
W E L S H S T A T U T O R Y
I N S T R U M E N T S

2023 No. 961 (W. 156)

**PUBLIC SERVICE PENSIONS,
WALES**

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Public Service Pensions Act 2013 (“PSPA 2013”) makes provision and confers powers to make further provision (in the form of “scheme regulations” as defined in section 1 of PSPA 2013) about the establishment of public service pension schemes. The Firefighters’ Pension Scheme (Wales) Regulations 2015 (“the 2015 scheme”) are the scheme regulations establishing the successor firefighters’ pension scheme (“the reformed scheme”) to the schemes established by the Firemen’s Pension Scheme Order 1992 and the Firefighters’ Pension Scheme (Wales) Order 2007 (“the legacy schemes”). The 2015 scheme provided for transitional protection for certain cohorts of members of legacy schemes, which were found to unlawfully discriminate between members on the basis of age.

The Public Service Pensions and Judicial Offices Act 2022 (“the PSPJOA 2022”), at Chapter 1, makes provision, and confers powers for scheme regulations under PSPA 2013 to make further provision, in relation to specified service (“remediable service” as defined in section 1 of the PSPJOA 2022) of members who had the benefit from transitional protection, and of members who did not benefit from transitional protection only by reason of their age. Section 27 of the PSPJOA 2022 requires certain powers to make scheme regulations to be exercised in accordance with Treasury directions.

These Regulations are scheme regulations under PSPA 2013 and in accordance with the PSPJOA 2022 in relation to a member’s remediable service in a firefighters’ pension scheme. They are, to the extent required by section 27 of the PSPJOA 2022, made in accordance with Treasury directions under that section

(in the form of the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022). These Regulations have retrospective effect, for which see section 3(3)(b) of PSPA 2013.

Part 2 of these Regulations makes provision about when and to whom a remediable service statement is to be provided by the scheme manager, as well as the contents of the remediable service statement.

Part 3 makes provision about the principal decisions that may be made in relation to a member's remediable service—

- (a) Chapter 1 makes provision about when and how an election may be made for service in respect of which a member opted-out of a firefighters' pension scheme to be reinstated and treated as remediable service;
- (b) Chapter 2 makes provision about when and how a decision may be made, or be deemed to have been made, about whether the remediable service of a pensioner or deceased member (an "immediate choice member") is to be treated as service in the member's legacy scheme or in the 2015 scheme;
- (c) Chapter 3 makes provision similar to Chapter 2, but in relation to the remediable service of an active or deferred member.

Part 4 makes provision about cases in which the pension rights secured by virtue of a member's remediable service are at issue in proceedings relating to the member's separation from a spouse or civil partner—

- (a) Chapter 1 makes provision about sharing the value of such rights under a pension sharing order where they are subject to a pension debit under section 29 of the Welfare Reform and Pensions Act 1999. It provides, in particular, for the calculation or, where appropriate, the re-calculation of the value of a pension debit and a pension credit in relation to the rights;
- (b) Chapter 2 makes provision about the calculation of the value of rights for the purposes of sharing those rights under an arrangement other than a pension sharing order.

Part 5 makes provision about lump sum voluntary contributions paid by a member during the period of their remediable service, and periodical contributions paid by a member under an arrangement which commenced during the period of their remediable service, to secure further pension rights, and retrospective arrangements to secure such further rights in respect of a member's remediable service—

- (a) regulation 30 makes provision under which compensation is to be paid in relation to voluntary contributions used to secure rights to 2015 scheme added pension during the period of their remediable service;
- (b) regulation 31 makes provision under which compensation is to be paid in relation to voluntary contributions used to secure rights to legacy scheme added years during the period of their remediable service where the benefits to be paid in relation to a member's remediable service are 2015 scheme benefits;
- (c) regulation 32 makes provision under which a member who has remediable service in the 2015 scheme may elect to enter into a retrospective arrangement to secure added years in the member's legacy scheme in respect of that remediable service.

Part 6 makes provision about transfers in and out of a firefighters' pension scheme of pension rights during the period of a member's remediable service—

- (a) Chapter 1 makes provision about, among other things, the provision of a remediable service statement to a person who has transferred out rights in respect of remediable service and in respect of whom a remediable service statement is not otherwise required to be provided;
- (b) Chapter 2 makes provision about transfers in and out of a firefighters' pension scheme on a cash equivalent basis, including provision about the calculation (and, where appropriate, the recalculation) of the value of a cash equivalent transfer value, and the making and accepting of payments in relation to the transfer value of rights secured by virtue of remediable service;
- (c) Chapter 3 makes provision similar to Chapter 2, but in relation to transfers in and out of a firefighters' pension scheme on a club basis;
- (d) Chapter 4 makes provision for—
 - (i) transfers into the 2015 scheme in respect of rights secured by virtue of remediable service to be treated as being transferred into the member's legacy scheme where the benefits which become payable in respect of the member's remediable service are legacy scheme benefits;
 - (ii) the conferring or variation of rights in a member's legacy scheme to reflect a change in the value of those rights by virtue of the PSPJOA 2022 and these Regulations;

- (iii) financial corrections of any pension benefits paid in respect of the transferred-in rights of an immediate choice member.

Part 7 makes provision about ill-health retirement—

- (a) regulation 53 makes provision about the cases in which a member who met the requirements for an ill-health retirement award in one firefighters' pension scheme is to be deemed as meeting the requirements in their alternative firefighters' pension scheme;
- (b) regulation 54 makes provision under which a member who has received an ill-health retirement award under the Firemen's Pension Scheme Order 1992 is to be assessed for eligibility for a higher tier award in the 2015 scheme.

Part 8 makes provision in relation to cases in which a person has already obtained a remedy in relation to their remediable service. Such persons are treated for the purposes of the PSPJOA 2022 and these Regulations as if they were an immediate choice member who has elected to receive legacy scheme benefits in relation to their remediable service.

Part 9 makes provision about any amounts ("relevant amounts") owed to or by a person as a result of the PSPJOA 2022 or these Regulations—

- (a) Chapter 2 makes provision for the calculation of interest on relevant amounts, for the increase of benefits instead of the payment of a relevant amount, for the making of an application where a person wishes to claim compensation, and for the netting off of relevant amounts owed to and by a person;
- (b) Chapter 3 makes provision about the reduction and waiver of relevant amounts, in particular a requirement for the scheme manager to reduce some relevant amounts by tax relief amounts, the requirement for the scheme manager to waive amounts owed by relevant survivors and relevant separated persons, the discretion of the scheme manager to reduce or waive relevant amounts owed by a person to a scheme in certain circumstances, and the option to defer payment of certain relevant amounts owed to a member until an election is made in relation to the member's remediable service;
- (c) Chapter 4 makes provision about when and how relevant amounts must be paid.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to

the likely costs and benefits of complying with these Regulations. A copy can be obtained from Fire Services Branch, Welsh Government, Rhydycar, Merthyr Tydfil, CF48 1UZ.

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2023 No. 961 (W. 156)

**PUBLIC SERVICE PENSIONS,
WALES**

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

Made 4 September 2023

Laid before Senedd Cymru 6 September 2023

Coming into force 1 October 2023

The Welsh Ministers make these Regulations in exercise of the powers conferred on them by sections 1(1) and (2)(f), and 2(1) together with paragraph 6(b) of Schedule 2 and sections 3(1), (2) and (3) of the Public Service Pensions Act 2013⁽¹⁾ (“the 2013 Act”) and sections 5(1) and (5), 6(1), 7(3), 8(1) and (3), 10(1) and (3), 11(1) and (5), 12(1) and (3), 18(1) to (3), (5), (6) and (8), 19(1), (4) and (5), 20(1), (4) and (5), 21, 22(1) and (6), 24(1), 25(1), (3) and (4), 26(1) and (2), 29(1), (7) and (8) and 31(2) and (3) of the Public Service Pensions and Judicial Offices Act 2022 (“the PSPJOA 2022”)⁽²⁾.

In accordance with section 3(5) of the 2013 Act, these Regulations are made with the consent of the Treasury.

In accordance with section 21(1) of the 2013 Act, the Welsh Ministers have consulted such persons (or the representatives of such persons) as appear to the Welsh Ministers likely to be affected by these Regulations.

These Regulations are made in accordance with Treasury directions made under section 27 of the PSPJOA 2022.

(1) 2013 c. 25. Section 3(1) was amended by section 94(2) of the PSPJOA 2022, and section 3(2)(c) was inserted by section 94(3) of that Act.

(2) 2022 c. 7.

PART 1

Introductory provisions

Title, application and coming into force

1.—(1) The title of these Regulations is the Firefighters’ Pensions (Remediable Service) (Wales) Regulations 2023.

(2) These Regulations apply in, or as regards, Wales.

(3) These Regulations come into force on 1 October 2023.

