
STATUTORY INSTRUMENTS

2023 No. 113

**The Public Service Pension Schemes (Rectification
of Unlawful Discrimination) (Tax) Regulations 2023**

PART 2

Modifications of Part 4 of the Finance Act 2004

CHAPTER 2

Annual allowance

Adjusted income and threshold income calculated on basis of legacy scheme contributions

- 4.—(1) Paragraph (2) applies where—
- (a) in any tax year, an individual has remediable service (“the rolled-back service”) that, by virtue of section 2(1) of PSPJOA 2022, is pensionable service under a Chapter 1 legacy scheme, and
 - (b) that provision has effect, in relation to the rolled-back service, for the purposes mentioned in section 2(3)(b) of that Act (effect of section 2(1) on amount of benefits payable).
- (2) For the purposes of determining the individual’s adjusted income and threshold income for the tax year—
- (a) any contributions (other than voluntary contributions) paid by the individual to a Chapter 1 new scheme in the tax year in respect of the rolled-back service are to be ignored, and
 - (b) the individual is to be treated as having paid to the Chapter 1 legacy scheme, in the tax year, the contributions that would have been payable by the individual under the scheme in the tax year in respect of the rolled-back service if the service had, at the time it took place, been pensionable service under the scheme.
- (3) Any election in relation to the rolled-back service made by virtue of section 10 of PSPJOA 2022 (deferred choice to receive new scheme benefits) is to be ignored for the purposes of determining whether the condition in paragraph (1)(b) is met.
- (4) Paragraph (5) applies where—
- (a) a 2015 scheme election is made in relation to an individual, and
 - (b) in any tax year, the individual has remediable service (“the rolled-forward service”) that, by virtue of the election, is pensionable service under a judicial 2015 scheme.
- (5) For the purposes of determining the individual’s adjusted income and threshold income for the tax year—
- (a) any contributions (other than voluntary contributions) paid by the individual to a judicial legacy scheme in the tax year in respect of the rolled-forward service are to be ignored, and
 - (b) the individual is to be treated as having paid to the judicial 2015 scheme, in the tax year, the contributions that would have been payable by the individual under the scheme in the

tax year in respect of the rolled-forward service if the service had, at the time it took place, been pensionable service under the scheme.

(6) In this regulation—

“adjusted income” means adjusted income for the purposes of section 228ZA of FA 2004 (tapered reduction of annual allowance: high income individual)(1);

“threshold income” means threshold income for the purposes of that section of that Act.

Commencement Information

I1 Reg. 4 in force at 6.4.2023, see **reg. 1(2)**

Provision of information by scheme administrators to the Commissioners

5. Regulation 3 of RPS(PI)R 2006 (provision of information by scheme administrators to the Commissioners)(2) has effect as if, in paragraph (1), in the table, in the entry for reportable event 22, in the first column, at the end there were inserted “or is required to provide a member with a pension savings statement under regulation 14A(6ZC)”.

Commencement Information

I2 Reg. 5 in force at 6.4.2023, see **reg. 1(2)**

Annual provision of information by scheme administrator to member

6. Regulation 14A of RPS(PI)R 2006 (annual allowance: annual provision of information by scheme administrator to member)(3) has effect as if—

(a) in paragraph (4), after “(5)” there were inserted “, (5A)”;

(b) after paragraph (5) there were inserted—

“(5A) Paragraph (5B) applies where—

(a) the relevant tax year is 2022-2023,

(b) the registered pension scheme is a Chapter 1 scheme, and

(c) the member has any remediable service in any earlier tax year.

(5B) The scheme administrator must provide the member with the pension savings statement for that tax year no later than the rectification deadline.”;

(c) after paragraph (6) there were inserted—

“(6ZA) Paragraph (6ZC) applies where—

(a) an individual is a member of a Chapter 1 scheme or a judicial scheme,

(b) the aggregate of the member’s pension input amounts for a pension input period changes as a result of the operation of a relevant rectification provision, and

(c) either—

(1) Section 228ZA was inserted by paragraph 10 of Schedule 4 to F(No. 2)A 2015 (c. 33) and amended by section 22 of FA 2020 (c. 14).

(2) Regulation 3 was relevantly amended, in relation to reportable event 22, by paragraph 90 of Schedule 1 to the Taxation of Pensions Act 2014 (c. 30), and S.I. 2013/1742.

