
- (2) Where M has remediable service in multiple employments or offices, this Chapter applies separately in relation to the remediable service in each employment or office.

#### **Immediate choice decision for alpha or PCSPS benefits**

- 7.—(1) A decision (an “immediate choice decision”) may be made in accordance with this Chapter—

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<sup>(17)</sup> 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”.

<sup>(18)</sup> See section 110(1) of PSPJOA 2022 for the definition of “partnership pension account”.

- (a) to make an election (a “section 6 election”) by virtue of section 6 of PSPJOA 2022 in relation to M’s remediable service, or
  - (b) that no section 6 election is to be made in relation to that service.
- (2) An immediate choice decision may be made—
- (a) by M, or
  - (b) where M is deceased, by the eligible decision-maker specified in the Schedule.
- (3) An immediate choice decision made by—
- (a) a person other than the scheme manager is made when it is received by the scheme manager in a form and manner determined by the scheme manager;
  - (b) the scheme manager is made at the time determined by the scheme manager.
- (4) An immediate choice decision may only be made before the end of the section 6 election period<sup>(19)</sup>.
- (5) An immediate choice decision is irrevocable.
- (6) An immediate choice decision to make a section 6 election takes effect as a section 6 election (see sections 6(5) and (7), 7(1)(b) and 9 of PSPJOA 2022 about the effect of a section 6 election).
- (7) Where—
- (a) immediately before 1st October 2023, M has remediable service in alpha (“alpha service”), and
  - (b) an immediate choice decision is made that no section 6 election is to be made in relation to M’s remediable service,

section 6(4) of PSPJOA 2022 does not apply in relation to M’s alpha service (and, accordingly, section 2(1) of PSPJOA 2022 has effect in relation to M’s alpha service for the purposes mentioned in section 2(3)(b) of that Act from the time the immediate choice decision is made).

- (8) The following provisions of PSPJOA 2022 have effect in relation to a decision that no section 6 election is to be made as they have effect in relation to a section 6 election—
- (a) section 6(7) (section 6 election has effect in respect of all remediable service in the employment or office);
  - (b) section 7(1)(b) (provision about when a section 6 election is to be treated as having taken effect);
  - (c) section 9 (provision about persons with remediable service in more than one Chapter 1 legacy scheme).

#### **Immediate choice decision: additional requirements**

**8.—**(1) This regulation applies where the immediate choice decision-maker (“D”) is a person other than the scheme manager.

(2) An immediate choice decision may not be made unless a remediable service statement has been provided to D in accordance with regulation 3(2)(a).

(3) An immediate choice decision is to be treated as having been made only if D provides any information specified in a written request from the scheme manager that is—

- (a) information in D’s possession, or
- (b) information which D can reasonably be expected to obtain.

#### **Immediate choice decision: deemed election**

**9.—**(1) A section 6 election is treated as made in relation to M’s remediable service immediately before the end of the section 6 election period where—

- (a) the end of the section 6 election period in relation to M has passed,
- (b) no immediate choice decision has been made in relation to M’s remediable service, and
- (c) condition A or B is met.

(2) Condition A is met where all of M’s remediable service was in alpha.

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<sup>(19)</sup> See section 7(2) of PSPJOA 2022 for the meaning of “the end of the section 6 election period”.

(3) Condition B is met where—

- (a) M’s remediable service was mixed service, and
- (b) the scheme manager determines, having consulted the scheme actuary, that the value of benefits payable in relation to M’s remediable service would be greater if payable as alpha benefits than if they were payable as PCSPS benefits.

## CHAPTER 3

### Deferred choice decision for alpha or PCSPS benefits

#### **Application of Chapter 3**

**10.**—(1) This Chapter applies in respect of the remediable service of a deferred choice member (“M”).

(2) Where M has remediable service in multiple employments or offices, this Chapter applies separately in relation to the remediable service in each employment or office.

#### **Deferred choice decision for alpha benefits or PCSPS: general**

**11.**—(1) A decision (a “deferred choice decision”) may be made—

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

(2) A deferred choice decision may be made—

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

(3) A deferred choice decision—

- (a) to be made by a person other than the scheme manager is made when it is received by the scheme manager in a form and manner determined by the scheme manager;
- (b) to be made by the scheme manager is made at a time determined by the scheme manager.

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

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

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

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

- (a) section 10(5) (section 10 election has effect in respect of all remediable service in the employment or office);
- (b) section 11(3)(b), (4) and (7) (provision about when a section 10 election takes effect, and the effect of lapse or revocation of a section 10 election);
- (c) section 13 (persons with remediable service in more than one Chapter 1 legacy scheme).

#### **Deferred choice decision: when a deferred choice decision may be made**

**12.**—(1) Where the deferred choice decision-maker is M, a deferred choice decision may be made only during the period—

- (a) beginning on the date of issue of the remediable service statement issued under regulation 3(2)(c)(i), and
- (b) ending—

- (i) at the end of the day 3 months before the day the scheme manager reasonably expects, by virtue of the notification mentioned in regulation 3(2)(c)(i), that benefits in relation to M's remediable service will become payable;
- (ii) subject to paragraph (2), at the end of such other day as the scheme manager considers reasonable in all the circumstances;
- (iii) if earlier than the time which applies by virtue of paragraph (i) or (ii), at the end of the day before benefits become payable in relation to M's remediable service.

(2) The end of the period during which a deferred choice decision may be made must not be more than one year before the day on which it is reasonably expected that, if a section 10 election were made, alpha benefits would become payable to or in respect of M.

(3) Where—

- (a) the period for making a deferred choice decision has begun in accordance with paragraph (1)(a), and
- (b) the scheme manager receives notice that M has died before benefits become payable to M in relation to M's remediable service,

the period during which a deferred choice decision may be made is to be treated as ending in accordance with paragraph (4)(b) instead of paragraph (1)(b).

(4) Where the deferred choice decision-maker is a person other than M ("D"), a deferred choice election may only be made during the period—

- (a) beginning—
  - (i) where D is a person other than the scheme manager, on the date of issue of the remediable service statement issued under regulation 3(2)(c)(ii);
  - (ii) where D is the scheme manager, on the date the scheme manager receives notice that M has died, and
- (b) ending—
  - (i) at the end of the day 12 months after that date;
  - (ii) except where D is the scheme manager, at the end of such other day as the scheme manager considers reasonable in all the circumstances;
  - (iii) if earlier than the time which applies by virtue of paragraph (i) or (ii), immediately after a deferred choice decision is made by D.

(5) Where—

- (a) the deferred choice decision-maker is D, and
- (b) M had made a deferred choice decision,

D may make a deferred choice decision only if they revoke M's deferred choice decision in accordance with regulation 13(2).

### **Deferred choice decision: revocation**

**13.—**(1) Where the deferred choice decision-maker is M, M may revoke a deferred choice decision—

- (a) at any time before benefits become payable in relation to M's remediable service, and
- (b) by M communicating to the scheme manager notice of the revocation in a form and manner determined by the scheme manager.

(2) Where—

- (a) the deferred choice decision-maker is a person other than M or the scheme manager ("D"),
- (b) M had made a deferred choice decision,
- (c) immediately before M's death, no pension benefits were payable in relation to M's remediable service, and
- (d) the end of the section 10 election period has not passed,

D may revoke M's deferred choice decision by communicating to the scheme manager notice of the revocation in a form and manner determined by the scheme manager.

- (3) A deferred choice decision made by a person other than M is irrevocable.

### Deferred choice decision: additional requirements

14. Where the deferred choice decision-maker (“D”) is a person other than the scheme manager, a deferred choice decision is to be treated as having been made only if D provides any information specified in a written request from the scheme manager that is—

- (a) information in D’s possession, or
- (b) information which D can reasonably be expected to obtain.

## PART 4

### Provision about divorce and dissolution arrangements

#### CHAPTER 1

##### Pension credit and pension debit members

#### SECTION 1

##### *Application and interpretation of Chapter 1*

### Application and interpretation of Chapter 1

15.—(1) This Chapter applies in relation to—

- (a) a pension credit member (“C”),
- (b) the corresponding pension debit member (“D”), and
- (c) the pension sharing order by virtue of which C became a pension credit member in relation to D’s remediable service (the “relevant pension sharing order”).

(2) In this Chapter—

“appropriate person” means—

- (a) D, or
- (b) where D is deceased, D’s personal representatives;

“C” means the pension credit member mentioned in paragraph (1)(a);

“cash equivalent” means an amount calculated in accordance with regulations made under section 30 of WRPA 1999<sup>(20)</sup>;

“corresponding pension debit member” means the member referred to in sub-paragraph (c) of the definition of “pension credit member”;

“D” means the corresponding pension debit member mentioned in paragraph (1)(b);

“pension credit member” means a member of a civil service scheme who has rights under the scheme—

- (a) which are attributable (directly or indirectly) to a pension credit<sup>(21)</sup>,
- (b) which arise by virtue of a pension sharing order with a transfer day on or after 1st April 2015, and
- (c) the value of which was determined (to any extent) by reference to the value of benefits payable in respect of the remediable service of another member;

“pension sharing order” means the order or provision by virtue of which section 29 of WRPA 1999 applies in relation to a pension credit member and the corresponding pension debit member;

<sup>(20)</sup> In accordance with section 110(1) of PSPJOA 2022, “WRPA 1999” means the Welfare Reform and Pensions Act 1999 (c. 30).

<sup>(21)</sup> See section 19(7) of PSPJOA 2022 for the meanings of “pension debit” and “pension credit”.