Interpretation

2.—(1) In these Regulations—

“the PSPJOA 2022” (“*DPGCSB 2022*”) means the Public Service Pensions and Judicial Offices Act 2022;

“the 1992 Order” (“*Gorchymyn 1992*”) means the Firemen’s Pension Scheme Order 1992⁽¹⁾ and “the 1992 scheme” (“*Cynllun 1992*”) means the pension scheme set out in Schedule 2 to that Order as it has effect in Wales;

“the 2007 Order” (“*Gorchymyn 2007*”) means the Firefighters’ Pension Scheme (Wales) Order 2007⁽²⁾ and “the 2007 scheme” (“*cynllun 2007*”) means the pension scheme set out in Schedule 1 to those Regulations;

“the 2015 Regulations” (“*Rheoliadau 2015*”) means the Firefighters’ Pension Scheme (Wales) Regulations 2015⁽³⁾, “the 2015 scheme” means the pension scheme set out in those Regulations, and—

(a) “2015 scheme benefits” means benefits under the 2015 Regulations;

(b) “2015 scheme service”, in relation to a member, means the member’s remediable service in an employment that is pensionable service under the 2015 Regulations (whether or not by virtue of section 2(1) of the PSPJOA 2022);

“the PSP Directions 2022” (“*Cyfarwyddydau PGC 2022*”) means the Public Service Pensions

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- (1) S.I. 1992/129. The name of the scheme was changed to the Firefighters’ Pension (Wales) Scheme by S.I. 2004/2918 (W. 257). Further amended by S.I. 2014/3242 (W. 329) and 2015/1016 (W. 71). Other amendments made are not relevant to these Regulations.
- (2) S.I. 2007/1072 (W. 110), to which there are amendments not relevant to these Regulations.
- (3) S.I. 2015/622 (W. 50); relevant amending instruments are S.I. 2015/1016 (W. 71), 2018/576 (W. 103) and 2022/343 (W. 85).

(Exercise of Powers, Compensation and Information) Directions 2022⁽¹⁾;

“death benefit” (*“budd marwolaeth”*) means a benefit payable under a firefighters’ pension scheme in relation to member of that scheme who has died;

“deferred choice decision” (*“penderfyniad dewis gohiriedig”*) has the meaning given in regulation 14(1);

“deferred choice decision-maker” (*“penderfynwr dewis gohiriedig”*) means the person who may make a deferred choice election decision under regulation 14(2);

“deferred choice member” (*“aelod dewis gohiriedig”*) means a member with remediable service who is not an immediate choice member;

“end of the section 10 election period” (*“diwedd y cyfnod dewisiad adran 10”*), in relation to a deferred choice member, means the time determined in accordance with—

- (a) where the member is the deferred choice decision-maker, regulation 15(3)(b);
- (b) where a person other than the member is the deferred choice decision-maker, regulation 16(3)(b);

a “firefighters’ pension scheme” (*“cynllun pensiwn diffoddwyr tân”*) means the 1992 scheme, the 2007 scheme or the 2015 scheme;

“immediate choice decision” (*“penderfyniad dewis ar unwaith”*) has the meaning given in regulation 10(1);

“immediate choice decision-maker” (*“penderfynwr dewis ar unwaith”*) means the person who may make an immediate choice decision under regulation 10(2);

“immediate choice member” (*“aelod dewis ar unwaith”*) means a member with remediable service who, immediately before 1 October 2023, was deceased or entitled to the present payment of a pension, other than a deferred choice pension, under the 1992 scheme, the 2007 scheme or the 2015 scheme; and “deferred choice pension” (*“pensiwn dewis gohiriedig”*) means a pension the rate of which—

- (a) is not determined (to any extent) by reference to the member’s remediable service, and
- (b) is not affected by the coming into force of section 2(1) of the PSPJOA 2022;

(1) Made on 14 December 2022. Published on 15 December 2022 and accessible online at www.gov.uk. A hard copy is available on written request to His Majesty’s Treasury, 1 Horse Guards Road, London, SW1A 2HQ.

the “legacy scheme” (“*cynllun gwaddol*”), in relation to a member’s remediable service, means whichever of the 1992 scheme or 2007 scheme is the relevant Chapter 1 legacy scheme⁽¹⁾ for the member, and—

- (a) “legacy scheme benefits” means benefits calculated in accordance with that scheme;
- (b) “legacy scheme service” means a member’s remediable service⁽²⁾ in an employment that is pensionable under the legacy scheme (whether or not by virtue of section 2(1) of the PSPJOA 2022);

“member” (“*aelod*”) means an active, deferred, deceased, pension credit or pensioner member⁽³⁾ of a firefighters’ pension scheme;

“opted-out service election” (“*dewisiad gwasanaeth a optiwyd allan*”) has the meaning given in regulation 6(1);

“remediable service” (“*gwasanaeth rhwymediol*”) means, in relation to a member, the member’s remediable service in an employment that is pensionable service under a firefighters’ pension scheme;

“remedy member” (“*aelod rhwymedi*”) means a deferred choice member or an immediate choice member;

“section 6 election” (“*dewisiad adran 6*”) has the meaning given in regulation 10(1)(a);

“section 10 election” (“*dewisiad adran 10*”) has the meaning given in regulation 14(1)(a).

(2) For the purposes of these Regulations, a reference in the PSPJOA 2022 to section 2(1) of that Act coming into force is a reference to that section coming into force in relation to members of a firefighters’ pension scheme.

(3) A term used in these Regulations which—

- (a) is defined in, or for the purposes of, a provision in Chapter 1 of Part 1, section 109 or section 110 of the PSPJOA 2022, and
- (b) is not defined differently in these Regulations,

has the meaning given in, or for the purposes of, that provision.

(4) A term used in these Regulations which—

- (a) is defined in the 1992 Order, the 2007 Order or the 2015 Regulations (“the relevant Regulations”), and

(1) See section 4 of the PSPJOA 2022 for the meaning of “the relevant Chapter 1 legacy scheme”.

(2) See section 1 of the PSPJOA 2022 for the meaning of “remediable service”.

(3) See section 109(3) of the PSPJOA 2022 for the meaning of “pensioner member”.

(b) is not defined differently—

(i) in these Regulations, or

(ii) in, or for the purposes of, a provision in Chapter 1 of Part 1, section 109 or section 110 of the PSPJOA 2022,

has, in relation to the scheme established by the relevant Regulations, the meaning given in those Regulations.

Delegation

3. The scheme manager may delegate any functions of the scheme manager under these Regulations, including this power to delegate.

PART 2

Remediable Service Statements

Requirement to provide a remediable service statement

4.—(1) The scheme manager must provide a remediable service statement in respect of a remedy member (“M”) in accordance with—

(a) section 29 of the PSPJOA 2022,

(b) any Treasury directions made under section 29(6) of that Act, and

(c) this regulation.

(2) A remediable service statement must be provided in respect of M—

(a) on or before the relevant date⁽¹⁾,

(b) where M is, in relation to their remediable service, for the time being—

(i) an active member⁽²⁾, at least once in each year ending with the anniversary of the relevant date,

(ii) a deferred member⁽³⁾, in response to a request by the person mentioned in paragraph (3)⁽⁴⁾, or

(iii) a pensioner member, once only, and

(1) See section 29(10) of the PSPJOA 2022 for the meaning of “the relevant date”.

(2) See section 109(2) of the PSPJOA 2022 for the meaning of “active member”.

(3) See section 109(4) of the PSPJOA for the meaning of “deferred member”.

(4) In accordance with section 29(9) of the PSPJOA 2022, only one request under regulation 4(2)(b)(ii) may be made during any period of 12 months.

(c) where M is a deferred choice member, as soon as reasonably practicable following receipt of notification—

(i) under regulation 15(2) that M intends to claim benefits in relation to M's remediable service, or

(ii) that M has died.

(3) The remediable service statement must be provided to—

(a) M, or

(b) where M has died—

(i) the person who is for the time being the eligible decision-maker in relation to M's remediable service under the Schedule, and

(ii) within 18 months of the scheme manager receiving notification that M has died.

(4) The remediable service statement must include—

(a) where M is an immediate choice member, information about—

(i) the irrevocability of an immediate choice decision, and

(ii) the benefits which will be payable if no immediate choice decision is made before the end of the section 6 election period;

(b) where M is a deferred choice member, information about—

(i) the revocability (or otherwise) of a deferred choice decision, and

(ii) the benefits that will be payable if no deferred choice decision is made before the end of the section 10 election period;

(c) where M is deceased, the identity, or a description of the identity, of the person or persons who may make an immediate choice decision or a deferred choice decision in relation to M's remediable service.

(5) For further provision about—

(a) what a remediable service statement must include, see—

(i) section 29(5) of the PSPJOA 2022;

(ii) direction 20(1) of the PSP Directions 2022;

(b) when a remediable service statement must be combined with a benefit information statement provided under section 14 of the Public Service Pensions Act 2013, see direction 20(2) of the PSP Directions 2022.

PART 3

Decisions in relation to 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 opted-out service in an employment in relation to a legacy scheme⁽¹⁾.

(2) In this Chapter—

“opted-out service decision-maker” (*“penderfynwr gwasanaeth a otiwyd allan”*) means the person who may make an opted-out service election in accordance with regulation 6(2);

“relevant opted-out service” (*“gwasanaeth a otiwyd allan perthnasol”*) means the service referred to in paragraph (1).

Election in relation to opted-out service

6.—(1) An election (an “opted-out service election”) may be made in relation to M’s relevant opted-out service in accordance with this Chapter and section 5 of the PSPJOA 2022.