(3) Regulation 14A was inserted by S.I. 2011/1797 and was amended by paragraph 88 of Schedule 1 to the Taxation of Pensions Act 2014, S.I. 2016/308, S.I. 2017/11, S.I. 2018/5 and S.I. 2022/392.

- (i) the conditions in paragraph (1)(a) and (b) are met in relation to the member and the pension input period, or
 - (ii) the member has already been provided with a pension savings statement for the tax year in which the pension input period ends.
- (6ZB) Paragraph (6ZC) also applies where—
 - (a) an individual is a member of a local government new scheme,
 - (b) the member has already been provided with a pension savings statement for the tax year in which the pension input period ends, and
 - (c) the pension input amount shown on that pension savings statement is incorrect because the aggregate of the individual’s pension input amounts for a pension input period has changed as a result of the operation of regulation 14(1) of the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023.
- (6ZC) The scheme administrator—
 - (a) is not required to amend, so as to reflect the change, any pension savings statement previously provided under paragraph (1) relating to the member and the pension input period;
 - (b) must, no later than the rectification deadline, provide the individual with a statement (a “pension savings statement”) containing the information specified in paragraph (2) (whether or not the individual has previously been provided under paragraph (1) with a statement relating to the pension input period).
- (6ZD) Subject to paragraph (6ZE), “the rectification deadline”, in relation to a member of a Chapter 1 scheme, a judicial scheme or a local government new scheme, is 6th October 2024.
- (6ZE) Where the Chapter 1 scheme is a Chapter 1 legacy scheme and the member is a pensioner or deceased member, “the rectification deadline” is the later of 6th October 2024 and the end of the period of six months beginning with—
 - (a) the date on which an election under section 6 of PSPJOA 2022 is made in respect of the member, or
 - (b) where no such election is made, the end of the section 6 election period.
- (6ZF) For the purposes of paragraph (6ZE) the member is a “pensioner or deceased 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.
- (6ZG) In this regulation and regulation 14B—
 - “Chapter 1 legacy scheme” has the same meaning as in Chapter 1 of Part 1 of PSPJOA 2022;
 - “Chapter 1 scheme” has the same meaning as in Chapter 1 of Part 1 of PSPJOA 2022;
 - “judicial scheme” has the same meaning as in Chapter 2 of Part 1 of PSPJOA 2022;
 - “local government new scheme” has the same meaning as in Chapter 3 of Part 1 of PSPJOA 2022;
 - “PSPJOA 2022” means the Public Service and Judicial Offices Act 2022;
 - “the rectification deadline” has the meaning given in paragraphs (6ZD) to (6ZF);
 - “relevant rectification provision” means any of the following provisions of PSPJOA 2022—

- (a) section 2(1) of PSPJOA 2022 (roll-back of remediable service to Chapter 1 legacy scheme);
- (b) section 6(5) of PSPJOA 2022 (effect of making new scheme benefits election in respect of pensioner or deceased member of Chapter 1 legacy scheme);
- (c) section 45(2) of PSPJOA 2022 (effect of making 2015 scheme election in respect of person with remediable service in judicial office);

“remediable service” has the same meaning as in Chapter 1 of Part 1 of PSPJOA 2022;

“section 6 election period” has the same meaning as in Chapter 1 of Part 1 of PSPJOA 2022.”.

Commencement Information

I3 [Reg. 6](#) in force at 6.4.2023, see [reg. 1\(2\)](#)

Provision of information by scheme administrator to member on request

7. Regulation 14B of RPS(PI)R 2006 (annual allowance: provision of information to member on request)(4) has effect as if—

- (a) in paragraph (1), in the second sentence, for “and (3)” there were substituted “to [F¹(9)]”;
- (b) after paragraph (2) there were inserted—
 - “(2A) Paragraph (2B) applies where—
 - (a) the relevant tax year is 2022-2023,
 - (b) the registered pension scheme is a Chapter 1 scheme, and
 - (c) the member has any remediable service in any earlier tax year.
 - (2B) The scheme administrator must provide the member with the information requested under paragraph (1) before—
 - (a) the end of the period of three months beginning with the receipt of the request, or
 - (b) if later, the rectification deadline.”;
- (c) in paragraph (3), in sub-paragraph (b), after paragraph (ii) there were inserted—
 - “, or
 - (iii) where the conditions mentioned in sub-paragraph (4) are met, the rectification deadline.”;
- (d) after paragraph (3) there were inserted—
 - “(4) The conditions referred to in paragraph (3)(b)(iii) are—
 - (a) that the relevant tax year is 2022-2023,
 - (b) that the registered pension scheme is a Chapter 1 scheme, and
 - (c) that the member has any remediable service in any earlier tax year.
 - (5) Paragraph (6) applies where—
 - (a) a member is sent a statement containing information in response to a request under paragraph (1), and

(4) Regulation 14B was inserted by [S.I. 2011/1797](#) and was amended by paragraph 89 of Schedule 1 to the Taxation of Pensions Act 2014.

