This Statutory Instrument has been made, in part, to correct errors in S.I. 2023/113 and 2023/912 and is being issued free of charge to all known recipients of those Statutory Instruments.

STATUTORY INSTRUMENTS

2025 No. 419

INCOME TAX

The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2025

Made - - - -	*1st April 2025*
Laid before the House of Commons	*3rd April 2025*
Coming into force - -	*24th April 2025*

The Treasury make these Regulations in exercise of the powers conferred by section 11 of the Finance Act 2022(**a**).

PART 1

Introductory

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2025.

(2) These Regulations come into force on 24th April 2025 and have effect so as to modify enactments in their application in relation to a relevant person.

(3) These Regulations have effect for the tax year 2023-24 and subsequent tax years, subject to paragraphs (4) to (6).

(4) The insertion of the reference to the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023(**b**) made by regulation 17(1) has effect from 14th September 2023.

(5) Regulations 18 and 20(2) to (5) and (7) have effect as if, when the provisions that they amend were made, those provisions contained the amendments made by these Regulations.

(6) Regulations 19 and 20(6) and (8) have effect for the tax year 2024-25 and subsequent tax years.

(**a**) 2022 c. 3.
(**b**) S.I. 2023/912.

PART 2

Unauthorised payments

Chapter 1

Interpretation

Interpretation of Part 2

2.—(1) In this Part—

"Chapter 1 scheme" and "Chapter 1 legacy scheme" have the same meanings as in Chapter 1 of Part 1 of PSPJOA 2022(**a**);

"event report" means a report required by regulation 3(1) of the Registered Pension Schemes (Provision of Information) Regulations 2006 (provision of information by scheme administrator to the Commissioners)(**b**);

"HMRC" means His Majesty's Revenue and Customs;

"offset" means offset in accordance with regulation 7(2) or (3);

"reclaimed" means reclaimed in accordance with regulation 7(4);

"relevant charge" means—

(a) an unauthorised payments charge(**c**) that was paid by a scheme administrator(**d**) on behalf of an individual, or

(b) a scheme sanction charge(**e**);

"relevant period" means a period of three months ending with 31st March, 30th June, 30th September or 31st December;

"relevant rectification provision" means—

(a) section 2(1) of PSPJOA 2022 (remediable service treated as pensionable under Chapter 1 legacy schemes);

(b) section 6(5) of PSPJOA 2022 (immediate choice to receive new scheme benefits);

(c) section 10(4) of PSPJOA 2022 (deferred choice to receive new scheme benefits);

(d) regulation 19 of the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023 (lump sum unauthorised payment already paid: repayment of overpaid amount to scheme);

"repayment interest" means interest calculated in accordance with regulation 8;

"return" means a return under regulation 9.

(2) Expressions used in this Part, unless otherwise provided, have the same meaning as in Part 4 of FA 2004 (pension schemes etc)(**f**).

(**a**) "PSPJOA 2022" means the Public Service Pensions and Judicial Offices Act 2022 (c. 7) by virtue of section 11(7) of the Finance Act 2022.
(**b**) S.I. 2006/567; relevant amending instruments are S.I. 2011/301, 2011/1797.
(**c**) "Unauthorised payments charge" means the charge to income tax under section 208 of the Finance Act 2004 (c. 12).
(**d**) "Scheme administrator" is defined in section 270 of the Finance Act 2004.
(**e**) "Scheme sanction charge" means the charge to income tax under section 239 of the Finance Act 2004.
(**f**) "FA 2004" means the Finance Act 2004 by virtue of section 103 of the Finance Act 2022. Section 280 of the Finance Act 2004 provides an index of expressions used in Part 4 of that Act.

Meaning of "historic payment", "top-up payment" and "interest payment"

3.—(1) In this Part "historic payment", "top-up payment" and "interest payment" have the following meanings.

(2) "Historic payment" means a payment of a lump sum under a Chapter 1 legacy scheme to an individual with remediable service(**a**) where—

(a) an amount of the payment was an unauthorised member payment(**b**),

(b) the scheme administrator paid the resulting unauthorised payments charge on behalf of the individual, and

(c) as a result of a relevant rectification provision, the amount of the payment that was an unauthorised member payment has reduced.

