STATUTORY INSTRUMENTS

2023 No.

INCOME TAX

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

Made - - - - \*\*\*

Laid before the House of Commons \*\*\*

Coming into force - - \*\*\*

The Treasury make these Regulations in exercise of the powers conferred by section 11 of the Finance Act 2022([[1]](#footnote-2)).

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 [\*\*\*].

(3) These Regulations have effect so as to modify enactments in their application in relation to a relevant person([[2]](#footnote-3)).

Interpretation

1. — (1) In these regulations—

“the 2023 Regulations” means the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023([[3]](#footnote-4));

“new scheme benefits election” means an election under section 6 or 10 of PSPJOA 2022([[4]](#footnote-5)) (Chapter 1 schemes([[5]](#footnote-6)): immediate or deferred choice to receive new scheme benefits);

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

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

(2) Subject to paragraph (1) and regulation 26, expressions used in these Regulations, unless otherwise provided, have the same meaning as in—

* + 1. the 2023 Regulations, or
		2. Part 4 of FA 2004([[6]](#footnote-7)) (pension schemes etc.), unless otherwise provided in the 2023 Regulations.

PART 2

Annual allowance

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

1. — (1) Paragraphs (2) to (4) apply where—
	* 1. scheme regulations are made under section 20 of PSPJOA 2022 (voluntary contributions) in respect of an arrangement([[7]](#footnote-8)) under a Chapter 1 new scheme([[8]](#footnote-9)), and
		2. as a result of those regulations, rights (“the old rights”) in respect of an arrangement under that scheme to additional benefits, or the earlier payment of benefits, that would otherwise have been secured by the payment of voluntary contributions([[9]](#footnote-10)) in respect of an individual have been extinguished.
	1. For the purposes of determining the pension input amount([[10]](#footnote-11)) of the individual in respect of the arrangement under the Chapter 1 new scheme for the pension input period([[11]](#footnote-12)) in which the old rights are extinguished, the individual is to be treated as if those rights had not been extinguished.
	2. Where, in connection with the extinguishment of the old rights, equivalent rights or rights of an equivalent value to the old rights (“the new rights”) have been conferred under the arrangement under the Chapter 1 legacy scheme([[12]](#footnote-13))—
		1. for the purposes of determining the pension input amount of the individual for the replacement pension input period in respect of that arrangement, 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, and
		2. for the purposes of determining whether section 234(5B) of FA 2004 (pension input amount: deferred members([[13]](#footnote-14))) applies to an individual who is a deferred member([[14]](#footnote-15)) of the relevant Chapter 1 legacy scheme([[15]](#footnote-16)),
			1. 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 the Chapter 1 new scheme during the period of remediable service([[16]](#footnote-17)) for the purpose of securing additional benefits, and
			2. for any pension input period after the replacement 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.
	3. 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 contribution rights where new scheme benefits election is made

1. — (1) Paragraphs (2) and (3) apply where—
	* 1. a new scheme benefits election is made in relation to the remediable service of an individual,
		2. as a result of the election, 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
		3. 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.
	1. 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 original rights that the individual would have been entitled to if the election had not been made.
	2. For the purposes of determining whether section 234(5B) of FA 2004 (pension input amount: deferred members) applies in respect of an individual who is a deferred member of the relevant Chapter 1 legacy scheme for any pension input period after the retirement pension input period, the new scheme benefits election is to be ignored.
	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 and judicial 2015 schemes: pension debits and pension credits

1. —(1)  Paragraph (2) applies where—
	* 1. a member of a Chapter 1 scheme or a judicial scheme([[17]](#footnote-18)) has at any time become entitled to a pension credit or subject to a pension debit([[18]](#footnote-19)), and
		2. the amount of that pension debit or pension credit is (disregarding paragraph (2)) adjusted by regulations made under section 19(1) or section 57(1) of PSPJOA 2022 (pension credit members).
	1. For the purposes of determining the pension input amount in respect of an arrangement under the Chapter 1 scheme or the judicial 2015 scheme (as the case may be) for the pension input period in which the debit or credit is adjusted, the regulations made under section 19(1) or section 57(1) of PSPJOA 2022 are to be ignored.

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

1. —(1)  Paragraphs (2) and (3) apply where, in the same pension input period (“the transfer pension input period”)—
	* 1. 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 so as to become held for the purposes of, or to represent rights under, an arrangement under the relevant Chapter 1 legacy scheme (“the transfer”),
		2. the transfer is made in accordance with scheme regulations made under section 5(1) of PSPJOA 2022 (election for retrospective provision to apply to opted-out service),
		3. rights relating to the transferred sums or assets are then extinguished in the arrangement under the Chapter 1 legacy scheme, and
		4. in connection with (c), rights are conferred in the arrangement under the Chapter 1 legacy scheme that represent the benefits that the member would have accrued under that scheme.
	1. For the purposes of determining the pension input amount of an individual in respect of an arrangement under the relevant Chapter 1 legacy scheme—
		1. 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 arrangement under the partnership pension account which relates to a pension input period ending in the same tax year;
		2. for the transfer pension input period, section 236(5A) of FA 2004 (relevant inward transfers)([[19]](#footnote-20)) is to be ignored.
	2. 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, the pension input amount for that arrangement is to be determined by—
		1. calculating the pension input amount of the arrangement under section 233 of FA 2004 (pension input amount: other money purchase arrangements)([[20]](#footnote-21)),
		2. establishing the percentage of the individual’s rights under the arrangement that do not relate to that entitlement, and
		3. multiplying the amount in sub-paragraph (a) by that percentage.
	3. In this regulation, “relevant opted-out service” has the same meaning as in Part 1 of Chapter 1 of PSPJOA 2022([[21]](#footnote-22)).

PART 3

Benefits

Commutation payment: lump sum already paid

1. —(1)  Paragraph (2) applies where—
	* 1. an individual has been paid a lump sum that, disregarding the relevant rectification provisions([[22]](#footnote-23)), is a small pot lump sum, and
		2. 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)([[23]](#footnote-24)), as the case may be, has ceased to be met in relation to the lump sum.
	1. The lump sum is, and is treated as always having been, a small pot lump sum.
	2. 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.

Commutation payment: additional lump sum paid for deceased member

1. —(1) Paragraph (2) applies where—
	* 1. an individual (“P”) was paid a small pot lump sum,
		2. P subsequently died,
		3. as a result of a relevant rectification provision, a further small pot lump sum (“the top-up lump sum”) is paid in respect of P, and
		4. the top-up lump sum would have been a small pot lump sum if—
			1. P had still been living when it was paid, and
			2. it had been paid to P.
	1. The top-up lump sum—
		1. is to be treated as falling within section 164(1) of FA 2004 (authorised member payments)([[24]](#footnote-25)), and
		2. is to be treated as a trivial commutation lump sum for the purposes of Part 9 of ITEPA 2003 (pension income)([[25]](#footnote-26)).
	2. 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.
	3. In this regulation, “small pot lump sum” means a payment made in accordance with regulation 11 or 12 of RPS(AP)R 2009.

Trivial commutation lump sum death benefit: extinguishing rights

1. —(1)  Paragraph (2) applies where—
	* 1. an individual has been paid a lump sum that, disregarding the relevant rectification provisions, is a trivial commutation lump sum death benefit([[26]](#footnote-27)), and
		2. 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)([[27]](#footnote-28)) has ceased to be met in relation to the lump sum.
	1. The lump sum is, and is treated as always having been, a trivial commutation lump sum death benefit.

