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WELSH STATUTORY INSTRUMENTS

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**2023 No. 961**

**The Firefighters' Pensions (Remediable Service) (Wales) Regulations 2023**

**PART 5**

**Voluntary contributions**

**Treatment of 2015 scheme added pension payments**

**30.**—(1) This regulation applies in relation to a remediable added pension payment made by a remedy member (“M”).

(2) The scheme manager must, as soon as reasonably practicable after 30 September 2023 and having consulted the scheme actuary, determine the “compensatable amount”, being an amount by way of compensation which is equal to—

- (a) the aggregate of all of M’s remediable added pension payments, less
- (b) an amount in respect of the value of tax relief in accordance with directions 5(5) to (9) of the PSP Directions 2022.

(3) In the case of an immediate choice member, the scheme manager must set out the compensatable amount figure with the relevant remediable service statement sent in accordance with regulation 4.

(4) Where a determination is made in accordance with direction 5(8) of the PSP Directions 2022, the following apply—

- (a) direction 5(10) (provision of explanation);
- (b) direction 5(11) and (12) (appeals).

(5) The scheme manager owes to M or, where M is deceased, M’s personal representatives, the compensatable amount.

(6) The rights to benefits that would otherwise have been secured by the remediable added pension payment are extinguished.

(7) Where a person has received any pension benefits under the 2015 scheme by virtue of rights secured by a remediable added pension payment, that person owes to the scheme manager an amount equal to the aggregate of all such pension benefits.

(8) Paragraphs (5) to (7) only apply in relation to an immediate choice member—

- (a) after the section 6 election period has expired in accordance with section 7(2) of the PSPJOA 2022, or if earlier, immediately after an immediate choice decision has been made in accordance with Chapter 2 of these Regulations, and
- (b) where the immediate choice decision is for legacy scheme benefits in relation to M’s remediable service.

(9) Paragraph (10) applies where M is an immediate choice member for whom, as a result of paragraph (8), paragraphs (5) to (7) do not apply.

- (10) Where this paragraph applies—
- (a) the rights to benefits secured by virtue of the remediable added pension payment mentioned in paragraph (1) are to be treated for the purposes of these Regulations and of the PSPJOA 2022 as if those rights were secured by virtue of M’s remediable service, and
  - (b) section 2(5)(a) of the PSPJOA 2022 does not apply in relation to the arrangement by virtue of which M secured those rights (and, accordingly, section 2(1) of the PSPJOA 2022 affects that arrangement).
- (11) In this regulation, “remediable added pension payment” means—
- (a) a periodical payment for added pension made under an arrangement pursuant to Chapter 2 of Part 2 of Schedule 1 to the 2015 Regulations which commenced during the period of M’s remediable service;
  - (b) a lump sum payment for added pension made pursuant to Chapter 3 of Part 2 of Schedule 1 to the 2015 Regulations during the period of M’s remediable service.

### **Treatment of legacy scheme added years payments**

**31.**—(1) This regulation applies in relation to a remediable added years payment made by a remedy member (“M”).

(2) The scheme manager must, as soon as reasonably practicable after 30 September 2023 and having consulted the scheme actuary, determine the “compensatable amount”, being an amount by way of compensation which is equal to—

- (a) the aggregate of all of M’s remediable added years payments, less
- (b) an amount in respect of the value of tax relief in accordance with directions 5(5) to (9) of the PSP Directions 2022.

(3) Where a determination is made in accordance with direction 5(8) of the PSP Directions 2022, the following apply—

- (a) direction 5(10) (provision of explanation);
- (b) direction 5(11) and (12) (appeals).

(4) Where, by virtue of a section 6 election (including a deemed section 6 election) or a section 10 election, the benefits payable in relation to M’s remediable service are 2015 scheme benefits—

- (a) the scheme manager owes M or, where M is deceased, M’s personal representatives, the compensatable amount, and
- (b) the rights to benefits that would otherwise have been secured by the remediable added years payments are extinguished.

(5) In this regulation, a “remediable added years payment” means a payment to secure increased benefits under the 1992 Order or the 2007 Order which is—

- (a) a lump sum payment made during the period of M’s remediable service,
- (b) a periodical contribution made pursuant to an arrangement which commenced during the period of M’s remediable service, or
- (c) a lump sum payment or a periodical contribution made pursuant to a remedial arrangement under regulation 32.

### **Remedial arrangements to pay voluntary contributions to secure legacy scheme added years**

**32.**—(1) This regulation applies to a remedy member (“M”) who—

- (a) is not a deceased member, and

- (b) was, immediately before 1 April 2022, not a full protection member of the 1992 scheme or the 2007 scheme within the meaning of paragraph 9 of Schedule 2 to the 2015 Regulations as that paragraph was immediately before these Regulations came into force.
- (2) M may elect to enter into an arrangement (a “remediable arrangement”) to pay voluntary contributions to M’s legacy scheme for added benefits in accordance with the following—
  - (a) where M’s legacy scheme is—
    - (i) the 1992 scheme, the 1992 Order;
    - (ii) the 2007 scheme, the 2007 Order, and
  - (b) this regulation.
- (3) M may only enter into a remediable arrangement—
  - (a) in respect of a period of M’s remediable service,
  - (b) if the scheme manager is satisfied that it is more likely than not that, but for a relevant breach of a non-discrimination rule, M would, during the period of M’s remediable service, have entered into the same or similar arrangement,
  - (c) before—
    - (i) the end of the period of one year beginning on the day on which a remediable service statement is first provided in respect of M, or
    - (ii) such later time as the scheme manager considers reasonable in all the circumstances, and
  - (d) after an application made in accordance with paragraph (4) is approved by the scheme manager.
- (4) An application is made in accordance with this paragraph where—
  - (a) it is in writing,
  - (b) it is accompanied by any information the scheme manager reasonably requires to be provided for the purposes of—
    - (i) determining the matters mentioned in paragraph (3)(b);
    - (ii) complying with the requirement imposed by the 1992 Order or (as the case may be) the 2007 Order in connection with making an election to pay voluntary contributions for added benefits, and
  - (c) it is received by the scheme manager—
    - (i) before the end of the period of 6 months beginning with the day on which a remediable service statement is first provided in respect of M, or
    - (ii) such later time as the scheme manager considers reasonable in all the circumstances.
- (5) Where M enters into a remediable arrangement, M owes to the scheme manager an amount equal to—
  - (a) the aggregate of the voluntary contributions which M would have owed had M entered into the remediable arrangement at the time M would have entered into the same or a similar arrangement but for a relevant breach of a non-discrimination rule, less
  - (b) tax relief amounts calculated in accordance with direction 12(2) to (7) of the PSP Directions 2022.
- (6) Where a determination is made in accordance with direction 12(6) of the PSP Directions 2022, the following apply—
  - (a) direction 12(8) (provision of explanation);
  - (b) direction 12(9) and (10) (appeals).

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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**Disapplication of restriction on lump sum payments for 2015 scheme added pension**

**33.** Paragraph 5(5) of Schedule 1 to the 2015 Regulations does not apply in relation to an option to make a lump sum payment for added pension that was exercised by a remedy member during the period beginning with 1 April 2022 and ending with 31 March 2023.