
STATUTORY INSTRUMENTS

2023 No. 912

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

PART 1

Introductory

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023.

(2) These Regulations come into force on 14th September 2023.

(3) These Regulations have effect so as to modify enactments in their application in relation to a relevant person⁽¹⁾.

Interpretation

2.—(1) In these Regulations—

“the 2023 Regulations” means the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023⁽²⁾;

“new scheme benefits election” means an election by virtue of section 6 or 10 of PSPJOA 2022⁽³⁾ (Chapter 1 scheme⁽⁴⁾: immediate or deferred choice to receive new scheme benefits);

“partnership pension account” has the meaning given in section 110(1) of PSPJOA 2022 (interpretation).

(2) Expressions used in these Regulations, unless otherwise provided, have the same meaning as in—

- (a) the 2023 Regulations, or
- (b) Part 4 of FA 2004⁽⁵⁾ (pension schemes etc.).

(1) “Relevant person” for these purposes is defined in section 11(3) of FA 2022, and “modifying” is defined in section 11(7) of that Act.

(2) [S.I. 2023/113](#) (referred to in these footnotes as “the 2023 Regulations”).

(3) [2022 c. 7](#). “PSPJOA 2022” is defined as the Public Service Pensions and Judicial Offices Act 2022 in section 11(7) of FA 2022.

(4) By virtue of regulation 2(2)(a), “Chapter 1 scheme” has the same meaning as in Chapter 1 of Part 1 of PSPJOA 2022 (see section 33(1) of that Act).

(5) [2004 c. 12](#).

PART 2

Annual allowance

Chapter 1 schemes: effect of extinguishment and creation of voluntary contributions rights

3.—(1) This regulation applies where, as a result of scheme regulations made by virtue of section 20 of PSPJOA 2022 (voluntary contributions) in respect of an arrangement(6) under a Chapter 1 new scheme(7), rights (“old rights”) in respect of an arrangement under that scheme to additional benefits(8), or to the earlier payment of benefits, that would otherwise have been secured by the payment of voluntary contributions(9) in respect of an individual, are extinguished.

(2) For the purposes of determining the pension input amount(10) of the individual in respect of the arrangement under the Chapter 1 new scheme for the pension input period(11) in which the old rights are extinguished, the individual is to be treated as if those rights had not been extinguished.

(3) Paragraphs (4) and (5) apply where, in connection with the extinguishment of the old rights, and as a result of scheme regulations made by virtue of section 20 of PSPJOA 2022, rights (“new rights”) are created in respect of an arrangement under the relevant Chapter 1 legacy scheme(12) which represent either—

- (a) rights of an equivalent value to the extinguished old rights, or
- (b) rights that would have been secured under that scheme if the voluntary contributions had been paid to that scheme in respect of that individual.

(4) For the purposes of determining the pension input amount of the individual for the replacement pension input period in respect of the arrangement under the relevant Chapter 1 legacy scheme, the new rights are to be ignored to the extent that they relate to voluntary contributions that were paid with the purpose of securing additional benefits.

(5) For the purposes of determining, in respect of an individual who is a deferred member(13) of the relevant Chapter 1 legacy scheme, whether the value of their relevant rights(14) under the arrangement under that scheme has increased during a pension input period—

- (a) for the replacement pension input period or any subsequent pension input period, any new rights are to be ignored to the extent that they relate to voluntary contributions paid to

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- (6) By virtue of regulation 2(2)(b), “arrangement” has the meaning given in section 152 of FA 2004. Section 152 was amended by section 24(2) of F(No. 2)A 2023 (c. 30).
 - (7) By virtue of regulation 2(2)(a), “Chapter 1 new scheme” has the same meaning as in Chapter 1 of Part 1 of PSPJOA 2022 (see section 33(2) of that Act).
 - (8) By virtue of regulation 2(2)(b), “benefits” provided by a pension scheme is to be construed in accordance with section 279(2) of FA 2004.
 - (9) By virtue of regulation 2(2)(a), “voluntary contributions” has the same meaning as in Part 1 of PSPJOA 2022 (see section 110(1) of that Act).
 - (10) By virtue of regulation 2(2)(b), the “pension input amount” of an arrangement is determined in accordance with section 229(2) of FA 2004. Section 229 was amended by paragraph 6 of Schedule 17 to FA 2011 (c. 11) and by paragraphs 7 and 8 of Schedule 4 to F(No. 2)A 2015 (c. 33).
 - (11) By virtue of regulation 2(2)(b), “pension input period” is determined in accordance with sections 238 to 238ZB of FA 2004. Sections 238ZA and 238ZB were inserted by paragraph 3 of Schedule 4 to F(No. 2)A 2015 and amended by paragraph 16 of Schedule 17 to FA 2011 and paragraph 2 of Schedule 4 to F(No. 2)A 2015.
 - (12) By virtue of regulation 2(2)(a), “the relevant Chapter 1 legacy scheme” has the same meaning as in Chapter 1 of Part 1 of PSPJOA 2022 (see section 4 of that Act).
 - (13) By virtue of regulation 2(2)(b), “member” in relation to a pension scheme is defined in section 151 of FA 2004; and “deferred member” is defined in section 151(4). Section 151 was amended by paragraph 2 of Schedule 23 to FA 2006 (c. 25).
 - (14) By virtue of regulation 2(2)(b), the “relevant rights” of an individual are defined in section 234(5C) of FA 2004. Section 234 of FA 2004 sets out how to calculate the pension input amount in respect of a defined benefits arrangement for any pension input period; in particular, how to determine whether there has been an increase in the value of the individual’s rights under the arrangement.

the Chapter 1 new scheme during the period of remediable service⁽¹⁵⁾ for the purpose of securing additional benefits, and

- (b) for any pension input period after the replacement pension input period, any new rights are to be ignored to the extent that they relate to voluntary contributions paid to the Chapter 1 new scheme during the period of remediable service for the purpose of securing the earlier payment of benefits.

(6) In this regulation, “replacement pension input period” means the pension input period in which any new rights are conferred.

Chapter 1 legacy schemes: effect of variation of voluntary contributions rights where new scheme benefits election is made.

4.—(1) Paragraph (2) applies where—

- (a) a new scheme benefits election is made in relation to the remediable service of an individual,
- (b) as a result of scheme regulations made by virtue of section 20 of PSPJOA 2022, the individual’s rights under the relevant Chapter 1 legacy scheme that would otherwise have been secured by the payment of voluntary contributions are varied, and
- (c) that variation would (disregarding paragraph (2)) lead to an increase in the pension input amount in respect of an arrangement under that scheme for the retirement pension input period.

(2) For the purposes of determining the pension input amount of the individual in respect of the arrangement for the retirement pension input period, the individual is to be treated, on and after the coming into effect of the election, as entitled to the rights that the individual would have been entitled to if the election had not been made.

(3) In this regulation, “the retirement pension input period” means the pension input period ending in the tax year in which the new scheme benefits election comes into effect.

Chapter 1 schemes: additional pension commencement lump sum unavailable after voluntary contributions rights extinguished or varied

5.—(1) Paragraph (3) applies where—

- (a) before the relevant time, an individual was paid a pension commencement lump sum⁽¹⁶⁾ under a Chapter 1 scheme,
- (b) that lump sum was paid in connection with rights (“original rights”) in respect of an arrangement under that scheme to additional benefits, or to the earlier payment of benefits, that were secured by the payment of voluntary contributions, and
- (c) as a result of scheme regulations made by virtue of section 20 of PSPJOA 2022—
 - (i) later rights are created in an arrangement under the relevant Chapter 1 legacy scheme, or
 - (ii) original rights or later rights are varied (“varied rights”).

(2) In paragraph (1)—

“later rights” means rights that represent either—

(15) Section 11(7) of FA 2022 provides that “remediable service” means remediable service within the meaning of Chapter 1, 2 or 3 of Part 1 of PSPJOA 2022 (in this case, Chapter 1).

