
STATUTORY INSTRUMENTS

2023 No. 1012

INCOME TAX

**The Registered Pension Schemes (Authorised
Member Payments) Regulations 2023**

Made - - - - 15th September 2023
*Laid before the House of
Commons* - - - - 18th September 2023
Coming into force - - 31st October 2023

The Commissioners for His Majesty’s Revenue and Customs make the following Regulations in exercise of the powers conferred by section 164(1)(f) and (2)(1), and section 172A(5)(f) of the Finance Act 2004(2), and now exercisable by them(3).

Citation and commencement

1. These Regulations may be cited as the Registered Pension Schemes (Authorised Member Payments) Regulations 2023 and come into force on 31st October 2023.

Interpretation

2. In these Regulations—

“FA 2004” means the Finance Act 2004;

“FSMA 2000” means the Financial Services and Markets Act 2000(4);

“ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003(5);

“policyholder” has the same meaning given by article 3 of the Financial Services and Markets Act 2000 (Meaning of “Policy” and “Policyholder”) Order 2001(6);

“relevant insurer” has the same meaning given in section 217(2) of FSMA 2000;

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- (1) Section 164(1) was numbered as such and section 164(2) was inserted by paragraph 1(2) of Schedule 29 to the Finance Act 2008 (c. 9); there are other amendments to section 164(1) and (2) but none is relevant.
- (2) 2004 c. 12. Section 172A was added by paragraph 38 of Schedule 10 to the Finance Act 2005 (c. 7). It has been amended several times, but none of those amendments relate to subsection (5)(f).
- (3) The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for His Majesty’s Revenue and Customs by section 5(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that, in so far as it is appropriate in consequence of section 5, a reference, however expressed, to the Commissioners of Inland Revenue is to be read as a reference to the Commissioners for His Majesty’s Revenue and Customs.
- (4) 2000 c. 8.
- (5) 2003 c. 1.
- (6) S.I. 2001/2361.

“write-down order” has the same meaning given in section 377A(1) of FSMA 2000(7).

Prescription of authorised member payments

3.—(1) A top up payment made by a relevant insurer to a policyholder is a payment of a description that is prescribed for the purposes of section 164(1)(f) of FA 2004 (authorised member payments).

(2) A payment is a top up payment if—

- (a) a write-down order has been made in respect of the relevant insurer,
- (b) the policyholder is affected by the write-down order as described in section 217ZA(2)(8) of FSMA 2000,
- (c) the payment is made to the policyholder in respect of the reduction in value of the policyholder’s entitlements (or contingent entitlements) as mentioned in section 217ZA(2)(b) of FSMA 2000 by virtue of the write-down order, and
- (d) the relevant insurer makes the payment to the policyholder in consequence of section 217ZA of FSMA 2000.

Treatment as pension under Part 9 of ITEPA 2003

4. A top up payment that is prescribed by regulation 3 shall be treated—

- (a) as pension paid to the recipient under a registered pension scheme for the purposes of Part 9 of ITEPA 2003 (pension income), and
- (b) for those purposes, as pension accruing in the tax year in which it was paid.

Surrender of rights

5. Any thing resulting from the making of a write-down order that would (apart from this regulation) otherwise fall as a surrender (or agreement to surrender) for the purposes of subsections (2) and (4) of section 172A of FA 2004 (surrender of benefits and rights) is a surrender (or agreement to surrender) of a description that is prescribed for the purposes of section 172A(5)(f) of FA 2004.

*Justin Holliday
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Two of the Commissioners for His Majesty’s
Revenue and Customs

15th September 2023

(7) Section 377A was inserted by paragraph 1(4) of Schedule 12 to the Financial Services and Markets Act 2023 (c. 29) with effect from 29 August 2023.

(8) Section 217ZA was inserted by paragraph 5 of Schedule 12 to the Financial Services and Markets Act 2023 (c. 29) with effect from 29 August 2023.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations enable payments to be made to the holders of insurance policies whose entitlements have been reduced following the issuing of a “write-down order” (as defined by regulation 2) without incurring charges to income tax under any of sections 208, 209 and 239 of the Finance Act 2004 (“FA 2004”) (c. 12).

The payments prescribed by regulation 3 are those made by “a relevant insurer” to a “policyholder” and which relate to a reduction in the value of any thing to which that policyholder is (or may become) entitled as a result of the making of a “write-down order”.

Regulation 4 enables a payment prescribed by regulation 3 to be treated as pension paid to the recipient under a registered pension scheme for the purposes of Part 9 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (pension income) and, for those purposes, as pension accruing in the tax year in which it was paid.

Regulation 5 ensures that subsections (2) and (4) of section 172A of FA 2004 (surrender of benefits and rights) do not apply to any surrender (or agreement to surrender) resulting from the making of a write-down order.

A Tax Information and Impact Note has not been prepared for this instrument as it contains no substantive changes to tax policy.