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STATUTORY INSTRUMENTS

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**2023 No. 985**

**The National Health Service Pension Schemes  
(Remediable Service) Regulations 2023**

**PART 3**

**Elections**

**Election for 2015 scheme benefits: immediate choice members and deceased members**

**9.—**(1) A person mentioned in paragraph (2) may make an election for the benefits paid to or in respect of a remedy member with regard to that member’s remediable service to be determined as if the service to which those benefits relate were pensionable service under the 2015 scheme (an “immediate choice election”) in accordance with this regulation.

(2) That person is—

(a) an immediate choice member, or

(b) a designated person where—

(i) the remedy member died before 1st October 2023 and was not at the time of their death entitled to a retirement pension in respect of their remediable service;

(ii) the remedy member died before that date and was at the time of their death entitled to a retirement pension in respect of their remediable service; or

(iii) the immediate choice member—

(aa) died on or after 1st October 2023, or

(bb) is, in the opinion of the scheme manager, by reason of illness or mental disorder or otherwise unable to look after their own affairs.

(3) For the purposes of this regulation, an immediate choice election must—

(a) contain such information as the scheme manager requires;

(b) be made by the immediate choice member or designated person in writing and in such form as the scheme manager determines; and

(c) be received by the scheme manager before the end of the immediate choice election period.

(4) Where the scheme manager accepts an immediate choice election made by an immediate choice member or designated person in accordance with this regulation or treats such an election as having been made in accordance with paragraph (6), that election is—

(a) treated as having effect—

(i) immediately before the member became a pensioner member<sup>(1)</sup> of the legacy scheme or the 2015 scheme, or

(ii) immediately before the remedy member’s death if the member died before becoming a pensioner member, and

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<sup>(1)</sup> For the meaning of “pensioner member”, see section 109(3) of PSPJOA 2022.

(b) irrevocable.

(5) From the date on which the election is treated as having effect, the benefits due in respect of the remedy member's remediable service, in place of the benefits being paid for that service, are such benefits as the scheme manager determines must be paid to or in respect of that member, after having regard to all the circumstances of the case and treating that service as if for all purposes it were pensionable service under the 2015 scheme.

(6) The scheme manager may treat an immediate choice election as having been made under this regulation immediately before the end of the immediate choice election period if paragraph (7) applies.

(7) This paragraph applies if the scheme manager—

- (a) does not receive an immediate choice election before the end of the immediate choice election period, and
- (b) determines, after having regard to all the circumstances of the case and the advice of the scheme actuary, that it would be more beneficial if the benefits to be paid in respect of the remedy member's remediable service are determined under the 2015 Regulations.

(8) Where this regulation applies, the reference in section 6(4)(a) of PSPJOA 2022 (immediate choice to receive new scheme benefits) to "the end of the section 6 election period" is to be read as a reference to the end of the immediate choice election period (see regulation 2(1)).