
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 242

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

PART 6

Transfers

CHAPTER 1

General

Interpretation of Part 6

31.—(1) In this Part—

“public service pension scheme” means—

- (a) a Chapter 1 scheme⁽¹⁾;
- (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;

“receiving scheme”, in relation to a remediable value, means the scheme to which the remediable value was, or is to be, paid;

“remediable club transfer value”, in relation to a member, means the payment or acceptance by the scheme manager of—

- (a) a transfer value payment under interchange arrangements in accordance with Part F of schedule 2 of the 1992 Order;
- (b) a transfer value payment under the public sector transfer arrangements in accordance with Part 10 or Part 11 of schedule 1 of the 2007 Order;
- (c) a club transfer value payment under Part 9 of the 2015 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 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—

- (a) Part F of schedule 2 of the 1992 Order;
- (b) Part 10 or Part 11 of schedule 1 of the 2007 Order;
- (c) Part 9 of the 2015 Regulations,

so far as the transfer value relates to the member’s remediable rights;

(1) See section 33 of PSPJOA 2022 for the meaning of “Chapter 1 scheme”.

“remediable value” means, except in Chapter 4, 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) In this Part, the overall rights in relation to a remediable value in the legacy scheme are—
- (a) where the member’s legacy scheme would have permitted the transfer in of the entire remediable value (including, where relevant, any payment accepted under regulation 34(3) or any adjustment accepted under regulation 39(2)) had the transfer taken place immediately before 1 April 2022, the rights to legacy scheme benefits that would have been secured if the remediable value had been transferred into that scheme;
 - (b) otherwise, the rights to legacy scheme benefits that would have been secured if that portion of the remediable value that the legacy scheme would have permitted to be transferred in had been transferred into that scheme, together with—
 - (i) where the member has service in an employment or office on or after 1 April 2022 which is pensionable service under the reformed scheme (“relevant reformed scheme service”), the rights to reformed scheme benefits if the remaining portion of the remediable value had been transferred into that scheme;
 - (ii) where the member does not have relevant reformed scheme service, the right to payment of an amount by way of compensation equal to the value of rights to reformed scheme benefits if the remaining portion of the remediable value had been transferred into that scheme.
- (3) Where a provision of this Part requires the scheme manager to calculate a club transfer value or a transfer value (including a remediable club transfer value or a remediable transfer value) in relation to rights secured in a firefighters’ pension scheme, that value is to be calculated in accordance with—
- (a) the provisions of the firefighters’ pension 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 calculation.

Transferred out remediable service statements

32. Where a remedy member has transferred any rights in respect of remediable service out of a firefighters’ pension 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 4).

CHAPTER 2

Transfers on a cash equivalent basis

SECTION 1

Transfers before 1 October 2023

Transfers out before 1 October 2023

33.—(1) This regulation applies in relation to each member (“M”) in respect of whom the scheme manager paid a remediable transfer value before 1 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) M's legacy scheme;
- (b) the reformed scheme.

(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 ("the remediable 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—

- (a) paragraph (4) applies, and
- (b) the scheme manager, having taken reasonable steps, is unable to make the payment required by that paragraph,

the scheme manager owes M or, where M is deceased, M's personal representatives an amount by way of compensation equal to $x - y$ ("the compensatable amount") reduced in accordance with paragraph (7).

(7) Where, if the compensatable amount was paid immediately after the requirement to pay it arose, the payment—

- (a) would be a payment described in regulation 6 of the Registered Pension Schemes (Authorised Payments) Regulations 2009(2) ("the 2009 Regulations") as if regulation 6(1) of those Regulations were omitted, the compensatable amount is to be reduced by the amount equal to the income tax that would be chargeable on it as if regulation 3(b) of the 2009 Regulations applied to it;
- (b) would not be a payment so described, the compensatable amount is to be reduced by an amount equal to the income tax that would be charged on the amount at M's marginal rate under the Income Tax Acts.

Transfers in before 1 October 2023

34.—(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 1 October 2023.

(2) The scheme manager must determine M's—

- (a) overall rights in relation to the remediable transfer value in the legacy scheme;
- (b) benefits if the remediable transfer value, together with any payment accepted under paragraph (4), were applied in respect of rights in the reformed scheme.

