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STATUTORY INSTRUMENTS

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**2023 No. 912**

**The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023**

**PART 6**

**Administration**

**CHAPTER 4**

**Repayments**

**Repayments: entitlement**

**37.—**(1) A specified individual is entitled to the repayment by HMRC of an annual allowance overpayment, a lifetime allowance overpayment, an unauthorised payments charge overpayment or an unauthorised payments surcharge overpayment only on the making of an application (“a repayment application”).

(2) A payment is an “annual allowance overpayment” if—

- (a) before the relevant time, a liability to the annual allowance charge arose in respect of a specified individual for a relevant tax year, and
- (b) the amount paid by the individual in respect of that charge, by virtue of the operation of a relevant rectification provision or regulation 14 of the 2023 Regulations (local government new schemes: final salary uplifts ignored in calculating pension input amount), exceeds the amount of that liability.

(3) A payment is a “lifetime allowance overpayment” if—

- (a) before the relevant time, a liability to the lifetime allowance charge arose in respect of a specified individual for a relevant tax year in connection with a benefit crystallisation event,
- (b) the individual is liable to the lifetime allowance charge in respect of that benefit crystallisation event and has paid an amount in respect of that liability, and
- (c) the amount paid, by virtue of the operation of a relevant rectification provision, exceeds the amount of that liability.

(4) A payment is an “unauthorised payments charge overpayment” if—

- (a) before the relevant time, an unauthorised member payment<sup>(1)</sup> was made by a relevant pension scheme to, or in respect of, a specified individual,
- (b) the individual is liable to the unauthorised payments charge in respect of that payment and has paid an amount in respect of that liability, and

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<sup>(1)</sup> By virtue of regulation 2(2)(b), “unauthorised member payment” is defined in section 160(2) of FA 2004. Section 160 was amended by paragraph 3 of Schedule 21, and paragraph 3 of Schedule 23, to FA 2006 and paragraph 5 of Schedule 20 to FA 2007.

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

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- (c) the amount paid, by virtue of the operation of a relevant rectification provision, exceeds the amount of that liability.
- (5) A payment is an “unauthorised payments surcharge overpayment” if—
- (a) before the relevant time, a surchargeable unauthorised member payment was made by a relevant pension scheme to, or in respect of, a specified individual,
  - (b) the individual is liable to the unauthorised payments surcharge in respect of that payment and has paid an amount in respect of that liability, and
  - (c) the amount paid, by virtue of the operation of a relevant rectification provision, exceeds the amount of that liability.