
STATUTORY INSTRUMENTS

2023 No. 912

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

PART 6

Administration

CHAPTER 7

Relevant modifications

Modifications of TMA 1970

41.—(1) A specified individual is not required to—

- (a) comply with an obligation under Part 2 of TMA 1970 (returns of income and gains) in respect of a liability to a relevant pension tax charge where that individual is liable to that charge as a result of the operation of a relevant rectification provision;
- (b) in respect of the tax year 2022-23, comply with an obligation under Part 2 of TMA 1970 where that individual is liable to an annual allowance charge, whether as a result of the operation of a relevant rectification provision or otherwise;
- (c) amend any return previously made under Part 2 of TMA 1970 in respect of a relevant pension tax charge.

(2) Section 42 of, and Schedule 1AB to, TMA 1970 (procedure for making claims to recover overpaid tax) do not apply to a repayment application.

Application and modification of FA 2009

42.—(1) Sections 101 (late payment interest on sums due to HMRC) and 103 (rates of interest) of FA 2009(1) apply in relation to an amount of income tax which is assessed and recoverable by virtue of an assessment made under regulation 34 or 39 as if it were an assessment under section 29 of TMA 1970 (assessment where loss of tax discovered)(2).

(2) Sections 102 (repayment interest on sums to be paid by HMRC) and 103 of FA 2009(3) apply in relation to an overpayment falling within regulation 37(1) as if it were an amount of overpaid tax falling within Schedule 1AB to TMA 1970 (recovery of overpaid tax etc).

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- (1) 2009 c. 10. Section 101 of FA 2009 was amended by paragraphs 2 and 14 of Schedule 9 to the Finance (No. 3) Act 2010 (c. 33) (referred to in these footnotes as “F(No. 3)A 2010”), paragraph 20(2) of Schedule 22 to FA 2014 and paragraph 116 of Schedule 8 to the Taxation (Cross-border Trade) Act 2018 (c. 22).
 - (2) Section 29 of TMA 1970 was substituted by section 191(1) of FA 1994. It was amended by paragraph 12 of Schedule 19, and Part 3(28) of Schedule 27, to FA 1998, section 88(2) of FA 2005, paragraph 71 of Schedule 36, and paragraph 3 of Schedule 39 to, FA 2008, paragraph 5 of Schedule 8 to TIOPA 2010, paragraph 46 of Schedule 7 to FA 2015, paragraph 20 of Schedule 14, and paragraph 14 of Schedule 15, to F(No. 2)A 2017 (c. 32), paragraph 25(6) of Schedule 2 to FA 2019 (c. 1) and section 97(1) of FA 2022.
 - (3) Section 102 of FA 2009 was amended by paragraphs 3(2) and (3) and 15 of Schedule 9 to F(No. 3)A 2010 and paragraph 2(a) and (b) of Schedule 29 to FA 2021.

(3) Schedule 55 to FA 2009 (penalty for failure to make returns)(4) applies in relation to a failure to provide specified information on or before the due date for information as if it were a failure to make or deliver a return under section 8(1)(a) of TMA 1970 (personal return) on or before the filing date.

Application and modification of the Income and Corporation Taxes (Electronic Communications) Regulations 2003

43. The Income and Corporation Taxes (Electronic Communications) Regulations 2003(5) (“the 2003 Regulations”) apply to—

- (a) the withdrawal of an assessment by HMRC under regulation 36 as if it were a withdrawal of a simple assessment under section 28J of TMA 1970 (power to withdraw a simple assessment)(6),
- (b) the grant or refusal of a repayment application by HMRC as if it were a closure notice under paragraph 7 of Schedule 1A to TMA 1970 (claims etc not included in returns),
- (c) the making of any payment or repayment in connection with the operation of these Regulations as if it were a payment or repayment of tax or other sums within regulation 2(1)(b) of the 2003 Regulations, and
- (d) the provision of specified information or the making of a repayment application as if they were communications in connection with a matter referred to in regulation 2(1) of the 2003 Regulations and the conditions in regulation 3(3), (4)(a) and (c) and (6) of those Regulations were met.

(4) Schedule 55 to FA 2009 was amended by paragraph 723 of Schedule 1 to the Corporation Tax Act 2010, paragraphs 11, 13 and 14 of Schedule 10 and Schedule 12 to FA 2010 (c. 13), paragraphs 2(2) and (2A), 3, 4, 8, 9 and 11 of Schedule 10 to F(No. 3)A 2010, paragraphs 3, 5, 7, 8 and 9 of Schedule 50, and paragraph 8 of Schedule 51, to FA 2013, paragraph 5 of Schedule 33 to FA 2014, paragraphs 15, 18 and 19 of Schedule 20 to FA 2015, section 169(6) of, paragraphs 10 to 12 of Schedule 21, and paragraph 20(5) of Schedule 22 to, FA 2016, paragraph 4(2) of Schedule 11 to FA 2017, paragraph 118(2) of Schedule 8 to the Taxation (Cross-border Trade) Act 2018, and paragraph 2(2) of Schedule 15 and paragraph 39 of Schedule 27, to FA 2021.

(5) [S.I. 2003/282](#) (“the 2003 Regulations”). The 2003 Regulations have been relevantly amended by Part 10 of Schedule 1 to the Statute Law (Repeals) Act 2013 (c. 2), and by [S.I. 2005/3338](#), [S.I. 2009/3218](#), [S.I. 2010/2942](#), [S.I. 2014/489](#) and [S.I. 2023/221](#).

(6) Section 28J of TMA 1970 was inserted by paragraph 3 of Schedule 23 to FA 2016.