

# TAXATION OF PENSIONS ACT 2014

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Schedule 1*

#### **Part 1 - Drawdown pensions**

70. [Paragraph 1](#) amends pension rule 5 in section 165(1) of FA 2004 to provide that the cap on the amount that can be taken each year as drawdown pension applies only to a member's drawdown pension fund as defined in paragraph 8 of Schedule 28 to FA 2004 (Schedule 28). Where funds are withdrawn from flexi-access drawdown funds (defined in the amendments made by paragraph 3 of Schedule 1), there is accordingly no cap on the amount that can be withdrawn each year.
71. [Paragraph 2](#) amends the meaning of a member's drawdown fund in paragraph 8(1A) of Schedule 28. It provides that new members' drawdown pension funds cannot be created by the designation of sums and assets as available for the payment of a drawdown pension on or after 6 April 2015. But a drawdown pension fund existing on 5 April 2015 may remain a drawdown pension fund where the member designates additional funds to it on or after 6 April 2015, unless it was a flexible drawdown fund before 6 April 2015 because the scheme administrator had accepted the member's flexible drawdown declaration in respect of that arrangement.
72. [Paragraph 3\(1\)](#) inserts new paragraphs 8A to 8D into Schedule 28. Paragraph 3(2) clarifies when the new paragraph 8D has effect, in particular where either or both of the transfer and designation concerned were made before 6 April 2015.
73. New paragraph 8A(1) provides that a member's flexi-access drawdown fund is one where funds have been newly-designated as defined in new paragraph 8A(2).
74. New paragraph 8A(2) provides that newly-designated funds are those that have been designated on or after 6 April 2015 as available for the payment of a drawdown pension but in respect of which paragraph 8(1A), as amended by paragraph 2 of Schedule 1, does not apply. That is, newly-designated funds do not include funds being designated to a member's drawdown pension fund that was set up before 6 April 2015. Funds can also become newly-designated funds under new paragraphs 8B, 8C and 8D. Funds for the purpose of this paragraph include any sums and assets that derive from the designated funds, for example investment growth.
75. New paragraph 8A(2)(b) and (3) provide that the funds in a member's flexible drawdown fund that existed before 6 April 2015 become newly-designated funds on that date and cease to be member-designated funds.
76. New paragraph 8B(1) provides that new paragraph 8B(2) applies where the total drawdown pension withdrawn from a member's drawdown pension fund exceeds the maximum in pension rule 5 in section 165 (150% of the basis amount for that year, referred to as 'the cap') and where, additionally, before 6 April 2015 the member had not had a valid flexible drawdown declaration in respect of that fund accepted by the

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scheme administrator under section 165(3A) of FA 2004. New paragraph 8B(3) clarifies the circumstances in which a payment of drawdown pension would exceed the cap.

77. New paragraph 8B(2) provides that the sums and assets that made up the member's drawdown pension fund immediately before the payment that breaches the cap is made become a member's flexi-access drawdown fund immediately before that payment is made. This means that the payment will be made from a member's flexi-access drawdown fund as an authorised payment taxed at the member's marginal rate and will not be subject to any unauthorised payments tax charges that would otherwise have arisen.
78. New paragraph 8C provides that a member may notify the scheme administrator that they want to convert their member's drawdown pension fund to a member's flexi-access drawdown fund. It will become a member's flexi-access drawdown fund when the scheme administrator accepts the notification or, where the notification was accepted before 6 April 2015, at the start of 6 April 2015. This paragraph does not apply if a member's drawdown pension fund has already become a flexi-access drawdown fund under new paragraph 8B.
79. New paragraph 8D provides that where a member transfers their drawdown funds from one scheme to another as part of a recognised transfer, they can as part of the transfer notify the scheme administrator of the receiving scheme that they wish the transferred drawdown funds to be newly-designated funds from the date of the transfer.
80. [Paragraph 4](#) inserts new paragraphs 22A to 22D, relating to dependants, into Schedule 28. These new paragraphs broadly mirror the member changes under paragraph 3 of Schedule 1.
81. New paragraph 22A(1) provides that a dependant's flexi-access drawdown fund is one where funds have been newly-designated as defined in new paragraph 22A(2).
82. New paragraph 22A(2) provides that newly-designated dependant funds are those that have been designated as available for the payment of a drawdown pension on or after 6 April 2015 including funds that derive from the newly-designated dependant funds, for example investment growth. However this only applies where paragraph 22(2) of Schedule 28, as amended by paragraph 21 of Schedule 1, does not apply. That is, newly-designated dependant funds do not include funds being designated to a dependant's drawdown pension fund that was set up before 6 April 2015, unless section 167(2A) of FA 2004 relating to flexible drawdown applied to the fund immediately before that date. In addition funds can become newly-designated dependant funds under new paragraphs 22B, 22C and 22D.
83. New paragraph 22A(2)(b) and (3) provide that where the funds in a dependant's flexible drawdown fund that existed before 6 April 2015 become newly-designated dependant funds on that date, they cease from that date to be dependant-designated funds.
84. New paragraph 22B provides that where the total dependant's drawdown pension withdrawn from a dependant's drawdown pension fund for a year exceeds the maximum as set out in pension death benefit rule 4 in section 167, that is 150% of the basis amount for that year, the dependant's drawdown pension fund becomes a dependant's flexi-access drawdown pension fund immediately before the payment is made. This means that the payment will be made from a dependant's flexi-access drawdown fund as an authorised payment of drawdown pension taxed at the dependant's marginal rate and not subject to any unauthorised payments tax charges that would otherwise have arisen.
85. New paragraph 22C provides that a dependant may notify the scheme administrator that they want to convert their dependants' drawdown pension fund to a dependant's flexi-access drawdown fund at any time. The dependant's flexi-access drawdown fund will start from the time the scheme administrator accepts the notification or, where the notification was accepted before 6 April 2015, at the start of 6 April 2015. This

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paragraph does not apply if a dependant's drawdown pension fund has already become a dependant's flexi-access drawdown fund under new paragraph 22B.

86. New paragraph 22D provides that where a dependant transfers their drawdown funds from one scheme to another as part of a recognised transfer, they can as part of the transfer notify the scheme administrator of the receiving scheme that they wish the transferred drawdown funds to be newly-designated funds from the date of the transfer.
87. [Paragraph 6](#) amends pension death benefit rule 4 in section 167(1) of FA 2004 to provide that the cap on the amount that can be taken each year as drawdown pension applies only to a dependant's drawdown pension fund (defined in paragraph 22 of Schedule 28). Where funds are withdrawn from a dependant's flexi-access drawdown fund, there is no cap on the amount that can be withdrawn each year.
88. [Paragraph 7](#) amends section 168(1) of FA 2004 to add a 'flexi-access drawdown fund lump sum death benefit' (see paragraph 24 of Schedule 1) to the list of authorised lump sum death benefits that may be paid in respect of a member of a registered pension scheme. This is the equivalent of the existing drawdown pension fund lump sum death benefit in paragraph 17 of Schedule 29 to FA 2004 (Schedule 29).
89. [Paragraphs 8 to 12, 14, 15, 18 to 20, 22, 26, 27 and 29](#) make a number of consequential amendments to FA 2004, so that where the legislation refers to a member's drawdown pension fund or a dependant's drawdown pension fund, an additional reference is inserted to a member's flexi-access drawdown fund or a dependant's flexi-access drawdown fund as appropriate.
90. [Paragraph 13](#) amends section 206(1) of FA 2004 to add a flexi-access drawdown fund lump sum death benefit to the list of lump sum death benefits that are subject to the special lump sum death benefits charge. This charge is the liability of the scheme administrator and is currently charged at the rate of 55%. The rate is being changed to 45% by section 2 of this Act.
91. [Paragraph 16](#) amends section 216(1) of FA 2004 as it relates to benefit crystallisation event 5A (BCE 5A). BCE 5A occurs when an individual reaches age 75 having previously designated funds as available for drawdown. The amount of the BCE 5A that is tested against the lifetime allowance on the individual's 75th birthday is the increase in the value of the drawdown fund since the designation. The amendment provides that the amount that is crystallised under BCE 5A includes the value of any flexi-access drawdown pension fund on the date of the individual's 75th birthday less the amount previously crystallised when those funds were first designated for drawdown.
92. [Paragraph 17](#) amends section 273A(1) of FA 2004 which provides a power for HMRC to make regulations in connection with certain lump sum death benefits that are paid by an insurance company, where the payment is treated under section 161 of FA 2004 as being made by a registered pension scheme. It adds a flexi-access drawdown fund lump sum death benefit to the list of payments in connection with which HMRC may make regulations.
93. [Paragraph 21](#) amends the definition of a dependant's drawdown pension fund in paragraph 22(2) of Schedule 28. Funds must have been first designated as available for the payment of a dependant's drawdown pension before 6 April 2015. Additional funds can be added on or after 6 April 2015 to a dependant's drawdown pension fund existing on 5 April 2015. This applies only where the dependant had not had a valid dependant flexible drawdown declaration in respect of that arrangement accepted by a scheme administrator under section 167(2A) of FA 2004 before 6 April 2015, in which case the fund will be dependant's flexi-access drawdown fund from 6 April 2015.
94. [Paragraph 23](#) amends the definition of a drawdown pension fund lump sum death benefit in paragraph 17 of Schedule 29 to limit the benefit to payments under a drawdown pension fund or a dependant's drawdown pension fund. That is where sum and assets were first designated to the fund as available for drawdown before 6 April