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

1. — (1) Paragraph (2) applies where—
	* 1. a person has become entitled to a dependants’ scheme pension([[28]](#footnote-29)) under a Chapter 1 scheme, a judicial 2015 scheme([[29]](#footnote-30)) or a local government new scheme([[30]](#footnote-31)),
		2. as a result of a relevant rectification provision, the amount of dependants’ scheme pension payable under that scheme increases, and
		3. the dependant has died or is a former child dependant.
	1. The increased amount of dependants’ scheme pension payable—
		1. is to be treated as falling within section 164(1) of FA 2004 (authorised member payments),
		2. is to be treated as pension paid under a registered pension scheme for the purposes of Part 9 of ITEPA 2003 (pension income), and
		3. is to be treated for those purposes as pension accruing—
			1. in the tax year in which it is paid, if it is paid to a dependant’s personal representative, or
			2. in the tax year in which it should have been paid, if it is paid to a former child dependant.
	2. But paragraph (2) does not apply unless the increased amount of dependants’ scheme pension is paid to—
		1. the dependant’s personal representative, in a case where the dependant has died, or
		2. a former child dependant.
	3. In this regulation, “former child dependant” means an individual who met one of the conditions, but no longer meets any of the conditions, in paragraph 15(2) of Schedule 28 to FA 2004 (meaning of child dependant)([[31]](#footnote-32)).

Reduction of scheme pension where pension credit adjusted

1. — (1) Paragraph (2) applies where—
	* 1. a relevant pension credit member has become entitled to a scheme pension([[32]](#footnote-33)),
		2. the pension credit of that member is adjusted by provision made under section 19 or 57 of PSPJOA 2022 (pension credit members), and
		3. as a result of that adjustment, the rate of the scheme pension payable to that member reduces.
	1. 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([[33]](#footnote-34)) (requirement that rate of scheme pension does not reduce).
	2. 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).

Reduction of scheme pension in respect of voluntary contributions

1. — (1) Paragraph (2) applies where—
	* 1. a member of a Chapter 1 scheme has become entitled to a scheme pension,
		2. that member’s rights to additional benefits are varied or extinguished in accordance with provision made under section 20 of the PSPJOA 2022 (voluntary contributions), and
		3. as a result of that variation or extinguishment, the rate of the scheme pension payable to that member reduces.
	1. The reduction in the rate of the scheme pension does not prevent the scheme pension satisfying the condition in paragraph 2(3) 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

1. —(1)  Paragraph (2) applies where—
	* 1. a member of a local government scheme has become entitled to a scheme pension, and
		2. the rate of the scheme pension payable to that member is reduced in accordance with regulations made under section 78(1) of PSPJOA 2022 (final salary benefits in local government new scheme).
	1. The reduction in the rate of the scheme pension does not prevent the scheme pension satisfying the condition in paragraph 2(3)(b) of Schedule 28 to FA 2004 (requirement that scheme pension does not reduce).

Lump sum death benefit already paid: repayment of overpaid amount

1. — (1) Paragraph (2) applies where—
	* 1. an individual has at any time been paid a defined benefits lump sum death benefit([[34]](#footnote-35)) under a Chapter 1 scheme that met the conditions in paragraph 16(a) of Schedule 32 to FA 2004 (relevant lump sum death benefit)([[35]](#footnote-36)) (“the original payment”),
		2. the payment includes an amount (“the overpaid DBLSDB”) that, as a result of a relevant rectification provision, was not payable to the individual, and
		3. 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.
	1. The amount crystallised by the benefit crystallisation event([[36]](#footnote-37)) in connection with the individual’s entitlement to the original payment is to be treated as not including, and is to be treated as never having included, the overpaid DBLSDB.

Lifetime allowance excess lump sum: lump sum already paid

1. — (1) Paragraph (2) applies where—
	* 1. an individual has been paid a lump sum that, disregarding the relevant rectification provisions, is a lifetime allowance excess lump sum([[37]](#footnote-38)), and
		2. 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) has ceased to be met in relation to all or part of the lump sum.
	1. The lump sum is, and is treated as always having been—
		1. an uncrystallised funds pension lump sum([[38]](#footnote-39)), to the extent that it does not exceed the individual’s available lifetime allowance([[39]](#footnote-40)), and
		2. a lifetime allowance excess lump sum, to the extent that it exceeds the individual’s available lifetime allowance.
	2. For the purposes of any application made under regulation 34(4) of the 2023 Regulations (application required by schemes to reclaim overpayment of lifetime allowance charge resulting from rectification) in respect of an amount arising as a result of the operation of this regulation, the amount owed under regulation 34(1)(c) is to be taken to include any lifetime allowance charge([[40]](#footnote-41)) to which the individual is liable as a result of the operation of this regulation.

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

1. —(1)  Paragraph (2) applies where—
	* 1. an individual has at any time been paid a lifetime allowance excess lump sum under a Chapter 1 scheme,
		2. the payment includes an amount (“the overpaid excess lump sum”) that, as a result of a relevant rectification provision, was not payable to the individual, and
		3. 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.
	1. 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 is to be treated as never having included, the overpaid excess lump sum.

Additional lifetime allowance excess lump sum: age of individual

1. — (1) Paragraph (2) applies where—
	* 1. an individual has at any time been paid a lifetime allowance excess lump sum under a Chapter 1 scheme,
		2. as a result 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
		3. the individual no longer meets the condition in paragraph 11(e) of Schedule 29 to FA 2004 (lump sum paid when member under 75).
	1. 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

1. —(1) Paragraph (2) applies where—
	* 1. 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([[41]](#footnote-42)),
		2. the payment includes an amount (“the unauthorised overpayment”) that, as a result of a relevant rectification provision, was not payable to the individual, and
		3. the liability under section 14(5) of PSPJOA 2022 (pension benefits and lump sum benefits) owed to the scheme in respect of the unauthorised overpayment has been discharged in full.
	1. The unauthorised overpayment 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).

PART 4

Scheme sanction charge

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

1. — (1) Paragraphs (3) and (4) apply where—
	* 1. before the relevant time, a scheme chargeable payment([[42]](#footnote-43)) was made by a Chapter 1 scheme to or in relation to an individual,
		2. the relevant scheme administrator has paid an amount of a scheme sanction charge([[43]](#footnote-44)) that arose in connection with that payment, and
		3. the amount paid is, as a result of the effect of a relevant rectification provision, greater than the amount owed in respect of the scheme sanction charge, and
		4. any liability under section 14(5) of PSPJOA 2022 owed to the scheme in respect of the scheme chargeable payment has been discharged in full.
	1. In paragraph (1), “the relevant time” means—
		1. the time at which a new scheme benefits election comes into effect in relation to the individual, if applicable, or
		2. in any other case, the time at which section 2(1) of PSPJOA 2022 (remediable service treated as pensionable under Chapter 1 legacy schemes) comes into force.
	2. Any payment of a scheme sanction charge made by the scheme administrator of a Chapter 1 new scheme 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 relevant Chapter 1 legacy scheme.
	3. The relevant scheme administrator is not required, as a result of the effect of a relevant rectification provision, to amend any event report previously provided in respect of the making of the scheme chargeable payment.
	4. 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.
	5. The application—
		1. must be accompanied by—
			1. a declaration that the application is made by the scheme administrator;
			2. a declaration as to the accuracy of the information contained in the application;
			3. a declaration that the applicant understands the consequences of providing false information; and
		2. must contain the following information—
			1. the pension scheme name and tax reference number;
			2. the scheme administrator identity reference provided by HMRC;
			3. the name and national insurance number of the scheme member;
			4. the amount of the charge paid, the date on which, and the charge reference number under which, it was paid;
			5. the pension scheme tax reference number of the scheme under which the scheme administrator reported and paid the amount of the charge to HMRC;
			6. the date of the event report, if any, in which the scheme chargeable payment was reported to HMRC;
			7. the revised amount of the scheme sanction charge;
			8. the amount of tax being reclaimed;
			9. the account details to which repayment is to be made.
	6. 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)([[44]](#footnote-45));

“the relevant scheme administrator” means the scheme administrator who (after taking into account the relevant rectification provisions) is liable under section 239(2) of FA 2004 (scheme sanction charge)([[45]](#footnote-46)) for the scheme sanction charge in question.

