
STATUTORY INSTRUMENTS

2011 No. 1752

INCOME TAX

The Registered Pension Schemes (Lifetime Allowance Transitional Protection) Regulations 2011

<i>Made</i>	- - - -	<i>20th July 2011</i>
<i>Laid before the House of Commons</i>	- - - -	<i>21st July 2011</i>
<i>Coming into force</i>	- -	<i>11th August 2011</i>

The Commissioners for Her Majesty's Revenue and Customs make these Regulations in exercise of the powers conferred on them by paragraph 14(2) and (15) of Schedule 18 to the Finance Act 2011(1) and section 251(1) of the Finance Act 2004(2) and now exercisable by them(3).

Citation, commencement and interpretation

1. These Regulations may be cited as the Registered Pension Schemes (Lifetime Allowance Transitional Protection) Regulations 2011 and shall come into force on 11th August 2011.

2. In these Regulations—

“paragraph 14” means paragraph 14 of Schedule 18 to the Finance Act 2011;

“paragraph 14(4) event” means an event described in sub-paragraph (4) of paragraph 14;

“paragraph 14 notice” means a notice of an intention to rely on paragraph 14; and

“tribunal” means the First-tier Tribunal or, where determined in accordance with the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009(4), the Upper Tribunal.

Reliance on paragraph 14

3.—(1) Subject to paragraph (2), an individual may rely on paragraph 14 if—

(a) the individual has given a paragraph 14 notice to Her Majesty's Revenue and Customs, and

(1) 2011 c. 11.

(2) 2004 c. 12. Subsection (2) of section 251 sets out the matters referred to in subsection (1)(a) of that section and subsection (6) defines ‘prescribed’ for the purposes of section 251 as meaning prescribed by regulations.

(3) The functions of the Commissioners for Inland Revenue were transferred to the Commissioners for Her 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 insofar as it is appropriate in consequence of section 5, a reference in an enactment, however expressed, to the Commissioners of Inland Revenue is to be treated as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(4) 2009/273 (L. 1).

- (b) Her Majesty's Revenue and Customs have accepted that notice by issuing a certificate to the individual.
- (2) An individual may not rely on paragraph 14 if—
 - (a) Her Majesty's Revenue and Customs have refused to accept a paragraph 14 notice in accordance with regulation 6,
 - (b) Her Majesty's Revenue and Customs have revoked the certificate in accordance with regulation 11, or
 - (c) a paragraph 14(4) event has occurred.

The paragraph 14 notice

- 4.—(1) A paragraph 14 notice must include the following information—
 - (a) the title, full name, address (including post code, if applicable) and date of birth of the individual submitting the paragraph 14 notice,
 - (b) the national insurance number of the individual or, where the individual does not qualify for a national insurance number, the reasons for this,
 - (c) a declaration that paragraph 7 of Schedule 36 to the Finance Act 2004 (primary protection) does not make provision for a lifetime allowance enhancement factor in the case of the individual, and
 - (d) a declaration that paragraph 12 of that Schedule (enhanced protection)(5) will not apply in relation to the individual on and after 6th April 2012.
- (2) A paragraph 14 notice must be—
 - (a) in a form prescribed by Her Majesty's Revenue and Customs, and
 - (b) received by Her Majesty's Revenue and Customs on or before 5th April 2012.
- (3) The individual must sign and date the paragraph 14 notice.

Issue of certificate by Her Majesty's Revenue and Customs

- 5.—(1) If Her Majesty's Revenue and Customs accept the paragraph 14 notice, they must issue a certificate to the individual.
- (2) The certificate must have a unique reference number.

Refusal by Her Majesty's Revenue and Customs to accept notice

- 6.—(1) Her Majesty's Revenue and Customs may refuse to accept the paragraph 14 notice if it does not satisfy the requirements in regulation 4.
- (2) If Her Majesty's Revenue and Customs refuse to accept the paragraph 14 notice the individual may require that Her Majesty's Revenue and Customs provide reasons for the refusal.

Appeal against refusal to accept notice

- 7.—(1) The individual may appeal against a refusal by Her Majesty's Revenue and Customs to accept the paragraph 14 notice.

(5) 2004 c. 12. Paragraph 12 of Schedule 36 to the Finance Act 2004 has been amended by paragraph 53(2) to (6) of Schedule 10 to the Finance Act 2005 (c. 7), paragraph 17 of Schedule 20 and part 3(2) of Schedule 27 to the Finance Act 2007 (c. 11) and paragraph 432(2) of Schedule 1 to the Corporation Tax Act 2010 (c. 4).

(2) The notice of appeal must be given to Her Majesty's Revenue and Customs before the end of the period of 30 days beginning with the day on which the refusal to accept the paragraph 14 notice was given.