(16) By virtue of regulation 2(2)(b), “pension commencement lump sum” is defined in paragraph 1 of Schedule 29 to FA 2004. Paragraph 1 was amended by paragraph 34 of Schedule 10 to FA 2005 (c. 7), paragraph 11(2) of Schedule 20 to FA 2007 (c. 11), paragraph 24(2) and paragraph 79(2) of Schedule 16 to FA 2011, section 51 of FA 2013 (c. 29), paragraph 21(2) of Schedule 5 to FA 2021 (c. 26) and section 24(7) of F(No. 2)A 2023.

- (a) rights of an equivalent value to the original rights that were extinguished by scheme regulations made by virtue of section 20 of PSPJOA 2022, or
- (b) rights that would have been secured under the relevant Chapter 1 legacy scheme if the voluntary contributions connected to the original rights had, instead, been paid to that scheme in respect of that individual.

“the relevant time” means the time at which section 2(1) of PSPJOA 2022 (remediable service treated as pensionable under Chapter 1 legacy schemes) comes into force.

(3) After the relevant time, the relevant Chapter 1 legacy scheme is to be treated as making an unauthorised payment⁽¹⁷⁾ to the individual, or to the individual’s personal representatives, if it pays a pension commencement lump sum in connection with later rights or varied rights.

Chapter 1 schemes and judicial 2015 schemes: pension debits and pension credits

6.—(1) Paragraph (2) applies where—

- (a) a member of a Chapter 1 scheme or a judicial scheme⁽¹⁸⁾ has at any time become entitled to a pension credit or subject to a pension debit⁽¹⁹⁾, and
- (b) the amount of that pension debit or pension credit is (disregarding paragraph (2)) adjusted by provision made under section 19(1) or 57(1) of PSPJOA 2022 (pension credit members).

(2) For the purposes of determining the pension input amount in respect of an arrangement under the Chapter 1 scheme or the judicial 2015 scheme⁽²⁰⁾ for the pension input period in which the debit or credit is adjusted, any provision made under section 19(1) or section 57(1) of PSPJOA 2022, as the case may be, is to be ignored.

Chapter 1 legacy schemes: inward transfer, extinguishment and creation of PPA rights

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

- (a) there is a transfer of sums or assets held for the purposes of, or representing accrued rights under, an arrangement under a partnership pension account (“the transfer”),
- (b) as a result of the transfer, the sums or assets become held for the purposes of, or represent rights under, an arrangement under the relevant Chapter 1 legacy scheme,
- (c) the transfer is made in accordance with conditions specified in provision made under section 5 of PSPJOA 2022 (election for retrospective provision to apply to opted-out service),
- (d) rights are conferred in the arrangement under the relevant Chapter 1 legacy scheme which represent the benefits that a member would have accrued under that scheme, and
- (e) in connection with that conferral of rights, all rights relating to the transferred sums or assets are then extinguished in that arrangement.

(2) For the purposes of determining the pension input amount of an individual in respect of an arrangement under the relevant Chapter 1 legacy scheme—

- (a) for any pension input period in which the individual had relevant opted-out service, the pension input amount is to be reduced by the amount of any pension input amount for an

⁽¹⁷⁾ By virtue of regulation 2(2)(b), “unauthorised payment” is defined in section 160(5) of FA 2004.

⁽¹⁸⁾ By virtue of regulation 2(2)(a), “judicial scheme” has the same meaning as in Chapter 2 of Part 1 of PSPJOA 2022 (see section 70(1) of that Act).

⁽¹⁹⁾ By virtue of regulation 2(2)(b), “pension credit” and “pension debit” are defined in section 279(1) of FA 2004. Section 279 was relevantly amended by paragraphs 456 and 480 of Schedule 3 to the Income Tax Act 2007 (c. 3).

⁽²⁰⁾ By virtue of regulation 2(2)(a), “judicial 2015 scheme” has the same meaning as in Chapter 2 of Part 1 of PSPJOA 2022 (see section 70(2) of that Act).

arrangement under the partnership pension account which relates to a pension input period ending in the same tax year,

- (b) where all the steps in paragraph (1)(a) to (e) occur during the transfer pension input period, section 236(5A) of FA 2004 (relevant inward transfers)(**21**) is to be ignored for that pension input period, and
- (c) where the conferral of rights mentioned in paragraph (1)(d) occurs during the transfer pension input period, but the extinguishment of rights mentioned in paragraph (1)(e) occurs during a subsequent pension input period, the extinguishment is to be ignored for that subsequent pension input period.

(3) For the purposes of paragraph (2)(a), if the individual has become entitled under an arrangement under the partnership pension account to the present payment of benefits prior to the transfer, the pension input amount for that arrangement is to be determined by—

- (a) calculating the pension input amount of the arrangement under section 233 of FA 2004 (pension input amount: other money purchase arrangements)(**22**),
- (b) establishing the percentage of the individual’s rights under the arrangement that do not relate to that entitlement, and
- (c) multiplying the amount mentioned in sub-paragraph (a) by that percentage.

(4) In this regulation—

“relevant opted-out service” has the same meaning as in Part 1 of Chapter 1 of PSPJOA 2022(**23**), and

“transfer pension input period” means the pension input period in which the transfer mentioned in paragraph (1)(a) occurs.

PART 3

Benefits

Commutation payment: lump sum already paid

8.—(1) Paragraph (2) applies where—

- (a) an individual has been paid a lump sum that, disregarding the operation of the relevant rectification provisions(**24**), is a small pot lump sum, and
- (b) as a result of the operation of a relevant rectification provision, the condition in regulation 11(1)(e) or 12(1)(f) of RPS(AP)R 2009 (payment extinguishes the member’s entitlement to benefits)(**25**), as the case may be, has ceased to be met in relation to the lump sum.

(2) The lump sum is treated as, and is treated as always having been, a small pot lump sum.

(3) In this regulation, “small pot lump sum” means a payment made in accordance with regulation 11 or 12 of RPS(AP)R 2009, as the case may be.

(21) Subsection (5A) of section 236 of FA 2004 was inserted by [S.I. 2015/80](#).

(22) Section 233 of FA 2004 was amended by section 52 of FA 2013 and by [S.I. 2015/80](#).

(23) By virtue of regulation 2(2)(a), section 5(7) of PSPJOA 2022 specifies when a person’s opted-out service will be “relevant” in relation to a Chapter 1 legacy scheme. Section 36 of PSPJOA 2022 determines whether any continuous period of service of a person in an employment or office will be “opted-out service” in that employment or office.

(24) By virtue of regulation 2(2)(a), “relevant rectification provision” is defined in regulation 2(1) of the 2023 Regulations.

(25) By virtue of regulation 2(2)(a), “RPS(AP)R 2009” means the Registered Pension Schemes (Authorised Payments) Regulations 2009 ([S.I. 2009/1171](#)) (see regulation 2(1) of the 2023 Regulations). Regulations 11 and 12 of RPS(AP)R 2009 were amended by section 42(6) of FA 2014 ([c. 26](#)), paragraph 73(1) and (3) of Schedule 1 to the Taxation of Pensions Act 2014 ([c. 30](#)), and by [S.I. 2011/1751](#).

Commutation payment: additional lump sum paid for deceased member

- 9.—(1) Paragraphs (2) and (3) apply where—
- (a) an individual was paid a small pot lump sum,
 - (b) the individual subsequently died,
 - (c) as a result of the operation of a relevant rectification provision, a further lump sum (“the top-up lump sum”) is paid in respect of the individual, and
 - (d) the top-up lump sum would have been a small pot lump sum if—
 - (i) the individual had still been living when it was paid, and
 - (ii) it had been paid to the individual.
- (2) The top-up lump sum—
- (a) is to be treated as falling within section 164(1) of FA 2004 (authorised member payments)(**26**), and
 - (b) is to be treated as a trivial commutation lump sum(**27**) paid under a registered pension scheme(**28**) for the purposes of Part 9 of ITEPA 2003 (pension income)(**29**).
- (3) Regulation 3 of RPS(AP)R 2009 (provision of information by scheme administrator to the Commissioners) does not apply in relation to the top-up lump sum.
- (4) In this regulation, “small pot lump sum” means a payment made in accordance with regulation 11 or 12 of RPS(AP)R 2009, as the case may be.