PART 5

Consequential amendments

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

1. The 2023 Regulations are amended as follows.
2. In regulation 7 (provision of information by scheme administrator to member on request), in paragraph (a), for “(5)” substitute “(9)”.
3. In regulation 8 (Chapter 1 schemes and judicial 2015 schemes: operation of scheme pays for remedy years)—
	* 1. in paragraph (5)(b) omit “or deceased”;
		2. in paragraph (6) omit “or deceased”.
4. In regulation 9 (Chapter 1 schemes: operation of scheme pays for 2022-23)—
	* 1. in paragraph (4)(b) omit “or deceased”;
		2. in paragraph (5) omit “or deceased”.
5. 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”.
6. In regulation 30 (pension commencement lump sum already paid: repayment of overpaid amount)—
	* 1. in paragraph (1), for “Paragraph (2) applies” substitute “Paragraphs (2) and (3) apply”;
		2. after paragraph (2), insert—

(3) The overpayment 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)..

PART 6

Administration

CHAPTER 1

Introductory

Interpretation

1. In this Part—

“annual allowance overpayment” has the meaning given in regulation 33(2) (repayments: entitlement));

“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—

* + 1. the persons who are personal representatives of that individual on that date, and
		2. any subsequent personal representatives of that individual;

“Chapter 1 individual” means—

* + 1. an active([[46]](#footnote-47)), deferred, pensioner, deceased or former member of a Chapter 1 scheme—
			1. 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
			2. whose benefits accrued in respect of pensionable service under that scheme in a relevant tax year are affected by a Chapter 1 new scheme election, and
		2. 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 under section 6 of PSPJOA 2022 (immediate choice to receive new scheme benefits);

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

* + 1. whose benefits accrued in respect of pensionable service under that scheme in a relevant tax year are affected by a 2015 scheme election([[47]](#footnote-48)) or a judicial legacy scheme election, and
		2. 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, deferred, pensioner, deceased or former member of a local government scheme—

* + 1. whose benefits accrued in respect of pensionable service under that scheme in a relevant tax year are affected by provision made in scheme regulations under section 78 of PSPJOA 2022 (final salary benefits in local government new schemes), and
		2. in respect of whom a liability to a relevant pension tax charge for that tax year has decreased as a result;

“due date for information” has the meaning given in regulation 28;

“judicial legacy scheme election” means an election under section 40 of PSPJOA 2022 (Chapter 1 individuals: legacy scheme elections);

“lifetime allowance overpayment” has the meaning given in regulation 33(3);

“local government scheme” has the meaning given in section 86(1) of PSPJOA 2022 (meaning of “local government scheme” etc);

“pensioner member” has the meaning given in section 151(3) of FA 2004 (meaning of member);

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

“relevant pension tax charge” means the annual allowance charge([[48]](#footnote-49)), the lifetime allowance charge([[49]](#footnote-50)), the unauthorised payments charge([[50]](#footnote-51)) or the unauthorised payments surcharge([[51]](#footnote-52));

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

“the relevant time” means—

* + 1. in relation to a Chapter 1 individual, the time at which section 2(1) of PSPJOA 2022 comes into force([[52]](#footnote-53));
		2. in relation to a Chapter 2 individual, the time at which a 2015 scheme election or judicial legacy scheme election is made, or deemed to have been made, by or in respect of the individual([[53]](#footnote-54));
		3. in relation to a Chapter 3 individual, the time at which provision made in scheme regulations under section 78 PSPJOA 2022 (final salary benefits in local government new schemes) comes into force in relation to the individual,

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

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

“specified information” has the meaning given in regulation 27(3);

“unauthorised payments charge overpayment” has the meaning given in regulation 33(4);

“unauthorised payments surcharge overpayment” has the meaning given in regulation 33(5).

CHAPTER 2

Specified information

Provision of specified information

1. —(1) A specified individual who is not a deceased member on the due date for information must provide specified information to HMRC([[54]](#footnote-55)) about the relevant tax years which apply to them—
	* 1. on or before that date, and
		2. regardless of whether such information has already been provided to HMRC, whether by the specified individual or by any other person.
	1. The assessable representative of a specified individual who is a deceased member on the due date for information must provide specified information to HMRC about the relevant tax years which apply to that individual—
		1. on or before that date, and
		2. regardless of whether such information has already been provided to HMRC, whether by the specified individual or by any other person.
	2. “Specified information” means, in relation to a specified individual and a relevant tax year—
		1. the information and declarations in Column 1 of the Table in the Schedule to these Regulations in all cases;
		2. the information in Column 2 of that Table in cases where the individual has paid, or is liable to, an annual allowance charge;
		3. the information in Column 3 of that Table in cases where the individual has paid, or is liable to, a lifetime allowance charge;
		4. the information in Column 4 of that Table in cases where the individual has paid, or is liable to, an unauthorised payments charge.
	3. A relevant tax year applies to a specified individual if that individual is liable to, or has paid, a relevant pension tax charge in relation to that tax year.

Specified information: due date for information

1. —(1)  The “due date for information” for a specified individual for the purposes of regulation 27 is determined as follows.

(2) Paragraph (3) applies where, at the time that these regulations come into force, the specified individual is—

* + 1. an active, deferred or former member of a Chapter 1 scheme, or
		2. a Chapter 2 or Chapter 3 individual.

(3) The due date for information is the latest of—

(a) 31st January 2025,

(b) where the individual dies in the period beginning with 1st October 2024 and ending with 31st January 2025, the date three months after the specified individual’s death, or

* + 1. if applicable, the date three months after—
			1. the day on which a scheme administrator provides a pension savings statement to the individual;
			2. the day on which excess lump sum benefits are repaid to the scheme administrator, with the effect of reducing a liability to the unauthorised payments charge for a relevant tax year.

(4) Where the specified individual is a pensioner or deceased member of a Chapter 1 scheme at the time when these regulations come into force, the due date for information is the latest of—

(a) 31st January 2027,

(b) where the individual dies in the period beginning with 1st October 2026 and ending with 31st January 2027, the date three months after the specified individual’s death, or

(c) the date three months after—

(i) the day on which 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;

(ii) the end of the section 6 election period;

* + - 1. the day on which excess lump sum benefits are repaid to the scheme, with the effect of reducing or extinguishing a liability to the unauthorised payments charge for a relevant tax year.

