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STATUTORY INSTRUMENTS

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**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 3**

**Benefits**

**Scheme pension already paid: status of overpaid amount unaffected**

**28.**—(1) Paragraph (2) applies where—

- (a) an individual has at any time become entitled to a scheme pension, and
- (b) at a later time, as a result of a relevant rectification provision, one or more payments of scheme pension made to the individual before the later time include amounts (“overpaid pension amounts”) to which the individual was not entitled.

(2) The payments of overpaid pension amounts—

- (a) are to be treated as falling, and are to be treated as always having fallen, within section 164(1) of FA 2004 (authorised member payments);
- (b) are to be treated as, and are to be treated as always having been, pension paid under a registered pension scheme for the purposes of Part 9 of ITEPA 2003;
- (c) are to be treated for those purposes as, and are to be treated as always having been, pension accruing in the tax year in which they are paid.

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**Commencement Information**

**II** [Reg. 28](#) 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, Section 28.