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STATUTORY INSTRUMENTS

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**2018 No. 373**

**The Pension Schemes (Application of UK Provisions to Relevant Non-UK Schemes) (Amendment) Regulations 2018**

**Amendment of the Pension Schemes (Application of UK Provisions to Relevant Non-UK Schemes) Regulations 2006**

7. In regulation 4(1) (attributing payments to particular funds under a relevant non-UK scheme)

- (a) in paragraph (1) after “member” insert “made before 6th April 2017”;
- (b) after paragraph (3) insert—

“(3A) If both the member’s UK tax-relieved fund and RTF are nil, or have been reduced to nil, the following Rules apply (with an earlier Rule applying in preference to a later Rule), subject to the provisions in paragraph (3B).

Rule 1

Where an unauthorised payment is treated as made by the scheme to the transfer member by virtue of section 174A(2)—

- (a) the payment shall be treated as made out of the member’s RFTF and RFTATF, but
- (b) the interest in taxable property, in respect of which the unauthorised payment is treated as made, shall represent the payment and form part of the member’s RFTF and RFTATF (an “appropriated asset”), up to an amount equal to the amount of that payment.

Rule 2

Accordingly, if a scheme transfers that appropriated asset (or an interest in a vehicle through which the scheme holds the interest in the taxable property indirectly), or part of it, to another pension scheme, that transfer shall be treated as a transfer of the whole or part, as the case may be, of the member’s RFTF and RFTATF (limited to the amount of the unauthorised payment) to that other scheme, falling (if appropriate) within regulation 3C(b).

Rule 3

If a scheme disposes of (other than to another pension scheme) an appropriated asset (or an interest in a vehicle through which the scheme holds the interest in the taxable property indirectly), or part of it, any other property which directly or indirectly represents proceeds of either of those interests (limited to the amount of the unauthorised payment) shall form part of the member’s RFTF and RFTATF.

Rule 4

This rule applies to payments made by the scheme to or in respect of the member, other than—

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(1) Regulation 4 was amended by [S.I. 2006/1960](#).

(2) Section 174A of the Finance Act 2004 was inserted by paragraphs 2 and 5 of Schedule 21 to the Finance Act 2006.

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

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- (a) a transfer of an interest in taxable property or an interest in a vehicle through which the scheme holds the interest in the taxable property indirectly, and
- (b) payments treated as made by virtue of section 174A.

So far as the member's RFTF and RFTATF are not represented by appropriated assets—

- (a) where the member has both an RFTF and RFTATF, and the amount of their RFTF exceeds the amount of his RFTATF, such payments shall, to the extent of that excess, be treated as made out of their RFTF (but not their RFTATF) and as reducing the RFTF, and subject thereto
- (b) such payments are made out of the member's RFTF and RFTATF in priority to any other fund under that scheme, and reduce (but not below nil) the amount of the RFTF and RFTATF.

(3B) Where a member has more than one RFTF under the RNUKS, paragraph (3A) applies in order of priority from the RFTF with the earliest key date(3) to the RFTF with the latest key date.”

- (c) in paragraph (4)(4) for “paragraph (3)” substitute “paragraphs (3) and (3A)”.

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(3) “Key date” has the meaning given in paragraph 1(6C) of Schedule 34 to the Finance Act 2004 (c. 12). Paragraph 1(6C) was inserted by Schedule 4 to the Finance Act 2017 (c. 10).

(4) Paragraph 4 was inserted by S.I. 2006/1960.