“relevant pension sharing order” has the meaning given in paragraph (1)(c);

“remediable relevant benefits” means the benefits or future benefits described in section 29(4) and (5) of WRPA 1999 to which D is entitled by virtue of remediable shareable rights;

“remediable shareable rights” means D’s shareable rights secured by virtue of D’s remediable service during the period beginning on 1st April 2015 and ending on the earlier of—

(d) the day before the transfer date, or

(e) the last day of D’s remediable service;

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

“transfer day” means the day on which the relevant pension sharing order takes effect;

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

## SECTION 2

### *Pension sharing orders: information provided before 1st October 2023*

#### **Application and interpretation of Section 2**

**16.**—(1) This Section applies where, before 1st October 2023, the scheme manager has provided information for the purpose of determining amounts under section 29 of WRPA 1999 in respect of a remedy member’s remediable service.

(2) In this Section—

“alternative amount” has the meanings given in regulation 17;

“alternative reduction amount” and “alternative reduction amounts” have the meanings given in, respectively, regulation 20(3) and (4);

“alternative scheme”, in relation to a relevant pension sharing order that does not relate to mixed service<sup>(22)</sup> means—

(a) where the initial scheme is the PCSPS, alpha;

(b) where the initial scheme is alpha, the PCSPS;

“C’s pension account” has the meaning given in regulation 19(4);

“initial amount” means the total amount determined for the purposes of the relevant pension sharing order under section 29(2) and (3) of WRPA 1999 in relation to D’s remediable shareable rights;

“initial reduction amount” means the amount by which D’s remediable relevant benefits were reduced pursuant to the relevant pension sharing order;

“initial scheme”, in relation to a relevant pension sharing order that does not relate to mixed service, means the civil service scheme in respect of which an initial amount or an initial reduction amount was determined;

“remediable credit adjustment” has the meaning given in regulation 18(2).

(3) For the purposes of this Section, a relevant pension sharing order relates to mixed service if it specifies an appropriate amount in accordance with section 29(2) or (3) of WRPA 1999 by reference to the value of remediable relevant benefits to which D is entitled by virtue of remediable shareable rights secured in both D’s legacy scheme and the reformed scheme (and, accordingly, a relevant pension sharing order does not relate to mixed service if it specifies an appropriate amount by reference to remediable shareable rights secured in only one of those schemes).

#### **Meaning of “alternative amount”**

**17.**—(1) “Alternative amount” means—

(a) in relation to a relevant pension order that does not relate to mixed service—

(i) where an initial amount was determined under section 29(2) of WRPA 1999 in relation to a percentage value to be transferred from the initial scheme, the amount that would have been determined applying

<sup>(22)</sup> See section 19(6) for the meaning of “mixed service”.



the relevant percentage value under section 29(2) on the valuation day if the remediable relevant benefits had been secured in the alternative scheme;

- (ii) where an initial amount was determined under section 29(3) of WRPA 1999 in relation to an amount to be transferred from the initial scheme, the amount equal to the implied percentage of the cash equivalent of the remediable relevant benefits on the valuation day determined as if all of those benefits had been secured in the alternative scheme;

(b) in relation a relevant pension order that relates to mixed service, the greater of—

- (i) the PCSPS amount, and
- (ii) the alpha amount.

(2) In paragraph (1)(b)—

“the PCSPS amount” means, where the initial amount was determined in relation to—

- (a) a percentage value to be transferred from both the PCSPS and alpha, the amount that would have been determined applying—
  - (i) in relation to pre-taper date remediable relevant benefits, the PCSPS percentage value, and
  - (ii) in relation to post-taper date remediable relevant benefits, the alpha percentage value, under section 29(2) on the valuation day if all of the remediable relevant benefits had been secured in the PCSPS;
- (b) an amount to be transferred from both the PCSPS and alpha, the amount equal to the implied percentage of the cash equivalent of the remediable relevant benefits on the valuation day determined as if all of those benefits had been secured in the PCSPS;

“the alpha amount” means, where the initial amount was determined in relation to—

- (a) a percentage value to be transferred from both the PCSPS and alpha, the amount that would have been determined applying—
  - (i) in relation to pre-taper date remediable relevant benefits, the PCSPS percentage value, and
  - (ii) in relation to post-taper date remediable relevant benefits, the alpha percentage value, under section 29(2) on the valuation day if all of the remediable relevant benefits had been secured in alpha;
- (b) an amount to be transferred from both the PCSPS and alpha, the amount equal to the implied percentage of the cash equivalent of the remediable relevant benefits on the valuation day determined as if all of those benefits had been secured in alpha.

(3) In this regulation—

“alpha percentage value” means the percentage value specified in a relevant pension sharing order in relation to the reformed scheme for the purpose of determining an amount under section 29(2) of WRPA 1999;

“implied percentage”, in relation to the value of benefits under a civil service scheme, means the percentage that an initial amount determined under section 29(3) of WRPA represented of the cash equivalent of the remediable relevant benefits under that scheme on valuation day

“PCSPS percentage value” means the percentage value specified in a relevant pension sharing order in relation to the PCSPS for the purpose of determining an amount under section 29(2) of WRPA 1999;

“post-taper date remediable relevant benefits” means remediable relevant benefits to which a corresponding pension debit member (“D”) is entitled by virtue of remediable shareable rights secured by virtue of D’s remediable teacher service after D’s tapered protection closing date;

“pre-taper date remediable relevant benefits” means remediable relevant benefits to which D is entitled by virtue of remediable shareable rights secured by virtue of D’s remediable teacher service on or before D’s tapered protection closing date;

“relevant percentage value” means—

- (a) where the relevant pension sharing order specifies a percentage value in relation to only the initial scheme for the purpose of determining an amount under section 29(2) of WRPA 1999, that percentage value;
- (b) otherwise, the percentage value that is specified in relation to the alternative scheme;

“tapered protection closing date”, in relation to D, has the meaning given in paragraph 3 of Schedule 2 to the 2014 Regulations.

### **Information provided before 1st October 2023: calculating a remediable credit adjustment**

**18.**—(1) The scheme manager must determine the alternative amount in relation to C’s pension credit—

- (a) as soon as reasonably practicable after 30th September 2023, and
- (b) having consulted the scheme actuary.

(2) Where—

- (a) the alternative amount is greater than the initial amount, or
- (b) the relevant pension sharing order relates to mixed service and the alternative amount is lower than the initial amount,

C’s pension account is subject to an adjustment (a “remediable credit adjustment”) equal to the difference.

(3) The scheme manager must, by the end of 30th September 2024, provide C with a statement offsetting out—

- (a) the alternative amount,
- (b) any remediable credit adjustment, and
- (c) where regulation 19(4)(b) applies in relation to C, an explanation of the request that may be in accordance with regulation 19(5) and the consequences of making, or not making, such a request.

### **Information provided before 1st October 2023: applying a remediable credit adjustment**

**19.**—(1) This regulation applies where C’s pension credit account is subject to a remediable credit adjustment.

(2) The scheme manager must adjust C’s pension account by an amount equal to the remediable credit adjustment.

(3) An adjustment made under paragraph (2) has effect as if it had been made on the transfer day.

(4) In paragraph (2), “C’s pension account” means, where C has, in relation to the relevant pension sharing order—

- (a) a pension credit in only one civil service scheme, C’s pension credit member account under that scheme;
- (b) a pension credit in both civil service schemes—
  - (i) the pension credit member account identified by C in a request made in accordance with paragraph (5), or
  - (ii) if no request is made in accordance with paragraph (5), C’s pension credit member account under the PCSPS.

(5) A request is made in accordance with this paragraph if—

- (a) it is made in writing to the scheme manager for the purpose of paragraph (4)(b),
- (b) it is in a form determined by the scheme manager,
- (c) it unambiguously identifies only one of C’s pension credit member accounts, and
- (d) it is received by the scheme manager by—
  - (i) the end of the day 6 months after the date the statement required by regulation 18(3) was provided to C, or
  - (ii) the end of such later day that the scheme manager considers reasonable in all the circumstances.

(6) A request made in accordance with paragraph (5) is irrevocable.

(7) Section 14(3) to (6) of PSPJOA 2022 applies in relation to C as it applies in relation to a member described in section 14(1) as if—

- (a) a reference to M’s remediable service in an employment or office were a reference to C’s pension credit;
- (b) a reference to the effect, if any, of sections 2(1) and 6(4) were a reference to the effect, if any, of this regulation;

- (c) the term “operative time” means the time at which the adjustment mentioned in paragraph (2) is made (disregarding paragraph (3)).

### **Information provided before 1st October 2023: recalculating D’s reduction of benefit**

**20.**—(1) This regulation applies where D’s remediable relevant benefits have been reduced by an initial reduction amount.

(2) The scheme manager must determine the alternative reduction amount or, where the relevant pension sharing relates to mixed service, the alternative reduction amounts in relation to D’s remediable relevant benefits—

- (a) as soon as reasonably practicable after 30th September 2023, and
- (b) having consulted the scheme actuary.

(3) Where the relevant pension sharing order does not relate to mixed service, the “alternative reduction amount” is such amount as the scheme manager considers appropriate having regard to—

- (a) the cash equivalent of the remediable relevant benefits on the valuation day as if they had been secured in the alternative scheme,
- (b) the percentage value or the amount to be transferred specified in the relevant pension sharing order, and
- (c) the provisions of sections 29 and 31 of WRPA 1999.

(4) Where the pension sharing order relates to mixed service, the “alternative reduction amounts” are such amounts as the scheme manager considers appropriate having regard to—

- (a) the cash equivalent of the remediable relevant benefits on the valuation day as if they had all been secured in—
  - (i) the PCSPS, and separately
  - (ii) alpha, and
- (b) the matters mentioned in paragraph (3)(b) and (c).

### SECTION 3

#### *Information provided on or after 1st October 2023*

### **Application and interpretation of Section 3**

**21.**—(1) This Section applies where, on or after 1st October 2023, the scheme manager provides information for the purpose of determining amounts under section 29 of WRPA 1999 in respect of a remedy member’s remediable service.