- (b) after the statement is sent, either—
 - (i) the aggregate of the member’s pension input amounts for the relevant pension input period changes as a result of the operation of a relevant rectification provision, or
 - (ii) the pension input amount shown on that pension savings statement is incorrect because the aggregate of the individual’s pension input amounts for the relevant pension input period has changed as a result of the operation of regulation 14(1) of the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023.
- (6) The scheme administrator must, before the rectification deadline, provide the member with a revised statement containing updated information.
- (7) Paragraph (9) applies where—
 - (a) a member makes a request under paragraph (1), and
 - (b) after the request is made, but before the member is sent a statement in response to the request, the aggregate of a member’s pension input amounts for a pension input period changes as a result of the operation of a relevant rectification provision.
- (8) Paragraph (9) also applies where—
 - (a) the aggregate of a member’s pension input amounts for a pension input period changes as a result of the operation of a relevant rectification provision, and
 - (b) subsequently, the member makes a request under paragraph (1).
- (9) The scheme administrator must provide the member with the information requested before—
 - (a) the end of the period of six months beginning with the receipt of the request, or
 - (b) if later, the rectification deadline.”.

Textual Amendments

F1 Word in [reg. 7\(a\)](#) substituted (14.9.2023) by [The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) \(No. 2\) Regulations 2023 \(S.I. 2023/912\)](#), [regs. 1\(2\)](#), **22** (with [reg. 1\(3\)](#))

Commencement Information

I4 [Reg. 7](#) in force at 6.4.2023, see [reg. 1\(2\)](#)

Chapter 1 schemes and judicial 2015 schemes: operation of scheme pays for remedy years

- 8.—(1) Paragraphs (2) to (6) apply where—
 - (a) an individual has any remediable service in a tax year that is pensionable service under a Chapter 1 scheme or a judicial 2015 scheme, and
 - (b) as a result of a relevant rectification provision, the amount of the individual’s liability to the annual allowance charge for the tax year increases.

(2) Section 237B of FA 2004 (liability of scheme administrator)⁽⁵⁾ applies in relation to the tax year and the individual separately in relation to—

- (a) the individual’s liability to the annual allowance charge for the tax year disregarding the increase, and
- (b) the individual’s liability to the annual allowance charge for the tax year represented by the increase.

(3) In the application of section 237B of FA 2004 as it applies by virtue of paragraph (2)(b)—

- (a) the conditions in paragraphs (a) and (b) of subsection (1) are to be treated as met;
- (b) subsection (3) has effect as if—
 - (i) for “the scheme administrator of the pension scheme” there were substituted “the scheme administrator of the Chapter 1 scheme or the judicial 2015 scheme, within the meaning of Chapter 1 or Chapter 2 of Part 1 of the Public Service Pensions and Judicial Offices Act 2022,”;
 - (ii) for paragraph (a) there were substituted—
 - “(a) does not exceed the increase in the individual’s liability to the annual allowance charge for the tax year mentioned in regulation 8(1) (b) of the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023, and”;

(c) subsections (4) to (4B) are to be ignored.

[^{F2}(d) subsection (5)(a) has effect as if “(but subject to subsection (6))” were omitted;

(e) subsection (6) is to be ignored.]

(4) In the application of section 237BA of FA 2004 (time limit for scheme pays notices)⁽⁶⁾ in relation to a scheme pays notice given under section 237B of FA 2004 as that section applies by virtue of paragraph (2)(b), the reference in subsection (2) of that section to 31st July is to be read as a reference to 6th July 2025 or, where the condition in paragraph (5) is met, 6th July 2027.

(5) The condition is that—

- (a) the remediable service in question is pensionable under a Chapter 1 legacy scheme, and
- (b) the member is a pensioner^{F3} ... member.

(6) For the purposes of paragraph (5)(b) the member is a “pensioner^{F4} ... 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.