(2) An opted-out service election may be made—

(a) by M, or

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

(3) Where the scheme manager is the eligible decision-maker, they must decide not to make an opted-out service election.

(4) See section 5(2) to (4) of the PSPJOA 2022 about the effect, timing and irrevocability of an opted-out service election.

Opted-out service election: additional requirements

7.—(1) An opted-out service election must not be made unless a remediable service statement has been provided in accordance with regulation 4.

(2) An opted-out service election must be made—

(a) in writing to the scheme manager;

(b) by the end of 12 months beginning with the date of receiving a remedial service statement

(1) See sections 5(7) (read with section 4) and 36 of the PSPJOA 2022 for the meaning of relevant opted-out service in relation to a Chapter 1 legacy scheme (such as the 1992 and the 2007 schemes).

in accordance with regulation 4(2)(a), or within such longer period as the scheme manager considers reasonable in all the circumstances.

Opted-out service election: lapse

8. Where—

- (a) the end of the election period in relation to M has passed, and
- (b) no opted-out service election has been communicated to the scheme manager in accordance with regulation 7(2),

the entitlement to make an opted-out service election under regulation 6 lapses.

CHAPTER 2

Immediate choice decision for 2015 scheme or legacy scheme benefits

Application and interpretation of Chapter 2

9.—(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, this Chapter applies separately in relation to the remediable service in each employment.

Immediate choice decision for 2015 scheme or legacy scheme benefits

10.—(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 the PSPJOA 2022 for 2015 scheme benefits 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) Where the scheme manager is the eligible decision-maker, they must make an election for 2015 scheme benefits in relation to M’s remediable service, as soon as reasonably practicable.

(4) An immediate choice decision is made when it is communicated in writing to, and received by, the scheme manager.

(5) An immediate choice decision may only be made before the end of the section 6 election period⁽¹⁾.

(6) An immediate choice decision is irrevocable.

(7) 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 the PSPJOA 2022 about the effect of a section 6 election).

(8) Where—

- (a) immediately before 1 October 2023, M has remediable service in the 2015 scheme, and
- (b) an immediate choice decision is that no section 6 election is to be made in relation to M's remediable service,

section 6(4) of the PSPJOA 2022 does not apply in relation to M's 2015 scheme service (and, accordingly, section 2(1) of the PSPJOA 2022 has effect in relation to M's 2015 scheme service for the purposes mentioned in section 2(3)(b) of that Act from the time the immediate choice decision is made).

(9) The following provisions of the PSPJOA 2022 have effect in relation to a 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);
- (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

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

(2) The scheme manager must, together with that remediable service statement, provide to the immediate choice decision-maker information about the timing, effect and irrevocability of an immediate choice decision.

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

- (a) information in D's possession, or

(1) See section 7(2) of the PSPJOA 2022 for the meaning of "the end of the section 6 election period".

- (b) information which D can reasonably be expected to obtain.

Immediate choice decision: deemed decision

12.—(1) An immediate choice decision 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, and
- (b) no immediate choice decision has been communicated in relation to M’s remediable service.

(2) In cases where M is not deceased, the immediate choice decision in paragraph (1) is that no section 6 election is made and the benefits payable in relation to M’s remediable service are legacy scheme benefits.

(3) In cases where M is deceased, the immediate choice decision in paragraph (1) is that a section 6 election is made and the benefits payable in relation to M’s remediable service are 2015 scheme benefits.

CHAPTER 3

Deferred choice decision for 2015 scheme or legacy scheme benefits

Application and interpretation of Chapter 3

13.—(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, this Chapter applies separately in relation to the remediable service in each employment.

Deferred choice decision for 2015 scheme or legacy scheme benefits: general

14.—(1) A decision (a “deferred choice decision”) may be made in accordance with this Chapter—

- (a) to make an election (a “section 10 election”) by virtue of section 10 of the 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) Where the scheme manager is the eligible decision-maker, they must make an election for 2015

scheme benefits in relation to M's remediable service, as soon as reasonably practicable.

(4) A deferred choice decision is made when it is communicated in writing to, and received by, the scheme manager.

(5) A deferred choice decision may only be made before the end of the section 10 election period.

(6) 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) and (4) and (7) and 13 of the PSPJOA 2022 about the effect of a section 10 election).

(7) 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 legacy scheme benefits.

(8) The following provisions of the 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 (provision about persons with remediable service in more than one Chapter 1 legacy scheme).

(9) No benefits are payable under the legacy scheme in respect of M's pensionable service under that scheme unless—

- (a) a deferred choice decision is made in relation to M's remediable service,
- (b) a section 10 election is deemed to have been made under regulation 18 in relation to that service, or
- (c) paragraph (10) applies.

(10) Where M is deceased, the scheme manager may, before a deferred choice decision is made or a section 10 election is deemed to have been made in relation to M's remediable service, pay to any person ("the beneficiary") who is, or is to be, entitled to receive death benefits in relation to M's pensionable service the lesser of—

- (a) such lump sum or other pension benefits to which the beneficiary would be entitled if a section 10 election is made, or deemed to be made, in relation to M's remediable service, or

- (b) such lump sum or other pension benefits to which the beneficiary would be entitled if no section 10 election is made, or deemed to be made, in relation to M's remediable service.

(11) Where, at the operative time—

- (a) the aggregate of the lump sum or pension benefits that have been paid pursuant to paragraph (10) to a beneficiary, is less than
- (b) the aggregate of the lump sum or pension benefits to which (after taking into account the effect, if any, of paragraph (7) of this regulation or section 10(4) of the PSPJOA 2022) the beneficiary is entitled under a firefighters' pension scheme in respect of M's pensionable service,

the scheme manager must pay an amount equal to the difference to the beneficiary.

(12) In paragraph (11), "the operative time" means—

- (a) if—
 - (i) a deferred choice decision is made, or
 - (ii) a section 10 election is deemed to have been made,

in relation to M's remediable service, the time the decision or election is made;
- (b) otherwise, the end of the section 10 election period in relation to M.

Deferred choice decision to be made by M

15.—(1) This regulation applies where M is the deferred choice decision-maker.

(2) M must notify the scheme manager that they intend to claim benefits in relation to their remediable service—

- (a) during the period between 3 and 6 months before the date M intends such benefits to become payable, or
- (b) during such other period that the scheme manager considers reasonable in all the circumstances.

(3) A deferred choice decision may only be made during the period—

- (a) beginning with the date a remediable service statement is issued under regulation 4(2)(c)(i), and
- (b) ending—
 - (i) with the day 12 weeks after that date,
 - (ii) subject to paragraph (5), with 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), with the day before benefits become payable in relation to M's remediable service.

(4) The end of the period during which a deferred choice election 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, 2015 scheme benefits would become payable to or in respect of M.

(5) A deferred choice decision made by M—

- (a) may be revoked at any time before the cancellation deadline, and
- (b) lapses where 12 months after a deferred choice decision is made scheme benefits have not become payable.

(6) M must communicate the revocation of a deferred choice decision in writing to the scheme manager.

(7) Where paragraph (5) applies M may make a new deferred choice decision in accordance with paragraph (3).

(8) Where the scheme manager receives notice that M has died and M has made a deferred choice decision, that decision is irrevocable.

(9) In paragraph (5), "the cancellation deadline" means—

- (a) the beginning of the day two weeks before the day ("the payment day") on which the first payment under a firefighters' pension scheme becomes payable in relation to M's remediable service, or
- (b) such later time before the payment day as the scheme manager considers reasonable in all the circumstances.

Deferred choice decision to be made by a person other than M

16.—(1) This regulation applies where a person other than M is the deferred choice decision-maker ("D").

(2) Where—

- (a) the period for making a deferred choice decision has begun in accordance with regulation 15(3)(a), and
- (b) the scheme manager receives notice that M has died before making a deferred choice decision in relation to M's remediable service,

the period during which a deferred choice decision may be made by D is to be treated as ending in accordance with paragraph (3)(b) instead of regulation 15(3)(b).

(3) A deferred choice decision must be made during the period—

- (a) beginning with the date of issue of the remediable service statement issued under regulation 4(2)(c)(ii), and
- (b) ending—
 - (i) with the day 12 months after that date,
 - (ii) at such other time as the scheme manager considers reasonable in all the circumstances, or
 - (iii) if D makes a decision earlier, immediately after a deferred choice decision is made.

(4) A deferred choice decision made by D is irrevocable.

Deferred choice decision: additional requirements

17. A deferred choice decision is to be treated as having been made only if the deferred choice decision-maker provides any information specified in a written request from the scheme manager that is—

- (a) information in the deferred choice decision-maker's possession, or
- (b) information which they can reasonably be expected to obtain.

Deferred choice decision: deemed decision

18.—(1) Where—

- (a) the end of the relevant section 10 election period in relation to M has passed, and
- (b) no deferred choice decision has been communicated,

a deferred choice decision is treated as having been made immediately before the end of the relevant section 10 election period.

(2) In cases where M is not deceased, the deferred choice decision in paragraph (1) is that no section 10 election is made and the benefits payable in relation to M's remediable service are legacy scheme benefits.

(3) In cases where M is deceased, the deferred choice decision in paragraph (1) is that a section 10 election is made and the benefits payable in relation to M's remediable service are 2015 scheme benefits.