(2) In this Section—

“alpha cash equivalent” has the meaning given in regulation 22(2)(a);

“alternative reduction amount” has the meaning given in regulation 23(3);

“appropriate amount” means an amount calculated for the purposes of section 29(1) of WRPA 1999;

“immediate choice pensioner member” means an immediate choice member who is, immediately before these Regulations come into force, a pensioner member in relation to their remediable service;

“PCSPS cash equivalent” has the meaning given in regulation 22(2)(b).

### **Information provided on or after 1st October 2023: calculation of pension credits and debits**

**22.**—(1) This regulation applies where D is—

- (a) a deferred choice member and no pension benefits have become payable in relation to D’s remediable service, or
- (b) an immediate choice pensioner member and—
  - (i) the end section of the section 6 election period in relation to D has not passed, and
  - (ii) no immediate choice decision has been made in relation to D’s remediable service.

- (2) For the purpose of calculating the appropriate amount, the scheme manager must determine—
  - (a) the cash equivalent of D’s remediable relevant benefits on the valuation day as if those remediable relevant benefits were in the PCSPS (“the PCSPS cash equivalent”), and
  - (b) the cash equivalent of those benefits on valuation day as if they were in alpha (“the alpha cash equivalent”).
- (3) For the purpose of calculating the pension credit and the pension debit, the scheme manager must use the greater of—
  - (a) the PCSPS cash equivalent, or
  - (b) the alpha cash equivalent.

**Information provided on or after 1st October 2023: recalculating D’s reduction of benefit**

- 23.**—(1) This regulation applies where D’s remediable relevant benefits are to be reduced in relation to a pension debit calculated under regulation 22(3) 22.
- (2) The scheme manager must determine the alternative reduction amount in relation to D’s remediable relevant benefits—
    - (a) as soon as reasonably practicable after the transfer date, and
    - (b) having consulted the scheme actuary.
  - (3) The “alternative reduction amount” is such amount as the scheme manager considers appropriate having regard to—
    - (a) the cash equivalent of the remediable relevant benefits on valuation day as if they had been remediable relevant benefits secured in—
      - (i) where the pension debit mentioned in paragraph (1) was calculated on the basis of the PCSPS cash equivalent, alpha;
      - (ii) where the pension debit was calculated on the basis of the alpha cash equivalent, the PCSPS;
    - (b) the percentage value or the amount to be transferred specified in the relevant pension sharing order, and
    - (c) the provisions of sections 29 and 31 of WRPA 1999.

CHAPTER 2

Arrangements on divorce, annulment or dissolution other than a pension sharing order

**Arrangements other than a pension sharing order: calculating the value of pension benefits**

- 24.**—(1) This regulation applies where—
  - (a) the value of the remediable rights of a member (“M”) must be determined for the purpose of proceedings connected to M’s divorce, annulment or the dissolution of M’s civil partnership,
  - (b) the divorce, annulment or dissolution is to take effect—
    - (i) on or after 1st October 2023, and
    - (ii) before the earlier of—
      - (aa) a decision taking effect in relation to M’s remediable service, or
      - (bb) the end of the relevant election period, and
  - (c) the value of M’s remediable rights is not to be subject to a pension sharing order.
- (2) The value of M’s remediable rights for the purpose of the proceedings is the greater of those rights valued by the scheme manager, having consulted the scheme actuary, as if they were—
  - (a) secured in the PCSPS, or
  - (b) secured in alpha.
- (3) In this regulation—  
“decision” means an immediate choice decision or a deferred choice decision;

“pension sharing order” means an order or provision which attracts section 29 of WRPA 1999 in relation to M’s remediable rights;

“relevant election period” means, where M is—

- (a) a deferred choice member, the section 10 election period in relation to M;
- (b) an immediate choice pensioner member, the section 6 election period in relation to M;

“remediable rights” means the rights secured by virtue of M’s remediable service.

## PART 5

### Voluntary contributions

#### CHAPTER 1

##### Added pension

#### Interpretation of Chapter 1

**25.** In this Chapter—

“added pension rights” means rights to alpha added pension or PCSPS added pension;

“alpha added pension” means benefits secured under Part 2 of Schedule 1 to the 2014 Regulations;

“PCSPS added pension” means benefits secured under—

- (a) rule C1.1 or C1.2 of Section I;
- (b) Section 14 of Section II;
- (c) rule D.4 or D.5 of Section III;

“periodic arrangement” means an arrangement under which a remedy member secures added pension rights by virtue of periodic voluntary contributions.

#### Lump sum purchase of added pension

**26.**—(1) This regulation applies in relation to added pension rights secured by a lump sum voluntary contribution made by a remedy member (“M”) during the period of M’s remediable service (the “remediable voluntary contribution”).

(2) The scheme manager must—

- (a) as soon as practicable after 1st October 2023, and
- (b) having consulted the scheme actuary,

determine the equivalent value of added pension rights that would have been secured in the alternative scheme if the remediable voluntary contribution had been paid to the alternative scheme in the same relevant pension year in which the remediable voluntary contribution was paid (“the alternative added pension value”).

(3) Paragraph (4) applies where—

- (a) M is a deferred choice member, and
- (b) the added pension rights mentioned in paragraph (1) are alpha added pension rights.

(4) Where this paragraph applies—

- (a) the rights to alpha added pension rights secured by the remediable voluntary contribution are extinguished, and
- (b) the scheme manager must confer rights to added pension under the PCSPS that are equivalent to the alternative added pension value.

(5) Paragraph (6) applies where—

- (a) M has added pension rights under the PCSPS (whether or not by virtue of paragraph (4)), and

- (b) the benefits payable in relation to M's remediable service are alpha benefits by virtue of—
  - (i) a section 6 election (including a deemed section 6 election), or
  - (ii) a section 10 election.

(6) The scheme manager must, having consulted the scheme actuary, vary M's added pension rights under the PCSPS so that they are equivalent to added pension rights that would have been secured under alpha if the remediable voluntary contribution had been paid to alpha in the same relevant pension year in which the remediable voluntary contribution was paid.

(7) In this regulation—

“alternative scheme” means—

- (a) in relation to rights to added pension secured or treated as secured in alpha, the PCSPS;
- (b) in relation to rights to added pension secured or treated as secured in the PCSPS, alpha;

“relevant pension year” has the meaning given in direction 5(16)(c)(i) of the PSP Directions 2022.

### **Periodic arrangements for alpha added pension**

27.—(1) This regulation applies in relation to a periodic arrangement for alpha added pension (“the relevant periodic arrangement”)—

- (a) of a member (“M”) who is—
  - (i) a deferred choice member, or
  - (ii) an immediate choice member in respect of whose remediable service section 2(3)(b) of PSPJOA 2022 has effect, and which
- (b) commenced during M's period of remediable service.

(2) The relevant periodic arrangement is to be treated on and after 1st October 2023 as if it is (and always was) a periodic arrangement for PCSPS added pension.

(3) The rights to alpha added pension secured by payment of a voluntary contribution pursuant to the relevant periodic arrangement are extinguished.

(4) The scheme manager must—

- (a) as soon as is practicable after 1st October 2023, and
- (b) having consulted the scheme actuary,

confer rights to added pension under the PCSPS that are of an equivalent value to the added pension rights that would have been secured in the PCSPS if each voluntary contribution paid to alpha pursuant to the relevant periodic arrangement had been paid to the PCSPS in the same relevant pension year in which the voluntary contribution was paid to alpha.

### **PCSPS added pension: treatment on a section 6 or 10 election**

28.—(1) This regulation applies where—

- (a) a remedy member (“M”) has added pension rights under the PCSPS—
  - (i) secured by voluntary contributions made pursuant to a periodic arrangement (“the relevant periodic arrangement”) which commenced during the period of remediable service of a remedy member (“M”), or
  - (ii) conferred under regulation 27(4) in place of extinguished alpha added pension rights, and
- (b) the benefits payable in relation to M's remediable service are, by virtue of a section 6 election (including a deemed section 6 election) or a section 10 election, alpha benefits.

(2) The scheme manager must, having consulted the scheme actuary, vary the added pension rights under the PCSPS so that they are equivalent to added pension rights that would have been secured in alpha if the voluntary contributions that originally secured the rights mentioned in paragraph (1)(a) had been paid to secure alpha added pension rights in the same relevant pension year in which the voluntary contribution was paid.

## CHAPTER 2

## Effective pension age and enhanced effective pension age

**Treatment of EPA and EEPA rights**

**29.**—(1) This regulation applies where a remedy member (“M”) entered into an arrangement during the period of their remediable service to pay periodic voluntary contributions (the “remediable voluntary contributions”) to secure EPA or EEPA rights.

(2) The scheme manager must, as soon as is practicable after 30th September 2023 and having consulted the scheme actuary, determine—

- (a) the equivalent value of added pension rights that would have been secured in the PCSPS if the remediable voluntary contribution had been paid to secure added pension rights in the PCSPS in the same relevant pension year in which the remediable voluntary contribution was paid (“the PCSPS added pension value”), and
- (b) the “compensatable amount”, being an amount by way of compensation which is equal to—
  - (i) the aggregate of all of M’s remediable voluntary contributions, less
  - (ii) an amount in respect of the value of tax relief in accordance with directions 5(5) to (9) of the PSP Directions 2022.

(3) Where a determination is made in accordance with direction 5(8) of the PSP Directions 2022, the following apply—

- (a) direction 5(10) (provision of explanation);
- (b) direction 5(11) and (12) (appeals).

(4) When making an immediate choice decision or a deferred choice decision that no section 6 election or (as the case may be) no section 10 election is to be made in respect of M’s remediable service, the relevant decision-maker may also decide in accordance with paragraph (5) that—

- (a) rights to added pension are to be conferred under the PCSPS that are of an equivalent value to the PCSPS added pension value, or
- (b) the scheme manager is required to pay M or, where M is deceased, M’s personal representatives the compensatable amount.

(5) The decision must be communicated to the scheme manager—

- (a) in a form and manner determined by the scheme manager, and
- (b) at the same time as the immediate choice decision or (as the case may be) the deferred choice decision.