Trivial commutation lump sum death benefit: lump sum already paid

- 10.—(1) Paragraph (2) applies where—
- (a) an individual has been paid a lump sum that, disregarding the relevant rectification provisions, is a trivial commutation lump sum death benefit(**30**), and
 - (b) as a result of the operation of a relevant rectification provision, the condition in paragraph 20(1A)(b) of Schedule 29 to FA 2004 (extinguishment of rights) has ceased to be met in relation to the lump sum.
- (2) The lump sum is treated as, and is treated as always having been, a trivial commutation lump sum death benefit.

Arrears of dependants’ scheme pension in payment: additional amounts paid for deceased member

- 11.—(1) Paragraphs (2) and (3) apply where—

(26) Section 164 of FA 2004 was amended by paragraph 6(a) to (c) of Schedule 23 to FA 2006, paragraph 1(1) and (2) of Schedule 29 to FA 2008 (c. 9), section 75(2)(a) of FA 2009 (c. 10), paragraphs 62 and 63 of Schedule 16 to FA 2011, paragraph 85 of Schedule 1 to the Taxation of Pensions Act 2014 and paragraph 3(1)(a) of Schedule 6 to FA 2016 (c. 24).

(27) By virtue of regulation 2(2)(b), “trivial commutation lump sum” is defined in paragraph 7 of Schedule 29 to FA 2004. Paragraph 7 was amended by paragraphs 23 and 29 of Schedule 16 to FA 2011, section 42(1) of FA 2014, paragraph 71 of Schedule 1 to the Taxation of Pensions Act 2014 and paragraph 7 of Schedule 5 to FA 2016.

(28) By virtue of regulation 2(2)(b), “pension scheme” is defined in section 150(1) of FA 2004.

(29) 2003 c. 1. In these Regulations, “ITEPA 2003” is defined as the Income Tax (Earnings and Pensions) Act 2003 by section 103 of FA 2022 (and “ITEPA 2003” has the same meaning in these footnotes). Chapter 15A (applying to lump sums paid under a registered pension scheme) was inserted into Part 9 of ITEPA 2003 by paragraph 11 of Schedule 31 to FA 2004 and amended by paragraph 59 of Schedule 10 to FA 2005, paragraph 28 of Schedule 19 and paragraph (1) of Schedule 27 to FA 2007, paragraph 42 of Schedule 16 to FA 2011, paragraph 5(3) of Schedule 5 to FA 2014, paragraphs 31 and 62 of Schedule 1, and paragraph 19(3) of Schedule 2, to the Taxation of Pensions Act 2014, section 22 of F(No. 2)A 2015, paragraphs 2 and 8 of Schedule 5 to FA 2016, and by S.I. 2006/569 and S.I. 2006/572.

(30) By virtue of regulation 2(2)(b), “trivial commutation lump sum death benefit” is defined in paragraph 20 of Schedule 29 to FA 2004. Paragraph 29 was amended by paragraph 6 of Schedule 18 to FA 2011 and paragraph 74 of Schedule 1 to the Taxation of Pensions Act 2014.

- (a) a person has become entitled to a dependants' scheme pension(31) under a Chapter 1 scheme, a judicial 2015 scheme or a local government new scheme(32),
 - (b) as a result of the operation of a relevant rectification provision, the amount of dependants' scheme pension payable under the relevant scheme increases, and
 - (c) the dependant has died or is a former child dependant.
- (2) The increased amount of dependants' scheme pension payable—
- (a) is to be treated as falling within section 164(1) of FA 2004 (authorised member payments),
 - (b) is to be treated as pension paid under a registered pension scheme for the purposes of Part 9 of ITEPA 2003 (pension income)(33), and
 - (c) is to be treated for those purposes as pension accruing—
 - (i) in the tax year in which it is paid, if it is paid to a dependant's personal representative, or
 - (ii) in the tax year in which it should have been paid, if it is paid to a former child dependant.
- (3) But paragraph (2) does not apply unless the increased amount of dependants' scheme pension is paid to—
- (a) the dependant's personal representative, in a case where the dependant has died, or
 - (b) a former child dependant.
- (4) In this regulation, "former child dependant" means an individual who previously met one of the conditions in paragraph 15(2) of Schedule 28 to FA 2004 (meaning of child dependant)(34), but no longer meets any of those conditions when the increased amount of dependants' scheme pension is paid.

Reduction of scheme pension where pension credit adjusted

- 12.**—(1) Paragraph (2) applies where—
- (a) a relevant pension credit member has become entitled to a scheme pension(35),
 - (b) the pension credit of that member is adjusted by provision made under section 19 or 57 of PSPJOA 2022 (pension credit members), and
 - (c) as a result of that adjustment, the rate of the scheme pension payable to that member reduces.
- (2) The reduction in the rate of the scheme pension does not prevent it from meeting the condition in paragraph 2(3)(b) of Schedule 28 to FA 2004 (requirement that rate of scheme pension does not reduce)(36).
- (3) In this regulation, "relevant pension credit member" has the meaning given in section 19(2) or 57(2) of PSPJOA 2022, as the case may be.

(31) By virtue of regulation 2(2)(b), "dependants' scheme pension" is defined in paragraph 16 of Schedule 28 to FA 2004.

(32) By virtue of regulation 2(2)(a), "local government new scheme" has the same meaning as in Chapter 3 of Part 1 of PSPJOA 2022 (see section 86(2) of that Act).

(33) 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 and amended by paragraph 22 of Schedule 16 to FA 2011, paragraph 117 of Schedule 45 to FA 2013, 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.

(34) Paragraph 15 of Schedule 28 to FA 2004 was amended by paragraph 26 of Schedule 10 to FA 2005, paragraph 6(2) of Schedule 5 to FA 2016, and by S.I. 2005/3229.

(35) By virtue of regulation 2(2)(b), "scheme pension" is defined in paragraph 2 of Schedule 28 to FA 2004.

(36) Paragraph 2 of Schedule 28 was amended by paragraph 64(1) of Schedule 10, and Part 4 of Schedule 11, to FA 2005, paragraph 20 of Schedule 23 to FA 2006, paragraphs 7(1) and (2) and 24(3) of Schedule 20 to FA 2007, section 20(1) to (4) of FA 2016, and by S.I. 2007/493.

Reduction of scheme pension in respect of voluntary contributions rights

13.—(1) Paragraph (2) applies where—

- (a) a member of a Chapter 1 scheme has become entitled to a scheme pension,
- (b) that member’s rights to additional benefits are varied or extinguished in accordance with provision made by virtue of section 20 of PSPJOA 2022 (voluntary contributions), and
- (c) as a result of that variation or extinguishment, the rate of the scheme pension payable to that member reduces.

(2) The reduction in the rate of the scheme pension does not prevent it from meeting the condition in paragraph 2(3)(b) of Schedule 28 to FA 2004 (requirement that rate of scheme pension does not reduce).

Reduction of local government scheme pension in accordance with scheme regulations

14.—(1) Paragraph (2) applies where—

- (a) a member of a local government new scheme has become entitled to a scheme pension, and
- (b) the rate of the scheme pension payable to that member is reduced in accordance with provision made under section 78(1) of PSPJOA 2022 (final salary benefits in local government new scheme).