(3) Where an appeal under this regulation is notified to the tribunal, the tribunal must determine whether Her Majesty's Revenue and Customs were entitled to take the view that the notice did not satisfy the requirements in regulation 4.

(4) If the tribunal allows the appeal, the tribunal may direct Her Majesty's Revenue and Customs to accept the paragraph 14 notice and issue a certificate to the individual.

Incorrect information given in, or in connection with, the paragraph 14 notice

8. If the individual realises that any information given in the paragraph 14 notice or given to Her Majesty's Revenue and Customs in connection with that notice was incorrect or has become incorrect, the individual must provide Her Majesty's Revenue and Customs with the correct information without undue delay.

Requirement to inform Her Majesty's Revenue and Customs of a paragraph 14(4) event

9. Where Her Majesty's Revenue and Customs have issued a certificate the individual must—
- (a) inform Her Majesty's Revenue and Customs when a paragraph 14(4) event occurs, and
 - (b) provide that information before the end of the period of 90 days beginning with the day on which the event occurred.

Replacement of a certificate by Her Majesty's Revenue and Customs

10.—(1) Her Majesty's Revenue and Customs may issue a certificate, replacing the previous certificate, if they have reason to believe that information given in, or in connection with, the paragraph 14 notice was incorrect or has become incorrect.

- (2) A certificate issued in accordance with regulation 10(1) must have a unique reference number.

Revocation of a certificate by Her Majesty's Revenue and Customs

11. Her Majesty's Revenue and Customs may revoke a certificate if they—
- (a) have reason to believe that a paragraph 14(4) event has occurred,
 - (b) have reason to believe that any of the conditions in sub-paragraph (1) of paragraph 14 have not been met, or
 - (c) have given notice to the individual under paragraph 1 of Schedule 36 to the Finance Act 2008(6) in connection with paragraph 14 and the individual does not reply to that notice within the time specified in the notice.

Appeal against revocation or replacement of a certificate

12.—(1) The individual may require Her Majesty's Revenue and Customs to provide reasons for revoking or replacing the certificate.

(2) Paragraphs (1) and (2) of regulation 7 apply to a decision to revoke or replace the certificate as they apply to the refusal to accept the paragraph 14 notice.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(3) Where an appeal under this regulation is notified to the tribunal, the tribunal must determine whether Her Majesty's Revenue and Customs replaced or revoked the certificate in accordance with regulations 10(1) or 11.

(4) If the tribunal allows the appeal, the tribunal may direct Her Majesty's Revenue and Customs to issue a certificate to the individual.

Preservation of documents

13.—(1) Where Her Majesty's Revenue and Customs have issued a certificate the individual must preserve the certificate until no further benefit crystallisation event can occur in relation to any sums or assets held for the purposes of a registered pension scheme in relation to the individual.

(2) The requirement to preserve the certificate ceases where the certificate has been revoked.

Melanie Dawes

Dave Hartnett

Two of the Commissioners for Her Majesty's
Revenue and Customs

20th July 2011

EXPLANATORY NOTE

(This note is not part of the Regulations)

Sections 214 to 226 of the Finance Act 2004 make provision for the application of the lifetime allowance charge. Schedule 18 to the Finance Act 2011 ('Schedule 18') has reduced the level of the lifetime allowance, which applies to determine whether the lifetime allowance charge is applicable, to £1,500,000 from 2012-13 onwards. Schedule 18 introduces transitional provisions which provide protection from the lifetime allowance charge for those who may already have built up pension savings on the expectation that the lifetime allowance would remain at the current level of £1,800,000. These Regulations provide how individuals may give notice of whether they intend to rely on that transitional protection and make provision for supplementary and incidental matters.

Regulations 3 and 4 make provision about the notice which is required should an individual intend to rely on the transitional protection in Schedule 18. If Her Majesty's Revenue and Customs (HMRC) accept a notice they must issue a certificate (regulation 5). Regulation 6 provides the circumstances in which HMRC may refuse to accept a notice and regulation 7 sets out how the individual may appeal against that decision. Regulations 10, 11 and 12 prescribe the circumstances in which HMRC may revoke or replace a certificate, following a previous acceptance of the notice, as well as provisions relating to appealing such a revocation or replacement.

Regulations 8, 9 and 13 deal with matters such as preservation of documents, requirements that individuals inform HMRC if incorrect information has been given in a notice or where an event occurs whereby they are no longer entitled to rely on the transitional protection.

A Tax Information and Impact Note covering this instrument was published on 9 December 2010 alongside draft legislation for the Finance (No. 3) Bill 2011 concerning the restriction of pensions tax relief. This was updated on 3 March 2011 to reflect further decisions relating to the restriction of pensions tax relief and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.