Deferred choice decision: transitional arrangements

19.—(1) This regulation applies where, when these Regulations come into force, M—

- (a) is an active or a deferred member,

- (b) has notified the scheme manager that they intend to claim benefits in relation to their remediable service, and
- (c) the notification period in regulation 15(2) has lapsed in relation to that notification.

(2) M must make a deferred choice decision before the end of the period of one year beginning with the day on which a remediable service statement is first provided in respect of M.

PART 4

Provision about divorce and dissolution arrangements

CHAPTER 1

Pension credit and pension debit members

SECTION 1

Application and interpretation of Chapter 1

Application and interpretation of Chapter 1

20.—(1) This Chapter applies in relation to—

- (a) a pension credit member (“C”),
- (b) the corresponding pension debit member (“D”), and
- (c) the pension sharing order by virtue of which C became a pension credit member in relation to D’s remediable service (the “relevant pension sharing order”).

(2) In this Chapter—

“appropriate person” (“*person priodol*”) means—

- (a) D, or
- (b) where D is deceased, D’s personal representatives;

“C” (“C”) means the pension credit member mentioned in paragraph (1)(a);

“cash equivalent” (“*cyfwerth ariannol*”) means an amount calculated in accordance with regulations made under section 30 of WRPA 1999⁽¹⁾;

“corresponding pension debit member” (“*aelod â debyd pensiwn cyfatebol*”) means the member referred to in sub-paragraph (c) of the definition of “pension credit member”;

“D” (“D”) means the corresponding pension debit member mentioned in paragraph (1)(b);

(1) In accordance with section 110(1) of the PSPJO 2022, “WRPA 1999” means the Welfare Reform and Pensions Act 1999 (c. 30).

“pension credit member” (*“aelod â chredyd pensiwn”*) means a member of a firefighters’ pension scheme who has rights under the scheme—

- (a) which are attributable (directly or indirectly) to a pension credit⁽¹⁾,
- (b) which arise by virtue of a pension sharing order with a transfer day on or after 1 April 2015, and
- (c) the value of which was determined (to any extent) by reference to the value of benefits payable in respect of the remediable service of another member;

“pension sharing order” (*“gorchymyn rhannu pensiwn”*) means the order or provision by virtue of which section 29 of WRPA 1999 applies in relation to a pension credit member and the corresponding pension debit member;

“relevant pension sharing order” (*“gorchymyn rhannu pensiwn perthnasol”*) has the meaning given in paragraph (1)(c);

“remediable relevant benefits” (*“buddion perthnasol rhwymediol”*) means the benefits or future benefits described in section 29(4) and (5) of WRPA 1999 to which D is entitled by virtue of remediable shareable rights;

“remediable shareable rights” (*“hawliau rhanadwy rhwymediol”*) means D’s shareable rights secured by virtue of D’s remediable service during the period beginning on 1 April 2015 and ending on the earlier of—

- (a) the day before the transfer date, or
- (b) the last day of D’s remediable service;

“shareable rights” (*“hawliau rhanadwy”*) has the meaning given in section 27(2) of WRPA 1999;

“transfer day” (*“diwrnod trosglwyddo”*) means the day on which the relevant pension sharing order takes effect;

“valuation day” (*“diwrnod prisio”*) has the meaning given in section 29(7) of WRPA 1999.

SECTION 2

Pension sharing orders: information provided before 1 October 2023

Application and interpretation of Section 2

21.—(1) This Section applies where, before 1 October 2023, the scheme manager has provided information for the purpose of determining amounts

(1) See section 19(7) of the PSPJOA 2022 for the meanings of “pension debit” and “pension credit”.

under section 29 of WRPA 1999 in respect of a remedy member's remediable service.

(2) In this Section—

“alternative amount” (*“swm amgen”*) has the meaning given in regulation 22;

“alternative reduction amount” (*“swm lleihau amgen”*) and “alternative reduction amounts” (*“symiau lleihau amgen”*) have the meaning given in regulation 25(3) and (4);

“alternative scheme” (*“cynllun amgen”*), in relation to a pension sharing order that does not relate to mixed service, means—

(a) where the initial scheme is D's legacy scheme, the 2015 scheme;

(b) where the initial scheme is the 2015 scheme, D's legacy scheme;

“C's pension account” (*“cyfrif pensiwn C”*) has the meaning given in regulation 24(4);

“initial amount” (*“swm cychwynnol”*) means the total amount determined for the purposes of the relevant pension sharing order under section 29(2) and (3) of WRPA 1999 in relation to D's remediable shareable rights;

“initial reduction amount” (*“swm lleihau cychwynnol”*) means the amount by which D's remediable relevant benefits were reduced pursuant to the relevant pension sharing order;

“initial scheme” (*“cynllun cychwynnol”*), in relation to a relevant pension sharing order that does not relate to mixed service, means the firefighters' pension scheme in respect of which an initial amount or initial reduction amount was determined;

“remediable credit adjustment” (*“addasiad credyd rhwymediol”*) has the meaning given in regulation 23(2).

(3) For the purposes of this Section, a relevant pension sharing order relates to mixed service if it complies with paragraph (4).

(4) A relevant pension sharing order complies with this paragraph if—

(a) it specifies an appropriate amount in accordance with section 29(2) or (3) of WRPA 1999,

(b) the amount is specified by reference to the value of remediable relevant benefits to which D is entitled,

(c) D is entitled to those benefits by virtue of remediable shareable rights secured in both D's legacy scheme and the 2015 scheme,

(and, accordingly, a relevant pension sharing order 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”

22.—(1) “Alternative amount” means—

- (a) in relation to a relevant pension sharing order that does not relate to mixed service, and—
 - (i) where the 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 the 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 the remediable relevant benefits had been secured in the alternative scheme;
- (b) in relation to a relevant pension sharing order that relates to mixed service, the greater of—
 - (i) the legacy scheme amount, and
 - (ii) the 2015 scheme amount.

(2) In paragraph (1)(b)—

“2015 scheme amount” (“*swm cynllun 2015*”) means where the initial amount was determined in relation to—

- (a) a percentage value to be transferred from both the legacy scheme and the 2015 scheme, the amount that would have been determined applying—
 - (i) in relation to pre-taper remediable relevant benefits, the legacy scheme percentage value, and
 - (ii) in relation to post-taper remediable relevant benefits, the 2015 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 2015 scheme;
- (b) an amount to be transferred from both the legacy scheme and the 2015 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 the remediable relevant benefits had been secured in the 2015 scheme.

“legacy scheme amount” (*“swm cynllun gwaddol”*) means, where the initial amount was determined in relation to—

- (a) a percentage value to be transferred from both the legacy scheme and the 2015 scheme, the amount that would have been determined applying—
 - (i) in relation to pre-taper remediable relevant benefits, the legacy scheme percentage value, and
 - (ii) in relation to post-taper remediable relevant benefits, the 2015 scheme percentage value,

under section 29(2) 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 2015 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 the remediable relevant benefits had been secured in the legacy scheme;

(3) In this regulation—

“2015 scheme percentage value” (*“gwerth canrannol cynllun 2015”*) means the percentage value specified in a relevant pension sharing order in relation to the 2015 scheme for the purpose of determining an amount under section 29(2) of WRP 1999;

“implied percentage” (*“canran ymhlyg”*), in relation to the value of benefits under a firefighters’ pension scheme, means the percentage that an initial amount determined under section 29(3) of WRP 1999 represented of the cash equivalent of the remediable relevant benefits on the valuation day;

“legacy scheme percentage value” (*“gwerth canrannol cynllun gwaddol”*) means the percentage value specified in a relevant pension sharing order in relation to D’s legacy scheme for the purpose of determining an amount under section 29(2) of WRP 1999;

“post-taper remediable relevant benefits” (*“buddion perthnasol rhwymediol ar ôl tapro”*) means the 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 after D’s tapered protection closing date;

“pre-taper remediable relevant benefits” (“*buddion perthnasol rhwymediol cyn tapro*”) means remediable relevant benefits to which D is entitled by virtue of remediable shareable rights secured by virtue of D’s remediable service on or before D’s tapered protection closing date;

“relevant percentage value” (“*gwerth canrannol perthnasol*”) means—

- (a) where the relevant pension sharing order specifies a percentage value in relation to only the initial scheme for the purpose of determining an amount under section 29(2) of WSPA 1999, that percentage value;
- (b) otherwise, the percentage value that is specified in relation to the alternative scheme;

“tapered protection closing date” (“*dyddiad cau diogelwch taprog*”), 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

23.—(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 order 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 24(4)(b) applies in relation to C, an explanation of the request that may be made in accordance with regulation 24(5) and the consequences of making, or not making, such a request.

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

24.—(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 order—

- (a) a pension credit in only one firefighters' pension scheme, C's pension credit member account under that scheme;
- (b) a pension credit in a legacy scheme and the 2015 scheme—
 - (i) the pension 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 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,
- (b) it is in a form determined by the scheme manager,
- (c) it clearly identifies which of C's pension accounts C wants adjusted, 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 23(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 the 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 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

25.—(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 order 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 order 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 remediable relevant benefits under the alternative scheme,
- (b) the percentage value or the amount to be transferred specified in the relevant pension sharing order, and
- (c) the provisions of sections 29 and 31 of WRP 1999.