2015. Death benefit payments from a flexi-access drawdown fund are provided for separately (see paragraph 24 of Schedule 1) and cannot be drawdown pension fund lump sum death benefits.

95. [Paragraph 24](#) inserts new paragraph 17A into Schedule 29. This provides the conditions for a payment of a flexi-access drawdown fund lump sum death benefit. These are the same conditions as for a drawdown pension fund lump sum death benefit except that they apply where sums and assets were designated as available for drawdown on or after 6 April 2015 other than to a member's or a dependant's drawdown pension fund.
96. New paragraph 17A(1) to (4) provide that a lump sum death benefit is a flexi-access drawdown fund lump sum death benefit where a member, dependant, nominee or successor was at the time of their death entitled to income withdrawal from a flexi-access drawdown fund, and it is not a charity lump sum death benefit as defined in paragraph 18 of Schedule 29.
97. New paragraph 17A(5) and (6) provide that the maximum that can be paid as a flexi-access drawdown fund lump sum death benefit is the total of the sums and assets in the flexi-access drawdown fund immediately before the payment is made.
98. [Paragraph 25](#) amends paragraph 18 of Schedule 29 to allow a charity lump sum death benefit to be paid in respect of a member's or a dependant's flexi-access drawdown fund.
99. [Paragraph 28](#) amends paragraph 20(4) of Schedule 36 to FA 2004 (Schedule 36) to provide how a valuation for the purposes of the lifetime allowance is carried out where a member has a flexi-access drawdown pension that before 6 April 2015 was a capped drawdown pension. This paragraph provides that where the first benefit crystallisation event (BCE) in respect of the member that occurs on or after 6 April 2006 is also on or after 6 April 2015, the valuation for the purposes of the lifetime allowance is 80% of the maximum annual drawdown amount that could have been paid at the time the funds convert to flexi-access.
100. [Paragraph 30](#) amends regulation 2(1) of the [Pension Benefits \(Insurance Company Liable as Scheme Administrator\) Regulations 2006 \(SI 2006/136\)](#), to add a flexi-access drawdown fund lump sum death benefit to the list of lump sum death benefits that when paid by an insurance company cause the insurance company to be treated as the scheme administrator for the purposes of the special lump sum death benefit charge to income tax under section 206 of FA 2004. The insurance company is liable to account for that charge under section 254(1) to (7) of FA 2004, and liable to penalties for failing to make a return or fraudulently or negligently making an incorrect return.
101. [Paragraph 31](#) amends section 636A of ITEPA 2003 to provide that, where a flexi-access drawdown fund lump sum death benefit is paid, although it may be liable to the special lump sum death benefits charge by virtue of section 206 FA 2004, it is not liable to any other income tax.
102. [Paragraph 32](#) repeals various provisions relating to pre-6 April 2015 flexible drawdown in FA 2004 and Finance Act 2011 (FA 2011) as well as revoking the [Registered Pension Schemes \(Prescribed Requirements of Flexible Drawdown Declaration\) Regulations 2011 \(SI 2011/1792\)](#).
103. [Paragraph 33](#) amends the [Pension Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\) Regulations 2006 \(SI 2006/207\)](#) to make consequential amendments to regulations 6 and 7 as a result of the Act's repeal of sections 165(3A) and 167(2A) of FA 2004. It also makes a number of consequential amendments to regulation 14 to reflect the changes made by this Act to Schedule 28. Regulation 14 lists every provision in Schedule 28 that refers to a "scheme administrator" and modifies how Schedule 28 applies in relation to pensions paid by a relevant non-UK scheme by substituting "scheme manager" for "scheme administrator" wherever this occurs.

104. Paragraph 34 amends regulation 12 of the [Registered Pension Schemes \(Transfer of Sums and Assets\) Regulations 2006 \(SI 2006/499\)](#) in respect of members' and dependants' drawdown pension funds and recognised transfers. The paragraph extends the circumstances when this regulation applies to include transfers of members' and dependants' flexi-access drawdown funds. It provides that a transfer of sums and assets from one arrangement to a new arrangement under which no other sums or assets are held is a recognised transfer. The sums and assets transferred are treated as remaining sums and assets held under the old arrangement for various prescribed purposes set out in [SI 2006/499](#). Paragraph 34 also removes references to the conditions for flexible drawdown arrangements for both members and dependants as these are no longer required from 6 April 2015.
105. Paragraph 35 amends the [Registered Pension Schemes \(Provision of Information\) Regulations 2006 \(SI 2006/567\)](#) as a consequence of the introduction of flexi-access drawdown to remove information requirements on scheme administrators that are no longer required and extend existing information requirements in connection with drawdown pension funds to include similar requirements for flexi-access drawdown funds.

## **Part 2 - Annuities**

106. Paragraph 37 inserts new paragraph 3(1A) into Schedule 28 to provide an additional definition of a member's lifetime annuity where the member became entitled to the annuity on or after 6 April 2015. From this date the annuity must still be payable for life by an insurance company but the annuity can decrease and it can continue to be paid after the member's death if the member dies before the end of a guarantee period of any length specified in the annuity contract. In addition a member is no longer subject to the unauthorised payments charges if they have not had an opportunity to select the insurance company paying the lifetime annuity. This is subject to new subparagraph (2C)(za), see paragraph 44 of Schedule 1.
107. Paragraph 38 inserts new paragraph 6(1ZA) into Schedule 28 to provide an additional definition of a member's short-term annuity where the member became entitled to the annuity on or after 6 April 2015. From this date the annuity must still be purchased out of a member's drawdown pension fund or a member's flexi-access drawdown fund. It must be payable for no more than five years by an insurance company but the annuity can decrease. In addition a member is no longer subject to the unauthorised payments charges if they have not had an opportunity to select the insurance company paying the annuity.
108. Paragraph 39 inserts new paragraph 17(1ZA) into Schedule 28 to provide an additional definition of a dependant's annuity where the dependant became entitled to the annuity on or after 6 April 2015 or, where it was purchased together with a member's lifetime annuity, where the member became entitled to that annuity on or after 6 April 2015. From this date the annuity must still be payable by an insurance company and only for the period up to the dependant's death, marriage or entering a civil partnership (or where the dependant is the member's child, where they cease to be a dependant), but the annuity can decrease. In addition the dependant is no longer subject to the unauthorised payments charges if they or the member have not had an opportunity to select the insurance company paying the annuity.
109. Paragraph 40 inserts new paragraph 20(1ZA) into Schedule 28 to provide an additional definition of a dependant's short-term annuity where the dependant became entitled to the annuity on or after 6 April 2015. From this date the annuity must still be purchased out of a dependant's drawdown pension fund or a dependant's flexi-access drawdown fund. It must be payable for no more than five years (subject to it ending before the dependant's death) and payable by an insurance company but the annuity can decrease. In addition a dependant is no longer subject to the unauthorised payments charges if

they or the member have not had an opportunity to select the insurance company paying the annuity.

