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SCOTTISH STATUTORY INSTRUMENTS

# 2025 No. 113

# PUBLIC SERVICE PENSIONS

## The Firefighters' Pensions (Remediable Service) (Scotland) Amendment Regulations 2025

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| *Made - - - -* | *22nd April 2025* |
| *Laid before the Scottish Parliament* | *24th April 2025* |
| *Coming into force - -* | *23rd June 2025* |

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 1(1) and (2)(f), 2(1) (together with paragraph 6(c) of schedule 2) and 3(1) and (2)(a) (together with paragraph 13 of schedule 3) and (c) and (3) of the Public Service Pensions Act 2013 (**a**)("the 2013 Act") and sections 5(1) and (5), 6(1), 7(3), 8(1) and (3), 10(1), 11(1) and (5), 12(1) and (3), 18(1) to (3), (5), (6) and (8), 19(1), (4) and (5), 22(1), (2) and (6), 24(1) and 29(1), (7) and (8) of the Public Service Pensions and Judicial Offices Act 2022 ("PSPJOA 2022")(**b**) and all other powers enabling them to do so.

To the extent required by section 27 of PSPJOA 2022, these Regulations are made in accordance with Treasury Directions made under that section.

In accordance with section 21(1) of the 2013 Act, the Scottish Ministers consulted the representatives of such persons as appeared to them likely to be affected by these Regulations.

**Citation and commencement**

**1.**—(1) These Regulations may be cited as the Firefighters' Pensions (Remediable Service) (Scotland) Amendment Regulations 2025.

(2) These Regulations come into force on 23 June 2025 and have effect from 1 October 2023(**c**).

**Amendment of the Firefighters' Pensions (Remediable Service) (Scotland) Regulations 2023**

**2.**—(1) The Firefighters' Pensions (Remediable Service) (Scotland) Regulations 2023(**d**) are amended in accordance with this regulation.

(**a**) 2013 c. 25. Section 3(1) was amended by section 94(2) of PSPJOA 2022, and section 3(2)(c) was inserted by section 94(3) of that Act.
(**b**) 2022 c. 7.
(**c**) Section 3(3)(b) of the 2013 Act provides that regulations may have retrospective effect.
(**d**) S.S.I. 2023/242.

(2) In regulation 2(1) (interpretation), in the definition of "eligible child"—

(a) for "Part 1 of schedule 2 of the 1992 Order" substitute "Part D of schedule 2 of the 1992 Order", and

(b) For "the 2015 scheme, the meaning given in regulation 85 of the 2015 Regulations" substitute "the reformed scheme".

(3) In regulation 2(1) (interpretation), in the definition of "immediate choice member" for "remedial" substitute "remediable".

(4) In regulation 10 (immediate choice decision: deemed section 6 election), in both places where "an immediate choice election" appears substitute "a section 6 election".

(5) In regulation 12 (deferred choice decision for reformed scheme or legacy scheme benefits: general)—

(a) in paragraph 8(b), for "regulation 15" substitute "regulation 16", and

(b) in paragraph 11, for "the beneficiary must pay an amount equal to the difference to the beneficiary" substitute "the scheme manager must pay an amount equal to the difference to the beneficiary".

(6) In regulation 13(4) (deferred choice decision to be made by M), for "deferred choice election decision" substitute "deferred choice decision".

(7) In regulation 14(2)(a)(i) (deferred choice decision to be made by a person other than M), for "remedial" substitute "remediable".

(8) In regulation 16(b) (deferred choice election: deemed election), omit "election".

(9) In regulation 17(2) (application and interpretation of Chapter 1)—

(a) omit the definition "appropriate person", and

(b) in the definition of "remediable shareable rights", for "transfer date" substitute "transfer day".

(10) In regulation 18(1) (application and interpretation of Section 2), for "remedial" substitute "remediable".

(11) In regulation 24(1)(b)(i) (information provided on or after 1 October 2023: calculation of pension credits and debits), omit "section" where it first occurs.

(12) In regulation 49 (application and interpretation of Chapter 1)—

(a) in the heading, omit "Application and", and

(b) in paragraph (1), in the definition of "ill-health benefits" for "payable by virtue of an entitlement mentioned in paragraph (1)" substitute "to which a 1992 IHR member, a 2006 IHR member or a 2015 IHR member is entitled".