(3) "Top-up payment" means an unauthorised member payment made under a Chapter 1 scheme on or after 1st October 2023 that is—

(a) made, as a result of a relevant rectification provision, in respect of the same individual and for the same reason as a historic payment, or

(b) an interest payment.

(4) "Interest payment" means a payment of interest, in respect of an amount within paragraph (3)(a), which is payable by virtue of scheme regulations made under section 26 of PSPJOA 2022 in accordance with—

(a) direction 14(5) and (6) of the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022(**c**), or

(b) direction 14(5) and (6) of the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions (Northern Ireland) 2023(**d**).

Meaning of "excess amount", "excess individual amount" and "excess scheme amount"

4.—(1) In this Part "excess amount", "excess individual amount" and "excess scheme amount" have the following meanings.

(2) An "excess amount" is the amount by which the amount paid to HMRC by a scheme administrator in respect of a relevant charge that arose on the making of a historic payment exceeds, as a result of a relevant rectification provision, the amount of the liability for the relevant charge.

(3) An excess amount is an "excess individual amount" if the relevant charge was an unauthorised payments charge that was paid by the scheme administrator on behalf of an individual.

(4) An excess amount is an "excess scheme amount" if the relevant charge was a scheme sanction charge.

(**a**) "Remediable service" is defined in section 11(7) of the Finance Act 2022.

(**b**) "Unauthorised member payment" has the meaning given in section 160(2) of the Finance Act 2004.

(**c**) The 2022 Directions are available electronically at https://assets.publishing.service.gov.uk/media/6399e9efe90e072aeeadb35b/The_Public_Service_Pensions__Exercise_of_Powers_Compensation_and_Information__Directions_2022.pdf. A person unable to access the document electronically can arrange access to a hard copy by inspection free of charge at His Majesty's Revenue and Customs, 100 Parliament Street, London SW1A 2BQ.

(**d**) The 2023 Directions are available electronically at https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/The-Public-Service-Pensions-Exercise-of-Powers-Compensation-and-Information-Directions-Northern-Ireland-2023.PDF. A person unable to access the document electronically can arrange access to a hard copy by inspection free of charge at His Majesty's Revenue and Customs, 100 Parliament Street, London SW1A 2BQ.

Chapter 2

Top-up payments and excess amounts

Top-up payments

5.—(1) Section 208 of FA 2004 (unauthorised payments charge) has effect, in relation to a top-up payment, as if—

(a) in subsection (2) for "person" there were substituted "persons";

(b) in subsection (2)(a) for "is the person" there were substituted "are the person and the scheme administrator";

(c) in subsection (2)(b) for "is the recipient" there were substituted "are the recipient and the scheme administrator".

(2) Section 240 of FA 2004 (scheme sanction charge: amount of charge) has effect, in relation to a top-up payment, as if—

(a) in subsection (1) "40%" were replaced with "15%";

(b) subsections (2) to (4) were omitted.

(3) Section 241 of FA 2004 (scheme sanction charge: scheme chargeable payment) has effect as if an interest payment were specified in subsection (2) as an unauthorised payment that is exempt from being scheme chargeable.

Top-up payments: deduction from payment

6.—(1) A scheme administrator who makes a top-up payment to an individual must make a tax deduction from it.

(2) The making of a tax deduction does not affect the amount of the top-up payment that is an unauthorised member payment.

(3) If a tax deduction is not made before a top-up payment is paid to the individual then, for the purpose of calculating the amount of the unauthorised member payment, the gross-up amount is to be added to the amount of the top-up payment.

(4) Where a top-up payment was made before these Regulations came into force, this regulation has effect as if the tax deduction was required to be made from benefits paid to the individual under the Chapter 1 scheme before the scheme administrator makes a return in respect of the payment.

(5) In this regulation—

"the gross-up amount" is an amount equal to five thirds of the difference between—

(a) the amount of the top-up payment that was paid to the individual, and

(b) the amount that would have been paid to the member if a tax deduction had been made;

"tax deduction" means the deduction of an amount equal to the result of the individual calculation in paragraph 8 of the Schedule in respect of the top-up payment.