(6) Where—

- (a) a decision is made under paragraph (4)(a)(i), or
- (b) no decision has been communicated to the scheme manager in accordance with paragraph (5), and—
  - (i) the period during which a remedy decision may be made in relation to M’s remediable service has passed,
  - (ii) no remedy decision has been made that a section 6 election or a section 10 election is to be made in relation to M’s remediable service, and
  - (iii) M is not an immediate choice member in respect of whose remediable service a section 6 election is deemed to have been made under regulation 9,

the scheme manager must confer rights to added pension under the PCSPS that are of an equivalent value to the PCSPS added pension value.

(7) Where a decision is made under paragraph (4)(b) in relation to M’s remediable EPA or EEPA rights, the scheme manager must pay to M or, where M is deceased, M’s personal representatives the compensatable amount.

(8) Where—

- (a) rights to PCSPS added pension are conferred under paragraph (6), or

(b) compensation is paid in relation to M's remediable EPA or EEPA rights under paragraph (7), any rights that would otherwise have been secured by the remediable voluntary contributions are extinguished.

(9) In this regulation—

“added pension”—

(a) in relation to the PCSPS, has the meaning given to “PCSPS added pension” in regulation 25;

(b) in relation to alpha, has the meaning given to “alpha added pension” in regulation 25;

“EPA or EEPA rights” means rights to benefits secured under Part 3 or Part 4 of Schedule 1 to the 2014 Regulations;

“remediable EPA or EEPA rights” means EPA or EEPA rights secured by virtue of remediable voluntary contributions;

“relevant decision-maker” means—

(a) where M is a deferred choice member, the deferred choice decision-maker;

(b) where M is an immediate choice member, the immediate choice decision-maker;

“relevant pension year” has the meaning given in direction 5(16)(c)(i) of the PSP Directions 2022.

## CHAPTER 3

### Treatment of remediable added pension rights

#### Application and interpretation of Chapter 3

**30.**—(1) This Chapter applies in relation to “remediable added pension rights”, being added pension rights secured by virtue of—

(a) a lump sum voluntary contribution made by a remedy member (“M”) during the period of M's remediable service;

(b) a voluntary contribution under a periodic arrangement which commenced during the period of M's remediable service.

(2) In paragraph (1), “added pension rights” and “periodic arrangement” have the meanings given in regulation 25.

#### Treatment of added pension rights under alpha

**31.**—(1) Where M's remediable added pension rights would, apart from this regulation, be rights to benefits under alpha, the rights—

(a) are not, and are treated as never having been, rights to benefits under alpha, and

(b) are treated as being, and as always having been, rights to benefits under the PCSPS.

(2) Paragraph (1) has effect for the purpose of determining which civil service scheme is (or at any time was) required to pay benefits to or in respect of M's remediable added pension rights.

#### Benefits already paid in relation to added pension rights

**32.**—(1) Paragraph (2) applies in relation to any benefits (“the paid benefits”) that alpha has at any time paid to a person (“P”) so far as—

(a) they are calculated by reference to remediable added pension rights, and

(b) they are benefits that, as a result of regulation 31(1)(a), P was not entitled to receive.

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

(a) as not having been paid to P by alpha, but

(b) as having been paid to P instead by the PCSPS.



### **Pension benefits and lump sum benefits in relation to remediable additional rights**

**33.**—(1) This regulation applies in relation to any benefits that have been paid to or in respect of the remediable added pension rights of an immediate choice member.

(2) Where, at the operative time—

- (a) the aggregate of benefits that (after taking into account the effect, if any, of regulation 32(2)) have been paid under the PCSPS to any person (“the beneficiary”) in respect of M’s remediable additional rights, exceeds
- (b) the aggregate of the benefits to which (after taking into account the effect, if any, of regulations 26(6), 27(4) and 28(2)) the beneficiary is entitled under the scheme in respect of the rights,

the beneficiary 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 beneficiary.

(4) In this regulation, “the operative time” means—

- (a) if an immediate choice decision is made in relation to M’s remediable service, the time the decision is made;
- (b) otherwise, the end of the section 6 election period in relation to M.

## **CHAPTER 4**

### **Remedial arrangements to pay voluntary contributions to the legacy scheme**

#### **Remedial arrangements to pay voluntary contributions to secure EPA or EEPA rights**

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

- (a) was, immediately before 1st April 2022, a full protection member within the meaning given to that term by paragraph 1 of Schedule 2 to the 2014 Regulations, and
- (b) is not a deceased member.

(2) M may elect to enter into an arrangement (a “remediable arrangement”) to pay voluntary contributions to the legacy scheme for rights to EPA or EEPA in accordance with—

- (a) in respect of—
  - (i) rights to EPA, Part 3 of Schedule 1 to the 2014 Regulations;
  - (ii) rights to EEPA, Part 4 of Schedule 1 to the 2014 Regulations, and
- (b) this regulation.

(3) M may only enter into a remediable 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, 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, and
- (d) after the scheme manager has approved an application made 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 Part 3 or (as the case may be) Part 4 of the 2014 Regulations in connection with exercising to pay voluntary contributions for rights to EPA or EEPA, 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) such later time as the scheme manager considers reasonable in all the circumstances.
- (5) Where M enters into a remedial arrangement—
  - (a) the scheme manager must confer rights under the legacy scheme which are equivalent to the rights M would have secured had M entered into the same or a similar arrangement but for a relevant breach of a non-discrimination rule, and
  - (b) M owes to the scheme manager an amount equal to—
    - (i) 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
    - (ii) tax relief amounts calculated in accordance with direction 12(2) to (7) of the PSP Directions 2022.
- (6) Where a determination is made in accordance with direction 12(6) of the PSP Directions 2022, the following apply—
  - (a) direction 12(8) (provision of explanation);
  - (b) direction 12(9) and (10) (appeals).
- (7) Paragraph (8) applies where—
  - (a) M is a deferred choice member who enters into a remediable arrangement, and
  - (b) the section 10 election in relation to M passes and no section 10 election is made, or deemed to be made, in relation to M’s remediable service.
- (8) Where this paragraph applies—
  - (a) the rights mentioned in paragraph 5(a) are extinguished, and
  - (b) the scheme manager owes M or, where M is deceased, M’s personal representatives the amount mentioned in paragraph (5)(b).

## PART 6

### Transfers

#### CHAPTER 1

##### General

### Interpretation of Part 6

#### 35.—(1) In this Part—

“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—

- (a) a Chapter 1 scheme<sup>(23)</sup>;

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<sup>(23)</sup> See section 33 of PSPJOA 2022 for the meaning of “Chapter 1 scheme”.

- (b) a judicial scheme within the meaning of section 70(1) of PSPJOA 2022;
  - (c) a local government scheme within the meaning of section 86(1) of PSPJOA 2022;
- “remediable club transfer value”, in relation to a member, means the payment or acceptance by the scheme manager of—
- (d) a transfer value under Part F of Section I in accordance with the public sector transfer arrangements (within the meaning given to that term by rule A.1(4) of Section I);
  - (e) a transfer value under Section 6 of Section II in connection with a qualifying transfer (within the meaning given to that term by rule 6.37(iii) of Section II);
  - (f) a transfer value under Part G of Section II in connection with a Club transfer (within the meaning given to that term by rule A.1(4) of Section III);
  - (g) a club transfer value under Part 10 of the 2014 Regulations,  
so far as the transfer value 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 other than a remediable club transfer value under—
- (h) Part F of Section I;
  - (i) Section 6 of Section II;
  - (j) Part G of Section II;
  - (k) Part 10 of the 2014 Regulations,  
so far as the transfer value 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 a civil service scheme, that value is to be calculated in accordance with—

- (a) the provisions of the civil service 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.

### **Transferred out remediable service statements**

**36.** Where a remedy member has transferred any rights in respect of remediable service out of a civil service scheme, the scheme manager must provide a transferred out remediable service statement in accordance with direction 6(2) to (4) of the PSP Directions 2022 (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 3).

## CHAPTER 2

### Transfers on a cash equivalent basis

#### SECTION 1

#### *Transfers before 1st October 2023*

### **Transfers out before 1st October 2023**

**37.—**(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, having consulted the scheme actuary, must calculate the transfer value of M’s remediable rights as if they were secured in—

(a) the PCSPS;

(b) alpha.

(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  $x - y$ .

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

(6) Where the scheme manager cannot pay an amount as required by paragraph (4), the scheme manager must pay to M or, where M is deceased, to M’s personal representatives an amount by way of compensation equal to [the greater of—

(a) the value of rights that would have been secured had the amount been transferred into the PCSPS, and

(b) the value of rights that would have been secured had the amount been transferred into alpha].

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

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

(2) The scheme manager, having consulted 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 PCSPS;

(b) alpha.

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

(a) in respect of the remediable rights to which the remediable transfer value relates, and

(b) which is made by the sending scheme pursuant to, or to provision made under, PSPJOA 2022.

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

## SECTION 2

### *Transfers on or after 1st October 2023*

#### **Application of Section 2**

**39.** This Section applies in respect of a member (“M”) who is a deferred choice member, and no pension benefits have become payable in relation to M’s remediable service.

#### **Transfers out on or after 1st October 2023**

**40.**—(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, having consulted the scheme actuary, must calculate the transfer value of M’s remediable rights as if those rights had been in—

(a) the PCSPS;

(b) alpha.

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

## CHAPTER 3

## Transfers on a club basis

## SECTION 1

*Club transfers before 1st October 2023***Club transfers out before 1st October 2023**

**41.**—(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, having consulted the scheme actuary, must calculate the transfer value of M’s rights under a civil service scheme as if all of M’s remediable rights had been secured in—

- (a) the PCSPS, and separately
- (b) alpha.

(3) The scheme manager must provide to the receiving scheme the result of the calculations mentioned in paragraph (2).