(7) In this regulation “relevant rectification provision” means any of the following provisions of PSPJOA 2022—

- (a) section 2(1) (roll-back of remediable service to Chapter 1 legacy scheme);
- (b) section 6(5) (effect of making new scheme benefits election in respect of pensioner or deceased member of Chapter 1 legacy scheme);
- (c) section 45(2) (effect of making 2015 scheme election in respect of person with remediable service in judicial office).

(5) Section 237B was inserted by paragraph 15 of Schedule 17 to FA 2011 (c. 11) and was amended by paragraph 129 of Schedule 46 to FA 2013 (c. 29), paragraph 68 of Schedule 1 to the Taxation of Pensions Act 2014 (c. 30) and section 9 of FA 2022, and by S.I. 2015/80, S.I. 2015/1810, S.I. 2017/468, S.I. 2019/201.

(6) Section 237BA was inserted by section 9 of FA 2022 (c. 3).

Textual Amendments

- F2** Reg. 8(3)(d)(e) inserted (14.9.2023) by The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023 (S.I. 2023/912), regs. 1(2), **23(a)** (with reg. 1(3))
- F3** Words in reg. 8(5)(b) omitted (14.9.2023) by virtue of The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023 (S.I. 2023/912), regs. 1(2), **23(b)** (with reg. 1(3))
- F4** Words in reg. 8(6) omitted (14.9.2023) by virtue of The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023 (S.I. 2023/912), regs. 1(2), **23(c)** (with reg. 1(3))

Commencement Information

- I5** Reg. 8 in force at 6.4.2023, see **reg. 1(2)**

Chapter 1 schemes: operation of scheme pays for 2022-23

- 9.—(1) Section 237B of FA 2004 (liability of scheme administrator) applies in relation to—
- (a) a Chapter 1 scheme,
 - (b) the tax year 2022-23, and
 - (c) an individual who has any remediable service in any earlier tax year,

subject to the modifications specified in paragraph (2).

- (2) The modifications of section 237B of FA 2004 mentioned in paragraph (1) are as follows—
- (a) the conditions in paragraphs (a) and (b) of subsection (1) are to be treated as met;
 - (b) subsection (3) has effect as if for paragraph (a) there were substituted—

“(a) does not exceed—

$$A \times \frac{B}{C}$$

where—

“A” is the amount of the individual’s liability to the annual allowance⁽⁷⁾ charge for the tax year;

“B” is the aggregate of the pension input amounts⁽⁸⁾ for the tax year in respect of arrangements relating to the individual under the pension scheme;

“C” is the aggregate of the pension input amounts for the tax year in respect of arrangements relating to the individual under all registered pension schemes; and”;

- (c) subsections (4) to (4B) are to be ignored.

[^{F5}(d) subsection (5)(a) has effect as if “(but subject to subsection (6))” were omitted;

(7) For the purposes of Part 4 of FA 2004 (c. 12), section 228 of that Act provides for the annual allowance for the tax year 2014-15 and each subsequent tax year.

(8) For the purposes of Part 4 of FA 2004, the total pension input amount is arrived at by following the provision made by section 229 of that Act. Section 229 also provides for what is meant by the pension input amount in respect of an arrangement.

(e) subsection (6) is to be ignored.]

(3) In the application of section 237BA of FA 2004 in relation to a scheme pays notice given in relation to a Chapter 1 scheme for the tax year 2022-23 by an individual who has any remediable service in any earlier tax year, the reference in subsection (2) of that section to 31st July is to be read as a reference to 6th July 2025 or, where the condition in paragraph (4) is met, 6th July 2027.

(4) The condition is that—

- (a) the remediable service in question is pensionable under a Chapter 1 legacy scheme, and
- (b) the member is a pensioner ^{F6}... member.

(5) For the purposes of paragraph (4)(b) the member is a pensioner ^{F7}... 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.