(13) After regulation 51 (entitlement to ill-health benefits where a remedy member's legacy scheme is the 1992 scheme) insert—

**"Entitlement to ill-health benefits where a remedy member's legacy scheme is the 2007 scheme**

**51A**—(1) Paragraph (2) applies where a 2007 IHR member ( "M") is—

(a) a special member, and

(b) either—

(i) a full protection member, or

(ii) a tapered protection member whose entitlement to an ill-health award was assessed before the transition date (as defined in Part 1 of Schedule 2 of the 2007 Order).

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

(a) where it was determined that M was entitled to a lower tier award, whether M would, at the time of the original decision, have met the criteria to be entitled to a lower tier award under the reformed scheme,

(b) where it was determined that M was entitled to a lower tier and to 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 reformed 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 reformed scheme.

(3) Paragraph (4) applies where—

(a) a remedy member ("M") is—

(i) a special member of the 2007 scheme, and

(ii) a transition member,

(b) M's entitlement to an ill-health award was assessed under the reformed scheme, and

(c) it was determined in accordance with that regulation that—

(i) M was not entitled to either a lower tier or a higher tier award, or

(ii) M was entitled to a lower tier award.

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

(a) where it was determined that M was not entitled to either a lower tier or 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 rule 2 of Part 3 of Schedule 1 to the 2007 Order, 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 rule 2 of Part 3 of Schedule 1 to the 2007 Order,

(b) where it was determined that M was entitled to a lower 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 rule 2 of Part 3 of Schedule 1 to the 2007 scheme.

(5) An IQMP who is to provide an opinion on a question in accordance with this regulation must—

(a) examine or interview M if 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 141 of the 2015 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 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 rule 2 of Part 3 of Schedule 1 to the 2007 Order by virtue of which M became entitled to an ill-health award under the 2007 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—

(i) M became entitled to an ill-health award under the reformed scheme, or

(ii) it was determined that M was not entitled to a lower tier or a higher tier award under the reformed scheme.".

(14) In regulation 58(2) (indirect compensation), for "24" substitute "23".

(15) In regulation 62(3) (power to reduce or waive amounts owed by a person to the scheme manager), for "63" substitute "65.

(16) In regulation 65(9) (payment of amounts owed to the scheme manager), for "paragraph (5)" substitute "paragraphs (6) and (7)".

(17) In the schedule—

(a) in paragraph 1(1) (interpretation)—

(i) in the definition of "election", for "immediate choice election" substitute "immediate choice decision",

(ii) after the definition of "eligible decision-maker" insert a new definition—

""surviving partner" has the meaning given in regulation 76 of the 2015 Regulations,",

(iii) in the definition of "eligible decision-maker"—

(aa) in paragraph (a), for "regulation 5(2)(b)" substitute "regulation 6(2)(b)",

(bb) in paragraph (b), for "regulation 7(2)(b)" substitute "regulation 8(2)(b)",

(cc) in paragraph (c), for "regulation 11(2)(b)" substitute "regulation 12(2)(b)",

(b) in paragraph 3 (sole beneficiary: a child), after "decision-maker is C's" insert "parent or", and

(c) in paragraph 11(2)(b)(ii) (multiple beneficiaries: one or more adults and one or more children)—

(i) omit "to" where it occurs between "by" and"the",

(ii) at the end of the sub-paragraph insert ", the scheme manager".

*IVAN McKEE*
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
22nd April 2025

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Firefighters' Pensions (Remediable Service) (Scotland) Regulations 2023 (S.S.I. 2023/242) to correct minor errors in the Firefighters' Pensions (Remediable Service) (Scotland) Regulations 2023. Regulation 2(13) makes provision for instances in which a remedy member's legacy scheme is the 2007 scheme. This aligns with the provision already set out in regulation 51 of the Firefighters' Pensions (Remediable Service) (Scotland) Regulations 2023 in relation to members whose legacy scheme is the 1992 scheme.

These Regulations are also made further to the Public Service Pensions and Judicial Offices Act 2022 (c. 7) in order to remedy the unlawful discrimination on the basis of age that was found to result from the transitional protections afforded to certain cohorts of members of legacy pension schemes (the schemes established by the Firemen's Pension Scheme Order 1992 (S.I. 1992/129) and Firefighters' Pension Scheme (Scotland) Order 2007 (S.S.I. 2007/199)).

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