110. [Paragraph 41](#) amends pension rule 2 in section 165(1) of FA 2004 which sets out the types of pension that can be paid to a member as an authorised payment from a registered pension scheme. Where the entitlement to an annuity arises on or after 6 April 2015, paragraph 41 removes the requirement that to be an authorised payment the annuity must not be paid after the member's death for longer than 10 years after the member became entitled to the annuity. This change reflects the amendment that paragraph 37 of Schedule 1 makes to paragraph 3 of Schedule 28.
111. [Paragraph 43](#) amends paragraph 3(1) of Schedule 28 which defines a member's lifetime annuity so that this existing definition applies only where the member became entitled to the lifetime annuity before 6 April 2015. Where the entitlement to the annuity arises on or after this date, the definition that applies is in new paragraph 3(1A).
112. [Paragraph 44](#) amends paragraph 3(2C) of Schedule 28 and inserts new sub-paragraph (2E) to extend the scope of paragraph 3(2C) to enable regulations made under paragraph 3(2B) to specify circumstances in which, following the cessation of an annuity and a transfer of funds which are used to purchase a new flexible annuity, the new flexible annuity will not be a lifetime annuity for the purposes of Part 4 of FA 2004.
113. [Paragraph 45](#) amends paragraph 6(1) of Schedule 28 which defines a member's short-term annuity so that this existing definition applies only where the member became entitled to the annuity before 6 April 2015. Where the entitlement to the annuity arises on or after this date, the definition that applies is in new paragraph 6(1ZA).
114. [Paragraph 46](#) amends paragraph 6(1C) of Schedule 28 and inserts new sub-paragraph (1E) to extend the scope of paragraph 6(1C) to enable regulations made under paragraph 6(1B) to specify circumstances in which, following the cessation of an annuity and a transfer of funds which are used to purchase a short-term annuity, the new annuity will not be a short-term annuity for the purposes of Part 4 of FA 2004.
115. [Paragraph 47](#) amends paragraph 17(1) of Schedule 28 which defines a dependants' annuity so that this definition applies only where either the dependant became entitled to the annuity before 6 April 2015, or (where it was purchased together with a member's lifetime annuity) the member became entitled to that annuity before 6 April 2015. Where the entitlement to the annuity arises on or after this date, the definition that applies is in new paragraph 17(1ZA).
116. [Paragraph 48](#) makes a consequential amendment to paragraph 17(1A) of Schedule 28 to provide that as for paragraph 17(1), where the entitlement arises on or after 6 April 2015, a dependants' annuity is purchased together with a lifetime annuity if the dependants' annuity is related to the lifetime annuity.
117. [Paragraph 49](#) amends paragraph 17(4) of Schedule 28 and inserts new sub-paragraph (6) to extend the scope of paragraph 17(4) to enable regulations made under paragraph 17(3) to specify circumstances in which, following the cessation of a dependant's annuity and a transfer of funds which are used to purchase a dependant's annuity, the new annuity will not be a dependant's annuity for the purposes of Part 4 of FA 2004.
118. [Paragraph 50](#) amends paragraph 20(1) of Schedule 28 which defines a dependants' short-term annuity so that this definition applies only where the dependant became entitled to the annuity before 6 April 2015. Where the entitlement to the annuity arises on or after this date, the definition that applies is in new paragraph 20(1ZA).
119. [Paragraph 51](#) amends paragraph 20(1C) of Schedule 28 and inserts new sub-paragraph (1E) to extend the scope of paragraph 20(1C) to enable regulations made under paragraph 20(1B) to specify circumstances in which, following the cessation of a dependant's short-term annuity and a transfer of funds which are used to purchase

dependant's short-term annuity, the new annuity will not be a dependant's short-term annuity for the purposes of Part 4 of FA 2004.

120. [Paragraph 52](#) makes consequential changes to paragraphs 87 and 95 of Schedule 16 to FA 2011 so that added references to an annuity purchased out of drawdown pension funds also include a reference to an annuity purchased out of unsecured pension funds. These paragraphs contain transitional provisions in connection with changes introduced from 6 April 2011 to remove the effective requirement to purchase an annuity at age 75 and apply where a member or dependant was entitled to a short-term annuity on that date.

### **Part 3 - Pension payments out of uncrystallised funds**

121. [Paragraph 54](#) amends section 166(1) of FA 2004 to insert an uncrystallised funds pension lump sum (UFPLS) as a type of lump sum that may be paid to a member of a registered pension scheme as an authorised payment.
122. [Paragraph 55](#) amends section 166(2) of FA 2004 so that the entitlement to a UFPLS arises immediately before it is paid so that it is tested against the member's available lifetime allowance at that point.
123. [Paragraph 57](#) inserts new paragraph 4A into Schedule 29. This sets out the requirements for a payment to be a UFPLS.
124. New paragraph 4A(1) provides the general conditions that a payment needs to meet to be a UFPLS, and that a payment can't be a UFPLS where any of the new paragraph 4A(3) to (5) applies to the member.
125. New paragraph 4A(2) provides that where the member has not reached age 75 when a UFPLS is paid, if the amount of the lump sum paid uses up all the member's lifetime allowance, any excess paid over the available lifetime allowance will not be a UFPLS. This excess can still be paid as an authorised lump sum but will be a lifetime allowance excess lump sum and is liable to income tax at 55% under section 215 FA 2004 (lifetime allowance charge).
126. New paragraph 4A(3) to (6) specify the further circumstances in which a member with transitional protection under Schedule 36 cannot be paid a UFPLS, because allowing the payment of a lump sum that was 25% tax-free may enable the member to receive higher amounts of tax-free payments than they are currently entitled to. The prescribed circumstances are where immediately before the payment:
- a) the member was entitled to either primary or enhanced protection under Schedule 36 of FA 2004 and the member had a right to a tax-free lump sum of greater than £375,000 on 5 April 2006; or
  - b) the member is entitled to a lifetime allowance enhancement factor under the provisions listed in new paragraph 4A(6) and the available portion of their lump sum allowance is less than 25 per cent of the amount of the payment.
127. [Paragraphs 58 to 60](#) amend paragraph 12 of Schedule 29 to ensure that any amount paid to a member aged 75 or over that exceeds the maximum that can be paid as an UFPLS because the member does not have sufficient available lifetime allowance is taxed as income. Where the member is under age 75 at the time of the payment, it is taxed as a lifetime allowance excess lump sum.
128. [Paragraph 61](#) amends paragraph 15 of Schedule 32 to FA 2004 (Schedule 32) and provides that a UFPLS is a relevant lump sum, and therefore when the entitlement to the UFPLS arises, the full amount of the UFPLS is tested against the individual's lifetime allowance as a benefit crystallisation event of type 6 listed in section 216 of FA 2004 (a BCE 6).