(4) Where the relevant pension sharing order 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 2015 scheme, and
- (b) the matters mentioned in paragraph (3)(b) and (c).

SECTION 3

Information provided on or after 1 October 2023

Application and interpretation of Section 3

26.—(1) This Section applies where, on or after 1 October 2023, the scheme manager provides

information for the purpose of determining amounts under section 29 of WRPA 1999 in respect of a remedy member's remediable service.

(2) In this Section—

“2015 scheme cash equivalent” (“*cyfwerth ariannol cynllun 2015*”) has the meaning given in regulation 27(2)(b);

“alternative reduction amount” (“*swm lleihau amgen*”) has the meaning given in regulation 28(3);

“appropriate amount” (“*swm priodol*”) means the amount calculated for the purpose of section 29(1) of WRPA 1999;

“immediate choice pensioner member” (“*aelod-bensiynwr dewis ar unwaith*”) means an immediate choice member who is, immediately before these Regulations come into force, a pensioner member in relation to their remediable service;

“legacy scheme cash equivalent” (“*cyfwerth ariannol cynllun gwaddol*”) has the meaning given in regulation 27(2)(a).

**Information provided on or after 1 October 2023:
calculation of pension credits and debits**

27.—(1) This regulation applies where D is—

- (a) a deferred choice member and no pension benefits have become payable in relation to D's remediable service, or
- (b) an immediate choice pensioner member and—
 - (i) the end of the section 6 election period in relation to D has not passed, and
 - (ii) no immediate choice decision has been made in relation to D's remediable service.

(2) For the purpose of calculating the appropriate amount, the scheme manager must determine—

- (a) the cash equivalent of D's remediable relevant benefits on the valuation day as if those remediable relevant benefits were in D's legacy scheme (“the legacy scheme cash equivalent”), and
- (b) the cash equivalent of those benefits on the valuation day as if they were in the 2015 scheme (“the 2015 scheme cash equivalent”).

(3) For the purpose of calculating the pension credit and the pension debit, the scheme manager must use the greater of—

- (a) the legacy scheme cash equivalent, or
- (b) the 2015 scheme cash equivalent.

**Information provided on or after 1 October 2023:
recalculating D's reduction of benefit**

28.—(1) This regulation applies where D's remediable relevant benefits are to be reduced in relation to a pension debit calculated under regulation 27(3).

(2) The scheme manager must determine the alternative reduction amount in relation to D's remediable relevant benefits—

- (a) as soon as reasonably practicable after the transfer date, and
- (b) having consulted the scheme actuary.

(3) 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 remediable relevant benefits secured in—
 - (i) where the pension debit mentioned in paragraph (1) was calculated on the basis of the legacy scheme cash equivalent, the 2015 scheme;
 - (ii) where the pension debit was calculated on the basis of the 2015 scheme cash equivalent, the legacy scheme,
- (b) the percentage value or the amount to be transferred specified in the relevant pension sharing order, and
- (c) the provisions of sections 29 and 31 of WSPA 1999.

CHAPTER 2

Arrangement on divorce, annulment or dissolution
other than a pension sharing order

**Arrangements other than a pension sharing order:
calculating the value of pension benefits**

29.—(1) This regulation applies where—

- (a) the value of the remediable rights of a member (“M”) must be determined for the purpose of proceedings connected to M's divorce, annulment or the dissolution of M's civil partnership,
- (b) the divorce, annulment or dissolution is to take effect—
 - (i) on or after 1 October 2023, and
 - (ii) before the earlier of—
 - (aa) a decision taking effect in relation to M's remediable service, or

- (bb) the end of the relevant election period, and
 - (c) the value of M's remediable rights is not to be subject to a pension sharing order.
- (2) The value of M's remediable rights for the purpose of the proceedings is the greater of those rights valued by the scheme manager, having consulted the scheme actuary, as if they were—
- (a) secured in M's legacy scheme, or
 - (b) secured in the 2015 scheme.
- (3) In this regulation—
- “decision” (*“penderfyniad”*) means an immediate choice decision or a deferred choice decision;
- “pension sharing order” (*“gorchymyn rhannu pensiwn”*) means an order or provision which attracts section 29 of WRPA 1999 in relation to M's remediable rights;
- “relevant election period” (*“cyfnod dewisiad perthnasol”*) means, where M is—
- (a) a deferred choice member, the section 10 election period in relation to M;
 - (b) an immediate choice member, the section 6 election period in relation to M;
- “remediable rights” (*“hawliau rhwymediol”*) means the rights secured by virtue of M's remediable service.

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).

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.

PART 6

Transfers

CHAPTER 1

General

Interpretation of Part 6

34.—(1) In this Part—

“public service pension scheme” (*“cynllun pensiwn gwasanaeth cyhoeddus”*) means—

- (a) a Chapter 1 scheme⁽¹⁾;
- (b) a judicial scheme within the meaning of section 70(1) of the PSPJOA 2022;

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

- (c) a local government scheme within the meaning of section 86(1) of the PSPJOA 2022;

“receiving scheme” (*“cynllun sy’n derbyn”*), in relation to a remediable value, means the scheme to which the remediable value was, or is to be, paid;

“remediable club transfer value” (*“gwerth trosglwyddiad clwb rhwymediol”*), in relation to a member, means the payment or acceptance by the scheme manager of—

- (a) a transfer value payment under arrangements in accordance with Part F of Schedule 2 to the 1992 Order;
- (b) a transfer value payment under the public sector transfer arrangements in accordance with Part 12 of paragraph 1 of Schedule 1 to the 2007 Order;
- (c) a club transfer value payment under Part 10 of the 2015 Regulations,

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

“remediable rights” (*“hawliau rhwymediol”*), 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” (*“gwerth trosglwyddo rhwymediol”*), 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 to the 1992 Order;
- (b) Part 12 of paragraph 1 of Schedule 1 to the 2007 Order;
- (c) Part 10 of the 2015 Regulations,

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

“remediable value” (*“gwerth rhwymediol”*) means, except in Chapter 4, a remediable club transfer value or a remediable transfer value;

“sending scheme” (*“cynllun sy’n anfon”*), 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 37(3) or any adjustment accepted under regulation 42(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 2015 scheme (“relevant 2015 scheme service”), the rights to 2015 scheme benefits if the remaining portion of the remediable value had been transferred into that scheme;
 - (ii) where the member does not have relevant 2015 scheme service, the right to payment of any amount by way of compensation equal to the value of rights to 2015 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 of the value which originally secured rights under a firefighters’ pension scheme.

Transferred out remediable service statements

35. 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 accordingly 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

36.—(1) This regulation applies in relation to a 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 2015 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 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⁽¹⁾ (“the 2009 Regulations”) as if regulation 6(1)(a) of those Regulations were omitted, the compensatable amount is to be reduced by the

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

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.

(8) In this regulation—

- (a) “the Income Tax Acts” means all enactments relating to income tax, including any provisions of the Corporation Tax Acts which relate to income tax, and
- (b) “the Corporation Tax Acts” means the enactments relating to the taxation of the income and chargeable gains of companies and of company distributions (including provisions relating to income tax).

Transfers in before 1 October 2023

37.—(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, having consulted the scheme actuary, 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 (3), were applied in respect of rights in the 2015 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, the 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.

SECTION 2

Transfers on or after 1 October 2023

Application of Section 2

38.—(1) 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, 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.

Transfers out on or after 1 October 2023

39.—(1) This regulation applies to a remediable transfer value payment to be paid 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 2015 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

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

- (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 2015 scheme.

CHAPTER 3

Transfers on a club basis

SECTION 1

Club transfers before 1 October 2023

Club transfers out before 1 October 2023

41.—(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 2015 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 the PSPJOA 2022, and—

- (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 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

42.—(1) This regulation applies in relation to each remediable club transfer 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, the 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, 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 club transfer value, together with any adjustment accepted

under paragraph (2), were applied in respect of rights in the 2015 scheme.

SECTION 2

Club transfers on or after 1 October 2023

Application of Section 2

43. 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.

Club transfers out on or after 1 October 2023

44.—(1) This regulation applies in relation to a remediable club transfer value to be paid in respect of a member by the scheme manager on or after 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 2015 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

45.—(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 2015 scheme.

SECTION 3

Variation of the club transfer application period

Variation of the club transfer application period

46. Regulation 150 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 4 to those Regulations, and
- (b) a transfer payment request for a club transfer value payment in respect of such a member,

as if for paragraph (2)(b) there were substituted—

“(b) subject to paragraph (3), must be made—

- (i) by 1 October 2024, or,
- (ii) before the beginning of the period of one year ending with the date on which the member reaches normal retirement age provided that date is later than 1 October 2024.”.

CHAPTER 4

Treatment of rights secured by virtue of a remediable value

Application and interpretation of Chapter 4

47.—(1) This regulation applies 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 37(3);
- (b) a remediable club transfer value, together with any payment accepted under regulation 42(2).

Remediable value treated as being in the legacy scheme

48.—(1) This regulation applies where—

- (a) a remediable value was accepted into the 2015 scheme by the scheme manager in respect of M during the period of M’s remediable service, and
- (b) the benefits payable in relation to M’s remediable service are, by virtue of the operation of these Regulations or the PSPJOA 2022, legacy scheme benefits.

