

SCHEDULE 3

Administrative matters

PART 7

Taxation

Deduction of tax

16.—(1) The scheme manager must deduct from any payment under the scheme any tax which is required to be paid in respect of it.

(2) Subject to sub-paragraph (3), if a person's entitlement to a benefit or transfer payment under these Regulations—

(a) constitutes a benefit crystallisation event in accordance with section 216 of the 2004 Act; and

(b) a lifetime allowance charge under that Act is payable in respect of that event,

that charge must be paid by the scheme manager.

(3) The member's present or future benefits or transfer payment in respect of which any charge under sub-paragraph (2) arises must be reduced by an amount that fully reflects the amount of the charge paid by the scheme manager and is to be calculated by reference to advice provided by the scheme actuary for that purpose.

(4) Where—

(a) the scheme manager's liability to pay a pension under regulation 108 is discharged by the payment of a lump sum in accordance with paragraph (4), (5), (6) or (7) of that regulation; and

(b) that lump sum payment is made to a member who has reached the age of 75.

the scheme manager must deduct tax at the rate of 55% (or such other amount as applies from time to time) from the lump sum payable in accordance with section 205A of the 2004 Act.

(5) Where—

(a) a member has given written notice to the scheme manager ^{F1}...that a lump sum payable under regulation 111 is to be treated as a pension protection lump sum death benefit in accordance with paragraph 14 of Schedule 29 to the 2004 Act; and

(b) has not revoked that notice,

the scheme manager must deduct tax at the rate of 55% (or such other amount as applies from time to time) from the lump sum payable in accordance with section 206 of the 2004 Act.

(6) Where—

(a) a lump sum on death is payable in accordance with regulation 111; and

(b) that lump sum is payable in respect of a member who had reached the age of 75 at the date of the member's death,

the scheme manager must deduct tax at the rate of 55% (or such other amount as applies from time to [^{F2}time]) from the lump sum payable in accordance with section 206 of the 2004 Act.

(7) A person who is entitled to a benefit under these Regulations must (whether or not intending to rely on entitlement to transitional protection, to an enhanced lifetime allowance or to enhanced protection) give to the scheme manager such information as will enable the scheme manager to determine—

Changes to legislation: There are currently no known outstanding effects for the The National Health Service Pension Scheme (Scotland) Regulations 2015, Paragraph 16. (See end of Document for details)

- (a) whether any lifetime allowance charge is payable in respect of the benefit; and
 - (b) if so, the amount of that charge.
- (8) If a person claiming a benefit under these Regulations intends to rely on entitlement to an enhanced lifetime allowance by virtue of any of the provisions listed in section 256(1) of the 2004 Act (enhanced lifetime allowance regulations), that person must give to the scheme manager—
- (a) the reference number issued by the Commissioners under the Registered Pension Schemes (Enhanced Lifetime Allowance) Regulations 2006^{M1} in respect of that entitlement; and
 - (b) the information referred to in sub-paragraph (7).
- (9) If a person claiming a benefit under these Regulations intends to rely on entitlement to transitional protection against a lifetime allowance charge in accordance with paragraph 14 of Schedule 18 to the Finance Act 2011^{M2} or paragraph 1 of Schedule 22 to the [F³Finance Act 2013], that person must give to the scheme manager—
- (a) the reference number issued by the Commissioners under the Registered Pension Schemes (Lifetime Allowance Transitional Protection) Regulations 2011^{M3} or the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification Regulations 2013^{M4}) in respect of that entitlement; and
 - (b) the information referred to in sub-paragraph (7).
- (10) If a person claiming benefit under these Regulations intends to rely on entitlement to individual protection against a lifetime allowance [F⁴charge] in accordance with paragraph 1 of Schedule 6 to the Finance Act 2014^{M5}, the person must give to the scheme manager—
- (a) the reference number issued by the Commissioners under the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Individual Protection 2014 Notification) Regulations 2014^{M6} in respect of that entitlement; and
 - (b) the information referred to in sub-paragraph (7).
- (11) The information referred to in sub-paragraph (7) and, as the case may be, reference numbers referred to in sub-paragraph (8)(a), (9)(a) or (10)(a), must be given to the scheme manager—
- (a) at the time the person makes a claim for a benefit; or
 - (b) where that information has not been provided at the time of making the claim, within such time as the scheme manager specifies in writing.
- (12) Where the person fails to provide all, or part of, the information referred to in sub-paragraph (7) and, as the case may be, reference numbers referred to in sub-paragraph (8)(a), (9)(a) or (10)(a) within the time limits specified by the scheme manager where relevant, the scheme manager may treat the whole of the benefit as a chargeable benefit and pay the charge on that basis.
- (13) Practitioners and non-GP providers must provide the information required by regulation 15A of the Registered Pension Scheme (Provision of Information) Regulations 2006^{M7} in respect of their benefits under the scheme in a manner prescribed from time to time by the scheme manager.
- (14) This sub-paragraph applies to a member who—
- (a) is liable to an annual allowance charge in accordance with section 237A of the 2004 Act; and
 - (b) meets the conditions specified in subsection (1) of section 237B of that Act.
- (15) A member to whom sub-paragraph (14) applies may give notice in writing to the scheme manager specifying that the scheme manager and the member are to be jointly and severally liable

for the payment of the annual allowance charge due in respect of that member in accordance with section 237B of the 2004 Act.

(16) Unless the scheme manager's liability for an annual allowance charge referred to in subparagraph (15) is discharged in accordance with section 237D of the 2004 Act—

- (a) that annual allowance charge must be paid by the scheme manager on behalf of the member; and
- (b) that member's present or future benefits in respect of which that charge arises must be adjusted in accordance with section 237E of the 2004 Act and must be calculated by reference to advice provided by the scheme actuary for that purpose.

(17) “Enhanced lifetime allowance” and “enhanced protection” are to be construed in accordance with the 2004 Act.

Textual Amendments

- F1** Words in sch. 3 para. 16(5)(a) omitted (with effect in accordance with reg. 1(2) of the amending S.S.I.) by virtue of [The National Health Service Pension Scheme \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/97\)](#), regs. 1(1), **12(a)**
- F2** Word in sch. 3 para. 16(6) substituted (with effect in accordance with reg. 1(2) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/97\)](#), regs. 1(1), **12(b)**
- F3** Words in sch. 3 para. 16(9) substituted (with effect in accordance with reg. 1(2) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/97\)](#), regs. 1(1), **12(c)**
- F4** Word in sch. 3 para. 16(10) substituted (with effect in accordance with reg. 1(2) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/97\)](#), regs. 1(1), **12(d)**

Marginal Citations

- M1** S.I. 2006/131.
- M2** 2011 c.11.
- M3** S.I. 2011/1752.
- M4** S.I. 2013/1741.
- M5** 2014 c.26.
- M6** S.I. 2014/1842.
- M7** S.I. 2006/567.

Changes to legislation:

There are currently no known outstanding effects for the The National Health Service Pension Scheme (Scotland) Regulations 2015, Paragraph 16.