(5) For the purposes of this regulation, a specified individual is to be treated as a pensioner member if an election under section 6 of PSPJOA 2022 (immediate choice to receive new scheme benefits) has been made, or is capable of being made, in respect of them.

(6) Where more than one date specified in paragraphs (3) or (4) could apply to a specified individual, the due date for information is the latest of those dates.

(7) In this regulation—

“benefit crystallisation event statement” means a statement provided—

1. under regulation 14(1) of RPS(PI)R 2006 (information provided to member by scheme administrators about benefit crystallisation events)([[55]](#footnote-56)),
2. after the relevant time, and
3. 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 regulation 14B(2B), (6) or (9), of RPS(PI)R 2006([[56]](#footnote-57)) in relation to a pension input period ending in a relevant tax year;

“the end of the section 6 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

1. — (1) A specified individual, or the assessable representative of a specified individual, 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) will be liable to a penalty not exceeding £3,000.

CHAPTER 3

Assessments

Assessments: general

1. —(1)  If an officer of HMRC considers that a specified individual is liable in a relevant tax year to—
	* 1. an annual allowance charge,
		2. a lifetime allowance charge,
		3. an unauthorised payments charge,
		4. an unauthorised payments surcharge, or
		5. any charge specified in sub-paragraphs (a) to (d) in an increased amount,

an officer may make an assessment in the amount which should, in their opinion, be charged.

* 1. An assessment may be made under this regulation on, and in the name of, one or more of the assessable representatives of a specified individual.
	2. Nothing in this regulation prevents an officer of HMRC making more than one assessment on the same specified individual, or a representative, in respect of the same tax year (whether or not any earlier assessment for that tax year is withdrawn under regulation 32).

Assessments: time limits

1. — (1) Where specified information has been provided, an assessment under regulation 30 may be made at any time, but may not be made after—
	* 1. 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,
		2. 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
		3. the date four years after the day on which the specified information was provided, in any other case.
	1. Where specified information should have been provided, but has not been, an assessment under regulation 30 may be made at any time but may not be made after—
		1. 31st January 2045, if the specified individual was an active, deferred or former member of a relevant pension scheme on the due date for information, or
		2. 31st January 2047, if the specified individual was a pensioner member of a relevant pension scheme on the due date for information.
	2. Where a specified individual was a deceased member on the due date for information, an assessment under regulation 30 may be made at any time but may not be made after—
		1. the date six years after the day on which the specified information was provided, in a case where the specified individual has carelessly or deliberately caused the specified information to be inaccurate in a material respect, or
		2. the date four years after the end of the tax year in which the individual died in any other case.
	3. In this regulation—
		1. section 118(5) to (7) of TMA 1970 (interpretation: bringing about a situation carelessly or deliberately)([[57]](#footnote-58)) applies for the purposes of determining whether a specified individual carelessly or deliberately caused specified information provided under regulation 27(1) to be inaccurate in a material respect, and
		2. 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

1. — (1) HMRC may withdraw an assessment made under regulation 30 or 35 by notice to the specified individual, or the assessable representative of a specified individual, to whom it relates.

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

CHAPTER 4

Repayments

Repayments: entitlement

1. — (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) In these regulations, a payment is an annual allowance overpayment if—

* + 1. before the relevant time, a liability to the annual allowance charge arose in respect of a specified individual for a relevant tax year, and
		2. 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) In these regulations, 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 in a relevant tax year in connection with a benefit crystallisation event,

(b) the individual has paid an amount in respect of their liability to the lifetime allowance charge that arose in connection with that benefit crystallisation event, and

(c) the amount paid, by virtue of the operation of a relevant rectification provision, exceeds the amount of that liability.

(4) In these regulations, a payment is an unauthorised payments charge overpayment if—

(a) before the relevant time, an unauthorised member payment([[58]](#footnote-59)) was made by a relevant pension scheme to, or in respect of, a specified individual,

(b) the individual has paid an amount in respect of their liability to the unauthorised payments charge that arose in connection with that payment, and

(c) the amount paid, by virtue of the operation of a relevant rectification provision, exceeds the amount of that liability.

(5) In these regulations, a payment is an unauthorised payments surcharge overpayment if—

(a) before the relevant time, a surchargeable unauthorised member payment([[59]](#footnote-60)) was made by a relevant pension scheme to, or in respect of, a specified individual,

(b) the individual has paid an amount in respect of their liability to the unauthorised payments surcharge that arose in connection with that payment, and

(c) the amount paid, by virtue of the operation of a relevant rectification provision, exceeds the amount of that liability.

Repayments: procedure

1. — (1) A repayment application under regulation 33(1) must be made to HMRC.

(2) An application must contain the following information—

* + 1. the name and pension scheme tax reference number of the pension scheme to which the charge relates;
		2. the amount of the charge paid, the date on which it was paid, and who paid it;
		3. where the application relates to a lifetime allowance overpayment—
			1. the date of the relevant benefit crystallisation event (BCE), and
			2. whether, at the time of the BCE, the individual held Lifetime Allowance protection or enhancements; and, if so, the type of protection and any reference number;
		4. the relevant tax year to which the charge relates;
		5. the revised amount of the charge in question;
		6. the amount of the overpayment.

(3) An application must be accompanied by—

(a) a declaration that the application is made by, or in respect of, the 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.

(4)An officer of HMRC must notify the applicant in writing whether their repayment application is—

(a) granted, or

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

(5)A repayment application may not be made after—

(a) 31st January 2029, where, at the due date for information, the specified individual in respect of whom the overpayment relates is either—

* + - 1. an active, deferred or former member of a Chapter 1 scheme, or
			2. a member of a Chapter 2 or 3 scheme;

(b) 31st January 2031, where, at the due date for information, the specified individual in respect of whom the overpayment relates is a deceased or pensioner member of a Chapter 1 scheme.

(6) An appeal may be brought against a decision made under paragraph (4)(b) as if it were a conclusion stated in a closure notice under paragraph 7 of Schedule 1A to TMA 1970([[60]](#footnote-61)).

CHAPTER 5

Recovery of overpayments

Recovery of overpayments

1. — (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 their assessable representative 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 may be made at any time, but may not be made later than 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

1. — (1) Section 264 (false statements etc) of FA 2004([[61]](#footnote-62)) does not apply to statements or representations made in compliance, or purported compliance, with regulation 27 (specified information).

(2) Schedule 24 to FA 2007 (penalties for errors)([[62]](#footnote-63)) applies to information required to be provided under regulation 27 (specified information) as if that information were required to be included in a return under section 8 of TMA 1970 (personal return)([[63]](#footnote-64)).

CHAPTER 7

Relevant modifications

Modification of TMA 1970

1. — (1) A specified individual, in relation to a relevant tax year, is not required to—
	* 1. comply with an obligation in Part 2 of TMA 1970 (returns of income and gains) in respect of a liability to a relevant pension tax charge arising in relation to a relevant tax year, or
		2. amend any return previously made under Part 2 of TMA 1970 in respect of such a charge.
	1. Section 42 of, and Schedule 1AB to, TMA 1970 (procedure for making claims to recover overpaid tax) do not apply to a repayment application under regulation 33(1).

Application and modification of FA 2009

1. — (1) Sections 101 (late payment interest on sums due to HMRC) and 103 (rates of interest) of FA 2009([[64]](#footnote-65)) apply in relation to an amount of income tax which is assessed and recoverable by virtue of an assessment issued under regulation 30 or regulation 35 of these Regulations as if it were an assessment under section 29 of TMA 1970 (assessment where loss of tax discovered)([[65]](#footnote-66)).

