
STATUTORY INSTRUMENTS

2012 No. 764

The Postal Services Act 2011 (Taxation) Regulations 2012

PART 3

Income Tax

CHAPTER 1

Transfer of Accrued Rights from the RMPP to the new public scheme

New public scheme to be treated as a registered pension scheme

7. The new public scheme is to be treated as a registered pension scheme for the purposes of Part 4.

Transfer to be treated as a recognised transfer

8.—(1) For the purposes of Part 4, the Transfer is to be treated as a recognised transfer of sums or assets held for the purposes of, or representing accrued rights under, the RMPP in connection with a member of that scheme within the meaning of section 169(1).

(2) Paragraph (3) applies where the Accrued Rights Transfer has resulted in the transfer to the new public scheme of Accrued Rights in respect of a scheme pension to which a member of the RMPP has become entitled (“the original scheme pension”).

(3) The sums and assets which represented rights in respect of the original scheme pension are to be treated, after the Accrued Rights Transfer, as being applied towards the provision of a scheme pension for the purposes of regulations 3 and 5 of the Registered Pension Schemes (Transfer of Sums and Assets) Regulations 2006⁽¹⁾ (the “Transfer of Sums and Assets Regulations”).

(4) Paragraph (5) applies where the Accrued Rights Transfer has resulted in the transfer to the new public scheme of Accrued Rights in respect of a dependants’ scheme pension to which a dependant of a member of the RMPP has become entitled in respect of the member (“the original dependants’ scheme pension”).

(5) The sums and assets which represented rights in respect of the original dependants’ scheme pension are to be treated, after the Accrued Rights Transfer, as being applied towards the provision of a dependants’ scheme pension for the purposes of regulation 8 of the Transfer of Sums and Assets Regulations.

CHAPTER 2

Continued application of “A day” transitional provisions after the Accrued Rights Transfer

“Enhanced protection” to continue after the Accrued Rights Transfer

9. Where the Accrued Rights Transfer has taken place—

(1) S.I. 2006/499; amended by S.I. 2011/733; there are other amending instruments but none is relevant.

- (a) the Transfer is to be treated as a permitted transfer within the meaning of paragraph 12(7) of Schedule 36 for the purposes of paragraphs 12, 13 and 15 (“enhanced protection”) of that Schedule(2); and
- (b) that permitted transfer is to be treated as falling within paragraph 12(8)(c).

Rights to take benefit before normal minimum pension age to continue after the Accrued Rights Transfer

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

- (a) the RMPP was a protected pension scheme under paragraph 22(2) of Schedule 36(3) in relation to a member; and
- (b) the Accrued Rights Transfer has taken place.

(2) The Transfer is to be treated as a block transfer within the meaning of paragraph 22(6) of Schedule 36 for the purposes of paragraphs 21 and 22 (rights to take benefit before normal minimum pension age) of that Schedule.

(3) In relation to the retirement condition in paragraph 22(7) of Schedule 36—

- (a) the requirement in paragraph (a) is to be treated as met if the member becomes entitled to all the benefits payable to the member under arrangements under both the RMPP and the new public scheme (to which the member did not have an actual entitlement on or before 5th April 2006) on the same date; and
- (b) in respect of the requirement in paragraph (b), direct or indirect references to a sponsoring employer in Condition 1, 2 or 3 in sub-paragraphs (7A), (7B), (7C) or (7E) (as the case may be) are to be read as references to a sponsoring employer of the RMPP.

Entitlement to lump sums exceeding 25% of uncrystallised rights to continue after the Accrued Rights Transfer

11.—(1) Paragraph (2) applies where—

- (a) the RMPP was a protected pension scheme under paragraph 31(4) of Schedule 36 in relation to a member; and
- (b) the Accrued Rights Transfer has taken place.

(2) The Transfer is to be treated as a block transfer within the meaning of paragraph 22(6) of Schedule 36 for the purposes of paragraphs 31 to 34(4) (entitlement to lump sums exceeding 25% of uncrystallised rights) of that Schedule.

