
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 242

The Firefighters' Pensions (Remediable Service) (Scotland) Regulations 2023

PART 4

Provision about divorce and dissolution arrangements

CHAPTER 1

Pension credit and pension debit members

SECTION 2

Pension sharings orders and agreements: information provided before 1 October 2023

Application and interpretation of Section 2

18.—(1) This Section applies where, before 1 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 remedial service as a firefighter.

(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 arrangement 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 arrangement 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 arrangement;

“initial scheme”, in relation to a relevant pension sharing arrangement that does not relate to mixed service, means the firefighters' 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 arrangement 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 arrangement 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 arrangement 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 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 to a relevant pension sharing arrangement 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 section 29(2) of WRPA 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 section 29(2) or WRPA 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 section 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, 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 reformed scheme.
- (3) In this regulation—
- “implied percentage” in relation to the value of benefits under a firefighter pension 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;
 - “legacy scheme percentage value” means the percentage value specified in a relevant pension sharing arrangement in relation to D’s legacy scheme 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 service as a firefighter 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 service as a firefighter on or before D’s tapered protection closing date;
 - “reformed scheme percentage value” means the percentage value specified in a relevant pension sharing arrangement in relation to the reformed scheme for the purpose of determining an amount under section 29(2) of WRPA 1999;
 - “relevant percentage value” means—
 - (a) where the relevant pension sharing arrangement 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 2015 Regulations.

Information provided before 1 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 30 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 arrangement 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 30 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 made in accordance with regulation 21(5) and the consequences of making, or not making, such a request.

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

21.—(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 arrangement—

- (a) a pension credit in only one firefighter pension scheme, C’s pension credit member account under that scheme;
- (b) a pension credit in D’s legacy scheme and the reformed scheme—
 - (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 legacy scheme.

(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 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 a Chapter 1 legacy scheme were a reference to the firefighters’ pension scheme in which C has a pension credit;
- (b) a reference to M’s remediable service in an employment or office were a reference to C’s pension credit;
- (c) 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;
- (d) the term “operative time” means the time at which the adjustment mentioned in paragraph (2) is made (disregarding paragraph (3)).

Information provided before 1 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 arrangement relates to mixed service, the alternative reduction amounts, in relation to D's remediable relevant benefits—

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

(3) Where the relevant pension sharing arrangement 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 arrangement, and
- (c) the provisions of sections 29 and 31 of WRPA 1999.

(4) Where the relevant pension sharing arrangement 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).