(2) Sections 102 (repayment interest on sums to be paid by HMRC) and 103 of FA 2009 apply in relation to an overpayment falling within regulation 33(1) of these Regulations as if it were an amount of overpaid tax falling within Schedule 1AB of TMA 1970([[66]](#footnote-67)).

(3) Schedule 55 to FA 2009 (penalty for failure to make returns)([[67]](#footnote-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 on or before the filing date.

 Name

 Name

Date Two of the Lords Commissioners for His Majesty’s Treasury

 SCHEDULE 1 Regulation 27

Specified information

Table

|  |  |  |  |
| --- | --- | --- | --- |
| Column 1: general information and declarations | Column 2: liability to annual allowance charge under section 227 of FA 2004 | Column 3: liability to lifetime allowance charge under section 214 of FA 2004 | Column 4: liability to unauthorised payments charge under section 208 of FA 2004  |
| 1. Name, address, date of birth, date of death (if applicable) and national insurance number of the specified individual. | 1. Name and tax reference number([[68]](#footnote-69)) of each pension scheme under which an arrangement is held, in respect of which the value of the individual’s rights has increased during a pension input period ending in a relevant tax year. | 1. Name and tax reference number of each pension scheme under which an arrangement is held in respect of which rights were crystallised as a result of a benefit crystallisation event occurring within a relevant tax year (BCE).  | 1. Name and tax reference number of each pension scheme from which an unauthorised member payment or a surchargeable authorised member payment (as the case may be) was made in a relevant tax year. |
| 2. Where a specified individual has made an overpayment falling within regulation 33(1), the bank details of the individual or their assessable representative. | 2. Amount of any liability to the annual allowance charge for that tax year, arising otherwise than by the operation of a relevant rectification provision.  | 2. Amount of any liability to the lifetime allowance charge for that tax year, arising otherwise than by the operation of a relevant rectification provision.  | 2. Amount of any liability to the unauthorised payments charge or surcharge for that tax year, arising otherwise than by the operation of a relevant rectification provision. |
| 3. Whether a third party is providing specified information on behalf of a specified individual; and, if so—(a) the name, address, date of birth and national insurance number (if any) of the third party; and(b) whether the third party is named under(i) a lasting, continuing or enduring power of attorney, or(ii) a deputyship or controllership order,in relation to the specified individual.  | 3. Amount paid of the liability to the charge specified in item 2, and whether it was paid by the individual, or by the scheme administrator on behalf of the individual. | 3. Amount paid of the liability to the charge specified in item 2, and whether it was paid by the individual, or by the scheme administrator on behalf of the individual. | 3. Amount paid of the liability to the charges specified in item 2, and whether they were paid by the individual, or by the scheme administrator on behalf of the individual. |
| 4. Whether an assessable representative is providing specified information on behalf of a specified individual who is a deceased member; and, if so, the name, postal address, date of birth and national insurance number (if any) of the representative. | 4. Amount of any liability to the annual allowance charge for that tax year, arising as a result of the operation of a relevant rectification provision. | 4. Amount of any liability to the lifetime allowance charge for that tax year, arising as a result of the operation of a relevant rectification provision. | 4. Amount of the unauthorised member payment or the surchargeable unauthorised member payment (as the case may be) in relation to which the liability to the charge specified in item 3 arose. |
| 5. (a) Declaration that the specified information is provided by, or in respect of, a specified individual;(b) Declaration as to the accuracy of the specified information; and(c) Declaration that the specified individual, or other person who is providing the information, understands the consequences of providing false information. | 5. Details of any scheme pays notice([[69]](#footnote-70)) given to a scheme administrator in relation to a liability to a charge specified in item 2 or 4. | 5. Whether the individual or the scheme administrator will be paying the liability to the charge specified in item 4. | 5. Amount of any liability to the unauthorised payments charge or the unauthorised payments surcharge (as the case may be) for that tax year, arising as a result of a relevant rectification provision. |
|  |  | 6. Date of any previous BCE(a) occurring after 1 April 2015, and(b) in respect of which the amount crystallised([[70]](#footnote-71)) may have changed as a result of a relevant rectification provision. | 6. Amount of the unauthorised member payment or the surchargeable unauthorised member payment (as the case may be) in relation to which the liability to the charge specified in item 5 arose. |
|  |  | 7. Whether, at the time of the BCE, the individual held Lifetime Allowance protection or enhancements; and, if so, the type of protection and any reference number.  | 7. In cases where an individual has repaid a lump sum in excess of the permitted maximum([[71]](#footnote-72)) (“the excess lump sum”) to a scheme administrator:(a) amount of the excess lump sum repaid; and(b) the date on which the excess lump sum was repaid. |

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 1 of the Public Service Pensions and Judicial Offices Act 2022 (“PSPJOA 2022”) rectifies unlawful discrimination suffered by members of affected public service pension schemes. Part 1 of PSPJOA 2022 made separate provision for individuals, depending upon whether they were a member of a Chapter 1 scheme (schemes other than judicial schemes and local government schemes), a Chapter 2 scheme (judicial scheme) or a Chapter 3 scheme (local government schemes).

Part 1 of these Regulations provides for citation, commencement, effect and interpretation.

The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 (S.I. 2023/113) (“the 2023 Regulations”) made various modifications for the purpose of applying the correct tax treatment to public service pension schemes which are affected by the rectification of discrimination provisions contained in PSPJOA 2022. Parts 2 to 5 of these Regulations make further such modifications to pension tax enactments relevant to various affected areas. These modifications are made to enactments in their application in relation to a relevant person using the powers contained in section 11(1) and (2) of the Finance Act 2022 (“FA 2022”). The retrospective effect of certain modifications made by these Regulations is provided for by section 11(4)(a) of FA 2022.

Part 2 of these Regulations makes provision about the annual allowance. It contains provisions to calculate the pension input amount of an arrangement in a pension scheme correctly in certain scenarios, including where voluntary contribution rights have been varied, or extinguished and recreated, whether or not a new scheme benefits election has been made (regulations 3 and 4), and where pension debits and pension credits in respect of a Chapter 1 scheme or judicial scheme are affected by regulations made under section 19(1) or 57(1) of PSPJOA 2022 (regulation 5). Regulation 6 sets out how to calculate the pension input amount of a Chapter 1 legacy scheme arrangement where there has been an inward transfer of partnership pension account (PPA) rights into the Chapter 1 legacy scheme, followed by an extinguishment of those rights and creation of rights in the legacy scheme which are equivalent to those that the member would have accrued in that scheme.

Part 3 makes provision about benefits paid to members (or to their estate after death). It sets out the correct tax treatment of certain additional payments made by public service schemes as a result of the remedy, in order to preserve the position for the lifetime allowance charge and other tax charges. Provision is made about:

- certain payments already made, such as small pot lump sums (regulation 7) and trivial commutation lump sum death benefits (regulation 9); additional lump sums paid in respect of a deceased member (regulation 8); and lifetime allowance excess lump sum (regulation 15);

- arrears of dependants’ scheme pension due whilst the pension is in payment (regulation 10);

- reductions of scheme pensions where a pension credit is adjusted (regulation 11), where rights to additional benefits have been varied or extinguished (regulation 12), or where a local government scheme pension has been reduced as a result of regulations made under section 78(1) PSPJOA 2022 (regulation 13); and

- repayments of overpaid lump sum death benefit, lifetime allowance lump sums and lump sum unauthorised payments (regulations 14, 16 and 18), and provision about when the age of an individual may affect their entitlement to a lifetime allowance excess lump sum (regulation 17).