Excess amounts

7.—(1) A scheme administrator is entitled to recover an excess amount from HMRC if—

(a) it can be offset under paragraphs (2) or (3) or reclaimed under paragraph (4), and

(b) the scheme administrator includes it in a return in accordance with paragraph (5).

(2) An excess individual amount can be offset against an unauthorised payments charge that arises on a top-up payment in relation to the same individual, to the extent that it does not exceed that charge.

(3) An excess scheme amount can be offset against a scheme sanction charge that arises on a top-up payment in relation to the same individual, to the extent that it does not exceed that charge.

(4) An excess amount can be reclaimed if it relates to the making of a historic payment on or after 6th April 2019.

(5) An excess amount can only be included in a return if—

(a) the return is made on or before 31st January 2031, and

(b) either—

(i) the return includes a top-up payment that relates to the same individual, or

(ii) the excess amount is being reclaimed and the condition in paragraph (6) is met.

(6) The condition is that either—

(a) the scheme administrator has not made a top-up payment that relates to the same individual and does not reasonably expect to do so, or

(b) it was not reasonably practicable for the excess amount to be included in the same return as a top-up payment that relates to the same individual.

(7) An excess amount may not be recovered by any other person or in any other way, save that a scheme administrator may make an application under regulation 20 of the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023 (application required by schemes to reclaim overpayment of scheme sanction charge resulting from rectification) in respect of an excess amount that cannot be recovered under these Regulations.

(8) Section 42 of, and Schedule 1AB to, TMA 1970 (procedure for making claims to recover overpaid tax)(**a**) do not apply in relation to an excess amount.

Excess amounts: repayment interest

8.—(1) A scheme administrator is entitled to repayment interest if an excess amount that can be reclaimed is recovered in accordance with regulation 7.

(2) If an excess amount cannot be reclaimed, a scheme administrator is only entitled to repayment interest when an excess amount is recovered in accordance with regulation 7 to the extent that it does not exceed the remaining amount of the relevant charge, after any excess amounts have been offset against it.

(3) If a top-up payment has been made in respect of an individual, a scheme administrator is only entitled to repayment interest if it is included it in a return relating to the excess amount.

(4) Repayment interest on an excess amount is to be calculated by applying the prescribed rate to the excess amount for the period—

(a) beginning with the later of—

(i) the 31st January following the tax year in which the historic payment was made, and

(ii) the day on which the relevant charge in respect of the historic payment was paid to HMRC, and

(b) ending with the later of—

(**a**) "TMA 1970" means the Taxes Management Act 1970 (c. 9) by virtue of section 103 of the Finance Act 2022. Schedule 1AB was inserted by paragraph 2 of Schedule 52 to the Finance Act 2009 (c. 10).

(i) the day on which a top-up payment is made under the Chapter 1 scheme in respect of the same individual, and

(ii) where an excess amount is reclaimed, the day on which HMRC makes a payment in respect of that amount to the scheme administrator.

(5) A person is not entitled to interest, or an amount equivalent to interest, in respect of the recovery of an excess amount otherwise than in accordance with this regulation.

(6) In this regulation "the prescribed rate" means the rate applicable under section 178 of the Finance Act 1989 (setting of rates of interest)(**a**) for the purposes of section 824 of the Income and Corporation Taxes Act 1988(**b**).

Chapter 3

Administration

Returns

9.—(1) A scheme administrator—

(a) must make a return to HMRC in respect of a top-up payment, and

(b) may make a return to HMRC in respect of any excess amount.

(2) A return must—

(a) contain the information prescribed in the Schedule,

(b) relate to all top-up payments made in a relevant period, and

(c) be made before the end of the period of 45 days beginning with the day immediately following the end of the relevant period.

(3) Where a scheme administrator made a top-up payment before the coming into force of these Regulations, this regulation applies as if that payment was made on the day after these Regulations come into force.