(2) The remediable value—

- (a) is not, and is treated as never having been, accepted into the 2015 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 M's transferred remediable rights, and
 - (b) subject to regulation 49, for all other purposes.

Treatment of rights to benefits secured by virtue of remediable value

49.—(1) Paragraphs (2) and (4) apply where a remediable value is treated as being accepted into M's legacy scheme by virtue of regulation 48.

(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 2015 scheme service (within the meaning of regulation 34(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 2015 scheme benefits if the remaining portion of the remediable value had been transferred into the 2015 scheme in the same relevant pension year in which the remediable value was accepted;
 - (ii) where M does not have relevant 2015 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 2015 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 2015 scheme.

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

(5) Paragraph (6) applies where—

- (a) the benefits payable to or in respect of M's remediable service are 2015 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.

(6) Where this paragraph applies, 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 2015 scheme if the remediable value had been transferred into that scheme in the same relevant pension year that the remediable value was accepted.

(7) 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

50.—(1) Paragraph (2) applies in relation to any benefits ("the paid benefits") that the 2015 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 48(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 2015 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

51.—(1) This regulation applies in relation to any benefits that have been paid 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 50) 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 48 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 mentioned 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, the time the decision is made;
- (b) otherwise, the end of the section 6 election period in relation to M.

PART 7

Provision about special cases

CHAPTER 1

Ill-health retirement

Application and interpretation of Part 7

52. In this Chapter—

“1992 IHR member” (“*aelod YSA 1992*”) means a member entitled to an ill-health award under rule B3 of Schedule 2 to the 1992 Order;

“2007 IHR member” (“*aelod YSA 2007*”) means a member entitled to an ill-health pension under rule 2 of Part 3 of paragraph 1 of Schedule 1 to the 2007 Order;

“2015 IHR member” (“*aelod YSA 2015*”) means a member entitled to an ill-health pension under regulation 74 of the 2015 Regulations;

“alternative scheme” (“*cynllun amgen*”) means, in relation to—

- (a) a 1992 IHR member or a 2007 IHR member, the 2015 scheme;
- (b) a 2015 IHR member, the member’s legacy scheme;

“higher tier award” (“*dyfarniad haen uchaf*”) means, in relation to—

- (a) the 1992 scheme, an award determined in accordance with paragraph B3(5)(b) of the 1992 Order;
- (b) the 2007 scheme, an award determined in accordance with rule 2(3) of Part 3 of paragraph 1 of Schedule 1 to the 2007 Order;
- (c) the 2015 scheme, an ill-health pension payable under regulation 74(2) of the 2015 Regulations;

“ill-health benefits” (“*buddion afiechyd*”) means benefits payable by virtue of an entitlement of a 1992 IHR member, a 2007 IHR member or a 2015 IHR member mentioned in this regulation;

“IQMP” (“*YMCA*”) has the meaning given in regulation 3 of the 2015 Regulations;

“lower tier award” (“*dyfarniad haen isaf*”) means, in relation to—

- (a) the 1992 scheme, an award determined in accordance with paragraph B3(5)(a) of the 1992 Order;
- (b) the 2007 scheme, an award determined in accordance with rule 2(2) of Part 3 of paragraph 1 of Schedule 1 to the 2007 Order;
- (c) the 2015 scheme, an ill-health pension payable under regulation 74(1) and (1A) of the 2015 Regulations.

“remediable ill-health benefits” (“*buddion afiechyd rhwymediol*”) means ill-health benefits payable in relation to M’s remediable service as a firefighter.

M’s entitlement to ill-health benefits to be treated as equivalent in M’s alternative scheme

53.—(1) This regulation applies in relation to an immediate choice member (“M”) who, during the period beginning on 1 April 2015 and ending on 31 March 2022, was—

- (a) a 2007 IHR member; or
- (b) a 2015 IHR member.

(2) For the purposes of the PSPJOA 2022 and these Regulations, M is to be treated as meeting the requirements for an equivalent ill-health award in M's alternative scheme.

(3) In paragraph (2), "equivalent ill-health award in M's alternative scheme" means, where M is entitled to—

- (a) a lower tier award under the 2007 scheme, a lower tier award under the 2015 scheme;
- (b) a higher tier award under the 2007 scheme, a higher tier award under the 2015 scheme;
- (c) a lower tier award under the 2015 scheme, and—
 - (i) M's legacy scheme is the 1992 scheme, a lower tier award under that scheme;
 - (ii) M's legacy scheme is the 2007 scheme, a lower tier award under that scheme;
- (d) a higher tier award under the 2015 scheme, and—
 - (i) M's legacy scheme is the 1992 scheme, a higher tier award under that scheme;
 - (ii) M's legacy scheme is the 2007 scheme, a higher tier award under that scheme.

(4) No question relating to M's entitlement to ill-health benefits that has been decided following a referral to an IQMP is to be re-opened by virtue of any provision of the PSPJOA 2022 or of these Regulations.

Entitlement to ill-health benefits where a remedy member's legacy scheme is the 1992 scheme

54.—(1) Paragraph (2) applies where—

- (a) a remedy member ("M") is a 1992 IHR member, and
- (b) M's entitlement to an ill-health award has not been assessed under regulation 74(1)(a) or (2)(a) of the 2015 Regulations.

(2) The scheme manager must obtain the opinion of an IQMP on the following questions—

- (a) whether M would, at the time of the original decision, have met the criteria to be entitled to a lower tier award under the 2015 scheme, and
- (b) whether M would, at the time of the original decision, have met the criteria to be entitled to a higher tier award under the 2015 scheme.

(3) Paragraph (4) applies where—

- (a) a remedy member's ("M's") legacy scheme is the 1992 scheme,

- (b) M's entitlement to an ill-health award was assessed under regulation 74(1)(a) or (2)(a) of the 2015 Regulations,
 - (c) it was determined in accordance with that regulation that—
 - (i) M was entitled to neither a lower tier award nor a higher tier award, or
 - (ii) M was entitled to a lower tier award but was not entitled to a higher tier award,
 - (d) M resigned or was dismissed from their employment within 3 months of the determination, and
 - (e) M is a deferred or pensioner member of the 2015 scheme.
- (4) The scheme manager must obtain the opinion of an IQMP on the following questions—
- (a) where it was determined that M was entitled to neither a lower tier award nor a higher tier award—
 - (i) whether M would, at the time of the original decision, have met the criteria to be entitled to a lower tier award under the 1992 scheme, and
 - (ii) whether M would, at the time of the original decision, have met the criteria to be entitled to a higher tier award under the 1992 scheme;
 - (b) where it was determined that M was entitled to a lower tier award but not to a higher tier award, whether M would, at the time of the original decision, have met the criteria to be entitled to a higher tier award under the 1992 scheme.
- (5) An IQMP who is to provide an opinion on a question in accordance with this regulation must—
- (a) examine or interview M as the IQMP thinks it is necessary to provide an opinion on the question, and
 - (b) give the scheme manager and M a written opinion containing a decision on the question.
- (6) For the purpose of providing an opinion in accordance with this regulation and subject to paragraph (5)(a), the IQMP may only have regard to information that was available or could have been produced at the time of the original decision.
- (7) The scheme manager must determine whether M is entitled to an ill-health award, and the provisions of Part 12 of the 2015 Regulations apply to—
- (a) a determination under this paragraph as if it were a determination under regulation 161 of those Regulations, and

- (b) an opinion of the IQMP obtained under this regulation as if it were an opinion of the IQMP obtained in accordance with that Part.

(8) Where it is determined that M is entitled to an ill-health award M is to be treated for the purposes of the PSPJOA 2022 and of these Regulations as being entitled to that ill-health award from the time of the original decision.

(9) In this regulation, “original decision” means—

- (a) for the purposes of paragraphs (1) and (2), the decision under Part H of Schedule 2 to the 1992 Order by virtue of which M became entitled to an ill-health award under the 1992 scheme;
- (b) for the purposes of paragraphs (3) and (4), the decision under Chapter 4 of Part 5 of the 2015 Regulations by virtue of which it was determined that M was not entitled to a lower tier award or, as the case may be, a higher tier award under the 2015 scheme.

Assessment and reassessment of certain transitional ill-health cases

55.—(1) This regulation applies where—

- (a) a remedy member (“M”) was, immediately before 1 April 2022, not a full protection member of the 1992 scheme or a full protection member of the 2007 scheme,
- (b) an assessment (“the transitional assessment”) of M’s entitlement to an ill-health award under the 2015 scheme began before 1 April 2022, and
- (c) a determination had not been made by the scheme manager in relation to the transitional assessment by the end of 31 March 2022.

(2) Where the transitional assessment has not been determined before 1 October 2023, the scheme manager must secure that—

- (a) the transitional assessment is undertaken on the basis that M’s normal pension age is 55, and
- (b) any steps taken in relation to the transitional assessment, the outcome of which might have been different had they been taken on the basis that M’s normal pension age is 55, are retaken.