(2) The reduction in the rate of the scheme pension does not prevent it from meeting the condition in paragraph 2(3)(b) of Schedule 28 to FA 2004 (requirement that rate of scheme pension does not reduce).

Lump sum death benefit already paid: repayment of overpaid amount

15.—(1) Paragraph (2) applies where—

- (a) an individual has at any time been paid a defined benefits lump sum death benefit⁽³⁷⁾ (“the original payment”) under a Chapter 1 scheme that met the conditions in paragraph 16(a) of Schedule 32 to FA 2004 (meaning of relevant lump sum death benefit: defined benefits lump sum death benefit)⁽³⁸⁾,
- (b) the original payment includes an amount (“the overpaid DBLSDB”) that, as a result of the operation of a relevant rectification provision, was not payable to the individual, and
- (c) the liability under section 14(5) of PSPJOA 2022 (pension benefits and lump sum benefits) owed to the scheme in respect of the overpaid DBLSDB has been discharged in full.

(2) The amount crystallised by the benefit crystallisation event⁽³⁹⁾ in connection with the individual’s entitlement to the original payment is to be treated as not including, and never having included, the overpaid DBLSDB.

Lifetime allowance excess lump sum: lump sum already paid

16.—(1) Paragraphs (2) to (5) apply where—

⁽³⁷⁾ By virtue of regulation 2(2)(b), “defined benefits lump sum death benefit” is defined in paragraph 13 of Schedule 29 to FA 2004. Paragraph 13 was amended by paragraph 33 of Schedule 16 to FA 2011 and section 21(8) of F(No. 2)A 2015.

⁽³⁸⁾ Paragraph 16 of Schedule 32 was amended by paragraph 19(2) of Schedule 2 to the Taxation of Pensions Act 2014 and section 21(7) of F(No. 2)A 2015.

⁽³⁹⁾ By virtue of regulation 2(2)(b), events which are “benefit crystallisation events” in relation to an individual, and the amount which is crystallised by each of those events, are set out in section 216 of, and Schedule 32 to, FA 2004. Relevant amendments have been made to those provisions by paragraphs 8(2) to (6), 43(2) to (8) and 64(1) of Schedule 10 to FA 2005, paragraph 30 of Schedule 23 to FA 2006, section 92 of, and paragraphs 1, 5, 7, 8 and 10 of Schedule 29 to, FA 2008, paragraphs 43, 44, 62, 65, 73 and 80 of Schedule 16 to FA 2011, paragraphs 16, 26, 27, 61 and 76 of Schedule 1, and paragraphs 19(2), 21 and 24(1) to (3) of Schedule 2, to the Taxation of Pensions Act 2014, paragraphs 4 and 7(b) to (d) of Schedule 4 to FA 2015, section 21(7) of F(No. 2)A 2015, paragraph 18 of Schedule 4 to FA 2017 (c. 10) and section 24(8) of F(No. 2)A 2023.

- (a) an individual has been paid a lump sum that, disregarding the operation of the relevant rectification provisions, is a lifetime allowance excess lump sum⁽⁴⁰⁾, and
 - (b) as a result of the operation of a relevant rectification provision, the condition in paragraph 11(a) of Schedule 29 to FA 2004 (unavailability of lifetime allowance⁽⁴¹⁾) has ceased to be met in relation to all or part of the lump sum (“the excess amount”).
- (2) The excess amount—
- (a) is to be treated as falling, and is to be treated as always having fallen, within section 164(1) of FA 2004 (authorised member payments), and
 - (b) is to be treated as being, and is to be treated as always having been, a lifetime allowance excess lump sum for the purposes of Part 9 of ITEPA 2003.
- (3) The individual becoming entitled to the excess amount is to be treated as a benefit crystallisation event in relation to that individual.
- (4) The amount crystallised for the purposes of that benefit crystallisation event is the amount of the excess amount.
- (5) No liability to income tax arises in respect of 25% of the excess amount.
- (6) In respect of 75% of the excess amount—
- (a) the second lifetime allowance charge condition in section 214(3) of FA 2004 (lifetime allowance charge) is to be treated as met,
 - (b) that amount is to be treated as the basic amount for the purposes of section 215(3)(a) of FA 2004 (amount of charge), and
 - (c) the lifetime allowance charge which arises is to be charged at the rate of 40%.

Lifetime allowance excess lump sum already paid: repayment of overpaid amount

17.—(1) Paragraph (2) applies where—

- (a) an individual has at any time been paid a lifetime allowance excess lump sum under a Chapter 1 scheme,
- (b) the payment includes an amount (“the overpaid excess lump sum”) that, as a result of the operation of a relevant rectification provision, was not payable to the individual, and
- (c) the liability under section 14(5) of PSPJOA 2022 (pension benefits and lump sum benefits) owed to the scheme in respect of the overpaid excess lump sum has been discharged in full.

(2) The amount crystallised by the benefit crystallisation event in connection with the individual’s entitlement to the lifetime allowance excess lump sum is to be treated as not including, and as never having included, the overpaid excess lump sum.

Additional lifetime allowance excess lump sum: age of individual

18.—(1) Paragraph (2) applies where—

- (a) an individual has at any time been paid a lifetime allowance excess lump sum under a Chapter 1 scheme,
- (b) as a result of the operation of a relevant rectification provision the individual is entitled to a new lifetime allowance excess lump sum, or to an increased amount of the original lifetime allowance excess lump sum (“the new lump sum”), and

⁽⁴⁰⁾ By virtue of regulation 2(2)(b), “lifetime allowance excess lump sum” is defined in paragraph 11 of Schedule 29 to FA 2004.

⁽⁴¹⁾ By virtue of regulation 2(2)(b), “lifetime allowance” is defined in section 218 of FA 2004. Section 218 was amended by paragraph 2 of Schedule 18 to FA 2011, section 48(1) to (3) of, and paragraph 6 of Schedule 22 to, FA 2013, section 19(1) to (5) of FA 2016 and section 19 of F(No. 2)A 2023.

(c) the individual no longer meets the condition in paragraph 11(e) of Schedule 29 to FA 2004 (lump sum paid when member under 75).

(2) The condition in paragraph 11(e) of Schedule 29 to FA 2004 is to be treated as met in respect of the new lump sum.

Lump sum unauthorised payment already paid: repayment of overpaid amount to scheme

19.—(1) Paragraph (2) applies where—

- (a) an individual has at any time been paid a lump sum under a Chapter 1 scheme, all or part of which, disregarding paragraph (2), is an unauthorised member payment⁽⁴²⁾,
- (b) the payment includes an amount (“the unauthorised member overpayment”) that, as a result of the operation of a relevant rectification provision, was not payable to the individual, and
- (c) the liability under section 14(5) of PSPJOA 2022 (pension benefits and lump sum benefits) owed to the scheme in respect of the unauthorised member overpayment has been discharged in full.

(2) The unauthorised member overpayment is to be treated as falling, and as always having fallen, within section 164(1) of FA 2004 (authorised member payments).

PART 4

Scheme sanction charge

Application required by schemes to reclaim overpayment of scheme sanction charge resulting from rectification

20.—(1) Paragraphs (3) to (7) apply where—

- (a) before the relevant time, a scheme chargeable payment⁽⁴³⁾ was made by a Chapter 1 scheme to or in relation to an individual,
- (b) the scheme administrator⁽⁴⁴⁾ of that Chapter 1 scheme has paid an amount in respect of a liability to the scheme sanction charge⁽⁴⁵⁾ that arose in connection with that payment, and
- (c) the amount paid is, as a result of the operation of a relevant rectification provision or regulation 19, greater than the amount owed in respect of the scheme sanction charge.

(2) In paragraph (1), “the relevant time” means the time at which section 2(1) of PSPJOA 2022 comes into force.