(4) Where the receiving is a local government 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 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.

**Club transfers in before 1st October 2023**

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

(2) 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 accepted under paragraph (2) is to be used for the purpose of determining M’s benefits under a civil service scheme on the same terms as the remediable club transfer value.

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

- (a) the PCSPS;
- (b) alpha.

## SECTION 2

*Club transfers on or after 1st October 2023***Application of Section 2**

**43.** This Section applies in respect of a member (“M”) who is a deferred choice member, and no pension benefits have become payable in relation to M’s remediable service.

**Club transfers out on or after 1st October 2023**

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

(2) The scheme manager, having consulted the scheme actuary, must calculate the club transfer value of M’s rights under a civil service scheme as if all of M’s remediable rights had been secured in—

- (a) the PCSPS, and separately
- (b) alpha.

(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 the result of the calculations mentioned in paragraph (2).

#### **Club transfers in on or after 1st October 2023**

**45.**—(1) This regulation applies in relation to a remediable club transfer value payment which is accepted by the scheme manager on or after 1st October 2023.

(2) The scheme manager, having consulted the scheme actuary, must determine M's benefits if the remediable transfer value were applied in respect of rights in—

- (a) the PCSPS;
- (b) alpha.

### **CHAPTER 4**

#### **Treatment of rights secured by virtue of a remediable value**

##### **Application and interpretation of Chapter 4**

**46.**—(1) This Chapter applies 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 38(3);
- (b) a remediable club transfer value payment, together with any adjustment accepted under regulation 42(2).

(2) In this Chapter, "transferred in remediable rights" means M's remediable rights in a civil service scheme secured by virtue of a remediable value together with any payment or, as the case may be, adjustment under regulation 38(3) or 42(2).

##### **Transferred in remediable rights treated as being in the PCSPS**

**47.**—(1) Where M's transferred in remediable rights would, apart from this regulation, be rights to benefits under alpha, the rights—

- (a) are not, and are treated as never having been, rights under alpha, and
- (b) are treated as being, and as always having been, rights under the PCSPS.

(2) Paragraph (1) has effect—

- (a) for the purposes of determining which civil service 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 48, for all other purposes.

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

**48.**—(1) Where—

- (a) M is a deferred choice member, and
- (b) M's transferred in remediable rights are treated as rights to benefits under the PCSPS by virtue of regulation 47(1)(b),

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 PCSPS if the rights had been transferred into that scheme.

(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 an immediate choice member, and

- (i) an immediate choice decision has been made that no section 6 election is to be made in relation to M's remediable service, or
- (ii) the section 6 election period in relation to M has passed and no section 6 election has been made (or deemed to have been made) in relation to M's remediable service, and
- (b) M's transferred in remediable rights are treated as rights to benefits under the PCSPS by virtue of regulation 47(1)(b),

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 PCSPS if the rights had been transferred into that scheme.

(4) A variation under paragraph (3) is to be treated as having taken effect on the earlier of—

- (a) the time that an immediate choice decision (including a deemed section 6 election) is treated as having taken effect in relation to M's remediable service;
- (b) the end of the section 6 election period in relation to M.

(5) Where—

- (a) the benefits payable to or in respect of M's remediable service are alpha benefits by virtue of a section 6 election (including a deemed section 6 election) or a section 10 election, and
- (b) the benefits payable in relation to M's transferred in remediable rights would otherwise be PCSPS benefits,

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 alpha 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—

- (a) first consult the scheme actuary, and
- (b) calculate the varied rights as if the remediable transfer value which originally secured rights under a civil service scheme were transferred into the alternative scheme in the relevant pension year that the transfer occurred.

(7) In paragraph (7), "relevant pension year" has the meaning given by direction 4(14)(f)(i) of the PSP Directions 2022.

### **Benefits already paid in relation to transferred in remediable rights**

**49.**—(1) Paragraph (2) applies in relation to any benefits ("the paid benefits") that alpha has at any time paid to a person ("P") 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 47(1)(a), P was not entitled to receive from alpha.

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

- (a) as not having been paid to P by alpha, but
- (b) as having been paid to P instead by the PCSPS.

### **Pension benefits and lump sum benefits in relation to transferred in remediable rights**

**50.**—(1) This regulation applies in relation to any benefits that have been paid to or in respect of the transferred in remediable rights of an immediate choice member.

(2) Where, at the operative time—

- (a) the aggregate of benefits that (after taking into account the effect, if any, of regulation 49(2)) have been paid under the PCSPS to any person ("the beneficiary") in respect of M's transferred in remediable rights, exceeds
- (b) the aggregate of the benefits to which (after taking into account the effect, if any, of regulation 48(3) or (5) in relation to the rights) the beneficiary is entitled under the scheme in respect of the rights,

the beneficiary 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 mention in paragraph (2)(b),

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

(4) In this regulation, “the operative time” means—

- (a) if an immediate choice decision is made in relation to M’s remediable service, the time the decision is made;
- (b) otherwise, the end of the section 6 election period in relation to M.

## PART 7

### Provision about special cases

#### CHAPTER 1

##### Ill-health retirement

#### **Application and interpretation of Chapter 2**

**51.**—(1) This Chapter applies in relation to a remedy member (“M”) in respect of whom a process of assessment to determine M’s entitlement to ill-health benefits began during the period of M’s remediable service.

(2) In this Part—

“alternative scheme” means, in relation to a person who has been assessed for entitlement to ill-health benefits under—

- (a) the PCSPS, alpha;
- (b) alpha, the PCSPS;

“ill-health benefits” means—

- (a) the following under rule D.4 of Section I—
  - (i) a lower tier pension (“Section I lower tier”), or
  - (ii) a lower tier pension and an upper tier top up pension (“Section I upper tier”);
- (b) an ill health pension, whether or not with a lump sum, under rule 3.4 of Section II (“Section II ill health benefits”);
- (c) the following under rule E.7 of Section III—
  - (i) a lower tier earned pension (“Section III lower tier”), or
  - (ii) a lower tier earned pension and an upper tier top up earned pension (“Section III upper tier”);
- (d) the following under regulation 74 of the 2014 Regulations—
  - (i) a lower tier earned pension (“alpha lower tier”), or
  - (ii) a lower tier earned pension and an upper tier top up earned pension (“alpha upper tier”);

“IHR criteria” means, in relation to ill-health benefits, the requirements in connection with a person’s health imposed by the PCSPS or (as the case may be) the 2014 Regulations for entitlement to those ill-health benefits;

“initial assessment” means the process of assessment mentioned in paragraph (1);

“relevant time” means the time when the initial assessment was finally determined, and “finally determined” means—

- (a) it has been determined that the member meets the IHR criteria in a civil service scheme, or
- (b) it has been determined that the member does not meet the ill-health retirement criteria of that scheme, and all routes for disputing that determination have been exhausted (including where any deadline for initiating a dispute has passed and no dispute has been initiated);



“remediable ill-health benefits” means ill-health benefits payable in relation to M’s remediable service.

### **Determining whether M meets the IHR criteria in M’s alternative scheme**

**52.**—(1) Where, pursuant to the initial assessment, it has been determined that—

- (a) M meets the IHR criteria for alpha upper tier, M is to be deemed to meet whichever of the following is the IHR criteria in M’s relevant Chapter 1 legacy scheme—
  - (i) Section I upper tier;
  - (ii) Section II ill health benefits;
  - (iii) Section III upper tier;
- (b) M meets the IHR criteria for alpha lower tier, M is to be deemed to meet whichever of the following is the IHR criteria in M’s relevant Chapter 1 legacy scheme—
  - (i) Section I lower tier;
  - (ii) Section II ill health benefits;
  - (iii) Section III lower tier;
- (c) M meets the IHR criteria for—
  - (i) Section III lower tier, M is to be deemed to meet the IHR criteria for alpha lower tier;
  - (ii) Section III upper tier, M is to be deemed to meet the IHR criteria for alpha upper tier;
- (d) M satisfies the severe ill-health condition, M is to be deemed to meet the IHR criteria for all ill-health benefits in both alpha and the PCSPS;
- (e) M does not meet the IHR criteria for—
  - (i) Section I lower tier, Section II ill health benefits or Section III lower tier, M is to be deemed to not meet the IHR criteria for alpha lower tier or alpha upper tier;
  - (ii) Section I upper tier or Section III upper tier, M is to be deemed to not meet the IHR criteria for alpha upper tier.

(2) Where, pursuant to the initial assessment, it has been determined that—

- (a) M meets the IHR criteria for alpha lower tier, and—
  - (i) M’s relevant Chapter 1 legacy scheme is not Section II, and
  - (ii) it has not been determined that M satisfies the severe ill-health condition,
 the scheme manager must determine whether M, at the relevant time, met the IHR criteria for whichever of Section I upper tier or Section III upper tier is the IHR criteria in M’s relevant Chapter 1 legacy scheme;
- (b) M meets any IHR criteria in the PCSPS and it has not been determined that M satisfies the severe ill-health condition, the scheme manager must determine whether M, at the relevant time, met the IHR criteria for alpha lower tier or alpha upper tier;
- (c) M does not meet the IHR criteria for alpha lower tier or alpha upper tier, the scheme manager must determine whether M, at the relevant time, met the IHR criteria for whichever of the following is M’s relevant Chapter 1 legacy scheme—
  - (i) Section I lower tier and Section I upper tier;
  - (ii) Section II ill health benefits;
  - (iii) Section III lower tier and Section III upper tier.

(3) Paragraphs (1) and (2) do not apply where—

- (a) it has been determined, pursuant to the initial assessment, that M meets the IHR criteria for alpha lower tier or alpha upper tier, and
- (b) at the relevant time, M had reached the pension age that would have applied to M had M been a member of the PCSPS.