(3) Paragraph (4) applies where—

- (a) the transitional assessment has been determined before 1 October 2023, and
- (b) it was determined that—

- (i) M was entitled to neither a lower tier award nor a higher tier award in the 2015 scheme, or
- (ii) M was entitled to a lower tier award in the 2015 scheme, but not a higher tier award in that scheme.

(4) Where this paragraph applies, the scheme manager must secure that—

- (a) M is assessed for entitlement to a relevant award under the 2015 scheme on the basis that M’s normal pension age is 55, and
- (b) M is treated as if the transitional assessment had not been undertaken so far as it relates to the relevant award.

(5) In this regulation—

“full protection member of the 1992 scheme” (*“aelod diogelwch llawn o gynllun 1992”*) means a full protection member of the 1992 scheme within the meaning of paragraph 9 of Schedule 2 to the 2015 Regulations;

“full protection member of the 2007 scheme” (*“aelod diogelwch llawn o gynllun 2007”*) means a full protection member of the NFPS within the meaning of paragraph 9 of Schedule 2 to the 2015 Regulations;

“relevant award” (*“dyfarniad perthnasol”*) means—

- (a) where paragraph (3)(b)(i) applies, a lower tier award and a higher tier award;
- (b) where paragraph (3)(b)(ii) applies, a higher tier award.

CHAPTER 2

Miscellaneous special cases

Payment of annual allowance tax charges and provision of information

56. Where a remedy member is unable to give an effective notice to the scheme administrator under section 237B(3) of the Finance Act 2004⁽¹⁾ in relation to an in-scope tax year (within the meaning of direction 7(7) of the PSP Directions 2022) because the time limit in section 237BA⁽²⁾ has passed, direction 7(2) to (6) of the PSP Directions 2022 applies in relation to the remedy member.

(1) 2004 c. 12. Section 237B was inserted by paragraph 15 of Schedule 17 to the Finance Act 2011 (c. 11).
 (2) Section 237BA was inserted by section 9(3) of the Finance Act 2022 (c. 3).

PART 8

Immediate detriment cases

Treatment of immediate detriment cases

57.—(1) This regulation applies in relation to a person's ("A's") remediable service where an immediate detriment remedy has been obtained in relation to that service by virtue of either of the conditions in section 32(2) and (3) (the "immediate detriment remedy condition") of the PSPJOA 2022 having been met.

(2) These Regulations and sections 2 to 30 of the PSPJOA 2022 apply in relation to A's remediable service as they apply in relation to an immediate choice member in respect of whose remediable service an immediate choice decision has been made that no section 6 election is to be made.

(3) Any amount paid by way of benefits or compensation pursuant to the agreement or (as the case may be) determination by virtue of which the relevant condition has been met is to be treated for the purposes of section 14 of the PSPJOA 2022 as—

- (a) a lump sum benefit, if the amount was paid by way of a lump sum;
- (b) a pension benefit, if the amount was paid otherwise than by way of a lump sum.

PART 9

Liabilities and payment

CHAPTER 1

Application of Part 9

Application of Part 9

58. This Part applies in relation to a relevant amount⁽¹⁾ owed in respect of the remediable service of a remedy member.

CHAPTER 2

Interest, compensation and netting off

Interest

59.—(1) The scheme manager must calculate interest on a relevant amount described in direction 15 of the PSP Directions 2022 in accordance with the

(1) See section 26(3) of the PSPJOA 2022 for the meaning of "relevant amounts".

provisions of directions 14 and 15 which apply to that description of relevant amount.

(2) In relation to a relevant amount not described in direction 15 of the PSP Directions 2022, the scheme manager must determine whether interest is paid and, if so, what rate of interest applies and how it is calculated.

(3) The following provisions of the PSP Directions 2022 apply to a determination under paragraph (2) as if it were a determination under direction 16(1) of those Directions—

- (a) direction 16(2) (provision of explanation);
- (b) direction 16(3) and (4) (appeals).

Indirect compensation

60.—(1) This regulation applies where, pursuant to an application under regulation 61, the scheme manager determines that an immediate choice member (“M”) has incurred a compensatable loss⁽¹⁾ that is a Part 4 tax loss⁽²⁾ (a “relevant loss”).

(2) M is not to be paid an amount under section 23 of the PSPJOA 2022 by way of compensation in respect of the relevant loss.

(3) Instead, the amount of benefit payable under a firefighters’ pension scheme is to be increased to reflect the amount of the relevant loss in such a manner as determined by the scheme manager in accordance with direction 10(2) to (4) of the PSP Directions 2022.

Applications for compensation or indirect compensation

61.—(1) This regulation applies in relation to—

- (a) the payment of a relevant amount by way of compensation under section 23(1) of the PSPJOA 2022;
- (b) the increase of benefits by way of indirect compensation under regulation 60.

(2) The relevant amount is not payable, or (as the case may be) the benefits are not to be increased, except where—

- (a) an application is made in accordance with direction 18(1) and (2) of the PSP Directions 2022;
- (b) the application is accompanied by such information that the scheme manager by

(1) See section 23 of the PSPJOA 2022 and direction 11 of the PSP Directions 2022 for the meaning of “compensatable loss”.

(2) See section 23(9) of the PSPJOA 2022 for the meaning of “Part 4 tax loss”.

written notice requires the person making the application (“P”) to provide in relation to the proposed compensation which is—

- (i) information within P’s possession, or
- (ii) information which P may reasonably be expected to obtain, and
- (c) the scheme manager makes a determination in accordance with direction 18(3) of those Directions.

(3) The following apply in relation to a determination under direction 18(3) of the PSP Directions 2022—

- (a) direction 18(4) (provision of explanation);
- (b) direction 18(5) and (6) (appeals).

Netting off

62.—(1) This regulation applies where—

- (a) relevant amounts owed by or to a person (“P”) fall to be paid at the same time or similar times, and
- (b) the scheme manager has—
 - (i) determined the interest (if any) that is to be paid on the relevant amounts in accordance with regulation 59, and
 - (ii) reduced the relevant amounts by tax relief amounts in accordance with regulation 63.

(2) The scheme manager may determine, in accordance with direction 19(2) to (5) of the PSP Directions 2022, that the relevant amounts (and any interest on them) must be aggregated and that the difference must be paid by P to the scheme or (as the case may be) by the scheme to P.

(3) The following provisions of the PSP Directions 2022 apply in relation to a determination under paragraph (2) as if it were a determination under direction 19(1) of those Directions—

- (a) direction 19(6) (provision of explanation);
- (b) direction 19(7) and (8) (appeals).

CHAPTER 3

Reduction and waiver of liabilities

Requirement to reduce liabilities by tax relief amounts

63.—(1) This regulation applies where—

- (a) a person owes a liability to pay pension contributions in relation to the remediable service of a remedy member, or

(b) the scheme manager owes a liability to pay compensation in relation to such service,
under section 15, 16 or 17 of the PSPJOA 2022.

(2) The scheme manager must reduce the liability by tax relief amounts⁽¹⁾—

- (a) determined in accordance with direction 4(5) to (9) of the PSP Directions 2022, and
- (b) before the liability is netted off in accordance with regulation 62.

(3) Where the scheme manager makes a determination under direction 4(8) of the PSP Directions 2022 pursuant to paragraph (2)(a) of this regulation, the following apply in relation to that determination—

- (a) direction 4(10) (provision of explanation);
- (b) direction 4(11) and (12) (appeals).

Waiver of amounts owed by a relevant survivor to the scheme manager

64.—(1) The scheme manager must waive an amount owed by a relevant survivor to the scheme under—

- (a) section 14 of the PSPJOA 2022, or
- (b) these Regulations.

(2) A “relevant survivor” for the purposes of paragraph (1) is any person, other than a person (“D”) specified in regulation 10(2)(b) and 14(2)(b) (eligible decision-makers in respect of a deceased member’s remediable service), who becomes liable to pay an amount to the scheme as a result of—

- (a) a decision made by D in accordance with—
 - (i) regulation 10(2)(b) (immediate choice decision for 2015 scheme or legacy scheme benefits),
 - (ii) regulation 14(2)(b) (deferred choice decision for 2015 scheme or legacy scheme benefits: general),
- (b) a deemed election in accordance with—
 - (i) regulation 12(3) (immediate choice decision: deemed election), or
 - (ii) regulation 18(3) (deferred choice decision: deemed election).

⁽¹⁾ See section 18(4) of the PSPJOA 2022 for the meaning of “tax relief amounts” for the purposes of a liability mentioned in regulation 53(1)(a), and section 18(7) of that Act for the meaning of that term for the purposes of a liability mentioned in regulation 53(1)(b).

Waiver of amounts owed by a relevant separated person to the scheme manager

65.—(1) The scheme manager must waive an amount owed by a relevant separated person to the scheme under—

- (a) section 14 of the PSPJOA 2022, or
- (b) these Regulations,

where the amount is related to an arrangement on divorce, annulment or dissolution other than a pension sharing order.

(2) A “relevant separated person” is a person—

- (a) who is subject to an arrangement on divorce, annulment or dissolution other than a pension sharing order, and
- (b) whose liability for an amount mentioned under paragraph (1) relates to another person’s remediable service.

(3) A “pension sharing order” has the same meaning as in Part 4 of these Regulations.

