
STATUTORY INSTRUMENTS

2023 No. 912

The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023

PART 3

Benefits

Arrears of dependants' scheme pension in payment: additional amounts paid for deceased member

11.—(1) Paragraphs (2) and (3) apply where—

- (a) a person has become entitled to a dependants' scheme pension⁽¹⁾ under a Chapter 1 scheme, a judicial 2015 scheme or a local government new scheme⁽²⁾,
- (b) as a result of the operation of a relevant rectification provision, the amount of dependants' scheme pension payable under the relevant scheme increases, and
- (c) the dependant has died or is a former child dependant.

(2) The increased amount of dependants' scheme pension payable—

- (a) is to be treated as falling within section 164(1) of FA 2004 (authorised member payments),
- (b) is to be treated as pension paid under a registered pension scheme for the purposes of Part 9 of ITEPA 2003 (pension income)⁽³⁾, and
- (c) is to be treated for those purposes as pension accruing—
 - (i) in the tax year in which it is paid, if it is paid to a dependant's personal representative, or
 - (ii) in the tax year in which it should have been paid, if it is paid to a former child dependant.

(3) But paragraph (2) does not apply unless the increased amount of dependants' scheme pension is paid to—

- (a) the dependant's personal representative, in a case where the dependant has died, or
- (b) a former child dependant.

(4) In this regulation, "former child dependant" means an individual who previously met one of the conditions in paragraph 15(2) of Schedule 28 to FA 2004 (meaning of child dependant)⁽⁴⁾, but

(1) By virtue of regulation 2(2)(b), "dependants' scheme pension" is defined in paragraph 16 of Schedule 28 to FA 2004.
(2) By virtue of regulation 2(2)(a), "local government new scheme" has the same meaning as in Chapter 3 of Part 1 of PSPJOA 2022 (see section 86(2) of that Act).
(3) Chapter 5A (applying to pensions paid under a registered pension scheme) was inserted into Part 9 of ITEPA 2003 by paragraph 6 of Schedule 36 to FA 2004 and amended by paragraph 22 of Schedule 16 to FA 2011, paragraph 117 of Schedule 45 to FA 2013, paragraphs 81 and 82 of Schedule 1, and paragraph 25 of Schedule 2, to the Taxation of Pensions Act 2014, paragraph 23 of Schedule 4 to FA 2015 (c. 11) and section 22(6) and (7) of F(No. 2)A 2015.
(4) Paragraph 15 of Schedule 28 to FA 2004 was amended by paragraph 26 of Schedule 10 to FA 2005, paragraph 6(2) of Schedule 5 to FA 2016, and by S.I. 2005/3229.

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no longer meets any of those conditions when the increased amount of dependants' scheme pension is paid.