STATUTORY INSTRUMENTS

2013 No. 1740

The Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Amendment) Regulations 2013

Amendments to Schedule 18 to the Finance Act 2011

2.—(1) Paragraph 14 of Schedule 18 to the Finance Act 2011 (transitional provisions) is amended by paragraphs (2) to (5).

(2) After sub-paragraph (1) insert—

"(1A) This paragraph also applies on or after 6 April 2012 in the case of an individual—

(a) who, on that date—

(i) has one or more arrangements under a relieved non-UK pension scheme of which the individual is a relieved member, and

(ii) is not a member of a registered pension scheme,

(b) in relation to whom paragraph 7 of Schedule 36 to FA 2004(**1**) (primary protection) does not make provision for a lifetime allowance enhancement factor, and

(c) in relation to whom paragraph 12 of that Schedule(**2**) (enhanced protection) does not apply on that date,

if notice of intention to rely on it is given to an officer of Revenue and Customs.".

(3) After sub-paragraph (4) insert—

"(4A) Subject to sub-paragraphs (4B) to (4E), sub-paragraph (4) applies in relation to an individual who is a relieved member of a relieved non-UK pension scheme as if the scheme were a registered pension scheme; and the other sub-paragraphs of this paragraph apply accordingly.

(4B) In relation to an arrangement under a relieved non-UK pension scheme, in sub-paragraph (4) the reference to 6 April 2012 is to be read as a reference to 6 April 2013.

(4C) Sub-paragraphs (4D) and (4E) apply (instead of sub-paragraph (5)) for the purposes of sub-paragraph (4)(a) in determining if there is benefit accrual in relation to an individual under an arrangement under a relieved non-UK pension scheme of which the individual is a relieved member.

(4D) There is benefit accrual in relation to the individual under the arrangement if there is a pension input amount under sections 230 to 237 of FA 2004 (as applied by Schedule 34 to that Act) greater than nil in respect of the arrangement for a tax year; and, in such a case, the benefit accrual is treated as occurring at the end of the tax year.

(4E) There is also benefit accrual in relation to the individual under the arrangement if—

(**1**) 2004 c. 12.

(**2**) Paragraph 12 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), paragraph 432(2) of Schedule 1 to the Corporation Tax Act 2010 (c. 4) and paragraph 59 of Schedule 26 to the Equality Act 2010 (c. 15).

(a) in a tax year there occurs a benefit crystallisation event in relation to the individual (whether in relation to the arrangement or to any other arrangement under any pension scheme or otherwise), and

(b) had the tax year ended immediately before the benefit crystallisation event, there would have been a pension input amount under sections 230 to 237 of FA 2004 greater than nil in respect of the arrangement for the tax year,

and, in such a case, the benefit accrual is treated as occurring immediately before the benefit crystallisation event.".

(4) For sub-paragraphs (13) and (14) substitute—

"(13) The relevant percentage, in relation to a tax year, means—

(a) where the arrangement (or a predecessor arrangement) includes provision for the value of the rights of the individual to increase during the tax year at an annual rate specified in the rules of the pension scheme (or a predecessor registered pension scheme) on 9 December 2010—

(i) the percentage specified (or, where more than one arrangement includes such provision, the higher or highest of the percentages specified), plus

(ii) the relevant statutory increase percentage;

(b) where the arrangement (or a predecessor arrangement) includes provision for the value of the rights of the individual to increase during the tax year at an annual rate specified by reference to the retail prices index in the rules of the pension scheme (or a predecessor registered pension scheme) on 6 April 2012 which does not exceed an increase in the retail prices index—

(i) the percentage specified (or, where more than one arrangement includes such provision, the higher or highest of the percentages specified), plus

(ii) the relevant statutory increase percentage; or

(c) otherwise—

(i) an increase in the consumer prices index, or

(ii) if higher, the relevant statutory increase percentage.

Where both paragraphs (a) and (b) would otherwise apply giving different percentages, the paragraph giving the higher percentage applies.