(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 firefighters' pension scheme on the same terms as the remediable transfer value.

(2) [S.I. 2009/1171](#). Regulation 6 was amended by section 42(6)(a) of the Finance Act 2014 (c. 26).

SECTION 2

Transfers on or after 1 October 2023

Application of Section 2

- 35.** This Section applies in respect of a member (“M”) who is—
- (a) a deferred choice member, and no pension benefits have become payable in relation to M’s remediable service as a firefighter, or
 - (b) an immediate choice member, and—
 - (i) the end of the section 6 election period has not passed in relation to M, and
 - (ii) no immediate choice decision has been made in relation to M’s remediable service as a firefighter.

Transfers out on or after 1 October 2023

- 36.**—(1) This regulation applies to a remediable transfer value payment to be made in relation to M by the scheme manager on or after 1 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) M’s legacy scheme;
 - (b) the reformed scheme.
- (3) The amount of the remediable transfer value is the greater of the amounts calculated under paragraph (2).

Transfers in from a public service pension scheme on or after 1 October 2023

- 37.**—(1) This regulation applies in relation to a remediable transfer value payment—
- (a) which is accepted by the scheme manager on or after 1 October 2023; and
 - (b) where the sending scheme is a public service pension scheme.
- (2) The scheme manager, having consulted the scheme actuary, must determine—
- (a) M’s overall rights in relation to the remediable transfer value in the legacy scheme;
 - (b) M’s benefits if the remediable transfer value were applied in respect of rights in the reformed scheme.

CHAPTER 3

Transfers on a club basis

SECTION 1

Club transfers before 1 October 2023

Club transfers out before 1 October 2023

- 38.**—(1) This regulation applies in relation to each member (“M”) in respect of whom a remediable club transfer value was paid by the scheme manager before 1 October 2023.
- (2) The scheme manager, having consulted the scheme actuary, must calculate the following amounts—

- (a) the club transfer value of M's rights under a firefighters' pension scheme as if M's remediable rights had been secured in M's legacy scheme;
 - (b) the club transfer value of M's rights under a firefighters' pension scheme as if M's remediable rights had been secured in the reformed scheme.
- (3) The scheme manager must provide to the receiving scheme the result of the calculations mentioned in paragraph (2).
- (4) Where the receiving scheme 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 club 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 1 October 2023

- 39.**—(1) This regulation applies in relation to each remediable club transfer payment value in respect of a member ("M") which was accepted by the scheme manager before 1 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 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 firefighters' pension scheme on the same terms as the remediable club transfer value.
- (4) The scheme manager must determine—
- (a) M's overall rights in relation to the remediable transfer value in the legacy scheme;
 - (b) M's benefits if the remediable club transfer value, together with any adjustment accepted under paragraph (2), were applied in respect of rights in the reformed scheme.

SECTION 2

Club transfers on or after 1 October 2023

Application of Section 2

40. 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 as a firefighter.

Club transfers out on or after 1 October 2023

- 41.**—(1) This regulation applies in relation to a remediable club transfer value payment to be made in respect of a member by the scheme manager on or after 1 October 2023.
- (2) The scheme manager must calculate the following amounts—
- (a) the club transfer value of M's rights under a firefighters' pension scheme as if M's remediable rights had been secured in M's legacy scheme;
 - (b) the club transfer value of M's rights under a firefighters' pension scheme as if M's remediable rights had been secured in the reformed scheme.

(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 1 October 2023

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

(2) The scheme manager, having consulted the scheme actuary, must determine—

- (a) M’s overall rights in relation to the remediable club transfer value in the legacy scheme;
- (b) M’s benefits if the remediable club transfer value were applied in respect of rights in the reformed scheme.

SECTION 3

Variation of the club transfer application period

Variation of the club transfer application period

43. Regulation 131(3) of the 2015 Regulations applies in relation to—

- (a) a remedy member who is not a full protection member within the meaning of paragraph 1 of schedule 2 of those Regulations, and
- (b) a transfer payment request for a club transfer value payment in respect of such a member, as if for “the day on which the member becomes an active member” there were substituted “1 October 2023”.

CHAPTER 4

Treatment of rights secured by virtue of a remediable value

Application and interpretation of Chapter 4

44.—(1) This regulation applies in relation to a remediable value.