(3) Where the amount of scheme sanction charge has been paid by the scheme administrator of a Chapter 1 new scheme—

- (a) that amount is to be treated as not having been paid by that scheme administrator but as having been paid instead by the relevant scheme administrator, and

⁽⁴²⁾ By virtue of regulation 2(2)(b), “unauthorised member payment” is defined in section 160(2) of FA 2004, which was relevantly amended by paragraph 3 of Schedule 23 to FA 2006.

⁽⁴³⁾ By virtue of regulation 2(2)(b), “scheme chargeable payment”, in relation to a registered pension scheme, is defined in section 241 of FA 2004. Section 241 was amended by paragraph 9 of Schedule 21 to FA 2006 and paragraphs 62 and 74 of Schedule 16 to FA 2011.

⁽⁴⁴⁾ By virtue of regulation 2(2)(b), “scheme administrator” must be construed in accordance with section 270 of FA 2004 (but see also sections 271 to 274 of that Act).

⁽⁴⁵⁾ By virtue of regulation 2(2)(b), “scheme sanction charge” is defined in section 239 of FA 2004. Section 239 was amended by paragraph 8 of Schedule 21 to FA 2006, paragraphs 119 and 130 of Schedule 46 to FA 2013 and paragraph 12(1) and (2) of Schedule 5 to FA 2014.

- (b) the scheme administrator of the Chapter 1 new scheme must give the following information to the relevant scheme administrator—
- (i) the particulars included in any event report that the scheme administrator of the Chapter 1 new scheme has previously provided in respect of the making of the scheme chargeable payment, and
 - (ii) such further information relating to any such event report as the relevant scheme administrator may reasonably request.
- (4) A request under paragraph (3)(b)(ii) may be made in relation to event reports generally, or in relation to a particular event report.
- (5) A scheme administrator of a Chapter 1 scheme is not required, as a result of the operation of a relevant rectification provision or regulation 19, to amend any event report previously provided in respect of the making of the scheme chargeable payment.
- (6) The relevant scheme administrator is entitled to a repayment of the excess mentioned in paragraph (1)(c) only on the making of an application to HMRC.
- (7) The application must be made on or before 1st April 2027.
- (8) The application—
- (a) must be accompanied by—
 - (i) a declaration that the application is made by the relevant scheme administrator,
 - (ii) a declaration as to the accuracy of the information contained in the application, and
 - (iii) a declaration that the applicant understands the consequences of providing false information, and
 - (b) must contain the following information—
 - (i) the pension scheme name and tax reference number⁽⁴⁶⁾,
 - (ii) the scheme administrator identity reference provided by HMRC,
 - (iii) the name and national insurance number of the scheme member in respect of whom the scheme chargeable payment was made,
 - (iv) the amount of the scheme sanction charge paid,
 - (v) the date on which the scheme sanction charge was paid,
 - (vi) the charge reference number under which the scheme sanction charge was paid,
 - (vii) the pension scheme tax reference number of the scheme under which the scheme administrator reported and paid the amount of the charge to HMRC,
 - (viii) where an event report was provided to HMRC at an earlier date in respect of the scheme chargeable payment, the tax year for which that report was provided,
 - (ix) the revised amount of the liability to the scheme sanction charge,
 - (x) the amount of tax being reclaimed, and
 - (xi) the account details to which repayment is to be made.
- (9) In this regulation—
- “event report” means a report required by regulation 3(1) of RPS(PI)R 2006 (provision of information by scheme administrator to the Commissioners)⁽⁴⁷⁾;

(46) “Pension scheme tax reference number” refers to the unique number given by HMRC to a pension scheme upon registration (see section 153(5) of FA 2004). Section 153 was amended by paragraphs 2 and 3 of Schedule 10 to FA 2005, paragraph 2 of Schedule 7 to FA 2014 and paragraph 1(1) and (3) of Schedule 3 to FA 2018 (c. 3).

(47) By virtue of regulation 2(2)(a), “RPS(PI)R 2006” means the Registered Pension Schemes (Provision of Information) Regulations 2006 (S.I. 2006/567); see regulation 2(1) of the 2023 Regulations. RPS(PI)R 2006 have been relevantly amended by paragraphs 35(2) and 90 of Schedule 1 to the Taxation of Pensions Act 2014, paragraph 24 of Schedule 4 to FA 2016,

“the relevant scheme administrator” means, in relation to a scheme sanction charge, the scheme administrator who (after taking into account the relevant rectification provisions and regulation 19) is liable under section 239(2) of FA 2004 (scheme sanction charge) for the scheme sanction charge.

PART 5

Amendments to the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023

Amendments to the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023

- 21.** The 2023 Regulations are amended as follows.
- 22.** In regulation 7 (provision of information by scheme administrator to member on request), in paragraph (a), for “(5)” substitute “(9)”.
- 23.** In regulation 8 (Chapter 1 schemes and judicial 2015 schemes: operation of scheme pays for remedy years)—
- (a) after paragraph (3)(c) insert—
 - “(d) subsection (5)(a) has effect as if “(but subject to subsection (6))” were omitted;
 - (e) subsection (6) is to be ignored.”;
 - (b) in paragraph (5)(b) omit “or deceased”;
 - (c) in paragraph (6) omit “or deceased”.
- 24.** In regulation 9 (Chapter 1 schemes: operation of scheme pays for 2022-23)—
- (a) after paragraph (2)(c) insert—
 - “(d) subsection (5)(a) has effect as if “(but subject to subsection (6))” were omitted;
 - (e) subsection (6) is to be ignored.”;
 - (b) in paragraph (4)(b) omit “or deceased”;
 - (c) in paragraph (5) omit “or deceased”.
- 25.** In regulation 11 (Chapter 1 schemes: administrative provisions relating to scheme pays), after paragraph (5) insert—
- “(5A) An application under paragraph (5) must be made on or before 1st April 2027.”.
- 26.** In regulation 13 (Chapter 1 legacy schemes: effect of new scheme benefits election in later pension input periods), in paragraph (1)(b)(ii) omit “determined by reference to the remediable service”.
- 27.** In regulation 15 (judicial schemes and local government schemes: administrative provisions relating to scheme pays), after paragraph (4) insert—
- “(4A) An application under paragraph (2)(b) or (4)(b) must be made on or before 1st April 2027.”.

28. In regulation 26 (serious ill-health lump sum(48): additional lump sum paid for deceased member)—

(a) for paragraph (2) substitute—

“(2) The payment is to be treated as a serious ill-health lump sum paid to P under a registered pension scheme.”;

(b) omit paragraph (5).

29. In regulation 34 (application required by schemes to reclaim overpayment resulting from rectification), after paragraph (4) insert—

“(4A) The application must be made on or before 1st April 2027.”.

PART 6

Administration

CHAPTER 1

Introductory

Interpretation

30. In this Part—

“annual allowance overpayment” has the meaning given in regulation 37(2);

“assessable representative” means, in relation to a specified individual who is a deceased member of a relevant pension scheme on the due date for information—

(a) a person who is a personal representative of that individual on that date, and

(b) any subsequent personal representative of that individual;

“Chapter 1 individual” means an active member(49), deferred member, pensioner member(50) or deceased member of a Chapter 1 scheme—

(a) whose pensionable service under that scheme in a relevant tax year is affected by the operation of section 2(1) of PSPJOA 2022 (rollback of remediable service to a Chapter 1 legacy scheme), or

(b) whose accrued benefits in respect of pensionable service under that scheme in a relevant tax year are affected by a Chapter 1 new scheme election, and

in respect of whom a liability to a relevant pension tax charge for a relevant tax year has arisen, increased or decreased as a result;

“Chapter 1 new scheme election” means an election by virtue of section 6 of PSPJOA 2022 (immediate choice to receive new scheme benefits);

“Chapter 2 individual” means an active member, deferred member, pensioner member or deceased member of a judicial scheme—

(a) whose accrued benefits in respect of pensionable service under that scheme in a relevant tax year are affected by a 2015 scheme election(51) or a judicial legacy scheme election, and

(48) By virtue of regulation 2(2)(b), “serious ill-health lump sum” is defined in paragraph 4 of Schedule 29 to FA 2004. Paragraph 4 was amended by paragraphs 23 and 28 of Schedule 16 to FA 2011 and paragraph 1(1) and (3) to (5) of Schedule 5 to FA 2016.

