
STATUTORY INSTRUMENTS

2023 No. 912

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

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⁽¹⁾ was made by a Chapter 1 scheme to or in relation to an individual,
- (b) the scheme administrator⁽²⁾ of that Chapter 1 scheme has paid an amount in respect of a liability to the scheme sanction charge⁽³⁾ 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
- (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.

(1) 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.

(2) 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).

(3) 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.

(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⁽⁴⁾,
- (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)⁽⁵⁾;

“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.

(4) “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).

(5) 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, paragraph 24(2) and (3) of Schedule 4 to FA 2017, and by S.I. 2006/1961, S.I. 2008/720, S.I. 2011/301, S.I. 2011/1797, S.I. 2012/884, S.I. 2013/1742, S.I. 2014/1843, S.I. 2015/606, S.I. 2018/5 and S.I. 2022/392.