Transitional protection for stand-alone lump sums to continue after the Accrued Rights Transfer

12.—(1) Paragraph (2) applies where—

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- (2) Paragraph 12 was amended, so far as is relevant, by paragraphs 1 and 53 of Schedule 10 to the Finance Act 2005 (c. 7), paragraphs 1, 16 and 17 of Schedule 20 and table 2 in Part 3 of Schedule 27 to the Finance Act 2007 (c. 11). Paragraph 13 was amended by paragraphs 1 and 53(1) and (7) of Schedule 10 to the Finance Act 2005. Paragraph 15 was amended by paragraphs 1, 37 and 40 of Schedule 23 to the Finance Act 2006 (c. 25) and paragraphs 1, 16 and 19 of Schedule 20 to the Finance Act 2007.
 - (3) Paragraph 22 was amended by paragraphs 1, 54 and 55 of Schedule 10 to the Finance Act 2005, paragraphs 1 and 43 of Schedule 23 to the Finance Act 2006 and paragraphs 423 and 432(3) of Schedule 1 to the Corporation Tax Act 2010.
 - (4) Paragraph 31(7) was amended by paragraphs 1 and 55 of Schedule 10 to the Finance Act 2005. Paragraph 34 was amended by paragraphs 1 and 57 of Schedule 10 to the Finance Act 2005, paragraphs 1 and 25 of Schedule 25 to the Finance Act 2006, paragraph 13 of Schedule 29 to the Finance Act 2008 (c. 9) and paragraphs 62 and 82 to Schedule 16 of the Finance Act 2011 (c. 11). Paragraph 34 was also amended by paragraphs 1, 8 and 11 of Schedule 18 to the Finance Act 2011 with effect for the tax year 2012-13 and subsequent tax years.

- (a) the RMPP was entitled to pay a stand-alone lump sum under article 25(3) (stand-alone lump sums: definition) of the Transitional Provisions Order to an individual which, if it had been paid, would have been a stand-alone lump sum paid in circumstances where article 25B(4) (circumstance C) applied; and
- (b) the Accrued Rights Transfer has taken place.

(2) The Transfer is to be treated as a block transfer within the meaning of paragraph 22(6) of Schedule 36 for the purposes of article 25D(4)(c) of the Transitional Provisions Order.

Transitional protection for continued life cover (75+) to continue after the Accrued Rights Transfer

13.—(1) Paragraph (2) applies where—

- (a) the conditions A to C and E in article 6 of the Transitional Provisions Order were satisfied in relation to a member of the RMPP; and
- (b) the Accrued Rights Transfer has taken place.

(2) Conditions A to C and E in article 6 of the Transitional Provisions Order are to be treated as satisfied in respect of the new public scheme and the RMPP.

(3) Condition D in article 6 of the Transitional Provisions Order is to be treated as satisfied in respect of the new public scheme where the rules of that scheme in relation to life cover lump sums are the same as the equivalent rules of the RMPP relating to those sums on 10th December 2003.

Transitional protection in relation to dependants' scheme pension limit to continue after the Accrued Rights Transfer

14.—(1) Paragraph (2) applies where—

- (a) a member of the RMPP in respect of whom a dependants' scheme pension is payable was actually entitled to one or more relevant existing pensions, as defined in paragraph 10(2) of Schedule 36, under that scheme on 5th April 2006; and
- (b) the Accrued Rights Transfer has taken place.

(2) The transitional protection afforded by article 24 (disapplication of dependants' scheme pension limit) of the Transitional Provisions Order applies to a dependants' scheme pension payable under the new public scheme in respect of that member.

Transitional provision in relation to serious ill-health lump sums and pension protection lump sum death benefits to continue after the Accrued Rights Transfer

15.—(1) Paragraphs (3) and (5) apply where—

- (a) the Accrued Rights Transfer has taken place; and
- (b) the requirements in paragraph (2) are met.

(2) The requirements are that, in relation to article 33(2) (serious ill-health lump sums, pension protection lump sum death benefits and annuity protection lump sum death benefits) of the Transitional Provisions Order—

- (a) condition A was met in respect of an individual in relation to the RMPP immediately before the Accrued Rights Transfer; and
- (b) condition B had been met in respect of that individual in relation to the RMPP.

(3) Article 33(3) (modification of paragraph 4(2) of Schedule 29(5) (serious ill-health lump sum)) of the Transitional Provisions Order is to be treated as applying to the new public scheme subject to the modification in paragraph (4).

(4) A pension paid by the new public scheme is to be treated as a relevant existing pension, as defined by paragraph 10(2) of Schedule 36, if it would have been a relevant existing pension had it been paid by the RMPP.

