
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 Firefighters’ Pension Scheme (Scotland) Regulations 2015 (“the 2015 Regulations”) are the scheme regulations establishing the successor firefighters’ pension scheme (“the reformed scheme”) to the schemes established by the Firemen’s Pension Scheme Order 1992 and the Firefighters’ Pension Scheme (Scotland) Order 2007 (“the legacy schemes”). The 2015 Regulations provided for transitional protection for certain cohorts of legacy scheme members. Transitional protection of this sort was subsequently found to unlawfully discriminate between legacy scheme members on the basis of age.

The Public Service Pensions and Judicial Offices Act 2022 (“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 had the benefit 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 a firefighters’ pension scheme. 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 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 a firefighters’ pension scheme 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 member’s legacy scheme or in the reformed scheme;
- 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 agreement or order where they are subject to a pension debit under section 29 of the Welfare Reform 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;

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- 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 or agreement.

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 further pension rights—

- a) regulation 27 makes provision under which compensation is to be paid in relation to voluntary contributions used to secure rights to reformed scheme added pension during the period of their remediable service;
- b) regulation 28 makes provision under which compensation is to be paid in relation to voluntary contributions used to secure rights to legacy scheme added years during the period of their remediable service where the benefits to be paid in relation to a member's remediable service are reformed scheme benefits;
- c) regulation 29 makes provision under which a member who has remediable service in the reformed scheme may elect to enter into a retrospective arrangement to secure added years in the member's legacy scheme in respect of that remediable service.

Part 6 makes provision about transfers in and out of a firefighter's 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 firefighters' 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 firefighters' pension scheme on a club basis;
- d) Chapter 4 makes provision for—
- transfers into the reformed scheme in respect of rights secured by virtue of remediable service to be treated as being transferred into the member's legacy scheme where the benefits which become payable in respect of the member's remediable service are legacy scheme benefits;
 - the conferring or variation of rights in a member's legacy scheme to reflect a change in the value of those rights by virtue of PSPJOA 2022 and these Regulations;
 - 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 2 makes provision about 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;
- b) Chapter 1 makes provision about ill-health retirement—
- regulation 50 makes provision about the cases in which a member who met the requirements for an ill-health retirement award in one firefighters' pension scheme is to be deemed as meeting the requirements in their alternative firefighters' pension scheme;
 - regulation 51 makes provision under which a member who has received an ill-health retirement award under the Firemen's Pension Scheme Order 1992 is to be assessed for eligibility for a higher tier award in the reformed scheme.

Part 8 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, 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.