(49) By virtue of regulation 2(2)(b), “active member” is defined in section 151(2) of FA 2004.

(50) By virtue of regulation 2(2)(b), “pensioner member” is defined in section 151(3) of FA 2004.

(51) By virtue of regulation 2(2)(a), “2015 scheme election” has the same meaning as in Chapter 2 of Part 1 of PSPJOA 2022 (see section 44 of that Act).

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

(b) in respect of whom a liability to a relevant pension tax charge for a relevant tax year has arisen, increased or decreased as a result;

“Chapter 3 individual” means an active member, deferred member, pensioner member or deceased member of a local government new scheme—

(a) whose pension input amount in relation to that scheme for a pension input period ending in a relevant tax year is affected by—

(i) provision made under section 78 of PSPJOA 2022 (final salary benefits in local government new schemes), and

(ii) the operation of regulation 14(1) of the 2023 Regulations, and

(b) in respect of whom a liability to a relevant pension tax charge for a relevant tax year has decreased as a result;

“due date for information” has the meaning given in regulation 32;

“judicial legacy scheme election” means an election by virtue of section 40 of PSPJOA 2022 (Chapter 2 individuals: legacy scheme elections);

“lifetime allowance overpayment” has the meaning given in regulation 37(3);

“lifetime allowance protection” means protection under—

(a) paragraph 12 of Schedule 36 to FA 2004 (enhanced protection)(**52**);

(b) paragraph 14 of Schedule 18 to FA 2011 (fixed protection)(**53**);

(c) paragraph 1 of Schedule 22 to FA 2013 (fixed protection 2014)(**54**);

(d) paragraph 1 of Schedule 6 to FA 2014 (individual protection 2014);

(e) paragraph 1 or 9 of Schedule 4 to FA 2016 (fixed protection 2016 and individual protection 2016);

“pensionable service” has the meaning given in section 110(1) of PSPJOA 2022.

“relevant pension scheme” means a Chapter 1 scheme, a judicial scheme or a local government new scheme, as the case may be;

“relevant pension tax charge” means—

(a) the annual allowance charge(**55**),

(b) the lifetime allowance charge, or

(c) where that charge is paid by a member of the pension scheme rather than by a scheme administrator, the unauthorised payments charge(**56**) or the unauthorised payments surcharge(**57**);

(52) Paragraph 12 of Schedule 36 was amended by paragraph 53(2) to (6) of Schedule 10 to FA 2005, paragraph 17(2) to (9) of Schedule 20 to FA 2007, paragraph 432(2) of the Corporation Tax Act 2010 (c. 4), paragraph 59 of Schedule 26 to the Equality Act 2010 (c. 15) and section 23(2) of F(No. 2)A 2023.

(53) Paragraph 14 of Schedule 18 was amended by section 47(2) of FA 2013 and section 23(5) of F(No. 2)A 2023, and by S.I. 2013/1740.

(54) Paragraph 1 of Schedule 22 was amended by section 23(6) of F(No. 2)A 2023.

(55) By virtue of regulation 2(2)(b), “annual allowance charge” means the charge to income tax arising under section 227 of FA 2004. Section 227 was amended by paragraph 15 of Schedule 2 to FA 2009, paragraph 45(1) of Schedule 16, and paragraph 3 of Schedule 17, to FA 2011, paragraphs 63 and 66(2) of Schedule 1 to the Taxation of Pensions Act 2014, paragraph 11 of Schedule 4 to F(No. 2)A 2015, and by S.I. 2017/468 and S.I. 2019/201.

(56) By virtue of regulation 2(2)(b), “unauthorised payments charge” means the charge to income tax arising under section 208 of FA 2004. Section 208 was amended by paragraph 14 of Schedule 23 to FA 2006, paragraph 12 of Schedule 2 to FA 2009 and paragraph 125 of Schedule 46 to FA 2013.

(57) By virtue of regulation 2(2)(b), “unauthorised payments surcharge” means the charge to income tax arising under section 209 of FA 2004. Section 209 was amended by paragraph 13 of Schedule 2 to FA 2009, paragraph 126 of Schedule 46 to FA 2013, and by S.I. 2006/569.

“the relevant tax years” means the tax years from 2019-20 to 2022-23 inclusive, and references to a relevant tax year are to any one of those tax years;

“the relevant time” means—

- (a) in relation to a Chapter 1 individual or a remediable service individual, the time at which section 2(1) of PSPJOA 2022 comes into force⁽⁵⁸⁾,
- (b) in relation to a Chapter 2 individual, the time at which a 2015 scheme election or judicial legacy scheme election has effect, or is treated as made, by or in respect of the individual,
- (c) in relation to a Chapter 3 individual, the time at which provision made under section 78 PSPJOA 2022 (final salary benefits in local government new schemes) has effect in relation to the individual,

and, where an individual falls into more than one of paragraphs (a), (b) and (c), the relevant time is the latest time which applies to that individual;

“remediable service individual” means an active member, deferred member, pensioner member or deceased member of a Chapter 1 new scheme—

- (a) who has remediable service under that scheme,
- (b) who is liable to the annual allowance charge for the tax year 2022-23, whether as a result of the operation of a relevant rectification provision or otherwise, and
- (c) who has pensionable service in that scheme for that tax year;

“repayment application” has the meaning given in regulation 37(1);

“specified individual” means a Chapter 1 individual, a Chapter 2 individual, a Chapter 3 individual or a remediable service individual, as the case may be;

“specified information” has the meaning given in regulation 31(3);

“unauthorised payments charge overpayment” has the meaning given in regulation 37(4);

“unauthorised payments surcharge overpayment” has the meaning given in regulation 37(5).

CHAPTER 2

Specified information

Provision of specified information

31.—(1) A specified individual who is not a deceased member on the due date for information must provide specified information to HMRC⁽⁵⁹⁾ about the relevant tax years to which paragraph (4) applies—

- (a) on or before that date, and
- (b) regardless of whether such information has already been provided to HMRC, whether by the specified individual or by any other person.

(2) An assessable representative must provide specified information to HMRC about the relevant tax years to which paragraph (4) applies on or before the due date for information, unless such information has already been provided to HMRC by the specified individual under paragraph (1) or by another assessable representative under this paragraph.

(3) “Specified information” means, in relation to a specified individual and a relevant tax year—

- (a) the information and declarations in Column 1 of the Table in the Schedule in all cases;

⁽⁵⁸⁾ Section 2(1) of PSPJOA 2022 comes into force, so far as it applies for the purposes of Chapter 1 of that Act, in relation to a Chapter 1 scheme within section 33(2)(a) or (b) or (3)(a) or (b) of the Act on 1 October 2023: see section 131(2) of that Act.

⁽⁵⁹⁾ By virtue of regulation 2(2)(a), “HMRC” is defined in regulation 2(1) of the 2023 Regulations as His Majesty’s Revenue and Customs.

