

EXPLANATORY MEMORANDUM TO

THE REGISTERED PENSION SCHEMES (RELIEF AT SOURCE) (AMENDMENT) REGULATIONS 2018

2018 No. 150

1. Introduction

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

2. Purpose of the instrument

- 2.1 This instrument amends The Registered Pension Schemes (Relief at Source) Regulations 2005 (S.I. 2005/3448) (the "2005 regulations").
- 2.2 It introduces one earlier due date in respect of the annual return of individual information. This will assist the administration of relief at source following the introduction of Scottish income tax.
- 2.3 It makes the annual return of individual information a statutory return, removing the need for HMRC to issue a notice for information.
- 2.4 It also introduces a new 90-day timescale for the reporting and repayment of excess relief claimed in an interim claim, along with an interest charge if the repayment is made after the 90-day period.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Section 192 Finance Act 2004 ("FA 2004") sets out the provisions relating to relief under relief at source.
- 4.2 Section 192(7) FA 2004 allows HMRC to make regulations about how the scheme administrator recovers the amount which is treated as income tax from HMRC, the information required, the format of this information and the consequences of failure to comply with the conditions.
- 4.3 Section 192(8) FA 2004 allows HMRC to use regulations to modify the operation of any provision of the Tax Acts.
- 4.4 This instrument amends the 2005 regulations, which make provision for relief from tax on payments made to scheme administrators of registered pension schemes, and detail how the scheme administrator makes claims for tax relief to HMRC.

4.5 This instrument will have effect from 6th April 2018 and, in relation to interim claims, for tax months ending on or after 5th April 2018.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 The territorial application of this instrument is the United Kingdom

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

7.1 With the introduction of Scottish income tax, HMRC must advise pension scheme administrators of the correct rate of income tax to apply to members' contributions. The rate is subject to the members' residency status, and this information is included in the annual return of individual information.

7.2 The current due date for this return does not allow sufficient time for the processing of the annual return to enable HMRC to advise the correct rate and the pension scheme administrator to apply that correct rate at the start of the next tax year.

7.3 HMRC have held discussions with pension industry representatives and have agreed an earlier due date of 5th July will allow sufficient time for all involved.

7.4 We are introducing a 90-day period for the reporting and repayment of excess relief claimed in an interim claim. The 90-day period begins when the pension scheme administrator first discovers they have made an excessive claim for relief. We are also specifying the information that must be provided to HMRC, along with an interest charge if the repayment is made outside the 90-day period.

7.5 This will ensure consistency and fairness by encouraging all pension scheme administrators to report and repay without delay.

Consolidation

7.6 The Regulations will amend the 2005 Regulations. They will not be consolidated.

8. Consultation outcome

8.1 A policy consultation has not been issued. Pension industry representatives have been included in discussions regarding the changing of the due date for the annual return of individual information. The instrument was published for a short technical consultation in November 2017.

8.2 Having taken into account the consultation responses, the final version of the instrument reflects the extension of the deadline for reporting excess relief claims and the due date for Annual Claims remaining at 5 October.

9. Guidance

9.1 Once the regulations are in force, guidance on this instrument will be included in the next available update of the HMRC Pensions Tax manual.

10. Impact

- 10.1 The impact on business is expected to be negligible. One-off costs in relation to the familiarisation with the new rules as well as one-off administration costs are expected. Pension scheme administrators already have systems in place to administer relief at source, but they may need to go back to members who have not given a National Insurance Number to establish the reason why. We expect this to change behaviour going forward, in that pension scheme administrators and members will place more importance on reporting a National Insurance Number when one is actually held. No impact on charities or voluntary bodies is foreseen.
- 10.2 There is no impact on the public sector.
- 10.3 A Tax Information and Impact Note covering this instrument was published on 30 November 2017 and is available on the website at <https://www.gov.uk/government/publications/pensions-tax-changes-to-administration-of-relief-at-source>. It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 There is no special provision to minimise the impact of the requirements on small businesses (employing up to 50 people).
- 11.3 The basis for the final decision on making no special provision to assist small businesses was that it would not be appropriate for the policy to apply differently according to the size of the firm.

12. Monitoring & review

- 12.1 The measure will be monitored through communication from taxpayer groups including, for example, industry representatives on the Pension Forum.

13. Contact

- 13.1 Karen Bishop at HMRC, telephone: 03000 512336 or email: pensions.policy@hmrc.gsi.gov.uk can answer any queries regarding the instrument.