(2) In this Chapter, “remediable value” means the following accepted by the scheme manager in respect of a member (“M”)—

- (a) a remediable transfer value, together with any payment accepted under regulation 34(3);
- (b) a remediable club transfer value, together with any adjustment accepted under regulation 39(2).

Remediable value treated as being in the legacy scheme

45.—(1) This regulation applies where—

- (a) a remediable value was accepted into the reformed scheme by the scheme manager in respect of M during the period of M’s remediable service as a firefighter, and
- (b) the benefits payable in relation to M’s remediable service as a firefighter are, by virtue of the operation of these Regulations or PSPJOA 2022, legacy scheme benefits.

(2) The remediable value—

- (a) is not, and is treated as never having been, accepted into reformed scheme, and

- (b) is treated as being, and as always having been, accepted in M's legacy scheme.
- (3) Paragraph (1) has effect—
 - (a) for the purposes of determining which firefighters' pension scheme is (or at any time was) required to pay benefits to or in respect of the remediable value, and
 - (b) subject to regulation 46, for all other purposes.

Treatment of rights to benefits secured by virtue of a remediable value

46.—(1) Paragraphs (2) and (4) apply where a remediable value is treated as being accepted into M's legacy scheme by virtue of regulation 45.

(2) The scheme manager must confer rights to benefits under the legacy scheme in relation to the remediable value that are equivalent to—

- (a) where M's legacy scheme would have permitted the transfer in of the entire remediable value had the transfer taken place immediately before 1 April 2022, the rights to legacy scheme benefits that would have been secured if the remediable value had been transferred into that scheme in the same relevant pension year in which the remediable value was accepted;
- (b) otherwise—
 - (i) where M has relevant reformed scheme service (within the meaning of regulation 31(2)(b)(i)), the rights to legacy scheme benefits that would have been secured if that portion of the remediable value that the legacy scheme would have permitted to be transferred in were transferred into that scheme in the same relevant pension year in which the remediable value was accepted, together with the rights to reformed scheme benefits if the remaining portion of the remediable value had been transferred into the reformed scheme in the same relevant pension year in which the remediable value was accepted;
 - (ii) where M does not have relevant reformed scheme service, the rights to legacy scheme benefits that would have been secured if that portion of the remediable value that the legacy scheme would have permitted to be transferred in were transferred into that scheme in the same relevant pension year in which the remediable value was accepted.

(3) Where paragraph (2)(b)(ii) applies, the scheme manager owes to M or, where M is deceased, to M's personal representatives an amount by way of compensation equal to the value of rights to reformed scheme benefits that would have been secured if the portion of the remediable value that M's legacy scheme would not have permitted to be transferred in had been transferred into the reformed scheme.

(4) The rights to benefits that would otherwise have been secured by the remediable value are extinguished.

(5) Where—

- (a) the benefits payable to or in respect of M's remediable service as a firefighter are reformed scheme benefits by virtue of a section 6 election or a section 10 election (including, in either case, a deemed election), and
- (b) the rights to benefits payable in relation to M's remediable value would otherwise be legacy scheme benefits,

the scheme manager must, having consulted the scheme actuary, where the remediable value is a remediable transfer value, vary the value of those rights so that they are of an equivalent value to rights M would have secured under the reformed scheme if the remediable value had been transferred into that scheme in the same relevant pension year that the remediable value was accepted.

(6) In this regulation, “relevant pension year” has the meaning given by direction 5(16)(c)(i) of the PSP Directions 2022.

Benefits already paid in relation to transferred in remediable rights

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

- (a) they are calculated by reference to a remediable value, and
 - (b) they are benefits that, as a result of regulation 45(2)(a), P was not entitled to receive from the scheme.
- (2) The paid benefits are to be treated for all purposes—
- (a) as not having been paid to P by the reformed scheme, but
 - (b) as having been paid to P instead by the legacy scheme.

Pension benefits and lump sum benefits in relation to a remediable value

48.—(1) This regulation applies in relation to any benefits that have been in relation to a remediable value accepted in relation to 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 47) have been paid under the legacy scheme 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 45 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 as a firefighter, the time the decision is made;
 - (b) otherwise, the end of the section 6 election period in relation to M.