
STATUTORY INSTRUMENTS

2023 No. 942

The Public Service (Civil Servants and Others)
Pensions (Remediable Service) Regulations 2023

PART 3

Decisions about the treatment of remediable service

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 PCSPS opted-out service.

(2) In this Chapter—

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

“PCSPS opted-out service” means relevant opted-out service⁽¹⁾ in an employment or office in relation to the PCSPS.

Election in relation to PCSPS opted-out service

6.—(1) An election (an “opted-out service election”) may be made in relation to M’s PCSPS 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 a deceased member, by the eligible decision-maker determined in accordance with the Schedule.

(3) Where a person 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 beginning with 1st October 2023 and ending—

(i) at the end of 30th September 2024, or

(ii) such later time as the scheme manager considers reasonable in all the circumstances,
and

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

- (d) accompanied by such information—
 - (i) which is within the person’s possession, or
 - (ii) which the person 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) 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.
- (6) The scheme manager may refuse an application where any of the following conditions is not 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;
 - (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⁽²⁾;
 - (c) any—
 - (i) assets held for the purposes of a partnership pension account⁽³⁾ that are referable to pension contributions made by or on behalf of M in respect of M’s PCSPS opted-out service are transferred to the PCSPS, and
 - (ii) entitlement to a future or current pension under the partnership pension account that would otherwise arise under the rules of the partnership pension account in respect of the value of the assets transferred is surrendered;
 - (d) where any assets that are referable to pension contributions made by or on behalf of M in respect of M’s PCSPS opted-out service have been paid or transferred out of a partnership pension account, an amount determined by the scheme manager following consultation with the scheme actuary is paid to the PCSPS in respect of the payment or transfer.
- (7) An opted-out service election to be made by—
 - (a) a person other than the scheme manager is made when that 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.
- (8) See section 5(2) to (4) of PSPJOA 2022 about the effect, timing and irrevocability of an opted-out service election.

(2) See section 25(8) of PSPJOA 2022 for the meaning of “non-discrimination rule” and section 25(9) for the circumstances in which breach of a non-discrimination rule is “relevant”.

(3) See section 110(1) of PSPJOA 2022 for the definition of “partnership pension account”.

CHAPTER 2

Immediate choice decision for alpha or PCSPS benefits

Application of Chapter 2

7.—(1) This Chapter applies in respect of the remediable service of an immediate choice member (“M”).

(2) Where M has remediable service in multiple employments or offices, this Chapter applies separately in relation to the remediable service in each employment or office.

Immediate choice decision for alpha or PCSPS benefits: general

8.—(1) A decision (an “immediate choice decision”) may be made in accordance with this Chapter—

- (a) to make an election (a “section 6 election”) by virtue of section 6 of PSPJOA 2022 in relation to M’s remediable service, or
- (b) that no section 6 election is to be made in relation to that service.

(2) An immediate choice decision may be made—

- (a) by M, or
- (b) where M is deceased, by the eligible decision-maker determined in accordance with the Schedule.

(3) An immediate choice decision made by—

- (a) a person other than the scheme manager is made when it is received by the scheme manager in a form and manner determined by the scheme manager;
- (b) the scheme manager is made at the time determined by the scheme manager.

(4) An immediate choice decision may only be made before the end of the section 6 election period⁽⁴⁾.

(5) An immediate choice decision is irrevocable.

(6) An immediate choice decision to make a section 6 election takes effect as a section 6 election (see sections 6(5) and (7), 7(1)(b) and 9 of PSPJOA 2022 about the effect of a section 6 election).

(7) Paragraph (8) applies where—

- (a) immediately before 1st October 2023, M has remediable service in alpha (“alpha service”), and
- (b) an immediate choice decision is made that no section 6 election is to be made in relation to M’s remediable service.

(8) Where this paragraph applies, section 6(4) of PSPJOA 2022 does not apply in relation to M’s alpha service (and, accordingly, section 2(1) of PSPJOA 2022 has effect in relation to M’s alpha service for the purposes mentioned in section 2(3)(b) of that Act from the time the immediate choice decision mentioned in paragraph (7)(b) is made).

(9) The following provisions of PSPJOA 2022 have effect in relation to an immediate choice decision that no section 6 election is to be made as they have effect in relation to a section 6 election—

- (a) section 6(7) (section 6 election has effect in respect of all remediable service in the employment or office);

⁽⁴⁾ See section 7(2) of PSPJOA 2022 for the meaning of “the end of the section 6 election period”.

- (b) section 7(1)(b) (provision about when a section 6 election is to be treated as having taken effect);
- (c) section 9 (provision about persons with remediable service in more than one Chapter 1 legacy scheme).

Immediate choice decision: additional requirements

9.—(1) This regulation applies where the immediate choice decision-maker (“D”) is a person other than the scheme manager.

(2) An immediate choice decision may not be made unless a remediable service statement has been provided to D in accordance with regulation 4(2)(a).

(3) An immediate choice decision is to be treated as having been made only if D provides any information specified in a written request from the scheme manager that is—

- (a) information in D’s possession, or
- (b) information which D can reasonably be expected to obtain.

Immediate choice decision: deemed section 6 election

10.—(1) A section 6 election is treated as made in relation to M’s remediable service immediately before the end of the section 6 election period where—

- (a) the end of the section 6 election period in relation to M has passed,
- (b) no immediate choice decision has been made in relation to M’s remediable service, and
- (c) condition A or B is met.

(2) Condition A is met where all of M’s remediable service was in alpha.

