
STATUTORY INSTRUMENTS

2023 No. 912

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

PART 3

Benefits

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)**(1)**, and
- (b) is to be treated as a trivial commutation lump sum**(2)** paid under a registered pension scheme**(3)** for the purposes of Part 9 of ITEPA 2003 (pension income)**(4)**.

(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.

(1) 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).

(2) 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.

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

(4) 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.