129. [Paragraph 62](#) amends section 636A of ITEPA 2003 which provides an exemption from income tax for certain lump sums paid by registered pension schemes.
130. [Paragraph 62\(2\)](#) inserts new subsections (1A) to (1C) into section 636A to provide how a UFPLS is taxed. New subsection (1A) provides that where the member is under age 75, 25% of the amount of the UFPLS is paid free of income tax, and the remainder is taxed as if it were a pension under section 579A of ITEPA 2003, that is, it is taxed at the individual's marginal rate. New subsections (1B) and (1C) provide that where the member is aged 75 or over, and they have more available lifetime allowance (as adjusted in accordance with paragraph 12 of Schedule 29 as amended by paragraphs 58 to 60 of Schedule 1) than the amount of the UFPLS, then the lump sum will be taxed in the same way as if the member was under age 75. If a member aged 75 or over has available less lifetime allowance than the amount of the UFPLS, then an amount equal to 25% of their available lifetime allowance can be paid tax-free, with the remainder of the lump sum taxable at the individual's marginal rate. The different method of taxing payments for members pre- and post- age 75 is because at age 75 all uncrystallised benefits will have been tested against the lifetime allowance already and any lifetime allowance charge will have been imposed at that time.

#### **Part 4 - Annual allowances**

131. [Paragraph 63](#) amends section 227 of FA 2004 to provide that the annual allowance charge is payable where an individual has a chargeable amount, as defined in new section 227ZA, for a tax year. The charge is on the chargeable amount. This allows the annual allowance position for an individual who has not flexibly accessed their pension to be unaffected by the amendments made by Schedule 1.
132. [Paragraph 64](#) inserts new section 227ZA into FA 2004 which defines the chargeable amount. The chargeable amount will be the alternative chargeable amount, as defined in new section 227B, if the individual has flexibly accessed their pension and the amount of their money purchase pension savings exceeds £10,000, commonly referred to as the 'money purchase annual allowance' and the alternative chargeable amount exceeds the default chargeable amount, as defined in new section 227ZA(3). Otherwise the chargeable amount will be the default chargeable amount.
133. New section 227ZA(1) and (2) provide that, starting with the tax year in which the individual first flexibly accesses their pension rights, the chargeable amount will be the alternative chargeable amount if their money-purchase input sub-total (MPIST), as defined in new section 227C, is greater than £10,000, and the alternative chargeable amount is greater than the default chargeable amount. New section 227B defines the alternative chargeable amount. New section 227G prescribes when an individual is treated as first flexibly accessing their pension rights.
134. New section 227ZA(3) provides that the default chargeable amount is the amount by which the individual's total pension input amount exceeds their annual allowance, including any available carry forward. This preserves the current position for determining the amount of any annual allowance charge due both for those who haven't flexibly accessed their pension and for those who have but whose money purchase pension savings are £10,000 or less.
135. [Paragraph 65](#) inserts new sections 227B to 227G into FA 2004.
136. New section 227B provides that where the alternative chargeable amount applies it is based on the sum of the following amounts:
- the excess of the MPIST over £10,000; and
  - the excess of the defined-benefit input sub-total (DBIST) over the amount found by deducting £10,000 from the individual's annual allowance as set out in section 228(1) (£40,000 for tax year 2014-15) but including any available carry

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forward under section 228A. Pension input amounts for hybrid arrangements are included in the MPIST or the DBIST, as appropriate.

137. New section 227B(1) specifies how the alternative chargeable amount is calculated.
138. New section 227B(2) specifies the alternative annual allowance.
139. New section 227B(3) and (4) define the DBIST as the sum of:
- all the pension input amounts for each defined benefits arrangement the individual is a member of;
  - the pension input amount for any hybrid arrangement that the individual is a member of where amount C is the pension input amount. That is, if amount C (the calculation done on the basis that the arrangement is to provide defined benefits) is higher than amount A (calculation on the basis that the arrangement is to provide cash balance benefits) and/or amount B (calculation on the basis that the arrangement is to provide other money purchase benefits), it is amount C that is included when calculating the member's DBIST; and,
  - other pension input amounts in respect of money purchase and/or hybrid arrangements that relate to pension input periods ending in the tax year which ended before the member first flexibly accesses their pension rights or include the day on which the member first flexibly accessed their pension rights. For hybrid arrangements this includes any hybrid arrangements where the pension input amount is amount A or B. The amounts to be included in DBIST in these cases are calculated in accordance with new sections 227E and 227F.

The calculation is also subject to new section 227D.

140. New section 227B(5) provides that for a hybrid arrangement, where the defined benefit input (amount C) and the money purchase input (amount A or B) are equal, the money purchase input amount is included in MPIST. So where amount C is equal to the greater of amounts A and B, amount C is not included in the DBIST amount mentioned at subsection (3)(b). If there is only one of amounts A and B, and amount C is equal to it, again amount C is not included in the amount mentioned at subsection (3)(b). Instead amount A or B as appropriate is included in MPIST in new section 227C(1)(b).
141. New section 227C(1) defines the MPIST as the total of all the pension input amounts for each cash balance and other money purchase arrangement relating to the individual plus any pension input amount for a hybrid arrangement where the amount to be tested against the annual allowance under section 237 is amount A or B because that amount is higher than C.
142. New section 227C(2) provides for the MPIST to be reduced in the tax year in which rights are first flexibly accessed or a pension input period ending in the tax year contains the day on which rights are first flexibly accessed even if that day is not in the same tax year, under new sections 227E(2) and 227F(2), (3) and (5).
143. New section 227C(3) provides that certain input amounts for hybrid arrangements are subject to new sections 227B(5) and 227D.
144. New section 227D provides how to calculate the pension input amount, for a hybrid arrangement made on or after 14 October 2014 (the date the Taxation of Pensions Bill was introduced into Parliament) that contains a defined benefit option, for the purposes of new sections 227B(3)(b) (which relates to the element of DBIST that is derived from any hybrid arrangement where the pension input amount is amount C) and 227C(1)(b) (which relates to the element of MPIST that is derived from any hybrid arrangement where the pension input amount is amount A or B). The pension input amount will be the amount that provides the highest tax charge rather than automatically being the highest input amount, the intention being to prevent tax avoidance. This section applies where input amount C is the higher or highest amount for the purpose of calculating the

pension input amount for the hybrid arrangement under section 237 (a relevant hybrid arrangement). If that is the case, a calculation must be done to find out whether using A or B instead of C for some or all of the individual's relevant hybrid arrangements would result in a higher chargeable amount. Where it does then, for the relevant hybrid arrangements identified, C is replaced by A or B as appropriate in the calculation of the alternative chargeable amount.

#### Example

An individual has two hybrid arrangements set up on or after 14 October 2014. In the first, the benefits will be either cash balance or defined benefits, in the second they will be either other money purchase or defined benefits. They also have a separate money purchase arrangement with a pension input amount of £4,000.

#### Step 1

The first step is to work out the relevant input amounts as set out in section 237 of FA 2004 to see whether either of the hybrid arrangements are relevant hybrid arrangements. In this case, the relevant input amounts are as follows:

Arrangement 1	Amount A is £6,000 and amount C is £14,000
Arrangement 2	Amount B is £7,000 and amount C is £17,000
Arrangement 3	Money purchase input amount is £4,000

As amount C is higher for arrangements 1 and 2, both are relevant hybrid arrangements (section 227D(1)).

#### Step 2

The next step is to identify all the possible combinations of how sets of the relevant hybrid arrangements can be made up (or not made up as the case may be). In this example, there are four possible combinations:

Combination 1 - Use only arrangement 1

Combination 2 - Use both arrangement 1 and 2

Combination 3 - Use only arrangement 2

Combination 4 - Do not use either arrangement 1 or 2

Arrangement 3 is not included in the combinations as it is not a hybrid arrangement.