(4) In making a determination required by paragraph (2), the scheme manager must—

- (a) obtain the opinion of the scheme medical adviser about whether M met the applicable IHR criteria at the relevant time, and
  - (b) treat the opinion of the scheme medical adviser as conclusive of that question.
- (5) In forming an opinion for the purpose of paragraph (4), the scheme medical adviser may only have regard to—
- (a) the report (the “outcome report”) produced pursuant to the initial assessment on the basis of which it was determined whether M met, or did not meet, any IHR criteria;
  - (b) where no outcome report is available, any other evidence which—
    - (i) relates to the question of M’s entitlement to ill-health benefits which was, or could have been, available at or before the relevant time, and
    - (ii) the scheme manager considers relevant to that question.
- (6) For the purposes of this regulation, M satisfies the severe ill-health condition if M is a person described in section 229(4)(a) to (c) of the Finance Act 2006<sup>(24)</sup>.

**Deferred choice members entitled to ill-health benefits in their alternative scheme only**

- 53.**—(1) This regulation applies where—
- (a) it was determined, pursuant to the initial assessment, that M was not entitled to any ill-health benefits under alpha,
  - (b) it is determined, pursuant to regulation 53, that at the relevant time M met the IHR criteria in whichever of Section I, Section II or Section III is M’s relevant Chapter 1 legacy scheme, and
  - (c) M is a deferred choice member.
- (2) The scheme manager must, as soon as reasonably practicable following the determination mentioned in paragraph (1)(b), send to M a written notice setting out—
- (a) that an election (an “immediate IHR election”) may be made,
  - (b) the time by which an immediate IHR election must be received by the scheme manager, and
  - (c) the consequences of making (or not making) an immediate IHR election.
- (3) M may make an immediate IHR election by sending notice of the election to the scheme manager—
- (a) in a form and manner determined by the scheme manager, and
  - (b) so that it is received by the scheme manager no later than the end of the period of three months beginning on the day the notice mentioned in paragraph (2) is issued.
- (4) Where an immediate IHR election is made, M is, subject to paragraph (5), to be treated—
- (a) for all purposes as if a deferred choice decision has been made that no section 10 election is to be made in relation to M’s remediable service (and, accordingly, the benefits payable in relation to M’s remediable service are legacy scheme benefits),
  - (b) as not being entitled to any benefits in respect of service in an employment or office which—
    - (i) took place on or after 1st April 2022, and
    - (ii) is pensionable service under alpha;
  - (c) as not being entitled to the payment of ill-health benefits from the PCSPS, and
  - (d) as being entitled to the payment of ill-health retirement benefits which are—
    - (i) of an amount that would have been determined under the PCSPS if the relevant time had been 31st March 2022, and
    - (ii) payable—
      - (aa) from alpha, and

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<sup>(24)</sup> 2004 c. 12. Section 229(4) was inserted by paragraph 6(4) of Schedule 17 to the Finance Act 2011 (c. 11).

- (bb) from the day after M's last day of service in an employment or office which is capable of being pensionable service in a civil service scheme.

(5) Where M does not leave all service in an employment or office which is capable of being pensionable service in a civil service scheme before—

- (a) the end of the period of three months beginning on the day notice of the immediate IHR election is received by the scheme manager, or
- (b) such later time as the scheme manager considers reasonable in all the circumstances,

M is to be treated as if the immediate IHR election had not been made (and no subsequent immediate IHR election may be made).

(6) An immediate IHR election is irrevocable.

(7) The provisions of Chapter 1 of PSPJOA 2022 and of these Regulations about the timing and effect of, as the case may be, a deferred choice decision and a section 10 election apply subject to this regulation.

### **Remedy members entitled to ill-health benefits in their alternative scheme only**

54.—(1) This regulation applies where—

- (a) it was determined, pursuant to the initial assessment, that M was not entitled to any ill-health benefits under alpha,
- (b) it is determined, pursuant to regulation 53, that at the relevant time M met the IHR criteria in whichever of Section I, Section II or Section III is M's relevant Chapter 1 legacy scheme, and
- (c) M is, or at any time was, a pensioner member of alpha in relation to their remediable service.

(2) Where the benefits payable in relation to M's remediable service are, by virtue of these Regulations and PSPJOA 2022, PCSPS benefits, M is to be treated as entitled to the payment of ill-health retirement benefits—

- (a) of an amount that would have been determined under the PCSPS if the relevant time had been 31st March 2022, and
- (b) payable—
  - (i) from alpha, and
  - (ii) from the day M became a pensioner member of alpha in relation to their remediable service.

(3) M is not entitled to the payment of ill-health benefits from the PCSPS.

### **Remedy members with provisional awards of ill-health pension**

55.—(1) This regulation applies in relation to a remedy member who, immediately before 1st October 2023, is treated as being entitled to ill-health benefits pursuant to—

- (a) rule D.6 of Section I;
- (b) rule E.11 of Section III;
- (c) regulation 75 of the 2014 Regulations.

(2) The scheme manager must—

- (a) determine whether M meets the IHR criteria in M's alternative scheme, and
- (b) in making that determination, obtain the opinion of the scheme medical adviser about whether M meets the IHR criteria in M's alternative scheme.

### **Disapplication of certain requirements**

56.—(1) This regulation applies where, by virtue of these Regulations or of PSPJOA 2022, ill-health benefits determined by reference to a remedy member's alternative scheme are payable to a person.

(2) Such ill-health benefits are payable irrespective of non-compliance with a requirement imposed by the PCSPS or the 2014 Regulations for—

- (a) the scheme manager to approve an entitlement to ill-health benefits;

- (b) a person to make an application in relation to an entitlement to ill-health benefits.

## CHAPTER 2

### Miscellaneous special cases

#### **Protection of the amount of pension in payment to an eligible child**

57.—(1) This regulation applies where—

- (a) immediately before 1st October 2023, a pension (a “child pension”) is in payment to an eligible child (“E”) in respect of the remediable service of a deceased member (“M”),
- (b) there is a surviving adult (“S”) in relation to the deceased member,
- (c) E is not in the care of S, and
- (d) S makes an immediate choice decision which would (disregarding this regulation) result in a decrease in the rate of the child pension payable to E in respect of M’s remediable service.

(2) Where this regulation applies—

- (a) E does not owe the scheme manager a liability under section 14(3) in respect of the child pension, and
- (b) the rate of the child pension continues to be the rate that was payable before the immediate choice decision was made.

#### **Modification of nomination rules for Section II members**

58.—(1) The regulation applies in relation to a remedy member (“M”) who is entitled to nominate a person under rule 3.8 of Section II to receive a death benefit.

(2) Rule 3.8 of Section II applies as if it allows—

- (a) M to nominate—
  - (i) one or more individuals,
  - (ii) one incorporated or unincorporated body, or
  - (iii) one or more individuals and one incorporated or unincorporated body, and
- (b) for the nomination to specify how payments are to be apportioned between—
  - (i) two or more individuals or,
  - (ii) one or more individuals and one incorporated or unincorporated body.

(3) Where—

- (a) M has made a nomination (“the original nomination”) in relation to remediable service in alpha pursuant to regulation 122 of the 2014 Regulations, and
- (b) M is, by virtue of the operation of PSPJOA 2022 or these Regulations, entitled to nominate a person under rule 3.8 of Section II in relation to that remediable service,

the original nomination continues as if it were made under rule 3.8 of Section II as that rule applies by virtue of paragraph (2).

#### **Aggregation of PCSPS membership**

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

- (a) who left pensionable service under a civil service pension scheme during the period beginning on 1st April 2015 and ending at the end of 31st March 2022,
- (b) who, within 12 months of leaving pensionable service and before 1st April 2022, began or (as the case may be) resumed pensionable service under alpha, and
- (c) whose relevant Chapter 1 legacy scheme is Section I or Section II.

(2) M may exercise—

- (a) where M's relevant Chapter 1 legacy scheme is Section I, an election in accordance with rule G.3 of that Section;
- (b) where M's relevant Chapter 1 legacy scheme is Section II, an election in accordance with rule 3.35 of that Section,

in relation to their remediable service irrespective of any requirement that either of those rules may only be exercised by a member of the relevant scheme.

## PART 8

### Immediate detriment cases

#### Treatment of immediate detriment cases

**60.**—(1) This regulation applies in relation to a person's ("A's") remediable service where an immediate detriment remedy has been obtained in relation to that service by virtue of the condition provided for in section 32(3) of PSPJOA 2022 ("the second condition") having been met.

(2) These Regulations and sections 2 to 30 of PSPJOA 2022 apply in relation to A's remediable service as they apply in relation to the remediable service of an immediate choice member in respect of whose remediable service an immediate choice decision has been made that no section 6 election is to be made.

(3) Any amount paid by way of benefits or compensation pursuant to the agreement by virtue of which the second condition has been met is to be treated for the purposes of section 14 of PSPJOA 2022, as—

- (a) a lump sum benefit, if the amount was paid by way of a lump sum;
- (b) a pension benefit, if the amount was paid otherwise than by way of a lump sum.

## PART 9

### Liabilities and payment

#### CHAPTER 1

##### Application of Part 8

#### Application of Part 8

**61.** This Part applies in relation to a relevant amount<sup>(25)</sup> owed in respect of the remediable service of a remedy member.

#### CHAPTER 2

##### Interest, compensation and netting off

#### Interest

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

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

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

- (a) direction 16(2) (provision of explanation);

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<sup>(25)</sup> See section 26(3) of PSPJOA 2022 for the meaning of "relevant amounts".

- (b) direction 16(3) and (4) (appeals).

### **Indirect compensation**

**63.**—(1) This regulation applies where, pursuant to an application under regulation 64, the scheme manager determines that an immediate choice member (“M”) has incurred a compensatable loss<sup>(26)</sup> that is a Part 4 tax loss<sup>(27)</sup> (a “relevant loss”).