Assessment

10.—(1) An officer of HMRC may make an assessment to—

(a) the unauthorised payments charge, and

(b) the scheme sanction charge,

in the amounts that should, in the officer's opinion, be charged on a person who is liable to such a charge in connection with a top-up payment.

(2) An assessment on a scheme administrator may relate to—

(a) more than one top-up payment, and

(b) more than one individual.

(3) Where a return has been made in respect of a top-up payment, an assessment under paragraph (1) may be made at any time on or before—

(a) the date six years after the day on which the return was made, if the scheme administrator has carelessly caused the return to be inaccurate in a material respect,

(b) the date 20 years after the day on which the return was made, if the scheme administrator has deliberately caused the return to be inaccurate in a material respect, or

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(**a**) 1989 c. 26.

(**b**) 1988 c. 1. The rate is set in regulation 3AB of S.I. 1989/1297, which was inserted by S.I. 1996/3187 and relevantly amended by S.I. 2009/2032.

(c) in any other case, the date four years after the day on which the return was made.

(4) If a return has not been made in respect of a top-up payment, an assessment under paragraph (1) may be made at any time on or before the date 20 years after the last day on which such a return could have been made.

(5) In this regulation—

(a) section 118(5) to (7) of TMA 1970 (interpretation: bringing about a situation carelessly or deliberately)(**a**) applies for the purposes of determining whether a scheme administrator carelessly or deliberately caused a return to be inaccurate in a material respect, and

(b) references to circumstances brought about by a scheme administrator include circumstances brought about by another person acting on behalf of that scheme administrator.

Repayment

11.—(1) An excess amount or an amount of repayment interest included in a return must be paid to a scheme administrator unless, within the specified period, an officer of HMRC notifies the scheme administrator that, in the officer's opinion, the amount—

(a) is not properly recoverable by the scheme administrator, or

(b) is properly recoverable in a lesser amount.

(2) In paragraph (1) "the specified period" means the period of 90 days beginning with the date on which the return was received by HMRC.

(3) An appeal may be brought against a notification under paragraph (1) as if it were a conclusion stated in a closure notice under paragraph 7 of Schedule 1A to TMA 1970 (completion of enquiry into claim)(**b**).

Recovery of overpayments

12.—(1) Where an officer of HMRC considers that an amount was not properly recoverable as an excess amount, either wholly or partially, that amount may be assessed and recovered under this regulation as if it were unpaid tax.

(2) An assessment under this regulation must be made on or before the date four years after the day on which a return was made in respect of the excess amount.

Power to withdraw assessments

13.—(1) HMRC may withdraw an assessment under regulation 10 or 12, or a notification under regulation 11, by notice to the person to which it relates.

(2) An assessment or notification that has been withdrawn under this regulation ceases to have effect and is to be taken as never having had any effect.

Obligations under other enactments

14.—(1) An individual is not obliged to comply with an obligation under Part 2 of TMA 1970 (returns of income and gains) in respect of a top-up payment.

(2) A scheme administrator is not, in respect of a matter dealt with in a return, obliged to make or amend—

(**a**) Section 118(5) to (7) was inserted by paragraph 15 of Schedule 39 to the Finance Act 2008 (c. 9).
(**b**) Schedule 1A was inserted by paragraph 35 of Schedule 19 to the Finance Act 1994 (c. 9) and substituted by paragraph 10 of Schedule 29 to the Finance Act 2001 (c. 9).

(a) an event report, or

(b) a return under section 254 of FA 2004 (accounting for tax by scheme administrators).

(3) Where, before the coming into force of these Regulations, an assessment was made by virtue of—

(a) section 9 (returns to include self-assessment) or 29 (assessment where loss of tax discovered) of TMA 1970, or

(b) regulation 4 of the Registered Pension Schemes (Accounting and Assessment) Regulations 2005 (the making of assessments)(**a**),

that assessment is to be treated as not including, and never having included, an amount in respect of a top-up payment.

Interest and penalties

15.—(1) Sections 101 (late payment interest on sums due to HMRC) and 103 (rates of interest) of the Finance Act 2009 apply in relation to an amount of income tax which is assessed and recoverable by virtue of an assessment under regulation 10 or 12 as if it were an assessment under section 29 of TMA 1970.