#### Step 3

Next, for each combination, calculate what MPIST would be if for each relevant hybrid arrangement amount A or B as appropriate was treated as the relevant input amount instead of amount C. In this example:

Combination 1 – £6,000 + £4,000 for arrangement 3 = £10,000 MPIST

Combination 2 – £13,000 + £4,000 for arrangement 3 = £17,000 MPIST

Combination 3 – £7,000 + £4,000 for arrangement 3 = £11,000 MPIST

Combination 4 – Nil + £4,000 for arrangement 3 = £4,000 MPIST

#### Step 4

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If the maximum MPIST under step 3 has been no more than £10,000, then the £10,000 money purchase annual allowance does not apply for that tax year, and all pension savings are tested against the £40,000 annual allowance. If as in this case, the maximum MPIST is greater than £10,000, you move to step 5.

#### Step 5

Next, for any combination where the MPIST is over £10,000 calculate what the alternative chargeable amount under section 227B would be if, for each relevant hybrid arrangement, amount A/B was treated as the relevant input amount instead of amount C.

The alternative chargeable amount is the amount by which the DBIST exceeds the alternative annual allowance plus the amount by which the MPIST exceeds £10,000.

If a relevant hybrid arrangement is not included in a combination, input amount C for that arrangement will be included in the DBIST under s227B(3).

In this example, only the alternative chargeable amounts for Combination 2 and Combination 3 need to be calculated as only those two combinations have MPISTs over £10,000.

Combination 2 – Nil (DBIST) + £7,000 (MPIST) = £7,000 alternative chargeable amount

Combination 3 – Nil (DBIST) + £1,000 (MPIST) = £1,000 alternative chargeable amount

#### Step 6

The final step is to identify the highest or higher amount calculated at step 4 which in this example is the £7,000 for Combination 2. Accordingly, Combination 2 results in the highest tax charge, which is made up of the 2 relevant hybrid arrangements, 1 and 2, called the ‘maximising set’.

145. New section 227E applies where a pension input period ends in the same tax year as the individual flexibly accesses their pension rights, but before that flexible access occurs. New section 227E(2) provides that in such a case the pension input amount for an arrangement is nil for the purposes of calculating the MPIST. New section 227E(3) provides that the actual input amount is included in the DBIST.
146. New section 227F applies to a pension input period during which an individual first flexibly accesses their pension rights, but subject to sub-section (7).
147. New section 227F(2) and (3) set out what amount is included in respect of cash balance arrangements and other money purchase arrangements respectively for the purpose of the MPIST in new section 227C. For cash balance arrangements, the amounts are calculated by reference to the proportion of the pension input period that covers the period from the day after the date pension rights are flexibly accessed. For other money purchase arrangements it is the actual contributions paid to those arrangements in that part of the pension input period.
148. New section 227F(4) provides that for any money purchase arrangement, the amount of the excess of the actual pension input amount over the amount included in the MPIST, by virtue of subsection (2) or (3), is to be included in the DBIST calculated in accordance with new section 227B(3).
149. New section 227F(5) provides how much of relevant input amounts A or B in respect of hybrid arrangements are included in the MPIST. For cash balance arrangements, they are treated as being the amount that is represented by the proportion of the pension input period that covers the period from the day after the date the member first

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flexibly accesses pension rights. For other money purchase arrangements it is the actual contributions paid to those arrangements in that part of the pension input period.

150. New section 227F(6) provides that for a hybrid arrangement the input amount attributable to the period before the pension was flexibly accessed is to be included in the DBIST.
151. New section 227F(7) provides that new section 227F does not apply if the member had made a valid declaration that they met the flexible drawdown conditions accepted by a scheme administrator before 6 April 2015.
152. New section 227G specifies when pension rights are first flexibly accessed and therefore when the alternative chargeable amount may apply. The money purchase annual allowance will apply from the earlier or earliest of the dates that apply under subsections (2) to (9) in relation to an individual. See also the amendment made by paragraph 69 of Schedule 1, under which there can be a further date when pension rights may be first flexibly accessed.
153. New section 227G(2) provides if, on or after 6 April 2015, an individual has created a flexi-access drawdown fund by designating sums and assets into it or as a result of the operation of new paragraph 8D(2) of Schedule 28, and then takes a qualifying payment from that fund, they are treated as having flexibly accessed their pension rights immediately before that payment was made. This will potentially trigger the application of the money purchase annual allowance from the date of the payment. New section 227G(10) prescribes when a payment is a qualifying payment.
154. New section 227G(3) provides that where an individual was entitled to a flexible drawdown pension before 6 April 2015 under section 165(3A), this will automatically mean that the member has flexibly accessed their pension from the start of 6 April 2015 and therefore potentially triggers the application of the money purchase annual allowance from that date. No payment of drawdown pension is required for the money purchase annual allowance to apply.
155. New section 227G(4) provides that where the total withdrawn from a member's drawdown pension fund for a year exceeds the maximum ('the cap') as set out in pension rule 5 in section 165, so that new section 8B of Schedule 28 (see paragraph 76 above) applies, the member has flexibly accessed their pension immediately before the first qualifying payment. The money purchase annual allowance potentially applies from the date the first qualifying payment is made, whether this is the payment that results in the cap being exceeded or a subsequent payment. New section 227G(10) defines what a qualifying payment is.
156. New section 227G(5) provides that where a scheme administrator accepts a notification to change a member's drawdown pension fund to a flexi-access drawdown fund, so that new section 8C of Schedule 28 (see paragraph 78 above) applies, and a qualifying payment of drawdown pension is paid from this fund, the member has flexibly accessed their pension immediately before the first qualifying payment is made. They therefore potentially trigger the money purchase annual allowance from the date the payment is made. New section 227G(10) defines what a qualifying payment is.
157. New section 227G(6) provides that the first payment of a UFPLS to an individual will mean that they flexibly accessed their pension immediately before the payment is made and therefore they potentially trigger the money purchase annual allowance from the date of that payment.
158. New section 227G(7) and (8) provide that where a member receives a payment of a lifetime annuity under a flexible annuity contract then this will mean that they flexibly accessed their pension immediately before the payment is made and therefore they potentially trigger the money purchase annual allowance from the date of that payment. A flexible annuity contract is one set up on or after 6 April 2015 where the terms of the

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contract allow the payments to go down, or they can be varied to allow payments to go down, other than in prescribed circumstances set out in regulations.

159. New section 227G(9) provides that where a member receives a payment of a scheme pension from a money purchase arrangement where there are fewer than 12 individuals including the member receiving such scheme pensions, this will mean that they flexibly accessed their pension immediately before the payment is made and therefore they potentially trigger the money purchase annual allowance from the date of that payment.
160. New section 227G(10) and (11) provide that a qualifying payment is income withdrawal from the fund or payment of a short-term annuity purchased using sums or assets out of the fund, except where the whole of the fund was made up of disqualifying pension credits as defined in paragraph 2(3) and (4) of Schedule 29. A pension credit under a pension sharing order on divorce is disqualifying if the person subject to the corresponding debit had an actual entitlement to a pension under the arrangement to which the pension sharing order related.
161. [Paragraph 66](#) omits, in relation to tax year 2015-16 onwards, section 227A of FA 2004, which provides that an individual who has taken a flexible drawdown pension has an effective annual allowance of nil. Individuals entitled to drawdown pension by virtue of section 165(3A) of FA 2004 will automatically be deemed to have flexibly accessed their pension savings at 6 April 2015 and therefore will potentially become subject to the money purchase annual allowance from 2015-16. Individuals entitled to dependants' drawdown pension by virtue of section 167(2A) of FA 2004 will automatically revert to the default annual allowance from 2015-16 unless they are subject to the money purchase annual allowance for any other reason. As a consequence, this paragraph also omits paragraph 45 of Schedule 16 to FA 2011 which originally inserted section 227A into FA 2004.
162. [Paragraph 67](#) inserts new subsections (8) and (9) into section 228A of FA 2004 which relates to the carry forward of unused annual allowance.
163. New section 228A(8) provides that where an individual has been subject to the £10,000 money purchase annual allowance for an earlier tax year, the amount available for any carry forward from that year is adjusted accordingly. Unused money purchase annual allowance cannot be carried forward to subsequent tax years.
164. New section 228A(9) provides that where an individual or dependant has taken a flexible drawdown pension before 6 April 2015 then for tax year 2015-16 onwards they will not have any carry forward of unused annual allowance for any tax year before 2015-16 during which they were entitled to flexible drawdown pension or flexible dependants' drawdown pension.
165. [Paragraph 68](#) inserts new subsection (2A) into section 237B of FA 2004. This provides that for the purpose of determining whether section 237B applies, the default chargeable amount applies to the individual, and not the alternative chargeable amount. Where section 237B applies, the member may request that the scheme administrator pays some or all of their annual allowance liability in return for an equivalent actuarial reduction in their promised benefits – commonly known as 'scheme pays'. This means that the scope of when scheme pays can apply is not increased by these changes.
166. [Paragraph 69](#) inserts new paragraph (4) into article 25C of the [Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(SI 2006/572\)](#). This provides that where an individual who has primary protection (but not enhanced protection), and protected pre- 6 April 2006 lump sum rights of greater than £375,000, receives a stand-alone lump sum (that is a tax free lump sum that is paid not in connection with a pension) from a money purchase arrangement on or after 6 April 2015, then they are treated as first flexibly accessing their pension immediately before the payment of the stand-alone lump sum. This will potentially trigger the money purchase annual allowance on the day the lump sum is paid.

