
STATUTORY INSTRUMENTS

2023 No. 942

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

PART 7

Provision about special cases

CHAPTER 1

Ill-health retirement

Whether M meets the IHR criteria in M's alternative scheme

- 54.**—(1) Where, pursuant to the initial assessment, it has been finally determined that—
- (a) M meets the IHR criteria for alpha upper tier, M is to be deemed to meet whichever of the following is the IHR criteria in M's relevant Chapter 1 legacy scheme—
 - (i) Section I upper tier;
 - (ii) Section II ill health benefits;
 - (iii) Section III upper tier;
 - (b) M meets the IHR criteria for alpha lower tier, M is to be deemed to meet whichever of the following is the IHR criteria in M's relevant Chapter 1 legacy scheme—
 - (i) Section I lower tier;
 - (ii) Section II ill health benefits;
 - (iii) Section III lower tier;
 - (c) M meets the IHR criteria for—
 - (i) Section III lower tier, M is to be deemed to meet the IHR criteria for alpha lower tier;
 - (ii) Section III upper tier, M is to be deemed to meet the IHR criteria for alpha upper tier;
 - (d) M satisfies the severe ill-health condition, M is to be deemed to meet the IHR criteria for all ill-health benefits in both alpha and the PCSPS;
 - (e) M does not meet the IHR criteria for—
 - (i) Section I lower tier, Section II ill health benefits or Section III lower tier, M is to be deemed to not meet the IHR criteria for alpha lower tier or alpha upper tier;
 - (ii) Section I upper tier or Section III upper tier, M is to be deemed to not meet the IHR criteria for alpha upper tier.
- (2) Where, pursuant to the initial assessment, it has been finally determined that—
- (a) M meets the IHR criteria for alpha lower tier, and—
 - (i) M's relevant Chapter 1 legacy scheme is not Section II, and
 - (ii) it has not been determined that M satisfies the severe ill-health condition,

- the scheme manager must determine whether M, at the relevant time, met the IHR criteria for whichever of Section I upper tier or Section III upper tier is the IHR criteria in M's relevant Chapter 1 legacy scheme;
- (b) M meets the IHR criteria for Section I lower tier, Section I upper tier or Section II ill health benefits and it has not been determined that M satisfies the severe ill-health condition, the scheme manager must determine whether M, at the relevant time, met the IHR criteria for alpha lower tier or alpha upper tier;
- (c) M does not meet the IHR criteria for alpha lower tier or alpha upper tier, the scheme manager must determine whether M, at the relevant time, met the IHR criteria for whichever of the following is M's relevant Chapter 1 legacy scheme—
- (i) Section I lower tier and Section I upper tier;
 - (ii) Section II ill health benefits;
 - (iii) Section III lower tier and Section III upper tier.
- (3) Paragraphs (1) and (2) do not apply where—
- (a) it has been finally determined, pursuant to the initial assessment, that M meets the IHR criteria for alpha lower tier or alpha upper tier, and
 - (b) at the relevant time, M had reached the pension age that would have applied to M had M been a member of the PCSPS.
- (4) In making a determination required by paragraph (2), the scheme manager must—
- (a) obtain the opinion of the scheme medical adviser about whether M met the applicable IHR criteria at the relevant time, and
 - (b) treat the opinion of the scheme medical adviser as conclusive of that question.
- (5) In forming an opinion for the purpose of paragraph (4), the scheme medical adviser may only have regard to—
- (a) the report (the “outcome report”) produced pursuant to the initial assessment on the basis of which it was determined whether M met, or did not meet, any IHR criteria;
 - (b) where no outcome report is available, any other evidence which—
 - (i) relates to the question of M's entitlement to ill-health benefits which was, or could have been, available at or before the relevant time, and
 - (ii) the scheme manager considers relevant to that question.
- (6) For the purposes of this regulation, M satisfies the severe ill-health condition if M is a person described in any of section 229(4)(a) to (c) of the FA 2004(1).

Commencement Information

II Reg. 54 in force at 1.10.2023, see [reg. 1\(b\)](#)

(1) In accordance with section 110(1) of PSPJOA 2022, “FA 2004” means the Finance Act 2004 (c. 12). Section 229(4) was inserted by paragraph 6(4) of Schedule 17 to the Finance Act 2011 (c. 11).

Changes to legislation:

There are currently no known outstanding effects for the The Public Service (Civil Servants and Others) Pensions (Remediable Service) Regulations 2023, Section 54.