(2) Schedule 55 to the Finance Act 2009 (penalty for failure to make returns) applies in relation to a failure to make a return required by regulation 9(1)(a) on or before the date in regulation 9(2)(c) as if it were a failure to make or deliver a return under section 254 of FA 2004 on or before the filing date.

(3) Schedule 24 to the Finance Act 2007 (penalties for errors)(**b**) applies to a return as if it were a return under section 254 of FA 2004.

Electronic communications

16.—(1) The Registered Pension Schemes and Overseas Pension Schemes (Electronic Communication of Returns and Information) Regulations 2006(**c**) apply as if—

(a) a return,

(b) an assessment under regulation 10 or 12, or

(c) a notification under regulation 11(1),

were information specified in Schedule 2 to those Regulations.

(2) The Income and Corporation Taxes (Electronic Communications) Regulations 2003(**d**) apply to a payment made by HMRC in connection with the operation of these Regulations as if it were a payment made in connection with the operation of Schedule 1A to TMA 1970.

Split schemes

17.—(1) The Registered Pension Schemes (Splitting of Schemes) Regulations 2006(**e**) have effect as if, in Part 2 of Schedule 3, at the end there were inserted—

> "The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023

(**a**) S.I. 2005/3454, to which there are amendments not relevant to these Regulations.
(**b**) 2007 c. 11.
(**c**) S.I. 2006/570; relevant amendments were made by paragraph 123 of Schedule 9 to the Finance Act 2024 (c. 3) and S.I. 2009/56.
(**d**) S.I. 2003/282, relevant amending instruments are S.I. 2009/3218, 2014/489 and 2025/172.
(**e**) S.I. 2006/569, amended by S.I. 2007/793, 2011/702, 2012/2879, 2013/1114, 2015/667 and 2024/356.

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

The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2025".

(2) The amendment made by paragraph (1) does not impose any liability on a sub-scheme administrator for any act or omission that took place before the coming into force of these Regulations.

(3) In this regulation "sub-scheme administrator" has the meaning given in regulation 1(2) of the Registered Pension Schemes (Splitting of Schemes) Regulations 2006.

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

18.—(1) Regulation 20 of the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023 (application required by schemes to reclaim overpayment of scheme sanction charge resulting from rectification) is amended as follows—

(a) in paragraph (1) omit the "and" after sub-paragraph (b);

(b) in paragraph (1) after sub-paragraph (c) insert ", and

(d) the amount cannot be recovered from HMRC as an excess amount in accordance with regulation 7 of the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2025.";

(c) in paragraph (7) for "1st April 2027" substitute "31st January 2031";

(d) in paragraph (8)(a) after paragraph (i) insert—

"(ia) a declaration that the claimed amounts cannot be recovered from HMRC in accordance with regulation 7 of the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2025,".

(2) The amendments made by paragraph (1) do not have effect in relation to an application that was made, under regulation 20 of the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023, before the coming into force of these Regulations.

PART 3

Miscellaneous provisions

Modification of the Finance Act 2016

19. In the Finance Act 2016(**a**) Schedule 4 has effect, in relation to a person who has any remediable service in an employment or office, as if in paragraph 14 (issuing of reference numbers for fixed or individual protection 2016), in sub-paragraph (3)(b), for "6 April 2025" there were substituted "6 April 2027".

(**a**) 2016 c. 24; paragraph 14 of Schedule 4 was amended by paragraph 93(5) of Schedule 9 to the Finance Act 2024 (c. 3).

Amendment of the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023

20.—(1) The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023(**a**) are amended as follows.

(2) In regulation 8 (Chapter 1 schemes and judicial 2015 schemes: operation of scheme pays for remedy years) after paragraph (4) insert—

"(4A) In the application of the Registered Pension Schemes (Notice of Joint Liability for the Annual Allowance Charge) Regulations 2011(**b**) in relation to a scheme pays notice given under section 237B of FA 2004 as that section applies by virtue of paragraph (2)(b)—

(a) regulation 2(2) is to be ignored;

(b) regulation 4(2A) is to be ignored;

(c) regulation 4(3) has effect as if the further notice was required to be given no later than 5th July 2030 or, where the condition in paragraph (5) is met, 5th July 2032.".