(5) Article 33(4) (modification of paragraph 14(3) of Schedule 29(6) (pension protection lump sum death benefit)) of the Transitional Provisions Order is to be treated as applying to the new public scheme as if it provided as follows—

“(4) In paragraph 14(3) of Schedule 29 (pension protection lump sum death benefit)—

(a) for the definition of “AC” substitute—

“AC is the value of the individual’s pre-commencement pension rights under the RMPP as defined in paragraph 20(3) and (5) of Schedule 36”,

(b) for the definition of “AP” substitute—

“AP is the aggregate of the amounts of pension paid—

(a) under the RMPP in respect of the period before the Accrued Rights Transfer, and

(b) under the new public scheme in respect of the period on and after the day on which the Accrued Rights Transfer takes place,

between 6th April 2006 and the member’s death.”, and

(c) for the definition of TPLS substitute—

“TPLS is the total amount of pension protection lump sum death benefit previously paid in respect of the pension paid under—

(a) the RMPP in respect of the period before the Accrued Rights Transfer, and

(b) the new public scheme in respect of the period on and after the day on which the Accrued Rights Transfer takes place.””

Transitional protection in relation to payments to children aged 23 or over to continue after the Accrued Rights Transfer

16.—(1) Paragraph (2) applies where the Accrued Rights Transfer has resulted in the transfer from the RMPP to the new public scheme of Accrued Rights in respect of which article 34 (payments to children aged 23 or over) of the Transitional Provisions Order applied.

(2) The Transfer is to be treated as a block transfer within the meaning of article 34B(4) for the purposes of article 34(6).

17.—(1) Paragraph (2) applies where the Accrued Rights Transfer has resulted in the transfer from the RMPP to the new public scheme of Accrued Rights in respect of which article 34A (payments to financially dependent children aged 23 or over) of the Transitional Provisions Order applied.

(2) The Transfer is to be treated as a block transfer within the meaning of article 34B(4) for the purposes of article 34A(5).

18.—(1) Paragraph (2) applies where—

(5) Paragraph 4 was amended by paragraphs 23 and 28 of Schedule 16 to the Finance Act 2011.

(6) Paragraph 14 was amended by paragraphs 32 and 34 of Schedule 16 to the Finance Act 2011.

- (a) Condition D in article 34A(3) of the Transitional Provisions Order was met in relation to a pension death benefit payable in respect of a member of the RMPP so that article 34A was capable of applying to the payment of a pension death benefit; and
 - (b) the Accrued Rights Transfer has taken place.
- (2) The Transfer is to be treated as a block transfer within the meaning of article 34B(4) for the purpose of article 34A(5).

Transitional protection in relation to lump sum death benefits to continue after the Accrued Rights Transfer

- 19.—(1) Paragraph (2) applies where—
- (a) the Accrued Rights Transfer has resulted in the transfer from the RMPP to the new public scheme of Accrued Rights in respect of a member; and
 - (b) after the Accrued Rights Transfer a lump sum is paid under the new public scheme in respect of the death of that member which—
 - (i) meets the condition in sub-paragraph (b) of article 40(1) (lump sum death benefits — death of member) in respect of the administrator of the RMPP for the period before the Accrued Rights Transfer and in respect of the administrator of the new public scheme for the period on and after the day on which the Accrued Rights Transfer takes place; and
 - (ii) had the Transfer not taken place, would have met the conditions in sub-paragraphs (a) and (c) to (e) of article 40(1) of the Transitional Provisions Order.
- (2) Article 40(2) is to be treated as applying to the payment of the lump sum under the new public scheme.

CHAPTER 3

Miscellaneous provisions

Liability of scheme administrator of the new public scheme in respect of an individual's annual allowance charge for the tax year in which the Accrued Rights Transfer takes place

- 20.—(1) Paragraph (2) applies where—
- (a) the Accrued Rights Transfer has taken place; and
 - (b) the requirements in section 237B(1) (liability of scheme administrator)(7) are met in respect of an individual in relation to the RMPP for the tax year in which the Accrued Rights Transfer took place.
- (2) The Transfer is to be treated as a transfer of all the sums or assets held for the purposes of, or representing accrued rights under, the RMPP so as to become held for the purposes of, or to represent rights under, the new public scheme within the meaning of section 237B(9).

Transitional protection under paragraph 14 of Schedule 18 to the Finance Act 2011 (“fixed protection”) to continue after the Accrued Rights Transfer

- 21.—(1) Paragraphs (2) and (3) apply where—
- (a) the Accrued Rights Transfer has resulted in the transfer from the RMPP to the new public scheme of Accrued Rights in respect of an individual—

(7) Section 237B was inserted by paragraphs 1 and 15 of Schedule 17 to the Finance Act 2011.

- (i) who was an active member of the RMPP immediately before the Accrued Rights Transfer; and
 - (ii) to whom paragraph 14 (lifetime allowance charge: transitional provision) of Schedule 18 to the Finance Act 2011⁽⁸⁾ applies.
- (2) In paragraph 14(13)—
- (a) paragraph (a) is disapplied; and
 - (b) for paragraph (b) substitute—
 - “(b) the percentage by which the retail prices index for the month of September in the previous tax year is higher than it was for the same month in the period of 12 months (or nil per cent if it is not higher).”
- (3) The “retail prices index” means—
- (a) the general index of retail prices (for all items) published by the Statistics Board; or
 - (b) if that index is not published for the relevant month, any substituted index or index figures published by the Statistics Board.