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

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

### **Applications for compensation or indirect compensation**

**64.**—(1) This regulation applies in relation to—

- (a) the payment of a relevant amount by way of compensation under section 23(1) of PSPJOA 2022;
- (b) the increase of benefits by way of indirect compensation under regulation 63.

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

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

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

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

### **Netting off**

**65.**—(1) This regulation applies where—

- (a) relevant amounts owed by and to a person (“P”) fall to be paid at the same time or similar times, and
- (b) the scheme manager has—
  - (i) determined the interest (if any) that is to be paid on the relevant amounts in accordance with regulation 62, and
  - (ii) reduced the relevant amounts by tax relief amounts in accordance with regulation 66.

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

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

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

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<sup>(26)</sup> See section 23 of PSPJOA 2022 and direction 11 of the PSP Directions 2022 for the meaning of “compensatable loss”.

<sup>(27)</sup> See section 23(9) of PSPJOA 2022 for the meaning of “Part 4 tax loss”.

## CHAPTER 3

## Reduction and waiver of liabilities

**Reduction of liabilities in relation to pension contributions**

- 66.**—(1) This regulation applies where—
- (a) a person owes a liability to pay pension contributions in relation to the remediable service of a remedy member, or
  - (b) the scheme manager owes a liability to pay compensation in relation to such service,
- under section 15, 16 or 17 of PSPJOA 2022.
- (2) The scheme manager must reduce the liability by tax relief amounts<sup>(28)</sup>—
- (a) determined in accordance with direction 4(5) to (9) of the PSP Directions 2022, and
  - (b) before the liability is netted off in accordance with regulation 65.
- (3) The following provisions of the PSP Directions 2022 apply where the scheme manager makes a determination under direction 4(8)—
- (a) direction 4(10) (provision of explanation);
  - (b) direction 4(11) and (12) (appeals).
- (4) Paragraphs (5) and (6) apply where assets (“the transferred assets”) held for the purposes of a partnership pension account have been transferred to the PCSPS in relation to the relevant opted-out service of a remedy member (“M”) in accordance with the condition mentioned in regulation 5(6)(c)(i).
- (5) The scheme manager—
- (a) must reduce a liability mentioned in paragraph (1)(a) owed in relation to M’s remediable service by an amount equal to the value of the transferred assets which was, immediately before the transfer, referable to employee pension contributions made by or on behalf of M in respect of M’s relevant opted-out service;
  - (b) must not reduce such a liability by reference to the value of the transferred assets which was, immediately before the transfer, referable to any other source.
- (6) Where the value of the transferred assets mentioned in paragraph (5)(a) is greater than the liability mentioned in paragraph (1)(a), the scheme manager owes M or, where M is deceased, M’s personal representatives an amount equal to the difference.
- (7) In this regulation, “relevant opted-out service” has the meaning given in regulation 4(2).

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

- 67.**—(1) The scheme manager may reduce or waive an amount owed by a person to the scheme under—
- (a) section 14, 15, 16 or 17 (“the corrections provisions”) of PSPJOA 2022, or
  - (b) these Regulations.
- (2) When reducing or waiving an amount under paragraph (1), the scheme manager must comply with the requirements set out in direction 4(1)(a) to (c) of the PSPJOA Directions 2022 (and the reference in direction 4(1)(c) to “any scheme regulations made by virtue of section 26(1)(b) of PSPJOA 2022” is to be read as a reference to regulation 70).

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

- 68.**—(1) This regulation applies where the scheme manager owes a liability to pay compensation to a person (“P”) under section 16(3) of PSPJOA 2022.
- (2) The scheme manager and P may agree to waive the liability.

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<sup>(28)</sup> See section 18(4) of PSPJOA 2022 for the meaning of “tax relief amounts” for the purposes of a liability mentioned in regulation 51(1)(a) and section 18(7) of that Act for the meaning of that term for the purposes of a liability mentioned in regulation 51(1)(b).

- (3) Such an agreement—
- (a) must be in writing,
  - (b) may be rescinded with the agreement of the scheme manager and P, and
  - (c) in any event ceases to apply where—
    - (i) the end of the section 10 election period in relation to the remediable service in respect of which the compensation is payable has passed, and
    - (ii) no section 10 election is made, or deemed to have been made, in relation to that remediable service.
- (4) Where an agreement is rescinded or otherwise ceases to apply, the scheme manager owes P the liability mentioned in paragraph (1).

## CHAPTER 4

### Payment of net liabilities

#### Application of Chapter 4

**69.** This Chapter applies in respect of a relevant amount (together with any interest on that amount) owed after taking into account the effect, if any, of regulations 62 to 68 (a “net liability”).

#### Payment of amounts owed to the scheme manager

- 70.**—(1) This regulation applies where a person (“P”) owes a net liability to the scheme manager.
- (2) The scheme manager must send notice in writing to P setting out—
- (a) how the net liability has been calculated,
  - (b) an explanation of the circumstances in which the net liability may be reduced or waived under regulation 67,
  - (c) where the net liability has been calculated by reference to an amount by way of compensation under section 16(3) of PSPJOA 2022, an explanation of the agreement that may be made under regulation 68,
  - (d) when and how the net liability must be paid, and
  - (e) the consequences of not paying the net liability.
- (3) Where—
- (a) the scheme manager has sent a notice under paragraph (2), and
  - (b) the amount of the net liability is subsequently adjusted,
- the scheme manager must send another notice in writing to P under paragraph (2).
- (4) P must pay the amount of the net liability to the scheme manager—
- (a) before the end of the period of six months beginning with the day after the day on which P receives the most recent notice under paragraph (2), or
  - (b) in accordance with an agreement under paragraph (5).
- (5) P and the scheme manager may agree that the net liability is to be paid in part or in full—
- (a) by way of instalments, or
  - (b) by way of deductions from any benefits (including a lump sum benefit) to which P is entitled under a civil service scheme.
- (6) P and the scheme manager may agree to vary an agreement under paragraph (5).
- (7) Where P does not pay any amount that falls due by virtue of paragraph (4)(a) or an agreement under paragraph (5), the scheme manager may deduct such sums from benefits payable to P under a civil service scheme as seem reasonable to the scheme manager for the purpose of discharging P’s liability.



**Payment of amounts owed to a person**

- 71.**—(1) This regulation applies where the scheme manager owes a net liability to a person (“P”).
- (2) The scheme manager must pay the amount of the net liability to P—
- (a) as soon as reasonably practicable after the scheme manager determines the amount of the net liability, or
  - (b) where the scheme manager requires P to provide information in accordance with paragraph (3), as soon as reasonably practicable after receipt of that information.
- (3) Before paying the amount of a net liability owed to P, the scheme manager may by written notice given as soon as reasonable practicable after the scheme manager determines the amount of the net liability, require P to provide information in relation to the net liability which is—
- (a) information which is within P’s possession, or
  - (b) information which P may reasonably be expected to obtain.

*Name*  
Minister for the Cabinet Office

Date

We consent

*Name*  
*Name*  
Two of the Lords Commissioners of His Majesty’s Treasury

Date

**SCHEDULE**      Regulations 5(2), 7(2) and 11(2)

**Eligible decision-makers for deceased members**

**Interpretation**

- 1.**—(1) In this Schedule—
- “beneficiary” means a person who has become entitled to receive any death benefit;
- “child”, except in the term “eligible child”, means a person under the age of 18;
- “death benefit” means a benefit payable on the death of a member under—
- (a) Part 8 of the 2014 Regulations;
  - (b) Part E of Section I;
  - (c) section 4 of Section II;
  - (d) Part F of Section III;
- “decision” means an opted-out service election, an immediate choice decision or a deferred choice decision;
- “eligible decision-maker” means a person who may make—
- (a) an opted-out service election in accordance with regulation 5(2)(b);
  - (b) an immediate choice decision in accordance with regulation 7(2)(b);
  - (c) a deferred choice decision in accordance with regulation 11(2)(b);
- “surviving adult” means—
- (a) a surviving spouse;
  - (b) a surviving civil partner;

(c) in relation to—

- (i) alpha, a surviving partner within the meaning of regulation 101 of the 2014 Regulations;
- (ii) Section I, a surviving adult dependant within the meaning of rule E.2 of that Section;
- (iii) Section III, a surviving adult dependant within the meaning of rule F.2 of that Section.

(2) In this Schedule, a reference to—

- (a) a beneficiary if a reference to a beneficiary of death benefits in relation to M's remediable service;
- (b) an eligible child is a reference to an eligible child of M;
- (c) a surviving adult is a reference to a surviving adult in relation to M.

**Sole beneficiary: an adult**

2. Where a person is—

- (a) the sole beneficiary, and
- (b) an adult,

the eligible decision-maker is that person.

**Sole beneficiary: a child**

3. Where a person ("A") is—

- (a) the sole beneficiary, and
- (b) a child,

the eligible decision-maker is A's guardian.

**Sole beneficiary: a body**

4. Where a body (whether corporate or unincorporate) is the sole beneficiary, the eligible decision-maker is—

- (a) M's personal representative, or
- (b) where M has no personal representative, the scheme manager.

**Sole beneficiary: M's estate**

5. Where M's estate is the sole beneficiary, the eligible decision-maker is M's personal representative.

**Multiple beneficiaries: including a surviving adult**

6. Where—

- (a) two or more adults are the only beneficiaries, and
- (b) one of those adults ("B") is a surviving adult,

the eligible decision-maker is B.

**Multiple beneficiaries: including adult eligible children**

7.—(1) Where—

- (a) two or more adults are the only beneficiaries,
- (b) none of those adults is a surviving adult, and
- (c) two or more of those adults are eligible children,

the eligible decision-maker is determined in accordance with sub-paragraph (2).

(2) The eligible decision-maker is—

- (a) the person agreed upon by the adult eligible children, or
- (b) where no decision about whether to make an election has been received by the scheme manager by the day four weeks before an election must, in accordance with these Regulations, be received by the scheme manager, the scheme manager.

