

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 3

Benefits

Scheme pension: additional scheme pension paid in respect of deceased member

23.—(1) Paragraphs (2) and (3) apply where—

- (a) as a result of a relevant rectification provision, an amount or amounts by way of scheme pension⁽¹⁾ (“the scheme pension arrears”) have become payable to a member (“P”) or to P’s personal representatives,
- (b) P dies without having been paid the scheme pension arrears, and
- (c) the scheme pension arrears are paid instead to P’s personal representatives.

(2) The payment—

- (a) is to be treated as falling within section 164(1) of FA 2004 (authorised member payments)⁽²⁾;
- (b) is to be treated as pension paid under a registered pension scheme for the purposes of Part 9 of ITEPA 2003⁽³⁾;
- (c) is to be treated for those purposes as pension accruing in the tax year in which it is paid.

(3) Regulation 4 of RPS(AP)R 2009 (pension errors) does not apply in relation to the payment.

Commencement Information

II Reg. 23 in force at 6.4.2023, see [reg. 1\(2\)](#)

(1) For the purposes of Part 4 of FA 2004, “scheme pension” is defined in paragraph 2 of Schedule 28 to that Act.
(2) Section 164(1) of FA 2004 was re-numbered by paragraph 1(2) of Schedule 29 to FA 2008 (c. 9) and amended by paragraph 6 of Schedule 23 to FA 2006.
(3) 2003 c. 1. “ITEPA 2003” is defined as the Income Tax (Earnings and Pensions) Act 2003 (c. 1) by section 103 of FA 2022. Chapter 5A (applying to pensions paid under a registered pension scheme) was inserted into Part 9 of ITEPA 2003 by paragraph 6 of Schedule 36 to FA 2004. It was relevantly amended by: paragraph 22 of Schedule 16 to FA 2011, paragraph 117 of Schedule 45 to FA 2013 (c. 29), paragraphs 81 and 82 of Schedule 1, and paragraph 25 of Schedule 2, to the Taxation of Pensions Act 2014, paragraph 23 of Schedule 4 to FA 2015 (c. 11) and section 22(6) and (7) of F(No. 2)A 2015 (c. 33).

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 23.