Textual Amendments

- F5** Reg. 9(2)(d)(e) inserted (14.9.2023) by The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023 (S.I. 2023/912), regs. 1(2), **24(a)** (with reg. 1(3))
- F6** Words in reg. 9(4)(b) omitted (14.9.2023) by virtue of The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023 (S.I. 2023/912), regs. 1(2), **24(b)** (with reg. 1(3))
- F7** Words in reg. 9(5) omitted (14.9.2023) by virtue of The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023 (S.I. 2023/912), regs. 1(2), **24(c)** (with reg. 1(3))

Commencement Information

- I6** Reg. 9 in force at 6.4.2023, see reg. 1(2)

Chapter 1 schemes: scheme pays treated as operated by legacy schemes

10.—(1) Paragraphs (3) to (10) apply where—

- (a) an individual's pension scheme input amount in relation to a Chapter 1 new scheme for a tax year is (disregarding the effect of section 2(1) of PSPJOA 2022) determined by reference to the individual's remediable service rights under the scheme,
- (b) the individual gave a scheme pays notice to the scheme administrator of the scheme in respect of the individual's liability for the annual allowance charge for the tax year,
- (c) the joint and several liability under section 237B(7) of FA 2004 of the scheme administrator resulting from the notice has not been discharged under section 237D of FA 2004, and
- (d) as a result of section 2(1) of PSPJOA 2022, the remediable service is pensionable service under a Chapter 1 legacy scheme.

(2) Paragraphs (3) to (10) also apply where—

- (a) the conditions in sub-paragraphs (a) and (d) of paragraph (1) are met, and
- (b) the scheme administrator of the Chapter 1 new scheme has, in response to a request from the individual, at any time agreed to pay an amount in respect of the annual allowance charge.

(3) The scheme pays notice is to be treated as not having been given to the scheme administrator of the Chapter 1 new scheme but as having instead been given to the scheme administrator of the

Chapter 1 legacy scheme (so that the latter scheme administrator, and not the former, became jointly and severally liable under section 237B(7) of FA 2004 with the individual for the amount specified in the notice).

(4) The request from the individual is to be treated as not having been given to the scheme administrator of the Chapter 1 new scheme but as having instead been given to the scheme administrator of the Chapter 1 legacy scheme.

(5) Any payment made by the scheme administrator of the Chapter 1 new scheme—

(a) in satisfaction of the joint and several liability as a result of the notice, or

(b) under the agreement to pay in response to the request from the individual,

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 Chapter 1 legacy scheme.

(6) Where only part of the pension scheme input amount in relation to the scheme for the tax year is determined by reference to the individual's remediable service rights under the scheme—

(a) paragraph (3) or (4) applies to the scheme pays notice, or to the request from the individual (as the case may be), only so far as the annual allowance charge for the tax year is referable to those rights;

(b) paragraph (5) applies to a payment made by the scheme administrator of the Chapter 1 new scheme only so far as the annual allowance charge in respect of which it is made is referable to those rights.

(7) For the purposes of paragraph (6) an annual allowance charge is, so far as possible, to be regarded as referable to rights of the individual under the scheme that are not remediable service rights.

(8) In determining the individual's pension input amounts (for any tax year)—

(a) any adjustment made under section 237E of FA 2004 to the benefits payable to the individual in consequence of a payment within paragraph (5) is to be ignored;

(b) any adjustment made to the benefits payable to the individual in consequence of a payment under paragraph (5)(b) is to be ignored.

(9) Where the amount of the annual allowance charge in respect of which the scheme pays notice is given, or the request from the individual is made (as the case may be), reduces as a result of the operation of a relevant rectification provision, the notice or the request is to be treated as specifying—

(a) the reduced amount, or

(b) where the notice or the request specified only a proportion of the annual allowance charge, the same proportion of the reduced amount.

(10) Neither the scheme administrator of the Chapter 1 new scheme, nor the scheme administrator of the Chapter 1 legacy scheme, is required, in consequence of anything in this regulation, to amend any accounting-for-tax return they have already made.

(11) In this Chapter "remediable service rights", in relation to an individual and a Chapter 1 scheme, means rights under the scheme in respect of the individual's remediable service in an office or employment.

(12) When determining, for the purposes of paragraph (11), the rights of an individual that are in respect of the individual's remediable service in an employment or office, any rights that result from voluntary arrangements entered into by the individual are to be ignored.