Part 4 makes provision about the scheme sanction charge. Regulation 19 provides that overpayments of the scheme sanction charge may only be repaid by HMRC on the making of an application, and sets out what should be included in that application.

Part 5 makes various consequential amendments to the 2023 Regulations.

Part 6 of these Regulations make provision in connection with the administration of certain income tax charges relating to pension schemes which arise under Part 4 of the Finance Act 2004 (“FA 2004”) (“the relevant pension tax charges”) - namely the annual allowance charge, the lifetime allowance charge, the unauthorised payments charge and the unauthorised payments surcharge – for the tax years from 2019-20 to 2022-23 inclusive (“the relevant tax years”), where those charges arise in relation to a relevant person (within the meaning given in section 11(3) of FA 2022) or have been affected by the operation of a provision of, an election made under, or scheme regulations made under, Part 1 of PSPJOA 2022 (“a relevant rectification provision”).

Chapter 1 of Part 6 (introductory) (regulation 26) contains various definitions which only apply to Part 7.

Chapter 2 of Part 7 relates to specified information. Regulation 27 requires the provision of specified information to His Majesty’s Revenue and Customs (“HMRC”) by, or on behalf of, specified individuals about the relevant pension tax charges in the relevant tax years which apply to them, on or before the due date for information. This obligation applies to individuals who are active, deferred, former, pensioner or deceased members of Chapter 1, judicial or local government pension schemes. Information about a specified individual who is a deceased member of a scheme must be supplied by the individual’s assessable representative (as defined in regulation 27 of these Regulations). Regulation 27 also sets out when a relevant tax year will “apply” to a specified individual. Details of the specified information which needs to be provided in relation to the individual and to each of the relevant pension tax charges is set out in the Table in the Schedule to these Regulations. The due date for specified information to be provided is determined for particular individuals in accordance with regulation 28.

Regulation 29 requires the preservation of documents related to the specified information for a period of 4 years beginning with the due date for information. This requirement is also subject to a penalty.

Chapter 3 relates to assessments. Regulation 30 provides for a power to assess which may be exercised by an officer of HMRC in relation to a specified individual, or their assessable representative, if the officer considers that a specified individual is liable in a relevant tax year to a relevant pension tax charge, or to such a charge in an increased amount. Regulation 30 also clarifies that an officer of HMRC is able to make more than one assessment on the same specified individual, or a representative, in respect of the same tax year, regardless of whether or not any earlier assessment for that tax year has been withdrawn previously. Regulation 31 sets the time limits within which such an assessment may be made for individuals in various categories. Regulation 32 provides for a power for HMRC to withdraw an assessment issued under regulation 30 or regulation 35 by giving a notice. An assessment which has been withdrawn under regulation 32 ceases to have effect and is taken as never having had any effect.

Chapter 4 relates to repayments. Regulation 33 allows for HMRC to make repayments of overpayments of relevant pension tax charges on the making of an application made by or in respect of a specified individual (“a repayment application”). Regulation 34 sets out the procedure which must be followed for a repayment application, including the information to be provided, declarations which must be made by the applicant and time limits within which the application can be made.

Chapter 5 relates to recovery of overpayments. Regulation 35 provides for an assessment power which may be exercised by an officer of HMRC if they consider that an amount of an overpayment of a relevant pension tax charge should not have been repaid to a specified individual or to their assessable representative. The time limit for such an assessment is provided for by regulation 35(2).

Chapter 6 relates to penalties. Regulation 36 applies Schedule 24 to the Finance Act 2007 (penalties for errors) to specified information provided to HMRC under regulation 27, and also disapplies the penalty in section 264 of FA 2004 (false statements etc) in relation to that information.

Chapter 7 contains certain relevant modifications. Regulation 37 modifies various provisions of the Taxes Management 1970 in relation to information provided to HMRC or required under these Regulations. Regulation 38 applies and modifies various provisions of the Finance Act 2009, relating to late payment interest, repayment interest and penalties for a failure to make a return, to information required by, or income tax assessed and overpayments under, these Regulations.

A Tax Information and Impact note covering section 11 of FA 2022 (under which this instrument is made) was published on 27th October 2021 alongside the Finance Bill and is available on the website at <https://www.gov.uk/government/publications/taxation-of-public-service-pension-reform-remedy/taxation-of-public-service-pension-reform-remedy>. It remains an accurate summary of the impacts that apply to this instrument.