## **Part 5 - Miscellaneous amendments**

167. [Paragraph 70](#) amends the anti-recycling rules in paragraph 3A(3) of Schedule 29 which prevent the exploitation of the pensions tax rules to generate artificially high amounts of tax relief by using the pension commencement lump sum to make a further tax-relieved contribution into a registered pension scheme. The amendment reduces to £7,500 the minimum aggregate value of pension commencement lump sums paid to an individual in a 12 month period that triggers the recycling rule.
168. [Paragraph 71](#) amends paragraph 7(1) of Schedule 29 to provide that, from 6 April 2015, a trivial commutation lump sum can be paid only in respect of a defined benefits arrangement. Those with relatively small amounts of money purchase savings will be able to take an UFPLS from this date, so there is no longer a need for trivial commutation lump sum rules for money purchase arrangements. Paragraph 71 also provides that from 6 April 2015, a trivial commutation lump sum can be paid once the member has reached normal minimum pension age (normally age 55) in line with the minimum age for the payment of other pension benefits, a reduction from the previous requirement for the member to be aged at least 60, or where the ill-health condition in paragraph 1 of Schedule 28 is satisfied. Paragraph 71 also provides that to be a trivial commutation lump sum, a lump sum only needs to extinguish any defined benefit rights relating to the member under the pension scheme.
169. [Paragraph 72](#) amends article 23C(4) of the [Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(SI 2006/572\)](#) to provide that from 6 April 2015, under that article, lump sums of up to £10,000 representing a member's remaining pension after payment of certain protected pension commencement lump sums can be paid once the member has reached normal minimum pension age (normally age 55), rather than the minimum age of 60 which applied previously, or the ill-health condition is satisfied.
170. [Paragraph 73](#) amends the [Registered Pension Schemes \(Authorised Payments\) Regulations 2009 \(SI 2009/1171\)](#).
171. [Paragraph 73\(2\)](#) substitutes a new regulation 10 as a consequence of the removal of a trivial commutation lump sum as an option for money purchase arrangements from 6 April 2015. This new regulation 10 provides that certain lump sums that would have been authorised payments under the regulations, but for the fact that they hadn't extinguished all rights under the scheme because of the ongoing payment of a lifetime annuity, can be commuted to a lump sum if they are less than £10,000. This lump sum does not count towards the limit in regulation 11A(2).
172. [Paragraph 73\(3\)](#) provides that from 6 April 2015 a lump sum under regulation 11, 11A or 12 (small pot lump sums of up to £10,000) can be paid as an authorised payment once the member has reached normal minimum pension age (normally age 55), or the ill-health condition is satisfied.
173. [Paragraph 74\(1\) to \(4\)](#) amend paragraph 20 of Schedule 29 to provide a new circumstance when a trivial commutation lump sum death benefit may be paid. As a result, a trivial commutation lump sum death benefit may also be paid to an individual in respect of any entitlement they had to receive any guaranteed pension payments of a lifetime annuity or scheme pension payable after the member's death. The lump sum must extinguish the individual's rights to receive the guaranteed pension payments under the scheme or contract concerned. This applies to payments made on or after 6 April 2015.
174. [Paragraph 74\(4\)](#) amends paragraph 20(2) of Schedule 29 to increase the limit for the trivial commutation lump sum death benefit to £30,000 to bring the maximum in line with a trivial commutation lump sum. This applies to payments made on or after 6 April 2015.
175. [Paragraph 75](#) amends Schedule 29 to remove the facility for schemes to pay a winding-up lump sum death benefit. This provision is unnecessary from 6 April 2015 because

all winding-up lump sum death benefits also satisfy the conditions to be a trivial commutation lump sum death benefit.

176. **Paragraph 76** amends paragraph 7 of Schedule 32 which prescribes how a lifetime annuity is valued for the purpose of testing against the lifetime allowance where an individual becomes entitled to it before normal minimum pension age, and where the ill-health condition is not met. It provides that where the individual becomes entitled to the lifetime annuity after 5 April 2015, the amount of the BCE 2 that is tested against the lifetime allowance is the greater of the sums and assets used to purchase the lifetime annuity and the amount that would have been tested against the lifetime allowance had the lifetime annuity been a scheme pension on the day the member became entitled to it. That is, 20 times the annual rate of the lifetime annuity on that date.
177. **Paragraph 77** amends paragraph 20(4)(a) and (b) of Schedule 36 which prescribe how a pre-6 April 2006 drawdown pension is valued for the purposes of the lifetime allowance, if and when the first BCE occurs in respect of the individual on or after this date. The lifetime allowance was introduced from 6 April 2006 and pensions in payment on that date were not tested against the lifetime allowance but their value does reduce the amount of available lifetime allowance that an individual has when a BCE occurs. This paragraph provides that where the member's first BCE is on or after 6 April 2015, and either the individual was receiving 'capped drawdown' or had opted to receive 'flexible drawdown' in a pension year that began on or after 27 March 2014, the amount of the lifetime allowance available is reduced by 80% of 25 times the maximum amount that could have been paid as a drawdown pension. As the maximum that can be paid as a drawdown pension was increased from 120% to 150% of the basis amount from 27 March 2014, limiting the amount tested to 80% of this figure ensures that overall it gives the same result as before 27 March 2014.
178. **Paragraph 78** inserts new paragraph 23ZA into Schedule 36 in connection with transfers relating to individuals who have a protected pension age protecting their right to take their pension before the normal minimum pension age, currently age 55. It ensures that where an individual has taken their pension benefits before the normal minimum pension age using their protected pension age, then if they transfer the protected pension benefits that are in payment as part of a recognised transfer, any pension payments before age 55 will be authorised payments. This applies to any recognised transfers made on or after 6 April 2015.
179. **Paragraph 79** inserts new section 273B into FA 2004. New section 273B provides a permissive scheme rules override in connection with certain payments in respect of money purchase arrangements that will be authorised payments as a result of amendments made by Schedule 1, so that the trustees or scheme managers can make these payments if they wish, even if the rules of the scheme do not allow the payment to be made.
180. **Paragraph 81** amends section 579CA of ITEPA 2003, regarding the taxation of pensions for individuals who are temporarily non-resident, as it applies when the individual's year of departure was in or after the 2013-14 tax year and the individual's period of return is in the 2015-16 tax year or later. Section 579CA provides that a relevant withdrawal under a registered pension scheme during a period of temporary non-residence is to be treated as taxable pension income under section 579B when the individual returns to the UK. What constitutes a period of temporary non-residence is set out in Part 4 of Schedule 45 to Finance Act 2013 (FA 2013), which contains anti-avoidance rules in connection with the new statutory residence test introduced by FA 2013.
181. **Paragraph 81(2)** amends section 579CA so that it does not apply unless the total relevant withdrawals under section 579CA and 576A exceed £100,000. New section 579CA(4A) inserted into ITEPA 2003 by paragraph 81(3) provides that when calculating the value of relevant non-sterling withdrawals, the values are translated into sterling values by reference to the average exchange rate for the year to 31st March that falls in that tax year. HMRC publishes average exchange rates on its website.