- (b) the information in Column 2 of that Table in cases where the individual has paid, or is liable to, an annual allowance charge;
 - (c) the information in Column 3 of that Table in cases where the individual has paid, or is liable to, a lifetime allowance charge;
 - (d) the information in Column 4 of that Table in cases where the individual has paid, or is liable to, an unauthorised payments charge or an unauthorised payments surcharge.
- (4) This paragraph applies to—
- (a) the tax year 2022-23 where the specified individual—
 - (i) is a remediable service individual,
 - (ii) in respect of that tax year, is liable to the lifetime allowance charge, the unauthorised payments charge or the unauthorised payments surcharge, or to any such charge in an increased amount, as a result of the operation of a relevant rectification provision, or
 - (iii) in respect of that tax year, was liable to a relevant pension tax charge (disregarding the relevant rectification provisions and regulation 14 of the 2023 Regulations) but is no longer so liable, or is liable in a decreased amount, as a result of any of those provisions;
 - (b) any other relevant tax year where, in respect of that tax year, the specified individual—
 - (i) is liable to a relevant pension tax charge, or to such a charge in an increased amount, as a result of the operation of a relevant rectification provision or regulation 14 of the 2023 Regulations, or
 - (ii) was liable to a relevant pension tax charge (disregarding the relevant rectification provisions and regulation 14 of the 2023 Regulations) but is no longer so liable, or is liable in a decreased amount, as a result of any of those provisions.

Specified information: due date for information

- 32.**—(1) Paragraphs (2) to (5) apply to a specified individual who, on 1st October 2023, is—
- (a) a Chapter 1 individual or a remediable service individual who is an active or deferred member of a Chapter 1 scheme,
 - (b) a Chapter 2 individual, or
 - (c) a Chapter 3 individual.
- (2) Where the specified individual dies in the period beginning with 1st November 2024 and ending with 31st January 2025, the due date for information is the date three months after the date of that individual's death.
- (3) Where a scheme administrator provides a pension savings statement to the specified individual on or after 1st November 2024, the due date for information is the date three months after that statement is provided.
- (4) Where, on or after 1st November 2024, the specified individual repays excess lump sum benefits to the scheme administrator with the effect of reducing a liability to the unauthorised payments charge for a relevant tax year, the due date for information is the date three months after that repayment is made.
- (5) In all other cases, the due date for information for the specified individual is 31st January 2025.
- (6) Paragraphs (7) to (11) apply to a Chapter 1 individual or a remediable service individual who is a pensioner member or a deceased member of a Chapter 1 scheme on 1st October 2023.

(7) Where the specified individual dies in the period beginning with 1st November 2026 and ending with 31st January 2027, the due date for information is the date three months after the date of that individual's death.

(8) Where a scheme administrator provides a pension savings statement or a benefit crystallisation event statement, as the case may be, to or in respect of the individual on or after 1st November 2026, the due date for information is the date three months after that statement is provided.

(9) Where the end of the new scheme election period in respect of the individual falls after 1st November 2026, the due date for information is the date three months after the end of that period.

(10) Where, on or after 1st November 2026, the individual repays excess lump sum benefits to the scheme administrator with the effect of reducing a liability to the unauthorised payments charge for a relevant tax year, the due date for information is the date three months after the date on which that repayment is made.

(11) In all other cases, the due date for information for the specified individual is 31st January 2027.

(12) For the purposes of paragraph (6), a Chapter 1 individual or a remediable service individual is to be treated as a pensioner member if a Chapter 1 new scheme election has been made, or is capable of being made, in respect of the individual.

(13) Where more than one date specified in this regulation could apply to a specified individual, the due date for information for that individual is the latest of those dates.

(14) In this regulation—

“benefit crystallisation event statement” means a statement provided—

- (a) under regulation 14(1) of RPS(PI)R 2006 (information provided to member by scheme administrators about benefit crystallisation events)(**60**),
- (b) after the relevant time, and
- (c) in relation to a benefit crystallisation event occurring in a relevant tax year;

“excess lump sum benefits” means an amount repaid by a beneficiary under section 14(5) of PSPJOA 2022 (pension benefits and lump sum benefits: pensioner and deceased members);

“pension savings statement” means a statement provided under regulation 14A(5B) or (6ZC) or 14B(2B), (6) or (9) of RPS(PI)R 2006 in relation to a pension input period ending in a relevant tax year;

“the end of the new scheme election period” has the meaning given in section 7(2) of PSPJOA 2022 (elections by virtue of section 6: timing and procedure).

Preservation of documents

33.—(1) A specified individual, or an assessable representative, must preserve any documents in their possession relating to the specified information for a period of 4 years beginning with the due date for information.

(2) Any person who fails to comply with paragraph (1) is liable to a penalty not exceeding £3,000.

(60) [S.I. 2006/567](#). Regulation 14(1) was amended by [S.I. 2008/720](#).

CHAPTER 3

Assessments

Assessments: general

34.—(1) An officer of HMRC may make an assessment in the amount that should, in the officer's opinion, be charged if—

- (a) the officer considers that a specified individual is, as a result of the operation of a relevant rectification provision, liable in a relevant tax year to—
 - (i) an annual allowance charge,
 - (ii) a lifetime allowance charge,
 - (iii) an unauthorised payments charge,
 - (iv) an unauthorised payments surcharge, or
 - (v) any charge specified in any of paragraphs (i) to (iv) in an increased amount, or
- (b) the officer considers that a remediable service individual is liable to an annual allowance charge for the tax year 2022-23.

(2) An assessment may be made under this regulation on a specified individual or an assessable representative.

(3) Nothing in this regulation prevents an officer of HMRC making more than one assessment on the same specified individual, or assessable representative, in respect of the same tax year (whether or not any earlier assessment for that tax year is withdrawn under regulation 36).

Assessments: time limits

35.—(1) Subject to paragraph (3), where specified information has been provided by the specified individual in accordance with regulation 31, an assessment under regulation 34 may be made at any time on or before—

- (a) the date six years after the day on which the specified information was provided, in a case where the specified individual has carelessly caused the specified information to be inaccurate in a material respect,
- (b) the date 20 years after the day on which the specified information was provided, in a case where the specified individual has deliberately caused the specified information to be inaccurate in a material respect, or
- (c) in any other case, the date four years after the day on which the specified information was provided.

(2) Where specified information has not been provided by the specified individual in accordance with regulation 31, an assessment under regulation 34 may be made at any time on or before—

- (a) 31st January 2045, if regulation 32(2) (specified information: due date for information) applies to the specified individual, or
- (b) 31st January 2047, if the specified individual is a pensioner member to whom regulation 32(4) applies.

(3) Where more than one date in paragraph (2) applies to an individual, an assessment under regulation 34 may be made on or before the latest of those dates.

(4) Where a specified individual is a deceased member to whom regulation 32(4) applies, an assessment under regulation 34 may be made on or before 1st October 2027.

(5) In this regulation—

- (a) section 118(5) to (7) of TMA 1970 (interpretation: bringing about a situation carelessly or deliberately)(61) applies for the purposes of determining whether a specified individual carelessly or deliberately caused specified information provided under regulation 31(1) to be inaccurate in a material respect, and
- (b) references to circumstances brought about by the specified individual include circumstances brought about by another person acting on behalf of that individual before that individual's death.

Power to withdraw assessments

36.—(1) HMRC may withdraw an assessment made under regulation 34 or 39 by giving a notice to the specified individual, or to the assessable representative of a specified individual, to whom the assessment relates.

(2) An assessment that has been withdrawn under this regulation ceases to have effect and is to be taken as never having had any effect.

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(62) was made by a relevant pension scheme to, or in respect of, a specified individual,

(61) By virtue of regulation 2(2)(a), “TMA 1970” in these regulations means the Taxes Management Act 1970 (c. 9) (and “TMA 1970” has the same meaning in these footnotes). Subsections (5) to (7) of section 118 of TMA 1970 were inserted by paragraph 15 of Schedule 39 to FA 2008.

(62) 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.

- (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
 - (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.

Repayments: procedure

38.—(1) A repayment application must be made to HMRC.

(2) A repayment application may be made only at the same time that, or after the time that, specified information is provided in relation to a specified individual.

(3) Where regulation 32(1) (specified information: due date for information) applies to a specified individual, a repayment application must be made by or in respect of that individual on or before 31st January 2029.

(4) Where regulation 32(6) applies to a specified individual, a repayment application must be made by or in respect of that individual on or before 31st January 2031.

