

**EXPLANATORY MEMORANDUM TO**  
**THE REGISTERED PENSION SCHEMES (AUTHORISED MEMBER PAYMENTS)**  
**REGULATIONS 2022**

**2022 No. 723**

**1. Introduction**

1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This instrument provides for assets held within registered pension schemes which are "dormant" to be transferred out of the pension scheme into a reclaim fund without incurring charges to income tax under sections 208, 209 and 239 of Finance Act 2004, otherwise known as unauthorised payments charges.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Select Committee on Statutory Instruments*

3.1 None.

**4. Extent and Territorial Application**

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

**5. European Convention on Human Rights**

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

**6. Legislative Context**

6.1 The aim of giving tax relief on pension saving is to encourage people to set funds aside in a registered pension scheme to provide for retirement. To ensure that tax-relieved pensions savings are used to do this, sub-section 164(1) of the Finance Act 2004 sets out the only payments a registered pension scheme is authorised to make to, or in respect of, a member of the pension scheme. Any other payment is an 'unauthorised payment' and is subject to certain tax charges depending on the circumstances.

6.2 Currently registered pension schemes that transfer funds to a reclaim fund would incur unauthorised payments charges, the unauthorised payments surcharge and scheme sanction charge. This is because the transfer of funds in respect of the Dormant Assets Scheme (DAS) is not currently on the list of authorised payments.

## **7. Policy background**

### *Dormant Assets*

- 7.1 A dormant asset is a financial product that the customer has not used for many years and one that the provider has been unable to reunite with the customer, despite efforts based on industry best practice.
- 7.2 The existing DAS enables banks and building societies to channel funds from dormant bank and building society accounts towards good causes via Reclaim Fund Ltd (RFL). RFL distributes funds to good causes but reserves a portion to enable dormant asset owners to reclaim their money at any time. When assets have been identified as being dormant, their monetary value is transferred into RFL and this is what is reclaimed, not the original asset.
- 7.3 In 2021, following a consultation, the government announced its intention to expand the scheme to include certain assets from the pensions, insurance, investment and wealth management and securities sectors to be used for public benefit. The Dormant Assets Act 2022, which facilitates the expansion of the DAS, received Royal Assent in February 2022.

### *What is being done and why?*

- 7.4 These regulations enable dormant eligible pension benefits to be transferred from a registered pension scheme to a reclaim fund without incurring unauthorised payment income tax charges under Part 4 of Finance Act 2004.
- 7.5 These regulations will be limited to the transfers of dormant eligible pension benefits as defined in the Dormant Assets Act 2022. Transfers outside of these specified requirements will not be considered authorised in accordance with sub-section 164(1) of Finance Act 2004 and will remain subject to unauthorised payments charges.

### What did any law do before the changes to be made by this instrument?

- 7.6 There were no provisions for transfers of dormant eligible pension benefits from a registered pension scheme to a reclaim fund to be considered authorised payments.

### Why is it being changed?

- 7.7 This change will ensure that dormant eligible pension benefits can be transferred into a reclaim fund without incurring unauthorised payments charges, as intended by the Dormant Assets Act 2022.

## **8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act 2018.

## **9. Consolidation**

- 9.1 Consolidation is not required.

## **10. Consultation outcome**

- 10.1 The government consulted on the proposals to extend the DAS to include eligible dormant pension benefits and these changes help to achieve the outcome of that

consultation. These are technical changes to ensure the correct tax outcome and therefore no further consultation was considered necessary.

## **11. Guidance**

- 11.1 Existing guidance in the Pensions Tax Manual and GOV.UK includes the current list of authorised payments that a registered pension scheme can make without incurring unauthorised payments charges. Updates to include the new category are required to this guidance and will be made to coincide with the regulations taking effect.

## **12. Impact**

- 12.1 There is no significant impact on business, charities, or voluntary bodies.
- 12.2 There is no significant impact on the public sector.
- 12.3 A Tax Information and Impact Note has not been prepared for this instrument because there is no significant impact.

## **13. Regulating small business**

- 13.1 There is no significant impact on activities that are undertaken by small businesses.

## **14. Monitoring & review**

- 14.1 The approach to monitoring of this legislation will be to keep it under review through communication with affected taxpayer groups.
- 14.2 The instrument does not include a statutory review clause.

## **15. Contact**

- 15.1 Helen Early at HMRC Telephone: 03000 512336 or email: [pensions.policy@hmrc.gov.uk](mailto:pensions.policy@hmrc.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Andrew Edwards, Deputy Director for Pensions Policy, at HMRC can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 John Glen, Economic Secretary to the Treasury can confirm that this Explanatory Memorandum meets the required standard.