Where the value of relevant withdrawals during a temporary period of non-residence exceeds £100,000, all of the withdrawals are treated as taxable pension income subject to section 579B in the period of return to the UK, not just the excess over £100,000.

182. [Paragraph 81\(3\)](#) and [\(4\)](#) amend the definition of relevant withdrawal. Relevant withdrawals comprise the payments to members that would, under new section 227G of FA 2004, trigger the application of the money purchase annual allowance and the payments to beneficiaries of equivalent character (which do not trigger the application of the money purchase annual allowance). Payments to members that would not trigger the application of the money purchase annual allowance by virtue of being attributable to a disqualifying pension credit (see section 227G(10) and (11), inserted by paragraph 65 of Schedule 1) are also included as relevant withdrawals.
183. [Paragraph 82](#) amends section 579CA of ITEPA 2003 as it applies when the individual's year of departure was before the 2013-14 tax year and the individual's year of return is the 2015-16 tax year or later. Before the 2013-14 tax year, section 579CA applied to individuals who satisfied the "residence requirements" as defined in section 579CA(2). Section 579CA was amended by paragraph 117 of Schedule 45 to FA 2013 and now, as explained above, applies when relevant withdrawals are made during a temporary period of non-residence. To prevent the change in the definition of when section 579CA applies affecting people who had become non-resident before the statutory residence test came into effect, paragraph 158 of Schedule 45 to FA 2013 provides that the unamended rules apply when the temporary period of non-residence began before the new statutory residence test came into force on 6 April 2013. Paragraph 82 of Schedule 1 accordingly makes the same amendments to the former definition of what constitutes a relevant withdrawal as paragraph 81 makes to the current section 579CA.
184. [Paragraph 83](#) amends section 576A of ITEPA 2003 as it applies when the individual's year of departure was in or after the 2013-14 tax year and the individual's period of return is in the 2015-16 tax year or later. Section 576A provides that a relevant withdrawal under a relevant non-UK scheme during a period of temporary non-residence is to be treated as taxable pension income under section 575 of ITEPA 2003 when the individual returns to the UK. What constitutes a period of temporary non-residence is set out in Part 4 of Schedule 45 to Finance Act 2013 (FA 2013), which contains anti-avoidance rules in connection with the new statutory residence test introduced by FA 2013. Paragraph 83 of Schedule 1 makes similar amendments to the definition of what constitutes a relevant withdrawal as are being made to the current section 579CA by paragraph 81, except that the amendments apply as if the payment had been made from a registered pension scheme.
185. [Paragraph 84](#) amends section 576A of ITEPA 2003 as it applies when the individual's year of departure was before the 2013-14 tax year and the individual's year of return is the 2015-16 tax year or later. Paragraph 84 of Schedule 1 makes the same amendments to the definition of what constitutes a relevant withdrawal as are being made to the current section 576A by paragraph 83.
186. [Paragraph 85](#) amends section 164 of FA 2004 and inserts new subsections (3) and (4) to provide a power to make regulations to provide that an authorised payment under FA 2004 does not trigger the money purchase annual allowance, or that an authorised payment is not a relevant withdrawal for the purposes of temporary non-residence under section 579CA of ITEPA 2003, or for relevant non-UK schemes under section 576A of ITEPA 2003.

## **Part 6 – Provision of information**

187. [Paragraphs 86 to 91](#) amend the [Registered Pension Schemes \(Provision of Information\) Regulations 2006 \(SI 2006/567\)](#).
188. [Paragraph 87](#) inserts new regulations 14ZA to 14ZE of [SI 2006/567](#), which set out the information that that must be provided where a member has flexibly accessed

their pension rights. The new information requirements are intended to ensure that the member is aware that they have flexibly accessed their pension rights and the consequences of having done so, and that the scheme administrator for every scheme that they are actively a member of, is also aware so that if necessary they can provide information about the member's savings in that scheme based on the lower £10,000 money purchase annual allowance.

189. New regulation 14ZA requires a scheme administrator to provide a statement to a scheme member within 31 days when it appears they have first flexibly accessed their pension rights in that scheme and sets out the relevant events that require the scheme administrator to provide the statement, and the information that should be included in the statement.
190. New regulation 14ZB sets out the requirement for scheme members who have flexibly accessed their pension savings to notify the scheme administrator of any other registered pension scheme they are an accruing member of that they have received a statement under new regulation 14ZA. An individual is an accruing member of a registered pension scheme if at the time, or any time after, the relevant event occurred under new regulation 14ZA they are an active member of either a cash balance or hybrid arrangement under that scheme or they (or someone else on their behalf) pay a contribution to a money purchase arrangement that is not a cash balance arrangement under that scheme. They must provide the information to the scheme administrator within 91 days of receiving the statement or becoming an accruing member, whichever is the later.
191. New regulation 14ZC requires scheme administrators making recognised transfers of member's rights where they are aware that the member has flexibly accessed their pension savings to notify the scheme administrator of the receiving scheme that the member has flexibly accessed their pension rights, and the date the event occurred, within 31 days of the transfer.
192. New regulation 14ZD requires individuals who have a flexi-access drawdown fund as a result of having had a valid notification for flexible drawdown accepted on or before 5 April 2015 to notify the scheme administrator of any other registered pension scheme they are an accruing member of that they are treated as having flexi-accessed their pension rights at 6 April 2015. An individual is an accruing member of a registered pension scheme if on or at any time after 6 April 2015 they are an active member of either a cash balance or hybrid arrangement under that scheme or they (or someone else on their behalf) pay a contribution to a money purchase arrangement that is not a cash balance arrangement under that scheme. They must provide the information to the scheme administrator within 91 days of 6 April 2015 or becoming an accruing member of the other scheme, whichever is the later.
193. New regulation 14ZE requires individuals who convert their existing drawdown pension fund to a flexi-access drawdown fund on or after 6 April 2015, and this is their first flexible access across all their schemes, to notify the scheme administrator of any other registered pension scheme they are an accruing member of that they are treated as having flexi-accessed their pension rights from the date of conversion. An individual is an accruing member of a registered pension scheme if on or at any time after the date of conversion they are an active member of either a cash balance or hybrid arrangement under that scheme or they (or someone else on their behalf) pay a contribution to a money purchase arrangement that is not a cash balance arrangement under that scheme. They must provide the information to the scheme administrator within 91 days of the date of conversion or becoming an accruing member of the other scheme, whichever is the later.
194. [Paragraph 88](#) amends regulation 14A of [SI 2006/567](#) in relation to the provision of an annual pension savings statement where the member's pension savings in that scheme have exceeded the annual allowance.

195. Paragraph 88(2) to (4) amend paragraph (1), make a consequential amendment to paragraph (8) and insert new paragraphs (9) to (12) extending the circumstances in which a scheme administrator is required to give the member a pension savings statement and the information that should be included in the statement, to include where they believe the member has flexibly accessed their pension rights and they have money purchase or relevant hybrid arrangement pension input amounts of more than £10,000 in that scheme.
196. Paragraphs 89 and 90 make changes to regulations 3(1) and 14B(1) of SI 2006/567 as consequence of paragraphs 87 and 88 of Schedule 1. All of the changes made in SI 2006/567 come into force on 6 April 2015.