Commencement Information

I7 [Reg. 10](#) in force at 6.4.2023, see [reg. 1\(2\)](#)

Chapter 1 schemes: administrative provisions relating to scheme pays

11.—(1) Paragraphs (2) to (6) apply where—

- (a) an individual's pension scheme input amount in relation to a Chapter 1 new scheme for a tax year is (disregarding the effect of section 2(1) of PSPJOA 2022) determined by reference to the individual's remediable service rights under the scheme,
- (b) the individual has become liable for the annual allowance charge for the tax year (whether or not the liability has subsequently been discharged),
- (c) the scheme administrator of the Chapter 1 new scheme—
 - (i) has, as a result of the receipt of a scheme pays notice, at any time become jointly and severally liable for any or all of the annual allowance charge (whether or not the liability has subsequently been discharged), or
 - (ii) has, in response to a request from the individual, at any time agreed to pay an amount in respect of the annual allowance charge (whether or not the amount has subsequently been paid), and
- (d) as a result of section 2(1) of PSPJOA 2022, the remediable service is pensionable service under a Chapter 1 legacy scheme.

(2) The scheme administrator of the Chapter 1 new scheme must provide the following information to the scheme administrator of the Chapter 1 legacy scheme—

- (a) the name and pension scheme tax reference number of the Chapter 1 new scheme;
- (b) the name and national insurance number of the individual;
- (c) in a case in which the individual has given a scheme pays notice to the scheme administrator of the Chapter 1 new scheme in relation to the annual allowance charge—
 - (i) the tax year to which the notice relates;
 - (ii) the date on which the notice was received;
 - (iii) the amount of the annual allowance charge for which, on receipt of the notice, the scheme administrator of the Chapter 1 new scheme became jointly and severally liable;
 - (iv) if any of that amount is attributable to the operation of voluntary arrangements under the Chapter 1 scheme, the amount so attributable;
 - (v) the period covered by the accounting-for-tax return on which the liability was shown or, if no accounting-for-tax return was made that showed the liability, a statement of that fact;
 - (vi) whether any amount has been paid in respect of the liability and, if so, the amount of the payment and the date on which it was paid;
- (d) in a case in which the individual has requested that the scheme administrator of the Chapter 1 new scheme pay an amount in respect of the annual allowance charge for the tax year—
 - (i) the tax year to which the request relates;
 - (ii) the amount of the annual allowance charge which the scheme administrator has agreed to pay;
 - (iii) if any of that amount is attributable to the operation of voluntary arrangements under the Chapter 1 scheme, the amount so attributable;
 - (iv) the period covered by the accounting-for-tax return on which the amount agreed to be paid was shown or, if no accounting-for-tax return was made that showed the amount, a statement of that fact;

(v) whether any amount has been paid pursuant to the agreement and, if so, the amount of the payment and the date on which it was paid.

(3) Where only part of the pension scheme input amount in relation to the scheme for the tax year is determined by reference to the individual's remediable service rights under the scheme, paragraphs (2)(c)(iii) and (d)(ii) apply only to so much of the annual allowance charge for the tax year as is referable to those rights.

(4) For the purposes of paragraph (3) an annual allowance charge is, so far as possible, to be regarded as referable to rights of the individual under the scheme that are not remediable service rights.

(5) If the amount paid by the scheme administrator of the Chapter 1 legacy scheme in respect of the individual's liability for the annual allowance charge for the tax year (after taking into account regulation 10(5)) exceeds the amount of that liability, the scheme administrator of the Chapter 1 legacy scheme may reclaim the excess from HMRC only on the making of an application.

[^{F8}(5A) An application under paragraph (5) must be made on or before 1st April 2027.]

(6) An application under paragraph (5)—

(a) must be accompanied by—

- (i) a declaration that the application is made by the scheme administrator;
- (ii) a declaration as to the accuracy of the information contained in the application;
- (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;
- (ii) the scheme administrator identity reference provided by HMRC;
- (iii) the name and national insurance number of the scheme member;
- (iv) the amount of the charge paid, the date on which, and the charge reference number under which, it was paid;
- (v) the pension scheme tax reference number of the scheme under which the scheme administrator reported and paid the amount of the charge to HMRC;
- (vi) the tax year and quarter covered by the accounting-for-tax return on which the charge was reported to HMRC;
- (vii) the revised amount of the annual allowance charge;
- (viii) the amount of tax being reclaimed;
- (ix) if a repayment is claimed, the amount and the account details to which repayment is to be made;
- (x) if a reallocation is claimed, that amount and the charge reference to which it is to be allocated.

