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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 2**

**Annual allowance**

**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)(1) 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.

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(1) 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.

[<sup>F1</sup>(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)<sup>(2)</sup> 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 <sup>F2</sup>... member.

(6) For the purposes of paragraph (5)(b) the member is a “pensioner <sup>F3</sup>... 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).

#### Textual Amendments

**F1** 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))

**F2** 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))

**F3** 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

**I1** Reg. 8 in force at 6.4.2023, see [reg. 1\(2\)](#)

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

**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 8.