(3) In regulation 9 (Chapter 1 schemes: operation of scheme pays for 2022-23) after paragraph (3) insert—

"(3A) In the application of the Registered Pension Schemes (Notice of Joint Liability for the Annual Allowance Charge) Regulations 2011 in relation to a scheme pays notice given in relation to a Chapter 1 scheme for the tax year 2022-23 by an individual who has any remediable service in any earlier tax year—

(a) regulation 2(2) is to be ignored;

(b) regulation 4(2A) is to be ignored;

(c) regulation 4(3) has effect as if the further notice was required to be given no later than 5th July 2030 or, where the condition in paragraph (4) is met, 5th July 2032.".

(4) In regulation 11 (Chapter 1 schemes: administrative provisions relating to scheme pays), in paragraph (5A), for "1st April 2027" substitute "31st January 2031".

(5) In regulation 15 (judicial schemes and local government schemes: administrative provision relating to scheme pays), in paragraph (4A), for "1st April 2027" substitute "31st January 2031".

(6) In regulation 31 (top-up defined benefits lump sum death benefit treated in same way as original payment), in paragraph (3), for sub-paragraph (a) substitute—

"(aa) section 637H of ITEPA 2003 (tax treatment of defined benefits lump sum death benefits)(**c**);".

(7) In regulation 34 (application required by schemes to reclaim overpayment resulting from rectification), in paragraph (4A), for "1st April 2027" substitute "31st January 2031".

(8) For regulation 39 (deadline for provision of information by schemes disapplied) substitute—

(**a**) S.I. 2023/113, amended by S.I. 2023/912.
(**b**) S.I. 2011/1793, amended by S.I. 2022/392; there are other amending instruments but none is relevant.
(**c**) "ITEPA 2003" means the Income Tax (Earnings and Pensions) Act 2003 (c. 1) by virtue of section 103 of the Finance Act 2022. Section 637H was inserted by paragraph 41 of Schedule 9 to the Finance Act 2024 and amended by S.I. 2024/1012.

"Deadline for provision of information by schemes

39. In regulation 14C of RPS(PI)R 2006 (scheme administrator required to provide individual with information on request)(**a**) paragraph (1)(c) has effect, in relation to information relating to benefits that are calculated by reference to an individual's remediable service in an employment or office, as if for "6 April 2020" there were substituted "6 April 2027".".

Nicholas Dakin
Jeff Smith
1st April 2025 Two of the Lords Commissioners of His Majesty's Treasury

(**a**) "RPS(PI)R 2006" is defined in regulation 2 of the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 as the Registered Pension Schemes (Provision of Information) Regulations 2006 (S.I. 2006/567), regulation 14C of which was inserted by paragraph 26 of Schedule 4 to the Finance Act 2016.

SCHEDULE

Regulation 9(2)(a)

Content of return

Prescribed information

1.—(1) A return must include—

(a) the scheme information in paragraph 2,

(b) the declarations in paragraph 3, and

(c) in relation to each individual, the information specified in sub-paragraph (2).

(2) The information is—

(a) the individual information in paragraph 4,

(b) the historic payment information in paragraph 5 in respect of each historic payment made under the Chapter 1 scheme,

(c) the top-up payment information in paragraph 6 in respect of any top-up payment made under the Chapter 1 scheme in the relevant period to which the return relates,

(d) the excess amount information in paragraph 7 in respect of each excess amount that the scheme administrator seeks to recover, and

(e) unless the return only reclaims excess amounts in respect of the individual—

(i) the individual calculation in paragraph 8, and

(ii) the scheme administrator calculation in paragraph 9.

2. The scheme information is—

(a) the pension scheme name and tax reference number,

(b) the scheme administrator name and identity reference provided by HMRC, and

(c) if the return reclaims an excess amount or includes an amount returned in accordance with paragraph 7(1)(d)(ii) that is greater than zero, the account details to which any payment to the scheme administrator is to be made.