**Multiple beneficiaries: nominated individuals only**

8.—(1) Where—

- (a) two or more adults (the “nominated adults”) are beneficiaries of a lump sum death benefit, and
- (b) none of the following are beneficiaries—
  - (i) a surviving adult, or
  - (ii) an eligible child (whether or not an adult),

the eligible decision-maker is determined in accordance with sub-paragraph (2).

(2) The eligible decision-maker is—

- (a) M’s personal representative;
- (b) where M has no personal representative, the person agreed upon by the nominated adults;
- (c) where—
  - (i) M has no personal representative, and
  - (ii) no decision about whether to make an election has been received by the scheme manager by the day four weeks before an election must, in accordance with these Regulations, be received by the scheme manager,
 the scheme manager.

**Multiple beneficiaries: non-adult eligible children**

9. Where the only beneficiaries are children, two or more of which are eligible children, the eligible decision-maker is—

- (a) where one person has parental responsibility for all the eligible children, that person;
- (b) otherwise—
  - (i) M’s personal representative, or
  - (ii) where M has no personal representative, the scheme manager.

**Multiple beneficiaries: nominated children only**

10. Where the only beneficiaries of lump sum death benefits are two or more children who are not eligible children, the eligible decision-maker is—

- (a) where one person has parental responsibility for all the children, that person;
- (b) otherwise—
  - (i) M’s personal representative, or
  - (ii) where M has no personal representative, the scheme manager.

**Multiple beneficiaries: one or more adults and one or more children**

11.—(1) Where the beneficiaries include one or more adults and one or more children—

- (a) M’s personal representative is the eligible decision-maker;
- (b) where M has no personal representative, and—
  - (i) one of the beneficiaries is a surviving adult, that surviving adult is the eligible decision-maker;
  - (ii) none of the beneficiaries is a surviving adult and—

- (aa) one or more of the beneficiaries is an eligible child, or
  - (bb) none of the beneficiaries is a surviving adult or an eligible child,the eligible decision-maker is determined in accordance with sub-paragraph (2).
- (2) Where sub-paragraph (1)(b)(ii) applies, and—
  - (a) all relevant children are under 18 and—
    - (i) have the same guardian, the eligible decision-maker is that guardian;
    - (ii) do not have the same guardian, the eligible decision-maker is the scheme manager;
  - (b) all relevant children are 18 or over, the eligible decision-maker is—
    - (i) the person agreed upon by those relevant children, or
    - (ii) where no decision about whether to make an election has been received by the scheme manager by the day four weeks before an election must, in accordance with these Regulations, be received by the scheme manager, the scheme manager;
  - (c) one or more relevant children are under 18 and one or more of the relevant children are 18 or over, the eligible decision-maker is the person agreed upon by—
    - (i) the relevant children who are 18 or over, and
    - (ii) the guardian (or guardians) of the relevant children who are under 18.
- (3) In sub-paragraph (2), “relevant children” means—
  - (a) where sub-paragraph (1)(b)(ii)(aa) applies, eligible children;
  - (b) where sub-paragraph (1)(b)(ii)(bb) applies, a person who is a beneficiary and who meets any of conditions A, B or C as set out in regulation 113(2), (3) and (4) of the 2014 Regulations.

### Other cases

12. In any case not covered by paragraphs 2 to 11, the eligible decision-maker is the scheme manager.

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Public Service Pensions Act 2013 (c. 25) (“PSPA 2013”) makes provision, and confers powers to make further provision (in the form of “scheme regulations” as defined in section 1 of PSPA 2013), about the establishment of public service pension schemes. The Public Service (Civil Servants and Others) Pensions Regulations 2014 (S.I. 2014/1964) (“the 2014 Regulations”) are the scheme regulations establishing alpha, the successor civil service pension scheme to the Principal Civil Service Pension Scheme (“the PCSPS”). The 2014 Regulations provided for transitional protection for certain cohorts of PCSPS members. This transitional protection was subsequently found to unlawfully discriminate between civil service pension scheme members on the basis of age.

The Public Service Pensions and Judicial Offices Act 2022 (c. 7) (“PSPJOA 2022”), at Chapter 1, makes provision, and confers powers for scheme regulations under PSPA 2013 to make further provision, in relation to specified service (“remediable service” as defined in section 1 of PSPJOA 2022) of members who benefitted from transitional protection, and of members who did not benefit from transitional protection only by reason of their age. Section 27 of PSPJOA 2022 requires certain powers to make scheme regulations to be exercised in accordance with Treasury directions.

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

Part 2 of these Regulations makes provision about when and to whom a remediable service statement is to be provided by the scheme manager (as defined in regulation 2(1)), as well as the contents of the remediable service statement.

Part 3 makes provision about the principal decisions that may be made in relation to a member's remediable service—

- (a) Chapter 1 makes provision about when and how an election may be made for service in respect of which a member opted-out of alpha to be reinstated and treated as remediable service;
- (b) Chapter 2 makes provision about when and how a decision may be made, or be deemed to have been made, about whether the remediable service of a pensioner or deceased member (an "immediate choice member") is to be treated as service in the PCSPS or in alpha;
- (c) Chapter 3 makes provision similar to Chapter 2, but in relation to the remediable service of an active or deferred member (a "deferred choice member").

Part 4 makes provision about cases in which the pension rights secured by virtue of a member's remediable service are at issue in proceedings relating to the member's separation from a spouse or civil partner—

- (a) Chapter 1 makes provision about sharing the value of such rights under a pension sharing order where they are subject to a pension debit under section 29 of the Welfare Reform and Pensions Act 1999 (c. 30). It provides, in particular, for the calculation or, where appropriate, the re-calculation of the value of a pension debit and a pension credit in relation to the rights;
- (b) Chapter 2 makes provision about the calculation of the value of rights for the purposes of sharing those rights under an arrangement other than a pension sharing order.

Part 5 makes provision about lump sum voluntary contributions paid by a member during the period of their remediable service, and periodical contributions paid by a member under an arrangement which commenced during the period of their remediable service, to secure additional pension rights—

- (a) Chapter 1 makes provision about rights to additional pension secured in the PCSPS or alpha in accordance with which rights are conferred or, where relevant, varied so that they reflect the value of rights that would have been secured in the civil service pension scheme in respect of which the member's pension benefits secured by virtue of their remediable service ultimately become payable;
- (b) Chapter 2 makes provision about rights to effective pension age or enhanced effective pension age secured in alpha in accordance with which, on a decision for the member's remediable service to be treated as service in the PCSPS, the rights are either converted into PCSPS additional pension or they are extinguished and compensation is paid in relation to them;
- (c) Chapter 3 makes provision which causes additional pension rights secured in, and benefits in relation to such rights paid out of, alpha to be treated as secured in, or paid out of, the PCSPS, and for financial corrections of any pension benefits paid in respect of the remediable service of an immediate choice member in relation to such rights;
- (d) Chapter 4 makes provision enabling a member who did not have the opportunity to elect to purchase rights to effective pension age or enhanced effective pension age in respect of remediable service to do so retrospectively.

Part 6 makes provision about transfers in and out of a civil service pension scheme of pension rights during the period of a member's remediable service—

- (a) Chapter 1 makes provision about, among other things, the provision of a remediable service statement to a person who has transferred out rights in respect of remediable service and in respect of whom a remediable service statement is not otherwise required to be provided;
- (b) Chapter 2 makes provision about transfers in and out of a civil service pension scheme on a cash equivalent basis, including provision about the calculation (and, where appropriate, the recalculation) of the value of a cash equivalent transfer value, and the making and accepting of payments in relation to the transfer value of rights secured by virtue of remediable service;
- (c) Chapter 3 makes provision similar to Chapter 2, but in relation to transfers in and out of a civil service pension scheme on a club basis;
- (d) Chapter 4 makes provision for—
  - (i) transfers into alpha in respect of rights secured by virtue of remediable service to be treated as being transferred into the PCSPS;

- (ii) rights transferred into the PCSPS to be varied so that they reflect the value of rights in the civil service pension scheme in respect of which rights secured by virtue of a member's remediable service ultimately become payable;
- (iii) financial corrections of any pension benefits paid in respect of the transferred-in rights of an immediate choice member.

Part 7 makes provision about special cases—

- (a) Chapter 1 makes provision about the reassessment of ill-health retirement applications which may have been treated differently if they had been assessed in a member's alternative civil service pension scheme
- (b) Chapter 2 makes provision about—
  - (i) protecting the amount of any child pension which is already in payment so that it will not be reduced as a result of the PSPJOA 2022 or these Regulations;
  - (ii) ensuring that a member of Section II of the PCSPS has the same rights in relation to nominating persons to receive a death benefit as members of alpha and of Sections I and III of the PCSPS;
  - (iii) allowing members who would, but for the transitional protection, have been able to aggregate separate periods of pensionable service in the PCSPS.

Part 8 makes provision cases in which a person has already obtained a remedy in relation to their remediable service. Such persons are treated for the purposes of PSPJOA 2022 and these Regulations as if they were an immediate choice member who has elected to receive PCSPS benefits in relation to their remediable service.

Part 9 makes provision about any amounts ("relevant amounts") owed to or by a person as a result of PSPJOA 2022 or these Regulations—

- (a) Chapter 2 makes provision for the calculation of interest on relevant amounts, for the increase of benefits instead of the payment of a relevant amount, for the making of an application where a person wishes to claim compensation, and for the netting off of relevant amounts owed to and by a person;
- (b) Chapter 3 makes provision about the reduction and waiver of relevant amounts, in particular a requirement for the scheme manager to reduce some relevant amounts by tax relief amounts and, the discretion of the scheme manager to reduce or waive relevant amounts owed by a person to a scheme in certain circumstances, and the option to defer payment of certain relevant amounts owed to a member until an election is made in relation to the member's remediable service;
- (c) Chapter 4 makes provision about when and how relevant amounts must be paid.

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