(14) In sub-paragraph (13)—

"predecessor arrangement", in relation to an arrangement, means another arrangement (under the same or another registered pension scheme) from which some or all of the sums or assets held for the purposes of the arrangement directly or indirectly derive;

"predecessor registered pension scheme", in relation to a pension scheme, means another registered pension scheme from which some or all of the sums or assets held for the purposes of the arrangement under the pension scheme directly or indirectly derive;

"an increase in the retail prices index" means the percentage by which the retail prices index for a month specified in the rules of the pension scheme (or predecessor pension scheme) is higher than it was for the same month in the year before (or nil per cent if it is not higher);

"an increase in the consumer prices index" means the percentage by which the consumer prices index for the month of September in the previous tax year is higher than it was for the same month in the year before (or nil per cent if it is not higher).

(14A) In sub-paragraph (13) "the relevant statutory increase percentage", in relation to a tax year, means the percentage increase in the value of the individual's rights under the arrangement during the tax year so far as it is attributable solely to one or more of the following—

(a) an increase in accordance with section 15 of the Pension Schemes Act 1993(**3**) or section 11 of the Pension Schemes (Northern Ireland) Act 1993(**4**) (increase of guaranteed minimum where commencement of guaranteed minimum pension postponed);

(b) a revaluation in accordance with section 16 of the Pension Schemes Act 1993 or section 12 of the Pension Schemes (Northern Ireland) Act 1993 (early leavers: revaluation of earnings factors);

(c) a revaluation in accordance with Chapter 2 of Part 4 of the Pension Schemes Act 1993 or the Pension Schemes (Northern Ireland) Act 1993 (early leavers: revaluation of accrued benefits);

(d) a revaluation in accordance with Chapter 3 of Part 4 of the Pension Schemes Act 1993 or the Pension Schemes (Northern Ireland) Act 1993 (early leavers: protection of increases in guaranteed minimum pensions);

(e) the application of section 67 of the Equality Act 2010 (sex equality rule for occupational pension schemes).

(14B) Sub-paragraph (14C) applies in relation to a tax year if—

(a) the arrangement is a defined benefits arrangement which is under an annuity contract treated as a registered pension scheme under section 153(8) of FA 2004,

(b) the contract provides for the value of the rights of the individual to be increased during the tax year at an annual rate specified in the contract, and

(c) the contract limits the annual rate to the percentage increase in the retail prices index over a 12 month period specified in the contract.

(14C) Sub-paragraph (13)(c)(i) applies as if it referred instead to the annual rate of the increase in the value of the rights during the tax year.

(14D) For the purposes of sub-paragraph (14B)(c) the 12 month period must end during the 12 month period preceding the month in which the increase in the value of the rights occurs.".

(5) After sub-paragraph (18) insert—

"(19) In particular, references to a relieved non-UK pension scheme or a relieved member of such a scheme are to be read in accordance with paragraphs 13(3) and (4) and 18 of Schedule 34 to FA 2004 (application of lifetime allowance charge provisions to members of overseas pension schemes).".

(**3**) 1993 c. 48; relevant amendments are made by paragraphs 28(a), 28(b) and 62 of Schedule 5 and Part 3 of Schedule 7 to the Pensions Act 1995 (c. 26) and paragraph 4 of Schedule 2 and paragraphs 31(1), 31(2) and 32 of Part 1 of Schedule 12 to the Welfare Reform and Pensions Act 1999 (c. 30), and sections 281(1) and 281(2) of the Pensions Act 2004 (c. 35), and Part 3 of the Schedule to the Civil Partnerships (Pensions and Benefits Payments) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2053), and sections 19(2) and 19(3) of the Pensions Act 2011 (c. 19).

(**4**) 1993 c. 49; relevant amendments are made by paragraphs 21(a), 21(b) and 52 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213) (N.I. 22), and paragraphs 3, 20(2) and 21 of Schedule 9 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147) (N.I. 11).