(5) A repayment application must contain the following information—

- (a) the information in items 1, 2 and 3 of Column 1 of the Table to the Schedule as applicable to the specified individual,
- (b) the type of pension tax charge (“the charge”), the amount of the charge paid, and the date on which it was paid,
- (c) the relevant tax year to which the charge relates,
- (d) the amount of the overpayment, and
- (e) the account details to which any repayment is to be made.

(6) An repayment application must be accompanied by—

- (a) a declaration that the application is made by, or in respect of, a specified individual,
- (b) a declaration as to the accuracy of the information contained in the application, and
- (c) a declaration that the applicant understands the consequences of providing false information.

(7) Within the period of 90 days from the date on which a repayment application is received, an officer of HMRC must notify the applicant in writing whether their application is—

- (a) granted, or
- (b) refused, either wholly or to the extent that it is excessive.

(8) An appeal may be brought against a decision made under paragraph (7)(b) as if it were a conclusion stated in a closure notice under paragraph 7 of Schedule 1A to TMA 1970(63).

(63) Paragraph 7 of Schedule 1A to TMA 1970 was amended by paragraph 10 of Schedule 29 to the Finance Act 2001 (c. 9) and by S.I. 2009/56.

CHAPTER 5

Recovery of overpayments

Recovery of overpayments

39.—(1) Where an officer of HMRC considers that an amount of annual allowance overpayment, lifetime allowance overpayment, unauthorised payments charge overpayment or unauthorised payments surcharge overpayment has been repaid to a specified individual, or to the assessable representative of a specified individual, which ought not to have been repaid to them, that amount may be assessed and recovered under this regulation as if it were unpaid tax.

(2) An assessment under this regulation must be made on or before the date which is four years after the end of the tax year in which the repayment mentioned in paragraph (1) was made.

CHAPTER 6

Penalties

Penalties for errors

40.—(1) Section 264 (false statements etc) of FA 2004⁽⁶⁴⁾ does not apply to statements or representations made in compliance, or purported compliance, with regulation 31 (provision of specified information).

(2) Schedule 24 to FA 2007 (penalties for errors) applies to information required to be provided under regulation 31 as if that information were required by section 8 of TMA 1970 (personal return).

CHAPTER 7

Relevant modifications

Modifications of TMA 1970

41.—(1) A specified individual is not required to—

- (a) comply with an obligation under Part 2 of TMA 1970 (returns of income and gains) in respect of a liability to a relevant pension tax charge where that individual is liable to that charge as a result of the operation of a relevant rectification provision;
- (b) in respect of the tax year 2022-23, comply with an obligation under Part 2 of TMA 1970 where that individual is liable to an annual allowance charge, whether as a result of the operation of a relevant rectification provision or otherwise;
- (c) amend any return previously made under Part 2 of TMA 1970 in respect of a relevant pension tax charge.

(2) Section 42 of, and Schedule 1AB to, TMA 1970 (procedure for making claims to recover overpaid tax) do not apply to a repayment application.

Application and modification of FA 2009

42.—(1) Sections 101 (late payment interest on sums due to HMRC) and 103 (rates of interest) of FA 2009⁽⁶⁵⁾ apply in relation to an amount of income tax which is assessed and recoverable by

⁽⁶⁴⁾ Section 264 of FA 2004 was amended by paragraph 23(d) of Schedule 7 to FA 2014.

⁽⁶⁵⁾ 2009 c. 10. Section 101 of FA 2009 was amended by paragraphs 2 and 14 of Schedule 9 to the Finance (No. 3) Act 2010 (c. 33) (referred to in these footnotes as “F(No. 3)A 2010”), paragraph 20(2) of Schedule 22 to FA 2014 and paragraph 116 of Schedule 8 to the Taxation (Cross-border Trade) Act 2018 (c. 22).

virtue of an assessment made under regulation 34 or 39 as if it were an assessment under section 29 of TMA 1970 (assessment where loss of tax discovered)(66).

(2) Sections 102 (repayment interest on sums to be paid by HMRC) and 103 of FA 2009(67) apply in relation to an overpayment falling within regulation 37(1) as if it were an amount of overpaid tax falling within Schedule 1AB to TMA 1970 (recovery of overpaid tax etc).

(3) Schedule 55 to FA 2009 (penalty for failure to make returns)(68) applies in relation to a failure to provide specified information on or before the due date for information as if it were a failure to make or deliver a return under section 8(1)(a) of TMA 1970 (personal return) on or before the filing date.

Application and modification of the Income and Corporation Taxes (Electronic Communications) Regulations 2003

43. The Income and Corporation Taxes (Electronic Communications) Regulations 2003(69) (“the 2003 Regulations”) apply to—

- (a) the withdrawal of an assessment by HMRC under regulation 36 as if it were a withdrawal of a simple assessment under section 28J of TMA 1970 (power to withdraw a simple assessment)(70),
- (b) the grant or refusal of a repayment application by HMRC as if it were a closure notice under paragraph 7 of Schedule 1A to TMA 1970 (claims etc not included in returns),
- (c) the making of any payment or repayment in connection with the operation of these Regulations as if it were a payment or repayment of tax or other sums within regulation 2(1)(b) of the 2003 Regulations, and
- (d) the provision of specified information or the making of a repayment application as if they were communications in connection with a matter referred to in regulation 2(1) of the 2003 Regulations and the conditions in regulation 3(3), (4)(a) and (c) and (6) of those Regulations were met.

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15th August 2023

(66) Section 29 of TMA 1970 was substituted by section 191(1) of FA 1994. It was amended by paragraph 12 of Schedule 19, and Part 3(28) of Schedule 27, to FA 1998, section 88(2) of FA 2005, paragraph 71 of Schedule 36, and paragraph 3 of Schedule 39 to, FA 2008, paragraph 5 of Schedule 8 to TIOPA 2010, paragraph 46 of Schedule 7 to FA 2015, paragraph 20 of Schedule 14, and paragraph 14 of Schedule 15, to F(No. 2)A 2017 (c. 32), paragraph 25(6) of Schedule 2 to FA 2019 (c. 1) and section 97(1) of FA 2022.

(67) Section 102 of FA 2009 was amended by paragraphs 3(2) and (3) and 15 of Schedule 9 to F(No. 3)A 2010 and paragraph 2(a) and (b) of Schedule 29 to FA 2021.

(68) Schedule 55 to FA 2009 was amended by paragraph 723 of Schedule 1 to the Corporation Tax Act 2010, paragraphs 11, 13 and 14 of Schedule 10 and Schedule 12 to FA 2010 (c. 13), paragraphs 2(2) and (2A), 3, 4, 8, 9 and 11 of Schedule 10 to F(No. 3)A 2010, paragraphs 3, 5, 7, 8 and 9 of Schedule 50, and paragraph 8 of Schedule 51, to FA 2013, paragraph 5 of Schedule 33 to FA 2014, paragraphs 15, 18 and 19 of Schedule 20 to FA 2015, section 169(6) of, paragraphs 10 to 12 of Schedule 21, and paragraph 20(5) of Schedule 22 to, FA 2016, paragraph 4(2) of Schedule 11 to FA 2017, paragraph 118(2) of Schedule 8 to the Taxation (Cross-border Trade) Act 2018, and paragraph 2(2) of Schedule 15 and paragraph 39 of Schedule 27, to FA 2021.

(69) S.I. 2003/282 (“the 2003 Regulations”). The 2003 Regulations have been relevantly amended by Part 10 of Schedule 1 to the Statute Law (Repeals) Act 2013 (c. 2), and by S.I. 2005/3338, S.I. 2009/3218, S.I. 2010/2942, S.I. 2014/489 and S.I. 2023/221.

(70) Section 28J of TMA 1970 was inserted by paragraph 3 of Schedule 23 to FA 2016.