(4) “Remediable service”, for the purposes of paragraph (2)(b) does not include remediable service which is mixed service within the meaning of section 19 of the PSPJOA 2022.

Power to reduce or waive amounts owed by a personal representative to the scheme manager

66.—(1) The scheme manager may reduce or waive an amount owed by a personal representative of a deceased remedy member to the scheme under—

- (a) section 15 of the PSPJOA 2022, or
- (b) these Regulations.

(2) When reducing or waiving an amount under paragraph (1), the scheme manager must comply with the requirements set out in direction 4(1)(a) to (c) of the PSP Directions 2022 (and the reference in direction 4(1)(c) to “any scheme regulations made by virtue of section 26(1)(b) of the PSPJOA 2022” is to be read as a reference to regulation 71).

Agreement to waive a liability owed by the scheme manager in respect of an immediate correction

67.—(1) This regulation applies where the scheme manager owes a liability to pay compensation to a person (“P”) under section 16(3) of the PSPJOA 2022.

(2) The scheme manager must inform P, by notice in writing—

- (a) of P’s entitlement under section 16(3) of the PSPJOA 2022,
- (b) that if, in due course, P makes a section 10 election for 2015 scheme benefits, P will be

liable to repay a sum equivalent to that which was received as compensation pursuant to section 16(3) of the PSPJOA 2022, with interest calculated in accordance with this Part, and

- (c) that P can agree with the scheme manager to waive the scheme manager's liability.

(3) The scheme manager must agree to waive the liability if—

- (a) P makes a written request to the scheme manager to waive the liability, and
- (b) such request is made within 12 months of issuing a notice under paragraph (2).

(4) Such an agreement—

- (a) must be made in writing, and
- (b) may be rescinded with the agreement of the scheme manager and P.

(5) If no agreement is made under paragraph (4), P's entitlement to waive the liability lapses.

(6) An agreement under paragraph (4) is rescinded or otherwise ceases to apply where—

- (a) the end of the section 10 election period in relation to P has passed, and
- (b) no deferred choice election is made, or deemed to have been made, in relation to P's remediable service.

(7) Where no agreement is made in accordance with paragraph (4) or an agreement is rescinded or otherwise ceases to apply, the scheme manager owes P the liability mentioned in paragraph (1).

CHAPTER 4

Payment of net liabilities

Application and interpretation of Chapter 4

68. This Chapter applies in respect of a relevant amount (together with any interest on that relevant amount) owed after taking into account the effect, if any, of regulations 59 to 67 ("a net liability").

Payment of amounts owed to the scheme manager

69.—(1) This regulation applies where a person ("P") owes a net liability to the scheme manager.

(2) The scheme manager must send notice in writing to P setting out—

- (a) how the net liability has been calculated,
- (b) an explanation of the circumstances in which the net liability may be reduced or waived under regulations 64 to 66,

- (c) where the net liability is calculated by reference to an amount by way of compensation under section 16(3) of the PSPJOA 2022, an explanation of the agreement that may be made under regulation 67,
- (d) when and how the net liability must be paid, and
- (e) the consequences of not paying the net liability.

(3) Where—

- (a) the scheme manager has sent a notice under paragraph (2), and
- (b) the amount of the net liability is subsequently adjusted,

the scheme manager must send another notice in writing to P under paragraph (2).

(4) P must pay the amount of the net liability to the scheme manager—

- (a) where the net liability relates to the remediable service of—
 - (i) an immediate choice member, before the end of the period of 6 months beginning with the day after the day on which P receives the most recent notice under paragraph (2);
 - (ii) a deferred choice member, before the day on which benefits become payable in relation to the member's remediable service, or
- (b) in accordance with an agreement under paragraph (5), and within a period of 10 years beginning on the date of such an agreement.

(5) P and the scheme manager may agree that the net liability is to be paid in part or in full by way of—

- (a) a lump sum, or
- (b) where the net liability is £100 or more, instalments.

(6) If, during the period of an agreement under paragraph (4), P—

- (a) retires on any grounds, or
- (b) dies,

the balance owing under the agreement may be paid by way of deductions from any benefits (including a lump sum benefit) to which P is entitled under a firefighters' pension scheme.

(7) Where P does not pay any amount that falls due by virtue of paragraph (4) or an agreement under paragraph (5), the scheme manager may deduct such sums from benefits payable to P under a firefighters'

pension scheme as seem reasonable to the scheme manager for the purpose of discharging P's liability.

Payments of amounts owed to a person

70.—(1) This regulation applies where the scheme manager owes a net liability to a person ("P").

(2) The scheme manager must pay the amount of the net liability to P—

- (a) as soon as reasonably practicable after the scheme manager determines the amount of the net liability, or
- (b) where the scheme manager requires P to provide information in accordance with paragraph (3), as soon as reasonably practicable after receipt of that information.

(3) Before paying the amount of a net liability owed to P, the scheme manager may, by written notice given as soon as reasonably practicable after the scheme manager determines the amount of the net liability, require P to provide information in relation to the payment of the net liability which is—

- (a) information within P's possession, or
- (b) information which P may be reasonably expected to obtain.

Hannah Blythyn

Deputy Minister for Social Partnership, under the
authority of the Minister for Social Justice, one of the
Welsh Ministers
4 September 2023

Scott Mann

Stuart Anderson

We consent

Two of the Lords Commissioners of His Majesty's
Treasury
31 August 2023

SCHEDULE Regulations 4(3),
6(2), 10(2) and 14(2)

**Eligible decision-makers for deceased
members**

Interpretation

1.—(1) In this Schedule—

“beneficiary” (*“buddiolwr”*) means a person who has become entitled to receive any death benefit;

“election” (*“dewisiad”*) means an opted-out service election, an immediate choice election decision or a deferred choice election decision;

“eligible adult survivor” (*“goroeswr sy’n oedolyn cymwys”*) means—

(a) a “surviving partner” within the meaning given in regulation 85(1) and (2) of the 2015 Regulations, or

(b) a “child” within the meaning given in regulation 94(1) of the 2015 Regulations and who is 18 years of age or older;

“eligible child survivor” (*“goroeswr sy’n blentyn cymwys”*) means an “eligible child” (*“plentyn cymwys”*) within the meaning given in regulation 94(2) of the 2015 Regulations and who is under the age of 18;

“eligible decision-maker” (*“penderfynwr cymwys”*) means the person who may make—

(a) an opted-out service election as mentioned in regulation 6;

(b) an immediate choice election as mentioned in regulation 10;

(c) a deferred choice election decision as mentioned in regulation 14.

Sole beneficiary: eligible adult survivor

2. Where a person is—

(a) the sole beneficiary, and

(b) an eligible adult survivor,

the eligible decision-maker is that person.

Sole beneficiary: eligible child survivor

3. Where a person (“C”) is—

(a) the sole beneficiary, and

(b) an eligible child survivor,

the eligible decision-maker is a parent or guardian of C.

Multiple beneficiaries: eligible adult survivors

4.—(1) This paragraph applies where two or more eligible adult survivors are the beneficiaries.

(2) Where one of the eligible adult survivors is—

- (a) a spouse,
- (b) a civil partner, or
- (c) a cohabiting partner

of the deceased, the eligible decision-maker is that person.

(3) Where none of the eligible adult survivors is a person mentioned in sub-paragraph (2), the eligible decision-maker is—

- (a) the person agreed upon between them, in accordance with paragraph 6 below, who must be one of them, or
- (b) if no agreement is reached, the scheme manager.

Multiple beneficiaries: eligible child survivors

5. Where the only beneficiaries are children, two or more of which are eligible child survivors, the eligible decision-maker is—

- (a) where all the eligible child survivors live in the same household, a parent or guardian of the eligible children;
- (b) where the eligible child survivors live in different households, the person agreed upon by the parents or guardians of the eligible child survivors, in accordance with paragraph 6 below, who must be one of them, or
- (c) if no agreement is reached, the scheme manager.

Multiple beneficiaries: additional requirements

6.—(1) This paragraph applies where, under paragraphs 4(3)(a) and 5(b), the eligible decision-maker is to be agreed upon either by multiple eligible adult survivors, or, as the case may be, multiple parents or guardians of eligible child survivors (“the potentially eligible decision-makers”).

(2) The scheme manager must—

- (a) seek to identify all such potentially eligible decision-makers and inform them of the need to agree who is the eligible-decision maker in respect of the deceased in accordance with this paragraph, and

(b) provide a notice in respect of the deceased to each potentially eligible decision-maker, setting out—

(i) the information that would be required to be provided under regulation 4, if the notice were a remediable service statement, and

(ii) an explanation of the process set out at sub-paragraph (3).

(3) The potentially eligible decision-makers must—

(a) unanimously agree upon the eligible decision-maker (“the agreed eligible decision-maker”), and

(b) communicate the identity of the agreed eligible decision-maker to the scheme manager collectively, in writing, within 6 months of receiving the notice mentioned at sub-paragraph (2)(b).

(4) If the scheme manager does not receive notice in accordance with sub-paragraph (3)(b) above, the scheme manager becomes the eligible decision-maker immediately after the date for notice in that sub-paragraph expires.

Other cases

7. In any case not covered by paragraphs 2 to 6, the eligible decision-maker is the scheme manager.