1. ) 2022 c. 3 (“FA 2022”). FA followed by a year refers to the Finance Act of that year and F(No. 2)A followed by a year means the Finance (No. 2) Act of that year (see section 103 of FA 2022). [↑](#footnote-ref-2)
2. ) “Relevant person” is defined in subsection (3) of section 11 of FA 2022 and “modifying” is defined in subsection (7) of that section. [↑](#footnote-ref-3)
3. ) S.I. 2023/113 (“the 2023 Regulations”). [↑](#footnote-ref-4)
4. ) 2022 c. 7. “PSPJOA 2022” is defined as the Public Service Pensions and Judicial Offices Act 2022 (c. 7) by section 11(7) of FA 2022. [↑](#footnote-ref-5)
5. ) “Chapter 1 scheme” has the same meaning as in Chapter 1 of Part 1 of PSPJOA 2022 (see section 33(1) of that Act). [↑](#footnote-ref-6)
6. ) 2004 c. 12. [↑](#footnote-ref-7)
7. ) For the purposes of Part 4 of FA 2004, “arrangement” has the meaning given in section 152 of FA 2004. [↑](#footnote-ref-8)
8. ) “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). [↑](#footnote-ref-9)
9. ) “Voluntary contributions” has the same meaning as in Part 1 of PSPJOA 2022 (see s110(1) of that Act). [↑](#footnote-ref-10)
10. ) For the purposes of Part 4 of FA 2004, the “pension input amount” of an arrangement is determined in accordance with section 229(2) of that Act. Section 229 has been amended by paragraph 6 of Schedule 17 to FA 2011, and by paragraphs 7 and 8 of Schedule 4 to F(No 2)A 2015. [↑](#footnote-ref-11)
11. ) For the purposes of Part 4 of FA 2004, “pension input period” has the same meaning as in Part 4 of FA 2004 is defined at sections 238 to 238ZB of that Act. [↑](#footnote-ref-12)
12. ) “Chapter 1 legacy scheme” has the same meaning as in Chapter 1 of Part 1 of PSPJOA 2022 (see section 33(3) of that Act). [↑](#footnote-ref-13)
13. ) Subsection (5B) of section 234 was inserted by paragraph 10 of Schedule 17 to FA 2011 (c. 11) and was substituted by S.I. 2015/80. [↑](#footnote-ref-14)
14. ) For the purposes of Part 4 of FA 2004, “member” in relation to a pension scheme is defined in section 151 of that Act; and “deferred member” is defined in section 151(4). [↑](#footnote-ref-15)
15. ) “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). [↑](#footnote-ref-16)
16. ) 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). [↑](#footnote-ref-17)
17. ) “Judicial scheme” has the same meaning as in Chapter 2 of Part 1 of PSPJOA 2022 (see section 70(1) of that Act.) [↑](#footnote-ref-18)
18. ) For the purposes of Part 4 of FA 2004, “pension credit” and “pension debit” are defined in section 279 of that Act. Section 279 was amended by paragraph 9 of Schedule 10 to FA 2005, paragraph 33 of Schedule 23 to FA 2006, paragraphs 456 and 480 of Schedule 3 to ITA 2007, paragraph 21 of Schedule 17 to FA 2011, paragraph 1(1) and (6) of Schedule 3 to FA 2018, section 10(1) to (3) of FA 2022, and by S.I. 2017/468. [↑](#footnote-ref-19)
19. ) Subsection (5A) of section 236 of FA 2004 was inserted by S.I. 2015/80. [↑](#footnote-ref-20)
20. ) Section 233 of FA 2004 was amended by section 52 of FA 2013, and by S.I. 2015/80. [↑](#footnote-ref-21)
21. ) “Relevant opted-out service” is defined, for the purposes of Part 1 of Chapter 1 to PSPJOA 2022, in section 5(7) of that Act. [↑](#footnote-ref-22)
22. ) “Relevant rectification provision” is defined, for these purposes, in regulation 2(1) of the 2023 Regulations. [↑](#footnote-ref-23)
23. ) “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. Regulation 11 of RPS(AP)R 2009 was 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. Regulation 12 was amended by section 42(6)(a) of FA 2014, paragraph 73(1) and (3) of Schedule 1 to the Taxation of Pensions Act 2014, and by S.I. 2011/1751. [↑](#footnote-ref-24)
24. ) Section 164 of FA 2004 was amended by paragraph 6(a) to (c) of Schedule 23 to FA 2006 (c. 25), 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). [↑](#footnote-ref-25)
25. ) 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 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. It was relevantly amended by paragraph 59 of Schedule 10 to FA 2005, paragraph 28 of Schedule 19, and paragraph (1) of Schedule 27, to FA 2007 (c. 11), 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 (c. 33), paragraphs 2 and 8 of Schedule 5 to FA 2016, and by S.I. 2006/569 and S.I. 2006/572. [↑](#footnote-ref-26)
26. ) For the purposes of Part 4 of FA 2004, a lump sum death benefit is a “trivial commutation lump sum death benefit” if it meets condition A or B in paragraph 20 of Schedule 29 to that Act. 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. [↑](#footnote-ref-27)
27. ) Subparagraph (1A) of paragraph 20 to Schedule 29 was inserted by paragraph 74(3) of Schedule 1 to the Taxation of Pensions Act 2014. [↑](#footnote-ref-28)
28. ) For the purposes of Part 4 of FA 2004, “dependants’ scheme pension” is defined in paragraph 16 of Schedule 28 to that Act. [↑](#footnote-ref-29)
29. ) “Judicial 2015 scheme” has the same meaning as in Chapter 2 of Part 1 of PSPJOA 2022 (see section 70(2) of that Act). [↑](#footnote-ref-30)
30. ) “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). [↑](#footnote-ref-31)
31. ) Paragraph 15 of Schedule 28 was amended by paragraph 26 of Schedule 10 to FA 2005 (c. 7), paragraph 6(1) and (2) of Schedule 5 to FA 2016, and by S.I. 2005/3229. [↑](#footnote-ref-32)
32. ) For the purposes of Part 4 of FA 2004, “scheme pension” is defined in paragraph 2 of Schedule 28 to that Act. [↑](#footnote-ref-33)
33. ) Paragraph 2 of Schedule 28 has been relevantly amended by paragraph 11 of Schedule 10, and Part 4 of Schedule 11, to FA 2005. [↑](#footnote-ref-34)
34. ) For the purposes of Part 4 of FA 2004, “lump sum death benefit” is defined in section 168(2) of that Act. [↑](#footnote-ref-35)
35. ) Paragraph 16 was amended by paragraph 19(2) of Schedule 2 to the Taxation of Pensions Act 2014, and section 21(7)(a) of FA (No. 2) 2015 (c. 33). [↑](#footnote-ref-36)
36. ) For the purposes of Part 4 of FA 2004, “benefit crystallisation event” is defined in section 216 of, and Schedule 32 to, that Act. [↑](#footnote-ref-37)
37. ) For the purposes of Part 4 of FA 2004, “lifetime allowance excess lump sum” is defined in paragraph 11 of Schedule 29 to that Act. [↑](#footnote-ref-38)
38. ) For the purposes of Part 4 of FA 2004, “uncrystallised funds pension lump sum” is defined in paragraph 4A of Schedule 29 to that Act. Paragraph 4A was inserted by paragraph 57 of Schedule 1 to the Taxation of Pensions Act 2014. [↑](#footnote-ref-39)
39. ) For the purposes of Part 4 of FA 2004, “lifetime allowance” is defined in section 218 of that Act. [↑](#footnote-ref-40)
40. ) For the purposes of Part 4 of FA 2004, “lifetime allowance charge” is defined in section 214 of that Act. [↑](#footnote-ref-41)
41. ) For the purposes of Part 4 of FA 2004, “unauthorised member payment” is defined in section 160(2) of that Act. [↑](#footnote-ref-42)
42. ) For the purposes of Part 4 of FA 2004, “scheme chargeable payment”, in relation to a registered pension scheme, is defined in section 241 of that Act. [↑](#footnote-ref-43)
43. ) For the purposes of Part 4 of FA 2004, “scheme sanction charge” is defined in section 239 of that Act. [↑](#footnote-ref-44)
44. ) “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 has been relevantly amended by paragraph 35(1) and (2) and paragraph 90 of Schedule 1 to the Taxation of Pensions Act 2014, paragraphs 22 and 24 of Schedule 4 to FA 2016, paragraph 24(1) to (3) of Schedule 4 to FA 2017 (c. 10), 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. [↑](#footnote-ref-45)