(7) Paragraph (8) applies where—

- (a) an individual's pension scheme input amount in relation to a Chapter 1 new scheme for a tax year is (disregarding the effect of section 2(1) of PSPJOA 2022) determined by reference to the individual's rights in respect of the individual's remediable service,
- (b) as a result of section 2(1) of PSPJOA 2022, the remediable service is pensionable service under a Chapter 1 legacy scheme,
- (c) the individual has an outstanding liability for the annual allowance charge for the tax year, and

- (d) the individual gives a scheme pays notice to the scheme administrator of the Chapter 1 legacy scheme in respect of that outstanding liability (or any part of it).
- (8) The scheme administrator of the Chapter 1 legacy scheme must include the following information on the accounting-for-tax return for the period in which the scheme pays notice is received—
- (a) whether a payment (“the previous payment”) in respect of the annual allowance charge for the tax year has already been reported by the scheme administrator, or by the scheme administrator of the Chapter 1 new scheme, and
- (b) if so—
- (i) the amount of the previous payment, the tax year to which it relates, and the date on which it was made;
 - (ii) the period covered by the accounting-for-tax return that included particulars of the previous payment;
 - (iii) whether the previous payment was made by the scheme administrator of the Chapter 1 legacy scheme or the scheme administrator of the Chapter 1 new scheme;
 - (iv) if the previous payment was made by the scheme administrator of the Chapter 1 new scheme, the pension scheme tax reference number of that scheme.

Textual Amendments

F8 Reg. 11(5A) inserted (14.9.2023) by [The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) \(No. 2\) Regulations 2023 \(S.I. 2023/912\)](#), regs. 1(2), **25** (with reg. 1(3))

Commencement Information

I8 Reg. 11 in force at 6.4.2023, see [reg. 1\(2\)](#)

Chapter 1 legacy schemes: effect of new scheme benefits election in first pension input period

12.—(1) Paragraph (2) applies where—

- (a) a new scheme benefits election is made in relation to the remediable service of an individual, and
- (b) as a result of the election, the pension input amount in respect of an arrangement under the relevant Chapter 1 legacy scheme for the retirement pension input period would (disregarding paragraph (2)) increase.

(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 benefits determined by reference to the remediable service that the individual would have been entitled to if the election had not been made.

(3) In this regulation—

“new scheme benefits election” means an election under section 6 or 10 of PSPJOA 2022;

“relevant Chapter 1 legacy scheme” means the Chapter 1 legacy scheme under which the remediable service of the individual is pensionable service;

“retirement pension input period” means the pension input period ending in the tax year in which the new scheme benefits election comes into effect.

Commencement Information

I9 Reg. 12 in force at 6.4.2023, see **reg. 1(2)**

Chapter 1 legacy schemes: effect of new scheme benefits election in later pension input periods

13.—(1) Paragraph (2) applies where—

- (a) a new scheme benefits election is made in relation to the remediable service of an individual, and
- (b) at the beginning of the first post-retirement pension input period, the individual is entitled under an arrangement under the relevant Chapter 1 legacy scheme to—
 - (i) the present payment of benefits determined otherwise than by reference to the remediable service, and
 - (ii) the future payment of benefits ^{F9}....

(2) For the purposes of determining the pension input amounts of the individual in respect of arrangements under the relevant Chapter 1 legacy scheme for the first post-retirement pension input period or any subsequent pension input period, the individual’s rights to the benefits mentioned in paragraph (1)(b)(i) and the individual’s rights to the benefits mentioned in paragraph (1)(b)(ii) are to be treated as arising under separate arrangements.

(3) In this regulation—

“the first post-retirement pension input period” means the pension input period of the individual immediately following the pension input period of the individual in which the new scheme benefits election comes into effect;

“new scheme benefits election” means an election under section 6 or 10 of PSPJOA 2022;

“relevant Chapter 1 legacy scheme” means the Chapter 1 legacy scheme under which the remediable service of the individual is pensionable service.

Textual Amendments

F9 Words in **reg. 13(1)(b)(ii)** omitted (14.9.2023) by virtue of [The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) \(No. 2\) Regulations 2023 \(S.I. 2023/912\)](#), **regs. 1(2), 26** (with **reg. 1(3)**)

Commencement Information

I10 Reg. 13 in force at 6.4.2023, see **reg. 1(2)**

Local government new schemes: final salary uplifts ignored in calculating pension input amount

14.—(1) A final salary uplift to which an individual is or may become entitled is to be ignored for the purposes of determining the individual’s pension input amounts for any pension input period.

(2) In this regulation “final salary uplift” means an increase in the benefits payable to the individual under regulations made by virtue of section 78(1) of PSPJOA 2022 (power of local government new scheme to pay final salary benefits in respect of remediable service).

