
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 3

Benefits

Top-up defined benefits lump sum death benefit treated in same way as original payment

31.—(1) Paragraph (2) applies where—

- (a) a defined benefits lump sum death benefit⁽¹⁾ is at any time paid under a registered pension scheme in respect of the death of an individual,
- (b) the payment is made before the end of the relevant two-year period,
- (c) as a result of a relevant rectification provision the amount of the defined benefits lump sum death benefit payable under the scheme in respect of the death increases,
- (d) an amount (“the top-up DBLSDB”) is paid in respect of the increase, and
- (e) the top-up DBLSDB is not paid before the end of the relevant two-year period.

(2) The top-up DBLSDB is to be treated for the purposes of the provisions listed in paragraph (3) as having been paid before the end of the relevant two-year period.

(3) The provisions referred to in paragraph (2) are—

- (a) section 636AA(3) of ITEPA 2003 (circumstances in which payment of defined benefits lump sum death benefit is taxable)⁽²⁾;
- (b) section 206(1B) of FA 2004 (circumstances in which payment of defined benefits lump sum death benefit is subject to the special lump sum death benefits charge)⁽³⁾;
- (c) paragraph 16(a) of Schedule 32 to FA 2004 (circumstances in which payment of defined benefits lump sum death benefit constitutes a benefit crystallisation event 7)⁽⁴⁾.

(4) In this regulation “the relevant two-year period” means the period of two years beginning with the earlier of the day on which the scheme administrator of the scheme first knew of the individual’s death and the day on which the scheme administrator could first reasonably have been expected to have known of it.

(1) For the purposes of Part 4 of FA 2004, “defined benefits lump sum death benefit” is defined in paragraph 13 of Schedule 29 to that Act.

(2) Section 636AA was inserted by section 22(5) of F(No. 2)A 2015.

(3) Section 206(1B) was inserted by paragraph 17 of Schedule 2 to the Taxation of Pensions Act 2014 and amended by section 21 of F(No. 2)A 2015.

(4) Paragraph 16(a) was amended by section 21(7) of F(No. 2)A 2015.

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 31. (See end of Document for details)

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Commencement Information

II [Reg. 31](#) 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 31.