(3) Condition B is met where—

- (a) M’s remediable service was mixed service, and
- (b) the scheme manager determines, having consulted the scheme actuary, that the value of benefits payable in relation to M’s remediable service would be greater if payable as alpha benefits than if they were payable as PCSPS benefits.

CHAPTER 3

Deferred choice decision for alpha or PCSPS benefits

Application of Chapter 3

11.—(1) This Chapter applies in respect of the remediable service of a deferred choice member (“M”).

(2) Where M has remediable service in multiple employments or offices, this Chapter applies separately in relation to the remediable service in each employment or office.

Deferred choice decision for alpha or PCSPS benefits: general

12.—(1) A decision (a “deferred choice decision”) may be made—

- (a) to make an election (a “section 10 election”) by virtue of section 10 of PSPJOA 2022 in relation to M’s remediable service, or
- (b) that no section 10 election is to be made in relation to that service.

(2) A deferred choice decision may be made—

- (a) by M, or

- (b) where M is deceased, by the eligible decision-maker determined in accordance with the Schedule.
- (3) A deferred choice decision made by—
 - (a) a person other than the scheme manager is made when it is received by the scheme manager in a form and manner determined by the scheme manager;
 - (b) the scheme manager is made at a time determined by the scheme manager.
- (4) A deferred choice decision may only be made before the end of the section 10 election period.
- (5) A deferred choice decision to make a section 10 election takes effect as a section 10 election (see sections 10(4) and (5), 11(3)(b), (4) and (7) and 13 of PSPJOA 2022 about the effect of a section 10 election).
- (6) Where the deferred choice decision is that no section 10 election is to be made, the benefits payable to or in respect of M, so far as they are determined by reference to M's remediable service, are PCSPS benefits.
- (7) The following provisions of PSPJOA 2022 have effect in relation to a decision that no section 10 election is to be made as they have effect in relation to a section 10 election—
 - (a) section 10(5) (section 10 election has effect in respect of all remediable service in the employment or office);
 - (b) section 11(3)(b), (4) and (7) (provision about when a section 10 election takes effect, and the effect of lapse or revocation of a section 10 election);
 - (c) section 13 (persons with remediable service in more than one Chapter 1 legacy scheme).

Deferred choice decision: when a deferred choice decision may be made

- 13.—**(1) Where the deferred choice decision-maker is M, a deferred choice decision may be made only during the period—
- (a) beginning on the date of issue of the remediable service statement issued under regulation 4(2)(c)(i), and
 - (b) ending—
 - (i) at the end of the day 3 months before the day the scheme manager reasonably expects, by virtue of the notification mentioned in regulation 4(2)(c)(i), that benefits in relation to M's remediable service will become payable,
 - (ii) subject to paragraph (2), at the end of such other day as the scheme manager considers reasonable in all the circumstances, or
 - (iii) if earlier than the time which applies by virtue of paragraph (i) or (ii), at the end of the day before the day on which benefits become payable in relation to M's remediable service.
- (2) The end of the period during which a deferred choice decision may be made must not be more than one year before the day on which it is reasonably expected that, if a section 10 election were made, alpha benefits would become payable to or in respect of M.
- (3) Where—
- (a) the period for making a deferred choice decision has begun in accordance with paragraph (1)(a), and
 - (b) the scheme manager receives notice that M has died before benefits become payable to M in relation to M's remediable service,

the period during which a deferred choice decision may be made is to be treated as ending in accordance with paragraph (4)(b) instead of paragraph (1)(b).

(4) Where the deferred choice decision-maker is a person other than M (“D”), a deferred choice decision may only be made during the period—

- (a) beginning—
 - (i) where D is a person other than the scheme manager, on the date of issue of the remediable service statement issued under regulation 4(2)(c)(ii), or
 - (ii) where D is the scheme manager, on the date the scheme manager receives notice that M has died, and
- (b) ending—
 - (i) at the end of the day 12 months after that date,
 - (ii) except where D is the scheme manager, at the end of such other day as the scheme manager considers reasonable in all the circumstances, or
 - (iii) if earlier than the time which applies by virtue of paragraph (i) or (ii), immediately after a deferred choice decision is made by D.

(5) Where—

- (a) the deferred choice decision-maker is D, and
- (b) M had made a deferred choice decision,

D may make a deferred choice decision only if they revoke M’s deferred choice decision in accordance with regulation 14(2).

Deferred choice decision: revocation

14.—(1) Where the deferred choice decision-maker is M, M may revoke a deferred choice decision—

- (a) at any time before benefits become payable in relation to M’s remediable service, and
- (b) by M communicating to the scheme manager notice of the revocation in a form and manner determined by the scheme manager.

(2) Where—

- (a) the deferred choice decision-maker is a person other than M or the scheme manager (“D”),
- (b) M had made a deferred choice decision,
- (c) immediately before M’s death, no pension benefits were payable in relation to M’s remediable service, and
- (d) the end of the section 10 election period has not passed,

D may revoke M’s deferred choice decision by communicating to the scheme manager notice of the revocation in a form and manner determined by the scheme manager.

(3) A deferred choice decision made by a person other than M is irrevocable.

Deferred choice decision: additional requirements

15. Where the deferred choice decision-maker (“D”) is a person other than the scheme manager, a deferred choice decision is to be treated as having been made only if D provides any information specified in a written request from the scheme manager that is—

- (a) information in D’s possession, or
- (b) information which D can reasonably be expected to obtain.