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STATUTORY RULES OF NORTHERN IRELAND

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**2023 No. 133**

**The Firefighters' Pensions (Remediable Service) Regulations (Northern Ireland) 2023**

**PART 3**

Decisions about the treatment of remediable service as a firefighter

**CHAPTER 1**

Opted-out service elections

**Application and interpretation of Chapter 1**

**5.—(1)** This Chapter applies to and in respect of a member (“M”) with opted-out service in an employment or office in relation to M’s legacy scheme<sup>(1)</sup>.

(2) In this Chapter—

“opted-out service decision-maker” means the person who may make an opted-out service election in accordance with regulation 6(2);

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

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

**6.—(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 deceased, by the eligible decision-maker determined in accordance with the Schedule.

(3) Where a person (P) 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 on behalf of M,

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

(c) received by the scheme manager during the period of 12 months beginning with the day on which a remediable service statement is provided in relation to M under regulation 4(2) (a), and

(d) accompanied by such information—

(i) which is information within P’s possession, or

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

- (ii) which P 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) Except where M meets the third condition in section 1(5) of PSOJOA 2022 by virtue of falling within section 1(5)(b), the scheme manager must refuse an application unless both of the following conditions are 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, and
  - (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>(2)</sup>.
- (6) But the scheme manager must not refuse an application where the decision by virtue of which M’s service became opted-out service was communicated to the scheme manager during the period—
  - (a) beginning on the day six months before M would have (but for the opt-out decision) become a member of the reformed scheme, and
  - (b) ending at the end of 28th February 2022.
- (7) 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.
- (8) 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.
- (9) See section 5(2) to (4) of the PSPJOA 2022 about the effect, timing and irrevocability of an opted-out service election.

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