
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 246

**The National Health Service Pension Schemes
(Remediable Service) (Scotland) Regulations 2023**

PART 7

Taxation

Interpretation of Part 7

57. In this Part—

“2023 Regulations” means the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023⁽¹⁾;

“annual allowance charge” has the same meaning as in section 227(1) (annual allowance charge) of the 2004 Act⁽²⁾;

“relevant rectification provision” has the same meaning as in regulation 2(1) of the 2023 Regulations.

Scheme administrator to be liable where private sector scheme administrator’s liability is discharged

58.—(1) This regulation applies in the circumstances described in paragraph (2) in relation to a remedy member (“M”) who—

- (a) has remediable service in the legacy scheme that is pensionable service under that scheme whether or not by virtue of section 2(1) of PSPJOA 2022, and
- (b) on 30 September 2023 was a pensioner or deceased member of the legacy scheme or the 2015 scheme in respect of remediable service.

(2) The circumstances are that—

- (a) before these Regulations came into force, a benefit crystallisation event in accordance with section 216 (benefit crystallisation events and amounts crystallised) of the 2004 Act occurred in connection with M’s entitlement to any benefits under the legacy scheme or the 2015 scheme;
- (b) a later benefit crystallisation event (“later BCE”) occurs in relation to M’s entitlement to any benefits under a pension scheme that is not a public service pension scheme (“private sector scheme”);
- (c) a lifetime allowance charge, or any part of such a charge, is charged in connection with the later BCE that is attributable to a relevant rectification provision; and

⁽¹⁾ [S.I. 2023/113](#).

⁽²⁾ Section 227(1) was amended by paragraph 63(2) of schedule 1 to the Taxation of Pensions Act 2014 (c. 30) and paragraph 11(2)(a) of schedule 4 to the Finance Act (No. 2) 2015 (c. 33).

(d) the scheme administrator of the private sector scheme makes a successful application under section 267(lifetime allowance charge) of the 2004 Act in respect of their liability for the lifetime allowance charge, or part of such a charge.

(3) The scheme administrator is jointly and severally liable in accordance with regulation 36(3) of the 2023 Regulations (public service scheme to be liable where private sector scheme discharged) for the lifetime allowance charge or part of such a charge mentioned in paragraph (2)(d).

(4) M's present and future benefits must be reduced by an amount that fully reflects the amount of the lifetime allowance charge, or part of such a charge, paid by the scheme administrator and is to be calculated by reference to advice provided by the scheme actuary for that purpose.

(5) In this regulation, "lifetime allowance charge" has the same meaning as in section 214 (lifetime allowance charge) of the 2004 Act.

Scheme pays

59.—(1) This regulation applies in relation to a remedy member ("M")—

- (a) who is not a deceased member;
- (b) who has remediable service in the legacy scheme that is pensionable under that scheme whether or not by virtue of section 2(1) of PSPJOA 2022;
- (c) who has an annual allowance charge in one or more of the tax years 2019-20 to 2022-23 attributable to a relevant rectification provision; and
- (d) in respect of whom the time limit referred to in section 237BA (time limit for notices under section 237B) of the 2004 Act(3) has ended.

(2) M may give a notice in writing to the scheme administrator requesting that the scheme administrator pay the annual allowance charge on behalf of the member.

(3) Upon receipt of the notice mentioned in paragraph (2), the scheme administrator must pay the annual allowance charge arising in that tax year.

(4) M's present or future benefits in respect of which that charge arises must be adjusted in accordance with section 237E of the 2004 Act(4) (consequential benefit adjustments to be reasonable etc) and must be calculated by reference to advice provided by the scheme actuary for that purpose.

(5) The scheme administrator must provide information to M in relation to the process for making a request under paragraph (2) and the consequences of such a request.

(3) Section 237BA was inserted by section 9(3) of the Finance Act 2022 (c. 3).

(4) Section 237E was inserted by paragraph 15 of Schedule 17 to the Finance Act 2011 (c. 11).