3. The declarations are—

(a) a declaration as to the accuracy of the information contained in the return,

(b) a declaration that the scheme administrator understands the consequences of providing false information,

(c) where the return seeks to recover an excess amount, a declaration that the scheme administrator has not attempted to recover it in any other way, and

(d) where the return seeks to recover an excess individual amount that relates to an individual, but does not include a top-up payment in relation to the same individual, a declaration that either—

(i) the scheme administrator has not made a top-up payment in relation to the same individual and does not expect to do so, or

(ii) it was not reasonably practicable for the excess amount to be included in the same return as a top-up payment in relation to the same individual.

4.—(1) The individual information is—

(a) the individual's name, and

(b) the individual's national insurance number.

(2) Where an individual does not qualify for a national insurance number, the scheme administrator must—

(a) provide HMRC with the individual's date of birth and address in order to obtain an alternative number from them, and

(b) provide this alternative number.

5.—(1) The historic payment information is—

(a) the date of the historic payment,

(b) the amount of the historic payment that was, disregarding the relevant rectification provisions—

(i) an unauthorised member payment;

(ii) a scheme chargeable payment,

(c) the amount of the historic payment that is, taking into account the relevant rectification provisions—

(i) an unauthorised member payment;

(ii) a scheme chargeable payment, and

(d) where an event report was provided to HMRC in respect of the historic payment, the tax year for which the report was provided.

(2) Where a return seeks to recover an excess amount, the historic payment information also includes—

(a) in respect of the unauthorised payments charge—

(i) the amount that was paid to HMRC,

(ii) the date on which it was paid,

(iii) the charge reference number under which it was paid,

(iv) the revised amount of the liability to the unauthorised payments charge, taking into account the relevant rectification provisions, and

(v) the excess individual amount, and

(b) in respect of the scheme sanction charge—

(i) the amount that was paid to HMRC,

(ii) the date on which it was paid,

(iii) the charge reference number under which it was paid,

(iv) the revised amount of the liability to the scheme sanction charge, taking into account the relevant rectification provisions, and

(v) the excess scheme amount.

6.—(1) The top-up payment information is—

(a) the nature, amount and date of the top-up payment, before any tax deduction,

(b) the amount of the top-up payment that is a scheme chargeable payment,

(c) the amount of the scheme administrator's liability, in respect of the top-up payment, to the unauthorised payments charge,

(d) the amount of the scheme administrator's liability, in respect of the top-up payment, to the scheme sanction charge, and

(e) the amount of the top-up payment that was paid to the individual, after any tax deduction.

(2) In this paragraph "tax deduction" has the meaning given in regulation 6(5).

7.—(1) The excess amount information is—

(a) whether the excess amount is an excess individual amount or an excess scheme amount,

(b) whether the excess amount is being offset or reclaimed,

(c) the amount that is being offset or reclaimed,

(d) where a top-up payment has been made in respect of the individual—

(i) the amount of repayment interest due in connection with the excess amount, and

(ii) if regulation 8(2) does not apply, the amount of that repayment interest which, when added to the excess amount, exceeds the amount of the relevant charge in paragraph 6(1)(c) or (d), and

(e) where the excess amount is included by virtue of the condition in regulation 7(6)(b) being met, particulars of why it was not reasonably practicable for the excess amount to be included in the same return as a top-up payment that relates to the same individual.

(2) Where an excess amount is being reclaimed and a relevant charge was included in an earlier return, the excess amount information also includes—

(a) the date of the earlier return, and

(b) the top-up payment information in paragraph 6 contained in the earlier return in respect of each top-up payment that gave rise to the relevant charge.

8. The individual calculation is a calculation showing, in respect of each top-up payment returned under paragraph 6 or 7(2)—

(a) the amount of the scheme administrator's liability to the unauthorised payments charge,

(b) less—

(i) the total of any excess individual amounts that are being offset or reclaimed under paragraph 7(1)(c) in relation to that top-up payment, and

(ii) the total of any amounts of repayment interest, in respect of those amounts, returned under paragraph 7(1)(d)(i).

