
STATUTORY INSTRUMENTS

2023 No. 113

The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023

PART 2

Modifications of Part 4 of the Finance Act 2004

CHAPTER 2

Annual allowance

Chapter 1 schemes: scheme pays treated as operated by legacy schemes

10.—(1) Paragraphs (3) to (10) apply where—

- (a) an individual's pension scheme input amount in relation to a Chapter 1 new scheme for a tax year is (disregarding the effect of section 2(1) of PSPJOA 2022) determined by reference to the individual's remediable service rights under the scheme,
- (b) the individual gave a scheme pays notice to the scheme administrator of the scheme in respect of the individual's liability for the annual allowance charge for the tax year,
- (c) the joint and several liability under section 237B(7) of FA 2004 of the scheme administrator resulting from the notice has not been discharged under section 237D of FA 2004, and
- (d) as a result of section 2(1) of PSPJOA 2022, the remediable service is pensionable service under a Chapter 1 legacy scheme.

(2) Paragraphs (3) to (10) also apply where—

- (a) the conditions in sub-paragraphs (a) and (d) of paragraph (1) are met, and
- (b) the scheme administrator of the Chapter 1 new scheme has, in response to a request from the individual, at any time agreed to pay an amount in respect of the annual allowance charge.

(3) The scheme pays notice is to be treated as not having been given to the scheme administrator of the Chapter 1 new scheme but as having instead been given to the scheme administrator of the Chapter 1 legacy scheme (so that the latter scheme administrator, and not the former, became jointly and severally liable under section 237B(7) of FA 2004 with the individual for the amount specified in the notice).

(4) The request from the individual is to be treated as not having been given to the scheme administrator of the Chapter 1 new scheme but as having instead been given to the scheme administrator of the Chapter 1 legacy scheme.

(5) Any payment made by the scheme administrator of the Chapter 1 new scheme—

- (a) in satisfaction of the joint and several liability as a result of the notice, or
- (b) under the agreement to pay in response to the request from the individual,

is to be treated as not having been made by that scheme administrator but as having been made instead by the scheme administrator of the Chapter 1 legacy scheme.

(6) Where only part of the pension scheme input amount in relation to the scheme for the tax year is determined by reference to the individual’s remediable service rights under the scheme—

- (a) paragraph (3) or (4) applies to the scheme pays notice, or to the request from the individual (as the case may be), only so far as the annual allowance charge for the tax year is referable to those rights;
- (b) paragraph (5) applies to a payment made by the scheme administrator of the Chapter 1 new scheme only so far as the annual allowance charge in respect of which it is made is referable to those rights.

(7) For the purposes of paragraph (6) an annual allowance charge is, so far as possible, to be regarded as referable to rights of the individual under the scheme that are not remediable service rights.

(8) In determining the individual’s pension input amounts (for any tax year)—

- (a) any adjustment made under section 237E of FA 2004 to the benefits payable to the individual in consequence of a payment within paragraph (5) is to be ignored;
- (b) any adjustment made to the benefits payable to the individual in consequence of a payment under paragraph (5)(b) is to be ignored.

(9) Where the amount of the annual allowance charge in respect of which the scheme pays notice is given, or the request from the individual is made (as the case may be), reduces as a result of the operation of a relevant rectification provision, the notice or the request is to be treated as specifying—

- (a) the reduced amount, or
- (b) where the notice or the request specified only a proportion of the annual allowance charge, the same proportion of the reduced amount.

(10) Neither the scheme administrator of the Chapter 1 new scheme, nor the scheme administrator of the Chapter 1 legacy scheme, is required, in consequence of anything in this regulation, to amend any accounting-for-tax return they have already made.

(11) In this Chapter “remediable service rights”, in relation to an individual and a Chapter 1 scheme, means rights under the scheme in respect of the individual’s remediable service in an office or employment.

(12) When determining, for the purposes of paragraph (11), the rights of an individual that are in respect of the individual’s remediable service in an employment or office, any rights that result from voluntary arrangements entered into by the individual are to be ignored.

Commencement Information

II [Reg. 10](#) in force at 6.4.2023, see [reg. 1\(2\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023, Section 10.