

EXPLANATORY MEMORANDUM TO
THE REGISTERED PENSION SCHEMES AND OVERSEAS PENSION SCHEMES
(MISCELLANEOUS AMENDMENTS) REGULATIONS 2018

2018 No. 5

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 (Provision of Information) Regulations 2006 (S.I 2006/567) ("the principal Regulations") and the Pension Schemes (Information Requirements for Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pension Schemes and Corresponding Relief) Regulations 2006 ("S.I. 2006/208").
- 2.2 It makes changes to the information which a scheme administrator of a registered pension scheme is required to report to HMRC as a consequence of the reduced level of the money purchase annual allowance ("MPAA") from £10,000 to £4,000 with effect from the tax year 2017-18.
- 2.3 It also introduces a new reportable event where a scheme ceases to be or becomes a Master Trust scheme.

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 To ensure that taxpayers have the information they require to deal with their tax affairs in connection with registered pension schemes under Part 4 of Finance Act 2004 there are requirements for scheme administrators of registered pension schemes and scheme managers of overseas pension schemes to provide certain information to registered pension schemes.
- 4.2 The amendments to both the principal Regulations and S.I. 2006/208 are consequential on amendments to Part 4 of Finance Act 2004 made by section 7 of Finance (No.2) Act 2017 (c. 32) that reduces the level of the MPAA from £10,000 to £4,000, with effect from tax year 2017-18.

- 4.3 Under regulation 3 of the principal regulations, a scheme administrator is required to notify HMRC of certain details in relation to events specified in that regulation. From 6th April 2018, the principal Regulations will be amended to include a new reportable event where a registered pension scheme becomes or ceases to be a master trust scheme. A master trust scheme is defined in the Pension Schemes Act 2017 (sections 1 & 2).

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 The pension flexibilities introduced in April 2015 gave individuals with savings in money purchase arrangements much greater flexibility in how they can take their benefits from age 55. However, individuals who flexibly access a money purchase arrangement in certain circumstances will trigger the money purchase annual allowance (MPAA) rules, whereby any future savings they make into money purchase arrangements are subject to a £10,000 MPAA.
- 7.2 The MPAA counters an individual using the flexibilities around accessing a money purchase pension arrangement as a means to avoid tax on their current earnings, by diverting their salary into their pension scheme, gaining tax relief, and then effectively withdrawing 25% tax-free. It also restricts the extent to which individuals can gain a second round of tax relief by withdrawing savings and reinvesting them into their pension.
- 7.3 The government believes that an MPAA of £4,000 would be fair and reasonable and should allow individuals who need to access their pension savings to rebuild them if they subsequently have opportunity to do so. At Autumn Statement 2016 the government announced a consultation on whether reducing the MPAA to £4,000 would minimise the re-cycling of pension savings; allow the continued successful roll-out of automatic enrolment and sought evidence where a reduced MPAA would impact disproportionately on particular groups. Following the consultation, which closed on 15 February 2017, the government has seen no grounds to change its view on reducing the MPAA to £4,000. The level of MPAA was announced at Budget 2017 and the government response to the consultation was published on 20 March 2017. There are no changes being made to how the MPAA currently operates or the formulae used in calculating the allowance.
- 7.4 The principal Regulations and S.I. 2006/208 specify the reporting requirements for the provision of information by scheme administrators of registered pension schemes and scheme managers of overseas pension schemes to registered pension scheme members. For example, providing a statement to a member when they may be first flexibly accessing pension rights. This instrument makes minor changes in so far as to reflect the reduction in the MPAA from £10,000 to £4,000.

- 7.5 At Spring Budget 2017, the government announced that changes would be made to align HMRC's tax registration process for pension schemes, with the Pensions Regulators (TPR) new authorisation and supervision regime for master trust schemes. Legislation in the Finance Bill 2017-18 will introduce changes to the tax registration and de-registration rules, so that HMRC can refuse to register and can de-register a master trust scheme that does not have tPR authorisation. This requirement to notify HMRC when a scheme becomes or ceases to be a master trust scheme will provide HMRC with the information it requires to consider the registration of the scheme.

Consolidation

- 7.6 This instrument amends the principal Regulations and S.I. 2006/208. They will not be consolidated.

8. Consultation outcome

- 8.1 HM Treasury published its response to a 12 week consultation on reducing the MPAA to £4,000 on 20 March 2017. There were 111 responses to the consultation, 64 from individuals and 47 from institutions. Following the consultation the government found no grounds to change its view that an allowance £4,000 should apply. This instrument makes no technical or process changes to the regulations, other than a reducing the amount of MPAA. The introduction of the new reportable event for master trust schemes is not complex and is not expected to apply to many schemes, so no technical consultation is proposed.

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, charities or voluntary bodies is expected to be negligible.
- 10.2 There is no impact on the public sector.
- 10.3 A Tax Information and Impact Note covering the changes to the money purchase annual allowance was published on 8 March 2017 and is available on the website at <https://www.gov.uk/government/publications/reducing-the-money-purchase-annual-allowance> It remains an accurate summary of the impacts that apply to this instrument.
- 10.4 A Tax Information and Impact Note covering the changes to the master trust tax registration was published on 13 September and is available on the website at <https://www.gov.uk/government/publications/pensions-tax-registration/pensions-tax-registration> . 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 This measure is expected to have a negligible impact on businesses. Pension scheme administrators and employers will incur one-off costs of familiarisation with new rules, providing information and guidance to individuals and updating their systems to reflect the reduction in the MPAA. There are not expected to be any on-going costs as

pension scheme administrators and employers will have the MPAA process embedded within their current systems

12. Monitoring & review

12.1 The measure will be monitored through communication from taxpayer groups.

13. Contact

13.1 Steve Darling or Samantha Skill at HMRC, telephone: 03000 512336 or email: pensions.policy@hmrc.gsi.gov.uk can answer any queries regarding the instrument.