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STATUTORY RULES OF NORTHERN IRELAND

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**2023 No. 131**

**The Teachers' Pension Scheme (Remediable Service) Regulations (Northern Ireland) 2023**

**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**

**17.—(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 teacher 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 article 27 of WRPO 1999;

“corresponding pension debit member” means the remedy member referred to in subparagraph (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 teacher pension scheme who has rights under the scheme—

- (a) which are attributable (directly or indirectly) to a pension credit<sup>(1)</sup>,
- (b) which arise by virtue of a pension sharing order with a transfer day on or after 1st April 2015, and

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(1) See section 19(7) of PSPJOA 2022 for the meanings of “pension debit” and “pension credit”.

- (c) the value of which was determined (to any extent) by reference to the value of benefits payable in respect of the remediable teacher service of a remedy member;
- “pension sharing order” means the order or provision by virtue of which article 26 of WRPO 1999 applies in relation to a pension credit member and the corresponding pension debit member;
- “relevant pension sharing order” has the meaning given in paragraph (1)(c);
- “remediable relevant benefits” means the benefits or future benefits described in article 26(4) and (5) of WRPO 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 teacher service during the period beginning on 1st April 2015 and ending on the earlier of—
- (a) the day before the transfer date, or
- (b) the last day of D’s remediable teacher service;
- “shareable rights” has the meaning given in article 24(2) of WRPO 1999;
- “transfer day” means the day on which the relevant pension sharing order takes effect;
- “valuation day” has the meaning given in article 26(7) of WRPO 1999;
- “WRPO 1999” means the Welfare Reform and Pensions (Northern Ireland) Order 1999 .

## SECTION 2

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

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

**18.**—(1) This Section applies where, before 1st October 2023, the scheme manager has provided information for the purpose of determining amounts under article 26 of WRPO 1999 in respect of a remedy member’s remediable teacher service.

(2) In this Section—

- “alternative amount” has the meaning given in regulation 19;
- “alternative reduction amount” and “alternative reduction amounts” have the meanings given in, respectively, regulation 22(3) and (4);
- “alternative scheme”, in relation to a relevant pension sharing order that does not relate to mixed service, means—
- (a) where the initial scheme is D’s legacy scheme, the reformed scheme;
- (b) where the initial scheme is the reformed scheme, D’s legacy scheme;
- “C’s pension account” has the meaning given in regulation 21(4);
- “initial amount” means the total amount determined for the purposes of the relevant pension sharing order under article 26(2) and (3) of WRPO 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 have mixed service, means the teacher pension scheme in respect of which an initial amount or an initial reduction amount was determined;
- “remediable credit adjustment” has the meaning given in regulation 20(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 article 26(2) or (3) of WRPO 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”**

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

- (a) in relation to a relevant pension sharing order that does not relate to mixed service, and—
  - (i) where the initial amount was determined under article 26(2) of WRPO 1999 in relation to a percentage value to be transferred from the initial scheme, the amount that would have been determined applying the same percentage value under that article on the valuation day if the remediable relevant benefits had been secured in the alternative scheme;
  - (ii) where the initial amount was determined under article 26(2) of WRPO 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 the remediable relevant benefits had been secured in the alternative scheme;
- (b) in relation to a relevant pension sharing order that relates to mixed service, the greater of—
  - (i) the legacy scheme amount, and
  - (ii) the reformed scheme amount.

(2) In paragraph (1)(b)—

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

- (a) a percentage value to be transferred from both the legacy scheme and the reformed scheme, the amount that would have been determined applying –
  - (i) in relation to pre-taper date remediable relevant benefits, the legacy scheme percentage value, and
  - (ii) in relation to post-taper date remediable relevant benefits, the reformed scheme percentage value,under article 26(2) of WRPO 1999 on the valuation day if all of the remediable relevant benefits had been secured in the legacy scheme;
- (b) an amount to be transferred from both the legacy scheme and the reformed 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 the remediable relevant benefits had been secured in the legacy scheme;

“reformed scheme amount” means, where the initial amount was determined under article 26(2) of WRPO 1999 in relation to—