9. The scheme administrator calculation is a calculation showing, in respect of each top-up payment returned under paragraph 6 or 7(2)—

(a) the amount of the scheme administrator's liability to the scheme sanction charge,

(b) less—

(i) the total of any excess scheme amounts that are being offset or reclaimed under paragraph 7(1)(c) in relation to that top-up payment, and

(ii) the total of any amounts of repayment interest, in respect of those amounts, returned under paragraph 7(1)(d)(i).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about the tax treatment of unauthorised payments made under public service pension schemes in connection with the Public Service Pensions and Judicial Offices Act 2022 ("PSPJOA 2022"). They also make provision consequential on the abolition of the lifetime allowance.

Part 2 deals with unauthorised payments. Registered pension schemes are permitted, within certain limits, to pay lump sums to their members. If these limits are exceeded, the resulting payment is subject to tax as an unauthorised payment. These Regulations deal with unauthorised payments that were made by public service pension schemes where, as a result of the operation of PSPJOA 2022, the amounts of those unauthorised payments have changed. The Regulations refer to these payments as "historic payments". The operation of PSPJOA 2022 can also lead to schemes making further payments, for the same reason as a historic payment, which are referred to in the Regulations as "top-up payments". These terms are defined in regulation 3.

Regulation 5 provides for scheme administrators and individuals to be jointly and severally liable to the unauthorised payments charge in respect of these top-up payments. It also reduces the scheme sanction charge paid in respect of them to 15% and excludes payments of compensatory interest from its scope.

The operation of PSPJOA 2022 also means that tax may have been overpaid on historic payments. These Regulations provide for scheme administrators to recover these overpayments (defined as "excess amounts" in regulation 4), either by offsetting them against the same tax charge in respect of a top-up payment or, where the conditions in regulation 7(4) are met, by reclaiming them. These excess amounts, and interest on them, cannot be recovered in any other way, although scheme administrators can still use the process in regulation 20 of the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 to apply for a repayment of an overpaid scheme sanction charge that cannot be recovered under these Regulations.

Regulation 6 requires a scheme administrator to deduct the unauthorised payments charge arising on a top-up payment, reduced by any recoverable excess amounts and interest, from the payment made to the recipient. This deduction does not reduce the amount that is an unauthorised payment. If a deduction is not made, the top-up payment is to be grossed-up to reflect the additional benefit to the recipient of the payment.

Chapter 3 deals with administration. Regulation 9 provides for returns, which must contain the information specified in the Schedule. If a scheme administrator owes tax as a result of these Regulations, an assessment can be made under regulation 10. If they are owed a repayment, they are entitled to be paid that amount unless HMRC issues a notification in accordance with regulation 11 or an assessment under regulation 12. These assessments and notifications may be withdrawn in accordance with regulation 13.

Regulation 14 provides for specified provisions of the Taxes Management Act 1970 and the Finance Act 2004 not to have effect in respect of top-up payments. The remaining provisions of Part 2 deal with other administrative matters.

Part 3 makes further provision in connection with the operation of PSPJOA 2022 and the abolition of the lifetime allowance. Regulation 19 allows an application for a fixed or individual protection 2016 reference number by a person with remediable service to be validly made until 6th April

2027, rather than 6th April 2025. Regulation 20 makes provision about the contents of a notice requiring a scheme to pay an annual allowance charge, updates the definition of certain defined benefits lump sum death benefits, extends time limits so that they are consistent with these Regulations and aligns the deadline for provision of information by pension schemes about individual protection 2016 with regulation 19.

Regulation 1(3) to (6) provides for these Regulations to have retrospective effect. This retrospection is authorised by section 11(4)(a) of the Finance Act 2022 and regulations 6(4), 9(3), 14(3), 17(2) and 18(2) make specific provision in connection with it.

A Tax Information and Impact note covering this instrument was published on 27th October 2021 alongside the Finance Bill and is available on the website at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins. It remains an accurate summary of the impacts that apply to this instrument.

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ISBN 978-0-34-827084-6

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£8.14

http://www.legislation.gov.uk/id/uksi/2025/419