45. ) Section 239 was amended by paragraphs 2 and 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. [↑](#footnote-ref-46)
46. ) For the purposes of Part 4 of FA 2004, “active member” has the same meaning given in section 151(2) of that Act. [↑](#footnote-ref-47)
47. ) Regulation 2 of the 2023 regulations provides that “2015 scheme election” has the same meaning as in Chapter 2 of Part 1 of PSPJOA 2022 (see section 44 of that Act). [↑](#footnote-ref-48)
48. ) Section 227 of the FA 2004 sets out when the annual allowance charge will arise in relation to a chargeable amount for a tax year (see also sections 227ZA to 227B). 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. [↑](#footnote-ref-49)
49. ) Section 214 of FA 2004 sets out when the lifetime allowance charge will arise in relation to a benefit crystallisation event. [↑](#footnote-ref-50)
50. ) Section 208 of FA 2004 sets out when the unauthorised payments charge will arise in relation to an unauthorised payment made by a registered pension scheme. 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. [↑](#footnote-ref-51)
51. ) Section 209 of FA 2004 sets out when the unauthorised payments surcharge will arise in relation to a surchargeable unauthorised payment made by a registered pension scheme. Section 209 has been amended by paragraph 13 of Schedule 2 to FA 2009, paragraph 126 of Schedule 46 to FA 103, and by S.I. 2006/569. [↑](#footnote-ref-52)
52. ) 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), on 1 October 2023: see section 131(2) of the Act. [↑](#footnote-ref-53)
53. ) A 2015 scheme election (under section 44 PSPJOA 2022) or a judicial legacy scheme election (under section 40 PSPJOA) both take effect at the end of the election period. Cases in which a 2015 scheme election is treated as made are specified by section 47 of PSPJOA 2022. [↑](#footnote-ref-54)
54. ) “HMRC” is defined in regulation 2(1) of the 2023 Regulations as His Majesty’s Revenue and Customs. [↑](#footnote-ref-55)
55. ) S.I. 2006/567. Regulation 14(1) was amended by S.I. 2008/720. [↑](#footnote-ref-56)
56. ) Regulation 14A was inserted by S.I. 2011/1797. It was amended by paragraph 88 of Schedule 1 to the Taxation of Pensions Act 2014 (c. 30), and by S.I. 2016/308, S.I. 2017/11, S.I. 2018/5 and S.I. 2022/392. Paragraphs (5A) and (6ZA) of regulation 14A were inserted by the 2023 Regulations. [↑](#footnote-ref-57)
57. ) “TMA 1970” means the Taxes Management Act 1970 (c. 9): see regulation 2 of the 2023 Regulations. Subsections (5) to (7) of section 118 of TMA were inserted by paragraph 15 of Schedule 39 to the Finance Act 2008 (c. 9) [↑](#footnote-ref-58)
58. ) For the purposes of Part 4 of FA 2004, “unauthorised member payment” is defined in section 160(2) of that Act. 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. [↑](#footnote-ref-59)
59. ) For the purposes of Part 4 of FA 2004, “surchargeable unauthorised member payment” is defined in section 210 of FA 2004. Section 210 was amended by paragraph 16 of Schedule 23 to FA 2006. [↑](#footnote-ref-60)
60. ) Paragraph 7 of Schedule 1A was amended by paragraph 10 of Schedule 29 to the Finance Act 2001 (c. 9), and by S.I. 2009/56. [↑](#footnote-ref-61)
61. ) Section 264 was amended by paragraph 23(d) of Schedule 7 to FA 2014 (c. 26). [↑](#footnote-ref-62)
62. ) 2007 c. 11. [↑](#footnote-ref-63)
63. ) Section 8 was substituted by s90(1) and (5) of FA 1994 (c. 9). It was amended by section 178(1) and 199(1) and (2)(a) of FA 1994, section 104(2) and (3) of FA 1995 (c. 4), section 121(1) and (3) of FA 1996 (c. 8), sections 88, 982, 114 of, and Schedule 27 to, FA 2007 (c. 11), section 371 of, and paragraphs 11 and 12 of Schedule 7 to, the Taxation (International and Other Provisions) Act 2010 (c. 8) (“TIOPA”), and paragraph 51(1) and (2) of Schedule 1 to FA 2016 (c. 24). [↑](#footnote-ref-64)
64. ) 2009 c. 10. Section 101 was amended by paragraphs 115 and 116 of Schedule 8 to the Taxation (Cross-border Trade) Act 2018 (c. 22). [↑](#footnote-ref-65)
65. ) Section 29 was substituted by sections 191 and 199 of FA 1994. It was amended by paragraph 12 of Schedule 19 to FA 1998 (c. 36), paragraph 22 of Schedule 20 to FA 2001 (c. 9), section 88(2) and (5) of FA 2005 (c. 7), section 113 and 118 of, and paragraphs 65 and 71 of Schedule 36 and paragraphs 1 and 3 of Schedule 39 to, FA 2008 (c. 9), paragraphs 1 and 5 of Schedule 8 to TIOPA, paragraphs 41 and 46 of Schedule 7 to FA 2015 (c. 11), paragraphs 1 and 14 of Schedule 15 to F(No 2)A 2017 (c. 32), paragraph 25(1) and (6) of Schedule 2 to FA 2019 (c. 1) and section 97(1) of FA 2022 (c. 3). [↑](#footnote-ref-66)
66. ) Schedule 1AB was inserted by paragraph 2 of Schedules 52 to the Finance Act 2009. It was amended by section 231(1) and 232(1) of FA 2013 (c. 29, and by S.I. 2011/1037 [↑](#footnote-ref-67)
67. ) Schedule 55 was amended by: paragraph 723(a) of Schedule 1 to the Corporation Tax Act 2010 (c. 4), paragraphs 11 to 14 of Schedule 10 and Schedule 12 to the Finance Act 2010 (c. 13), paragraphs 2 to 11 of Schedule 10 to F(No. 3)A 2010 (c. 33), paragraph 31 of Schedule 24 to FA 2012 (c. 14), paragraph 7 of Schedule 34, paragraphs 2 to 9 of Schedule 50 and paragraph 8 of Schedule 51, to FA 2013 (c. 29), paragraph 7 of Schedule 21 and paragraph 5 of Schedule 33 to FA 2014 (c. 26), paragraph 59 of Schedule 7 and paragraph 16 and 17 of Schedule 20 to FA 2015 (c. 11), section 113(5) to (8) and s169(6) of, and paragraphs 10 to 12 of Schedule 21 and paragraph 20 of Schedule 22 to, FA 2016 (c. 24), section 56 of, and paragraph 4 of Schedule 11 to, FA 2017 (c. 10), paragraph 118(2) and (3) of Schedule 8 to the Taxation (Cross-border Trade) Act 2018 (c. 22), paragraphs 2(1) to (3) and 29 of Schedule 2 to FA 2019 (c. 1). [↑](#footnote-ref-68)
68. ) The pension scheme tax reference number refers to the unique number given in 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. [↑](#footnote-ref-69)
69. ) “Scheme pays notice” means a notice under section 237B(3) of FA 2004: see regulation 2 of the 2023 Regulations. Section 237B was inserted by paragraph 15 of Schedule 17 to FA 2011, and amended by paragraphs 119 and 129 of Schedule 46 to FA 2013, paragraph 68 of Schedule 1 to the Taxation of Pensions Act 2014, section 9(1) and (2) of FA 2022, and by S.I. 2015/80, S.I. 2015/1810 and S.I. 2019/201. [↑](#footnote-ref-70)
70. ) The amount crystallised by a benefit crystallisation event is determined in accordance with section 216 of FA 2004. Section 216 was amended by paragraphs 31 and 42 of Schedule 10 to FA 2005, paragraph 30 of Schedule 23 to FA 2006, paragraphs 1, 4 and 5 of Schedule 29 to FA 2008, paragraphs 43, 44, 62, 73, 80 and 82 of Schedule 16 to FA 2011, paragraphs 5 and 16 of Schedule 1, and paragraph 21 of Schedule 2, to the Taxation of Pensions Act 2014, and paragraph 4 of Schedule 4 to FA 2015. [↑](#footnote-ref-71)
71. ) Paragraph 1(2) of Schedule 29 to FA 2004 (authorised lump sums: lump sum rule) sets out that, if a pension commencement lump sum exceeds the permitted maximum, the excess amount is not a pension commencement lump sum. The “permitted maximum” is defined in paragraph 2 of that Schedule. Paragraph 1 was amended by paragraph 34 of Schedule 10 to FA 2005, paragraphs 11(1) to (3), 24(3) of Schedule 20, and Part 3(2) of Schedule 27, to FA 2007, paragraphs 24, 62 and 79(1) and (2) of Schedule 16 to FA 2011, and section 51(1) and (3) of FA 2013. [↑](#footnote-ref-72)