- (a) a percentage value to be transferred from both the legacy scheme and the reformed scheme, the amount that would have been determined applying –
  - (i) in relation to pre-taper date remediable relevant benefits, the legacy scheme percentage value, and
  - (ii) in relation to post-taper date remediable relevant benefits, the reformed scheme percentage value,

under that article on the valuation day if all of the remediable relevant benefits had been secured in the reformed scheme;

- (b) an amount to be transferred from both the legacy scheme and the reformed scheme, an amount equal to the implied percentage of the cash equivalent of the remediable relevant benefits on the valuation day determined as if all the remediable relevant benefits had been secured in the reformed scheme.

(3) In this regulation—

“implied percentage”, in relation to the value of benefits under a teacher pension scheme, means the percentage that an initial amount determined under article 26(3) of WRPO represented of the cash equivalent of the remediable relevant benefits under that scheme on valuation day;

“legacy scheme percentage value” means the percentage value specified in a relevant pension sharing order in relation to D’s legacy scheme for the purpose of determining an amount under article 26(2) of WRPO 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;

“reformed scheme 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 article 26(2) of WRPO 1999;

“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 article 26(2) of WRPO 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 4 of Schedule 3 to the 2014 Regulations.

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

**20.**—(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 setting out—

- (a) the alternative amount,

- (b) any remediable credit adjustment, and
- (c) where regulation 21(4)(b) applies in relation to C, an explanation of the request that may be in accordance with regulation 21(5) and the consequences of making, or not making, such a request.

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

**21.**—(1) This regulation applies where C’s pension 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) “C’s pension account” means, where C has, in relation to the relevant pension sharing order—

(a) a pension credit in only one teacher pension scheme, C’s pension account under that scheme;

(b) a pension credit in both the legacy scheme and the reformed scheme—

(i) the pension 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 account under—

(aa) the legacy scheme, or

(bb) the reformed scheme if it appears to the scheme manager that would be more beneficial to C.

(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)(i),

(b) it is in a form determined by the scheme manager,

(c) it unambiguously identifies only one of C’s pension accounts, and

(d) it is received by the scheme manager by—

(i) the end of the day 6 months after the date on which the statement required by regulation 20(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**

**22.**—(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 order 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 articles 26 and 28 of WRPO 1999.

(4) Where the relevant 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 legacy scheme, and separately
  - (ii) the reformed scheme, 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**

**23.**—(1) This Section applies where, on or after 1st October 2023, the scheme manager provides information for the purpose of determining amounts under article 26 of WRPO 1999 in respect of a remedy member's remediable teacher service.

(2) In this Section—

“alternative reduction amount” has the meaning given in regulation 25(3);

“appropriate amount” means an amount calculated for the purposes of article 26(1) of WRPO 1999;

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

“legacy scheme cash equivalent” has the meaning given in regulation 24(2)(a);

“reformed scheme cash equivalent” has the meaning given in regulation 24(2)(b).

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

**24.**—(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 teacher service, or
- (b) an immediate choice pensioner member, and—
  - (i) the end 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 teacher 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 D's legacy scheme ("the legacy scheme cash equivalent"), and
  - (b) the cash equivalent of those benefits on valuation day as if they were in the reformed scheme ("the reformed scheme 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 legacy scheme cash equivalent, or
  - (b) the reformed scheme cash equivalent.

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

**25.**—(1) This regulation applies where D's remediable relevant benefits are to be reduced in relation to a pension debit calculated under regulation 24(3).

(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 day, 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 legacy scheme cash equivalent, the reformed scheme;
  - (ii) where the pension debit was calculated on the basis of the reformed scheme cash equivalent, the legacy scheme;
- (b) the percentage value or the amount to be transferred specified in the relevant pension sharing order, and
- (c) the provisions of articles 26 and 28 of WRPO 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**

**26.**—(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 teacher 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 M's legacy scheme, or
  - (b) secured in the reformed scheme.
- (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 article 26 of WRPO 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 member, the section 6 election period in relation to M;
    - (c) “remediable rights” means the rights secured by virtue of M's remediable teacher service.