Calculation of pension input amount where there is an adjustment to benefit entitlement after the Accrued Rights Transfer

- 22.—(1) Paragraph (2) applies where—
- (a) the Accrued Rights Transfer has resulted in the transfer from the RMPP to the new public scheme of Accrued Rights; and
 - (b) as a result of the Transfer there is an adjustment to reduce the entitlement of an individual to benefits under the new public scheme and a corresponding adjustment to increase the entitlement of that individual to benefits under the RMPP.
- (2) The adjustment and corresponding adjustment referred to in subsection (1)(b) are to be disregarded when arriving at the pension input amount for the RMPP and the new public scheme under sections 234 to 236A (pension input amount: defined benefits arrangements)⁽⁹⁾.

Provision in relation to double taxation relief arrangements

- 23.—(1) Paragraph (2) applies where—
- (a) immediately prior to the Accrued Rights Transfer a member of the RMPP had pensionable service in respect of the period prior to 1st October 1969;
 - (b) at any time after the Accrued Rights Transfer the recipient of a pension in respect of that member is resident outside the United Kingdom in a country which has entered into a double taxation relief arrangement with the United Kingdom; and
 - (c) as a result of the Transfer, there has been a change to the tax treatment of the pension payable in respect of that member in the new scheme under that double taxation relief arrangement.
- (2) The tax charged under Chapter 5A (pensions under registered pension schemes) of Part 9 of the Income Tax (Earnings and Pensions) Act 2003⁽¹⁰⁾ in respect of the member’s pension under the new public scheme must not exceed the tax which would have been charged in respect of that pension under that section had the pension been paid by the RMPP.

⁽⁸⁾ 2011 c.11.

⁽⁹⁾ Sections 234 to 236 were amended by paragraphs 1 and 10 to 12, and section 236A was inserted by paragraphs 1 and 13, of Schedule 17 to the Finance Act 2011.

⁽¹⁰⁾ 2003 c.1. Chapter 5A was inserted into Part 9 by paragraphs 1 and 6 of Schedule 31 to the Finance Act 2004 (c. 12).

(3) For the purposes of this regulation, a “double taxation relief arrangement” means an arrangement that has effect under section 2(1) of the Taxation (International and Other Provisions) Act 2010⁽¹¹⁾.

Further protection in relation to changes to tax treatment of Accrued Rights as a result of the Transfer

24.—(1) Paragraph 2 applies where—

- (a) the Accrued Rights Transfer has resulted in the transfer from the RMPP to the new public scheme of Accrued Rights in respect of a member;
- (b) as a result of the Transfer, there has been a change to the tax treatment of one or both of the following—
 - (i) those Accrued Rights under the new public scheme;
 - (ii) the member’s rights under the RMPP; and
- (c) no other provision in these Regulations applies to that change.

(2) The tax charged under the provisions in paragraph (3) in respect of the member’s Accrued Rights under the new public scheme and the member’s rights under the RMPP must not exceed the tax which would have been charged under those provisions in respect of those rights had the Transfer not taken place.

(3) The provisions are—

- (a) section 208 (unauthorised payments charge)⁽¹²⁾;
- (b) section 209 (unauthorised payments surcharge) in relation to surchargeable unauthorised member payments within the meaning of section 210⁽¹³⁾;
- (c) section 214 (lifetime allowance charge);
- (d) section 227 (annual allowance charge)⁽¹⁴⁾; and
- (e) Chapter 5A of Part 9 of the Income Tax (Earnings and Pensions) Act 2003.

⁽¹¹⁾ 2010 c. 8.

⁽¹²⁾ Section 208 was amended by paragraphs 1 and 14 of Schedule 23 to the Finance Act 2006 (c. 25) and paragraphs 10 and 12 of Schedule 2 to the Finance Act 2009 (c. 10).

⁽¹³⁾ Section 209 was amended by paragraphs 1 and 15 of Schedule 23 to the Finance Act 2006 and paragraphs 10 and 13 of Schedule 2 to the Finance Act 2009. Section 210 was amended by paragraphs 1 and 16 of Schedule 23 to the Finance Act 2006.

⁽¹⁴⁾ Section 227 was amended by paragraph 45 of Schedule 16 and paragraphs 1 and 3 of Schedule 17 to the Finance Act 2011.