## **Part 7 - Overseas pensions**

197. Paragraph 92 amends section 169(4) of FA 2004 to extend the scope of the existing power to make regulations in connection with information requirements for scheme managers of qualifying recognised overseas pension schemes (QROPS). The amendment provides that regulations made under this power may also require the scheme manager of a QROPS or former QROPS to provide information i) to the scheme administrator of a registered pension scheme or ii) to the scheme manager of a QROPS or former QROPS or iii) to a member or former member of a QROPS or former QROPS.
198. Paragraph 93 amends section 251 of FA 2004 to extend the scope of the existing power to make regulations in connection with information requirements for scheme administrators.
199. Paragraph 93(2) provides that regulations made under this power may also require the scheme administrator to provide information to the scheme manager of a QROPS. It also provides that the regulations may require members of relevant non-UK schemes to provide information to scheme administrators of registered pension schemes or scheme managers of relevant non-UK pension schemes.
200. Paragraph 93(3) amends section 251(6) and provides that the definition of relevant non-UK scheme in section 251 is the same as in paragraph 1 of Schedule 34 to FA 2004 (Schedule 34).
201. Paragraph 94 inserts new sub-paragraph (2A) into paragraph 5 of Schedule 33 to FA 2004 (Schedule 33) which defines a qualifying overseas pension scheme (QOPS).
202. New paragraph 5(2A) of Schedule 33 confirms that, for the purposes of the requirement in paragraph 5(1)(c) of Schedule 33 that a scheme manager must provide an undertaking to HMRC to comply with any prescribed benefit crystallisation information requirements, “benefit crystallisation information requirements” includes prescribed information requirements relating to when an individual first flexibly accesses their pension rights.
203. Paragraph 95 amends Schedule 34 which provides for certain tax charges to apply to savings in non-UK pension schemes where those savings have benefited from UK tax relief.
204. Paragraph 95(2) amends paragraph 1(3) of Schedule 34 to provide that the tax charges that apply in connection with the payment of an UFPLS can also apply to payments from a relevant non-UK scheme as if they were payments from a registered pension scheme.
205. Paragraph 95(3) amends paragraph 1(4) of Schedule 34 to provide that the member payment provisions also include the provisions of section 636A of ITEPA 2003 relating to an UFPLS. This is shown separately because section 636A(1A) to (1C) of ITEPA 2003 is not within the provisions of Part 4 of FA 2004 as are the other member payment charges.

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206. [Paragraph 95\(4\)](#) inserts new paragraph 5A into Schedule 34. This provides that a payment made from a relevant non-UK scheme will be taxed as a relevant withdrawal under section 576A ITEPA 2003 where tax is due under the member payment charges in Schedule 34 but the UK cannot immediately collect the tax under the terms of a double taxation agreement.
207. [Paragraph 95\(5\)](#) amends paragraph 6 of Schedule 34 as a consequence of the new paragraph 5A, to provide that where overseas tax has been paid in respect of the relevant withdrawal, then any UK tax liability will be reduced by the amount of overseas tax paid.
208. [Paragraph 95\(6\)](#) amends paragraph 7(2) of Schedule 34 to extend the scope of the existing regulation-making power in connection with these member payment provisions to provide that the regulations can include transitional provisions.
209. [Paragraph 95\(7\)](#) inserts new paragraphs 9ZA and 9ZB into Schedule 34.
210. New paragraph 9ZA provides that the lower money purchase annual allowance will also potentially apply where an individual is or has been a currently-relieved member of a currently-relieved non-UK pension scheme and flexibly accesses pension rights under that non-UK pension scheme.
211. New paragraph 9ZB provides that any pension scheme that is or has been a QROPS is treated as a registered pension scheme for the purposes of whether the money purchase annual allowance rules are triggered in respect of individuals with UK tax relieved savings in that QROPS. This ensures that where the equivalent of an UFPLS is paid, or payments are taken from the equivalent of a flexi-access drawdown fund from a QROPS, this counts as a trigger for when the individual flexibly accesses their pension rights. This means that the money purchase annual allowance potentially applies from that date if the individual continues to contribute to a registered scheme or currently-relieved scheme.
212. [Paragraph 95\(8\)](#) inserts new sub-paragraph (3) into paragraph 11 of Schedule 34 to provide that where an individual first flexibly accesses their pension during a tax year, when calculating the amount of the pension input under a money purchase arrangement in a non-UK scheme for the periods before and after that first access, the same appropriate fraction for the tax year applies to both calculations.
213. [Paragraph 95\(9\)](#) amends paragraphs 12(2) and 19(2) of Schedule 34 to extend the scope of the existing regulation making powers in connection with the application of the annual allowance and lifetime allowance charges to members of non-UK schemes to provide that the regulations can include transitional provisions.
214. [Paragraph 96](#) amends the [Pension Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\) Regulations 2006 \(SI 2006/207\)](#).
215. [Paragraph 96\(2\)](#) amends regulation 5 of [SI 2006/207](#) to clarify that it only applies to Part 3 of [SI 2006/207](#). This is so that regulation 5, which modifies FA 2004 as it applies to relevant non-UK schemes, will not apply to the new Part 4 of these Regulations (which relates to section 636A of ITEPA) inserted by paragraph 96(15).
216. [Paragraph 96\(3\) to \(14\)](#) amend regulation 15 of [SI 2006/207](#) which modifies Schedule 29 (Authorised Lump Sums) as it applies to relevant non-UK schemes. Paragraphs 96(4) to (9) and (11) to (14) provide that when working out whether a member has lifetime allowance available after a relevant BCE has occurred, the value of any UFPLS paid since the relevant BCE is to be taken into account for various prescribed purposes. Paragraph 96(10) inserts new paragraph (4A) into regulation 15 of [SI 2006/207](#) which amends paragraph 4A of Schedule 29 to disregard the value of the relevant BCE when calculating the member's available lifetime allowance under regulation 15. Relevant BCE has its existing meaning of BCE 8 (a transfer to a QROPS) and a BCE occurring by virtue of paragraph 15 of Schedule 34.

217. [Paragraph 96\(15\)](#) inserts new Part 4 and regulation 18 into [SI 2006/207](#).
218. New regulation 18 modifies section 636A of ITEPA 2003 to provide similar modifications to those amended by paragraph 96(4) to (14). Regulation 18 provides that when a relevant non-UK scheme pays an UFPLS after a relevant BCE has occurred, when working out how much lifetime allowance the member has available for the purposes of new section 636A(1B) as inserted by paragraph 62 of Schedule 1, the value of any prior relevant BCE must be ignored, the referable portion of any earlier PCLS or any earlier UFPLSs paid since the relevant BCE is deducted even if the lump sum concerned has been paid since the member reached the age of 75, and the referable portion which would have crystallised by virtue of the member becoming entitled to a pension since the relevant BCE is deducted, even if the member had reached the age of 75 before becoming so entitled. The referable portion is the amount that relates to the funds that have received UK tax relief.
219. [Paragraph 97](#) amends the [Registered Pension Schemes and Overseas Pension Schemes \(Miscellaneous Amendments\) Regulations 2013 \(SI 2013/2259\)](#), and the [Pension Schemes \(Information Requirements for Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pension Schemes and Corresponding Relief\) Regulations 2006 \(SI 2006/208\)](#). The amendments change the start date from which scheme managers are required to re-notify their QROPS status to delay the implementation by 12 months. This is because before 6 April 2015 schemes would have to re-notify on the basis of the information in place at that time. As scheme managers can re-notify HMRC up to six months before they are due to do so, they could provide the information changed as a result of the amendments in this Act within 30 days of 6 April 2015. It would provide no benefit for schemes to notify HMRC twice in a short space of time.