(3) This regulation is to be treated as always having had effect.

Commencement Information

III Reg. 14 in force at 6.4.2023, see **reg. 1(2)**

Judicial schemes and local government schemes: administrative provisions relating to scheme pays

15.—(1) Paragraph (2) applies where—

- (a) an individual's pension scheme input amount in relation to a judicial 2015 scheme for a tax year is determined by reference to the individual's remediable service rights under the scheme,
- (b) the individual has become liable for the annual allowance charge for the tax year (whether or not the liability has subsequently been discharged),
- (c) the scheme administrator of the judicial 2015 scheme—
 - (i) has, as a result of the receipt of a scheme pays notice, at any time become jointly and severally liable for any or all of the annual allowance charge (whether or not the liability has subsequently been discharged), or
 - (ii) has, in response to a request from the individual, at any time agreed to pay an amount in respect of the annual allowance charge (whether or not the amount has subsequently been paid),
- (d) an amount has been paid by the scheme administrator in respect of the individual's liability for the annual allowance charge for the tax year, and
- (e) the amount of the individual's liability for the annual allowance charge has reduced, as a result of a relevant rectification provision.

(2) The scheme administrator—

- (a) is not required to amend any accounting-for-tax return previously made in respect of the liability;
- (b) may reclaim from HMRC, only on the making of an application, the lower of—
 - (i) the amount by which the individual's liability reduced as a result of the relevant rectification provision, and
 - (ii) the amount paid by the scheme administrator in respect of the individual's liability for the annual allowance charge.

(3) Paragraph (4) applies where—

- (a) an individual's pension scheme input amount in relation to a local government new scheme for a tax year is determined by reference to the individual's remediable service rights under the scheme,
- (b) the individual has become liable for the annual allowance charge for the tax year (whether or not the liability has subsequently been discharged),
- (c) the scheme administrator of the local government new scheme—
 - (i) has, as a result of the receipt of a scheme pays notice, at any time become jointly and severally liable for any or all of the annual allowance charge (whether or not the liability has subsequently been discharged), or
 - (ii) has, in response to a request from the individual, at any time agreed to pay an amount in respect of the annual allowance charge (whether or not the amount has subsequently been paid),

- (d) an amount has been paid by the scheme administrator in respect of the individual's liability for the annual allowance charge for the tax year, and
 - (e) the amount of the individual's liability for the annual allowance charge has reduced, as a result of the operation of regulation 14(1).
- (4) The scheme administrator—
- (a) is not required to amend any accounting-for-tax return previously made in respect of the liability;
 - (b) may reclaim from HMRC, only on the making of an application, the lower of—
 - (i) the amount by which the individual's liability reduced as a result of the operation of regulation 14(1), and
 - (ii) the amount paid by the scheme administrator in respect of the individual's liability for the annual allowance charge.
- [^{F10}(4A) An application under paragraph (2)(b) or (4)(b) must be made on or before 1st April 2027.]
- (5) An application under paragraph (2)(b) or (4)(b) must contain the following information—
- (a) must be accompanied by—
 - (i) a declaration that the application is made by the scheme administrator;
 - (ii) a declaration as to the accuracy of the information contained in the application;
 - (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;
 - (ii) the scheme administrator identity reference provided by HMRC;
 - (iii) the name and national insurance number of the individual scheme member;
 - (iv) the amount of the charge paid, the date on which, and the charge reference number under which, it was paid;
 - (v) the pension scheme tax reference number of the scheme under which the scheme administrator reported and paid the amount of the charge to HMRC;
 - (vi) the tax year and quarter covered by the accounting-for-tax return on which the charge was reported to HMRC;
 - (vii) the revised amount of the tax charge;
 - (viii) the amount of tax being reclaimed;
 - (ix) if a repayment is claimed, the amount and the details of the bank account to which repayment is to be made;
 - (x) if a reallocation is claimed, the amount and the charge reference to which it is to be allocated.

Textual Amendments

F10 Reg. 15(4A) inserted (14.9.2023) by The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023 (S.I. 2023/912), regs. 1(2), 27 (with reg. 1(3))

Commencement Information

I12 Reg. 15 in force at 6.4.2023, see reg. 1(2)

Changes to legislation: There are currently no known outstanding effects for the The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023, CHAPTER 2. (See end of Document for details)

Changes to legislation:

There are currently no known outstanding effects for the The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023, CHAPTER 2.